



An  
Bord  
Pleanála

## Inspector's Report RL3499

### Development

Whether the erection of a post and wire fence along a road is or is not development or is or is not exempted development.

At Treanboy, leading to Middleton House, Killashee, Co. Longford

### Planning Authority

Longford County Council

### Planning Authority Reg. Ref.

D/227/16

### Owner/Occupier

Brendan Shanley

### Planning Authority Decision

No Decision – PA are Referrer

### Referrer

Longford County Council

### Type of Case

Section 5(4) Referral

### Observer(s)

None

### Date of Site Inspection

20 December 2016

### Inspector

Una Crosse

## 1.0 Background to the Reference

This reference has been referred to the Board by Longford County Council who have requested a determination of same under Section 5(4) of the Planning and Development Act 2000 (as amended) following the commencement of enforcement proceedings in respect of the subject of the reference under Reference UNA 1042. The referral relates to the erection of a post and wire fence along both sides of a roadway which leads from LP1162 (Killashee to Cloondra) to a property known as Middleton House. The roadway is a cul-de-sac and its ownership is disputed.

## 2.0 Site Location and Description

The roadway in question is taken from the road from Killashee to Cloondra referred to as LP1162. The junction of the road in question and the LP1162 has a stone splayed entrance. The Council refer to the road as LT-11621 which they state is 965m in length. The fence is stated to be approximately 900m in length and encloses a wide grassed area (c.7-8 metres wide) on both sides between the edge of the road and the field boundaries with the adjoining fields which comprise hedging and which are in a number of ownerships. There are 2 accesses from the road into private dwelling houses and 5 accesses serving agricultural fields with a number of accesses at either end of the fence into agricultural fields not adjoined by the fence on both sides. The fence is approximately 1.2 metres in height and is located c.400mm-500mm from the edge of the tarred road. The fence along the left hand side as one travels towards Middleton House is a newer more robust construction with 5 wires between the poles which are taut and electrified. On the right hand side travelling towards Middleton House the poles are an older less robust construction with 3 wires between the poles some of which are loose.

## 3.0 Referral

3.1. The submission by Longford County Council can be summarised as follows:

- Outlines the nature of the development and the context within which the development is located;
- A list of landowners of fields and properties along the road are outlined;
- Reference is made to a letter from Teagasc (copy attached) on behalf of the owner stating that the strip of land along the road/lane is within the single payment application as forage area as it is grazed with a condition of same that the land is fenced to stockproof the area;
- Reference also made to a letter from Owners solicitor saying fence is on owners lands adjoining a private road and is exempt development;
- Reference is made parts of Article 9(1)(a) which de-exempts certain developments where development would (iii) endanger public safety by reason of traffic hazard or obstruction of road users; (x) the enclosure of land; & (xi) obstruct any public right of way;
- Reference is made to letter sent to owner dated 6/11/14 under Roads Acts 1993 where it was stated that the fence was a hazard and noted that conflicting views arise as to whether fence is a traffic hazard or whether the cul-de-sac is a public or private road;
- Section 254(1)(c) states that subject to subsection (2) a person shall not erect... a fence...on, under, over or along a public road save in accordance with a licence granted by a planning authority under this section;
- Issue arose in 2009/2010 between the Council and Mr. Shanley relating to whether the road had been taken in charge or not with the Council stating that it was taken in charge in 1969 with Mr. Shanley arguing that it could not have been lawfully taken in charge;
- Copy of deed of conveyance submitted (27/11/14 showing cul-de-sac road to be in Mr. Shanleys ownership with lands between roadside edge and hedge

boundary included with reference to report prepared on Mr. Shanleys behalf (Tom O'Brien Consulting Engineers);

