



An
Bord
Pleanála

Inspector's Report ABP-304220-19

Question

Whether the use of lands for purposes ancillary to the enjoyment of the dwelling house, agricultural purposes and commercial/vehicle storage purposes is or is not development or is or is not exempted development at Knockloughlin, Longford, Co. Longford

Location

Knockloughlin, Longford, Co. Longford

Declaration

Planning Authority

Longford County Council

Planning Authority Reg. Ref.

DC 19/3

Applicant for Declaration

Brian Keane.

Planning Authority Decision

Split Decision

Referral

Referred by

Brian Keane.

Owner/ Occupier

Brian Keane.

Observer(s)

None.

Date of Site Inspection

Thursday 19th September 2019.

Inspector

Deirdre MacGabhann

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1.0 Site Location and Description

1.1. The subject site lies c.4km north east of Longford town and c.5km due east of Newtown Forbes. It is situated to the north of a county road (L1011), that runs between the R198, to the west, and the R194 to the east, in the townland of Knockloughlin.

1.2. At time of site inspection, the subject site comprised:

- A residential property (with granny flat), facing the public road and a smaller residential property to the rear of this. There is a small shrine/stone structure located to the front of the domestic property.
- A gated entrance to the property and yard(s) containing the following structures:

Structures	PA reference number (in their photographs/aerial)	Shown in attached photographs
Office building and toilet building at entrance, with shed to rear.	No. 1 (office and toilet)	No. 5 (office and toilet) No. 6 (green shed)
An enclosed area for storage to the rear of the above shed.	-	No. 7
Timber cabin and shed to the west of the site	No. 3 (shed)	No. 9
Cars/vehicles to the west of the site, north of the timber cabin and shed.	No. 3	No. 9
Two no. sheds/containers to the north of the site.	No. 4	No. 8 and 11
Covered structure, in ground, to the north east of the two shed/containers	No. 6	No. 13
Timber storage shed, shed and toilet block to the north east of the	No. 7 (timber storage shed), no. 8 (shed),	No. 12 (timber storage shed), No.

site	no. 9 (toilet block)	16 (toilet block), no. 17 (shed)
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- 1.3. The two yards to the north of the site have been created in woodland/bog which has been cleared and infilled. At the time of site inspection, there were no cars stored on the bog land to the north east of the site and no evidence of the hardstanding referred to by the planning authority (see below).
- 1.4. The works referred to fall within two folios, Folio LD2639F and LD17259F (see attachments) and land to the north east of these (not registered with land registry).

2.0 The Question

2.1. The referrer seeks the decision of the Board on whether the following, at the subject site, are or are not development and are or are not exempted development (references are to my attachments):

1. Office building at entrance to site.
2. Toilet building at entrance to site.
3. Small shed adjacent to timber chalet and unauthorised car park.
4. 2 sheds/structures at rear of yard.
5. Unauthorised storage of scrap cars in bog area.
6. Unauthorised septic tank and percolation area in bog at north eastern corner of the site.
7. Timber storage shed.
8. Shed containing car lift and toilet block.
9. Toilet block in bog area.
10. Filling with imported C&D waste to the bog land north at the north eastern corner of the site.
11. Concrete slab at north western corner of site also in bog.

3.0 Planning Authority Declaration

3.1. Declaration

3.1.1. On the 1st April 2019, the planning authority declared that the works set out above were not exempted development, for the following reasons:

