



An
Bord
Pleanála

Board Direction
ABP-305371-19

The submissions on this file and the Inspector's report were considered at a Board meeting held on 22/01/2020.

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

Board Order as follows:-

WHEREAS a question has arisen as to whether changes to the internal layout of 3-bedroom houses permitted under planning reference numbers 07/518, 12/411, 17/1264 and 18/1615 (An Bord Pleanála Ref 303680-19) is or is not development or is or is not exempted development

AND WHEREAS Sathel Ltd. requested a declaration on this question from Galway County Council, and the Council issued a declaration on the 9th day of August 2019 stating that the matter is development and is not exempted development.

AND WHEREAS Sathel Ltd. referred this declaration for review to An Bord Pleanála, on the 5th day of September 2019.

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, as amended,
- (c) Section 4(1)(h) 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) the planning history of the site,
- (f) the pattern of development in the area,
- (g) the submissions made to the Board
- (h) the report of the Inspector.

AND WHEREAS An Bord Pleanála has concluded that:

- (a) the proposed change which is to the internal layout of thirty-four houses involves works and therefore is development;
- (b) these works constitute change to the permitted layout of thirty-four houses, the development of which has not yet taken place;
- (c) these works involve a house design which is different to that for which planning permission has been granted;
- (d) these works do not fall within the meaning of Section 4(1)(h) as there are no structures in place, to which the change in layout is proposed;
- (e) there are no other provisions within the Act or Regulations, which provide an exemption for these works.

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 proposed changes to the internal layout of 3 bedroom houses, is development and is not exempted development.

In deciding not to accept the recommendation of the Inspector, the Board considered the provisions of Section 4(1)(h) and noted the fact that the permitted houses have not yet been constructed and therefore no structures exist to which the provisions of Section 4(1)(h) could apply and having regard to the difference between the development as proposed and as permitted, the Board considered that these changes are not de-minimis, as suggested by the Inspector.

Board Member:

Date: 31/01/2020

Chris McGarry