



An  
Bord  
Pleanála

**Board Direction  
17.RL3466**

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The submissions on this file and the Inspector's report were considered at a Board meeting held on May 18<sup>th</sup> 2018.

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

- (1) The erection of a steel fence line and two double gates onto the Avenue of Headfort Demesne is development and is exempted development,
- (2) The removal, clearance and mulching of woodland and undergrowth within Headfort Demesne Architectural Conservation Area and within the River Boyne and River Blackwater Special Area of Conservation (site code 002299) (and affecting the River Boyne and River Blackwater Special Protection Area (site code 004232) is development and is not exempted development, and
- (3) The change of use of open nature reserve area to enclosed grassed area at Headfort Demesne Architectural Conservation Area is outside the parameters of a Section 5 Declaration as the site is not a nature reserve.

Board Order as follows:-

**WHEREAS** a question has arisen as to whether

- (1) the erection of a steel fence line and two double gates onto the Avenue of Headfort Demesne is or is not development or is or is not exempted development,

- (2) the removal, clearance and mulching of woodland and undergrowth within Headfort Demesne Architectural Conservation Area and within The River Boyne and River Blackwater Special Area of Conservation (Site Code 002299) (and affecting The River Boyne and River Blackwater Special Protection Area, (Site Code 004232)) is or is not development or is or is not exempted development, and
- (3) change of use of open nature reserve area to enclosed grassed area at Headfort Demesne Architectural Conservation Area is or is not development or is or is not exempted development,

all at Headfort Demesne, Kells, County Meath:

**AND WHEREAS** J. McCaldin of 12 The Main Courtyard, Headfort Demesne, Kells, County Meath requested a declaration on this question from Meath County Council and the Council issued a declaration on the 15<sup>th</sup> day of February, 2016 stating that -

- (1) the erection of a steel fence line and two double gates onto the Avenue of Headfort Demesne is development and is exempted development,
- (2) the removal, clearance and mulching of woodland and undergrowth within Headfort Demesne Architectural Conservation Area and within The River Boyne and River Blackwater Special Area of Conservation (Site Code 002299) (and affecting The River Boyne and River Blackwater Special Protection Area, Site Code 004232) is development and is not exempted development, and
- (3) the change of use of the open nature reserve area to enclosed grassed area at Headfort Demesne Architectural Conservation Area is not applicable to the site as it is not a nature reserve:

**AND WHEREAS** J. McCaldin of 12 The Main Courtyard, Headfort Demesne, Kells, County Meath referred this declaration for review to An Bord Pleanála on the 8<sup>th</sup> day of March, 2016:

**AND WHEREAS** the declaration in relation to the question referred to in (2) above was also referred for review to An Bord Pleanála by Peter and Rosaleen Gallagher of Oakley Park, Kells, County Meath on the 14<sup>th</sup> day of March, 2016:

**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) Article 6 and Article 9 of the Planning and Development Regulations, 2001, as amended,
- (c) Class 9 and Class 11(a) of Part 1 of the Second Schedule to the Planning and Development Regulations, 2001, as amended, and
- (d) The applicable Development Plan policies, including policy statement CHPOL18 of the current Meath County Development Plan, and the Statement of Character for the Headfort Demesne Architectural Conservation Area (2009).

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

- (a) The erection of the steel fence and two double gates constitutes works as defined in Section 2 of the Planning and Development Act, 2000, as amended, and is therefore development under Section 3 of that Act;
- (b) The erection of the steel fence and two double gates comes within Classes 9 and 11 (a) of Part 1 of the Second Schedule to the Planning and Development regulations, 2001, as amended, and none of the restrictions on

development set out in Article 9 (1)(a) of these Regulations apply in this instance, and the development in question is, therefore, exempted development;

- (c) The removal, clearance and mulching of woodland involves works as defined in Section 2 of the Planning and Development Act, 2000, as amended, and is therefore development under Section 3 of that Act;
- (d) This development would generally come within the scope of Section 4 (1) (i) of the Planning and Development Act, 2000, as amended, being development consisting of the thinning or felling of trees or works ancillary to that development,
- (e) However, having regard to the close proximity of the subject site to the River Boyne and River Blackwater Special Area of Conservation (Site Code 002299) and to The River Boyne and River Blackwater Special Protection Area (Site Code 004232), and the potential for effects on these European sites as a result of this development, including indirect effects resulting from potential run-off from the works into the European sites, it is considered that it cannot be established, beyond reasonable scientific doubt, that the development in question would not have significant effects on the European sites in question, in the light of the conservation objectives for those sites, and that therefore, an appropriate assessment is required. Accordingly, pursuant to Section 4 (4) of the Act, the development is not exempted development.
- (f) The site in question is not a nature reserve and accordingly the issue raised in relation to the question in (3) above is not a valid question and therefore is outside the parameters of a Section 5 Declaration.

(4) **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:-

- (1) The erection of a steel fence line and two double gates onto the Avenue of Headfort Demesne is development and is exempted development,
- (2) The removal, clearance and mulching of woodland and undergrowth within Headfort Demesne Architectural Conservation Area and within the River Boyne and River Blackwater Special Area of Conservation (site code 002299) (and affecting the River Boyne and River Blackwater Special Protection Area (site code 004232) is development and is not exempted development, and
- (3) The change of use of open nature reserve area to enclosed grassed area at Headfort Demesne Architectural Conservation Area is outside the parameters of a Section 5 Declaration as the site is not a nature reserve.

**Note:** the Board concurred with the view of the Senior Planning Inspector, and of the Planning Authority's Conservation Officer, in relation to the impact of the tree felling on the Architectural Conservation Area, and on the character of the landscape and accepted that the restrictions on exemption in Article 9 (1)(a)(vi) of the Regulations would otherwise have been relevant, had the development in question not already been de-exempted by reason of the operation of Section 4 (4) of the Act.

*[Please issue a copy of this Direction to the parties with the Board Order]*

**Board Member**

**Date:** 29<sup>th</sup> May 2018

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Philip Jones