



An  
Bord  
Pleanála

## Inspector's Report RL17.RL3466

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### Questions

- (i) Whether the erection of a fence and gate on the Avenue of Headfort Demesne is development and if it is development, whether or not it is exempted development.
- (ii) Whether the removal, clearance and mulching of woodland is development and if it is development whether or not it is exempted development.
- (iii) Alteration of lands from open nature reserve area to enclosed area is development and if it is development whether or not it is exempted development.

### Location

Headfort Demesne, Kells, Co. Meath.

### Planning Authority

Meath County Council.

### Planning Authority Reference

KA/S51601

**Referrers**

Peter and Rosaleen Gallagher (Owners)  
J. McCaldin (3<sup>rd</sup> Party)

**Date of Site Inspection**

16<sup>th</sup> June, 2017.

**Inspector**

Paul Caprani.

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## 1.0 Introduction

1.1. A number of questions have arisen pursuant to the provisions of Section 5 of the Planning and Development Act, 2000 as to whether or not the following constitute development and if constituting development whether or not this development can be classed as exempted development. The questions submitted in respect of this determination are as follows:

1. The erection of a fence and a gate adjacent to an avenue within Headfort Demesne.
2. The removal, clearance and mulching of woodland.
3. The alteration on lands from an open nature reserve area to an enclosed area.

1.2. A Section 5 Declaration was lodged with Meath County Council in respect of the above questions. Meath County Council determined that:

1. The erection of a steel fenceline and two double gates onto Wood Avenue and Headfort Demesne is development and is exempted development.
2. The removal, clearance and mulching of woodland and undergrowth at Headfort Demesne Architectural Conservation Area and within the River Blackwater SAC is not exempted development.
3. The change and use of the open nature reserve area to enclosed grass area at Headfort Demesne is not an appropriate question in the context of the Referral as the site in question is not designated as a nature reserve under the provisions of the 1976 Act.

## 2.0 Site Location and Description

2.1. Headfort House Demesne is located approximately 2.5 kilometres east of the Town of Kells in Co. Meath. It comprises of a large neo-classical 18<sup>th</sup> century house with associated gatehouses, outhouses and gardens. The site and its surroundings form part of an Architectural Conservation Area (ACA). A number of more recent

residential housing developments have been permitted within the grounds of the demesne. Some of these developments involve the refurbishment and conversion of former stable and farm buildings while others involve new builds within the grounds of the Demesne.

- 2.2. The lands which are the subject of the current referral are located in a wooded area to the south-west, approximately 350 metres from the main house. Former stables which have recently been converted into residential units are located on lands to the north-east of the subject site. The subject site is surrounded on its eastern and southern boundary by relatively narrow avenues which traverse the former gardens. An avenue which runs along the western boundary of the site serves “The Orchard” residential development to the immediate north-east and runs southwards towards Headfort gates at the southern entrance to the demesne adjacent to the River Blackwater.
- 2.3. The site itself is characterised by densely planted, mainly deciduous woodland. This woodland has been thinned in recent times. The woodland is surrounded by metal fencing c. 1m in height. The lands to the north and west form part of the Headfort Golf Club. The Headfort Demesne accommodates in total in excess of 60 dwellings, a school, a golf course and also hosts a number of festivals and fetes throughout the year.

### **3.0 The Questions**

Three questions were put to the Planning Authority namely:

1. Whether the erection of a steel fenceline and two double estate gates adjacent to the Avenue along the Headfort Demesne constitutes development which is exempted development.
2. Whether the removal, clearance and mulching of woodland and undergrowth within the Headfort Demesne ACA and Natura 2000 site constitutes development that is exempted development.
3. Whether a change in use from an open nature reserve to an enclosed grass area is development which is exempted development.

## 4.0 Planning Authority's Assessment

- 4.1. A report from the Conservation Officer states that the wildlife ranger has advised that the area of woodland does not contribute to the qualifying interest of the SAC and therefore there are no concerns about the clearance of the undergrowth in terms of having any adverse impact in the context of the Habitats Directive.
- 4.2. However, there is evidence that mature, and apparently sound trees, have been removed and the extent of this clearing is at 'tipping point' where the character of the woodland in this part of the demesne architectural conservation area is being affected.
- 4.3. The planner's report concludes that the erection of a steel fenceline and two double gates onto the Avenue of Headfort Demesne is exempted development under the provisions of Class 9 and Class 11(a) in Part 1 of Schedule 2 of the Regulations.
- 4.4. In respect of Question 2, it is argued that the proposed removal, clearance and mulching of woodland is development that is not exempted development on the grounds that it contravenes Condition No. 2 of a previous grant of planning permission (98/1205) and that it contravenes a specific statement in the development plan with regard to protecting the special landscape character of Architectural Conservation Areas. Thus, it is not compliant with the restrictions on exempted development under Article 9(vi).
- 4.5. In relation to Question No. 3 it is stated that the site does not form part of a designated nature reserve under the provisions of the 1976 Wildlife Act and therefore it is stated that Question 3 is not applicable for the purposes of an Article 5 Declaration.