- The use of lands in Folios LD2639F and LD17259F for the purposes of development within the curtilage of a dwelling house, agricultural and commercial/vehicle storage purposes can only be considered exempted development having satisfied all of said definitions, conditions and limitations of Section 4(1), (2)(a-c), (3), (4) and (4A) and the definition of 'Development', 'Works', 'Structure' and 'Agriculture' in Section 2(1) of the Planning and Development Act, 2000 (as amended) and Articles 6 – 10 and Schedule 2 of the Planning and Development Regulations 2001 (as amended).
- Having regard to the information submitted, the structures erected would not comply with the Planning and Development Regulations, 2001 (as amended) by reason of its size, nature, use and surroundings in relation to both dwelling house and land in question.
- The planning authority found that '*gravel filling over percolation area serving original wastewater treatment plant*' and '*filling at the rear of Mr. Joseph Kane's house*' in Folios LD2639F and LD17259F respectively (works ancillary to the enjoyment of a dwelling house) were exempted development as the ground levels in both cases had not been raised in excess of 1m. (NB These two matters are not referred to the Board).

3.2. Planning Authority Reports

Planning Reports

3.2.1. The Planning Authority's report (undated):

- The works referred to have been subject to a refusal under PA ref. 18/261 and are part of a live enforcement case PA ref. UNA1223.

- Having regard to the statutory provisions under the Planning and Development Act 2000 (as amended) and the Regulations 2001 (as amended):
 - The following Class 3 structures (structures ancillary to the enjoyment of a dwelling house):
 - *'Office building at entrance to site'*.
 - *'Toilet building at site entrance'*.
 - *'Small shed adjacent to timber chalet and unauthorised car parking'*.

are not exempt as the threshold for such development (25sqm) is exceeded

- The following Class 9 structures (agricultural) are not exempted development for the following reasons:
 - *2 sheds/structures at the rear of yard* – Does not appear to be in agricultural use.
 - *Timber storage shed* - Is within 100m of a residential property that does not belong to the applicant.
 - *Toilet block in bog area* – Does not constitute an agricultural use.
 - *Shed containing car lift and toilet block* – Shed is being used for repair of cars parked onsite and does not constitute an agricultural structure.
 - *Concrete slab at north western corner of site, also in bog* – Does not appear to constitute the base for an agricultural structure or to be have been constructed for agricultural purposes.
- With regard to *'filling with of bog land at the north eastern corner of the site'* – Given the scale of filling, the use of the land has materially changed from its last known use as bog land filling grounds for building/demolition waste. There are no such exemptions for such use on the lands.

- *'Unauthorised storage of scrap cars in bog area'* – Given the nature and scale of car storage, the land has materially changed from its last known use as bog land/forestry. There are no such exemptions for such use on the lands.
- *'Unauthorised septic tank and percolation area in bog north east of the site'* – Subject site was previously used for forestry hence installation of a septic tank and percolation area would constitute development. No site characterisation form so it is not possible to assess the suitability of the site to cater for a septic tank.

3.2.2. Other Technical Reports

- None.

4.0 Planning History

- 4.1.1. On file are the following history documents in respect of the subject site. These can be divided into planning applications made in respect of the following Folios:

Folio LD17259F

- PA ref. 06/444 – Permission refused for a bungalow on the subject site with entrance, boundary fence/wall, proprietary waste water treatment unit with percolation area and ancillary site works (traffic hazard, concentration of septic tanks/systems, ribbon development, loss of agricultural land and excessive density of development in rural area).
- PA ref. 06/877 – Permission granted for a bungalow on the subject with entrance, boundary fence/wall, proprietary waste water treatment unit with percolation area and ancillary site works.

Folio LD2639F

- PA ref. 07/383 – Permission granted for single storey extension to front of an existing dwelling.
- PA ref. 07/1226 – Retention granted for a commercial/domestic storage shed (to rear of office building and toilet building at entrance to the site referred to here) and all ancillary site works, to the rear of the dwelling granted under PA ref. 07/383

