



Board Direction

Ref: 07.RL3441

The submissions on this file and the Inspector's report were considered at a Board meeting held on 15th June 2016.

The Board decided, generally in accordance with the recommendation of the Inspector, that the use of lands for the occasional provision of a mobile catering service (chipper van) at Tullyvoheen, Clifden, County Galway, is development and is not exempted development.

WHEREAS a question has arisen as to whether the use of lands for the occasional provision of a mobile catering service (chipper van) at Tullyvoheen, Clifden, County Galway, is or is not development or is or is not exempted development:

AND WHEREAS Mark Furniss, care of Stephen Dowds Associates, of 5 Mary Street, Galway, requested a declaration on the question from Galway County Council, and the Council issued a declaration dated 11th November 2015, stating that the matter is not exempted development:

AND WHEREAS Mark Furniss referred the declaration for review to An Bord Pleanála on 7th December 2015:

AND WHEREAS An Bord Pleanála, in considering this referral, had particular regard 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,
- (c) Class 37, Part 1 of Schedule 2 to the Planning and Development Regulations 2001, as amended,
- (d) the planning history of the overall site having regard to the parent permission for the livestock sales facility with services, under An Bord Pleanála register reference number 7/5/75486 (planning register reference number 55210), and the substantial further planning history of the site, and

(e) the use of the site in the carpark for Clifden Mart, and Business Park:

AND WHEREAS An Bord Pleanála has concluded that –

- (i) The permitted use of the area occasionally used by the chipper van is as car parking and circulation serving the mart and other premises within the Clifden Business Park.
- (ii) The occasional provision of a mobile catering service (chipper van), and its use for sale and consumption of hot food off the premises, is not encompassed within that permission, and is a change of use of the land from parking and circulation as permitted.
- (iii) This change of use is a material change of use of the lands having regard to the character of the mobile catering service, and to its material external impacts (such as possible noise, general disturbance, traffic, litter, fumes or odours), and therefore constitutes development.
- (iv) For the avoidance of doubt, the area of land in question is being used for the placing of a van for the purpose of the sale of goods, and the use of that land has therefore materially changed in accordance with Section 3(2)(b) of the Planning and Development Act 2000, and constitutes development.
- (v) The land where the vehicle is parked, which is used for the sale of hot food for consumption off the premises, has not been designated for the purposes of a casual trading area, under section 4(1)(k) of the Planning and Development Act 2000 as amended.
- (vi) The parking of a temporary mobile ‘chipper van’ on this land and its use for sale and consumption of hot food off the premises does not come within the scope of Class 37 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended, as this use is not limited to association with a fair, funfair, bazaar, circus, or local event of a religious, political, social, recreational or sporting character, and in any event exceeds the conditions and limitations set out for Class 37.

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5 of the 2000 Act, hereby decides that the use of lands for the occasional provision of a mobile catering service (chipper van) at Tullyvoheen, Clifden, County Galway, is development and is not exempted development.

Board Member: _____ Date: 16th August 2016
Fionna O’ Regan