



An  
Bord  
Pleanála

**Board Direction**  
**ABP-300268-17**

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The submissions on this file and the Inspector's report were considered at a Board meeting held on 06/07/2018.

The Board decided, as set out in the following Order, that:  
the erection of a timber and perspex roof over part of the bar yard at the Spinnaker Bar, Dunmore East, is development and is not exempted development.

Board Order as follows: -

**WHEREAS** a question has arisen as to whether the erection of a timber and perspex roof over part of the bar yard at the Spinnaker Bar, Dunmore East is or is not development and is or is not exempted development:

**AND WHEREAS** Niall Edmondson requested a declaration on this question from Waterford City and County Council and the Council issued a declaration on the 14<sup>th</sup> of November 2017 stating that the matter was development and was not exempted development:

**WHEREAS** Niall Edmondson referred this declaration for review to An Bord Pleanála on the 22<sup>nd</sup> of November 2017:

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

- (a) Section 2(1) of the Planning and Development Act, 2000, as amended,
- (b) Section 3(1) of the Planning and Development Act, 2000,
- (c) Section 4(1)(h) of the Planning and Development Act, 2000, as amended,
- (d) article 6(1) and article 9(1) of the Planning and Development Regulations, 2001, as amended,
- (e) case law, including, the Supreme Court decision in the case of Michael Cronin (Readymix) Ltd versus An Bord Pleanála and others:

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

- (a) The erection of the timber and perspex roof involved the carrying out of works, and is therefore development within the meaning of Section 3 of the Planning and Development Act, 2000, as amended.
- (b) The yard area that has been enclosed by the timber and perspex roof, while part of the overall landholding, was not part of the structure that is the public house and the development that has taken place has involved the incorporation of this yard into the public area of the public house, and is therefore an extension of the existing structure. An extension of the existing structure is not within the scope of Section 4(1)(h) of the Act, having regard to the decision of the Supreme Court in the case of Cronin (Readymix) versus An Bord Pleanála and others.
- (c) There are no exemptions set out in the Planning and Development Act, 2000, as amended, or the Planning and Development Regulations 2001, as amended, whereby an extension to a public house would be exempted development.

The development that has taken place in this instance is, therefore, not exempted development.

**NOW THEREFORE** An Bord Pleanála, in exercise of the powers conferred on it by section 5 (3) (a) of the 2000 Act, hereby decides that the erection of a timber and Perspex roof over part of the bar yard at the Spinnaker Bar, Dunmore East is development and is not exempted development

**Board Member:**

**Date:** 06/07/2018

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Terry Ó Niadh