



An
Bord
Pleanála

Board Direction
BD-002274-19
ABP-301137-18

The submissions on this file and the Inspector's report were considered at a Board meeting held on 01/02/2019.

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

Board Order as follows:-

WHEREAS a question has arisen as to whether the alteration to existing farm gate field entrances to form a vehicular entrance including winged walls and gate and whether upgrading, resurfacing and widening a road at Gowran Demense, Gowran, Co. Kilkenny is or is not development or is or is not exempted development within the meaning of the Act:

AND WHEREAS Joseph Connolly requested a declaration from Kilkenny County Council and the Council issued a declaration on the 14th day of February, 2018 stating that the alterations to existing farm gate field entrance to form a vehicular entrance including winged wall is development and not exempted development, and concluded that construction of a road is development and is exempted development.

AND WHEREAS Joseph Connolly referred this declaration for review to An Bord Pleanála on the 13th day of March, 2018:

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,
- (c) Section 4(1)(a) of the Planning and Development Act, 2000, as amended,
- (d) article 6(1) and article 9(1) of the Planning and Development Regulations, 2001, as amended,
- (e) Parts 1 and 3 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (f) the planning history of the site,
- (g) the pattern of development in the area:

AND WHEREAS An Bord Pleanála has concluded that:

- (a) alteration to existing farm gate field entrances to form a vehicular entrance including winged walls and the upgrading, resurfacing and widening of a private road a constitutes works;
- (b) the works constitute development pursuant to section 3 of the Planning and Development Act, 2000;
- (c) the development does not come within the scope of Class 13 of Part 1 of Schedule 2 to the Planning and Development Regulations 2001; due to the width of sections of the road exceeding 3m.
- (d) the restrictions on exemptions outlined in Article 9(1)(a)(ii) are applicable in this instance.

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 alteration to existing farm gate field entrances to form a vehicular entrance including winged walls and gate and the upgrading, resurfacing and widening of a private road is development and is not exempted development.

Board Member:

Date: 01/02/2019

John Connolly