



An
Bord
Pleanála

Board Direction
ABP-301320-18

The submissions on this file and the Inspector's report were considered at a Board meeting held on 03/05/2019.

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

WHEREAS a question has arisen as to whether the existing ground and first-floor extension works to the rear of the house at 26 Estuary Road, Malahide, County Dublin is or is not development or is or is not exempted development:

AND WHEREAS Fingal County Council requested a declaration on this question on the 29th day of March, 2018 from An Bord Pleanála:

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

- (a) section 2(1) and 3(1) of the Local Government (Planning and Development) Act 1963, as amended,
- (b) section 2(1), 3(1) and 4(1)(h) of the Planning and Development Act, 2000, as amended,
- (c) article 9(1) and article 10(1) of the Local Government (Planning and Development) Regulations 1994 and Classes 1, 3 and 7 of Part 1 of the Second Schedule to those Regulations,

- (d) article 6(1) and article 9(1) of the Planning and Development Regulations 2001-2018 and Classes 1, 3 and 7 of Part 1 of Schedule 2 to those Regulations,
- (e) the planning and development history of the site,
- (f) the submission of the Planning Authority,
- (g) the report of the Planning Inspector, including measurements taken on site:

AND WHEREAS An Bord Pleanála has concluded that:

- (a) the development as carried out constitutes development.
- (b) the gross floor area of the extensions do not exceed 23 square metres or reduce the area of garden remaining to less than 25 square metres or exceed the height of the rear eaves or parapet to the house.
- (c) the extension, therefore, comes within the scope of Class 1 of Part 1 of the Second Schedule to the Planning and Development Regulations 1994, as amended, and all Conditions and Limitations attached to this Class.
- (d) the roofed structure open to the rear is not internal habitable space and is not a porch.
- (e) the roofed structure to the rear, in combination with the shed to the rear, do not exceed 25 square metres or reduce the area of garden remaining to less than 25 square metre or exceed 4 metres in height.
- (f) the roofed structure, therefore, comes within the scope of Class 3 of Part 1 of the Second Schedule to the Planning and Development Regulations 1994, as amended, and Class 3 of Part 1 of Schedule 2 to the Planning and Development Regulations 1994, as amended, and all Conditions and Limitations attached to these Classes.

(g) the modifications to the extensions and the roofed structure come within the scope of section 4(1)(h) of the Planning and Development Act, 2000, as amended.

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5(4) of the Planning and Development Act 2000, as amended, hereby decides that the development as carried out is development and is exempted development.

Board Member:

Date: 03/05/2019

Terry Ó Niadh