



An  
Bord  
Pleanála

**Board Direction**  
**BD-019327-25**  
**ABP-318936-24**

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The submissions on this file and the Inspector's report were considered at a Board meeting held on 26/03/2025.

The Board decided generally in accordance with the Inspector's recommendation, as indicated hereunder.

**WHEREAS** a question has arisen as to whether the erection of a gate from private to public open space and change of use from publicly accessible open space to private use is or is not development and is or is not exempted development is or is not development or is or is not exempted development:

**AND WHEREAS** Paul Campbell requested a declaration on this question from South Dublin County Council and the Council issued a declaration on the 6<sup>th</sup> day of December, 2023 stating that the matter could not be determined

**AND WHEREAS** Paul Campbell referred this declaration for review to An Bord Pleanála on the 26<sup>th</sup> day of January, 2024:

**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) Parts 1 of Schedule 2 to 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 gate in excess of 2m from private to public open space is development and is not exempted development
- (b) and the change of use from publicly accessible open space to private use is a material change of use that is development and is not exempted development as it would consist of the fencing or enclosure of any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes

**NOW THEREFORE** An Bord Pleanála, in exercise of the powers conferred on it by section 5(3)(b) of the 2000 Act, hereby decides that the erection of a gate from private to public open space and change of use from publicly accessible open space to private use is development and is not exempted development.

**Board Member**



Tom Rabbette

**Date:** 28/03/2025