



An
Bord
Pleanála

Board Direction
25M.RL3510

The submissions on this file and the Inspector's report were considered at a Board meeting held on June 21st 2018.

The Board determined the referral, generally as recommended by the Inspector, as set out in the following Order.

Board Order as follows:-

WHEREAS questions have arisen as to whether:

- (1) The use of the lands, measuring 1.84 hectares and edged in red on submitted documents, at Twyford, Baylin, Athlone, Co. Westmeath for agriculture is or is not development or is or is not exempted development.
- (2) The use of parts of the lands at Twyford, Baylin, Athlone, Co. Westmeath for the purposes of market gardening is or is not development or is or is not exempted development.
- (3) The provision of a building 298.48 square metres in area at Twyford, Baylin, Athlone, Co. Westmeath is or is not development or is or is not exempted development.
- (4) The provision of an all-weather surface with a drainage bed for the training of horses at Twyford, Baylin, Athlone, Co. Westmeath is or is not development or is or is not exempted development.

(5) The repair and improvement of a pre-existing private paved lane within the lands at Twyford, Baylin, Athlone, Co. Westmeath is or is not development or is or is not exempted development, and

(6) the construction of an internal wall within a building erected under the provisions of Class 9 of Part 3 of the Second Schedule to the Planning and Development Regulations 2001 with a gross floor area of 298.48 square metres at Twyford, Baylin, Athlone, Co. Westmeath is or is not development or is or is not exempted development.

AND WHEREAS Liam Madden of Convent Road, Longford, on behalf of Declan Ganley, requested a declaration on these questions from Westmeath County Council, and the Council issued a declaration on the 24th day of October 2016 stating that the matter is development and, in the case of question five is exempted development, and in the case of the other questions is not exempted development.

AND WHEREAS Liam Madden of Convent Road, Longford, on behalf of Declan Ganley referred these questions for determination to An Bord Pleanála on the 18th day of October 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) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended,
- (c) Class 13 of Part 1 and Classes 9 and 10 of Part 3 of the Second Schedule to the Planning and Development Regulations 2001, as amended, and
- (d) The planning history of the site, the submissions received and the report of the Inspector.

AND WHEREAS An Bord Pleanála, in considering this referral in respect of questions (3), (4) and (6), restricted its deliberations to the hypothetical provision of new structures on the lands in question, and not the existing unauthorised structures on the lands, which had been refused planning permission by its decision under planning register reference number 17/120 (An Bord Pleanála reference number PL25A.246083), and noted that this interpretation was in accordance with the questions as put by the referrer's agent in the submitted referral.

AND WHEREAS An Bord Pleanála has concluded that:

- (a) The use of the subject lands for agriculture, and of parts of the lands for market gardening, would constitute development, and would be exempted development under Section 4(1)(a) of the Planning and Development Act 2000, as amended;
- (b) The construction of a new building, 298.48 square metres in area, following the demolition and removal of the existing building on site, would constitute development, and would come within the scope of Class 9 of Part 3 of the Second Schedule to the Planning and Development Regulations 2001, as amended, provided that it complies with the Conditions and Limitations to which Class 9 is subject, and in such hypothetical circumstances would be exempted development, but not otherwise;
- (c) The provision of an all-weather surface with a drainage bed for the training of horses would constitute development. If such an area was provided, following the removal of the existing concrete hardstanding on the lands in question, it would come within the scope of Class 10 of Part 3 of the Second Schedule to the Planning and Development Regulations 2001, as amended, provided that it complies with the Conditions and Limitations to which Class 10 is subject, but if it used the existing concrete hardstanding on the lands for this purpose, it would not come within the scope of Class 10, or any other provisions, and would therefore not be exempted development;

- (d) The repair and improvement of a pre-existing paved lane within the lands, provided that it does not involve works to the access from the lane onto the public road along the western boundary of the subject lands, would be development and such development would come within the scope of Class 13 of Part 1 of the Second Schedule to the Planning and Development Regulations 2001, as amended, and would be exempted development.

- (e) The provision of an internal wall, within the new building referred to in paragraph (b) above, would constitute development. Provided that this building is itself exempted development, and provided that the building is first constructed and completed prior to the construction of the internal wall, the provision of this internal wall would come within the scope of Section 4(1)(h) of the Planning and Development Act 2000, as amended, being works for the alteration of an existing structure entirely within the interior of that structure, and in such hypothetical circumstances would be exempted development, but not otherwise.

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 use of the lands, measuring 1.84 hectares and edged in red on submitted documents, at Twyford, Baylin, Athlone, Co. Westmeath for agriculture would be development and would be exempted development.

- (2) The use of parts of the lands at Twyford, Baylin, Athlone, Co. Westmeath for the purposes of market gardening would be development and would be exempted development.

- (3) The provision of a new building, 298.48 square metres in area, at Twyford, Baylin, Athlone, Co. Westmeath would be development and, subject to the considerations set out above, and to compliance with the conditions and Limitations of Class 9 of Part 3 of the Second Schedule to the Planning and

Development Regulations 2001, as amended, would be exempted development, but not otherwise.

- (4) The provision of an all-weather surface with a drainage bed for the training of horses at Twyford, Baylin, Athlone, Co. Westmeath would be development, and if provided following the removal of the existing hardstanding on these lands, would be exempted development subject to it complying with the conditions and Limitations to which Class 10 of Part 3 of the Second Schedule to the Planning and Development Regulations 2001, as amended is subject, but the use of the existing hardstanding on these lands for this purpose would not be exempted development.
- (5) The repair and improvement of a pre-existing private paved lane within the lands at Twyford, Baylin, Athlone, Co. Westmeath would be development and, provided that it does not involve works to the access from the lane onto the public road along the western boundary of the subject lands, would be exempted development, but not otherwise.
- (6) the construction of an internal wall within a new building erected under the provisions of Class 9 of Part 3 of the Second Schedule to the Planning and Development Regulations 2001 with a gross floor area of 298.48 square metres at Twyford, Baylin, Athlone, Co. Westmeath would be development, and if this new building was itself exempted development, and had been previously constructed and completed prior to the erection of such an internal wall, would be exempted development, but not otherwise.

Board Member

Date: 5th July 2018

Philip Jones