- PA ref. 07/1227 – Permission granted for retention and completion of extension to storage shed along with change of use from shed to granny flat (to rear of existing dwelling), widening of existing domestic entrance, connection to existing septic tank and all ancillary site works.
- PA ref. 08/286 – Retention granted for windows in front elevation of dwelling.
- PA ref. 09/054 – Permission granted for (a) retention of an extension to an existing shed containing toilet facilities, shrine structure, front boundary walls, entrance gates and storage compound surrounded by corrugated fencing (to the rear of the storage shed granted under PA ref. 07/1226) and (b) retention and completion of a proposed domestic garage and all ancillary site works.
- PA ref. 14/120 – Permission refused to erect a building to accommodate a religious shrine and all associated site works on the grounds of roads.
- PA ref. 18/261 – Permission refused for retention of mobile log house (timber cabin referred to here) and all associated site works on the grounds of traffic hazard, over concentration of septic tanks, absence of rural generated housing need and impact on amenity.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The subject site lies within the administrative area of the Longford County 2015 to 2021. The nearest site of nature conservation interest lies c.1.5km to the south east of the site and comprises Carrickglass Demesne proposed NHA. Approximately 5.5km to the west of the site is Ballykenny-Fisherstown Bog SPA and Lough Forbes Complex SAC/pNHA.

6.0 The Referral

6.1. Referrer's Case

- The applicant is entitled to claim exemption from the need to seek planning permission notwithstanding his previous seeking of permission (refusal under PA ref. 18/261) (*Fingal County Council v William Keeling and Sons*).

- The applicant acknowledges that the matters referred to constitute development but claims that they are exempted development under Class 17 of Schedule 2 Part 1 of the 2001 Planning and Development Regulations, Temporary Structures and Uses. The only limiting condition affecting this Class is that uses be temporary and removed on completion of the other development works, whether those works be permitted or exempted.
- *Office building at entrance to site* – The building is a Class 3 Schedule 2 Part 1 development. The development complies with the conditions and limitations of the Class and does not fall foul of Article 9. No AA is necessary.
- *Toilet building at entrance to site* – This is a Class 3 development. This is an outside toilet and complies with the conditions and limitations of the Class and in particular the area condition when combined with the above. It does not fall foul of Article 9 provisions. No AA is necessary.
- *Small shed adjacent to timber chalet and unauthorised car park* – This is a Class 3 development. This is an outside toilet and complies with the conditions and limitations of the Class and in particular the area condition when combined with the above. It does not fall foul of Article 9 provisions. No AA is necessary.
- *2 sheds/structures at rear of yard* – The container is not development (it is a vehicle). The shed is Class 9 agricultural development (Class 9 Schedule 2 Part 3) complying with the conditions/limitations of the Class. It does not fall foul of Article 9 provisions. No AA is necessary.
- *Unauthorised storage of scrap cars in bog area* – This is not development, to park a car or cars in a bog. The cars do not belong to the applicant and he did not park them there.
- *Unauthorised septic tank and percolation area in bog at north eastern corner of the site* - All that is apparent from photograph no. 6 is a metal cover on the ground. There is no evidence whatsoever of a percolation area.
- *Timber storage shed* – This is Class 9 agricultural development (Class 9 Schedule 2 Part 3). It complies with the conditions and limitations of the Class and does not fall foul of Article 9 provisions. No AA is necessary.

- *Shed containing car lift and toilet block* - This is Class 9 agricultural development (Class 9 Schedule 2 Part 3). What is within the shed is irrelevant and is exempted under Section 4(1)(h) of the Act, as amended, and may be used for agricultural vehicles/machines and as such is not restricted by conditions/limitations. The development does not fall foul of Article 9 provisions. No AA is necessary.
- *Toilet block in bog area* - This is Class 9 agricultural development (Class 9 Schedule 2 Part 3). What is within the shed is irrelevant and is exempted under Section 4(1)(h) of the Act, as amended, and may be used in connection with/for agricultural uses and as such is not restricted by conditions/limitations. What is described as a toilet is a meter box for 3-phase electricity to operate the agricultural machine lift. The development does not fall foul of Article 9 provisions. No AA is necessary.
- *Filling with imported C&D waste to the bog land north at the north eastern corner of the site* – The works are part of a hard-surfaced area to the rear of a house, falling within Schedule 2, Part 1, Class 6(b)(i) and complying with the conditions/limitations of the Class and not falling foul of the provisions of Article 9. It is also argued that the development is Class 19 development.
- *Concrete slab at north western corner of site also in bog* - This is the concrete base for a Class 19 development, agricultural shed, (Schedule 2, Part 3) and complies with the limitations/conditions of the Class. The development does not fall foul of Article 9 provisions. No AA is necessary.

