

An
Bord
Pleanála

Board Direction
ABP-315789-23

The submissions on this file and the Inspector's report were considered at a Board meeting held on 05/06/2024.

The Board decided, as set out in the following Order, that the widening and alteration of a gateway is or is not development or is or is not exempted development:

Board Order as follows:-

WHEREAS a question has arisen as to whether the widening and alteration of a gateway is or is not development or is or is not exempted development.

AND WHEREAS John Cox requested a declaration on whether the widening and alteration of a gateway is or is not development or is or is not exempted development from Kerry County Council and the Council issued a declaration on the 16th day of January 2023 stating that the said matter would constitute development which is not exempted development:

AND WHEREAS John Cox referred this declaration for review to An Bord Pleanála, on the 13th day of February 2023.

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 5, 6 and 9 of the Planning and Development Regulations 2001, as amended, and Part 1 of Schedule 2 to those Regulations, including Class 9 including the relevant Conditions and Limitations,
- (c) the planning history of the site,
- (d) the pattern of development in the area,
- (e) the submissions of the Requester, and
- (f) the report of the Inspector:

AND WHEREAS An Bord Pleanála has concluded that the widening and alteration of a gateway:

- (a) does constitute the carrying out of works which comes within the meaning of development in Section 3(1) of the Planning and Development Act, 2000 as amended,
- (b) does come within the scope of Class 9, Part 1 of Schedule 2 to the Planning and Development Regulations, 2001 as amended, and
- (c) having regard to the information presented to the Board including the views of Kerry County Council and the Inspector and the absence of any information from the requester to demonstrate the contrary, the widening and alteration of the gateway would not be exempted development, having regard to Article 9(1)(a)(iii) of those Regulations as it constitutes the widening and alteration of a gateway that would endanger public safety by reason of traffic hazard or 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 hereby decides that the widening and alteration of a gatewayk is development and is not exempted development.

Board Member:


Una Crosse

Date: 06/06/2024