



An
Bord
Pleanála

Board Direction
ABP-300881-18

The submissions on this file and the Inspector's report were considered at a Board meeting held on 15/11/2019.

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

WHEREAS a question has arisen as to whether the erection of utility boxes on College Green and Lower Grafton Street is or is not development and is or is not exempted development:

AND WHEREAS Mr. Frank McDonald requested a declaration on this question from Dublin City Council and the Council issued a declaration on the 15th day of January, 2018 stating that the matter was exempted development:

AND WHEREAS Mr. Frank McDonald referred this declaration for review to An Bord Pleanála on the 8th day of February, 2018:

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

Section 2(1), 3(1), 4(1)(aa), 57(1) and 82 of the Planning and Development Act, 2000, as amended,

article 6(1) article 9(1) and 31(f) of the Planning and Development Regulations, 2001, as amended,

Class 23 of Part 1, Schedule 2 of the of the Planning and Development Regulations, 2001, as amended,

Road Traffic Act 1994

Transport (Railway Infrastructure) Act 2001,

The Boards Order and accompanying schedules for PL29N.N0004,

The submissions on file including the identification of the individual utility boxes provided by Dublin City Council and Transport Infrastructure Ireland,

The report of the Inspector,

AND WHEREAS An Bord Pleanála has concluded that:

All of the identified utility boxes involved the carrying out of works and therefore constitute development,

Utility boxes numbers 2,3 and 5 at College Green and the utility boxes 3,4,6,7,8 and 9 on Lower Grafton Street/adjoining the wall of the Provosts House, are all works carried out by Dublin City Council and therefore come within the scope of the exemption provided for under Section 4(1)(aa) of the Planning and Development Act, 2000, as amended and are therefore exempted development,

Utility box number 5, on Lower Grafton Street/adjoining the wall of the Provosts House, was provided by Transport Infrastructure Ireland contractors as part of the Luas Cross City Light Rail Scheme (Luas BXD) and comes within the exemption provided for under Section 38 of the Transport (Railway Infrastructure) Act, 2001 and is therefore exempted development,

Utility boxes number 4 at College Green and numbers 10 and 11 at Lower Grafton Street/adjoining the wall of the Provosts House, were provided by Infrastructure Ireland and therefore consist of development undertaken by a Statutory Undertaker in connection with the movement of traffic by rail, on, in, over or under the operational land of the railway, or any part of a Railway, and comes within the scope of Class 23 of the Planning and Development Regulations 2001, as amended and are therefore exempted development

Utility box number 2 on Lower Grafton Street/adjoining the wall of the Provosts House, consists of the provision, by a statutory undertaker authorised to provide a telecommunications service (i.e. BT Telecoms), of a utility box forming part of a telecommunications system and comes within the exemption provided for in Class 31(f) of the Planning and Development Regulations, 2001, as amended and complies with the condition and limitation to which this class is subject and is therefore exempted development,

The utility boxes, by reason of their scale and use would not materially affect the character of a protected structure (Provost's House, TCD) or the Grafton Street and Environs ACA, or of any element of the structure, which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest, and therefore, the restrictions on exemption under Section 57 (1) and Section 82 of the Planning and Development Act, 2000, as amended, do not apply in this instance.

The development in question does not endanger public safety by reason of traffic hazard and therefore the restriction on exemption in Article 9(1)(a)(iii) of the Planning and Development Regulations 2001, as amended, do not apply in this instance

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 utility boxes on College Green and Lower Grafton Street is development and is exempted development.

Board Member:

Date: 15/11/2019

Terry Ó Niadh