



An  
Bord  
Pleanála

## Inspector's Report ABP 309945-21

### Question

Whether the construction of a hard surface area at Derreen House is or is not development or is or is not exempted development.

### Location

Derreen House, Derreen, Lauragh, Kenmare, Co. Kerry

### Declaration

Planning Authority

Kerry County Council

Planning Authority Reg. Ref.

EX891

Applicant for Declaration

Charles Bigham

Planning Authority Decision

Is not exempted development

### Referral

Referred by

Charles Bigham

Owner/Occupier

Charles Bigham

Observer(s)

None

Date of Site Inspection

09/07/21

Inspector

Pauline Fitzpatrick

## 1.0 Site Location and Description

The site subject of the referral is located within a mature woodland setting within the grounds of Derreen House and Gardens on the Beara Peninsula in County Kerry. The location is at the head of Kilmakilloge Harbour and is surrounded by the Caha Mountains. Derreen Garden extends to approximately 60 acres of mature woodland with subtropical plants from around the world and is a visitor attraction. Access to the site is from Regional Road R573 northwest of the settlement of Lauragh.

The subject site is located approx. 170 metres to the south-west of Derreen House which is a protected structure (RPS 108-5). It forms part of a larger field backed with mature planting to the east and north. It is accessed from a maintenance track not accessible to the public. The area in question is rectangular in shape and has been covered with crushed stone. A track, also of crushed stone, provides access from the said maintenance track.

## 2.0 The Question

As per the details in the correspondence accompanying the Section 5 application to the planning authority the question posed is as follows:

*Whether the construction of the hard-surfaced area as constructed is exempted development under:*

*Class 6(b) of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 (as amended) which exempts certain works within the curtilage of a dwelling house for the provision of a hard surface for use for any purpose incidental to the enjoyment of the house as such, and/or*

*Class 8 of Part 3 of Schedule 2 of the Planning Regulations which exempts certain works consisting of the provision of open loose yards, assembly yards, or any other structures of a similar character or description which are used for the purpose of agriculture.*

The question arose as a result of correspondence with the planning authority following a warning letter issued in October 2019.

The case made in the correspondence accompanying the application can be summarised as follows:

- The function of the hard surface is to provide open storage of plant and materials required for horticultural use associated with the property ie. for the maintenance of the gardens, and to provide better access to the mature woodland to the north and east of the hard surface.
- The area is within the historic curtilage of Derreen House.
- The position adopted by the planning authority that the curtilage is defined by the boundary chosen for the planning application lodged under reg. ref. PRN 06/1051 is inconsistent with the Architectural Heritage Protection guidelines.
- The site is well screened from the house.
- The exempted status of the hard surface is not affected by Section 57(1) of the Act as there is no material effect on the visual character of the landscape or on the heritage character of the protected structure.
- Maintenance of the gardens which contribute to the amenity of a dwelling must be deemed to be incidental to the residential use and, therefore, to the enjoyment of the dwelling. The woodlands and gardens are of such botanical and horticultural interest that they have become a visitor attraction. However, this does not mean that a material change of use from residential to commercial purposes has occurred. Article 10(2)(a) of the Regulations noted. The visitor attraction is an ancillary activity which does not affect the primary use of the property for residential and agricultural purposes.
- As per the definition in section 2 of the Act agriculture includes horticulture.
- Derreen House and Gardens should be considered to have the same planning status as a residential farm and is entitled to avail of the exemptions which apply to a residential/agricultural holding in a rural area. The relevant exemption is Class 8, Part 3, Schedule 2 of the Regulations.

## 3.0 Planning Authority Declaration

### 3.1. Declaration

The works do not constitute exempted development having regard to the following considerations:

- (a) the hard surface constitutes works and comes within the scope of Section 2(1) of the Planning and Development Act, 2000, as amended.
- (b) the works constitute development that comes within the scope of section 3(1) of the Act.
- (c) the hard surface would not come within the scope of exemption provided at Class 6(b)(i) Part 1, Schedule 2 of the Planning and Development Regulations, 2001, as amended, as the development is not located to the rear of Derreen House.
- (d) the hard surface area would not come within the scope of exemption provided at Class 8 Part 3, Schedule 2 of the regulations as the floor space exceeds 200 sq.m.

