

# An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

**Cork County**

**Planning Authority Reference Number: D/257/15**

An Bord Pleanála Reference Number: 04.RL.3413

**WHEREAS** a question has arisen as to whether the partial removal of a weir at Glashaboy River at Ballinriskig and Sarsfield Court townlands, County Cork is or is not development or is or is not exempted development:

**AND WHEREAS** Inland Fisheries Ireland of IFI Macroom, Sunnyside House, Macroom, County Cork requested a declaration on this question from Cork County Council and the Council issued a declaration on the 8<sup>th</sup> day of September, 2015 stating that the matter is not exempted development:

**AND WHEREAS** Inland Fisheries Ireland referred this declaration for review to An Bord Pleanála on the 2<sup>nd</sup> day of October, 2015:

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

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- (b) articles 6 and 9 of the Planning and Development Regulations, 2001, as amended, and class 35 of Part 1 of Schedule 2 to those Regulations,
- (c) the National Monuments Act, 1930 – 2004,
- (d) the provisions of the Cork County Development Plan 2014, and
- (e) the nature and extent of the proposed works that are the subject matter of the referral:

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

- (a) the partial removal of the weir in question would constitute the carrying out of works, and therefore constitutes development under the provisions of section 3(1) of the Planning and Development Act, 2000, as amended,
- (b) the developer in this case, Inland Fisheries Ireland, would come within the definition of a “statutory undertaker”, as set out in section 2 of the Act,
- (c) the subject development would come within the scope of class 35 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended, and would therefore constitute exempted development, and
- (d) none of the restrictions on exempted development, as set out in article 9(1)(a) of the Regulations, and as set out in section 4(4) of the Act, apply in this particular instance.

**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 partial removal of a weir at Glashaboy River at Ballinriskig and Sarsfield Court townlands, County Cork is development and is exempted development.

### **MATTERS CONSIDERED**

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

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

**Dated this      day of      2016.**