



Board Direction

Ref: 42.RL3228

The submissions on this file and the Inspector's report were considered at a Board meeting held on 28th October 2014.

The Board decided, generally in accordance with the Inspector, and as set out below, that works undertaken to an outbuilding in the curtilage of a protected structure are development and are not exempted development, all at Erin Lodge, Athy Road, Carlow.

WHEREAS a question has arisen as to whether works undertaken to an outbuilding in the curtilage of a protected structure at Erin Lodge, Athy Road, County Carlow are or are not development, or are or are not exempted development:

AND WHEREAS Mary Margaret McGovern of Erin Lodge, Athy Road, Carlow requested a declaration on the said question from Carlow Town Council, and the said Council issued a letter on the 13th day of June, 2014 stating that the works undertaken are not exempted development:

AND WHEREAS the said Mary Margaret McGovern referred the question to An Bord Pleanála on the 20th June, 2014:

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

- (a) sections 2, 3, 4, 51, 57 and 58 of the Planning and Development Act, 2000, as amended,
- (b) the definition of "structure" as set out in Section 2 of the Planning and Development Act, 2000, as amended, which includes, in respect of a protected structure, the land lying within the curtilage of the structure, and any other structures lying within that curtilage and their interiors,
- (a) Section 57 of the Planning and Development Act, 2000, as amended, which, *inter alia*, states that, notwithstanding Section 4(1)(h) of the Planning and Development Act, 2000, the carrying out of works to a protected structure would be exempted development only if those works do not materially affect the character of the structure, or of any element of the structure which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest,

- (c) the “Architectural Heritage Protection Guidelines for Planning Authorities” issued by the Department of Arts Heritage and the Gaeltacht (2011), and the guidance set out in that document on the determination of the curtilage of a protected structure, being “the parcel of land immediately associated with that structure and which is (or was) in use for the purposes of the structure”,
- (d) the inclusion of Erin Lodge in the Record of Protected Structures in Appendix 4 of the Joint Spatial Plan for the Greater Carlow Graiguecullen Urban Area 2012 – 2018, which identifies the protected structure as being of regional architectural importance:

AND WHEREAS An Bord Pleanála has concluded that -

- (a) the alterations undertaken constitute works,
- (b) these works might have come within the scope of Section 4(1)(h) of the Planning and Development Act, 2000,
- (c) the subject outbuilding is located within the curtilage of a protected structure, and forms part of that protected structure, and contributes to its architectural interest,
- (d) it is considered that the works undertaken in this instance materially affect the character of the outbuilding, which forms part of a protected structure, by reason of their nature and scale, including the removal and replacement of fabric, the use of modern materials, and the making of other alterations that do not reflect the original design of the outbuilding, and
- (e) works have therefore been undertaken to a protected structure that materially affect the character of an element of the structure which contributes to its special architectural interest, and the subject works cannot therefore avail of any exemption provided for under the relevant legislation:

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5 of the 2000 Act, hereby decides that works undertaken to an outbuilding within the curtilage of a Protected Structure are development and are not exempted development, at Erin Lodge, Athy Road, County Carlow.

Board Member: _____ Date: 31st October 2014
Fionna O’ Regan