

An  
Bord  
Pleanála

Board Order  
ABP-317419-23

---

**Planning and Development Acts 2000 to 2022**

**Planning Authority: Limerick City and County Council**

**Planning Register Reference Number: EC/33/23**

**WHEREAS** a question has arisen as to whether any works carried out on the Shannon LNG pipeline from Foynes, County Limerick to Tarbert, County Kerry as described in the planning application granted by An Bord Pleanála under reference GA0003 on February 17th, 2009 carried out any time from today's date (and/or contrary to the consent conditions) at Leahy's, Foynes, County Limerick to Tarbert, County Kerry is or is not development or is or is not exempted development:

**AND WHEREAS** John McElligott care of Safety Before LNG of Island View, Convent Street, Listowel, County Kerry requested a declaration on the question from Limerick City and County Council and no declaration issued by the planning authority:


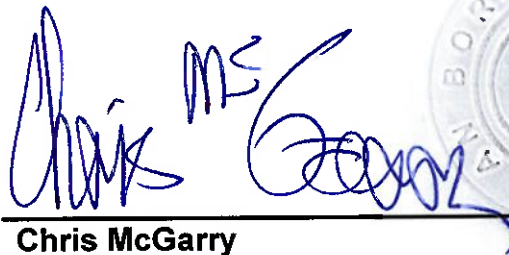
**AND WHEREAS** John McElligott referred the question for decision to An Bord Pleanála on the 16<sup>th</sup> day of June, 2023:

**AND WHEREAS** An Bord Pleanála, having considered the grounds of referral, is of the opinion 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, 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 considered the nature of the referral, which requests a declaration under section 5(1) as to whether certain works 'as described in the planning application granted by An Bord Pleanála under reference GA0003 in February 2009 carried out any time from today's date (and/or contrary to the consent conditions)' are or are not development, and are or are not exempted development. While noting that the works in question self-evidently constitute development, the Board determined, having regard to the totality of the documentation on file, that this referral on its facts clearly asks for a declaration predicated on whether these works are either permitted or not under a specified planning permission. This is not a question which falls within the scope of Section 5 of the Planning and Development Act 2000, as amended, and it is beyond the jurisdiction of the Board as provided to it under Section 5 of that Act, to make a declaration on such a question.



**Chris McGarry**

**Member of An Bord Pleanála**

**duly authorised to authenticate**

**the seal of the Board**

Dated this 13<sup>th</sup> day of October 2023