



An  
Bord  
Pleanála

**Board Direction**  
**ABP-301138-18**

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The submissions on this file and the Inspector's report were considered at a Board meeting held on 06/12/2018.

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

Board Order as follows:-

**WHEREAS** a question has arisen as to whether (a) the insertion of six windows at first-floor level on the southwestern elevation of Liber House, Monavalley, Tralee, County Kerry is or is not development or is or is not exempted development under S4(1)(h) of the Planning & Development Act 2000 (as amended), and (b) the insertion of six windows at first-floor level on the southwestern elevation of Liber House is already permitted under the parent permission 06/307281.

**AND WHEREAS** Liam Davis, "Rockall", The Spa, Tralee, Co. Kerry requested a declaration on this question from Kerry County Council and the Council issued a declaration on the 19<sup>th</sup> day of February 2018, stating that the matter was development and was not exempted development.

**AND WHEREAS** Liam Davis referred this declaration for review to An Bord Pleanála on the 13<sup>th</sup> day of March 2018.

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

- (a) Sections 2 and 3 of the Planning and Development Act 2000, as amended,
- (b) Section 4(1)(h) of the Planning and Development Act 2000, as amended,
- (c) the planning history of the site,
- (d) the nature and extent of the works, and
- (e) the pattern of development in the area.

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

- (a) The works of insertion of six windows on the southwestern elevation of the building come within the scope of ‘development’ as set out in Section 3 of the Planning and Development Act 2000 (as amended);
- (b) The insertion of a row of six windows at first-floor level on the southwestern elevation would materially affect the external appearance of this elevation of the building, which is visible from the public road, so as to render the appearance inconsistent with the character of the structure.
- (c) Therefore, the insertion of six windows at first-floor level on the southwestern elevation of the building does not come within the scope of the exemptions provided by Section 4(1)(h) of the Planning and Development Act 2000, as amended, and is not therefore exempted development.
- (d) The insertion of the said six windows was authorised by the grant of permission under Ref. 06/307281, but as the development was not completed in accordance with the permitted plans and has since been superseded by a further grant of planning permission under Ref. 15/240, which did not include the insertion of any windows at

first-floor level of the southwestern elevation. Thus, the insertion of the said six windows is not authorised by any current planning permission.

**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 insertion of the said six windows at first-floor level of the southwestern elevation of Liber House is development and is not exempted development.

**Board Member:**

**Date:** 06/12/2018

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Dave Walsh