



An
Bord
Pleanála

**Board Direction
ABP-313566-22**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 12/10/2023.

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

Board Order as follows:-

WHEREAS a question has arisen as to whether the placing of 2 no. free standing detachable steel framed and roofed structures including barrels, benches and planters on the private landings at front of The Merry Cobbler, 78 – 82 Irishtown Road, Dublin 4, is or is not development or is or is not exempted development.

AND WHEREAS James Stafford requested a declaration on this question from Dublin City Council and the Council issued a declaration on the 26th day of April 2022 stating that the matter was development and was not exempted development:

AND WHEREAS James Stafford referred this declaration for review to An Bord Pleanála on the 12th day of May 2022.

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,
- (c) Section 4(1)(a) of the Planning and Development Act, 2000, as amended,
- (d) Section 57 of the Planning and Development Act 2000, as amended,
- (e) article 6(1) and article 9(1) of the Planning and Development Regulations, 2001, as amended,
- (f) Parts 1 and 3 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (g) the planning history of the site,
- (h) the pattern of development in the area:

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 :

- (a) the provision of 2 no. free standing detachable steel framed and roofed structures including barrels, benches and planters is works and therefore constitutes development within the meaning of sections 2 and 3 of the Planning and Development Act, 2000;
- (b) the said works form an extension to the floor area of a public house premises which give rise to a formal smoking and dining area which in turn forms part of the public area of the public house and the consequent intensification of use has material consequences in terms of the proper planning and sustainable development of the area;
- (c) the use of the dining area / beer garden / smoking area, would constitute development, being the making of a material change in the use of land within the meaning of section 3 of the Planning and Development Act, 2000;

- (d) the existing external dining area / smoking area does not constitute exempted development nor does it have the benefit of a grant of planning permission;
- (e) the works do not come within the scope of section 4(1)(h) of the said Act, not being works for the maintenance, improvement or other alteration of the structure but rather being works to facilitate uses that might have material planning impacts on properties in the vicinity;
- (f) the said development does not come within the scope of the exempted development provisions of the said Act or regulations made thereunder.

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5 (3) (a) of the 2000 Act, hereby decides that the placing of two number free-standing detachable steel framed and roofed structures including barrels, benches and planters on the private landings at front of The Merry Cobbler, 78 to 82 Irishtown Road, Dublin is development and is not exempted development.

Board Member:



Joe Boland

Date: 13/10/2023

