



Planning and Development Acts 2000 to 2017

Planning Authority: Clare County Council

Planning Register Reference Number: R17-11

WHEREAS a question has arisen as to whether the construction of a fence measuring 1.8 metres high within the quarry complex of Fountain Cross, Ballyneillan, Ennis, County Clare is or is not development or is or is not exempted development:

AND WHEREAS Patrick Gibney care of Earth Science Partnership (Ireland) Limited of Tonranny, Westport, County Mayo requested a declaration on this question from Mayo County Council and the Council issued a declaration on the 23rd day of March, 2017 stating that the matter was development and was not exempted development:

AND WHEREAS Patrick Gibney referred this declaration for review to An Bord Pleanála on the 12th day of April, 2017:

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,

- (c) Class 4 of Part 3 of the Second Schedule to the Planning and Development Regulations, 2001, as amended,
- (d) the planning history of the subject quarry, and in particular the planning permission granted under planning register reference number 04/1064 (An Bord Pleanála reference number PL 03.216138), and
- (e) the submissions on file and the report of the Inspector.

AND WHEREAS An Bord Pleanála has concluded that -

- (a) the construction of the subject fence would constitute works that come within the scope of Section 3(1) of the Planning and Development Act, 2000, and, therefore, constitutes development,
- (b) the development does not come within the scope of exemption afforded by Section 4(1)(h) of the Planning and Development Act 2000, as amended;
- (c) the development would come within the scope of the exemption afforded by Class 4 of Part 3 of the Second Schedule to the Planning and Development regulations, 2001, as amended, but;
- (d) the development would not be exempted development as it would contravene a condition of a planning permission, that is, condition number 21 of planning permission granted under planning register reference number 04/1064 (An Bord Pleanála reference number PL 03.216138), in the absence of any evidence of the written agreement of the planning authority pursuant to the terms of this condition (which applies to the entire quarry complex), and, therefore, the restriction on exemption under Article 9(1)(a)(i) of the Planning and Development regulations 2001, as amended, applies in this instance.

