



An
Bord
Pleanála

Board Direction
ABP-302804-18

The submissions on this file and the Inspector's report were considered at a Board meeting held on 09/05/2019.

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

Board Order as follows:-

WHEREAS a question has arisen as to whether the opening of a pedestrian gate from the rear of the house at 8 Millbridge Avenue, Mill Lane, Naas, Co. Kildare into an area of public open space is or is not development or is or is not exempted development.

AND WHEREAS Mr. Des Murray & Ms. Caroline Flynn requested a declaration on this question from Kildare County Council and the Council issued a declaration on the 11th day of October, 2018 stating that the matter was development and was exempted development:

AND WHEREAS Mr. Des Murray & Ms. Caroline Flynn referred this declaration for review to An Bord Pleanála on the 17th day of October, 2018:

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

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,

- (b) Article 6(1) and article 9(1) of the Planning and Development Regulations, 2001, as amended,
- (c) Class 5, Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (d) the planning history of the site,
- (e) the Roads Act, 1993

AND WHEREAS An Bord Pleanála has concluded that the opening of a pedestrian gate from the rear of the house into an area of public open space:

- (a) Would constitute the carrying out of works which comes within the meaning of development in Section 3(1) of the Planning and Development Act, 2000
- (b) Would come within the scope of Class 5, Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, and
- (c) Would be exempted development by reason of Article 9(1)(a)(ii) of the Planning and Development Regulations, 2001, because the gate does not affect a public road within the meaning of the Roads Act, 1993;

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 opening of a pedestrian gate from the rear of the house at 8 Millbridge Avenue, Mill Lane, Naas, Co. Kildare into an area of public open space is development and is exempted development.

Board Member:

Date: 09/05/2019

Michelle Fagan