



## Board Direction

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**Ref: 03.RL.3483**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 3<sup>rd</sup>, February 2017.

The Board generally approved of the terms of the draft order, as set out below.

The Board decided that the raising of the height of an existing driving range berm at the Trump International Golf Links and Hotel, Doonbeg County Clare is development and is exempted development.

In deciding not to accept the Planning Inspector's conclusions and recommendation in this case, the Board considered that:

- (a) The works to the golf driving range which effectively improve the safety of the driving range are necessary for the management of the golf course and, therefore, come within the scope of Class 34, Part 1, Schedule 2 of the Planning and Development Regulations 2001- 2015,
- (b) Having regard to its nature and limited scale, there is no evidence of any mechanism or connectivity by which the White Strand/Carrowmore Marsh pNHA would be interfered with as a consequence of the construction of the berm. Furthermore, the Board noted the status of the area in which the site is located remains that of a proposed NHA rather than that of an NHA confirmed by Order pursuant to section 18 of the Wildlife (Amendment) Act, 2000 and, therefore, it is considered that the de-exemption provision under Article 9(1)(a)(viiC) of the Planning and Development Regulations 2001 – 2015 does not apply,
- (c) The development, involving an increase in the height of an existing berm, is of limited scale and visually integrates with the surrounding topography and vegetation. Therefore, it has only a minor visual impact on the landscape and due to its scale and setting it would not interfere with the character of the Heritage Landscape as designated in the Clare County Development Plan 2017- 2023,

- (d) The development would not be likely to have significant effects on any designated European Sites (Carrowmore Dunes SAC (Site Code 002250), Carrowmore Point to Spanish Point and Islands SAC (Site Code 001021) Tullaher Lough and Bog SAC (Site Code 002343), Kilkee Reefs SAC (Site Code 002264), Lower River Shannon SAC (Site Code 002165) and Mid-Clare Coast SPA (Site Code 004182)), in the vicinity in light of the sites conservations objectives. In coming to this conclusion the Board took account of the distance to the site of any qualifying interests, the nature of the qualifying interests and the expert AA Screening Report that was submitted with the referral and concurred with the conclusions of this report.

### ***DRAFT ORDER***

**WHEREAS** a question has arisen as to whether the raising of the height of an existing driving range berm at the Trump International Golf Links and Hotel, Doonbeg, Co. Clare is or is not development or is or is not exempted development.

**AND WHEREAS** Clare Co. Council issued a declaration dated 25<sup>th</sup>, April 2016 stating that raising the height of an existing driving range berm at Trump International Golf Links and Hotel, Doonbeg, Co. Clare is development and is not exempted development.

**AND WHEREAS** the said question was referred to An Bord Pleanála by TIGL Enterprises Ltd., Trump International Golf Links and Hotel, Doonbeg, Co. Clare on 23<sup>rd</sup>, day of May 2016.

**AND WHEREAS** An Bord Pleanála, in considering this referral, had regard particularly to -

- (a) Section 2, 3 and 4 of the Planning and Development Act, 2000 (as amended);
- (b) Section 4 (4) of the Planning and Development Act, 2000 (as amended);
- (c) Articles 6 (3) and 9 (1) (a) (vi), (viiB) and (viiC) of the Planning and Development Regulations, 2001-2015;

- (d) Class 34, Part 1 of Schedule 2 of the Planning and Development Regulations, 2001-2015; and
- (e) The planning history of the site.

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

- (a) The raising of a berm at the bottom of an existing driving range within a golf course in order to mitigate against golf balls overshooting the bottom of the driving range and travelling on to adjacent roads and spaces comprise works incidental to the management of a golf course and, therefore, comes within the scope of Class 34, Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 – 2015.
- (b) Based on the nature, limited extent of the increase in height of the existing berm, scale and visual appearance of the berm in question, the Board was satisfied that the development has only localised impact of the visual character of the landscape and due to its scale and setting it would not interfere with the character of the Heritage Landscape as designated in the Clare County Development Plan 2017- 2033. Accordingly, the de-exemption provision of Article 9(1)(a)(vi) of the Planning and Development Regulations 2001 – 2015 do not apply.
- (c) Based on the documentation on file and having regard to its nature and limited scale, there is no evidence of any mechanism by which the White Strand/Carrowmore Marsh pNHA would be interfered with as a consequence of the increase in height of the berm. Furthermore, the status of the area in which the site is located is that of a proposed NHA rather than that of an NHA confirmed by Order pursuant to section 18 of the Wildlife (Amendment) Act 2000 and therefore, the de-exemption provision under Article 9(1)(a)(viiC) of the Planning and Development Regulations 2001 – 2015 does not apply.
- (d) Based on the documentation on file, the development would not be likely to have significant effects on any designated European Sites (Carrowmore Dunes SAC (Site Code 002250), Carrowmore Point to Spanish Point and Islands SAC (Site Code 001021) Tullaher Lough and Bog SAC (Site Code 002343), Kilkee Reefs SAC (Site Code 002264), Lower River Shannon SAC (Site Code 002165) and Mid-Clare Coast SPA (Site Code 004182)), in the vicinity in light of the sites conservations objectives. In coming to this conclusion the Board

took account of the limited extent of the works involved in increasing the height of the berm, the distance to any qualifying interests and to the nature of those qualifying interests and the content of the expert AA Screening Report that was submitted with the referral and concurred with the conclusions of this report. Accordingly, the de-exemption provisions of Section 4(4) of the Planning and Development Act, 2000, as amended, do not apply.

**NOW THEREFORE** An Bord Pleanála, in exercise of the powers conferred on it by section 5 (4) of the 2000 Act, hereby decides that the said raising of the height of an existing driving range berm at the Trump International Golf Links and Hotel, Doonbeg, Co. Clare is development and is exempted development.

Board Member: \_\_\_\_\_ Date: 7<sup>th</sup>, March 2017  
Paddy Keogh

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