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**Planning and Development Acts 2000 to 2018**

**Planning Authority: Sligo County Council**

**Planning Register Reference Number: ED 318**

**WHEREAS** a question has arisen as to whether, at Barnaribbon, Drumcliffe, County Sligo,

- (1) the erection of a gate across a road, not being a public road, is or is not development or is or is not exempted development, and
- (2) the erection of advertising signage adjacent to a road, not being a public road, is or is not development or is or is not exempted development:

**AND WHEREAS** Marita McMorrow of Barnaribbon, Drumcliffe, County Sligo, requested a declaration on the question from Sligo County Council and the Council issued a declaration on the 24<sup>th</sup> day of November, 2017 stating, in the case of both questions, that the said matter is development and is exempted development:

**AND WHEREAS** Marita McMorrow referred the declaration for review to An Bord Pleanála on the 19<sup>th</sup> day of December, 2017:

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

- (a) section 2(1), 3(1), 3(2), 4(2) and 4(4) of the Planning and Development Act, 2000, as amended,
- (b) article 6(1), 6(2) and 9(1) of the Planning and Development Regulations, 2001, as amended,
- (c) Parts 1 and 2 of Schedule 2 to those Regulations,
- (d) relevant planning history, and
- (e) relevant case law, and in particular Fingal County Council versus Cream and Signways Holdings Ltd (IEHC 148, 2001):

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

- (a) (i) The erection of the subject gate involved the carrying out of works and is therefore development under section 3(1) of the Planning and Development Act, 2000, as amended.
- (ii) The gate would generally come within the scope of Class 9 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended, but is not exempted development in this instance by reason of the restriction on exemption provided for under Article 9(1)(a)(x) of those Regulations, as the gate would consist of the fencing or enclosure of land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility.

- (b) (i) The erection of the advertising signage in question involved the carrying out of works and is therefore development under section 3(2) of the Planning and Development Act, 2000, as amended
- (ii) This development comes within the scope of Class 13 of Part 2 of Schedule 2 of the Planning and Development Regulations, 2001, as amended, and insofar as is evident from the inspection carried out by the Board's Senior Planning Inspector is within the size constraints set out in the conditions and limitations to which this class is subject.

**NOW THEREFORE** An Bord Pleanála, in exercise of the powers conferred on it by section 5 (3)(a) of the 2000 Act, hereby decides that, at Barnaribbon, Drumcliffe, County Sligo,

- (1) the erection of a gate across a road is development and is not exempted development, and
- (2) the erection of advertising signage adjacent to a road, is development and is exempted development.

## **Matters Considered**

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

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**Maria FitzGerald**

**Member of An Bord Pleanála**

**duly authorised to authenticate  
the seal of the Board.**

**Dated this            day of            2019.**