



An
Bord
Pleanála

Board Direction
RL93.RL3448

The submissions on this file and the Inspector's report were considered at a Board meeting held on 29th January 2018.

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

Board Order as follows:-

WHEREAS a question has arisen as to whether construction of a road is or is not development or is or is not exempted development:

AND WHEREAS Mr. Declan McGrath requested a declaration on this question from Waterford City and County Council and the Council issued a declaration on the 17th day of December, 2015 stating that the matter was development and was not exempted development:

AND WHEREAS Mr. Declan McGrath referred this declaration for review to An Bord Pleanála, on the 16th day of May, 2016.

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,
- (b) Section 3(1) of the Planning and Development Act, 2000,
- (c) article 6(1) and article 9(1viiB) of the Planning and Development

Regulations, 2001, as amended,

- (d) Parts 1 and 3 of Schedule 2 and Schedule 5 Part 2 Class 10(dd) and Schedule 7 to the Planning and Development Regulations, 2001, as amended,
- (e) The nature, scale, and extent of the earthworks required for the road, notwithstanding the possibility of mitigation and landscaping,
- (f) The upland nature and agricultural use of the lands,
- (g) The location of part of the earthworks within a designated Special Area for Conservation (Comeragh Mountains, Site code: 001952), and
- (h) The potential impact on the environment of the road and its length, which, it is considered, would require an EIS.

AND WHEREAS An Bord Pleanála has concluded that:

- (a) The construction of a road is development
- (b) The construction of a road is not exempted development

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5 of the 2000 Act, hereby decides that the construction of a road is development and is not exempted development.

Board Member

Date: 29th January 2018

Maria FitzGerald