### 3.2. Planning Reports

Report by **S.E.E. Planning** can be summarised as follows:

#### ***Class 6(b)(i), Part 1, Schedule 2***

- It is unlikely the exemption envisaged providing for the construction of hard surfaces of up to 1000 sq.m. in a rural landscape, located 150 metres from a house.
- Whilst the point in relation to whether the hard surface is within the curtilage of Derreen House may be debated it is not accepted that the works were constructed to the rear of the house. The drawings submitted with planning reg. 06/1051 refer to the southern elevation of Derreen House as the 'Entrance Elevation'. On that basis the hard surface area is to the front of the house. Even if the southern elevation of the house were to be considered as

the rear elevation the hard surface area is not located entirely to the rear of the southern elevation.

***Class 8, Part 3, Schedule 2***

- The stated use of the hardstanding area is for horticultural purposes in connection with the maintenance of the gardens and woodlands. The area of the hard surface greatly exceeds 200 sq.m.

The proposed development would constitute development which is not exempted development.

3.2.1. Other Technical Reports

**Biodiversity Officer** notes that the site is outside Kenmare River cSAC. The works would not have required an appropriate assessment. The habitat would not be classed as 'wetland' under amendments to Article 5 of the P& D Regs. 2001.

4.0 **Planning History**

06/1051 - Permission granted for modifications and extension to the basement level kitchen of Derreen House in addition to other works including extension of stone paved patio area.

ABP 307265-20(20/80) – retention permission granted for dwelling to the south-east of Derreen House and permission to construct a wastewater treatment system to serve same.

5.0 **Policy Context**

5.1. **Development Plan**

Kerry County Development Plan 2015-2021 refers.

The site is zoned Rural Prime Special Amenity and is within a Structurally Weaker Rural Area.

Section 3.3.2.3 - Prime Special Amenity Areas comprise of the outstanding landscapes throughout the County.

It is the policy of the Council that development in Prime Special Amenity areas shall be regulated in accordance with the policies outlined in Section 3.3.1 and Table 3.7.

## 5.2. Natural Heritage Designations

The site is c. 100 metres from Kenmare River Special Area of Conservation (Site Code 002158).

## 5.3. Environmental Impact Assessment

The works do not involve a class of development set out in Parts 1 and 2 of Schedule 5 of the Planning and Development Regulations, 2001 (as amended) for which EIA is required.

## 6.0 The Referral

### 6.1. Referrer's Case

The submission by McCutcheon Halley on behalf of the referrer can be summarised as follows:

#### ***Class 6(b)(i), Part 1, Schedule 2***

- Classes 1, 2, 3 and 6 Part 1 Schedule 2 of the Planning Regulations are implicitly based on a definition of the area to the rear of a premises as the area which is behind the premises when viewed by a person standing on the adjoining public road. This is self-evident in the case of terraced, semi-detached and detached dwellings in a built up area and where there is an established building line. The definition is consistent with the general purpose of the regulations which is to allow more flexibility in regard to exempted development within the private open space which is not visible to persons travelling along the public road.
- The principle could not be consistently applied if a property owner was free to redesignate the area behind the dwelling as the front garden by simply describing a rear door to the dwelling as the main entrance. If this was the

case, extensions, garden sheds and solar panels could be exempt under Classes 1, 2 and 3 between the dwelling and the public road.

- The convention should therefore be that, where there is no clearly established front building line, the area on the far side of the dwelling from the public road should be deemed to be ‘the area to the rear of the dwelling’.

### **Class 8, Part 3, Schedule 2**

- Class 8 includes a mix of structures and paved areas such as open loose yards, self-feed silo or silage areas, feeding aprons and assembly yard.
- Class 8 is subject to the general restriction that the aggregate gross floor space of any structures shall not exceed 200 sq.m.
- Gross floor space is defined in Article 3 of the regulations. As it is defined as an internal measurement it can only be ascertained for structures which are bounded by perimeter walls. This referral refers to a hard standing area which is not enclosed by walls. It, therefore, has a measurable site area but does not contain any floor space. As a result the extent of the hard surface area is not constrained by the floor space limit which applies to structures provided under Class 8.
- The submission includes a suggested wording for the declaration.