6.2. Planning Authority Response

6.2.1. The planning authority make no response to the referral.

7.0 Statutory Provisions

7.1. Planning and Development Act, 2000

- Section 2 Interpretation.
- Section 3'Development and its meaning.

- Section 4 ‘Exempted Development’.
 - Section 4(1)(a) – Provides that the use of land for the purpose of agriculture and development for the use of agriculture is exempted development.
 - Section 4(2) – Provides that the Minister can make regulations to provide classes of development to be exempted development.
 - Section 4(4A) – Provides that development shall not be exempted if it requires appropriate assessment.

7.2. Planning and Development Regulations, 2001

- Article 6 Exempted development:
 - (1) – Provides that development of a class specified in column 1 of Part 1 of Schedule 2 (Exempted Development – General) shall be exempted development, provided that the development complies with the conditions and limitations set out in column 2 and does not conflict with the requirements of article 9. Class 3 refers to the construction , erection or placing within the curtilage of a house of any object, garage, store, shed or similar structure. Class 17 refers to the temporary structures and uses.
 - (3) – Provides that development of a class specified in column 1 of Part 3 of Schedule 2 (Exempted Development – Rural) shall be exempted development, provided that the development complies with the conditions and limitations set out in column 2 and does not conflict with the requirements of article 9. Class 6 refers to agricultural structures.
- Article 9 – Sets out restrictions on exempted development.

8.0 Assessment

8.1. Is or is not development

8.1.1. Section 3(1) of the Planning and Development Act 2000 (as amended) defines development as '*the carrying out of works on, in, over or under land or the making of a material change in use of any structures or other land*'. Subsection 2 states:

(2) For the purposes of subsection (1) and without prejudice to the generality of that subsection—

(b) where land becomes used for any of the following purposes—

(iii) the deposit of vehicles whether or not usable for the purpose for which they were constructed or last used, old metal, mining or industrial waste, builders' waste, rubbish or debris, the use of the land shall be taken as having materially changed.

8.1.2. In Section 2(1) of the Act, works are defined as '*any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal..*'.

8.1.3. The applicant refers 11 items to the Board for declaration under Section 5. These are set out in section 2.0 of this report. I would consider that each of the items listed, except the parking or storage of cars or vehicles, comprise 'works' i.e. acts of construction or excavation.

8.2. With regard to the act of storing of cars, as stated in the Act, where land becomes used for the deposit of vehicles whether usable or not, the use of the land shall have materially changed. Similarly, the use of land for a car park would comprise a material change of use. I consider, therefore, that all of the works referred to the Board comprise development. This matter is not contested.

8.3. Is or is not exempted development and restrictions on exempted development

8.3.1. As stated, the applicant refers 11 items to the Board for declaration under Section 5, I deal with these in turn in grouped format.

Class 17, Schedule 2, Part 1 (Temporary Uses)

- 8.3.2. The referrer states that the matters referred to are exempted development under Class 17 of Schedule 2 Part 1 of the 2001 Planning and Development Regulations, Temporary Structures and Uses.
- 8.3.3. Class 17 refers to '*The erection, construction or placing on land on, in, over or under which, or on land adjoining which, development (other than mining) is being, or is about to be carried out, pursuant to any permission, consent, approval or confirmation granted under the Act or any other enactment or as exempted development, of temporary on-site accommodation for persons employed, or otherwise engaged, in connection with the carrying out of the development, during the period in which it is being carried out.*' The limitation of the Class is that such accommodation be removed at the expiration of the period and the land reinstated.
- 8.3.4. The referrer provides no information to support his statement that the developments referred to the Board fall within this class. For example, there is no information on the permission or consent granted to which the temporary works relate, or the requirement for temporary on-site accommodation for persons employed in carrying out the development. I do not consider therefore that the applicant has sufficiently demonstrated compliance with the terms of this Class or, therefore, that the developments referred to the Board comprise exempted development under this Class of the Regulations.

