



An
Bord
Pleanála

Board Direction
BD-015727-24
ABP-315171-22

The submissions on this file and the Inspector's report were considered at a Board meeting held on 05/03/2024.

The Board decided this referral generally in accordance with the Inspector's recommendation in accordance with the following draft order.

WHEREAS a question has arisen as to whether the temporary parking of machinery for approximately three days to facilitate the functioning of an online auction is or is not development or is or is not exempted development:

AND WHEREAS John Condon requested a declaration on this question from Cork County Council and the Council issued a declaration on the 25th day of October 2022 stating that the matter was development and was not exempted development:

AND WHEREAS John Condon referred this declaration for review to An Bord Pleanála on the 21st day of November 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 of the Planning and Development Act, 2000,
- (c) Section 4 of the Planning and Development Act, 2000, as amended,
- (d) articles 6, 9 and 10 of the Planning and Development Regulations, 2001, as amended,
- (e) Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (f) the planning history of the site,
- (g) the pattern of development in the area:

AND WHEREAS An Bord Pleanála has concluded that:

- (a) the temporary parking of machinery for sale via online auction constitutes development as defined under section 3(2)(b)(i) of the Planning and Development Act 2000 (as amended),
- (b) the temporary parking of machinery for approximately three days to facilitate the functioning of an online auction constitutes a material change of use of these lands and is development and is not exempted development as it does not come within the scope of Class 37 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 (as amended), not being of itself a local event,
- (c) there are no exemptions provided for in the said Planning and Development Act, 2000 (as amended) and the Planning and Development Regulations, 2001 (as amended), by which such use as temporary parking of machinery for sale via online auction would be exempted development, and
- (d) restrictions on exemptions provided for in Article 9 (1)(a)(viii) would apply it would appear that the referral lands are a structure the use of which is an unauthorised use.

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 temporary parking of machinery for approximately three days to facilitate the functioning of an online auction is development and is not exempted development.

Board Member

Eamonn James Kelly

Date: 06/03/2024

Eamonn James Kelly

Note

The Board accepted the assessment of the Inspector and was therefore satisfied that the final section of the Inspector's draft order contained in their report - that the temporary parking of machinery was not development - represented a typographical error.