

An
Bord
Pleanála

Board Direction
ABP-319589-24

The submissions on this file and the Inspector's report were considered at a Board meeting held on 19/02/2025.

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

Board Order as follows:-

- (i) **WHEREAS** a question has arisen as to whether the proposed erection of a fence and gate is, or is not, exempted development within the meaning of the Planning and Development Acts, 2000 (as amended) and the Planning and Development Regulations. Whether such development would result in the segregation of the estate, and the control, and or prohibition, of access through Ardpatrick, whether this would represent development that would materially alter the terms of the parent planning permission, as amended and the interruption of a recreational amenity currently enjoyed by residents and members of the public is or is not development or is or is not exempted development.

AND WHEREAS Donal Kelleher, requested a declaration on this question from Cork City Council, and the Council issued a declaration on the 22nd Day of March 2024 stating that the matter is development and is exempted development.

AND WHEREAS Donal Kelleher referred this declaration for review to An Bord Pleanála, on the 17th day of April 2024.

AND WHEREAS An Bord Pleanála, in considering this referral, had regard particularly to:

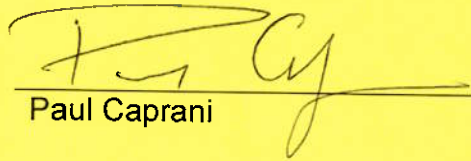
- (a) Sections 2(1), 3(1), 4(1)(a)(aa), 4(4), 5, 178 and 179 of the Planning and Development Act, 2000, as amended,

AND WHEREAS An Bord Pleanála has concluded that:

- (a) the proposed erection of a fence and gate is development and is exempted development having regard to the nature of the development being development by a local authority in its functional area, the development comes within the scope of section 4(1)(a)(aa) of the Planning and Development Act 2000 as amended;
- (b) having considered the nature of the question of whether such development would result in the segregation of the estate, and the control, and or prohibition, of access through Ardpatrick, whether this would represent development that would materially alter the terms of the parent planning permission, as amended and the interruption of a recreational amenity currently enjoyed by residents and members of the public, An Bord Pleanála is satisfied that this aspect of the referral should not be further considered as these objections relate to the parent permission and refer to parts of the Planning and Development Act are outside the scope of the matters to be considered under the provisions of Section 5 of the Planning and Development Act 2000;

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 erection of a fence and gate is development and is exempted development.

Board Member:


Paul Caprani

Date: 19/02/2025

