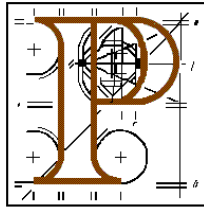


# An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

**Sligo County**

**Planning Authority Reference Number: ENF 2103**

An Bord Pleanála Reference Number: 21.RL.3429

**WHEREAS** a question has arisen as to whether the trading in perishable goods for at least one day per week at Kinard, Enniscrone, County Sligo is or is not development or is or is not exempted development:

**AND WHEREAS** the said question was referred to An Bord Pleanála by Sligo County Council on the 3<sup>rd</sup> day of November, 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
- (c) Class 37 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001:

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

- (a) the use of the car park for the stated purpose of trading in perishable goods is, by reason of the definition in section 3(2)(b)(i) of the Planning and Development Act, 2000, a material change of use and is, therefore, development,
- (b) the trading of perishable goods, namely the use of an open sided lorry to sell mainly fresh fruit and vegetables on private land, would generally come within the scope of Class 37 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 as a “fair”,
- (c) the sale of fresh fruit and vegetables at this location takes place at least once per week and, therefore, this exceeds the Conditions and Limitations of said Class 37, where the placing or maintenance of tents, vans or other temporary or movable structures or objects on the land in connection with such use may only occur for 15 days continuously or in aggregate 30 days in any year, and
- (d) there are no bye-laws for casual trading in this area of Enniscrone and, therefore, the exempted development provisions of Section 4(1)(k) of the Planning and Development Act, 2000, as amended, that is, development consisting of the use of land for the purposes of a casual trading area (within the meaning of the Casual Trading Act, 1995), do not apply in this case:

**NOW THEREFORE** An Bord Pleanála, in exercise of the powers conferred on it by section 5 (4) of the 2000 Act, hereby decides that the trading in perishable goods for at least one day per week at Kinard, Enniscrone, County Sligo is development and is not 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.**