



An
Bord
Pleanála

Board Direction
ABP-304031-19

The submissions on this file and the Inspector's report were considered at a Board meeting held on July 23rd, 2019.

The Board decided, as set out in the following Order, that the erection of a mock-up non-functional apartment unit, internally within an existing public house at Swiss Cottage bar and restaurant, Swords Road, Santry, Dublin 9 is development and is not exempted development, and that the erection of a hoarding associated with site investigation works at Swiss Cottage, Swords Road, Santry, Dublin 9, is development and is exempted development.

Board Order as follows:-

WHEREAS a question has arisen as to whether the erection of a mock-up non-functional apartment unit, internally within an existing public house at Swiss Cottage bar and restaurant, Swords Road, Santry, Dublin 9 is or is not exempted development under Section 4(1)(h) of the Planning and Development Act 2000, as amended and whether the erection of a hoarding associated with site investigation works at Swiss Cottage, Swords Road, Santry, Dublin 9 is or is not development or is or is not exempted development.

AND WHEREAS Cinamol Ltd, c/o John Spain Associates of 39 Fitzwilliam Place, Dublin 2, requested a declaration on this question from Dublin City Council, and the

Council issued a declaration on the 22nd day of February 2019 stating that the erection of the mock-up non-functional apartment unit is development and is not exempted development, and that the erection of the hoarding is development and is exempted development.

AND WHEREAS Cinamol Ltd referred this declaration for review to An Bord Pleanála, on the 21st day of March 2019.

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

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6 and 9 of the Planning and Development Regulations, 2001, as amended,
- (c) Classes 16 and 45 of Part 1 of the Second Schedule to the Planning and Development Regulations, 2001, as amended,
- (d) The nature and extent of the subject works, and the planning history of the subject site, and
- (e) The documentation on file, including photographs supplied by the referrer, and the report of the Inspector.

AND WHEREAS An Bord Pleanála has concluded that:

- (a) The erection of the mock-up non-functional apartment unit and of the hoarding both involved the carrying out of works, and is therefore

development as defined under Section 3 of the Planning and Development Act, 2000, as amended;

- (b) The erection of the mock-up apartment within the Swiss Cottage public house, which is described in the referral as a “temporary structure used for the purpose of design development in advance of a planning application” for housing development, does not consist of the maintenance, alteration or improvement of this existing structure, (that is, the public house) , but consists of the erection of a new structure within that existing structure, and therefore does not come within the scope of the exemption provided for under Section 4 (1)(h) of the Planning and Development Act, 2000, as amended. It is therefore not exempted development;
- (c) The erection of the hoarding around the exterior of the site of the Swiss Cottage public house is related to site investigation works, which works come within the scope of Class 45 of Part 1 of the Second Schedule to the Planning and Development Regulations, 2001, as amended, and the hoarding therefore comes within the scope of Class 16 of this Part, and accordingly is 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 erection of a mock-up non-functional apartment unit, internally within an existing public house at Swiss Cottage Bard restaurant, Swords Road, Santry, Dublin 9 is development and is not exempted development, and that the erection of a hoarding associated with site investigation works at Swiss Cottage, Swords Road, Santry, Dublin 9, is development and is exempted development. .

In not accepting the recommendation of the Inspector that the subject mock-up non-functional apartment unit should be classified as exempted development, the Board concurred with the planning authority on this matter and considered, as outlined in its

Order, that this unit does not come within the scope of the exemption afforded by Section 4 (1)(h) of the Planning and Development Act, 2000, as amended, and accordingly the issue as to whether or not the works materially affect the external appearance of the public house does not apply.

Board Member

Date: 24th July 2019

Philip Jones