



An  
Bord  
Pleanála

**Board Direction**  
**ABP-307913-20**

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The submissions on this file and the Inspector's report were considered at a Board meeting held on 13/11/2020.

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

Board Order as follows:-

**WHEREAS** a question has arisen as to whether the fencing off, by a 1.2m high mesh fence, of open space is or is not development or is or is not exempted development:

**AND WHEREAS** Beata Smyl requested a declaration on this question from Council and the Council did not issue a declaration on the matter.

**WHEREAS** Beata Smyl referred this question to An Bord Pleanála on the 12th day of July, 2020:

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

- (a) Section 2(1) of the Planning and Development Act, 2000, as amended,
- (b) Section 3(1) of the Planning and Development Act, 2000,

- (c) Section 4 of the Planning and Development Act, 2000, as amended,
- (d) article 6(1) and article 9(1) of the Planning and Development Regulations, 2001, as amended,
- (e) Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (f) the planning history of the site,
- (g) the pattern of development in the area:

**AND WHEREAS** An Bord Pleanála has concluded that:

- (a) the erection of the fence constitutes “works” that comes within the meaning of development as set out in section 3(1) of the Planning and Development Act 2000,
- (b) the works fall within a class of exempted development under article 6, namely Class 11 of Part 1 of Schedule 2, as amended, of the Planning and Development Regulations, 2001, and
- (c) the works do not come within the scope of the restrictions on exemption under article 9(1)(a)(x) of the Planning and Development Regulations, 2001:

**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 fencing off, by a 1.2m high mesh fence, of open space is development and is exempted development.

**Board Member:**

**Date:** 13/11/2020

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Michelle Fagan