



Planning and Development Acts 2000 to 2018

Planning Authority: Westmeath County Council

Planning Register Reference Number: S5-1-19

WHEREAS a question has arisen as to whether the infilling and drainage of wetland and the construction of a road access within, and adjacent to, Lough Lene Special Area of Conservation at Lough Lene, Collinstown, County Westmeath is or is not development or is or is not exempted development:

AND WHEREAS Triona Finnen care of National Parks and Wildlife Service, Department of Culture, Heritage and The Gaeltacht, Government Buildings, Bellview, Mullingar, County Westmeath requested a declaration on the question from Westmeath County Council and no declaration issued by the planning authority:

AND WHEREAS Westmeath County Council referred the question for decision to An Bord Pleanála on the 14th day of February, 2019:

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

- (a) Section 2(1) of the Planning and Development Act, 2000, as amended,
- (b) Section 3(1) of the Planning and Development Act, 2000,
- (c) Section 4(1)(a) of the Planning and Development Act, 2000, as amended,
- (d) articles 6(1) and 9(1) of the Planning and Development Regulations, 2001, as amended,
- (e) Part 1 and Part 3 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (f) the planning history of the site,
- (g) the pattern of development in the area and
- (h) the Report of the Inspector:

AND WHEREAS An Bord Pleanála has concluded that -

- (a) the infilling and drainage of wetlands and construction of an access road constitutes works that come within the scope of section 2(1) of the Planning and Development Act, 2000,
- (b) the said works constitute development that comes within the scope of section 3(1) of the Planning and Development Act, 2000,
- (c) the said works do not clearly and unambiguously come within the scope of the exemption provided under article 6(1) and Part 1 and Part 3 of Schedule 2 of the Planning and Development Regulations, 2001, as amended,
- (d) the said works do come within the scope of the restrictions on exemptions set out at:

- article 9 (1)(a)(ii) of the Planning and Development Regulations, 2001, as amended, whereby the works consisted of the material widening of a means of access to a public road, the surfaced carriageway of which exceeds four metres in width;
 - article 9(1)(a)(viiB) of the Planning and Development Regulations, 2001, as amended, whereby the works comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European Site; and
 - article 9(c) of the Planning and Development Regulations, 2001, as amended, whereby the need for Environmental Impact Assessment cannot be excluded.
- (e) Furthermore, the said works do come within the scope of the restrictions on exemptions, as set out under Section 4(a) of the Planning and Development Act, 2000, as amended, insofar as it is considered that the need for Appropriate Assessment and Environmental Impact Assessment cannot be excluded:

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5 (3) of the 2000 Act, hereby decides that the infilling and drainage of wetland and the construction of a road access within, and adjacent to, Lough Lene Special Area of Conservation at Lough Lene, Collinstown, County Westmeath, 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.

Terry Ó Niadh

Member of An Bord Pleanála

duly authorised to authenticate

the seal of the Board.

Dated this day of 2019.