



An  
Bord  
Pleanála

**Board Direction**  
**ABP-307952-20**

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The submissions on this file and the Inspector's report were considered at a Board meeting held on 19/01/2021.

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

Board Order as follows:-

**WHEREAS** a question has arisen as to whether the gated pedestrian access at lands between Carrick Court Housing Estate and Church Lane/Suncroft Avenue, Portmarnock, Co. Dublin, is or is not development or is or is not exempted development:

**AND WHEREAS** Darren Jackson of Ballymastone Properties Ltd., care of O'Neill Town Planning, Planning and Development Consultants, requested a declaration on this question from Fingal County Council, and the Council issued a declaration on the 20<sup>th</sup> day of July 2020 stating that the matter is development and is not exempted development:

**AND WHEREAS** Darren Jackson of Ballymastone Properties Ltd., care of O'Neill Town Planning, Planning and Development Consultants, referred this declaration for review to An Bord Pleanála, on the 14<sup>th</sup> day of August 2020:

**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,
- (b) Articles 6 and 9 of the Planning and Development Regulations, 2001, as amended,
- (c) the planning history of the site, including the Inspector's report and the decision of the Board under ABP PL06F.248412 (P.A. Ref. No. F16A/0520), and
- (d) the submissions on file from the referrer.

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

- (a) the erection of the gate constitutes works which is development,
- (b) there are no provisions in the Planning and Development Act, 2000, as amended which would exempt such development,
- (c) there are no provisions in the Planning and Development Regulations, 2001, as amended, which would exempt such development, and
- (d) even if there were such provisions in the Regulations, the development would be de-exempted by Article 9(1)(a)(i), as it would contravene Condition No. 4 attached to planning permission ABP PL06F.248412 (P.A. Ref. No. F16A/0520) which requires, *inter alia*, that the developer shall provide a pedestrian only access from the proposed development to Suncroft Avenue generally in accordance with drawings submitted to the Planning Authority on 10<sup>th</sup> day of February 2017, and those drawings indicate a new 1500mm wide access which is not gated.

**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 gated pedestrian access at lands between Carrick Court Housing Estate and Church Lane/Suncroft Avenue, Portmarnock, Co. Dublin, is development and is not exempted development.

**Board Member:**

**Date:** 20/01/2021

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John Connolly