



An
Bord
Pleanála

Board Direction 17.RL3604

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

The Board decided, as set out in the following Order, that the reinstatement of land by the importation of 94,683 cubic metres of non-waste/by-product soil and stones, consisting of 43,900 cubic metres of topsoil and 50,783 cubic metres of subsoil, sourced from greenfield development sites in the Dublin Region, at Basketstown, Summerhill, County Meath is development and is not exempted development.

Board Order as follows:-

WHEREAS a question has arisen as to whether the reinstatement of land by the importation of 94,683 cubic metres of non-waste/by-product soil and stones, consisting of 43,900 cubic metres of topsoil and 50,783 cubic metres of subsoil, sourced from greenfield development sites in the Dublin Region, at Basketstown, Summerhill, County Meath is or is not development or is or is not exempted development.

AND WHEREAS Jacinta and Conor Murtagh requested a declaration on this question from Meath County Council, and the Council issued a declaration on the 19th day of June 2017 stating that the matter was development and was not exempted development.

AND WHEREAS Jacinta and Conor Murtagh referred this declaration for review to An Bord Pleanála, on the 17th day of July 2017.

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

- (a) Sections 2(1), 3(1) and 4 of the Planning and Development Act 2000, as amended,
- (b) Articles 6(3), 8, 8A, 8B, 8C, 8D and 9 (1) of the Planning and Development Regulations 2001, as amended,
- (c) The European Waste Framework Directive, 2008/98/EC, as amended, and
- (d) The submissions on file and the nature of the proposal, and

AND WHEREAS An Bord Pleanála has concluded that:

- (a) The importation of soil and subsoil for infilling on lands constitutes 'works' as defined in Section 2(1) of the Planning and Development Act 2000, as amended and is therefore development;
- (b) It has not been established that the soil and subsoil does not constitute 'waste' and therefore the development does not fall within the scope of Section 4 (1)(l) of the Planning and Development Act 2000, as amended, and does not come within the meaning of the term 'land reclamation' as set out in Article 8 of the Planning and Development Regulations 2001, as amended;
- (c) In such circumstances, the development would require environmental impact assessment and would come within the scope of Section 4 (4) of the Planning and Development Act 2000, as amended, and would, therefore, not be exempted development;

- (d) If it could be established that the soil and subsoil was not waste, then the development in question would be classified as land reclamation, but would not come within the scope of Article 8C of the Planning and Development Regulations 2001, as amended, because this exemption relates only to land reclamation works including infilling of soil within a farm holding and does not provide an exemption for importation of soil to a farm holding for the purposes of re-contouring of land from external sources (as in the current case), and therefore the development in question would not be exempted development.

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 reinstatement of land by the importation of 94,683 cubic metres of non-waste/by-product soil and stones, consisting of 43,900 cubic metres of topsoil and 50,783 cubic metres of subsoil, sourced from greenfield development sites in the Dublin Region, at Basketstown, Summerhill, County Meath is development and is not exempted development.

Board Member

Date: 24th July 2018

Philip Jones