



An
Bord
Pleanála

Board Direction
03.RL3611

The submissions on this file and the Inspector's report were considered at a Board meeting held on 7.12.2018.

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

Board Order as follows:-

WHEREAS a question has arisen as to whether or not groundworks including the importation and deposition of fill material and the creation of a hardstanding area and the raising of ground levels is or is not development or is or is not exempted development:

AND WHEREAS Clare County Council requested a declaration on this question in accordance with Section 5(4) of the Planning and Development Act, 2000 (as amended)

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, and
- (b) Articles 6, 8 and 9 of the Planning and Development Regulations 2001, as amended

AND WHEREAS An Bord Pleanála concluded that

- (a) the groundworks undertaken including the importation and deposition of fill, the creation of a hardstanding area and the raising of ground levels were works carried out as part of the River Fergus Lower (Ennis) Certified Drainage Scheme under the Arterial Drainage Act of 1945, and therefore were permitted development under that scheme,
- (b) furthermore, the use of the lands in question as a temporary compound associated with improvements in the water supply network fall within works which are exempted under the provisions of Section 4.(1)(g) of the Planning and Development Act 2000 (as amended) and Class 16 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended).

NOW THEREFORE An Bord Pleanála in exercise of the powers conferred on it by Section 5(4) of the 2000 Act (as amended) hereby decides that the groundworks undertaken including the importation and deposition of fill material to create a hardstanding area and the raising of ground levels is development and is exempted development/permitted development.

MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it is required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

Board Member

Date: 10.12.2018

Terry Prendergast

Note: The Board obtained, from the planning authority, a copy of the Natura Impact Statement that accompanied the certified drainage scheme confirmed by Ministerial Order and is accordingly satisfied that no Appropriate Assessment issues arise. It was not considered necessary to circulate the Natura Impact Statement to the other parties to the referral.

Note: Please issue Board Direction with Order.