



An
Bord
Pleanála

Board Direction
BD-014701-23
ABP-314259-22

The submissions on this file and the Inspector's report were considered at a Board meeting held on 28/11/2023.

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

WHEREAS a question has arisen as to whether the demolition of an existing rear kitchen extension and the construction of a new rear kitchen extension at No. 80 Mobhi Road, Glasnevin, Dublin 9, is or is not development or is or is not exempted development:

AND WHEREAS Declan Gaffney of No. 80 Mobhi Road requested a declaration on this question from Dublin City Council and the Council issued a declaration on the 4th day of July, 2022, stating that the matter was development and was not exempted development:

AND WHEREAS Declan Gaffney of No. 80 Mobhi Road referred this declaration for review to An Bord Pleanála on the 2nd day of August, 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, as amended,

- (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,
- (e) the Inspectors report.

AND WHEREAS An Bord Pleanála has concluded that:

- (a) the works as carried out constitute 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 Schedule 2 of the Planning and Development Regulations, 2001, as amended, and all Conditions and Limitations attached to this Class, and
- (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 Planning and Development Regulations, 2001, as amended. 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 number 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 2000 Act, hereby decides that works consisting of demolition of existing rear kitchen extension and construction of a new rear kitchen extension at 80 Mobhi Road, Glasnevin, Dublin 9, **is development and is exempted development.**

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 works consisting of demolition of existing rear kitchen extension and construction of a new rear kitchen extension at 80 Mobhi Road, Glasnevin, Dublin 9, **is development and is exempted development.**

Board Member:


Martina Hennessy

Date: 28/11/2023

