

An
Bord
Pleanála

Board Direction
ABP-310098-21

The submissions on this file and the Inspector's report were considered at a Board meeting held on 04/10/2022.

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

Board Order as follows:-

WHEREAS a question has arisen as to whether a number of issues relating to 'Roseville', Salmon Leap, Leixlip, Lucan Demesne, County Dublin, is or is not development or is or is not exempted development.

AND WHEREAS John Colgan of Toll House, Dublin Road Street, Leixlip, County Kildare, requested a declaration on this question from South Dublin County Council, and the Council issued a declaration on the 12th day of April 2021 stating that single storey timber buildings, with windows and doors constructed contiguous to the eastern boundary of the site, a pile of stored timber at 'Roseville' is development and is not considered to be exempted development.

AND WHEREAS John Colgan referred this declaration for review to An Bord Pleanála, on the 26th day of April 2021.

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

- (a) Sections 2, 3, 4, 15, 57, 177U and 204 of the Planning and Development Act, 2000, as amended;
- (b) Articles 8, 9 of the Planning and Development Regulations 2001, as amended, with particular reference to 9 (1) (iv) and (viiC);
- (c) Part 1 of Schedule 2, Exempted Development, with particular reference to Classes 3, 5 and 6;
- (d) Sections 1, 19 of the Forestry Act, 2014, as amended;
- (e) Sections 15 and 19 of the Wildlife Act, 2000, as amended;
- (f) The provisions of the South Dublin County Council Development Plan 2022-2028;
- (g) The planning history of the site;
- (h) The submissions made on file, and
- (i) The report of the Inspector

AND WHEREAS An Bord Pleanála has concluded that the question should be reframed as follows:

Whether the following is or is not development and is or is not exempted development.

- (a) timber building with windows and door constructed contiguous to the eastern boundary of the site;
- (b) pile of cut sawn timber up against the northern face of the aforementioned timber building;
- (c) grey painted wooden shed on the western side of the dwelling house;

- (d) tarmacadam surface on the parking area within the curtilage of the dwelling house;
- (e) felling of trees;
- (f) removal of groundcover;
- (g) timber steps and hand rail;

AND WHEREAS An Bord Pleanála concluded that:

- (a) the timber building with windows and doors constructed contiguous to the eastern boundary of the site, constitutes a shed within the curtilage of a house and falls within the scope of Class 3 of the Second Schedule to the Planning and Development Regulations 2001, as amended.
- (b) the grey painted wooden shed on the western side of the dwelling house is a structure, in use as ancillary accommodation to the dwelling house. Having regard to the existence other two sheds on site, the floor area of the shed which would in combination with the other sheds, exceed the overall size area of 25 square metres allowed for under Class 3, to its position forward of the front wall of the house, the shed, does not come within the limitations of Class 3 of the Second Schedule to the Planning and Development Regulations 2001, as amended;
- (c) The pile of cut sawn timber does not fall within the scope of any development description within the planning legislation;
- (d) The laying of the tarmacadam surface on the parking area is development that falls within the scope of Section 4(1)(h) of the Planning and Development Act 2000, as amended, constituting the maintenance, improvement or alteration of an existing structure (the existing driveway surfaced area). Having regard to the existing pattern of development in the area including the character of public footpath and roadway surfacing at and adjoining the entrance gates to the subject property and to the similar nature and appearance of the driveway

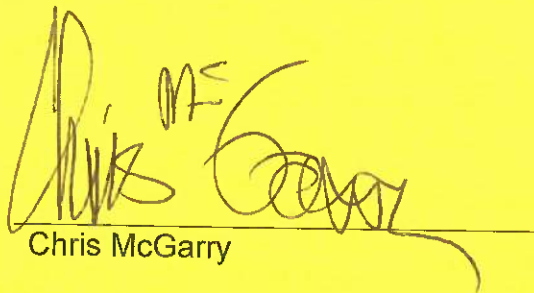
works, it is considered that these works do not materially affect the character of the Protected Structure (gates) on site;

- (e) The thinning and felling of trees falls within the scope of Section 4 (1)(i) of the Planning and Development Act 2000, as amended. Any relevant provisions of the Forestry Act 2014 relating to tree felling licencing requirements and the definition of 'exempted trees' within the meaning of this Act, falls outside the scope of consideration for a referral under Section 5 of the Planning and Development Act 2000, as amended;
- (f) The removal of ground cover does not fall within the scope of any development description within the planning legislation.
- (g) The provision of wooden steps and hand rail is development that is exempted development and comes within the scope of Class 6 of the Second Schedule to the Planning and Development Regulations 2001.

NOW THEREFORE An Bord Pleanála, in the exercise of the powers conferred on it by Section 5 (3) (a) of the 2000 Act, hereby decides that at 'Roseville', Salmon Leap, Leixlip, Lucan Demesne, County Dublin:

- (a) the timber building with windows and doors constructed contiguous to the eastern boundary of the site is development and is exempted development
- (b) The grey painted wooden shed is development and is not exempted development;
- (c) The pile of cut sawn timber is not development;
- (d) The tarmacadam surface on the parking area within the curtilage of the dwelling house is development and is exempted development;
- (e) The removal of ground cover is not development;
- (f) The felling of trees is exempted development; and
- (g) The provision of wooden steps and hand rail is development and is exempted development;

Board Member:


Chris McGarry

Date: 21/10/2022

