



An  
Bord  
Pleanála

**Board Direction**  
**ABP-318452-23**

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The submissions on this file and the Inspector's report were considered at a Board meeting held on 21/10/2024.

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

Board Order as follows:-

**WHEREAS** a question has arisen as to whether the use of lands, in the ownership of KPK properties Limited, that was subject to ABP Ruling Ref No: ABP-307488-20 at Reenagappul, Kenmare, County Kerry, shaded in yellow on the attached map, currently being used by Irish Water/Uisce Eireann, as a works compound in conjunction with KCC PA PL reg No:22/55 is or is not development and is or is not exempted development.

**AND WHEREAS** Martin Arthur, requested a declaration on this question from Kerry County Council, and the Council issued a declaration on the 13th day of October 2023 stating that the matter is development and is not exempted development.

**AND WHEREAS** Martin Arthur, referred this declaration for review to An Bord Pleanála, on the 8th day of November 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,
- (a) Section 3(1) of the Planning and Development Act, 2000,
- (b) Section 4(2) and 4(4) of the Planning and Development Act, 2000, as amended,
- (c) Article 6(1) and article 9(1) of the Planning and Development Regulations, 2001, as amended,
- (d) Class 16 and 17 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended, and
- (e) The planning history of the site.

**AND WHEREAS** An Bord Pleanála has concluded that:

- (a) The works, that being the development of a construction compound, is development under section 3 of the Planning and Development Act 2000 (as amended).
- (b) Having regard to the nature of the development, which comprise a construction compound used for structures, works, plant and machinery needed temporarily in connection with the Kenmare WWTP upgrade works on the adjoining lands, the Board is satisfied that the development comes within the scope of Class 16, Part 1 of Schedule 2 of the Planning and Development Regulations, 2001,
- (c) The placing on lands of portacabins, provides for temporary on-site accommodation for persons employed, or otherwise engaged, in connection with the carrying out Kenmare WWTP upgrade works on the adjoining lands, and therefore, come within the scope of Class 17, Part 1 of Schedule 2 of the Planning and Development Regulations, 2001,;

(d) based on the documentation on file, the development would not be likely to have significant effects on the Kenmare River SAC (Site Code 002158) in view of the sites' conservations objectives. In coming to this conclusion, the Board took account of the limited extent and duration of the works, the lack of a pathway between the development and the European site, 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 Planning and Development Act, 2000, as amended, hereby decides that the construction compound is development and is exempted development.

**Board Member:**

  
Paul Caprani

**Date:** 21/10/2024