



An
Bord
Pleanála

Board Direction
ABP-317408-23

The submissions on this file and the Inspector's report were considered at a Board meeting held on 01/05/2024.

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

Board Order as follows:-

WHEREAS a question has arisen as to whether the erection of replacement fencing to enclose the site is or is not development or is or is not exempted development:

AND WHEREAS Albert Manifold requested a declaration on this question from Cork County Council and the Council issued a declaration on the 26th day of May 2023 stating that the matter was development and was not exempted development:

AND WHEREAS Albert Manifold referred this declaration for review to An Bord Pleanála on the 20th day of June 2023:

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

- (a) Sections 2(1), 3(1) and 4 of the Planning and Development Act 2000, as amended,

- (b) Articles 6(3) and 9(1) of the Planning and Development Regulations 2001, as amended,
- (c) Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended,
- (d) Class 4 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended,
- (e) The location of the development within a designated High Value Landscape area under the Cork County Development Plan 20222028,
- (f) The location of the development within the Roaringwater Bay and Islands Special Area of Conservation (SAC) (000101), where the habitat European dry heath [4030] is a Qualifying Interest and the conservation objective is to maintain the favourable conservation condition of this habitat, and
- (g) The submissions of the parties to the referral:

AND WHEREAS An Bord Pleanála has concluded that:

- (a) The erection of replacement fencing to enclose the site constitutes development, being works which come within the scope of section 3(1) of the Planning and Development Act 2000, as amended.
- (b) The development, alone and in-combination with other plans and projects, would have likely resulted in a significant effect on the Roaringwater Bay and Islands Special Area of Conservation (SAC) in view of the Site's conservation objectives. Therefore, the development is subject to an Appropriate Assessment and cannot be considered exempted development under Section 4(4) of the Planning and Development Act 2000, as amended.

- (c) The development comes within the scope of Class 4 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (d) The development complies with the conditions and limitations of Class 4 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (e) The development comes within the restriction on exemption in article 9(1)(a)(viiB) of the Planning and Development Regulations 2001, as amended.

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5(3)(a) of the Planning and Development Act 2000, as amended, hereby decides that the erection of replacement fencing to enclose the site, is development and is not exempted development.

Board Member:



Joe Boland

Date: 03/05/2024