## 5.0 Referral by Third Party to An Bord Pleanála

A Referral was lodged by a third party, J. McCaldin against the declaration issued by the Planning Authority on the following grounds.

The Avenue which is to be fenced is a very busy thoroughfare giving access to Headfort School and approximately 100 houses and the demesne. It also facilitates community events. It is the only right of way for the community residing within the demesne. Before the construction of the fence, these lands were open. The owners

have extended the fence in close proximity to the Avenue which makes it difficult for vehicles and pedestrians alike when travelling along the Avenue. The fencing should be pushed back to allow pedestrians to move off the road.

It is not clear why the applicant requires three entrances into the wooded area. The entrance location requires vehicles to swing out onto the other side of the road in front of oncoming traffic. The entrances flood and sometimes freeze over winter which creates a very serious traffic hazard.

The heavy machinery moving to and from the site is creating a mess on the road and is tearing up the tarmac for which the residents have paid for. The heavy machinery is also impacting on Headfort Gates at the entrance to the south of the site. The fencing is also contrary to the objectives of the ACA as they relate to Headfort Demesne.

## **6.0 Referral by First Party on the Declaration issued by Meath County Council**

- 6.1. This specifically relates to Question No. 2 which states that the removal, clearance and mulching of woodland and undergrowth is development which is not exempted development.
- 6.2. It is argued that this work has been carried out for health and safety reasons and has had the prior approval of the NPWS. Furthermore, it is done under licence issued from the Department of Agriculture, Food and the Marine. It does not interfere with the character of the landscape but rather enhances it. The development is in full compliance with Section 4(1) of the Planning and Development Act.
- 6.3. In relation to non-compliance with Condition No. 2 of Reg. Ref. 98/1205, it is stated that this planning application does not relate to the lands in question.

## **7.0 Further Submissions**

A submission from Meath County Council states that the Council issued a split decision and states that the submissions received by An Bord Pleanála from the first party and the third party have been considered by the Planning Authority. The

Planning Authority has nothing further to add in this instance and would refer the Board to the reports on file.

**7.1. Further Submission from Rosaleen Gallagher (First Party)**

The first party have spoken to the residents of Headfort Demesne and were informed that the third party (the McCadlins) do not represent or speak on behalf of the residents. The Avenue is private and owned by the Headfort Trust and the Headfort Trust has no objection to the erection of the fence. The rights of way of all residents and landowners extend to the tarred surface of the Avenue only. The rights of way does not extend further than this. The Avenue is a private avenue with a 10 kilometre speed limit. A fence has already been constructed under Ref. KA/S51527. The fence runs along the same line as the original steel chained and post fence and is in keeping with traditional parkland fencing that runs along the Avenue. The fencing has not impacted on or obstructed the right of way on the Avenue. Its location or design does not affect the character of the architectural conservation area nor is it a safety hazard to road users. The landowners have a responsibility to secure property and take all reasonable precautions to prevent trespass and to eliminate the health and safety risk. The McCadlins bought their house in full knowledge that they have only a right of way on the tarred surface of the Avenue only. No large cutting machinery is used and there has been no damage to the tarred surface.

**7.2. Further Submission by J. McCaldin (Third Party Referrer)**

The submission highlights the cultural, historical and ecological importance of the demesne. It is suggested that such extreme pruning which has been carried out on site cannot be beneficial in ecological terms. It is suggested that the owner has carried out far more work than that specified in the licence obtained to fell trees. While reference is made to Article 8(f) of the Planning and Development Regulations which classes development consisting of the thinning, felling or replanting of trees to be exempted development, such works would automatically be de-exempted if required either environmental impact assessment or appropriate assessment. It is argued that the development in question requires both EIA and AA. It is argued that an EIA is required both because of the location of the development and the nature of the clearing being undertaken.



