



Planning and Development Acts 2000 to 2022

Planning Authority: Fingal County Council

Planning Register Reference Number: FS5/029/22

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 northern boundary of Seamount Road, Malahide, County Dublin is or is not development or is or is not exempted development,

AND WHEREAS Thomas Condrón care of IMG Planning Limited of 75 Fitzwilliam Lane, Dublin requested a declaration on this question from Fingal County Council and the said Council issued a declaration on the 20th day of June, 2022 stating that the matter is development and is not exempted development,

AND WHEREAS the said question was referred to An Bord Pleanála by the said Thomas Condrón on the 15th 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, as amended,
- (c) Article 6(1) and Article 9(1) of the Planning and Development Regulations 2001, as amended,
- (d) Class 5 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended,
- (e) the planning history of the site, and
- (f) 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 northern 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, as amended.
- (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, Schedule 2 of the Planning and Development Regulations 2001, as amended, and is, therefore, not exempted development.

- (c) In any event, the development would not be exempted development having regard to Article 9(1)(a)(iii) of the Planning and Development Regulations 2001, as amended, 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 Planning and Development Act 2000, as amended, hereby decides that the erection of a 1.2-metre-high fence and the provision of edge kerbing along the northern boundary of the property fronting onto Seamount Road is development and is not exempted development.



Stephen Bohan

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

Dated this *28th* day of *November* 2023.