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**Planning and Development Acts 2000 to 2021**

**Planning Authority: Kerry County Council**

**Planning Register Reference Number: EX907**

**WHEREAS** a question has arisen as to whether the erection of a telecommunications mast, associated telecommunications infrastructure and an access route on an elevated site (94m ASL), just west of the village of Camp, Tralee, County Kerry, with access off the N86, is or is not development or is or is not exempted development:

**AND WHEREAS** Joseph and Aine O'Dwyer care of HRA Planning of 3 Hartstonge Street, Limerick requested a declaration on this question from Kerry County Council and the Council issued a declaration on the 14<sup>th</sup> day of May, 2021 stating that the matter was development and was exempted development:

**AND WHEREAS** Joseph and Aine O'Dwyer referred the declaration for review to An Bord Pleanála on the 27<sup>th</sup> day of May, 2021:

**AND WHEREAS** following receipt of the Occupier's response to its Section 132 Notice, An Bord Pleanála has rephrased the question to "whether the erection of a telecommunications mast, associated telecommunications infrastructure, the provision along part of the access route of a temporary access track until the development has been completed, and the reinstatement of the land thereafter, on an elevated site (94m ASL), just west of the village of Camp, Tralee, County Kerry, with access off the N86, 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) Sections 2(1), 3(1) and 4(1) of the Planning and Development Act, 2000, as amended,
- (b) Articles 6(1) and 9(1) of the Planning and Development Regulations, 2001, as amended, and
- (c) Part 1 of Schedule 2 to those Regulations, 2001, as amended:

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

- (a) the telecommunications elements of the project are exempted development under Class 31 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, as amended,
- (b) the site is not zoned "Rural Prime Special Amenity", and so the telecommunications elements of the project are not de-exempted under Article 9(1)(a)(vi) of those Regulations, and

- (c) the temporary access track is exempted development under Class 16 of Part 1 of Schedule 2 of those Regulations:

**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 erection of a telecommunications mast, associated telecommunications infrastructure, the provision along part of the access route of a temporary access track until the development has been completed, and the reinstatement of the land thereafter, on an elevated site (94m ASL), just west of the village of Camp, Tralee, County Kerry, with access off the N86, is development which is 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 *29<sup>th</sup>* day of *MARCH* 2022.