

Planning and Development Acts 2000 to 2022

Planning Authority: Wexford County Council

Planning Register Reference Number: EXD01013

WHEREAS a question has arisen as to whether the removal of top soil and sub soil from one area and spreading it on lands for agricultural use at Curraghraigue, Enniscorthy, County Wexford is or is not development or is or is not exempted development:

AND WHEREAS John and Marie Sinnott care of Frank Finnegan of 2 Balally Hill, Dundrum, Dublin requested a declaration on the said question from Wexford County Council and the said Council issued a declaration on the 2nd day of June, 2023 stating that the said matter is development and is exempted development:

AND WHEREAS John and Marie Sinnott referred the declaration for review to An Bord Pleanála on the 16th day of June 2023:

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


- (a) Section 2(1), 3(1),4(1)(a), 4(1)(l) of the Planning and Development Act, 2000, as amended,
- (b) Article 6(1) and article 9(1) of the Planning and Development Regulations, 2001, as amended,
- (c) Article 8C of Part 2 of the Planning and Development Regulations, 2001, as amended,
- (d) Class 6 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (e) Class 11 of Part 3 of Schedule to the Planning and Development Regulations, 2001, as amended.
- (f) the planning history of the site and adjoining lands,
- (g) the submissions on file, and
- (h) the pattern of development in the area:

AND WHEREAS An Bord Pleanála has concluded that -


- (a) the removal of top soil and sub soil from one area and spreading it on lands within the farm holding for agricultural use for the purpose of raising and recontouring land constitutes works, and is, therefore, development as defined in Section 2 and Section 3, respectively, of the Planning and Development Act, 2000, as amended,

- (b) as noted on the documentation on file and on site, the development which is the subject of this referral, consists of the use of the lands for agriculture and would fall under the scope of exempted development as defined in Section 4(1)(a) of the Planning and Development Act 2000, as amended,
- (c) land reclamation that would not include fencing or enclosure of land or reclamation of estuarine marsh or callows comes within the scope of works referred to in the Land Reclamation Act, 1949, and would constitute exempted development as defined in Section 4(1)(l) of the Planning and Development Act 2000, as amended,
- (d) the works for the purposes of agriculture are not within the curtilage of a house and, therefore, would not fall within the scope or limitations of Class 6 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (e) the works for the purposes of agriculture do not comprise drainage and/or reclamation of wetlands and, therefore, would not fall within the scope or limitations of Class 11 of Part 3 of Schedule 2 to the Planning and Development Regulations, 2001, as amended, and
- (f) the works for the purposes of land reclamation (other than reclamation of wetlands) consisting of the raising and re-contouring of land, including infilling of soil (but not waste material) within the same farm holding would fall within the scope of Article 8C of Part 2 of the Planning and Development Regulations, 2001, as amended, and would, therefore, comprise exempted development.

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 removal of top soil and sub soil from one area and spreading it on lands for agricultural use at Curraghraigue, Enniscorthy, County Wexford is development and is exempted development.



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



Dated this 17th day of June 2024.