It is also argued that the proposal is contrary to many specific policy statements contained in the development plan. Reference is made to Section 9.6.13 in respect of designated landscapes, historic parks and gardens. It is argued that the site and the works undertaken are clearly visible and will have a large impact on the main avenue of the historic demesne.

It is argued therefore that developments undertaken on site has had a huge impact on the demesne in terms of impacts on the residents, flora and fauna, visual impact, historical and cultural impact and therefore requires planning permission.

A number of photographs are attached, as is a petition signed by a number of residents in the estate.

A copy of the Headfort Demesne Architectural Conservation Area's Statement of Character (December, 2009) was also submitted.

## **8.0 Submission from the Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs**

It states that the proposed woodland clearance would need to be assessed for appropriate assessment and it seems likely it would "screen in" for AA. Woodland at the river's edge depending on the location and hydrological conditions may form the habitat of alluvial forest, a priority habitat under the Habitats Directive, which is a scarce habitat type in Ireland. The removal of woodland at this location has the potential to impact on biodiversity as well as designated sites. Trees provide areas for birds to nest and bats to roost in and feed over. Badgers may also be found in the woodland. Badgers, bats and all wild birds are protected under the Wildlife Act while bats are listed for strict protection in Annex 4 of the Wildlife Act.

## **9.0 Planning Policy Context**

### **9.1. Headfort Demesne, County Meath – Architectural Conservation Area Statement of Character (December, 2009)**

Section 9.1.6 of this plan specifically relates to hedgerow clearance or the felling of trees. It states further erosion of the field pattern within the Homefarm area of the Demesne or any tree felling, would require planning permission as this affects the

special landscape character of the ACA. The Planning Authority will seek to reinstate features lost in earlier clearances.

Section 9.1.7 relates to the erection of fences or other items.

It states that the integrity of the landscape is comprised by fences and insertions into the landscape. Such interventions will therefore require planning permission, and the Planning Authority will seek to remove or replace features erected prior to the designation of the demesne as an ACA.

## 9.2. **Meath County Development Plan**

Section 6.9.12 relates to architectural conservation areas. The plan states that any works which would have a material effect on the special character of an ACA needs planning permission. Policy CHPOL18 requires that all development proposals within an ACA should be appropriate to the character of the area, inclusive of its general scale and materials, and are appropriately sited and sensitively designed having regard to the advice given in the statements of character for each area.

In terms of objectives CHOBJ22 seeks to discourage development that would lead to the loss of, or cause damage to, the character, the principle components of, or the setting of historic parks, gardens and the demesnes of heritage significance.

CHOBJ23 seeks to require that proposals for development in an adjoining designated landscapes and demesnes include an appraisal of the landscape, designated views and vistas, and an assessment of significant trees or groups of trees as appropriate. The appraisal shall ensure that development proposals respect and are consistent with the historic landscape and its protection. Any development within such areas shall comply with the policies and objectives of “Architectural Heritage Protection Guidelines for Planning Authorities” (2011) as appropriate.

## 10.0 **Relevant Legislation**

### **Planning and Development Act, 2000, as amended.**

#### *Section 2 – Definitions*

“fence” includes hoarding or similar structure but excludes any bank, wall or other similar structure composed wholly or mainly of earth and stone.

“works” includes any Act or operation of the construction, excavation, demolition, extension, alteration, repair or renewal.

### *Section 3 – Development*

In this Act “*development*” means except where the context otherwise requires, the carrying out of any works on, in, over or under land or making any material change in the use of the structures or other land.

### *Section 4 - Exempted Development*

4.1(i) states that the development consisting of the thinning, felling, replanting of trees, forests or woodlands or works ancillary to that development but not including the replacement of broadleaf high forest by conifer species.

(IA) development (other than where development consists of the provision of an access to a public road), consisting of the construction, maintenance or improvement of a road (other than a public road) or works ancillary to such road development where the road serves forests and woodlands.

### **Planning and Development Regulations 2001 (as amended)**

*Article 6* of the Regulations sets out details of the exempted development provisions. It states that subject to Article 9, development of a class specified in Column 1 of Part 2 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in Column 2 of the said Part 1 opposite the mention of the class of the said Column 1.

*Article 8(f)* states that development consisting of the thinning, felling or replanting of trees, forests or woodlands, or works ancillary to that development, but not including the replacement of broadleaf high forest by conifer species shall be exempted development.

