

# An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

**Limerick City and County**

**Planning Authority Reference Number: EC15/60**

An Bord Pleanála Reference Number: 91.RL.3414

**WHEREAS** a question has arisen as to whether development and amendments undertaken at the permitted Dromada windfarm (planning register reference numbers 03/1343, 09/7000 and 10/101) within the confines of a designated Special Protection Area - the Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle Special Protection Area (Site Code 004161) at Dromada Windfarm, Clash South, Athea, County Limerick is or is not development or is or is not exempted development:

**AND WHEREAS** Denis Cremins care of HRA Planning Limited of 3 Hartstonge Street, Limerick requested a declaration on this question from Limerick City and County Council and the Council issued a declaration on the 8<sup>th</sup> day of September, 2015 stating that -

- (a) the private roadway was in place prior to the construction of the turbines and the designation of the area as a Special Protection Area, the works carried out on the existing road ways were works necessary for the maintenance and upkeep of the road and are therefore exempted development,
- (b) the use of the private roadway for the ongoing maintenance of turbines T14 and T 23 is not development,

- (c) with respect to the construction of other roads for the purpose of construction of the windfarm between permitted turbines T2-T3, T11-T12 and T22-T29, the majority of these roadways were in existence prior to construction of the turbines apart from those granted under planning register reference number 10/101 and therefore the planning authority has concluded that the construction of the new road way is development and is exempted development, and
- (d) the use of other roads for the purpose of ongoing access to and maintenance of the windfarm between permitted turbines T2-T3, T11-T12 and T22-T29 is not development:

**AND WHEREAS** Dennis Cremins referred the 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) the historic and current layout of roads and tracks in the area,
- (c) the planning history of the site, including in particular planning permission register reference number 10/101,
- (d) the nature and extent of the roads the subject matter of the referral,
- (e) the submissions on file and the report of the Inspector, and
- (f) the designated Special Protection Area:

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

- (a) the construction and/or upgrading of the roads that are the subject matter of the referral constitute works, as defined, and therefore constitutes development under the provisions of section 3(1) of the Planning and Development Act, 2000, as amended,

- (b) the roads that are the subject matter of the referral were constructed and/or upgraded primarily to facilitate the development of the associated wind farm, and not to serve forests or woodlands, and would, therefore, not come within the scope of section 4(1)(i) and (1)(ia) of the Planning and Development Act, 2000, as amended,
- (c) on the basis of the evidence submitted in connection with this referral, the Board is not satisfied that the construction and/or upgrading of these roads took place prior to the designation of the lands concerned as part of the Special Protection Area, and it is considered that these works, by reason of their extent and location, would have required, in such circumstances, the carrying out of an Appropriate Assessment and, therefore, the provisions of section 4(4) of the Planning and Development Act, 2000, as amended, apply, and
- (d) the use of the roads for the purpose of ongoing access to, and maintenance of, the completed wind turbines does not, having regard to their former use to serve forestry, constitute a material change of use, and accordingly does not constitute 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 construction and/or upgrade of a number of roads for the construction of wind turbines at the permitted Dromada Windfarm (planning references 03/1343, 09/7000 and 10/101) within the confines of a designated Special Protection Area - the Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle Special Protection Area (Site Code 004161) is development and is not exempted development, and
- the use of these roads for the purpose of ongoing access to, and maintenance of, these turbines is not development,

at Dromada Windfarm, Clash South, Athea, County Limerick.

## **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.

---

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

**Dated this      day of                      2016.**