## **6.2. Planning Authority Response**

None

## **7.0 Statutory Provisions**

### **7.1. Planning and Development Act, 2000**

Section 2(1) Interpretation

“*attendant grounds*”, in relation to a structure, includes land lying outside the curtilage of the structure;

“*protected structure*” means—

(a) a structure, or

(b) a specified part of a structure,

which is included in a record of protected structures, and, where that record so indicates, includes any specified feature which is within the attendant grounds of the structure and which would not otherwise be included in this definition;

*“protection”*, in relation to a structure or part of a structure, includes conservation, preservation and improvement compatible with maintaining the character and interest of the structure or part;

*“works”* includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

*Section 3 -*

*“development”* means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land.

*Section 4 (1)* The following shall be exempted developments for the purposes of this Act—

(h) development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures;

*Part IV, Section 57(1) -*

Notwithstanding section 4(1)(h), the carrying out of works to a protected structure, or a proposed protected structure, shall be exempted development only if those works would not materially affect the character of— (a) the structure, or (b) any element of the structure which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest



## 7.2. Planning and Development Regulations, 2001

*Article 6 (1)* Subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1.

### Schedule 2 Part 1 Exempted Development — General

Description of Development	Conditions and Limitations
<p><b>CLASS 6</b></p> <p>(a) The construction of any path, drain or pond or the carrying out of any landscaping works within the curtilage of a house.</p> <p>(b) Any works within the curtilage of a house for—</p> <p style="padding-left: 20px;">(i) the provision to the rear of the house of a hard surface for use for any purpose incidental to the enjoyment of the house as such, or,</p> <p style="padding-left: 20px;">(ii) the provision of a hard surface in the area of the garden forward of the front building line of the house, or in the area of the garden to the side of the side building line of the house, for purposes incidental to the enjoyment of the house as such.</p>	<p>The level of the ground shall not be altered by more than 1 metre above or below the level of the adjoining ground.</p> <p>Provided that the area of the hard surface is less than 25 square metres or less than 50% of the area of the garden forward of the front building line of the house, or 50% of the area of the garden to the side of the side building line of the house, as the case may be, whichever is the smaller,</p> <p>or</p> <p>if the area of the hard surface is 25 square metres or greater or comprises more than 50% of the area of the garden forward of the front building line of the house, or 50% of the area of the garden to the side of the side building line of the house, as the case may be, it shall be constructed using permeable materials or otherwise allow for rainwater to soak into the ground.</p>

## Schedule 2 Part 3 Exempted Development — Rural

Description of Development	Conditions and Limitations
<p><b>CLASS 8</b></p> <p>Works consisting of the provision of roofless cubicles, open loose yards, self-feed silo or silage areas, feeding aprons, assembly yards, milking parlours or structures for the making or storage of silage or any other structures of a similar character or description, having an aggregate gross floor space not exceeding 200 square metres, and any ancillary provision for effluent storage.</p>	<ol style="list-style-type: none"> <li>1. No such structure shall be used for any purpose other than the purpose of agriculture.</li> <li>2. The gross floor space of such structures together with any other such structures situated within the same farmyard complex or within 100 metres of that complex shall not exceed 300 square metres gross floor space in aggregate.</li> <li>3. Effluent storage facilities adequate to serve the structure having regard to its size, use and location shall be constructed in line with Department of Agriculture, Food and Rural Development and the Department of the Environment and Local Government requirements and shall have regard to the need to avoid water pollution.</li> <li>4. No such structure shall be situated, and no effluent from such structure shall be stored, within 10 metres of any public road.</li> <li>5. No such structure within 100 metres of any public road shall exceed 8 metres in height.</li> <li>6. No such structure shall be situated, and no effluent from such structure</li> </ol>

	<p>shall be stored, within 100 metres of any house (other than the house of the person providing the structure) or other residential building or school, hospital, church or building used for public assembly, save with the consent in writing of the owner and, as may be appropriate, the occupier or person in charge thereof.</p> <p>7. No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.</p>
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## 8.0 Assessment

- 8.1.1. The purpose of this referral is not to determine the acceptability or otherwise of the hardstanding area but rather whether or not the matter in question constitutes development, and if so whether it falls within the scope of exempted development.

