

An  
Bord  
Pleanála

**Board Direction**  
**BD-014602-23**  
**ABP-314098-22**

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The submissions on this file and the Inspector's report were considered at a Board meeting held on 13/11/2023.

The Board decided, as set out in the following Order, that the erection of a 1.2-metre-high fence and the provision of edge kerbing along the northern boundary of the property fronting onto Seamount Road is development and is not exempted development.

Board Order as follows:-

**WHEREAS** a question has arisen as to whether the erection of a 1.2-metre-high fence and the provision of edge kerbing along the northern boundary of the property fronting onto Seamount Road is or is not development or is or is not exempted development.

**AND WHEREAS** Thomas Condron requested a declaration on this question from Fingal County Council and the Council issued a declaration on the 20th day of June 2022 stating that the matter was development and was not exempted development:

**AND WHEREAS** Thomas Condrón referred this declaration for review to An Bord Pleanála on the 15<sup>th</sup> day of July 2016:

**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) Class 5 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended,
- (e) The planning history of the site,
- (f) The pattern of development in the area:


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

- (a) The erection of a 1.2-metre-high fence and the provision of edge kerbing along the northern boundary of the property fronting onto Seamount Road constitutes the carrying out of works which comes within the meaning of development in section 3(1) of the Planning and Development Act 2000,

- (b) The fencing being a metal mesh fence and not a “railing or wooden fence or a wall of brick, stone, blocks with decorative finish, other concrete blocks or mass concrete” would not come within the scope of Class 5 of Part 1, Schedule 2 of the Planning and Development Regulations 2001 and is therefore not exempted development.
- (c) In any event, the development would not be exempted development having regard to Article 9(1)(a)(iii) as it would endanger public safety by reason of traffic hazard and obstruction of road users.

**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 that the erection of a 1.2-metre-high fence and the provision of edge kerbing along the northern boundary of the property fronting onto Seamount Road is development and is not exempted development.

**Board Member:**

  
Stephen Bohan

**Date:** 16/11/2023

