



An
Bord
Pleanála

Board Direction
ABP-308493-20

The submissions on this file and the Inspector's report were considered at a Board meeting held on 24/02/2021.

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

Board Order as follows:-

WHEREAS a question has arisen as to whether the opening of a pedestrian gateway in the boundary wall between the rear private amenity space and an area of public open space, both to the rear of No. 31, The Maples, Dr. Mannix Road, Salthill, Galway City is or is not development and is or is not exempted development:

AND WHEREAS Tom Barry of 31 The Maples, Doctor Mannix Road, Salthill, Galway City requested a declaration on the question from Galway City council, and the Council issued a declaration on the 24th day of September 2020 stating that the matter was development and was not exempted development:

AND WHEREAS Tom Barry referred this declaration for review to An Bord Pleanála on the 20th day of October 2020:

AND WHEREAS An Bord Pleanála, has reformulated the question as follows-

Whether the opening of a pedestrian gateway in the boundary wall between the rear private amenity space and an area of public open space, both to the rear of number 31 The Maples, Doctor Mannix Road, Salthill, Galway City is or is not development or is or is not exempted development:

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

- Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- Article 6(1) and article 9(1) of the Planning and Development Regulations, 2001, as amended,
- Class 5, Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- The planning history of the site, including all the conditions of PL61.094183 where no such condition restricts the carrying out of exempted development in accordance with the provisions of the Act and Regulations,
- The Roads Act, 1993,
- The Board's declaration under ABP-302804-18, and
- The Planning Inspectors Report

AND WHEREAS An Bord Pleanála has concluded that the opening of a pedestrian gateway in a boundary wall between the rear private amenity space of a house into an area of public open space:

- (a) Would constitute the carrying out of works which comes within the meaning of development in Section 3(1) of the Planning and Development Act, 2000
- (b) Would come within the scope of Class 5, Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, and
- (c) Would be exempted development as there are no restrictions to exemptions under Article 9 (1) (a) (ii) of the Planning and Development Regulations 2001 that are applicable,

NOW 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 opening of a pedestrian gateway in the boundary wall between the rear private amenity space and an area of public open space, both to the rear of No. 31, The Maples, Dr. Mannix Road, Salthill, Galway City is development and is exempted development.

Board Member:

Date: 26/02/2021

Maria FitzGerald