



An
Bord
Pleanála

Board Direction
BD-014926-23
ABP-314916-22

The submissions on this file and the Inspector's report were considered at a Board meeting held on 19/12/2023.

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

Board Order as follows:-

WHEREAS a question has arisen as to whether the construction of a stable building and a sand arena, along with the removal of stretches of hedgerow and two dying/diseased trees, and the planting and/or replanting of the removed shrubbery in the same location, at Riverview House, Thomastown, Carragh, Co. Kildare, is or is not development or is or is not exempted development;

AND WHEREAS John Curry and Catriona Howley requested a declaration on this question from Kildare County Council and the Council issued a declaration on the 27th September 2022, stating that the construction of the stable building and sand arena constitutes development and is not exempted development; the removal of short stretches of hedgerow, where it creates a vehicular access point onto a public road which does not have the benefit of planning permission, constitutes development and is not exempted development; and the removal of short stretches of hedgerow, where it does not create a vehicular access point onto a public road which does not have the benefit of planning permission, and the removal of two

dying/diseased trees, and planting and/or replanting of the removed shrubbery, is not considered to constitute development;.

AND WHEREAS referred this declaration for review to An Bord Pleanála on the 21st October 2022:

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

- (1) Section 2(1), 3(1) and 4(1)(a) of the Planning and Development Act, 2000, as amended,
- (2) Articles 6 and 9 of the Planning and Development Regulations, 2001, as amended,
- (3) Classes 6 and 10 under Schedule 2, Part 3 of the Planning and Development Regulations, 2001, as amended,
- (4) the planning history of the site,
- (5) the location of the development in a rural setting, and
- (6) the pattern of development in the area:

AND WHEREAS An Bord Pleanála has concluded that:

- (1) The construction of a stable building and sand arena constitutes Development as defined in section 3(1) of the Planning and Development Act 2000 (as amended) and is Exempted Development as defined by the Planning and Development Act 2000 (as amended) and the Planning and Development Regulations 2001 (as amended).
- (2) The removal of short stretches of hedgerow, where it does not create a vehicular access point onto a public road which does not have the benefit of planning permission, and the removal of two dying/diseased trees, and planting and/or replanting of the removed shrubbery, is not considered to constitute development as defined in section 3(1) of the Planning and Development Act 2000 (as amended).'

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5(3)(a) of the 2000 Act, hereby decides that the construction of a stable block and sand arena at Riverview House, Thomastown, Naas, Co. Kildare, for the purpose of housing and exercising horses by the Referrers' family only is development and is exempted development, and that the removal and replacement of sections of hedgerow and dying/dead trees on the same site, where it does not create a vehicular access point onto a public road (which does not have the benefit of planning permission) is not considered development.

Board Member:



Liam Bergin

Date: 22/12/2023