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**Planning and Development Acts 2000 to 2018**

**Planning Authority: Monaghan County Council**

**Planning Register Reference Number: Ex18/25**

**WHEREAS** a question has arisen as to whether works carried out to change the level of land up to three metres in parts, leading to the destruction of a boundary hedgerow and redirection of groundwater at Drumquill, Castleblayney, County Monaghan is or is not development or is or is not exempted development:

**AND WHEREAS** Martin Molloy of Drumquill, Castleblayney, County Monaghan requested a declaration on the question from Monaghan County Council and no declaration issued by the planning authority:

**AND WHEREAS** Martin Molloy referred the question for decision to An Bord Pleanála on the 30<sup>th</sup> day of October, 2018:

**AND WHEREAS** An Bord Pleanála reformulated the question as follows -

“whether works carried out to change the level of land by the excavation and deposition of soil from another part of the landholding at Drumquill, Castleblayney, County Monaghan is or is not development or is or is not exempted development:”

**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(1), 9(1) and 8C of the Planning and Development Regulations 2001, as amended,
- (c) the planning history of the site,
- (d) the submissions on the file, and
- (e) the report of the Inspector:

**AND WHEREAS** An Bord Pleanála has concluded that -

- (a) the works carried out to change the level of land by the excavation and deposition of soil from another part of the landholding is development, as defined under sections 2(1) and 3(1) of the Planning and Development Act 2000, as amended;
- (b) the development that has taken place does not come within the scope of Article 8C (land reclamation) of the Planning and Development Regulations 2001, as amended, and is therefore not exempted development;
- (c) the development that has taken place is intrinsically linked to existing developments on the landholding that do not have the benefit of planning permission, and the works come within the scope of Article 9(1)(a)(viii) of those Regulations, and are therefore not exempted development; and

- (d) the development that has taken place does not come within the scope of any class of development listed in Part 1 or Part 3 of Schedule 2 to those Regulations:

**NOW THEREFORE** An Bord Pleanála, in exercise of the powers conferred on it by section 5 (3) (b) of the 2000 Act, hereby decides that the works carried out to change the level of land by the excavation and deposition of soil from another part of the landholding at Drumquill, Castleblaney, County Monaghan 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.

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**Dave Walsh**  
**Member of An Bord Pleanála**  
**duly authorised to authenticate**  
**the seal of the Board.**

**Dated this            day of            2019.**