



An
Bord
Pleanála

Board Direction
ABP-303471-19

The submissions on this file and the Inspector's report were considered at a Board meeting held on 14th June, 2019.

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

WHEREAS questions have arisen as to whether:

- (a) a pergola on a paved area as part of an ornamental garden,
- (b) painted lettering advertisement on the roof,
- (c) the erection of a statue of 'Liam Madden', and
- (d) a private paved area, the demolition of an existing boundary wall and the construction of a stone wall not exceeding 1.2 metres in height

are or are not development or are or are not exempted development,

all at Man Friday, Scilly, Kinsale, County Cork:

AND WHEREAS Philip and Josephine Horgan care of Liam Madden of Vitruvius Hibernicus, Convent Road, Longford requested a declaration on these questions from Cork County Council and the Council issued a declaration on the 11th day of

January, 2019 stating that the matters are development and are not exempted development:

AND WHEREAS Philip and Josephine Horgan referred the declaration for review to An Bord Pleanála on the 16th day of January, 2019:

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) Articles 6(1) and 9(1) and Parts 1 and 3 of Schedule 2 of the Planning and Development Regulations, 2001, as amended, and
- (c) the planning history of the site:

AND WHEREAS An Bord Pleanála has concluded that -

- (a) the retention of a 55 square metres pergola would constitute development, as it involves works and there are no provisions of exempted development that would apply to the works,
- (b) the painted advertising lettering comprising 'Man Friday' on the roof slope does not fall within the scope of Class 1 of Part 2 of Schedule 2 of the Planning and Development Regulations, 2001, as amended, as it does not comply with Conditions and Limitations numbers 2 and 8 of Column 2 of Class 1 with regard to the overall area and height of the advertising and height of the individual lettering in the advertising and is, therefore, not exempted development,

- (c) the erection of a statue, as proposed, does not fall within the scope of Class 33(b) of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, as amended, and is, therefore, not exempted development, and
- (d) the provision of a private paved area and the demolition of the wall and the construction of a new wall, approximately 1.1 metres in height, within the boundary of the site falls within the scope of Section 4(1)(h) of the Planning and Development Act, 2000, as amended, and Classes 11 and 13 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, as amended. However, the works do not comply with the restrictions on exemptions set out in Article 9(1)(a)(iii). The works would result in the provision of a paved area, which the referrer has stated could be used for a seating area associated with the restaurant use, adjacent to a substandard public road, which has no footpath and experiences parking congestion. Therefore, as the works would endanger public safety by reason of traffic hazard they do not constitute exempted development:

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:

- (a) a pergola on a paved area as part of an ornamental garden,
- (b) painted lettering advertisement on the roof,
- (c) the erection of a statue of 'Liam Madden', and
- (d) a private paved area, the demolition of an existing boundary wall and the construction of a stone wall not exceeding 1.2 metres in height,

are development and are not exempted development,

all at Man Friday, Scilly, Kinsale, County Cork.

Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

Board Member:

Date: 14/06/2019

Terry Ó Niadh