### 8.2. The question

- 8.2.1. As per the details in the correspondence accompanying the Section 5 application to the planning authority the question posed is as follows:

*Whether the construction of the hard-surfaced area as constructed is exempted development under:*

*Class 6(b) of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 (as amended) which exempts certain works within the curtilage of a dwelling house for the provision of a hard surface for use for any purpose incidental to the enjoyment of the house as such, and/or*

*Class 8 of Part 3 of Schedule 2 of the Planning Regulations which exempts certain works consisting of the provision of open loose yards, assembly yards, or any other structures of a similar character or description which are used for the purpose of agriculture.*

8.2.2. I submit that the core question is whether the construction of a hard surface area is or is not exempted development and that the above wording identifies 2 related questions/issues that would have to be determined in considering the section 5 reference. On this basis I consider that the question arising can be reworded as following:

*Whether the construction of a hard surface area within the grounds of Derreen House, Lauragh, Kenmare, Co. Kerry is or is not development or is or is not exempted development.*

### 8.3. **Is or is not development**

8.3.1. By reference to the definitions in Sections 2 and 3(1) of the Planning and Development Act, 2000, as amended, in respect of works and development respectively, I am satisfied that the subject proposal, which comprises the creation of a hard surfaced area is works that constitutes development.

### 8.4. **Is or is not exempted development**

#### Overview

- 8.4.1. The works undertaken comprises the placement of porous crushed stone to provide a hard surfaced area in the north-eastern corner of a larger field. From the dimensions given on the plans accompanying the referral and working on the smallest dimensions provided thereon it covers an area of c. 580 sq.m. minimum. It is served by a similarly surfaced track off a maintenance road. It is backed by mature woodland to the north and east with the remainder of the field under rough grassland. Views of Kilmakilloge Harbour are available from the field.
- 8.4.2. The site is approx. 170 metres to the south-west of Derreen House and is screened from it by mature woodland. The house is a protected structure. The gardens and cafe are open to the public.
- 8.4.3. The stated purpose of the hardstanding area is to provide for open storage of plant and materials required for horticultural use, namely in the maintenance of the woodland and gardens of Derreen House.

8.4.4. The agent for the referrer makes specific reference to two classes of exempted development which are considered to be applicable to the works.

*Class 6 (b) Schedule 2 Part 1 Exempted Development — General*

8.4.5. Class 6 (b) allows for works within the curtilage of a house providing for a hard surface for use for any purpose incidental to the enjoyment of the house. Different conditions and limitations apply depending on where the hard surface area is located, ie. to the front, side or rear of the dwelling.

8.4.6. The issue of whether the site is within the curtilage of Derreen House which is a protected structure constituted a material consideration during the assessment of the section 5 application.

8.4.7. Curtilage is not defined in the Planning and Development Act, 2000, as amended. With reference to Sections 13.1.1 and 13.1.4 of the Guidelines for Planning Authorities on Architectural Heritage Protection the extent will need to be determined on a case-by case basis. In order to do so I have regard to section 13.1.5 which sets out the matters to be considered in making a decision as to the extent. I submit, having regard to the functional and historical relationship of Derreen House to its gardens and wider setting of which the site forms part, that it can reasonably be considered to be within the curtilage of the dwelling.

8.4.8. I note that the grounds of Derreen House, subject to a payment of a fee, are open to the public. There is also a cafe which is open to all regardless of whether visiting the gardens or not. The house itself is private. Whilst there is a commercial element, I would not necessarily accept that this is the dominant/primary use as to consider that a material change of use has occurred. Therefore the contention that the gardens constitute part of the residential amenity for the occupants of the dwelling is accepted.

8.4.9. The substantive issue is the location of the works relative to Derreen House, ie. whether it is to the rear, front or side. The agent for the referrer is of the view that the rear of premises is the area which is behind the premises when viewed by a person standing on the adjoining road. It is considered that this is consistent with the general purpose of the regulations to allow more flexibility in regard to exempted development within the private open space which is not visible to persons travelling along the public road and that the convention should be that where there is no

clearly established front building line the area on the far side of the dwelling from the public road should be deemed to be 'the area to the rear of the dwelling'.

