

An
Bord
Pleanála

**Board Direction
ABP-317659-23**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 06/08/2024.

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

WHEREAS a question has arisen as to whether:

- (a) Demolition of a two-storey extension measuring 92 sq. m. to the rear of dwelling,
- (b) Construction of new two-storey extension measuring 129 sq. m. to the rear of dwelling,
- (c) Demolition of a single storey sunroom measuring 5 sq. m. on the western side elevation,
- (d) Construction of a single storey extension measuring 2 sq. m. on the western side elevation,
- (e) Construction of lean-to roof on the western elevation measuring approx. 6900mm long and 160mm wide and
- (f) Construction of a wooden fence measuring 2m in height along the western boundary in the front garden of the house

at 10 Burrow Road, Sutton is or is not development or is or is not exempted development:

AND WHEREAS Fingal County Council requested a declaration on this question from the Board on the 19th day of July 2023:

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, Class3, Class5 and Class 50 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, as amended.
- (d) The documentation on file, including submissions on behalf of the referrer, Fingal County Council and the owner / occupier of the property, Mr. P Farrelly.
- (e) Relevant precedent referrals and judgements;
- (f) The pattern of development in the area, and
- (g) The report of the planning inspector.

AND WHEREAS An Bord Pleanála has concluded that:


- (a) The referred elements of demolition and construction constitute development as defined in Section 3 of the Planning and Development Act 2000, as amended.
- (b) The demolition of a two-storey extension and single storey sunroom do not come within the scope of Class 50(b) as the said works of demolition did not occur in connection with the provision of an extension or porch in accordance with Class 1 or 7, respectively, or in accordance with a permission for an extension or porch under the Act.
- (c) The construction of the new two-storey extension does not come within the scope of Class 1 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 as:
 - a. The extension projects significantly to the side of the house and not solely to the rear of the house, and therefore does not meet the definition of Class 1 extension set out in Column 1, and

- b. The extension does not meet the conditions and limitations set out in column 2 of Class 1, namely conditions 1(a) and (b), and 6 (b) as:
- (i) The floor area of the extension exceeds the limitations set out in condition 1(a) and (b). in consideration of this matter the Board concluded that the pre-existing extension to the rear of the house, whether or not it was constructed or erected prior to 1st October 1964, cannot be taken into account in respect of the floor area of the new two-storey extension, the subject matter of this referral, as it was demolished and removed prior to the construction of the subject extension.
 - (ii) the extension includes windows above ground floor level that are not less than 11m from the boundary they face.
- (d) The demolition of the sunroom and the construction of a single storey extension measuring 2 sq. m. on the western side elevation, do not come within the scope of Section 4(1)(h) of the Planning and development Act 2000 as amended,
- (e) The construction of lean-to roof on the western elevation measuring approx. 6900mm long and 160mm wide does not come within the scope of Section 4(1)(h) of the Planning and development Act 2000 as amended,
- (f) The construction of a wooden fence measuring 2m in height along the western boundary in the front garden of the house does not come within the scope of Class 5 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, as amended, as the height of the fence exceeds 1.2m.

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

- (a) Demolition of a two-storey extension measuring 92 sq. m. to the rear of dwelling, is development and is not exempted development.
- (b) Construction of new two-storey extension measuring 129 sq. m. to the rear of dwelling, is development and is not exempted development.
- (c) Demolition of a single storey sunroom measuring 5 sq. m. on the western side elevation, is development and is not exempted development.
- (d) Construction of a single storey extension measuring 2 sq. m. on the western side elevation, is development and is not exempted development.
- (e) Construction of lean-to roof on the western elevation measuring approx. 6900mm long and 160mm wide is development and is not exempted development.
- (f) Construction of a wooden fence measuring 2m in height along the western boundary in the front garden of the house is development and is not exempted development.

Board Member:


Martina Hennessy

Date: 07/08/2024