



Planning and Development Acts 2000 to 2020

Planning Authority: Fingal County Council

Planning Register Reference Number: FS5/027/20

WHEREAS a question has arisen as to whether the gated pedestrian access at lands between Carrick Court Housing Estate and Church Lane/Suncroft Avenue, Portmarnock, County Dublin is or is not development or is or is not exempted development:

AND WHEREAS Darren Jackson of Ballymastone Properties Limited care of O'Neill Town Planning, Planning and Development Consultants of Oakdene, Howth Road, Howth, County Dublin, requested a declaration on this question from Fingal County Council, and the Council issued a declaration on the 20th day of July, 2020, stating that the matter is not exempted development:

AND WHEREAS Darren Jackson of Ballymastone Properties Limited care of O'Neill Town Planning, Planning and Development Consultants referred this declaration for review to An Bord Pleanála, on the 14th day of August, 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,
- (c) the planning history of the site, including the Inspector's report and the decision of the Board under An Bord Pleanála PL06F.248412 (planning authority reference number F16A/0520), and
- (d) the submissions on file from the referrer.

AND WHEREAS An Bord Pleanála has concluded that:

- (a) the erection of the gate constitutes works which is development,
- (b) there are no provisions in the Planning and Development Act, 2000, as amended which would exempt such development,
- (c) there are no provisions in the Planning and Development Regulations, 2001, as amended, which would exempt such development, and
- (d) even if there were such provisions in the Regulations, the development would be de-exempted by Article 9(1)(a)(i), as it would contravene condition number 4 attached to planning permission An Bord Pleanála PL06F.248412 (planning authority reference number F16A/0520) which requires, *inter alia*, that the developer shall provide a pedestrian only access from the proposed development to Suncroft Avenue generally in accordance with drawings submitted to the planning authority on the 10th day of February 2017, and those drawings indicate a new 1500 millimetres wide access which is not gated:

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by Section 5 (3)(a) of the Planning and Development Act, 2000, as amended, hereby decides that the gated pedestrian access at lands between Carrick Court Housing Estate and Church Lane/Suncroft Avenue, Portmarnock, County Dublin 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.

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

Dated this day of 2021.