- 8.4.10. The Regulations provide no definition of what constitutes the 'rear of the dwelling'. There is no mention, in Class 6, of 'roadside' elevation or 'public road side'. In the absence of any specified definitions I consider that a pragmatic approach must be adopted to what constitutes the 'front' and 'back' of a house, that they should be given their common sense meanings, and that presence, or absence, of a public road is not a relevant factor in such an interpretation. I consider it reasonable that an adjudication is made by reference to the features and layout of the dwelling.
- 8.4.11. On this basis, taking into consideration the characteristics of the site and the features of the existing dwelling, namely the main entrance door in the southern elevation and reception rooms served by windows and balconies in the western elevation availing of views of both the garden and the harbour, I would suggest that the southern elevation constitutes the 'front' of the house and that the eastern elevation which has its orientation towards the public road would more properly be classified as the rear elevation. On this basis the area of the works is located to the front of the dwelling.
- 8.4.12. Class 6 (b)(ii) allows for the provision of a hard surface in the area of the garden forward of the front building line of the house, or in the area of the garden to the side of the house, for purposes incidental to the enjoyment of the house subject to limitations. It is my reading of the conditions that there is actually no limit as to the area which can be covered in a hard surface in such circumstances save for requirements in terms of use of materials. Areas of hard surface over 25 square metres or where it comprises more than 50% of the area of the garden forward of the front or side of the house will be required to be constructed using permeable materials or otherwise allowing for rainwater to soak into the ground.
- 8.4.13. The works subject of this referral equates to an area of 580 sq.m.(minimum) and does not comprise more than 50% of the area of the garden to the front of the dwelling. It is constructed using loose porous crushed stone which allows for rainwater to soak into the ground.
- 8.4.14. Notwithstanding the S.E.E. Planning's view that it is unlikely that the exemption provisions were envisaged so to allow for such an extent of hard surfaced area in a

rural landscape at a remove from a dwelling I consider that the works meet the limitations of the class and constitute exempted development.

*Class 8 Schedule 2 Part 3 Exempted Development — Rural*

- 8.4.15. The purpose of the hardstanding area is to provide a storage and maintenance area associated with the horticultural activities required in keeping the gardens. As per the interpretation provided in section 2 of the Planning and Development Act, 2000, as amended, 'agriculture' includes 'horticulture' and 'agricultural' shall be construed accordingly. I therefore consider that the application of the provisions of class 8 which allows for works including open loose yards, assembly yards or any other structures of a similar character or description to be applicable.
- 8.4.16. To avail of the exemption provisions (subject to the conditions and limitations) the gross floor space should not exceed 200 sq.m. gross floor area.
- 8.4.17. As noted by the agent for the referrer gross floor area is defined in article 3 of the Planning and Development Regulations 2001, as amended, and means *the area ascertained by the internal measurement of the floor space on each floor of a building (including internal walls and partitions), disregarding any floor space provided for the parking of vehicles by persons occupying or using the building or buildings where such floor space is incidental to the primary purpose of the building.*
- 8.4.18. As the exemption class includes different developments which include both enclosed areas with perimeter walls and yards that are not enclosed, the inclusion of the 200 sq.m. gross floor area limit is somewhat confusing. On balance, and on the basis of the definition given of gross floor space as set out above, I submit that it does not apply to the subject hard surfaced area as it does not have perimeter walls.
- 8.4.19. In terms of the conditions/limitations attached to the class I note the following:
- The hardstanding area is to be used for storage and maintenance purposes associated with horticulture. It is therefore proposed to be used for agricultural purposes.
  - In the absence of a structure on the site and perimeter walls and the fact that the provisions in terms of gross floor area do not apply, the restrictions in terms of proximity to other agricultural structures on the holding or within 100 metres of the structure is not applicable.