- Stated by Mr. Shanleys solicitor that road could not have been taken in charge in 1969 as it would have required to include a public utility to do so and a public right of way;
- Longford County Council is of opinion that road has been taken in charge and no challenge was made to the taking in charge of the road from 1969 until 2009;
- Section 4(1)(l) of the PDA refers to works which are exempt including works referred to in the Land Reclamation Act 1949 (where works as defined by this Act includes construction of new fences) not being works comprised in the fencing or enclosure of land which has been open to or used by the public within the ten years preceding the date on which the works commenced;
- Council do not question ownership but consider it is unclear if there was public access to the lands during the previous 10 years;
- Noted that minutes of meeting between Enforcement Officer and Mr. Shanley (19/9/15) refer to the fence along left hand side of the avenue being in place for 12 years with other side (stated as left but possibly meant as right) in place for a year;
- Debate as to whether the lands on side only fenced for a year (at time of meeting in September 2015) was in use by the public;
- Concerns raised about obstruction of public rights of way along the road/lane with Property Registration Authority Map showing landowners;
- Noted that the lane services Middleton House, 2 other dwellings (one owned by Mr. Shanley) and 8 no. gates into fields which are unfenced save one older gate which has an alternative access but not clear whether splays will permit right of way for farm machinery;

The reference is accompanied by photographs, maps, reports and correspondence between the Council and the Owner and from Teagasc.

#### **4.0 RESPONSES TO THE REFERRAL**

##### **4.1. Owner/Occupier Response to Referral (rec. 19<sup>th</sup> August 2016)**

A response to the referral was received from representatives of Mr. Shanley and is summarised as follows:

- Repeated reference to road and cul-de-sac-road refers to a private laneway, with preference for use of word laneway for the tarred surface and grassed area for area between fence and hedge;
- Mr. Shanley is legal and beneficial owner of the laneway and the grassed area with Deed of Conveyance furnished by Council incomplete with no copy of map referred to in the Schedule attached with map attached showing laneway and grassed area conveyed to Mr. Shanley;
- Fence along right hand side from public road to Middleton House erected c.2004 with other side erected in 2014 with no dispute with neighbours until 2015;
- Dispute regarding ownership not within the Board's remit to resolve;
- If any determination on the referral is based upon the road being a public road the matter will be taken for determination by the Circuit or High Court;
- A number of landowners listed by the Council do not have any access onto the laneway;
- Noted that the grassed areas either side of laneway have been used for hay and silage since and prior to 1956 and the area comprises 4 acres;
- Matter related to whether the splays involved will permit right of way for farm machinery to gain access not relevant to the referral and is a private matter between the owner and his neighbours;
- Enforcement action is completely without merit;
- The development cannot endanger public safety as per Article 9(1)(a)(iii) as the public have no right or authority to be on the laneway with only people who have

right to be on the laneway the limited number of people lawfully using their private rights of way;

- Subsection (x) does not apply as the land does not fence or enclose land open to or used by the public and subsection (xi) not relevant as it is not a public right of way;
- Section 254(1)(c) can only apply where the laneway is a public road which it is not and the matter of public or private is not a matter for the Board;
- Owner not aware until recently that there was a purported taking in charge in 1969 which it is considered was ultra vires;
- There is no public right of way over the laneway with the fences on the grassed area and not obstructing the laneway;
- Fence is exempted development under Schedule 2, Part 1, Class 11(a) of the Regulations 2001;

#### 4.2. **Responses from Parties with Property along Roadway represented by Joan H. Devine & Co. Solicitors (rec. 29<sup>th</sup> August 2016)**

In response to an invitation from the Board to make comments on the Referral, in accordance with Section 129 of the Planning Act 2000, as amended, a submission was received from Joan H. Devine & Co. Solicitors on behalf of a number of persons who were deemed to own or occupy property along the road. The submission is summarised as follows:

- Noted that portion of roadway used by Mr. Shanley and other in common is a public roadway with balance of the roadway private;
- Inaccuracies in report of Mr. Tom O'Brien including assertion that laneway treated as private during Shanley tenure as following purchase gates at junction with Clondra/Killashee Road were removed and roadway left open;
- Noted that it was Mr. Shanleys father that sought that the roadway be taken in charge;

