



## Board Direction

91.RL3414

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The submissions on this file and the Inspector's report were considered at a Board meeting held on May 20<sup>th</sup> 2016.

The Board decided, as set out in the following Order, that the construction and/or upgrade of a number of roads for the construction of wind turbines is development and is not exempted development, and the use of these roads for the purpose of ongoing access to, and maintenance of, these turbines is not development.

Board Order as follows:-

**WHEREAS** a question has arisen as to whether development and amendments undertaken at the permitted Dromada windfarm (planning references 03/1343, 09/7000 and 10/101) within the confines of a designated Special Protection Area - the Stacks to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle Special Protection Area (site code 004161) are or are not development and are or are not exempted development, at Dromada windfarm, Clash South, Athea, Co Limerick;

**AND WHEREAS** Denis Cremins requested a declaration on this question from Limerick City and County Council on the 30<sup>th</sup> day of July 2015, and the Council issued a declaration on the 8<sup>th</sup> day of September 2015, stating that the construction and/or upgrade of a number of roads for the construction of wind turbines T14 and T23, turbines T2 and T3, turbines T11 and T12, and turbines T22 and T29 was development and was exempted development, and that the use of these roads for the purpose of ongoing access to, and maintenance of, these turbines was not development;

**AND WHEREAS** Dennis Cremins referred this declaration for review to An Bord Pleanála on the 2<sup>nd</sup> 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) The historic and current layout of roads and tracks in the area;
- (c) The planning history of the site, including in particular planning permission register reference number 10/101;
- (d) The nature and extent of the roads the subject matter of the referral;
- (e) The submissions on file and the report of the Inspector, and
- (f) The designated Special Protection Area.

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

- (a) The construction and/or upgrading of the roads that are the subject matter of the referral constitute works, as defined, and therefore constitutes development under the provisions of section 3(1) of the Planning and Development Act, 2000, as amended;
- (b) The roads that are the subject matter of the referral were constructed and/or upgraded primarily to facilitate the development of the associated wind farm, and not to serve forests or woodlands, and would, therefore, not come within the scope of Section 4 (1)(i) and (1)(ia) of the Planning and Development Act, 2000, as amended;
- (c) On the basis of the evidence submitted in connection with this referral, the Board is not satisfied that the construction and/or upgrading of these roads took place prior to the designation of the lands concerned as part of the Special Protection Area, and it is considered that these works, by reason of their extent and location, would have required, in such circumstances, the carrying out of an Appropriate Assessment and therefore the provisions of Section 4 (4) Planning and Development Act, 2000, as amended, apply;
- (d) The use of the roads for the purpose of ongoing access to, and maintenance of, the completed wind turbines does not, having regard to their former use to serve forestry, constitute a material change of use, and accordingly does not constitute development.

**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 and/or upgrade of a number of roads for the construction of wind turbines at the permitted Dromada windfarm (planning references 03/1343, 09/7000 and 10/101) within the confines of a designated Special Protection Area - the Stacks to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle Special Protection Area (site code 00461) is development and is not exempted development, and the use of these roads for the purpose of ongoing access to, and maintenance of, these turbines is not development, at Dromada windfarm, Clash South, Athea, Co Limerick;

Board Member: \_\_\_\_\_ Date: 26<sup>th</sup> May 2016  
Philip Jones