

An
Bord
Pleanála

Board Direction ABP-315375-22

The submissions on this file and the Inspector's report were considered at a Board meeting held on 11/04/2024.

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

Board Order as follows:-

WHEREAS a question has arisen as to whether the demolition of 2 no. existing previously-constructed single-storey extensions and the construction of a single-storey extension and single-storey garden room at St. Fintan's, Strand Road, Sutton, Dublin 13 is or is not development, or is or is not exempted development:

AND WHEREAS Gerard Curley and Sarah Callaghan requested a declaration on this question from Fingal County Council and the Council issued a declaration on the 1st day of December, 2022 stating that the works comprising of a garden room are development and are exempted development and the works comprising of the provision of the extension is development and is considered not to be exempted development by reason of its location in the side garden:

AND WHEREAS Gerard Curley and Sarah Callaghan referred this declaration for review to An Bord Pleanála on the 16th day of December, 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 1 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, as amended;
 - (d) Class 3 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, as amended;
 - (e) Class 50 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, as amended;
 - (f) The meaning given to 'habitable room' in Appendix A of the 'Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities' (Dept. of Housing, Local Government and Heritage, 2024);
 - (g) the provisions of the Fingal Development Plan 2023-2029 as they apply to the referral site,
 - (h) the documentation on file, including submissions from the referrer and the Planning Authority;
 - (i) the planning history of the referral site;
 - (j) relevant precedent referrals and judgements; and
- the pattern of development in the area:

AND WHEREAS An Bord Pleanála has concluded that:

- (a) The front of the existing house is the south-west facing elevation (and not the south-east facing elevation);
- (b) The use of the garden room is for human habitation having regard to the internal layout/use, including a W.C., as indicated on the 'Proposed Ground Floor Plan' (Drawing No. J1289-S1-111) and in the description of the proposed use of this structure as stated in the submission by 'Brennan Furlong – Architects & Urban Planners' for the referrers received by the planning authority on the 23rd day of November 2022;

- (c) The demolition of 2 no. existing previously-constructed single-storey extensions and the construction of a single-storey extension and single-storey garden room 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;
- (d) the demolition of 2 no. existing previously-constructed single-storey extensions to the side and rear of the house comes within the scope of Class 50(b) of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended;
- (e) the construction of a proposed single-storey extension to the rear of the house comes within the scope of Class 1 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended;
- (f) the construction of a proposed single-storey garden room to the rear of the house does not come within the scope of Class 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended, as it does not meet Condition No. 6 of said Class (being for human habitation);
- (g) by reason of the limited scale of the works, it does not interfere with the character of the landscape whose preservation is an objective of the Fingal Development Plan 2023-2029, and accordingly the restrictions on exempted development status provided for in Article 9(1)(a)(vi) of the Planning and Development Regulations, 2001, do not apply in this instance, and
- (h) having regard to the limited nature and scale of the development, the characteristics of the area in which the development is to be located, and to the nature of the qualifying interests of the SAC's and SPA, that the proposed development would not be likely to have a significant effect on the North Dublin Bay SAC (site code 000206), North Bull Island SPA (site code 004006), Rockabill to Dalkey Island SAC (site code 003000) or any other European site and accordingly the restrictions on exempted development status provided for in

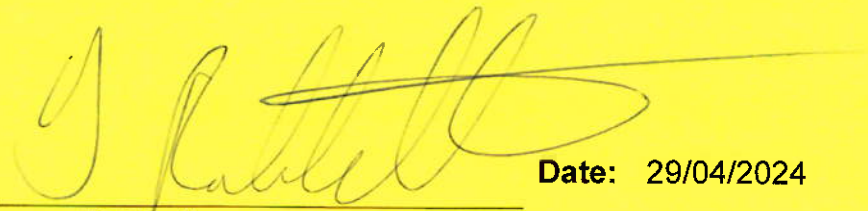
Article 9(1)(a)(viiB) of the Planning and Development Regulations, 2001, do not apply in this instance:

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 demolition of 2 no. existing previously-constructed single-storey extensions and the construction of a single-storey extension is development and is exempted development.

And

the construction of a single-storey garden room is development and is not exempted development at St. Fintan's, Strand Road, Sutton, Dublin 13.

Board Member:



Tom Rabbette

Date: 29/04/2024