

An
Bord
Pleanála

Board Direction
ABP-320259-24

The submissions on this file and the Inspector's report were considered at a Board meeting held on 23/01/2025.

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

Board Order as follows:-

WHEREAS a question has arisen as to whether the piping and filling of an open stream is or is not development and is or is not exempted development:

AND WHEREAS Thomas Moore requested a declaration on this question from Kildare Council and the Council did not issue a declaration,

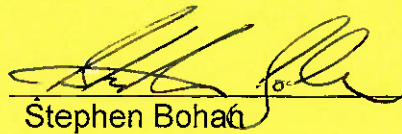
AND WHEREAS Thomas Moore referred this declaration for review to An Bord Pleanála on the 24th day of July 2024:

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 138(1) of the 2000 Act, hereby dismisses the said referral under subsection (1)(b)(i) of Section 138 of the said Act based on the reasons and considerations set out below.

Reasons and Considerations

The Board, in not agreeing with the Inspectors recommendation, concluded, that the Judgement of Heslin J in Narconon Trust v An Bord Pleanála and Others has applicability in the instance of the subject referral case. The Board noted that the previous determinations of Kildare County Council in relation to substantially the same question and in respect of the same land have been declared as development which is exempted development and there has been no change in the planning facts or circumstances since the previous determinations were made that would have relevance to the referral case now before the Board. The Board is, therefore, satisfied that, in the particular circumstances, the referral should not be further considered by it.

Board Member:


Stephen Bohan

Date: 28/01/2025