



An
Bord
Pleanála

Board Direction
ABP-303219-18

The submissions on this file and the Inspector's report were considered at a Board meeting held on 25/03/2020.

The Board decided, as set out in the following Order, that the works involving the erection of a glazed and roofed structure to the front of the restaurant is development and is not exempted development

Board Order as follows:-

WHEREAS a question has arisen as to whether *the provision of a framed, glazed and roofed structure to the front of no 58 Grand Canal Street Upper*, is or is not development or is or is not exempted development:

AND WHEREAS Simon Clear & Associates Planning and Development Consultants on behalf of the Mr Paul James and Mr Barry McNerney requested a declaration on this question from Dublin City Council and the Council issued a declaration on the 19th day of November 2018 stating that the matter was development and was not exempted development:

AND WHEREAS Simon Clear and Associates on behalf of Mr Paul James and Mr Barry McNerney referred this declaration for review to An Bord Pleanála on the 13th day of December 2018:

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

- (a) Section 2(1) of the Planning and Development Act, 2000, as amended,
- (b) Section 3(1) of the Planning and Development Act, 2000,
- (c) Section 4(1)(a) of the Planning and Development Act, 2000, as amended,
- (d) article 6(1) and article 9(1) of the Planning and Development Regulations, 2001, as amended,
- (e) Parts 1 and 3 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (f) the planning history of the site,
- (g) the layout of the premises as now constituted:

AND WHEREAS An Bord Pleanála has concluded that:

- (a) The enclosure of the and use of the area to the front of the restaurant as an extension of the restaurant would constitute development, being the making of a material change in the use of land within the meaning of section 3 of the Planning and Development Act 2000.
- (b) The glazed roofed structure does not fall within the scope of Section 4(1) (h) of the Planning and Development Act 2000, and is, therefore, considered to be development, which is not exempted development.
- (c) The replacement of the former external retractable umbrella with a glazed roofed structure comprises works that constitute development which is not exempted development

- (d) The said use of the area enclosed by the structure has material consequences in terms of the proper planning and sustainable development of the area.
- (e) The said use of the area constitutes a material change of use being an extension of the net floorspace of the restaurant and consequently an intensification of use of the land.

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 works involving the erection of a glazed and roofed structure to the front of the restaurant is development and is not exempted development.

Board Member:

Date: 25/03/2020

Paul Hyde