

An
Bord
Pleanála

Board Direction
BD-014839-22
ABP-313904-22

The submissions on this file and the Inspector's report were considered at a Board meeting held on 11/12/2023.

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

Board Order as follows:-

WHEREAS a question has arisen as to whether the restoration of land to a pre-63 use for open storage for commercial use is or is not development or is or is not exempted development:

AND WHEREAS John Hanlon requested a declaration on this question from South Dublin Council and the Council issued a declaration on the 1st day of June 2022 stating that the matter was development and was not exempted development:

AND WHEREAS referred this declaration for review to An Bord Pleanála on the 24th day of June 2022:

AND 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) of the Planning and Development Act, 2000,
- (c) article 6(1) and article 9(1) of the Planning and Development Regulations, 2001, as amended,
- (d) Parts 1 and 3 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (e) the planning history of the site,
- (f) the location of the site.

AND WHEREAS An Bord Pleanála has concluded that:

- (a) There is a lack of evidence supporting the historic use of the land as open storage prior to the 1st of October 1964 and that, should the pre-'63 use be accepted, that it has not been abandoned,
- (b) In the absence of this evidence the Board cannot be satisfied that the use of the land for open storage is not bound by the provisions of the Planning and Development Act 2000 (as amended),
- (c) The proposed use of the land as open storage for commercial reasons constitutes development under Section 3(1) and Section 3(2)(b)(iii) of the Planning and Development Act 2000 (as amended) as it constitutes works and whereby the storage of vehicles and materials on land constitutes a material change of use,
- (d) The use of the land for open storage does not come within any class of development which is set out in Schedule 2, Part 1 of the Planning and Development Regulations 2001, (as amended), and
- (e) does not come within any of the other exempted development provisions of the Act or Regulations.

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5 (3) (a) of the 2000 Act, (as amended), hereby decides that the use of the land for open storage in association with commercial use is development and is not exempt development under the Planning and Development Act 2000 (as amended).

Board Member:


Liam Bergin

Date: 11/12/2023