



An
Bord
Pleanála

Board Direction
ABP-300975-18

The submissions on this file and the Inspector's report were considered at a Board meeting held on 24/07/2018.

The Board decided, as set out in the following Order, that the work carried out is development and is not exempted development.

Board Order as follows:-

WHEREAS a question has arisen as to whether

- (i) The demolition and removal of the existing roof, gutters etc.
- (ii) Replacement of the roof to match materially the external appearance of the replaced roof and consistent with the character of the structure of the replaced roof, the new roof ridge location being now centred on the overall width while the original was off centre.
- (iii) Replacement of guttering and rainwater downpipes materially matching the external appearance of the replaced rainwater good.
- (iv) Erection of a supporting, that is, steel portal frames, roof beams and purlins erected within the interior of the existing structure.
- (v) Retention of the majority of the existing internal walls save only for the upper portions of the north elevation masonry between the gutter level and the lintel level of the external door opes with sheeting consistent with and matching the profiled roofing.
- (vi) The carrying out of an extension to the west (Ballycumber side)

measuring c. 20 metres (gable) by c. 16 metres (front elevation).

is or is not development or is or is not exempted development:

AND WHEREAS Ballycumber Exports Limited requested a declaration on this question from Offaly County Council and the Council issued a declaration on the 2nd of February 2018 stating that the matter was development and was not exempted development:

AND WHEREAS referred this declaration for review to An Bord Pleanála on the 19th of February 2018:

AND WHEREAS having examined the information on file, the Board considered it appropriate to simplify the question as follows:

Whether the refurbishment (including demolition works, structural works and re-cladding) and extension of an industrial building at Ballycumber County Offaly is or is not development or is or is not exempted development.

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) Section 4(2) of the Planning and Development Act, 2000, as amended,
- (e) article 6(1) and article 9(1) of the Planning and Development Regulations, 2001, as amended,

- (f) Schedule 2 Part 1 Exempted Development — General Development for Industrial Purposes Class 21
- (g) relevant case law, and in particular the Supreme Court judgement in Cronin (Readymix) Ltd -v- An Bord Pleanála & ors [2017] IESC 36 (30th May 2017).

AND WHEREAS An Bord Pleanála has concluded that:

- (i) The demolition and construction carried out comprises works and therefore constitutes development.
- (ii) The extent of demolition and structural work carried out has resulted in a materially different physical structure on the site compared with the original building, in terms of scale, form and height, and therefore the refurbishment carried out – including structural changes, re-cladding and associated changes to the building – is considered not to fall within the scope of exemption under section 4(1)(h) of the Act.
- (iii) The extension to the building does not fall within the scope of section 4(1)(h) of the Act, with reference to the case law cited above.

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by Section 5 (3)(a) of the Planning and Development Act, 2000, as amended, hereby decides that the refurbishment (including demolition works, structural works and re-cladding) and extension of an industrial building at Ballycumber County Offaly is development and is not exempted development.

Board Member:

Date: 24/07/2018

Conall Boland