



An
Bord
Pleanála

Board Direction
ABP-308306-20

The submissions on this file and the Inspector's report were considered at a Board meeting held on 15/02/2021.

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

Board Order as follows:-

WHEREAS a question has arisen as to whether a development comprising the change of use from a house to use as residence by persons with an intellectual or physical disability or mental illness at Mylerstown, Naas, Co. Kildare is or is not development and is or is not exempted development:

AND WHEREAS David Durney requested a declaration on this question from Kildare County Council and the Council issued a declaration on the 4th day of September, 2020 stating that the matter was development and was not exempted development:

WHEREAS David Durney referred this declaration for review to An Bord Pleanála on the 30th day of September, 2020:

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

—

(a) Section 3(1) of the Planning and Development Act, 2000,

- (b) Article 6(1) and article 9(1) of the Planning and Development Regulations, 2001, as amended,
- (c) Schedule 2 Part 1 Class 14(f) of the Planning and Development Regulations, 2001, as amended,
- (d) The nature and scale of the proposed use as a residence for young persons with an intellectual or physical disability or mental illness requiring care, attention or therapy.

AND WHEREAS An Bord Pleanála has concluded that:

- (a) The change of use of a house to use as a residence by persons with an intellectual or physical disability or mental illness constitutes a material change of use, and is therefore development, as defined in section 3 of the Planning and Development Act 2000, as amended,
- (b) This change of use comes within the scope of Class 14(f) of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended, and,
- (c) None of the restrictions on exemption set out in article 9(1) of these Regulations apply in this instance.

THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5(3)(a) of the 2000 Act, hereby decides that the change of use from a house to use as residence by persons with an intellectual or physical disability or mental illness at Mylerstown, Naas, Co. Kildare is development and is exempted development.

Board Member:

Date: 15/02/2021

Michelle Fagan