



An
Bord
Pleanála

Board Direction
ABP-302829-18

The submissions on this file and the Inspector's report were considered at a Board meeting held on July 8th, 2019.

The Board decided, as set out in the following Order, that the installation of new replacement uPVC windows to the front façade of building at 27 O'Connell Street, Limerick, is development and is not exempted development.

Board Order as follows:-

WHEREAS a question has arisen as to whether the installation of new replacement uPVC windows to the front façade of building at 27 O'Connell Street, Limerick is or is not development or is or is not exempted development.

AND WHEREAS Limerick City and County Council referred this question to An Bord Pleanála for determination on the 19th day of October 2018

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

- (a) Sections 2, 3 and 4 (1)(h) of the Planning and Development Act, 2000, as amended,

- (b) The nature and extent of the works that are the subject matter of the referral, and the pattern of development in the vicinity,
- (c) Relevant case law, including *Cairnduff v O'Connell* [1986] I R 73 and *Dublin Corporation v Bentham* [1993] 2 I R 58, and
- (d) The submissions on file, including photographs of the subject building prior to the carrying out of the works that are the subject matter of the referral.

AND WHEREAS An Bord Pleanála has concluded that:

- (a) The works of replacement of six windows on the front elevation of the building come within the definition of development, as set out in Section 3 of the Planning and Development Act, 2000, as amended;
- (b) The replacement of the six sash windows that had previously been on the front elevation of the subject property with uPVC framed windows involves the carrying out of works for the alteration of this structure. However, the works materially affect the external appearance of the structure so as to render that appearance inconsistent with the character of the structure, having regard to the glazing pattern, the thickness of the frames and the openings of the replacement windows, and having regard to the fact that the original fenestration design and materials used contributed to the character of the structure;
- (c) The replacement of the six sash windows that had previously been on the front elevation of the subject property with uPVC framed windows materially affects the external appearance of the structure so as to render that appearance inconsistent with the character of the neighbouring structures, and in particular the adjoining property to the south, which has retained its original openings and sash windows, and the Augustinian Church to the north, which is a Protected Structure;

- (d) The subject development therefore does not come within the scope of the exemption afforded under Section 4 (1)(h) of the Planning and Development Act 2000, as amended, and there are no other exemptions provided for in the Act, or in Regulations made pursuant to the Act, whereby such development would be classified as exempted development. The subject development is, therefore, not exempted development.

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 installation of new replacement uPVC windows to the front façade of building at 27 O'Connell Street, Limerick, is development and is not exempted development.

Board Member

Date: 8th July 2019

Philip Jones