



An
Bord
Pleanála

Board Direction
BD-015232-24
ABP-315097-22

The submissions on this file and the Inspector's report were considered at a Board meeting held on 25/01/2024.

The Board decided this referral in accordance with the following draft order.

WHEREAS a question has arisen as to whether the construction of a 6 metre by 12 metre pickleball court within the curtilage and to the rear of Heather Cottage, Upper Cliff Road, Howth, County Dublin is or is not development, or is or is not exempted development:

AND WHEREAS Patrick O'Reilly requested a declaration on this question from Fingal County Council and the Council issued a declaration on the 21st day of October, 2022 stating that the matter was not exempted development:

AND WHEREAS Patrick O'Reilly referred this declaration for review to An Bord Pleanála on the 15th day of November, 2022:

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

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6 and 9 of the Planning and Development Regulations, 2001, as amended,

- (c) Class 6 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, as amended;
- (d) the location of the referral site within the Howth Special Amenity Area and the provisions of the Special Amenity Area Order in respect of this area,
- (e) the provisions of the Fingal Development Plan 2023-2029 as they apply to the referral site,
- (f) the documentation on file, including submissions from the referrer and the Planning Authority;
- (g) the planning history of the referral site;
- (h) relevant precedent referrals and judgments; and
- (i) the pattern of development in the area:

AND WHEREAS An Bord Pleanála has concluded that:

- (a) the construction of a 6 metre by 12 metre pickleball court consists of the carrying out of works and therefore constitutes development as defined in Section 3 of the Planning and Development Act 2000, as amended;
- (b) the lack of cross-sectional drawings clearly demonstrating the level of the ground shall not be altered by more than one metre above or below the level of the adjoining ground,
- (c) the lack of detail concerning the finished nature, including colouration, of the proposed development with respect to the distinctive character of the area and views from pathways,
- (d) the lack of details concerning the nature and scale of the proposed project, particularly regarding construction methodology and surface water management, that would enable the Board to reasonably conclude the proposed project would not, either individually or in combination with other plans or projects, be likely to have a significant effect on the Howth Head SAC (site code 000202), Howth Head Coast SPA (site code 004113) or any other European site.

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 construction of a 6 metre by 12 metre pickleball court within the curtilage and to the rear of Heather Cottage, Upper Cliff Road, Howth, County Dublin is development and is not exempted development.

Board Member Eamonn James Kelly **Date:** 29/01/2024
Eamonn James Kelly

Note

In deciding not to accept the Inspector's recommendation, the Board considered that

- the provisions and limitations attached to Class 6 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 are a relevant consideration, and that insufficient details by way of cross-sectional drawings regarding the extent of alteration of the level of ground had been presented;
- the nature of colouration of the proposed pickleball court and the extent to which it would be visible from nearby pathways or be compatible with the character of the area was not adequately demonstrable from the details provided; and
- sufficient details concerning the construction and operation of the proposed project were not available to verify the nature and scale of the proposal would be sufficiently limited that it would be unlikely to have a significant effect on nearby European Sites.