

Comhairle Contae Chill Dara
Kildare County Council



Date: 20th October 2020

Our Ref: ED/00799

Your Ref: 308306-20

REGISTERED POST

An Bord Pleanála,
64 Marlborough Street,
Dublin 1.

AN BORD PLEANÁLA

LDG- _____
ABP- _____

22 OCT 2020

Fee: € _____ Type: _____
Time: _____ By: Rest

**RE: Application for a Declaration of Exempted Development under Section 5
NAME: David Durney – New Beginnings Childcare and Residential Services
DEVELOPMENT ADDRESS: Mylerstown, Naas, Co. Kildare**

Dear Sir/Madam,

I refer to your correspondence which we received on the 5th October 2020 in connection with the above.

As requested, and in accordance with Section 129 of the 2000 Act, (as amended), I can now confirm that Kildare County Council, having examined ED/00799 and our submission is as follows:

In assessing the application due regard was given to; the relevant Sections and exemption classes outlined in the Planning and Development Regulations 2001 (as amended).

Having reviewed the Applicant's grounds of appeal, the Planning Authority has the following comments to make;

It is noted that the proposed development was considered development under Section 3 (1) of the Planning and Development Act 2000 (as amended). The legislation provides for a change of use as proposed having regard to Article 6 and Schedule 2, Part 1, Class 14 (f) of the Planning and Development Regulations 2001 (as amended). However, in order for the development to be deemed exempt the original permission was required to establish that the existing dwelling and associated garages on site were authorised to ensure that the proposed change of use did not conflict with Article 9(1)(a)(i) of the Planning and Development Regulations 2001 (as amended). A planning history search was carried out, but a relevant parent permission could not be identified. The Applicant was therefore requested to provide Further Information on 15/07/2020 to clarify whether the house and garages on site were authorised.

Further Information was received from the Applicant on 11/08/2020, which failed to identify any previous permission on site relating to the dwelling and garage. Instead a report regarding the wastewater treatment system was provided. Therefore, the decision was issued on 04/09/2020 outlining that the development was considered development and was not exempt.



However, following receipt of the first party appeal, another search was conducted on Kildare County Council's historical mapping system where it was found that Pl. Ref. 98/1884 (to erect a bungalow, garage and septic tank) related to the subject site. This provides clarification that the existing house and garages on site were authorised. It is noted that in the 1st Party Appeal document the Applicant has again failed to provide details of the parent permission.

Following the discovery of this parent permission, the Planning Authority deems the proposed development to be development and also exempted development.

Conclusion

In conclusion, the Council requests that An Bord Pleanála overturn the original decision and that the proposed development be deemed exempt development under Section 5 of the Planning and Development Act 2000.

Yours faithfully,



Senior Executive Officer
Planning Department