Class 3, Schedule 2, Part 1 (Construction or erection of any object, garage, store, shed or other similar structure within the curtilage of a dwelling house)

- 8.3.5. The applicant states that the following works fall within Class 3 of Part 1 of Schedule 2, comply with the conditions and limitations of the Class and do not fall foul of any of the requirements of Article 9:
- *Office building at entrance to site.*
 - *Toilet building at entrance to site*
 - *Small shed adjacent to timber chalet and unauthorised car park.*
- 8.3.6. Conditions and limitations of this Class include that '*The total area of such structures constructed, erected or placed within the curtilage of a house shall not, taken together with any other such structures previously constructed, erected or placed*

within the said curtilage, exceed 25 square metres. The applicant provides no information on the size of the structures referred to, either individually or collectively.

- 8.3.7. In their assessment of the referral, the planning authority had regard to the application made under PA ref. 07/1227 which refers to a planning application for an extension and change of use of an existing storage shed to granny flat, the rear of the dwelling house on Folio LD2639F. The area to be retained was 19.4sqm and the gross floor area of the proposed works 58.3sqm. The development was granted permission in August 2008 and I would infer from this that the developments referred to in this instance, namely office and toilet at entrance to site and small shed above, do not comply with the limitations of Class 3 as the threshold for such structures, within the Class, has already been exceeded. I deal with the matter of '*unauthorised car park*' below.

Class 9, Schedule 2, Part 3 (Agricultural Structures)

- 8.3.8. The applicant states that the following works fall within Class 9 of Part 3 of Schedule 2, comply with the conditions and limitations of the Class and do not fall foul of any of the requirements of Article 9:

- *2 sheds/structures at rear of yard.*
- *Timber storage shed.*
- *Shed containing car lift and toilet block.*
- *Toilet block in bog area.*
- *Concrete slab at north western corner of site also in bog*

- 8.3.9. (NB. At the time of site inspection, the concrete slab referred to by the applicant and planning authority was not evident on site (see photographs). It is stated by the applicant to be a concrete base for an agricultural shed).

- 8.3.10. Class 9 of the Regulations, under the heading Agricultural Structures, refers to works consisting of the provision of any store, barn, shed, glass-house or other structure, not being of a type specified in class 6, 7 or 8 of this Part of this Schedule (which refer to the housing of animals and roofless structures, milking parlours, structures for the storage of silage etc.), and having a gross floor space not exceeding 300 square metres

8.3.11. Limitations of the Class 9 include the following:

- No such structure shall be used for any purpose other than the purpose of agriculture (agriculture is defined in section 2 of the Act as including *'horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the training of horses and the rearing of bloodstock, the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds'*).
- The gross floor area of such structures, together with any other such structures situated in the same farmyard complex (or within 100m of it) shall not exceed 900sqm,
- No such structure shall be situated within 100m of any house (other than the house of the person providing the structure).

8.3.12. The applicant has provided little information on the location or size of the above structures relative to the limitations of Class 9. Further, with the exception of the timber storage shed, there is no information to support his statement that the structures are used for agricultural purposes i.e. the nature of the agricultural activities taking place on site. Furthermore, at the time of site inspection there was little evidence to suggest that any such uses were actually occurring, for example, there was no evidence of livestock in the vicinity of the site, no agricultural machinery or crop or fodder storage etc.

