



Planning and Development Acts 2000 to 2018

Planning Authority: Wexford County Council

Planning Register Reference Number: EXD00729

WHEREAS a question has arisen as to whether (a) the removal of trees and other vegetation from the site is or is not development and/or is or is not exempted development, and (b) the infilling of the existing hole with unknown infill material and top soiling of the filled hole and the carrying out of works to allow water held in the hole to discharge to natural drainage network at Crosstown, Ardcahan, County Wexford is or is not development or is or is not exempted development:

AND WHEREAS Michael Brennan Mullan Rua, Crosstown, Wexford requested a declaration on the said question from Wexford County Council and the said Council issued a declaration on the 9th day of November, 2018 stating that the matter in respect to (a) the removal of trees and other vegetation from the site is exempted development, and that the matter in respect of (b) the infilling of the existing hole with unknown infill material and top soiling of the filled hole and the carrying out of works to allow water held in the hole to discharge to natural drainage network, is not exempted development:

AND WHEREAS Michael Brennan referred the declaration for review to An Bord Pleanála on the 28th day of November, 2018:

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) Section 4(1)(l) and 4(4) of the Planning and Development Act, 2000, as amended,
- (c) Articles 5, 6 and 8 of the Planning and Development Regulations, 2001, as amended, and Class 11 of Part 3 of Schedule 2 of the said Regulations, as amended,
- (d) the Waste Management (Facility Permit and Registration) Regulations 2007 (as amended by S.I. No. 86 of 2008), and
- (e) the submissions on file:

AND WHEREAS An Bord Pleanála has concluded that –

- (a) the removal of trees and other vegetation from the site is not development,
- (b) the infill development does not come within the scope of the exemption set out under section 4(1)(l) of the Planning and Development Act 2000, as amended,

- (c) the infill development does not come within the scope of the exemption set out in Article 8B of the Planning and Development Regulations, 2001, as amended, because the subject site is a former wetland, as defined in Article 5 of the Planning and Development Regulations, 2001, as amended,
- (d) the infill development does not come within the scope of the exemption set out in Article 8C of the Planning and Development Regulations, 2001, as amended, in respect of Land Reclamation, because the material used for infill is unknown which may give rise to filling with waste material, as defined in the Waste Management (Facility Permit and Registration) Regulations 2007 (as amended), and the site is a former wetland, and
- (e) the infill development does not come within the scope of Class 11 of Part 3 of Schedule 2 of the Planning and Development Regulations, 2001, as amended, (Land Reclamation - infilling of wetlands) because of non-compliance with the Conditions and Limitations Column 1 of that Class, as the area in question exceeds the 0.1 hectares.

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 (a) the said removal of trees and other vegetation from the site is not development, and (b) the said infilling of the existing hole with unknown infill material and top soiling of the filled hole and the carrying out of works to allow water held in the hole to discharge to natural drainage network, at Crosstown, Ardcahan, County Wexford, 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.

Stephen Bohan

Member of An Bord Pleanála

**duly authorised to authenticate
the seal of the Board.**

Dated this day of 2019.