



Planning and Development Acts 2000 to 2019

Planning Authority: Cork County Council

Planning Register Reference Number: D/226/19

WHEREAS a question has arisen as to whether the diminution of the curtilage of a house for the purpose of gifting a garden to a family member for the purpose of building a house at Geraldine Villas, Lower Aghada, County Cork is or is not development or is or is not exempted development:

AND WHEREAS Marie Dineen of Geraldine Villas, Lower Aghada, County Cork requested a declaration on this question from Cork County Council and the Council issued a declaration on the 24th day of April, 2019 stating that the matter is not development:

AND WHEREAS Marie Dineen referred the declaration for review to An Bord Pleanála on the 16th day of May, 2019:

AND WHEREAS An Bord Pleanála, in the light of the documentation submitted as part of the referral, decided to re-word the question as follows:

whether the sub-division of an existing residential curtilage into two residential curtilages at Geraldine Villas, Lower Aghada, County Cork is or is not development or is or is not exempted development:

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, and
- (b) the planning history of the site, and in particular planning permission register reference number 18/05042:

AND WHEREAS An Bord Pleanála has concluded that -

- (a) the subdivision of an existing residential curtilage into two residential curtilages, where no works have taken place to physically separate the curtilages, is not development, and
- (b) this subdivision, where no works have taken place within the separated curtilage, is not a material change of use, and is, therefore, not development:

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 sub-division of an existing residential curtilage into two residential curtilages at Geraldine Villas, Lower Aghada, County Cork is not 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.

In not accepting the recommendation of the Inspector that the separation of the curtilages should be determined to constitute development, the Board noted that no works to physically separate the curtilages had taken place, and that, as no new development had taken place within the separated curtilage, there was no intensification of use, and that, therefore, no material change of use had taken place in this instance. The Board also noted that the planning permission, granted under planning authority register reference number 18/5042, allowed for the construction of a dwelling within the separated curtilage.

Philip Jones

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

Dated this day of 2019.