



An
Bord
Pleanála

Board Direction
ABP-304475-19

The submissions on this file and the Inspector's report were considered at a Board meeting held on September 3rd, 2019.

The Board decided, as set out in the following Order, that the sub-division of an existing residential curtilage into two residential curtilages, at Geraldine Villas, Lower Aghada, Co. Cork, is not development.

Board Order as follows:-

WHEREAS a question has arisen as to whether the diminution of the curtilage of a house for the purpose of gifting a garden to a family member for the purpose of building a house, at Geraldine Villas, Lower Aghada, Co Cork, is or is not development or is or is not exempted development.

AND WHEREAS Marie Dineen, of Geraldine Villas, Lower Aghada, Co Cork, requested a declaration on this question from Cork County Council, and the Council issued a declaration on the 24th day of April 2019 stating that the matter is not development.

AND WHEREAS Marie Dineen referred this declaration for review to An Bord Pleanála, on the 16th day of May 2019.

AND WHEREAS An Bord Pleanála, in the light of the documentation submitted as part of the referral, decided to re-word the question as follows:-

“Whether the sub-division of an existing residential curtilage into two residential curtilages, at Geraldine Villas, Lower Aghada, Co. Cork, is or is not development and is or is not exempted development.”

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, and
- (b) The planning history of the site, and in particular planning permission register reference number 18/5042.

AND WHEREAS An Bord Pleanála has concluded that:

- (a) The subdivision of an existing residential curtilage into two residential curtilages, where no works have taken place to physically separate the curtilages, is not development;
- (b) This subdivision, where no works have taken place within the separated curtilage, is not a material change of use, and is therefore not development.

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by Section 5 (3)(a) of the Planning and Development Act, 2000, as amended, hereby decides that the sub-division of an existing residential curtilage into two residential curtilages, at Geraldine Villas, Lower Aghada, Co. Cork, is not development.

In not accepting the recommendation of the Inspector that the separation of the curtilages should be determined to constitute development, the Board noted that no works to physically separate the curtilages had taken place, and that, as no new development had taken place within the separated curtilage, there was no intensification of use, and that, therefore, no material change of use had taken place in this instance. The Board also noted that the planning permission, granted under planning authority register reference number 18/5042, allowed for the construction of a dwelling within the separated curtilage.

Board Member

Date: 3rd September 2019

Philip Jones