- No effluent storage is proposed or required.
- It is over 300 metres from the public road.
- The area is over 200 metres from the nearest dwelling to the north-east and within the grounds of the Derreen House (subject of permission granted under ref. ABP 307265-20).
- There is no structure on the site.

8.4.20. On the basis of the above I consider that the hardstanding area complies with the conditions and limitations of Class 6.

## 8.5. Restrictions on exempted development

8.5.1. Part IV, Section 57(1) states that notwithstanding section 4(1)(h), the carrying out of works to a protected structure, or a proposed protected structure, shall be exempted development only if those works would not materially affect the character of (a) the structure, or (b) any element of the structure which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest.

8.5.2. As noted above by reason of the functional and historical relationship of Derreen House to its gardens and wider setting of which the site forms part it can reasonably be considered to be within the curtilage of the protected structure. I submit that the location of the works at a distance of c.170 metres from the house and screened from same by mature woodland has no material effect on the visual character of the house or the landscape.

8.5.3. Article 9 of the Planning and Development Regulations, 2001, as amended, details restrictions on development exempted under article 6. I note the following:

- i. the works would not contravene a condition attached to a permission or be inconsistent with a permitted use.
- vi. The site is within an area designated as being of Prime Special Amenity in the current County Development Plan with no views or prospects listed for protection in the vicinity. The hard surfaced area is backed by mature woodland and is not visually obtrusive. On this basis I do not consider that



the proposed structure would have an adverse impact on the character of the landscape.

viiB. The nearest designated sites is Kenmare River SAC c. 100 metres to the west. Having regard to the separation distance between the Natura site and the referral site, the qualifying interests for which the European site have been designated which relate to marine and coastal habitats and the form of development to which this referral relates, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site

8.5.4. I consider that ii, iii, iv, v, viiA, viiC, viii, xi, x, xi and xii are not relevant to the case.

## 9.0 Recommendation

9.1. I recommend that the Board should decide this referral in accordance with the following draft order.

**WHEREAS** a question has arisen as to whether the construction of a hard surface area within the grounds of Derreen House, Lauragh, Kenmare, Co. Kerry is or is not development or is or is not exempted development.

**AND WHEREAS** Charles Bigham of Derreen House, Derreen, Lauragh, Kenmare, Co. Kerry care of McCutcheon Halley, 6 Joyce House, Barrack Square, Ballincollig, Co. Cork requested a declaration on this question from Kerry County Council and the Council issued a declaration on the 22<sup>nd</sup> day of March, 2021 stating that the matter was development and was not exempted development:

**AND WHEREAS** Charles Bigham of Derreen House, Derreen, Lauragh, Kenmare, Co. Kerry care of McCutcheon Halley, 6 Joyce House, Barrack

Square, Ballincollig, Co. Cork referred this declaration for review to An Bord Pleanála on the 14<sup>th</sup> day of April, 2010:

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

- (a) sections 2(1), 3(1), 4(1)(h) of the Planning and Development Act, 2000, as amended,
- (b) section 57(1), Part IV 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) Parts 1 and 3 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (e) the submission made by the referrer,
- (f) the nature, extent and scope of the works, and
- (g) the report of the planning inspector:

**AND WHEREAS** An Bord Pleanála has concluded that:

- (a) the construction of the hard surface constitutes works as referred to in section 2 of the Planning and Development Act, 2000, as amended.
- (b) the nature and intended use of the said hard surface in an area of the garden forward of the front building line of Derreen House to provide for storage of plant and materials required to maintain the woodland and gardens of Derreen House is incidental to the enjoyment of the house, as such, and comes within the scope of Class 6(b)(i), Part 2, Schedule 2 of the Planning and Development Regulations, 2001, as amended.

- (c) the nature and intended use of the said hard surface area to provide for storage of plant and material required to maintain the woodland and gardens of Derreen House comes within the scope of Class 8, Part 3, Schedule 2 of the Planning and Development Regulations, 2001, as amended.
- (d) the hard standing area would not materially affect the character of Derreen House which is a protected structure.

**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 construction of a hard surface area within the grounds of Derreen House, Lauragh, Kenmare, Co. Kerry is development and is exempted development.

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**Pauline Fitzpatrick**  
**Senior Planning Inspector**

**July, 2021**