*Article 8(g)* states that development (other than where development consists of the provision of access to a public road) consisting of the construction, maintenance or improvement of a road (other than a public road) or works ancillary to such road development, where the road serves a forest or woodlands shall be exempted development.

*Article 9* sets out restrictions on exempted development. It states that development to which *Article 6* relates shall not be exempted development for the purposes of the Act if the development would:

- Contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a condition under the Act.
- Endanger public safety by reason of a traffic hazard or obstruction to road users.
- Interfere with the character of a landscape, or view or prospect of special amenity value or special interest, the preservation of which is an objective of the development plan for the area in which the development plan is proposed or pending a variation of the development plan or the making of a new development plan in the draft variation of the development plan or the draft development plan.
- Comprise development in relation to which a Planning Authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site.
- Consist of or comprise development which would be likely to have an adverse impact on an area designated as a Natural Heritage Area by order made under Section 18 of the Wildlife (Amendment) Act, 2000.
- Consist of the fencing or enclosure of any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or any other place of natural beauty or recreational utility.
- Obstruct any public right of way.

Part 1 of Schedule 2 provides for the following classes of exempted development.

#### Class 5

The construction, erection or alteration, within or bounding the curtilage of a house, of a gate, gateway, railing or wooden fence or a wall of brick, stone, blocks with decorative finish other than concrete blocks or mass concrete. The limitations include that the height of any such structure shall not exceed 2 metres or in the case

of a wall or fence within the bounding of any garden or other space to the front of a house 1.2 metres.

#### Class 9

Relates to the construction, erection, renewal or replacement other than within or bounding the curtilage of a house of any gate or gateway. Subject to the height of any such structure shall not exceed 2 metres.

#### Class 11

The construction, erection, lowering, repair or replacement other than within or bounding the curtilage of a house of

- (a) any fence (not being hoarding or sheet metal fence) the height of any new structure shall not exceed 1.2 metres in height of the structure being replaced, whichever is the greater, and in any event shall not exceed 2 metres.

## 11.0 **Assessment**

### 11.1. **Question 1**

*Whether or not the erection of a steel fenceline and two double gates onto the Avenue at Headfort Demesne is development and if it is considered to be development whether or not the development is exempted development.*

I note that Meath County Council under Ref. KA/S51527 previously determined that the erection of 60 metres of traditional fencing to include two traditional parkland double gates to match existing was exempted development. Likewise, in the case of the current Referral before the Board, Meath County Council considered the erection of the steel fence and two double gates to be exempted development in accordance with Class 9 and Class 11(a) in Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 (as amended).

The erection of the fencing and two double gates undoubtedly constitutes works in accordance with the definition set out under Section 2 of the Act. By extension therefore it constitutes development.

I would agree that the works undertaken on site fall within the exempted development classes set out in Class 9 and Class 11(a) in Part 1 of Schedule 2 of the Regulations as the works comply with the limitations set out under these classes of exemption. The proposed gates in this instance do not exceed 2 metres in height and therefore comply with the condition and limitation set out in respect of Class 9 of Part 1 of Schedule 2 of the Regulations. Likewise, the chained fenceline would appear to be in accordance with Class 11 and does not exceed the height stipulation of 1.2 metres as specified in the exemption.

A question does arise however as to whether or not any of the provisions set out in Article 9 apply specifically Article 9(1)(iii) and Article 9(1)(x) and these are evaluated in more detail below.

Article 9 states that the development to which Article 6 relates (i.e. the classes set out in Schedule 2 of the Regulations) shall not be exempted development for the purposes of Act where they:

- (iv) Endanger public safety by reason of a traffic hazard or obstruction to road users.

The referral submitted by the third party indicates that the Headfort Demesne accommodates over 100 users and also hosts a large number of public events throughout the year which also gives rise to significant levels of traffic. The Avenue is a relatively narrow thoroughfare with an average width of c. 5 metres. The Avenue also accommodates HGV and agricultural vehicles associated with the maintenance of the demesne. Pedestrians also use the Avenue for general walks and recreation. There are no pedestrian footpaths or public lighting along the Avenue. The fencing which has been erected appears to replace historic fencing of a similar nature which fences in other woodland within the Demesne. The photographs attached also indicate that there is a wide grass verge on the opposite side of the road between the woodland and the carriageway which will provide off carriageway access for pedestrians along the avenue. With the erection of the fencing the carriageway is of sufficient width to enable vehicles to pass each other in opposite directions. I therefore consider that the erection of the said fencing, which appears to replace

former fencing along the boundary of the woodland and replicates existing fencing within the Demesne will not result in a traffic hazard.

