



An
Bord
Pleanála

Board Direction
ABP-306874-20

The submissions on this file and the Inspector's report were considered at a Board meeting held on 16/09/2020.

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

WHEREAS a question has arisen as to whether the erection of fence number 1 and fence number 2 at Riverdale Westbury, is or is not development or is or is not exempted development.

AND WHEREAS Mr Gerard Madden requested a declaration on this question from Clare County Council and the Council issued a declaration on the 13th day of February 2020 stating that the matter was development and was not exempted development

AND WHEREAS Mr Gerard Madden referred this declaration for review to An Bord Pleanála on the 11th day of March 2020

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

- (a) Section 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- (a) articles 6 and 9 and class 11 under Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, as amended,

- (b) the submissions on the file, and
- (c) the report of the Inspector.

AND WHEREAS An Bord Pleanála has concluded that:

- (a) the erection of the proposed fences falls within the definition of works under section 2 of the Act and constitutes development within the meaning of Section 3(1) of the Act;
- (b) the erection of the proposed fences falls within the scope of class 11 under Part 1 of Schedule 2 of the Regulations and under Article 6(a) of the regulations;
- (c) by reason of the said fences enclosing land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes, the subject development by virtue of the provisions of Article 9(1)(a)(x) of the Planning and Development Regulations, 2001, does not come within the scope of the exempted development provisions of Schedule 2 of the Planning and Development Regulations, 2001;

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 proposed erection of fence number 1 and fence number 2 at Riverdale, Westbury, County Clare is development and is not exempted development.

Board Member:

Date: 17/09/2020

Chris McGarry