- Livestock herded along the laneway and grass verge by number of landowners over the years but not by Shanleys;
- While grass along the verge has been cut it has not been fertilised with fencing preventing grass being cut with hedges not maintained;
- Fence on right hand side not constructed in excess of 12 years but rather less than 10;
- More recent fence is far more sturdy than the more flimsy construction on right hand side and which is not stockproof for agricultural purposes;
- Object to use of documents (teagasc documents) based wholly on information provided by Mr. Shanley to establish anything other than his position;
- Map included with Deed of Conveyance suggests that colouring of the entire is in errors or has been shaded and unclear whether the map furnished is correct and may post date the actual date of Conveyance;
- Area of the road in charge of the Council is used by the public and as such is a public utility and also contains public utilities such as phone, water and electricity;
- There is not a requirement for a public road to have a public terminus;
- Agree road is a public road taken in charge and maintained by the Council;
- Fence interferes with and obstructs the user as it is not possible for machinery to have sufficient turning angle to enter the gate;
- Assertions that Mr. Shanley has not received complaints is incorrect;

## 5.0 **RESPONSES to REFERRAL RESPONSES**

### 5.1. **Response of Owner/Occupier from Connellan Solicitors to Response of Joan H. Devine & Co. Solicitors (rec. 26 September 2016)**

The response is summarised as follows:

- Taking the observation as an observation under Section 130 of the Act and note such observations should be made within 4 weeks following receipt of the referral with observation received outside 4 week period and therefore invalid;

- Inappropriate to comment and should not be considered by the Board;
- If Board feel this is unfounded request indication of how observation complies with provision of Section 130;

**5.2. Response of Owner/Occupier by Connellan Solicitors to Response of Joan H. Devine (rec. 30 September 2016)**

Following receipt of a letter from the Board stating that the submission from Joan H Devine & Co. Solicitors was invited under Section 129 of the Planning and Development Act 2000, as amended the following submission, which is summarised, was received from Connellan Solicitors on behalf of Mr. Shanley:

- Section 129 applies solely and directly to parties involved in the appeal or referral which are the Planning Authority and Mr. Shanley in this instance with no other party;
- Section 130 states that any person other than a party may make a submission;
- Reference in Board correspondence of 28<sup>th</sup> September to other interested parties, however no such concept as interested parties in Section 129;
- Furnishing of the referral under Section 129 to other interested parties is inappropriate and ultra vires with process entirely tainted and require that names and addresses and copies of correspondence be forwarded;

**5.3. Response from Longford County Council to Joan H. Devine & Co. Solicitor's response to the Referral (rec. 23 September 2016)**

The contents of the response are summarised as follows:

- No information was received from landowners regarding dates of erection of the fences;
- Four letters from landowners with access to the lane are attached outlining difficulties in accessing their lands with large machinery and the unmaintained nature of the verges;



#### **5.4. Response from Longford County Council to Response from Connellan Solicitors for Mr. Shanley to the Referral (rec. 7 October 2016)**

The submission prepared by the Roads Department is summarised as follows:

- The road has been on the Roads Schedule of Longford County Council since it was declared as a public road in 1969 (Local Tertiary Road No. LT-11621) (Map attached – Ref. A);
- Advertisement of intent to declare road a public road was advertised in local paper on 15<sup>th</sup> March 1969 (copy attached – Ref. B);
- Road declared a public road at a meeting of Longford County Council on 21<sup>st</sup> April 1969 (copy of minutes attached – Ref. C) – No. 845 – location Middleton Killashee from County Road No. 268 to Shanleys House with the length provided as 192 perches;
- Council have maintained the road over the years with maintenance records for same attached (Ref. D);
- Stated that the bituminous surfaced width of the existing road is 3.2m and fences have been erected 400mm and 500mm from the road edge as per Tom O'Brien drawing (attached as Ref. E);
- Erection of the fences interferes with the safe use and operation of the road as interferes with Councils ability to maintain the public road, no opportunities for traffic to pass with fences creating an obstruction and restricts right of way for farm machinery to gain access (photos enclosed Ref. F);
- Council consider that the road is a public road and that the fence is not exempted development;

**5.5. Responses from Parties with Property along Roadway represented by Joan H. Devine & Co. Solicitors (rec. 7<sup>th</sup> October 2016) to Response from Connellan Solicitors representing Mr. Shanley**

The response is summarised as follows:

