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**Planning and Development Acts 2000 to 2019**

**Planning Authority: Clare County Council**

**Planning Register Reference Number: R19-21**

**WHEREAS** a question has arisen as to whether the construction of a slatted unit at Roscliff, Ballynacally, County Clare is or is not development or is or is not exempted development:

**AND WHEREAS** Fintan Meaney of Roscliff, Ballynacally, County Clare requested a declaration on this question from Clare County Council and the Council issued a declaration on the 19<sup>th</sup> day of December, 2019 stating that the matter is development and is not exempted development:

**AND WHEREAS** Fintan Meaney referred the declaration for review to An Bord Pleanála on the 23<sup>rd</sup> day of January, 2020:

**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, as amended,
- (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) Class 6 of Part 3 of Schedule 2 of the Planning and Development Regulations, 2001, as amended,
- (f) the nature and extent of development on the site,
- (g) the location of the Ballycanally Creek on the northern boundary of the site which flows directly into the Lower River Shannon Special Area of Conservation (Site Code: 002165) at close proximity,
- (h) the submissions on file, and
- (i) the report of the Inspector:

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

- (a) the proposed works are development as defined in section 3 of the Planning and Development Act 2000, as amended,
- (b) the proposed works would come within the scope of Class 6 of Part 3 of Schedule 2 of the Planning and Development Regulations, 2001, as amended,
- (c) the proposed works would comply with the Conditions and Limitations of this Class, and
- (d) based on the submitted details, it is not possible to state beyond reasonable doubt that the proposed development would not have a significant negative impact on a European site. Accordingly, the subject development would not constitute exempted development having regard to the restrictions on exemption set out in Article 9(1)(a)(viiB) as it would 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:

**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 construction of a slatted unit at Rosscriff, Ballynacally, County Clare 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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**Chris McGarry**

**Member of An Bord Pleanála**

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

**Dated this            day of            2020.**