



An  
Coimisiún  
Pleanála

## Memorandum ACP-323993-26

<b>To:</b>	Mary McMahon, Assistant Director of Planning
<b>From:</b>	Frank O'Donnell, Planning Inspector
<b>Re:</b>	ACP-323993-26 (Local Authority Ref. No. S525/84)  Referrer: Ronan Woods  Whether the installation of plant/ machinery for the segregation of coal and associated use of lands at Bauville and Keeloges, Clonglash, Bunrana, Co. Donegal is or is not development or is or is not exempted development.  Lands at Bauville and Keeloges, Clonglash, Buncranana, County Donegal
<b>Date:</b>	30 <sup>th</sup> April 2026

The question before An Coimisiún Pleanála is:

- ***Whether the installation of plant/ machinery for the segregation of coal and associated use of lands is or is not development or is or is not exempted development.***

The subject case, ref, no. ACP-323993-26 (Local Authority Ref. No. S525/84), is the second referral case on the same site.

The question presented under the previous referral case, ref. no. S525/35, was whether ***Plant/ Machinery associated with Coal Business is or is not development or is or is not exempted development.*** The Local Authority issued a Determination under reg. ref. no. S525/35, that the above IS DEVELOPMENT and IS EXEMPTED DEVELOPMENT. The decision under reg. ref. no. S525/35 was not challenged.

I have examined the file and I am satisfied that the question relates to the same development for which a declaration has already issued. I consider that the question posed in this occasion is broadly the same question as was previously determined by the Local Authority under reg .ref. no. S535/35.

I note in the case of Narcanon Trust v An Bord Pleanála (Case. Ref. [2021] IECA 307) the Court of Appeal found in favour of the Plaintiff and confirmed that where a Section 5 declaration has been issued, and has not been challenged, it is conclusive.

I am of the opinion that the subject case is similar to the Narcanon case, in that this is the second time a question has been asked for which a declaration has been made. As the case broadly fits within the same circumstances, I consider that it should be dismissed under Section 138 of the Planning and Development Act, 2000, as amended.

I recommend that the case be referred to the Commission for direction.

### **Reasons and Considerations**

Having regard to the existence of referral case ref. no. S525/35 which was decided by the Local Authority and was not challenged, and the current referral case, ref. no. ACP-323993-26, which relates to the same development, and to the similarity of the question asked, it is considered that it is not open to the Commission to consider afresh the subject referral case. The subject referral case is therefore dismissed under Section 138 of the Planning and Development Act, 2000, as amended.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_