

**An  
Bord  
Pleanála**

**Board Order  
ABP-318452-23**

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**Planning and Development Acts 2000 to 2022**

**Planning Authority: Kerry County Council**

**Planning Register Reference Number: EX1125**

**WHEREAS** a question has arisen as to whether the use of lands, in the ownership of KPK Properties Limited, that was subject to An Bord Pleanála reference number: ABP-307488-20 at Reenagappul, Kenmare, County Kerry, shaded in yellow on the attached map, currently being used by Irish Water/Uisce Eireann, as a works compound in conjunction with Kerry County Council Planning Authority planning register reference:22/55 is or is not development and is or is not development or is or is not exempted development.

**AND WHEREAS** Martin Arthur, requested a declaration on this question from Kerry County Council, and the Council issued a declaration on the 13<sup>th</sup> day of October 2023 stating that the matter is development and is not exempted development.

**AND WHEREAS** Martin Arthur, referred this declaration for review to An Bord Pleanála, on the 8th day of November 2023.

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

- (a) Sections 2(1), 3(1), 4(2) and 4(4) 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,
- (c) Classes 16 and 17 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended, and
- (d) the planning history of the site.

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

- (a) The works, that being the development of a construction compound, are development under section 3 of the Planning and Development Act 2000, as amended;
- (b) Having regard to the nature of the development, which comprise a construction compound used for structures, works, plant and machinery needed temporarily in connection with the Kenmare Wastewater Treatment Plant (WWTP) upgrade works on the adjoining lands, the Board is satisfied that the development comes within the scope of Class 16, Part 1 of Schedule 2 of the Planning and Development Regulations, 2001;
- (c) The placing on lands of portacabins, provides for temporary on-site accommodation for persons employed, or otherwise engaged, in connection with the carrying out Kenmare WWTP upgrade works on the

adjoining lands, and therefore, come within the scope of Class 17, Part 1 of Schedule 2 of the Planning and Development Regulations, 2001;

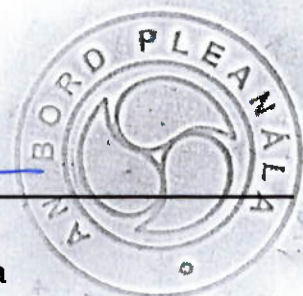
- (d) based on the documentation on file, the development would not be likely to have significant effects on the Kenmare River Special Area of Conservation (Site Code 002158) in view of the sites' conservation objectives. In coming to this conclusion, the Board took account of the limited extent and duration of the works, the lack of a pathway between the development and the European site, the distance to any qualifying interests and to the nature of those qualifying interests, and accordingly, considers that an Appropriate Assessment is not required in relation to the development the subject of this referral. Accordingly, the de-exemption provisions of section 4(4) of the Planning and Development Act, 2000, as amended, do not apply;

**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 construction compound is development and is exempted development.



**Paul Caprani**

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



Dated this *24<sup>th</sup>* day of *October* 2024.