

An
Bord
Pleanála

Board Direction
ABP-311284-21

The submissions on this file and the Inspector's report were considered at a Board meeting held on 23/03/2023.

The Board decided, as set out in the following Order, that

Board Order as follows:-

WHEREAS a question has arisen as to whether the deposition of construction and demolition waste on lands at Na Tuairim, Maigh Cuillinn, Contae Galway is or is not development or is or is not exempted development:

AND WHEREAS Abaigáel Smyth of 114 Wesbury, Stillorgan, County Dublin requested a declaration on this question from Galway County Council and the Council issued a declaration on the 16th day of August, 2021 stating that the matter is development and is not exempted development:

WHEREAS Abaigáel Smyth referred this declaration for review to An Bord Pleanála on the 3rd day of September, 2021,

WHEREAS An Bord Pleanála, in considering this referral, had regard particularly to –

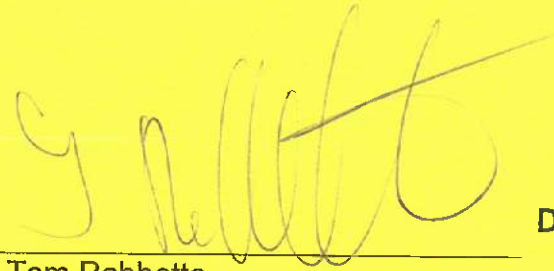
- (a) Section 2(1) of the Planning and Development Act, 2000, as amended,
- (b) Section 3(1) and 3(2)(b)(iii) of the Planning and Development Act 2000, as amended,
- (c) Section 4 of the Planning and Development Act 2000, as amended, and
- (d) Article 6 and Schedule 2 to the Planning and Development Regulations, 2001, as amended,

AND WHEREAS An Bord Pleanála has concluded that:

- (a) In accordance with Section 3(2)(b)(iii) of the Planning and Development Act, 2000, as amended, where land becomes used for the deposit of mining or industrial waste, builders' waste, rubbish or debris, the use of the land shall be taken as having materially changed.
- (b) In accordance with Section (3)(1) of the Planning and Development Act, 2000, as amended, development includes 'the making of any material change in the use of any structures or other land', the proposal is considered to constitute development.
- (c) There are no provisions under either the Planning and Development Act, 2000, as amended, or the Planning and Development Regulations, 2001, as amended, which provide an exemption for the deposition of construction and demolition waste.

THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5(3)(a) of the Planning and Development Act 200, as amended, hereby decides that the deposition of construction and demolition waste on lands at Na Tuairini, Maigh Cuilinn, Contae Galway is development and is not exempted development.

Board Member:

A handwritten signature in black ink, appearing to read 'Tom Rabbette', written over a horizontal line.

Date: 24/03/2023

Tom Rabbette

