



An  
Bord  
Pleanála

Board Order  
ABP-314209-22

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**Planning and Development Acts 2000 to 2022**

**Planning Authority: Clare County Council**

**Planning Register Reference Number: R22-1**

**WHEREAS** a question has arisen as to whether the replacement of the Clarecastle Wastewater Treatment Plant by diverting wastewater arising through a new sewer to the Clareabbey Wastewater Treatment Plant, which discharges to a Special Area of Conservation, at Clarecastle, County Clare is or is not development or is or is not exempted development,

**AND WHEREAS** Michael Duffy of 1 Clós na hEaglaise, Kilfenora, County Clare requested a declaration on the said question from Clare County Council and the Council issued a declaration on the 30<sup>th</sup> day of June, 2022 stating that the matter is development and is exempted development,

**AND WHEREAS** Michael Duffy of 1 Clós na hEaglaise, Kilfenora, County Clare referred the declaration for review to An Bord Pleanála on the 27<sup>th</sup> day of July, 2022,

**AND WHEREAS** An Bord Pleanála, in considering the nature of the question, is satisfied that the referral should not be further considered by it,

**NOW THEREFORE** An Bord Pleanála, in exercise of the powers conferred on it by section 138(1) of the Planning and Development Act 2000, as amended, hereby dismisses the said referral under subsection (1)(b)(i) of Section 138 of the said Act based on the reasons and considerations set out below.

## **Reasons and Considerations**

The Board concluded, generally in agreement with the Inspector's assessment, that the Judgement of Heslin J in *Narconon Trust v An Bord Pleanála and Others* has applicability in the instance of the subject referral case. The Board noted that the previous determinations of Clare County Council in relation to substantially the same question and in respect of the same land have been declared as development which is exempted development and there has been no change in the planning facts or circumstances since the previous determinations were made that would have relevance to the referral case now before the Board. The Board is, therefore, satisfied that, in the particular circumstances, the referral should not be further considered by it.



**Patricia Calleary**

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

Dated this 16 day of July 2024.