

SEMESTER I EXAMINATIONS - 2002/2003

LL.B. - SECOND, THIRD & FOURTH YEAR  
BACHELOR OF CORPORATE LAW - THIRD YEAR  
BACHELOR OF CIVIL LAW - SECOND & THIRD YEARS  
B.A. PUBLIC & SOCIAL POLICY - THIRD YEAR  
ERASMUS/OCCASIONAL STUDENTS

ENVIRONMENTAL LAW I (LW357)

Prof. Y. Scannell  
Dr. R. Long

Time Allowed: **TWO** Hours. ERASMUS students have 2½ Hours  
Answer **THREE** Questions.

1. Critically assess the changes to the planning code brought about by the adoption of the *Planning and Development Act 2000*. In your answer, discuss the provisions of the Act which you consider relevant to achieving the objectives of sustainable development and the proper planning of the built environment in Ireland.
2. "The decision of the Supreme Court in deciding that none of the provisions of the *Planning and Development Act 2000, Part V* were unconstitutional will dilute the constitutional concepts of protecting private property rights."

[John Gore-Grimes, *Key Issues in Planning and Environmental Law*, 2002].

To what extent does this statement reflect the experience in the decisions pertaining to Planning Law? Support your answer by reference to the relevant case-law.

3. Leopold Bloom has recently been elected to Waterford County Council and has heard a colleague describe the County Development Plan as an environmental contract. Leopold requires clarification regarding the legally binding nature of the development plan and wishes to know if it is possible for the Council to undertake development in material contravention of the provisions in the plan. He is also concerned about a report that the original draft County Development Plan was displayed for one week in August 2002 and subsequently amended and adopted immediately by the Council.

Advise Leopold.

4. Máire is an environmental scientist and has read a report in a scientific journal of a proposal to develop a wind farm in Ireland's largest special protected area (SPA) at the Owenduff-Nephin Beg Complex in North County Mayo. She is concerned about the impact of the proposed development on the unique biodiversity of the area as well as on migratory bird species which nest in the area during the winter. One of these species is listed as a priority species for conservation purposes. She is also aware that a local land-owner has acquired planning permission for the development of a residential house on his land adjacent to the area but that the permission is subject to a planning agreement between Mayo County Council and the landowner.

Advise Máire on the following:

- (a). arguments she could use to prevent the construction of the wind farm in the SPA and
- (b). the enforceability of the planning agreement.

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5. Answer both (a). and (b).

- (a). *“An intensification of a use, if it is substantial, may amount to a material change of use for which planning permission is required. This is known as the doctrine of intensification.”*

Discuss the manner in which this doctrine has been developed by the Courts.

- (b). Paul operated a small café for a period of four years (1990-1994) in accordance with planning permission granted in 1989. The seating capacity was for 40 customers at a time. After a fire, he discontinued the café but continued to use the patio of his premises to sell ice-cream during the summer months between 1994-1998. Paul now plans to upgrade his café to a restaurant by breaking down internal walls and increasing the seating capacity to 100 customers.

Will Paul require planning permission to carry out his plans?

6. Áine has been employed as a consultant by an international energy production company to research the possibility of establishing a crude oil refinery in the vicinity of Dundalk Harbour. The facility will require storage tanks for petrochemical products and may involve the dredging of Dundalk Harbour to a depth of twenty metres. The proposed development will be financed under a public and private project partnership. The proposed project may have significant effects on the environment and Áine requires clarification regarding the procedural and regulatory requirements which must be followed in order to assess the environmental impact of the project.

Advise Áine.

7. Write a critical assessment of one of the following:
- a. Exempted development
  - b. Applying for planning permission – the legal requirements

**END**