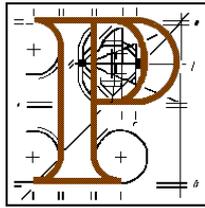


An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Kerry County

Planning Authority Reference Number: EX449

An Bord Pleanála Reference Number: 08.RL.3450

WHEREAS a question has arisen as to whether pedestrian access from the back garden of a semi-detached dwellinghouse (number 7 Burr Ridge) in a residential estate onto a narrow public road to the rear at Dennehy's Bohereen, Killarney, County Kerry is or is not development or is or is not exempted development:

AND WHEREAS Pat O'Leary, Patrick Collins, Liam McGuire and Paul Sweeney of Dennehy's Bohereen, Killarney, County Kerry requested a declaration on the said question from Kerry County Council and the said Council issued a declaration on the 21st day of December, 2015 stating that the said matter is development and is exempted development:

AND WHEREAS the said Pat O'Leary, Patrick Collins and Paul Sweeney referred the declaration for review to An Bord Pleanála on the 15th day of January, 2016:

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

“whether the opening of a pedestrian access from the rear garden area of number 7 Burr Ridge, Killarney onto Dennehy’s Bohereen, Killarney, County Kerry is or is not development or is or is 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) Class 5 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001,
- (c) Articles 6(1) and 9(1)(a)(iii) of the Planning and Development Regulations, 2001, as amended,
- (d) the planning history of the site, and
- (e) the Roads Act, 1993, as amended:

AND WHEREAS An Bord Pleanála has concluded that the opening of a pedestrian access from the rear garden area of number 7 Burr Ridge, Killarney, onto Dennehy’s Bohereen, Killarney, County Kerry

- (a) would endanger public safety by reason of obstruction of road users, and
- (b) would constitute the carrying out of works which comes within the meaning of development as defined in Section 3(1) of the Planning and Development Act, 2000, the structural elements forming the pedestrian access, which include two sections of concrete blockwork wall, are interdependent and constitute one overall entity for the purposes of Class 5 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, given that the faces of the concrete block walls are visible from an adjacent road and have not been rendered or plastered as specified in the Conditions and Limitations attaching to Class 5 of Part 1 of Schedule 2 to the Regulations, the pedestrian access does not, therefore, come within the scope of the exempted development provisions of the said Class 5.

