



---

**Planning and Development Acts 2000 to 2020**

**Planning Authority: Donegal County Council**

**Planning Register Reference Number: S5 19/25**

**WHEREAS** a question has arisen as to whether the ground excavation, alteration and demolition on private and public property at Narin and Portnoo Links and Castlegoland Beach, Narin, Portnoo, County Donegal is or is not development or is or is not exempted development:

**AND WHEREAS** Tony Kitterick and Others of Loughfad, Portnoo, County Donegal requested a declaration on the question from Donegal County Council and the Council issued a declaration on the 6<sup>th</sup> day of December, 2019 stating that the matter is development and is exempted development:

**AND WHEREAS** Tony Kitterick and Others of Loughfad, Portnoo, County Donegal referred the declaration for review to An Bord Pleanála on the 9<sup>th</sup> day of January, 2020:

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

- (a) Section 2 and Section 3 of the Planning and Development Act, 2000, as amended;
- (b) Article 6 of the Planning and Development Regulations, 2001, as amended, in particular;
- (c) Class 34 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended;
- (d) Article 9(1)(a)(i), (iii), (vi), (vii), (viiB), (viiC), (viii) and (xi) of the Planning and Development Regulations, 2001, as amended;
- (e) the description of the works set out in the referral and the nature of the works and activities undertaken, which incorporate specific works at two defined locations which can be described as, the removal of soil in a fairway to form a natural sand bunker at Area A and the cultivation, harvesting and replanting of marram grass at Area B and which do not comprise demolition;
- (f) the submissions on file, and
- (g) the report of the Inspector:

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

- (a) In relation to Area A as described in the referral documentation, the removal of soil in a fairway to form a natural sand bunker constitutes works within the meaning of Section 2 of the Planning and Development Act, 2000, as amended, and constitutes development within the meaning of Section 3 of the Planning and Development Act 2000 (as amended);
- (b) The development at Area A falls within the scope of Class 34 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended, being works incidental to the maintenance and management of a golf course and therefore constitutes exempted development;
- (c) In relation to Area B as described in the referral documentation, the cultivation, harvesting and replanting of marram grass constitutes works within the meaning of Section 2 of the Planning and Development Act, 2000, as amended, and constitutes development within the meaning of Section 3 of the Planning and Development Act 2000 (as amended);
- (d) The development at Area B falls within the scope of Class 34 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended, being works incidental to the maintenance and management of a golf course and therefore constitutes exempted development;
- (e) The development at Area B is de-exempted by reference to Article 9(1)(a)(viiB), since it comprises development which the Board as the competent authority, has determined would require an Appropriate Assessment, on the basis that likely significant effects on the integrity of European Site, the West of Ardara/Maas Road Special Area of Conservation (Site Code: 000197):

**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 works at Area A are development and are exempted development and that the works at Area B are development and are 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.

---

**Chris McGarry**

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

**Dated this            day of            2020**