

An
Bord
Pleanála

Board Direction
ABP-312207-21

The submissions on this file and the Inspector's report were considered at a Board meeting held on 16/05/2023.

The Board decided, as set out in the following Order, that the removal of a rectangular flowerbed with permeant surround and its replacement with a granite water fountain and surround is development and is not exempted development.

Board Order as follows:-

WHEREAS a question has arisen as to whether the removal of a rectangular flowerbed with permeant surround and its replacement with a granite water fountain and surround is or is not development or is or is not exempted development.

AND WHEREAS Sarah Sherlock, requested a declaration on this question from Laois County Council, and the Council issued a declaration on the 15th day of November 2021 stating that the matter was development and was not exempted development:

AND WHEREAS Sarah Sherlock referred this declaration for review to An Bord Pleanála, on the 13th day of December 2021.

AND 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,

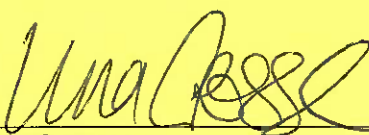
- (b) Section 3(1) of the Planning and Development Act, 2000,
- (c) article 6(1) and article 9(1) of the Planning and Development Regulations, 2001, as amended,
- (d) Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (e) the planning history of the site and
- (f) the pattern of development in the area:

AND WHEREAS An Bord Pleanála has concluded that:

- (a) The works carried out to install the fountain constituted 'development' within the meaning of the Act;
- (b) The development which consisted of the replacement of a raised flowerbed with a permanent surround with a granite three tiered water fountain and surround within a public paved area materially constitutes an alteration of a public area of the Square, Clonaslee, and Class 33 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 does not apply in this instance.

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 replacement of rectangular flowerbed with permanent surround with a three tiered water fountain and surround, is development and is not exempted development.

Board Member:


Una Crosse

Date: 18/05/2023