I am therefore inclined to concur with the planning authority that the incorporation of a steel fencing line along the Avenue constitutes development that is exempted from planning permission.

## **Question 2**

*Whether the removal, clearance and mulching of woodland and undergrowth within the Headfort Demesne Architectural Conservation Area and within the SAC Area 002229 would constitute development and if it constitutes development whether or not such development is exempted development.*

The decision of Meath County Council to declare that these works constituted development which was not exempted development was the subject of a first party referral. The referral argued that the proposal is exempt by virtue of Section 4(1) of the Planning and Development Acts 2001 – 2015 on the grounds that it constitutes development consisting of the thinning, felling or replanting of trees, forest or woodland or works ancillary to that development but not including the replacement of broadleaf high forest and conifer species. The grounds of appeal also argue that the grounds on which the de-exemption was predicated by Meath County Council namely, Article 9(1)(a)(i) contravening a condition attached to a permission under the Act does not apply in this instance as it is stated that this condition is not applicable to the lands in question.

Only partial details of Reg. Ref. 98/1235 are contained on file. No details are contained on file as to the exact nature of the development or the lands to which the development relates. All that is contained on file is a list of the Schedule of Conditions attached to the grant of permission under Reg. Ref. 98/1235. If the Board are minded to de-exempt the removal clearance and mulching of woodland on the grounds that it contravenes a condition attached to the parent permission, I would recommend that the Board seek further details in relation to the parent permission

before determining whether or not the condition related to the lands in the current referral.

While the applicant also states and provides evidence that a felling licence has been applied for and obtained in respect of the works undertaken. The acquiring of a felling licence does not confer any exemption of planning permission under the Planning Acts. A more pertinent consideration in respect of the question put before the Board concerns the restriction on exemptions set out under Article 9(1)(a)(viib) this relates to development which would require appropriate assessment because it would be likely to have a significant effect on the integrity of a European site. The key consideration before the Board in this regard is **not** whether the proposed development would be likely to have an adverse impact on the integrity of a European site but rather whether or not any screening exercise undertaken in respect of appropriate assessment would give rise to the requirement of a Stage 2 Appropriate Assessment and the preparation of a full NIS. I note the report of the Local Authority Conservation Officer on file which refers to a conversation undertaken with the Wildlife Ranger for the Demesne, and that in the view of the Wildlife Ranger, this area of woodland does not contribute to the qualifying interests of the SAC as such, she had no concerns regarding the clearance of the undergrowth in terms of its impact on the Habitats Directive.

An Bord Pleanála also referred the question to the Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs. In a letter dated 13<sup>th</sup> July, 2016 the Department stated “the proposed woodland clearance will need to be assessed for appropriate assessment (AA) and it seems likely it would **screen-in** (my emphasis) for AA”. The NPWS therefore are of the opinion that the works undertaken would require an appropriate assessment and this by extension would place a restriction on the exemption by reason of Article 9(1)(a)(viib).

It can also be reasonably argued in my view that restrictions on exemption under Article 9(1)(a)(vi) apply in this instance. This clause of the Regulations restricts exemptions which interfere with the character of the landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of the development plan for the area in which development is proposed.



An Architectural Conservation Area - Statement of Character was prepared for the Headfort Demesne in County Meath (December 2009). Section 9.1.6 of this statement relates to hedgerow clearance or felling of trees. Section 9.1.6 is clear and unambiguous in stating "*further erosion of the field pattern within the homefarm area of the demesne or any other tree felling, would require planning permission as this affects the special landscape character of the ACA. The Planning Authority will seek to reinstate features lost in earlier clearances*".

The Statement of Character in respect of Architectural Conservation Area is also clearly incorporated in policy statement CHPOL18 of the Meath Co. Development plan. This policy seeks to require that all development proposals within the ACA should be appropriate to the character of the area inclusive of its general scale and materials, and are appropriate sited and sensitively designed having regard to the advice given in the Statement of Character for each area.

As already stated the Statement of Character is clear and unambiguous in stating that any tree felling would require planning permission as this affects the special landscape character of the ACA. Therefore, by extension and having particular regard to the policy statement in the development plan that require all development proposals within the ACA have regard to the advice given in the Statements of Character, I consider that the restriction on exemption as set out under Article 9(1)(a)(vi) applies.

