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**Planning and Development Acts 2000 to 2020**

**Planning Authority: Cork County Council**

**Planning Register Reference Number: D/232/20**

**WHEREAS** a question has arisen as to whether the proposed erection of a concrete post and rail fence on privately owned land at Coast Road, Kilmichael East, Myrtleville, Cork is or is not development or is or is not exempted development:

**AND WHEREAS** Owen O'Brien requested a declaration on the said question from Cork County Council and the Council issued a declaration on the 10<sup>th</sup> day of June, 2020 stating that the said matter is development and is not exempted development:

**AND WHEREAS** Brendan Mullins on behalf of the Mullins-Collins Family of 27 College Grove, Ennis, County Clare referred the declaration for review to An Bord Pleanála on the 6<sup>th</sup> day of July, 2020:

**AND WHEREAS** An Bord Pleanála, in considering this referral, had regard particularly to –

- (a) section 3 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6(1), 9(1)(a)(iii), (x) and (xi) of the Planning and Development Regulations, 2001, as amended,
- (c) Class 11(a) of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, as amended, and
- (d) the submissions on file, and
- (e) the report of the Planning Inspector:

**AND WHEREAS** An Bord Pleanála has concluded that -

- (a) the fence in question is development for the purposes of Section 3 of the Planning and Development Act, 2000, as amended,
- (b) the development comprises exempted development under Class 11(a) of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended,
- (c) the development would not be exempted development, having regard to Article 9(1)(a)(x) as it would consist of the fencing or enclosure of land habitually open to or used by the public during the ten years preceding such fencing or enclosure of a means of access to the seashore or other place of natural beauty or recreational utility.

**NOW THEREFORE** An Bord Pleanála, in exercise of the powers conferred on it by section 5 (3) (a) of the 2000 Act, hereby decides that the erection of a concrete post and rail fence on privately owned lands at Kilmichael East, Myrtleville, Cork is development and is not exempted development:

### **Matters Considered**

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

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**Dave Walsh**

**Member of An Bord Pleanála  
duly authorised to authenticate  
the seal of the Board.**

**Dated this            day of            2020**