



An
Bord
Pleanála

Board Direction
ABP-303326-18

The submissions on this file and the Inspector's report were considered at a Board meeting held on 11th June 2019.

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

WHEREAS a question has arisen as to whether the formation of a vehicular entrance from an agricultural tract of land onto local road L2023, within the townland of Mylerstown, Two Mile House. Naas, Co. Kildare and the installation of a gate structure on or near the front boundary of this land is or is not development or is or is not exempted development:

AND WHEREAS Ulric (Ollie) Barry requested a declaration on this question from Council and the Council failed to issue a declaration within the appropriate period:

AND WHEREAS Ulric (Ollie) Barry referred this declaration for review to An Bord Pleanála on the 28th day of December, 2018:

AND WHEREAS, having regard to the nature of the question and the documentation submitted as part of the referral, An Bord Pleanála decided to reformulate the question as follows -

Whether the relocation of an existing gate and gate posts to an existing agricultural entrance is or is not development or is or is not exempted development.

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

- (a) Sections 2(1), 3(1), 4(2)(a)(i) of the Planning and Development Act, 2000, as amended,
- (b) Articles 6(1) and 9(1) of the Planning and Development of the Planning and Development Regulations, 2001, as amended,
- (c) Class 9 of Part 1 of Schedule 2 of the said Regulations,
- (d) Section 2(1) of the Roads Act, 1993,
- (e) the planning history of the site,
- (f) the pattern of development in the area,
- (g) the Report of the Planning Inspector.

AND WHEREAS An Bord Pleanála has concluded that:

- (a) The development comes within the scope of Sections 2(1) and 3(1), of the Planning and Development Act 2000, as amended, and constitutes development,
- (b) The development comes within the scope of Article 6(1), of the Planning and Development Regulations 2001, as amended, and also Class 9, Part 1, Schedule 2 to those Regulations, and
- (c) development does not come within the scope of Article 9(1)(a)(i), (ii), (iii), and (viiB) of the said Regulations 2001,

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5 (3) (b) of the 2000 Act, hereby decides that the relocation of an existing gate and gate posts to an existing agricultural entrance **IS development** and **IS exempted development**.

Date: 11/06/2019

Board Member:

Stephen Bohan