



An
Bord
Pleanála

Board Direction
PL01.RL3479

The submissions on this file and the Inspector's report were considered at a Board meeting held on 4th May 2018.

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

Board Order as follows:-

WHEREAS a question has arisen as to whether the importation of inert soil for the purposes of site restoration, and restoration works using imported inert soil, in respect of a quarry, is or is not development or is or is not exempted development:

AND WHEREAS Tom McDonald of Kilcarrig Quarries Ltd., Kilcarrig Heights, Bagenalstown, Co. Carlow requested a declaration on this question from Carlow County Council, and the Council issued a declaration on the 12th day of April 2016 stating that the matter is development and is not exempted development:

AND WHEREAS Tom McDonald of Kilcarrig Quarries Ltd., Kilcarrig Heights, Bagenalstown, Co. Carlow referred this declaration for review to An Bord Pleanála, on the 9th 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) Section 4(1)(a) and Section 4(4) of the Planning and Development Act, 2000, as amended,
- (d) article 6(1) and article 9(1) of the Planning and Development Regulations, 2001, as amended,
- (e) Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (f) the planning history of the site,

AND WHEREAS An Bord Pleanála has concluded that:

- (a) The works the subject of this referral are development within the meaning of Sections 2 and 3 of the Planning and Development Act 2000, as amended.
- (b) The subject development involves the importation and deposition on land of inert soil (whether or not it is deemed to comprise a waste or a by-product) and therefore, pursuant to section 3(2)(b)(iii), the use of the land has materially changed and this constitutes development
- (c) The permission granted under PL01.129838 has expired and the conditions of that permission were not complied with to the satisfaction of the planning authority.
- (d) The works are not directly connected with or necessary to the management of a European site in accordance with article 6(3) of the Habitats Directive. It has not been established, to the satisfaction of the Board, that there is not a hydrological relationship between the site and the River Barrow and River Nore SAC (002162) and therefore it cannot be established, beyond reasonable scientific doubt, that the subject development would not have significant effects on this European Site and, in the absence of a Natura Impact Statement, that the subject development would not have adverse effects on the integrity of the European Site. Therefore, the development is

not exempted development in accordance with Section 4(4) of the Planning and Development Act 2000, as amended.

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 importation of inert soil for the purposes of site restoration, and restoration works using imported inert soil, in respect of a quarry, is development and is not exempted development.

Board Member

Date: 8th May 2018

John Connolly