



An
Bord
Pleanála

Board Direction 16.RL3562

The submissions on this file and the Inspector's report were considered at a Board meeting held on 18th April 2018.

The Board decided, as set out in the following Order, that the closing of the access to Brackloon Wood is development and is not exempted development.

Board Order as follows:-

WHEREAS a question has arisen as to whether the closing of the access to Brackloon Wood is or is not development or is or is not exempted development.

AND WHEREAS Michael Murphy requested a declaration on this question from Mayo County Council and the Council issued a declaration on the 2nd day of March, 2017 stating that the matter was not development:

AND WHEREAS Mr. Murphy referred this declaration for review to An Bord Pleanála, 20th day of March, 2017:

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, as amended
- (c) Section 4(4) of the Planning and Development Act, 2000, as amended,

- (d) article 6(1) and article 9(1)(a)(x) of the Planning and Development Regulations, 2001, as amended,
- (e) The status of Brackloon Wood as a Special Area of Conservation site code 000471,
- (f) the history of the site (including its planning history and submissions on file in relation to the use of the area for recreation)
- (g) the submissions on file and the report of the inspector.

AND WHEREAS An Bord Pleanála has concluded that:

- (a) The measures taken to close access to the site include various works such as erection of gates, erection of signage, alterations to gates, and erection of other barriers to the parking area. These works constitute development within the meaning of the Planning and Development Act 2000, as amended;
- (b) The works cited in the referral can be considered to come within the category of exempted development of Class 4 of Part 3 of Schedule 2 to the Planning & Development Regulations 2001, as amended;
- (c) The development has closed access to Brackloon Wood at this location and therefore consists of the fencing or enclosure of land that has been used by the public during the preceding 10 years as a means of access to a place of natural beauty and recreational utility, and so the restriction on exemption set out in article 9(1)(a)(x) of the regulations applies;

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 closing of the access to Brackloon Wood is development and is not exempted development

Note: While the Inspector considered that the closing of access to Brackloon Wood Special Area of Conservation (site code 000471) would be likely to have significant effects on this Natura 2000 site, and therefore require appropriate assessment under the EU Habitats Directive, the Board considered that further information on this matter might have been required prior to reaching any conclusion. Given that the development in question is not exempted development for other reasons, the Board did not pursue the matter further in the context of this referral.

Board Member

Date: 18th April 2018

Conall Boland

Please issue Board Direction with the Order.