



Planning and Development Acts 2000 to 2018

Planning Authority: Louth County Council

Planning Register Reference Number: S52018/22

WHEREAS a question has arisen as to whether the temporary open storage of scaffolding and miscellaneous building materials at Tullydonnell Townland, Togher, County Louth is or is not development or is or is not exempted development:

AND WHEREAS Colm Doyle of Tullydonnell, Togher, County Louth requested a declaration on this question from Louth County Council and the Council issued a declaration on the 4th day of May, 2018 stating that the matter is development and is not exempted development:

AND WHEREAS Colm Doyle referred the declaration for review to An Bord Pleanála on the 31st day of May, 2018:

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

- (a) sections 2(1), 3, 4(1)(a), 4(1)(h), 4(1)(j) and 4(4) of the Planning and Development Act, 2000, as amended,
- (b) Articles 5, 6(1) and 9(1) of the Planning and Development Regulations, 2001, as amended,
- (c) Class 16 of Part 1 of the Second Schedule to the Planning and Development Regulations, 2001, as amended, and
- (d) the planning history of the site and in particular planning permission register reference number 02/1499, and conditions numbers 1 and 6 of that permission:

AND WHEREAS An Bord Pleanála has concluded that -

- (a) the placing of scaffolding and miscellaneous building materials on the lands that are the subject of the referral represents a change of use of the lands from their authorised use for agriculture,
- (b) this change of use raises material planning matters including visual amenity issues, and uses that are neither agricultural in nature nor incidental to the use of the adjacent dwelling, and hence impact on matters of agricultural policy in the relevant Development Plan and matters of residential amenity, and accordingly this change of use is a material change of use of the lands, and is, therefore, development,

- (c) Class 16 of Part 1 of the Second Schedule to the Planning and Development Regulations, 2001, as amended, relates to the temporary placing of structures, works, plant or machinery on lands on or adjacent to a development site, during the period in which the development is being carried out. It requires that such items be removed at the expiration of this period and the lands reinstated and as such it does not facilitate ongoing storage on the basis that such items may be required at some future date in connection with permitted or exempted development,
- (d) the lands that are the subject of the referral do not comprise a development site, as no development consisting of works pursuant to a permission or as exempted development are currently being undertaken on these lands that would require the use of the significant quantities of scaffolding and miscellaneous building materials stored thereon, and the Board is not satisfied, on the basis of the submissions made, that such development is about to be carried out on these lands,
- (e) the placing of scaffolding and miscellaneous building materials on the lands that are the subject of the referral therefore does not come within the scope of Class 16 of Part 1 of the Second Schedule to the Planning and Development Regulations, 2001, as amended, as the lands in question are not a development site, nor within the scope of any other exemption provided for in the Planning and Development Act, 2000, as amended, or in the Planning and Development Regulations, 2001, as amended, and therefore, is not, exempted development, and

(f) in any event, any exemption that might apply to this storage is restricted, pursuant to Article 9(1)(a)(i) of the Planning and Development Regulations, 2001, as amended, as the lands that are the subject of the referral were to be developed as a woodland area, and under condition number 6 of that permission, such woodland area was to be planted and permanently retained thereafter. In addition, under condition number 1 of that permission, the development in question was to be exclusively used for the purposes of agriculture and no other use including commercial storage was permitted without the prior consent of the planning authority given by way of a planning application. Accordingly, the storage of scaffolding and miscellaneous building materials on these lands, whether on a temporary or permanent basis, would contravene these conditions of that planning permission, and therefore, is not, exempted development:

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5 (3) (a) of the 2000 Act, hereby decides that the temporary open storage of scaffolding and miscellaneous building materials at Tullydonnell Townland, Togher, County Louth is development and is not exempted 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 was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

Philip Jones

Member of An Bord Pleanála

duly authorised to authenticate

the seal of the Board.

Dated this day of 2018.