- Road is clearly and manifestly a public road and the Board not entitled to look beyond such designation;
- Clear from letter of 13<sup>th</sup> February 2014 that Mr. Shanley coloured the map himself;
- Apparent that first fence erected in 2009;
- Assertions regarding the purpose of grazing livestock are disputed;
- Map attached numbering the entrances onto the road within each holding;
- Report attached from Morris Lohan Engineers regarding survey of the fences along the road which outlines a list of traffic hazards and indicates that the fence creates a traffic hazard and interferes with the lawful user limiting the turning ability for vehicles and as such cannot be exempted;
- Noted that landowners are currently not able to maintain their hedging along their boundaries from the grass verge;
- Endangerment of public safety cannot be dismissed as being of no relevance;
- Hazard caused by the fence exacerbated by its electrification;
- Prior to the fencing, the grassed margins have been open to the public and were habitually used for various purposes including walking with or without livestock;
- The road is public and there is a public right of way over same;

**5.6. Response of Owner/Occupier from Connellan Solicitors (rec. 7 October 2016) to Response of Joan H. Devine to the Referral**

The response is summarised as follows:

- Response is without prejudice to position taken in previous correspondence regarding validity of the response;
- Question why a number of persons mentioned in the response were included in the submission and if they were invited by the Board and if so, on what basis;
- Refute assertion that laneway was left open to members of the public and deny that Mr. Shanley's predecessor sought that the road be taken in charge;
- Grass verges were used for grazing livestock and taking hay and/or silage;
- Whether fences were erected in 2004 or 2005 is not relevant;
- Information submitted by Council from Teagasc and the Department are admissible as supporting information;
- Map accompanying the Deed of Conveyance has a red verge line which includes the laneway;
- Reference to public use of the lane disputed with reference to public utilities incorrect with only Middleton House and the Edgeworth House benefiting from the telephone line;
- If the laneway is not a public road, then the question of whether or not the fence is an obstruction is not relevant;
- Consider that there is no difficulty for machinery accessing the gates with reference to instances of large machinery accessing property within days of the correspondence;
- If it is felt that rights are being interfered with they are at liberty to take a case to the Circuit Court;

## 6.0 Relevant Planning History

**Ref. 04/904** – Permission granted for a dwellinghouse to Brendan Shanley & Emma McDermott on 22/02/2005 with access onto the roadway in question.

## 7.0 **Legislative Context and Relevant Legal Cases**

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

**Section 3(1)** - In this Act, “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) of the Act outlines development which is exempted development for the purposes of the Act. Section 4(1)(l) of the PDA refers to development consisting of the carrying out of any of the works referred to in the Land Reclamation Act, 1949 , not being works comprised in the fencing or enclosure of land which has been open to or used by the public within the ten years preceding the date on which the works are commenced or works consisting of land reclamation or reclamation of estuarine marsh land and of callows, referred to in section 2 of that Act.

‘Works’ as defined by the Land Reclamation Act 1949 include the following:

- a. field drainage;
- b. land reclamation;
- c. the construction and improvement of watercourses;
- d. the removal of unnecessary fences;
- e. the construction of new fences and the improvement of existing ones;
- f. improvement of hill grazing;
- g. reclamation of estuarine marsh land and of callows;
- h. any operations ancillary to the foregoing.

Section 254(1) of the Act refers to Licensing of appliances and cables, etc., on public roads.

### 7.2. **Planning and Development Regulations 2001, as amended.**

Article 6(1) states:

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.

Class 11 of Part 1 of Schedule 2

The construction, erection, lowering, repair or replacement, other than within or bounding the curtilage of a house, of –

- (a) any fence (not being a hoarding or sheet metal fence), or
- (b) any wall of brick, stone, blocks with decorative finish, other concrete blocks or mass concrete.

The conditions and limitations attached to this Class are as follows:

1. The height of any new structure shall not exceed 1.2 metres or the height of the structure being replaced, whichever is the greater, and in any event shall not exceed 2 metres.
2. Every wall, other than a dry or natural stone wall, constructed or erected bounding a road shall be capped and the face of any wall of concrete or concrete blocks (other than blocks of a decorative finish) which will be visible from any road, path or public area, including a public open space, shall be rendered or plastered.

