

Re: Bord Pleanála Case reference: RL09.316012**Description**

Whether the importation and on site works with soil and subsoil is or is not development or is or is not exempted development.

Case type

Referral

Decision

Case is due to be decided by 04/07/2023

EIAR

No

NIS

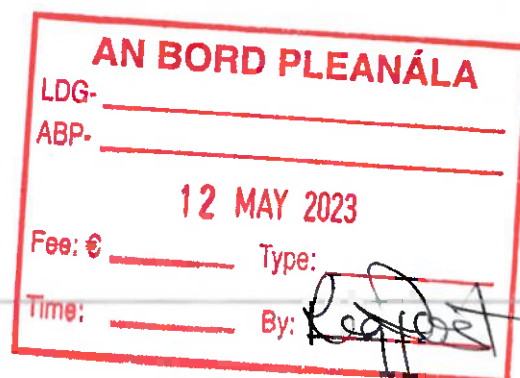
No

Parties

Tom Kelliher, Pat O'Reilly and others (1st party Referrer)

Tom Kelliher, Pat O'Reilly and others (1st party Referrer) (Active)

Tom Kelliher, Pat O'Reilly and others (3rd party Referrer) (Active)

**11th May 2023**

To Whom it concerns,

It needs to be noted that the land in question is not in the ownership of any of the parties seeking clarification as to what is exempt or non-exempt on the subject lands. A Declaration of Exempted Development under Section 5 was lodged to the Local Authority on the 7th October 2022 with a decision issued from the Local Authority. It can be concluded that the decision from the Local Authority was not as expected. It is my understanding that there is a threat of a court injunction against my client. If this is the case, then the planning system is being used. This situation is unusual. One of the parties no longer own the lands in question. For whatever reason, Mr. John Kerins sold the land to the current owner in and around 2013.

During the initial Section 5 Declaration, it came as a shock to our client to receive a request for additional information on their own lands without any prior notification or permission. It is fully understood that the Local Authority are not obliged under Section 5 to notify the landowner. However, the unusual circumstances of this application, a letter acknowledging receipt would have been welcomed from the Planning Authority in the first instance. While our client is not obliged to reply to the request, he did. It is felt that the following will aid An Bord Pleanála to decide from the registered landowner's perspective. The Local Authority request for additional information was replied to as laid out below:

1. The following permissions were granted for the subject site:

- a. 13/141 - Agricultural entrance submitted by John & Carmel Kerin, granted on the 01st July 2013. Previous owner and one of the parties involved.
- b. 14/415 - construction of hay shed and access driveway submitted by Vincent Talbot, granted on the 01st September 2014.
- c. 20/790 - construction of a single storey detached house, single storey domestic garage, secondary effluent treatment system, utilisation of existing recessed entrance

and all associated site works submitted by Rose Talbot, granted on the 21st January 2022. (Please see commencement notice attached and currently under construction)

- d. 21/1221 - construct hay shed and access drive and all associated works and services submitted by Vincent Talbot, granted on the 30th November 2021. (Please see commencement notice attached and currently under construction)
- e. 21/818 - amend site boundaries and location of secondary effluent treatment system on previously approved permission (File Ref. 20/790) and all associated site, submitted by Rose Talbot, granted on the 10th September 2021.

2. Barrel vaulted structure

The barrel-vaulted structure was permitted under permission 14/415. On checking the submitted documents, the floor plan on the drawings were 36.5m * 15.86m given a floor area of 564sq.m. The as-constructed building is in substantial compliance with its planning permission. The nature of the permission was agriculture. As can be seen from site, there are cattle and horses present. The landowner has a herd number.

- 3. As stated above, there are 2 nr. permissions active on-site and benefitting from commencement notices. These being permissions Nr. 20/790 & 21/1221. Any use of machinery is associated with the above including the organisation of the lands to include much needed maintenance of culverts/ fields. Any soil excavated is currently stores in piles and fenced off. When the current owner purchased the lands, there was serious maintenance required due to neglect. As it stands, the current owner does have his own machinery for his commercial business, separate entity. These machines are being used on-site.
- 4. The timber fence is more than the 2m in height (exempt development) and does not benefit from a valid permission. Our client has made a submission to the Local Authority for the retention of same. A further information request has issued. If a reply is made to the Local Authority now, then any decision will have an impact on this declaration and vice versa. Our client has expressed his concern with unauthorised personnel entering onto his lands.

Trusting this meets with your satisfaction.

Niall Culleton

Niall Culleton

Partner in Charge

BCF Architecture and Planning.

