

An
Bord
Pleanála

Board Direction
ABP-317271-23

The submissions on this file and the Inspector's report were considered at a Board meeting held on 31/10/2024.

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

WHEREAS a question has arisen as follows:

- (a) Whether the use of the dwelling-house and coach house at Ryevale House as long-term private residential accommodation for protected persons is or is not development and;
- (b) Whether certain associated internal works to the dwelling-house and coach house at Ryevale House is or is not development and, if those works constitute development, whether those works do or do not constitute exempted development.

AND WHEREAS Mé Liberer Limited the landowner, requested a declaration on the questions from Kildare County Council and the Council did not issue a declaration on the matter:

AND WHEREAS Kildare County Council referred this declaration for review to An Bord Pleanála on the 02nd day of June, 2023, under Section 5(4) of the Planning and Development Act 2000, as amended:

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

- (a) Section 2(1), 3(1), 4(1) 57(1) of the Planning and Development Act, 2000, as amended,

- (b) Article 6 and Article 9 of the Planning and Development Regulations, 2001, as amended,
- (c) the planning history of the site,
- (d) the previous Section 5 referral determined by the Planning Authority in respect of the same land under referral P.A. Ref. ED1021,
- (e) the judgement of the Court of Appeal in *Narconon Trust v An Bord Pleanála & Others* (2021) IECA 307,
- (f) the nature of the current use of the site,
- (g) the submissions of the Referrer and other parties,

AND WHEREAS An Bord Pleanála has concluded that:

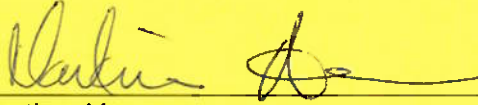
- i. Part a) of the Referral Question, is the same, or substantially the same, and in respect of the same land as the Referral ED1021 issued by Kildare County Council on the 07th day of March 2023, and there is no evidence of any change in the planning facts or circumstances underpinning the application. In these circumstances, the Board is precluded under Section 50(2) of the Planning and Development Act 2000 (as amended), from making a determination on Part a) of the Question which seeks a declaration on whether the use of the dwelling-house and associated coach house outbuilding as long-term private residential accommodation for protected persons is or is not development.
- ii. Part b) of the Referral Question, that certain internal works carried out to the dwelling-house and its associated coach house outbuilding at Ryevale House constitute “works” and “development” within the scope of Section 2(1) and Section 3(1) of the Act and, as they have altered the character of the structures in terms of design and layout internally and have been carried out to facilitate a change of use which has previously been determined to not be exempted development, do not come within the scope of Section 4(1)(h) or

Section 57(1) of the Planning and Development Act 2000 (as amended).

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5 (4) of the 2000 Act, hereby decides that:

Certain internal works carried out to the dwelling-house and its associated coach house outbuilding at Ryevale House is development and is not exempted development.

Board Member:


Martina Hennessy

Date: 31/10/2024