



Planning and Development Acts 2000 to 2019

Planning Authority: Clare County Council

Planning Register Reference Number: R20-4

WHEREAS a question has arisen as to whether the erection of fence number 1 and fence number 2 at Riverdale, Westbury, County Clare is or is not development or is or is not exempted development:

AND WHEREAS Gerard Madden of Greengate House, Carr Street, Limerick requested a declaration on this question from Clare County Council and the Council issued a declaration on the 13th day of February, 2020 stating that the said matter is development and is not exempted development:

AND WHEREAS Gerard Madden referred the declaration for review to An Bord Pleanála on the 11th day of March, 2020:

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, and Class 11 of Part 1 of the Second Schedule to the Planning and Development Regulations, 2001, as amended,
- (c) the submissions on the file, and
- (d) the report of the Inspector.

AND WHEREAS An Bord Pleanála has concluded that -

- (a) the erection of the proposed fences falls within the definition of works under section 2 of the Planning and Development Act, 2000, as amended, and constitutes development within the meaning of section 3(1) of the Act,
- (b) the erection of the proposed fences falls within the scope of Class 11 of Part 1 of the Second Schedule to the Planning and Development Regulations, 2001, as amended, and under article 6(a) of the Planning and Development Regulations, 2001, as amended, and
- (c) by reason of the said fences enclosing land habitually open to, or used by, the public during the ten years preceding such fencing or enclosure for recreational purposes, the subject development, by virtue of the provisions of article 9(1)(a)(x) of the Planning and Development Regulations, 2001, does not come within the scope of the exempted development provisions of the Second Schedule to the Planning and Development Regulations, 2001, as amended.

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 erection of fence number 1 and fence number 2 at Riverdale, Westbury, County Clare is development and is not 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.

Chris McGarry

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

Dated this day of 2020.