



Planning and Development Acts 2000 to 2019

Planning Authority: Louth County Council

Planning Register Reference Number: S52019/14

WHEREAS a question has arisen as to whether the carrying out of drainage works, namely field drainage for agriculture and the laying of a culvert as part of such drainage works, and the upgrading of internal access by laying of hardcore to facilitate access to uplands, including agricultural lands and forestry, at Ballyoonan, Omeath, County Louth is or is not development or is or is not exempted development:

AND WHEREAS Gerard Watters care of Ger Fahy of “Annaghdown”, Pagestown, Kilcloon, County Meath requested a declaration on this question from Louth County Council and the Council issued a declaration on the 3rd day of May, 2019 stating that the matters are development and are not exempted development:

AND WHEREAS Gerard Watters referred the declaration for review to An Bord Pleanála on the 30th day of May, 2019:

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 8B, 8G and 9 of the Planning and Development Regulations, 2001, as amended,
- (c) Class 13 of Part 1 of the Second Schedule to the Planning and Development Regulations, 2001, as amended,
- (d) Class 3 of Part 3 of the Second Schedule to the Planning and Development Regulations, 2001, as amended,
- (e) the location of the subject site in proximity to Carlingford Lough, and
- (f) the nature of land uses and pattern of development in the area:

AND WHEREAS An Bord Pleanála has concluded that –

- (a) the carrying out of drainage works for agriculture, including the provision of a culvert, and the laying of hardcore as part of internal access to uplands, including agricultural lands and forestry, involved the carrying out of works, and therefore constitute development,

- (b) the carrying out of drainage works for agriculture (which included the provision of two culverts) would come within the scope of the exemption provided for under article 8B of the Planning and Development Regulations 2001, as amended, and also the exemption provided for under Class 3 of Part 3 of the Second Schedule to these Regulations, but the restriction on exemption set out in Section 4 (4) applies in this instance, as the competent authority has determined that the works, which are in the vicinity of a fast flowing stream that connects to the Carlingford Shore Special Area of Conservation (site code 002306), would have required appropriate assessment and are, therefore, not exempted development, and
- (c) the laying of hardcore to facilitate access to uplands, including agricultural lands and forestry, as stated, does not come within the scope of article 8G of the Planning and Development Regulations, 2001, as amended, as there is no evidence of forests or woodland that are served by this road, and the development does not come within the scope of Class 3 of Part 1 of the Second Schedule to the Regulations, because the subject road that has been laid is a new road, for the use of vehicles, and the works involved therefore, do not constitute the repair or improvement of an existing street, road or way, nor the construction of any private footpath or paving. It is, therefore, not exempted development.

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5 (3) (a) of the Planning and Development Act, 2000, as amended, hereby decides that the carrying out of drainage works, namely field drainage for agriculture and the laying of a culvert as part of such drainage works, and the upgrading of internal access by laying of hardcore to facilitate access to uplands, including agricultural lands and forestry, at Ballyoonan, Omeath, 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 2020.