



An
Bord
Pleanála

Board Direction
ABP-300396-17

The submissions on this file and the Inspector's report were considered at a Board meeting held on 13/09/2018.

The Board decided, as set out in the following Order, that

Board Order as follows:-

WHEREAS a question has arisen as to whether the replacement of existing barrier and addition of pay / ticket machine to existing car park, at former Bank of Ireland premises, Parnell St. / The Applemarket, Waterford is or is not development or is or is not exempted development:

AND WHEREAS Sean Johnston, Suites 9 & 10, Railway Square, Waterford requested a declaration on this question from Waterford City and County Council and the said Council issued a declaration on the 9th day of November, 2017 stating that the matter is development and is not exempted development:

AND WHEREAS Sean Johnston referred this declaration for review to An Bord Pleanála on the 6th day of December, 2017:

AND 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) Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (f) the nature of the previous and current use of the site and the change in the use from parking connected primarily with the commercial / office use of the site to use as a public car park offering daily and hourly rates,

AND WHEREAS An Bord Pleanála has concluded that:

- (a) The replacement of the barrier constitutes works being an operation of renewal or repair and therefore constitutes development,
- (b) the installation of the pay / ticket machine constitutes works being an operation of construction and therefore constitutes development,
- (c) That the developments undertaken and subject of this referral relate to a change in the use of the site from use as a parking area connected primarily with the commercial / office use of the site to use as a public car park offering daily and hourly rates and that as per the Boards decision in referral case Ref. ABP-300397-17, this change of use is material and such that it constitutes development that is not exempted development. The current use of the site therefore constitutes an unauthorised use of the site for which no planning permission has been obtained.
- (d) The replacement of the existing barrier would be exempted development under s.4(1)(h) of the Planning and Development Act,

2000 as amended and Class 9 of Part 1 of the Second Schedule of the Planning and Development Regulations, 2001 as amended, were it not for the fact that the use of the site as a public car park offering daily and hourly rates is unauthorised and,

- (e) The installation of the pay / ticket machine would be exempted development under s.4(1)(h) of the Planning and Development Act, 2000 as amended were it not for the fact that the use of the site as a public car park offering daily and hourly rates is unauthorised.

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 replacement of existing barrier and addition of pay / ticket machine to existing car park is development and is not exempted development.

Board Member:

Date: 13/09/2018

John Connolly