

An  
Bord  
Pleanála

Board Order  
ABP-309575-21

---

**Planning and Development Acts 2000 to 2020**

**Planning Authority: Laois County Council**

**Planning Register Reference Number: 10/5**

**WHEREAS** a question has arisen as to whether the on-site surface water management/cessation of surface water discharge at Ballymullen, Abbeyleix, County Laois is or is not development or is or is not exempted development:

**AND WHEREAS** Booth Precast Limited care of AOCA Engineering Consultants of Lismard House, Timahoe Road, Portlaoise, County Laois requested a declaration on this question from Laois County Council and the Council issued a declaration on the 1<sup>st</sup> day of February, 2021 stating that the matter was development and was not exempted development:

**AND WHEREAS** the said Booth Precast Limited referred this declaration for review to An Bord Pleanála on the 26<sup>th</sup> day of February, 2021:

**AND WHEREAS** An Bord Pleanála, in considering this referral, has reframed the question:

“Whether revisions to the on-site management of surface water within an existing facility for the manufacture of concrete products as detailed on drawing number 20-056-P-02-00 including the creation of new surface water/ silt ponds, re-circulation of surface water on site and the cessation of surface water discharge to adjoining watercourse at Ballymullen, Abbeyleix, County Laois is or is not development or is or is not exempted development”:

**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)(h) 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 21 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 report of the Inspector:

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

- (a) the referral includes elements such as the excavation of new ponds, connecting pipes and pump equipment/pump house which comprise works and therefore come within the scope of the definition of development as set out at section 3 of the Planning and Development Act 2000,

- (b) the nature of the works the subject of this referral are such that they do not all relate to a 'structure' as defined in section 3 of the Planning and Development Act, 2000 and are, therefore, such that the exemption provided for under Section 4(1)(h) of the 2000 Act is not applicable. Specifically, it is considered that the excavation of Silt Pond/ Lagoon (numbers 01 and 02 on drawing number 20-056-P-02-00), the installation of new pipework and the construction of the new pump houses (identified as number 06 and number 15 on drawing number 20-056-P-02-00) are not existing structures and that the exemption provided for under section 4(1)(h) of the Planning and Development Act, 2000, as amended, for the carrying out of works to such existing structures is not, therefore, applicable to these features. Works to the existing pumping arrangement and the closure of the existing surface water discharge from the site are works to existing structures and are therefore exempted development under section 4(1)(h) of the said Act,
- (c) the referrer comes within the definition of a statutory undertaker as defined in Article 3 of the Planning and Development Regulations 2001, as amended, and that the activity undertaken on the site is an industrial undertaking,
- (d) the laying of new pipes connecting the new pump houses (number 06 and number 15 on drawing number 20-056-P-02-00) to the new ponds and connecting the new ponds to each other are considered to constitute the laying of pipes or other apparatus that fall within the scope of Class 21(a)(ii) of the Planning and Development Regulations, 2001, as amended, and that the Conditions and Limitations on this Class are met as they relate to these works,

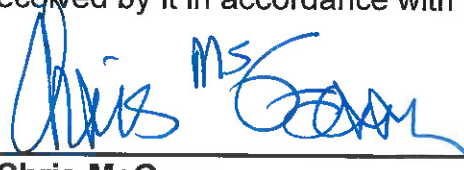
- (e) the new pump house installations indicated at numbers 06 and 15 on drawing number 20-056-P-02-00 are such that they would come within the scope of Class 21(a)(iii) of the said Planning and Development Regulations comprising the installation of additional plant or machinery, and that the Conditions and Limitations on this Class are met as they relate to these works,
- (f) the closure of the existing water discharge from the site comes within the scope of Class 21(a)(ii) of the said Planning and Development Regulations, relating to the provision, rearrangement, replacement or maintenance of sewers or pipes and that the Conditions and Limitations on this Class are met as they relate to these works,
- (g) the constructed silt ponds/lagoons do not come within the scope of Class 21(a)(ii) or (iii) of the said Planning and Development Regulations. In addition and in any case, the silt ponds/lagoons by their nature and scale would materially alter the external appearance of the land area on which they are located,
- (h) none of the restrictions on exemptions set out in Article 9 of the Planning and Development Regulations, 2001, as amended, are applicable to the circumstances of this case, and
- (i) the works which are the subject of this referral are not considered such as to have any likely significant effects on any European sites in light of the conservation objectives of the relevant sites.

**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 revisions to the on-site management of surface water within an existing facility for the manufacture of concrete products as detailed on drawing number 20-056-P-02-00 including the creation of new surface water/silt ponds/lagoons, re circulation of surface water on site and the cessation of surface water discharge to adjoining watercourse at Ballymullen, Abbeyleix, County Laois

- (1) is development and is not exempted development insofar as it relates to the development of two silt ponds/lagoons, and
- (2) is development and is exempted development insofar as it relates to the installation of new pipework and the construction of the new pump houses (identified as number 06 and number 15 on drawing 20-056-P-02-00) and works to the existing pumping arrangement and to the closure of the existing surface water discharge from the site.

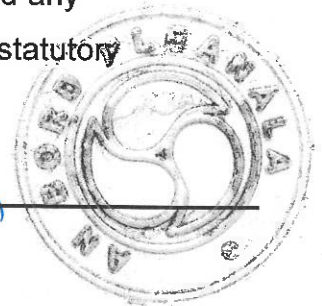
### **Matters Considered**

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 9<sup>th</sup> day of December 2021.