

An
Bord
Pleanála

Board Direction
ABP-321246-24

The submissions on this file and the Inspector's report were considered at a Board meeting held on 25/02/2025.

The Board decided, as set out in the following Order, that

Board Order as follows:-

WHEREAS a question has arisen as to whether the provision of a hard surface within the curtilage of the industrial building and the installation of plant and machinery to the rear of the industrial building in connection with the industrial process in the building at Ballymorris Lower, Aughrim, County Wicklow is or is not development or is or is not exempted development,

AND WHEREAS Stephen Kavanagh of Ballymorris Lower, Aughrim, County Wicklow requested a declaration on this question from Wicklow County Council and the Council issued a declaration on the 21st day of October, 2024 stating that the matter is development and is not exempted development,

AND WHEREAS Stephen Kavanagh referred this declaration for review to An Bord Pleanála, on the 14th day of November, 2024,

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) of the Planning and Development Act 2000, as amended,
- (c) Article 6(1) and Article 9(1) of the Planning and Development Regulations 2001, as amended,
- (d) Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended, and
- (e) the planning history of the site,

AND WHEREAS An Bord Pleanála has concluded that

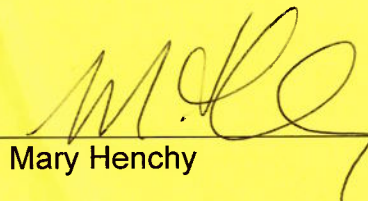
- (a) Having regard to Section 3(1) of the Planning and Development Act 2000 as amended, the excavation carried out and the construction of a retaining wall constitutes development and the placing of a container with plant and machinery on land is “development”.
- (b) Having regard to Article 9 (1)(a) (viii) of the Planning and Development Regulations 2001, as amended, and as the current use of the existing structures on site is an unauthorised use, the the works the subject of this referral, therefore, fall outside the scope of Schedule 2, Part 1 of the Planning and Development Regulations as amended, therefore, the provision of a hard

surface within the curtilage of the industrial building is development and is not exempted development.

- (c) Having regard to Article 9 (1)(a) (viii) of the Planning and Development Regulations 2001, as amended, as the current use of the existing structures on site is an unauthorised use, the structure housing plant and machinery (the subject of this referral), therefore, falls outside the scope of Schedule 2, Part 1 of the Planning and Development Regulations as amended, and therefore, the installation of plant and machinery to the rear of the industrial building in connection with the industrial process in the building is development and is not exempted development,
- (d) Notwithstanding the above the container on site is development and does not fall within the scope of plant or machinery and therefore does not fall within the scope of 21(a)(iii) of Part 2 of the Planning and Development Regulations.

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by Section 5(3)(a) of the Planning and Development Act 2000, as amended, hereby decides that the provision of a hard surface within the curtilage of the industrial building and the installation of plant and machinery to the rear of the industrial building in connection with the industrial process in the building at Ballymorris Lower, Aughrim, County Wicklow is development and is not exempted development.

Board Member:


Mary Henchy

Date: 26/02/2025