Article 9(1) states that development to which Article 6 relates shall not be exempted development for the purposes of the Act— (a) if the carrying out of such development would:

- (iii) endanger public safety by reason of traffic hazard or obstruction of road users,
- (x) consist of the fencing or enclosure of any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility,
- (xi) obstruct any public right of way,

### 7.3. Relevant Legal and Referral Cases

RL3357 - The most recent case before the Board relating to a fence is RL3357 which related to whether the erection of fencing, double gate and fencing off of open space of land is or is not development or is or is not exempted development. The Board decided that the erection of fencing, double gate and fencing off of open space of land was development and was not exempted development, as follows:

- the erection of the fencing and double gate constituted “works” that was development per S.2 and 3 of PDA, 2000
- the fencing was not exempt under Class 5 of Part 1 of Schedule 2 as it comprised a security fence
- the gateway was not exempt under Class 9 of Part 1 of Schedule 2 as the height exceeded two metres
- the fencing was not exempt under Class 11 of Part 1 of Schedule 2 as it exceeded 1.2 metres and was not a replacement fence.

### 8.0 Assessment

Having regard to the question before the Board I propose to undertake my assessment by considering the following:

1. Is the erection of a post and wire fence along a road development?
2. Is the erection of a post and wire fence along a road exempted development?

#### 8.1. Is the erection of a post and wire fence along a road development?

**Section 3(1)** - In this Act, “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.

Given that the fence comprises works on the land in question, comprising a series of timber posts driven into the ground and connected by a series of wires it is clear that the fence is development.

## 8.2. **Is the erection of a post and wire fence along a road exempted development?**

The next element of the question is whether the development is or is not exempted development. In this regard I would refer the Board to Class 11(a) of Part 1 of Schedule 2 of the Regulations which states that the construction, erection, lowering, repair or replacement, other than within or bounding the curtilage of a house, of – any fence (not being a hoarding or sheet metal fence) is exempted development. The fence in question is not within or bounding the curtilage of a house and is not a hoarding or sheet metal. Therefore, the fence would comply with Class 11(a). The conditions and limitations attached to Class 11 provide that the height of any new structure shall not exceed 1.2 metres or the height of the structure being replaced, whichever is the greater, and in any event shall not exceed 2 metres. The fence in question is approximately 1.2 metres in height so therefore would comply with the limitation attached to the Class.

The next test in respect of Exempted Development is the consideration of Article 9(1). Article 9(1) states that development to which Article 6 relates shall not be exempted development for the purposes of the Act— (a) if the carrying out of such development would meet one or more of a series of matters arising. While Article 9(1)(a) includes a number of considerations, I would suggest to the Board that the 3 sub-articles highlighted by Longford County Council are the only ones which require consideration. I will address each in turn.

Prior to addressing these matters I would suggest to the Board that it is necessary to comment on the debate within the referral and responses to same as to whether the road is a public or private roadway. I would note that Mr. Shanley's Solicitors are indeed correct to point out that the Board do not have authority to determine the

public or private nature of a roadway which is a matter for the Courts. However, Longford County Council in response to Mr. Shanley's response to the referral have submitted copies of the newspaper notice dated 15 March 1969 and the minutes of the meeting of 21<sup>st</sup> April 1969 clearly demonstrating that this roadway was taken in charge by the Council. Notwithstanding, the responses of Mr. Shanley's solicitors I consider that it is clear that this roadway has been taken in charge and maintained by Longford County Council up to the entrance into Middleton House.

**(iii) endanger public safety by reason of traffic hazard or obstruction of road users,**

I note the response of Mr. Shanley's Solicitors which states that the development cannot endanger public safety as per Article 9(1)(a)(iii) as the public have no right or authority to be on the laneway with only people who have right to be on the laneway the limited number of people lawfully using their private rights of way. They also state that if the laneway is not a public road then the question of whether or not the fence is an obstruction is not relevant.

