

needed temporarily in connection with that development during the period in which it is being carried out."

Class 16 also requires that: "Such structures, works, plant or machinery shall be removed at the expiration of the period and the land shall be reinstated save to such extent as may be authorised or required by a permission under the Act."

My understanding of this exemption is that it applies only to construction plant and machinery needed temporarily in connection with authorised or exempt development which is being or is about to be carried out on the land where the machinery is placed, or the adjoining land, and must be removed as soon as the authorised or exempt development is complete.

The Council, in deciding that the placing of the construction plant and machinery is exempted development, has concluded, without any expressed reasons or considerations, that Class 16 applies.

The history of this issue is that I made a complaint to the Council on 12 July 2021 pursuant to section 152(1) of the Act regarding the machinery. A copy of the Complaint Form, letter and attachments is attached (Attachment 3).

I explained that the part landowner of the commonage on which the machinery is placed is a builder and that the photographs I enclosed with my complaint showed his construction machinery. I said that the parking of the tractor unit, low loader and earth dumper either combined or singly on the site commenced in 2020 and it was only rarely that the site was free of machinery. I submitted photographs taken on 18 September 2020, 15 May 2021, 4, 5 and 19 June 2021 and 7 July 2021 by way of example and advised that I could supply additional photographs if required.

I submitted that the placing of the machinery on the land constituted "development" and that it was not "exempted development" as it did not satisfy either Class 16 or Class 18 of the Planning and Development Regulations 2001.

The Council replied to me on 20 July 2021 that the complaint related "to the parking of three pieces of farm machinery on lands owned/jointly owned by a farmer" and they would not be investigating the matter as it was not considered to be an unauthorised development (Attachment 4).

I responded to the Council on 2 August 2021 and a copy of that letter and its attachments is at Attachment 5. I explained in detail as to how this machinery, and another trailer used for the transportation of peat, could not come within the agricultural use exemption. I received no reply. I sent a reminder on 27 September 2021 but no further action was taken by the Council in relation to my appeal.


In my application for the section 5 declaration dated 17 May 2022, I enclosed further photographs of the machinery on the land. At no stage, when any of these photographs were taken, was any approved or exempt development work being carried out on the land on which the machinery was placed or on any adjoining lands, as required by Class 16 if the exemption was to apply.

I have photographs of this machinery on this site taken on 18 September 2020, 15 May 2021, 4, 5, 19, 21, 29, and 30 June 2021, 1, 3, 6, 7, 17, 28, 29, 30 and 31 July 2021, 16 and 24 August 2021, 1, 11, 19, 26 and 30 September 2021, 1 and 27 October 2021, 17 November 2021, 16 and 17 December 2021, 24 January 2022, 10 February 2022, 9 and 10 March 2022, 11 and 22 April 2022, 4, 5, 6 and 7 May 2022, 19 June 2022 and 21 June 2022. The only day since September 2020 that I observed no machinery on the site was 27 May 2021.

For the above reasons, I request a declaration that the use of the commonage land at Cloonnacartan, Recess, Co. Galway shown in Appendix 1 of my letter to the Council dated 17 May 2022 for the storing and/or placing of construction equipment is development and is not exempted development.

My email address is clearyp9@gmail.com. Mobile: 086 8233797.

Yours sincerely,


Patrick Cleary