



An
Bord
Pleanála

Board Direction
ABP-303117-18

The submissions on this file and the Inspector's report were considered at a Board meeting held on June 21st, 2019.

The Board decided, on a vote of 2 to 1, as set out in the following Order, that the proposed installation of two additional windows in the rear façade of bedrooms 2 and 3 at second floor level, and the existing door/long window which has been installed in the rear façade at second floor level at 2 Brabazon Street, The Coombe, Dublin 8, is development and is exempted development.

Board Order as follows:-

WHEREAS a question has arisen as to whether the proposed installation of two additional windows in the rear façade of bedrooms 2 and 3 at second floor level, and the existing door/long window which has been installed in the rear façade at second floor level at 2 Brabazon Street, The Coombe, Dublin 8, is or is not development or is or is not exempted development.

AND WHEREAS Andreas Bruggener c/o Peter Gillett & Associates of 55 Glencarrig, Sutton, Dublin 13, requested a declaration on this question from Dublin City Council, and the Council issued a declaration on the 6th day of November 2018 stating that the matter is development and is not exempted development.

AND WHEREAS Andreas Bruggener referred this declaration for review to An Bord Pleanála, on the 28th day of November 2018.

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

- (a) Sections 2 (1), 3(1) and 4(1)(h) of the planning and Development Act 2000, as amended,
- (b) The external appearance and character of the existing structure, and the pattern of development and character of neighbouring structures,
- (c) The nature and appearance of the subject windows and door/long window, and
- (d) Relevant case law, including Cairnduff - v - O'Connell [1986] ILRM 465.

AND WHEREAS An Bord Pleanála has concluded that:

- (a) The installation of the existing door/long window and the proposed installation of the two windows involves the carrying out of works, and is therefore development;
- (b) The development in question would come within the scope of the exemption afforded under Section 4 (1)(h) of the Planning and Development Act 2000, as amended, being works for the improvement or other alteration of the existing structure, and in the particular circumstances of this case, it is considered that the development would not materially affect the external appearance of the structure so as to render that appearance inconsistent with the character of the structure or of neighbouring structures.

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 proposed installation of two additional windows in the rear façade of bedrooms 2 and 3 at second floor level, and the existing door/long window which has been installed in the rear façade at second floor level at 2 Brabazon Street, The Coombe, Dublin 8, is development and is exempted development.

In not accepting the recommendation of the Inspector that the development would not be exempted development, the Board had regard to the meaning of the term “character”, as elucidated in relevant case law, and did not concur with the Inspector’s conclusion that, in this particular instance, the proposed windows, and the existing window, would render the external appearance of the structure inconsistent with the character of the subject structure.

Board Member

Date: 21st June 2019

Philip Jones