8.3.13. With regard to the timber storage shed, there is no information on file mapping the location of this shed in relation to nearby property. However, from the plans which are available and aerial photography, I would estimate that it could be within 100m of the property (i.e. the house of the person providing the structure).

8.3.14. I consider therefore, that the applicant has not adequately demonstrated that developments referred to fall within the works listed in Class 9 of Schedule 2, Part 3, or how they comply with the conditions and limitations of the Class. I do not consider, therefore, that the works comprise exempted development.

Unauthorised storage of scrap cars in bog area and unauthorised car park

- 8.3.15. At the time of site inspection, there were no scrap cars in the bog area to the north of the subject site but there were a mix of vehicles parked to the north east of the residential dwellings.
- 8.3.16. With respect to the storage of scrap cars, the Planning and Development Regulations 2001 (as amended) are clear, where land becomes used for the deposit of vehicles (whether usable or not), the use of the land shall be taken as having materially changed. There are no exempted development provisions for this material change of use and I would consider, therefore, that in principle this development (although not observed) is not exempted development.
- 8.3.17. With respect to the use of land to the north east of the residential dwellings for car parking, this use appears to be at a scale inconsistent with the permitted use of the site as a dwelling house. Further, there are no exempted development provisions in respect of a residential (or other) car park and I would consider, therefore, that the development does not comprise exempted development.

Unauthorised septic tank and percolation area in bog at north eastern corner of the site

- 8.3.18. The appellant argues that there is no evidence of the percolation area referred to by the planning authority and that all that is apparent from photograph no. 6 is a metal cover on the ground. (I note that a septic tank/treatment unit percolation area are shown in this location of the Site Layout Map submitted under PA ref. 18/261).
- 8.3.19. In order not to stray into matters that are properly for enforcement, I would comment that the purpose/use of the observed metal cover on the ground in the north eastern corner of the site has not been explained by the applicant. In the absence of this, I do not consider that the applicant has adequately demonstrated any entitlement to exempted development status.
- 8.3.20. To address the question asked of the Board, having regard to matters set out in the exempted development provisions of the Act and the Regulations, any unauthorised septic tank and percolation area does not have the benefit the exempted development provisions. The development therefore does not constitute exempted development.

Filling with imported C&D waste to the bog land north at the north eastern corner of the site

- 8.3.21. The applicant argues that these works are part of a hard-surfaced area to the rear of a house, falling within Schedule 2, Part 1, Class 6(b)(i), complying with the conditions/limitations of the Class and not falling foul of the provisions of Article 9. It is also argued that the development is Class 19 development.
- 8.3.22. Class 6(b)(i) provides that any works within the curtilage of a house for the provision to the rear of a hard surface for use for any purpose incidental to the enjoyment of the house are exempted development. Limitations include that the level of ground shall not be altered by more than 1 metre, and for hard surfaces to the side and rear of a property, that the hard surface is 25sqm or less (depending on the size of existing garden areas).
- 8.3.23. The area of bog land to the north east of the subject site that has been filled is removed from the existing dwellings on site, is substantial in scale and appears to serve no residential function. Furthermore, from the information on file and inspection of the subject site, it would appear that the land has been cleared of forestry and filled with construction waste (e.g. there is evidence of brick, stones and sub-soils on site and photographic evidence of construction and demolition waste). As argued by the planning authority, section 3(b)(iii) of the Planning and Development Act states that where land becomes used for builders' waste, rubbish or debris, the use of the land shall be taken as having materially changed. There are no exemptions provided by the Planning and Development Act or the Regulations which facilitate such a material change of use. I consider, therefore, that the filling of the bog land at the north east corner of the site is not exempted development.
- 8.3.24. Class 19, Schedule 2, Part 1 of the Planning and Development Regulations refers to exemptions in respect of temporary structures by State authorities. Class 19, Schedule 2, Part 3 of the Planning and Development Regulations refers to exemptions in respect of the temporary erection of a mast for mapping meteorological conditions. Neither applies to the referred works.

