



Planning and Development Acts 2000 to 2018

Planning Authority: Kildare County Council

Planning Register Reference Number: 15978

WHEREAS a question has arisen as to whether the opening of a pedestrian gate from the rear of the house into an area of public open space at 8 Millbridge Avenue, Mill Lane, Naas, County Kildare is or is not development or is or is not exempted development:

AND WHEREAS Des Murray and Caroline Flynn of 29 Millbridge Avenue, Naas, County Kildare requested a declaration on this question from Kildare County Council and the Council issued a declaration on the 25th day of September, 2018 stating that the matter is development and is exempted development:

AND WHEREAS Des Murray and Caroline Flynn referred the declaration for review to An Bord Pleanála on the 17th day of October, 2018:

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) article 6(1) and article 9(1) of the Planning and Development Regulations, 2001, as amended,
- (c) Class 5, Part 1 of Schedule 2 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 the opening of a pedestrian gate from the rear of the house into an area of public open space –

- (a) would constitute the carrying out of works which comes within the meaning of development in Section 3(1) of the Planning and Development Act, 2000,
- (b) would come within the scope of Class 5, Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, and
- (c) would be exempted development by reason of article 9(1)(a)(ii) of the Planning and Development Regulations, 2001, as the gate does not affect a public road within the meaning of the Roads Act, 1993:

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 the opening of a pedestrian gate from the rear of the house into an area of public open space at 8 Millbridge Avenue, Mill Lane, Naas, County Kildare 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.

Michelle Fagan
Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.

Dated this day of 2019.