



An
Bord
Pleanála

Board Direction
ABP-305105-19

The submissions on this file and the Inspector's report were considered at a Board meeting held on 20/11/2019.

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

Board Order as follows:-

WHEREAS a question has arisen as to whether the construction of a block wall, rendered and capped, at a height not exceeding 1.2 metres, at St. Oran's Park, Buncrana, County Donegal, is or is not development or is or is not exempted development:

AND WHEREAS Marie and Peter Carey of No.3 St. Oran's Park, Buncrana, County Donegal requested a declaration on this question from Donegal County Council and the Council issued a declaration on 24th day of July, 2019 stating that the matter is development and is exempted development:

AND WHEREAS Marie and Peter Carey referred this declaration for review to An Bord Pleanála on the 7th day of August, 2019:

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

- (a) Sections 2 (1) and 3 (1) of the Planning and Development Act, 2000, as amended;
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended, and Class 5 and Class 11 of Part 1 of Schedule 2 to those Regulations;
- (c) the planning history of the site;
- (d) the nature and the height of the boundary wall, including the attached brick pier.

AND WHEREAS An Bord Pleanála has concluded that:

- (a) the construction of the wall would involve the carrying out of works and would, therefore, constitute development;
- (b) the development, involving the construction of a front boundary wall bounding the curtilage of the house on site, would come within the scope of Class 11 of Part 1 of the Second Schedule to the Planning and Development Regulations 2001, as amended.

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 construction of a boundary wall at St. Oran's Park, Bunrana, County Donegal, is development and is exempted development.

Board Member:

Date: 20/11/2019

Terry Prendergast

In deciding not to accept the Inspector's recommendation that the development was not exempted development, the Board considered that the subject of the referral i.e. the boundary wall, came within the requirements for exempted development in the legislation.