



An
Bord
Pleanála

Board Direction ABP-313717-22

The submissions on this file and the Inspector's report were considered at a Board meeting held on 17/10/2023.

The Board decided that the matters arising of the subject referral is the same, or substantially the same, and in respect of the same land as a Referral issued under PA ref: EX985 on the 10th of May 2022, and there is no evidence of any change in the planning facts or circumstances underpinning the application. In these circumstances, the Board is precluded under Section 50(2) of the Planning and Development Act, 2000, as amended, from making a determination

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

WHEREAS a question has arisen as to whether the use of an area of land measuring 6 metres by 12 metres approximately for the occasional / infrequent parking of a car at Sound Road, Kenmare, County Kerry is or is not development or is or is not exempted development.

AND WHEREAS Sam Sleator, care of Frank Coffee Consulting Engineer of Daly's Lane Killorglin, County Kerry, requested a declaration on this question from Kerry County Council, and the Council issued a declaration on the 10th day of May 2022 stating that the matter was development and was not exempted development.

AND WHEREAS Sam Sleator referred this declaration for review to An Bord Pleanála, on the 3rd day of June 2022.

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

S138 of the Planning and Development Act (1)(b) (ii)

AND WHEREAS An Bord Pleanála has concluded that:

the Board is satisfied that, in the particular circumstances, the appeal or referral should not be further considered by it, having regard to PA ref: EX985 where a referral was sought with regard to a similar question as currently being considered where the applicant sought a declaration with regard to the change of use of an area of land measuring 6m x 12m approximately to a car parking area was exempted development. The Planning Authority issued a declaration stating that the proposed change of use of the land to a car parking area would constitute development which is not exempted development.

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by Section 5 (3)(a) of the Planning and Development Act, 2000, as amended, hereby decides that the appeal or referral should not be further considered.

The Board noted and shared the opinion of the Planning Inspector on the question that was referred to the Board, but considered that the Board was precluded from making a decision on this referral having regard of the judgement in Narconon Trust vs An Bord Pleanala (2021) IECA 307.

Board Member:


Liam Bergin

Date: 27/08/2024