



An  
Bord  
Pleanála

**Board Direction  
91.RL3586**

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The submissions on this file and the Inspector's report were considered at a Board meeting held on May 11<sup>th</sup> 2018.

The Board decided, as set out in the following Order, that the opening of an ope in the side wall of a rear garden to provide a pedestrian entrance from the public road/green area, and to provide a 1.98 metre high pedestrian timber gate opening onto the rear garden at number 36 Vartry Avenue, Raheen, Limerick, is development and is not exempted development.

Board Order as follows:-

**WHEREAS** a question has arisen as to whether the opening of an ope in the side wall of a rear garden to provide a pedestrian entrance from the public road/green area, and to provide a 1.98 metre high pedestrian timber gate opening onto the rear garden at number 36 Vartry Avenue, Raheen, Limerick, is or is not development and is or is not exempted development.

**AND WHEREAS** this question was referred to An Bord Pleanála by Limerick City and County Council on the 25<sup>th</sup> day of May 2017.

**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 6 and 9 of the Planning and Development Regulations, 2001, as amended,
- (c) Class 5 of Part 1 of the Second Schedule to the Planning and Development Regulations 2001, as amended
- (d) The planning history of the site, and
- (e) The Roads Act 1993.

**AND WHEREAS** An Bord Pleanála has concluded that:

- (a) The opening of the ope in the existing wall, and the construction of the pedestrian gate in this wall involves 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, and is therefore development
- (b) This development would come within the scope of Class 5 of Part 1 of the Second Schedule to the Planning and Development regulations 2001, but
- (c) The development comes within the scope of Article 9 (1)(a)(ii) of the Planning and Development Regulations 2001, as amended, because Vartry Avenue is a public road within the meaning of the Roads Act 1993, and its surfaced carriageway exceeds four metres in width, and the development constitutes a means of access to this public road, and therefore is not exempted development.

**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 opening of an ope in the side wall of a rear garden to provide a pedestrian entrance from the public road/green area, and to provide a 1.98 metre high pedestrian timber gate opening onto the rear garden at number 36 Vartry Avenue, Raheen, Limerick, is development and is not exempted development.

**Board Member**

**Date:** 11<sup>th</sup> May 2018

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Philip Jones