



An
Bord
Pleanála

Board Direction
BD-014684-23
ABP-314860-22

The submissions on this file and the Inspector's report were considered at a Board meeting held on 24/11/2023.

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

WHEREAS a question has arisen as to whether the raising of a section of land by the entrance to agricultural lands by less than 1m with native soil and subsoil from existing lands of applicant is or is not development or is or is not exempted development:

AND WHEREAS Cork City Council referred this declaration for review to An Bord Pleanála on the 13th day of October, 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) Section 4(1)(a) of the Planning and Development Act, 2000, as amended,
- (d) article 6(1), and article 9(1) of the Planning and Development Regulations, 2001, as amended,

- (e) Part 1 and Part 3 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (f) the planning history of the site,

AND WHEREAS An Bord Pleanála has concluded that:

- (a) the raising of a section of land by the entrance to agricultural lands by less than 1m with native soil and subsoil from existing lands of applicant is development,
- (b) the location of the proposed works is not a wetland and therefore does not fall within the exemption provided under schedule 2, part 3, class 11 of the Planning and Development Regulations, and
- (c) given the lack of detail regarding the extent of fill and the exact location of the re-filling and having regard to the precautionary principle, it is considered that it is not reasonable to declare that the proposed works would not be likely to have a significant effect on the integrity of the European sites. Therefore, said works do come within the scope of the restrictions on exemptions set out under section 4 (a) of the Planning and Development Act 2000 (as amended) and are not exempt under Article 9(1)(viiB) of the Planning and Development Regulations.

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5(4) of the 2000 Act, hereby decides that the raising of a section of land by the entrance to agricultural lands by less than 1m with native soil and subsoil from existing lands of applicant is development and is not exempted development.

Board Member:


Martina Hennessy

Date: 27/11/2023