



An
Bord
Pleanála

Board Direction
ABP-303121-18

The submissions on this file and the Inspector's report were considered at a Board meeting held on 02/04/2019.

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

WHEREAS a question has arisen as to whether the installation of three no. windows on the side elevation of the commercial farm machinery maintenance and sales building, at Freighduff, Cashel, County Tipperary, is or is not development or is or is not exempted development.

AND WHEREAS Siobhan Burke, Freighduff, Cashel, County Tipperary, care of Peter Thomson Planning Solutions, 4 Priory Grove, Kells, County Kilkenny, requested a declaration on this question from Tipperary County Council, and the Council issued a declaration on the 1st day of November 2018, stating that the matter is development and is not exempted development.

AND WHEREAS Siobhan Burke 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 planning history of the site, including a permitted extension to the subject building, which contains no ground level windows on the side elevation,
- (c) The existing building on site which has no ground level windows on the side elevation, other than those the subject of this referral, and
- (d) The report of the Planning Inspector.

AND WHEREAS An Bord Pleanála has concluded that:

- (a) The installation of three windows on the side elevation of the building comprises the carrying out of works of construction and therefore constitutes development under section 3(1) of the Planning and Development Act, 2000, as amended;
- (b) The installation of the three windows in an existing wall with no other ground floor windows and which is close to and faces a party boundary wall, materially affects the external appearance of the structure so as to render the appearance inconsistent with the character of the structure and therefore the works do not come within the scope of the exempted development provisions of Section 4(1)(h) of the Planning and Development Act, 2000, as amended;
- (c) There are no exemptions provided for in the Planning and Development Act 2000, as amended, and in the Planning and Development Regulations, 2001, as amended, by which such works would be exempted development;

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 installation of three no. windows on the side elevation of the commercial farm machinery maintenance and sales building, at Freighduff, Cashel, County Tipperary, is development and is not exempted development

Board Member:

Date: 03/04/2019

Chris McGarry