### **Question 3**

Question 3 before the Board relates to *whether or not a change of use from an open nature reserve area to an enclosed grass area constitutes development and if it constitutes development, whether or not it constitutes exempted development*. The Planning Authority determined in this instance that the area which is the subject of the Section 5 declaration is not designated as a nature reserve in accordance with the provisions of the Wildlife Act 1976 and is not the subject of an objective for a nature reserve in the relevant development plan. Therefore, question 3 is not applicable to the site as it is not a nature reserve.

The Referral submitted by the first party did not question the decision of the Planning Authority. Likewise, the referral submitted by the third party did not challenge this determination made by the Planning Authority. I would generally concur with the conclusion reached by the Planning Authority in respect of the question put before it. The question posed specifically referred to the lands in question being designated as a nature reserve. As the lands in question do not constitute a nature reserve I consider that the question before the Board for the purposes of the Section 5 Referral is not a valid question and cannot be adjudicated upon for this reason.

## 12.0 Conclusions and Recommendations

Arising from my assessment above I consider the Board should issue a Declaration under the provisions of Section 5(4) as follows:

### 13.0 Question 1

**WHEREAS** a question has arisen as to whether the erection of a steel fenceline and two double gates onto the Avenue at Headfort Demesne is development and if it is development whether or not it is exempted development

**AND WHEREAS** Meath County Council determined that the erection a steel fenceline and two double gates constituted development that is exempted development in accordance with Class 9 and Class 11(a) in Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 (as amended)

**AND WHEREAS** the decision of Meath County Council was the subject of a third party referral by Mr. J. McCaldin on the 8<sup>th</sup> March, 2016

**AND WHEREAS** An Bord Pleanála in considering this referral had particular regard to

- Sections 2 and 3 of the Planning and Development Act (as amended)

- Article 6 of the Planning and Development Regulations, 2001 (as amended) and specifically Class 9 and Class 11(a) in Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 (as amended)
- Article 9(1)(a)(iii)

**AND WHEREAS** An Bord Pleanála concluded that the construction of the erected steel fence and two double gates onto the Avenue at Headfort Demesne is development and that the construction of the said steel fence and two double gates adjacent to the carriageway falls within the classes of Class 9 and Class 11(a) in Part 1 of Schedule 2 of the Planning and Development Regulations and complies with the conditions and limitations attached therein and the gates and fencing does not in this instance constitute a traffic hazard,

**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 works undertaken on the subject site constitutes development that is exempted development.

#### 14.0 Question 2

**WHEREAS** a question has arisen with regard to the removal, clearance and mulching of woodland and undergrowth within Headfort Demesne Architectural Area and located within SAC Area 002299 (and affecting SAC 004232) constitutes development, and if it constitutes development whether or not the development is exempted development.

**AND WHEREAS** Meath County Council in its declaration dated 15<sup>th</sup> February 2016 determined that having regard to Article 6 and Article 9(1)(a) of the Planning and Development Regulations, 2001 – 2015 the work is not exempted development

**AND WHEREAS** the decision of Meath County Council was referred to An Bord Pleanála by the owner/occupiers of the site and by a third party referrer Mr. J. McCaldin

**AND WHEREAS** An Bord Pleanála in considering the referral specifically had regard to

- Sections 4(1)(a) of the Planning and Development Act 2000, (as amended) and had regard to Article 6 and 9(1)(a)(vi) and (vii)

**AND WHEREAS** An Bord Pleanála considered that the restrictions on exemption under Article 9(1)(a)(vi) and (vii) would apply to the activities undertaken in respect of the removal, clearance and mulching of woodland

**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 activities undertaken on the subject site constitutes development that is not exempted development.

### **Question 3**

Whether or not the change of use of an open nature reserve area to enclosed grassed area at Headfort Demesne would constitute development and it constitutes development whether or not that development is exempted development.

**AND WHEREAS** the owner/occupier requested a declaration on this question under the provisions of section 5(4) of the Planning and Development Act 2000, (as amended) on 18<sup>th</sup> October 2016

**AND WHEREAS** An Bord Pleanála in considering this referral specifically had regard to the fact that the land in question is not a designated nature reserve in accordance with the Wildlife Act 1976 and is not the subject of an objective for a nature reserve in the relevant development plan therefore Question 3 is not applicable to the site in question.

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Paul Caprani,  
Senior Planning Inspector.

17th July, 2017.