

An
Bord
Pleanála

Board Order
ABP-314044-22

Planning and Development Acts 2000 to 2022

Planning Authority: Fingal County Council

Planning Register Reference Number: FS5/025/22

WHEREAS a question has arisen as to whether the erection of a 1.2 metre high fence and the provision of edge kerbing along the southern boundary of the property fronting onto Seamount Road (Class 5 in Part 1 of Schedule 2 of the Planning and Development Regulations 2001-2022) at Rosenallis, Seamount Road, Malahide, County Dublin is or is not development or is or is not exempted development:

AND WHEREAS Richard Nolan care of IMG Planning of 75 Fitzwilliam Lane, Dublin requested a declaration on the said question from Fingal County Council and the said Council issued a declaration on the 9th day of June, 2022 stating that the said matter was development and was not exempted development:

AND WHEREAS the Richard Nolan referred the declaration for review to An Bord Pleanála on the 6th day of July, 2022:

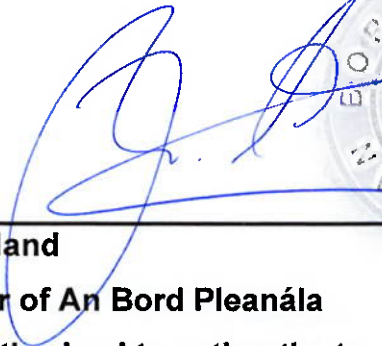

AND WHEREAS An Bord Pleanála, in considering this referral, had regard particularly to –

- (a) Section 2(1) of the Planning and Development Act, 2000, as amended,
- (b) Section 3(1) of the Planning and Development Act, 2000,
- (c) Article 6(1) and Article 9(1) of the Planning and Development Regulations, 2001, as amended,
- (d) Classes 5 and 6 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended, and
- (e) the pattern of development in the area:

AND WHEREAS An Bord Pleanála has concluded that:

- (a) the erection of a 1.2 metre high fence and the provision of edge kerbing along the southern boundary of the property fronting onto Seamount Road constitutes the carrying out of works which comes within the meaning of development in section 3(1) of the Planning and Development Act 2000,
- (b) the fencing being a metal mesh fence and not a “railing or wooden fence or a wall of brick, stone, blocks with decorative finish, other concrete blocks or mass concrete” would not come within the scope of Class 5 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 and is, therefore not, exempted development, and
- (c) in any event, the development would not be exempted development having regard to Article 9(1)(a)(iii) as it would endanger public safety by reason of traffic hazard and obstruction of road users:

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 a 1.2 metre high fence and the provision of edge kerbing along the southern boundary of the property fronting onto Seamount Road at Rosenallis, Seamount Road, Malahide, County Dublin is development and is not exempted development.

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

Dated this *20th* day of *December* 2023.