



An
Bord
Pleanála

Board Direction ABP-318947-24

The submissions on this file and the Inspector's report were considered at a Board meeting held on 29/10/2024.

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

WHEREAS a question has arisen as to whether the alteration and reduction in height of an unauthorised fence at Tirquin, Cavan, Co. Cavan is, or is not, development, or, is, or is not, exempted development:

AND WHEREAS Declan Sheridan requested a declaration on this question from Cavan County Council on the 19th of December 2023:

AND WHEREAS Cavan County Council referred this declaration for review to An Bord Pleanála on the 30th 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, as amended,
- (c) section 4(1) of the Planning and Development Act, 2000, as amended,
- (d) section 163 of the Planning and Development Act, 2000 as amended,
- (e) article 6(1) and article 9(1)(a)(viii) of the Planning and Development Regulations, 2001, as amended,

- (f) Class 11(a) Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (g) the submissions on file,
- (h) the planning history of the site.

AND WHEREAS An Bord Pleanála has concluded that:

- (a) The alteration and reduction in height of the fence would constitute “works” that is development as defined under Sections 2 and 3 of the Planning and Development Act 2000 (as amended),
- (b) The development would comprise exempted development under Class 11(a) of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended, subject to Article 9(i) of the Planning and Development Regulations 2001, as amended,
- (c) The alteration and reduction in height of an unauthorised fence would “*consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure*” and would therefore not be exempted development having regard to Article 9(1)(a)(viii) of the Planning and Development Regulations, 2001 (as amended).

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by Section 5(4) of the Planning and Development Act, 2000, as amended, hereby decides that the alteration and reduction in height of an unauthorised fence at Tirquin, Cavan, Co. Cavan would constitute development which would not be exempted development.

Board Member:

Mary Gurrie
Mary Gurrie

Date: 01/11/2024