While I have addressed the matter of the roadway above, I would note that Article 9(1)(a)(iii) does not, in my opinion, differentiate between public or private roads in the consideration of public safety by reason of traffic hazard or obstruction of road users. Whether the road is a public or private roadway the safety of members of the public is the matter to which this sub-article relates. Therefore, it is necessary to determine whether the fence, as it is currently laid out, would endanger public safety by reason of traffic hazard or obstruction of road users. The fence is located between 400-500mm from the tarred edge of the road. The first consideration I would suggest is that the fence creates splays at the entrances to the private houses on the road and the agricultural entrances. Mr. Shanley's Solicitors state that the matter related to whether the splays involved will permit right of way for farm machinery to gain access not relevant to the referral and is a private matter between the owner and his neighbours. This I would suggest would not accord with Article 9(1)(a)(iii) and the de-



exemption of exempted development which would endanger public safety by reason of traffic hazard or obstruction of road users. The splays are not uniform at all entrances and in some cases are not winged sufficiently such as would facilitate the reversing or turning of large machinery. In some instances, for example the more recently constructed house (Ref. 04/409) the fence is not continued along the length of the front boundary wall of this house. The fence therefore endangers public safety by reason of traffic hazard given the laying out of the splays for the existing residential and agricultural accesses.

Furthermore, the grass verge which was previously accessible would have facilitated pulling in along the road to allow other vehicles to pass without the need to reverse to the closest entrance which in some cases would comprise a considerable distance. This grass verge is therefore no longer accessible for most of the length of the road to provide such pulling in with no ability to use this verge to facilitate passing along the road. The fence therefore endangers public safety by reason of traffic hazard given the obstruction of road users due to the elimination of the verge and the inability to pass other vehicles along the road. In this regard it is my opinion that the fence would endanger public safety by reason of traffic hazard or obstruction of road users

**(x) consist of the fencing or enclosure of any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility.**

I do not consider that this provision is applicable as it relates specifically to the lands being habitually open to or used by the public for recreational purposes. I do not see any evidence on file to suggest that other than being walked over that the land in question could have been used for recreational purposes.

**(xi) obstruct any public right of way,**

Having regard to the consideration set out above in respect of Article 9(1)(a)(iii) I consider that this roadway is a public right of way and that the fence causes an obstruction on this public right of way as the verge cannot be used to facilitate passing cars and therefore causes an obstruction.

## 9.0 **Conclusions and Recommendation**

The fence in question is development for the purposes of Section 3 of the Planning and Development Act 2000, as amended. The development comprises exempted development under Class 11(a) of Part 1 of Schedule 2 of the Planning and Development Regulations 2000, as amended. However, 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 & Article 9(1)(a)(xi) as it would obstruct a public right of way. Therefore, the erection of a post and wire fence along a road is development and is not exempted development.

## DRAFT ORDER

**WHEREAS the following** question has arisen as to whether:

The erection of a post and wire fence along a road is or is not exempted development at Treanboy, leading to Middleton House, Killashee, Co. Longford

**AND WHEREAS** Longford County Council, County Buildings, Great Water Street, Longford requested a declaration on the said question from An Bord Pleanála on 27<sup>th</sup> July 2016.

**AND WHEREAS** An Bord Pleanála in considering this referral, reformulated the question as follows:

Whether the erection of a post and wire fence along a road is or is not development and is or is not exempted development at Treanboy, leading to Middleton House, Killashee, Co. Longford

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

- (a) section 3 of the Planning and Development Act, 2000, as amended,
- (b) Article 6(1) & Article 9(1)(a)(iii), (x) & (xi) of the Planning and Development Regulation's 2001, as amended,
- (c) Class11(a) of Part 1 of Schedule 2 of the Planning and Development Regulation's 2001, as amended,
- (d) the submissions on file,

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

- The fence in question is development for the purposes of Section 3 of the Planning and Development Act 2000, as amended.
- The development comprises exempted development under Class 11(a) of Part 1 of Schedule 2 of the Planning and Development Regulations 2000, as amended.
- 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 & Article 9(1)(a)(xi) as it would obstruct a public right of way.

**NOW THEREFORE** An Bord Pleanála, in exercise of the powers conferred on it by section 5 (4) of the 2000 Act, hereby decides that:

- (a) the erection of a post and wire fence along a road is development; and
- (b) the erection of a post and wire fence along a road is not exempted development

at Treanboy, leading to Middleton House, Killashee, Co. Longford

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**Una Crosse**  
**Inspectorate**

**December, 2016**