

An
Bord
Pleanála

Board Order
ABP 307488-20

Planning and Development Acts 2000 to 2020

Planning Authority: Kerry County Council

Planning Register Reference Number: EX 833

WHEREAS a question has arisen as to whether the alleged unauthorised quarrying activity at Reenagappul, Kenmare, County Kerry is or is not development or is or is not exempted development:

AND WHEREAS Martin Arthur of Lime Kiln Lodge, Kenmare, County Kerry requested a declaration on this question from Kerry County Council and the Council issued a declaration on the 22nd day of June, 2020 stating that the matter was development and was not exempted development:

AND WHEREAS Martin Arthur referred this declaration for review to An Bord Pleanála, on the 1st day of July, 2020:

AND WHEREAS An Bord Pleanála reformulated the question as follows -

whether, at Reenagappul, Kenmare, County Kerry, -

(a) the 'quarrying activity' on the lands is or is not development,

- (b) the 'quarrying activity' comes within the scope of a pre-1964 established use of the site,
- (c) the 'quarrying activity' is exempted development under Section 4(1) of the Planning and Development Act 2000, as amended, and
- (d) the repair of internal private roads within the landholding comes within the scope of Class 13 of Part 1, Schedule 2 of the Planning and Development Regulations 2001, as amended:

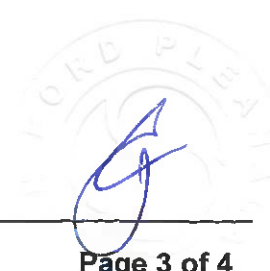
AND WHEREAS An Bord Pleanála, in considering this referral, had regard particularly to

- (a) Sections 2 and 3 of the Planning and Development Act, 2000, as amended,
- (b) Section 4(1)(f) (g) and (l) of the Planning and Development Act, 2000, as amended,
- (c) Section 4(4) of the Planning and Development Act 2000, as amended,
- (d) Article 6(1) and Article 9(1) of the Planning and Development Regulations, 2001, as amended,
- (e) Class 13 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (f) the planning history of the site, and
- (g) the pattern of development in the area:



AND WHEREAS An Bord Pleanála has concluded that:

- (a) the use of the lands for 'quarrying activity' comprising excavation, storage and transport of stone material comes within the scope of 'works' and 'quarry' as set out in Section 2 of the Planning and Development Act 2000, as amended, and therefore constitutes development as defined in Section 3 of that Act,
- (b) the information before the Board is not sufficient to enable a determination to be made in relation to the planning status of the quarry in terms of whether it was established before the 1st day of October, 1964 or whether there has been any intensification and/or abandonment of the use of the lands since the 1st day of October 1964, which would have given rise to a requirement for planning permission,
- (c) the development does not come within the scope of any exemption under Section 4 of the Planning and Development Act 2000, as amended,
- (d) the development does not come within the scope of any exemption provided for under Article 6 and Schedule 2 of the Planning and Development Regulations 2001, as amended, and
- (e) the information before the Board is not sufficient to enable a determination as to whether the development would require an Environmental Impact Assessment and/or an Appropriate Assessment which would exclude it from any exemption by reference to Section 4(4) of the Planning and Development Act 2000, as amended, and/or Article 9(1)(a)(viiB) of the Planning and Development Regulations 2001, as amended,;



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 work involving 'quarrying activity' at Reenagappul, Kenmare, County Kerry 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.



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

Dated this *13th* day of *OCTOBER* 2021