9.0 Appropriate Assessment and Environmental Impact Assessment

- 9.1.1. The subject site is removed from nearby European sites, with the nearest occurring c.5km to the west of the site (Lough Forbes SAC and Ballykenny-Fisherstown Bog SPA). At this distance and having regard to the relatively modest nature of the works referred, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.
- 9.1.2. The developments referred to the Board are modest in scale and take place on lands which are not subject to environmental constraints or particular sensitivity. Impacts on the environment are therefore unlikely to be significant or, therefore, warrant environmental impact assessment.

10.0 Recommendation

- 10.1. I recommend that the Board should decide this referral in accordance with the following draft order.

WHEREAS a question has arisen as to whether the following is or is not exempted development:

1. Office building at entrance to site.
2. Toilet building at entrance to site.
3. Small shed adjacent to timber chalet and unauthorised car park.
4. 2 sheds/structures at rear of yard.
5. Unauthorised storage of scrap cars in bog area.
6. Unauthorised septic tank and percolation area in bog at north eastern corner of the site.
7. Timber storage shed.
8. Shed containing car lift and toilet block.
9. Toilet block in bog area.
10. Filling with imported C&D waste to the bog land north at the north eastern corner of the site.

11. Concrete slab at north western corner of site also in bog.

AND WHEREAS Brian Kane requested a declaration on this question from Council and the Council issued a declaration on the 1st day of April 2016 stating that the matter was not exempted development:

AND WHEREAS referred this declaration for review to An Bord Pleanála on the 16th day of April 2016:

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

- (a) Section 2(1) of the Planning and Development Act, 2000, as amended,
- (b) Section 3(1) and (2) of the Planning and Development Act, 2000,
- (c) Section 4(1)(a) of the Planning and Development Act, 2000, as amended,
- (d) article 6(1), 6(3) and article 9(1) of the Planning and Development Regulations, 2001, as amended,
- (e) Parts 1 and 3 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (f) the planning history of the site,
- (g) the pattern of development in the area:

AND WHEREAS An Bord Pleanála has concluded that:

- (a) The applicant has not demonstrated how the works referred to satisfy the requirements of Class 17, Schedule 2, Part 1 of the Planning and Development Regulations, 2001, or how the works referred to are temporary in nature.
- (b) The office building at entrance to site, toilet building at entrance to

site, small shed adjacent to timber chalet and unauthorised car park did not come within the scope of Class 3 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, by the works did not come within the scope of the exempted development provisions (unauthorised car park) or comply with the conditions and limitations of the Class (works already completed).

- (c) The two no. sheds/structures at rear of yard, timber storage shed, shed containing car lift and toilet block, toilet block in bog area and concrete slab at north western corner of site did not come within the scope of Class 9 of Part 3 of Schedule 2 of the Planning and Development Regulations, 2001, by reason that no material agricultural or forestry uses had been demonstrated by the applicant and/or the works did not comply with the conditions and limitations of the Class (distance from house).
- (d) The unauthorised storage of scrap cars in bog area comprises a material change of use of land by reason of section 3(b)(iii) of the Planning and Development Act 2000 (as amended) and no relevant exempted development provisions apply in the Act or the Regulations to this change of use.
- (e) Th unauthorised septic tank and percolation to the north east of the site does not have the benefit of any exempted development provisions set out in Planning and Development Act 2000 (as amended) or the Planning and Development Regulations 2001 (as amended).
- (f) Filling with imported C&D waste to the bog land north at the north eastern corner of the site, comprised a material change of use of land by reason of section 3(b)(iii) of the Planning and Development Act 2000 (as amended) and no relevant exempted development provisions apply in the Act or the Regulations to this change of use.

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

developments referred to above are not exempted development.

Deirdre MacGabhann

Planning Inspector
10th October 2019