



An
Bord
Pleanála

Board Direction
ABP-305802-19

The submissions on this file and the Inspector's report were considered at a Board meeting held on 21/04/2020.

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

Board Order as follows:-

WHEREAS a question has arisen as to whether works consisting of demolition and construction at Florence Terrace, Leeson Park Avenue, Dublin 6 is or is not development or is or is not exempted development:

AND WHEREAS Damien Keaney requested a declaration on this question on the 29th October 2019 from An Bord Pleanála:

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

- (a) section 2(1), 3(1) and 4(1)(h) of the Planning and Development Act, 2000, as amended,
- (b) article 6(1) and article 9(1) of the Planning and Development Regulations 2001-2019, and

- (c) Class 1 and class 50 of Part 1 of Schedule 2 to the said regulations and the conditions and limitations attached thereto,
- (d) the planning history of the site and the documentation submitted with the referral.

AND WHEREAS An Bord Pleanála has concluded that:

- (a) the development as carried out constitutes development.
- (b) the gross floor area of the extension does not exceed 40 square metres.
- (c) the extension, therefore, comes within the scope of Class 1 of Part 1 of the Second Schedule to the Planning and Development Regulations 2001, as amended, and all Conditions and Limitations attached to this Class.
- (d) the demolition of the previous rear return to the house on the site occurred in connection with development in accordance with Class 1, and so was in accordance with class 50(b) of part 1 of schedule 2 of the regulations. The description of development for Class 50(b) refers to the demolition of part of a habitable house, in contrast to Class 50(a) which refers to the demolition of a building or buildings. As condition and limitation no. 1 on Class 50 refers only to “such building or buildings” and does not refer to “part of a habitable house”, it therefore restricts the scope of the exemption under Class 50(a) but not that under Class 50(b). Therefore, the abutment or otherwise or the previous rear return to the house with a building in separate ownership does not affect the exempted status of its demolition.

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 development as carried out is development and is exempted development.

Board Member:

Date: 22/04/2020

Terry Prendergast