

An
Bord
Pleanála

Board Order
ABP-308442-20

Planning and Development Acts 2000 to 2020

Planning Authority: Clare County Council

Planning Register Reference Number: R20-44

WHEREAS a question has arisen as to whether the construction of a fence, pedestrian gate and a vehicular gate on a road at Doonass, Clonlara, County Clare is or is not development or is or is not exempted development:

AND WHEREAS the said question was referred to An Bord Pleanála by Clare County Council on the 19th day of October, 2020:

AND WHEREAS An Bord Pleanála, has reformulated the question as follows-

“whether the construction/erection of a fence, pedestrian gate/gateway and vehicular gate/gateway within the curtilage of a ‘Business Premises’ where part of that premises is now in use as a ‘House’, at Doonass, Clonlara, County Clare is or is not development, and if it is development, is it, or is it 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,
- (b) articles 5, 6 and 9 of the Planning and Development Regulations 2001, as amended, and Part 1 of Schedule 2 to those Regulations, including Classes 5, 7, 9 and 11, including the relevant Conditions and Limitations,
- (c) the original use and absence of a planning history of the site,
- (d) the pattern of development in the area,
- (e) the submissions of the Requester, Referrer and the Owner, and
- (f) the report of the Inspector:

AND WHEREAS An Bord Pleanála has concluded that the construction/erection of a fence, pedestrian gate/gateway and vehicular gate/gateway within the curtilage of a 'Business Premises' where part of that premises is now in use as a 'House'-

- (a) constitutes the carrying out of works which comes within the meaning of development in Section 3(1) of the Planning and Development Act, 2000, as amended,
- (b) comes within the scope of Class 5, Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended, and

- (c) consists 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:

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5 (4) of the 2000 Act, hereby decides that the construction/erection of a fence, pedestrian gate/gateway and vehicular gate/gateway within the curtilage of a 'Business Premises' where part of that premises is now in use as a 'House', at Doonass, Clonlara, County Clare is development and is not exempted development.

Matters Considered

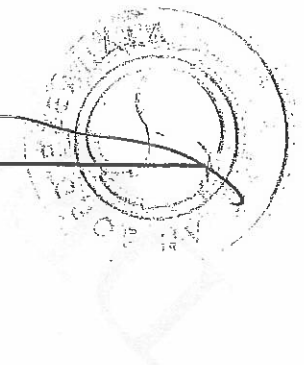
In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.



John Connolly

Member of An Bord Pleanála

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



Dated this 26th day of FEBRUARY 2021.

DECISION QUASHED