

An
Bord
Pleanála

Board Order ABP-320259-24

Planning and Development Acts 2000 to 2022

Planning Authority: Kildare County Council

Planning Register Reference Number: ED1130

WHEREAS a question has arisen as to whether the piping and filling in of an open stream at Grangebeg, Dunlavin, County Kildare is or is not development or is or is not exempted development,

AND WHEREAS Thomas Moore care of Design and Consultancy Services of The Nook, Hillside, Kilcullen, County Kildare requested a declaration on the matter from Kildare County Council and no declaration was issued by the planning authority,


AND WHEREAS Thomas Moore care of Design and Consultancy Services of The Nook, Hillside, Kilcullen, County Kildare referred the question for decision to An Bord Pleanála on the 24th day of July, 2024,

AND WHEREAS having regard to the nature of the referral, An Bord Pleanála, is satisfied that, in the particular circumstances, 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)(b)(i) of the Planning and Development Act 2000, as amended, hereby dismisses the said referral based on the reasons and considerations set out below.

Reasons and Considerations

The Board, in not agreeing with the Inspector's recommendation, concluded 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 Kildare 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.



Stephen Bohan

Member of An Bord Pleanála

**duly authorised to authenticate
the seal of the Board.**

Dated this 30th day of January 2025.

