



An
Bord
Pleanála

Board Direction
ABP-304954-19

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

The Board decided, as set out in the following Order, that alterations to the interior of a Protected Structure at 18 Mountjoy Square, Dublin 1, involving removal of walls, removal of kitchen units and sanitary ware, installation of kitchens, removal of ladders to mezzanine levels, creation of openings between existing apartments and amalgamation of apartments into larger apartments are development and are not exempted development.

Board Order as follows:-

WHEREAS a question has arisen as to whether alterations to the interior of a Protected Structure at 18 Mountjoy Square, Dublin 1, involving removal of walls, removal of kitchen units and sanitary ware, installation of kitchens, removal of ladders to mezzanine levels, creation of openings between existing apartments and amalgamation of apartments into larger apartments are or are not development or are or are not exempted development.

AND WHEREAS Patrick Geraghty c/o of OCFPM of Unit 19, Charleville Town Centre, Charleville, Co Cork, requested a declaration on this question from Dublin City Council, and the Council issued a declaration on the 10th day of July 2019 stating that the matter was development and was not exempted development.

AND WHEREAS Patrick Geraghty referred this declaration for review to An Bord Pleanála, on the 19th day of July 2019.

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

- (a) Sections 2, 3, 4 (1)(h) and 57 (1) of the Planning and Development Act, 2000, as amended,
- (b) Articles 6 and 9 of the Planning and Development Regulations, 2001, as amended,
- (c) Class 14 of Part 1 of the Second Schedule to the Planning and Development Regulations, 2001, as amended,
- (d) The fact that the subject premises is a Protected Structure, as set out in the Dublin City Development Plan 2016 – 2022, and
- (e) The submissions on file and the report of the Inspector

AND WHEREAS An Bord Pleanála has concluded that:

- (a) The works that are the subject matter of the referral constitute development within the meaning of Section 3 of the Planning and Development Act 2000, as amended;
- (b) The alterations of themselves would generally come within the scope of Section 4 (1)(h) of the Planning and Development Act 2000, as amended, insofar as they consist of the carrying out of works for the maintenance,

improvement or other alteration of this structure but, by reason of their nature and extent, both individually and in combination, the alterations would materially affect the character of elements of the protected structure which contribute to its special architectural interest, as they would have a material impact on the remaining historic fabric and architectural character of this protected structure, and therefore the restriction on exemption provided for under Section 57 of the Planning and Development Act 2000, as amended, applies in this instance, and the subject works are, therefore, not exempted development.

- (c) The works that involve the amalgamation of existing studio apartments into larger apartments would provide for a reduced number of dwellings, but would not consist of the change of use to a single dwelling unit, and accordingly cannot avail of the exemption provided under Class 14 of Part 1 of the Second Schedule to the Planning and Development Regulations, 2001, as amended, and there are no other exemptions, in the Act or Regulations, by which such amalgamation would constitute exempted development. The amalgamation would, therefore, not 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 alterations to the interior of a Protected Structure at 18 Mountjoy Square, Dublin 1, involving removal of walls, removal of kitchen units and sanitary ware, installation of kitchens, removal of ladders to mezzanine levels, creation of openings between existing apartments and amalgamation of apartments into larger apartments are development and are not exempted development.

Note: In making its decision, the Board had regard also to the Planning Authority's response submission submitted on the 8th day of August 2019 (which is not referred to in the Inspector's report), and concurred with the view of the planning authority

that the subject development would not be exempted development having regard to the provisions of Section 57 of the Planning and Development Act, 2000, as amended, and in this regard differed from the recommendation of the Inspector.

[Please issue a copy of this Direction with the Board Order to the parties.]

Board Member

Date: 24th October 2019

Philip Jones