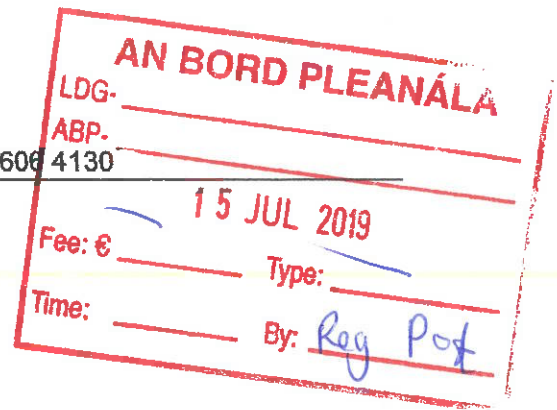


Marie Dineen

Geraldine Villas, Lower Aghada, County Cork P25 VX76 – 086 606 4130

12th of July 2019

The Secretary
An Bord Pleanála
64 Marlborough St,
Rotunda,
Dublin,
D01 V902



Re: Cork County Council Ref: D/226/19 – Declaration of Exempted Development under Section 5 of the Planning and development Act 2000

Ref: Home owners Francis and Felicity Philpott - their lands situate at Geraldine Villas, Lower Aghada, County Cork - Section 5 Referral – Planning Question: Is the diminution of the curtilage of dwellinghouse premises for the purposes of gifting a garden to a family member for the purposes of building a dwellinghouse thereon development or is it exempted development?

Referring Planning File Ref: CCC PA PL REF No: 18/5042

Dear Sir or Madam,

I refer to your flow of correspondence to me of the 26th of June 2019 that includes a letter from Francis and Felicity Philpott dated the 13th of June 2019.

I shall now refer the board to the Philpott's own proceedings Record No: 2019/00902 in the Cork Circuit Court where they are seeking declaratory relief in relation to the property; the fact is that the matter is *sub judice* and should prevent An Bord Pleanála from making a final decision in this matter until these proceedings have concluded – for ease of reference I shall personally undertake to advise the Board of the result of these proceedings when they are concluded, they are estimated to take two years.

However, the Philpott's state the following in their response to the Board in their own letter of the 13th of June.

"We are satisfied to confirm that the matters implied by diminution of the site do not at all apply to our resultant home and site, after extracting the proposed site to our daughter from the parent holding.

- **We retain a site of approximately 1,480 sq m after transfer of site.**
Part of the 1,480 sq m area claimed is a disputed Murphy's Garden that the Philpott's claim to own but have no title to hence the Circuit Court proceedings, albeit in the absence of any application forthcoming for adverse possession because the Philpott's did not have exclusive use of the garden to the exclusion of the owner, because the ownership is unknown and I have had shared use of the disputed garden for over 20 years.
- **We retain amenity/garden and open space of approximately 1,320 sq m after transfer of site.**
Again, this assertion is incorrect for the reasons outlined in their own Circuit Court proceedings.
- **We retain adequate car parking spaces for ourselves and visitors**

The private driveway is narrow and facilitates only one vehicle at a time. Consequently, in the event that two vehicles meet on the private driveway, one vehicle must reverse on a very steep hill to allow the other safe access. There are currently four permanent vehicles at the Philpott residence which causes congestion. This does not take account of visiting vehicles. I also have one vehicle. This private driveway is not suitable for multiple vehicles

- **We have not affected the vehicular or pedestrian access route to our house or the neighboring house from the public roadway.**

Again, the private driveway is narrow and facilitates only one vehicle at a time. Consequently, in the event that two vehicles meet on the private driveway, one vehicle must reverse on a very steep hill to allow the other safe access. There are currently four permanent vehicles at the Philpott residence which causes congestion. This does not take account of visiting vehicles. I also have one vehicle. This private driveway is not suitable for multiple vehicles

- **There is no impact on existing service runs – including water sewer and power.**

I have exclusive ownership of part of the private driveway; therefore Francis Philpott and Felicity Philpott use my lands for supply of essential services to include electricity, water, sewer and telephone cables.

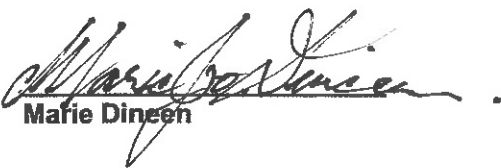
- **We have not adversely affected the amenity of our own family home or neighboring dwellings**

This diminution of the Philpott's curtilage and current vehicular congestion caused by them as a result will prevent an emergency vehicle from being able to access the in the event of a medical emergency or fire. This creates a serious hazard for them as well as others, me included.

In conclusion, I say that it appears to me that the Philpott's, regardless of any circumstances they may wish to create, will have to apply for planning permission to retain their own dwelling house within revised boundaries, once, of course, they have concluded their own circuit court proceedings seeking declaratory relief.

I trust that this response is in order and I shall await hearing from you in early course.

Yours sincerely,


Marie Dineen