

An
Bord
Pleanála

Board Direction
ABP-315713-23

The submissions on this file and the Inspector's report were considered at a Board meeting held on 25/03/2024.

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

WHEREAS a question has arisen as to whether the berms erected adjacent to the N67 at Spanish Point Golf Club is or is not development or is or is not exempted development:

AND WHEREAS Spanish Point Golf Club requested a declaration on this question from Clare County Council and the Council issued a declaration on the 18th day of January, 2023 stating that the matter was development and was not exempted development:

AND WHEREAS Spanish Point Golf Club referred this declaration for review to An Bord Pleanála on the 7th day of February, 2023:

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

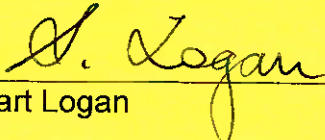
- (a) Section 2(1) of the Planning and Development Act, 2000, as amended,
- (b) Section 3(1) of the Planning and Development Act, 2000, as amended,
- (c) Section 4(4) of the Planning and Development Act, 2000, as amended,
- (d) article 6(1) and article 9(1) of the Planning and Development Regulations, 2001, as amended,
- (e) Class 34, Part 1 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 erecting of berms adjacent the N67 at Spanish Point Golf Club within the golf course comprise works incidental to the management of a golf course, and therefore, comes within the scope of Class 34, Part 2 of Schedule 2 of the Planning and Development Regulations, 2001,
- (b) based on the nature and extent of the berms in question, the Board was satisfied that the development has only localised impact and due to its scale and setting would not interfere with the character of the Scenic Route as designated under the Clare County Development Plan 2023-2029. Accordingly, the de-exemption provision of Article 9(1)(a)(vi) of the Planning and Development Regulations 2001, as amended, does not apply.
- (c) based on the documentation on file, the development would not be likely to have significant effects on any designated European Sites - the Carrowmore Point to Spanish Point and Islands Special Area of Conservation (Site Code 001021) and the Mid-Clare Coast Special Protection Area (Site Code 004182), in the vicinity, in view of the sites' conservations objectives. In coming to this conclusion, the Board took account of the limited extent of the works, the lack of a pathway between the development and the European sites, the distance to any qualifying interests and to the nature of those qualifying interests, and accordingly, considers that an appropriate assessment is not required in relation to the development the subject of this referral. Accordingly, the de-exemption provisions of section 4(4) of the Planning and Development Act, 2000, as amended, do not apply.

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 berms erected adjacent to the N67 at Spanish Point Golf Club is development and is exempted development.

Board Member:


Stewart Logan

Date: 26/03/2024