



Board Direction

Ref: 04.RL3413

The submissions on this file and the Inspector's report and Addendum were considered at a further Board meeting held on April 28th 2016.

The Board decided, as set out in the following Order, that the partial removal of a weir at Glashaboy River at Ballinriskig and Sarsfield Court townlands, Co Cork is development and is exempted development.

Board Order as follows:-

WHEREAS a question has arisen as to whether the partial removal of a weir at Glashaboy River at Ballinriskig and Sarsfield Court townlands, Co Cork, is or is not development or is or is not exempted development;

AND WHEREAS Inland Fisheries Ireland requested a declaration of this question from Cork County Council on the 14th day of August 2015;

AND WHEREAS the County Council issued a declaration on the 8th day of September 2015 stating that the development was development and was not exempted development;

AND WHEREAS Inland Fisheries Ireland referred this declaration for review to An Bord Pleanála on the 2nd day of October, 2015;

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

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended;
- (b) Articles 6 and 9 of the Planning and Development Regulations, 2001, as amended, and Class 35 of Part 1 of Schedule 2 to those Regulations;
- (c) The National Monuments Act, 1930 – 2004;
- (d) The provisions of the Cork County Development Plan 2014;
- (e) The nature and extent of the proposed works that are the subject matter of the referral.

AND WHEREAS An Bord Pleanála has concluded that:

- (a) The partial removal of the weir in question would constitute the carrying out of works, and therefore constitutes development under the provisions of section 3(1) of the Planning and Development Act, 2000, as amended;
- (b) The developer in this case, Inland Fisheries Ireland, would come within the definition of a “statutory undertaker”, as set out in Section 2 of the Planning and Development Act, 2000, as amended;
- (c) The subject development would come within the scope of Class 35 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended, and would therefore constitute exempted development;
- (d) None of the restrictions on exempted development, as set out in Article 9(1)(a) of the Regulations, and as set out in Section 4(4) of the Planning and Development Act, 2000, as amended, apply in this particular instance.

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 partial removal of a weir at Glashaboy River at Ballinvriskig and Sarsfield Court townlands, Co Cork, is development and is exempted development.

Board Member: _____ Date: 29th April 2016
Philip Jones