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**Planning and Development Acts 2000 to 2022**

**Planning Authority: Kerry County Council**

**Planning Register Reference Number: EX1045**

**WHEREAS** a question has arisen as to whether the widening and alteration of a gateway at Derrynane More, Caherdaniel, County Kerry is or is not development or is or is not exempted development:

**AND WHEREAS** John Cox care of Shaws Consulting Engineers Limited of 1 Lower Mallow Street, Limerick, County Limerick requested a declaration on the said question from Kerry County Council and the said Council issued a declaration on the 16<sup>th</sup> day of January, 2023 stating that the said matter would constitute development which is not exempted development:

**AND WHEREAS** John Cox referred the declaration for review to An Bord Pleanála on the 13<sup>th</sup> day of February, 2023:

**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 Class 9 including the relevant Conditions and Limitations,
- (c) the planning history of the site,
- (d) the pattern of development in the area,
- (e) the submissions of the Requester, and
- (f) the report of the Inspector:

**AND WHEREAS** An Bord Pleanála has concluded that the widening and alteration of a gateway:

- (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 9, Part 1 of Schedule 2 to the Planning and Development Regulations, 2001 as amended, and
- (c) having regard to the information presented to the Board including the views of Kerry County Council and the Inspector and the absence of any information from the requester to demonstrate the contrary, the widening and alteration of the gateway would not be exempted development, having regard to Article 9(1)(a)(iii) of those Regulations as it constitutes the widening and alteration of a gateway that would endanger public safety by reason of traffic hazard or 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 widening and alteration of a gateway at Derrynane More, Caherdaniel, County Kerry is development and is not exempted development.

*Una Crosse*



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**Una Crosse**

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

Dated this

*17<sup>th</sup>* day of *June*

**2024.**