

An
Coimisiún
Pleanála

Direction
ABP-322212-25

The submissions on this file and the Inspector's report were considered at a meeting held on 25/07/2025.

The Commission decided by a majority of two to one, as set out in the following Order, that the developments at Burnaby Park, Greystones, Wicklow are development and are not exempted development.

Draft Commission Order as follows:-

WHEREAS a question has arisen as to whether

- (a) the removal of a grass area of the park and the installation of a new boules playing area with hardcore surface ,
- (b) the installation of a series of concrete plinths in previously green areas throughout the park,
- (c) the fixing of new furniture on these concrete plinths including benches and chess tables, and
- (d) installation of a new signage board adjacent to the new boules area;

all at Burnaby Park, Greystones, Wicklow are or are not development or are or are not exempted development:

AND WHEREAS Liam Sweeney on behalf of Burnaby Residents' Association care of Netherby, Erskine Avenue, Greystones, County Wicklow requested a declaration on the said question from Wicklow County Council and the Council issued a declaration on the 13th day of March, 2025 stating that:

- (a) the removal of a grass area of the park and the installation of a new playing area with hardcore surface is development and is exempted development,
- (b) the installation of a series of concrete plinths in previously green areas throughout the park is development and is exempted development,
- (c) the fixing of new furniture on these concrete plinths including benches and chess tables is development and is exempted development, and
- (d) the installation of a new signage board directly adjacent to the new playing area is development and is exempted development:

AND WHEREAS Liam Sweeney on behalf of Burnaby Residents' Association referred the declaration for review to An Coimisiún Pleanála on the 4th day of April, 2025:

AND WHEREAS An Coimisiún Pleanála, in considering this referral, had regard particularly to –

- (a) sections 2(1), 3(1), 4(1) (aa), 82(1), 178(1) and 179 of the Planning and Development Act, 2000, as amended,
- (b) the provisions of the Wicklow County Development Plan 2022-2028,
- (c) the provisions of the Greystones–Delgany and Kilcoole Local Area Plan 2013-2019,

- (d) the provisions of the Draft Greystones/Delgany and Kilcoole Local Planning Framework 2025, and
- (e) the pattern of development in the area:

AND WHEREAS An Coimisiún Pleanála has concluded that,

- (a) the activities undertaken fall within the definition of 'works' as the activities included acts of excavation, construction and alteration and therefore constitute 'development' in accordance with Section 3 of the Planning and Development Act 2000, as amended,
- (b) within the scope of section 4(1)(aa) of the Planning and Development Act 2000, as amended, development by a local authority is exempted development,
- (c) within the scope of section 82(1) of the Planning and Development Act 2000, as amended, the carrying out of works to the exterior of a structure located in an architectural conservation area shall be exempted development only if those works would not materially affect the character of the area,
- (d) the development undertaken altered the exterior of the park area in The Burnaby Architectural Conservation Area,
- (e) in the absence of any available information or assessment by the planning authority's Conservation Officer or a suitably qualified individual, An Coimisiún has been provided with no evidence as to the absence of a material effect on the character of The Burnaby Architectural Conservation Area and, therefore, that the development constitutes exempted development by a local authority in its functional area,

NOW THEREFORE An Coimisiún 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:

- (a) the removal of a grass area of the park and the installation of a new playing area with hardcore surface,
- (b) the installation of a series of concrete plinths in previously green areas throughout the park,
- (c) the fixing of new furniture on these concrete plinths including benches and chess tables, and
- (d) the installation of a new signage board directly adjacent to the new playing area

all at Burnaby Park, Greystones, Wicklow are development and are not exempted development.

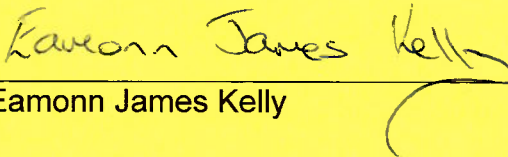
In disagreeing with the inspector, An Coimisiún noted that the outward appearance of the park area within The Burnaby ACA had clearly been altered by the works undertaken by the local authority. While it was noted that Section 82(1) does not refer explicitly to Section 4(1)(aa), An Coimisiún was not satisfied that this should necessarily be interpreted as not applying to development by a local authority in their functional area. In the context of policy objective CPO 8.22 of the development plan which states that “the design of any development in Architectural Conservation Areas.....should preserve and / or enhance the character and appearance of the Architectural Conservation Area as a whole” and with no clear built heritage consideration by a suitably qualified individual as to the absence of a material effect

on the character of the Burnaby Architectural Conservation Area, An Coimisiún is not satisfied to conclude at this time that the development in this particular instance constitutes exempted development by a local authority.

Planning

Commissioner:

Date: 28/07/2025


Eamonn James Kelly