

An
Bord
Pleanála

Board Direction ABP-321565-25

The submissions on this file and the Inspector's report were considered at a Board meeting held on 14/04/2025.

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

Board Order as follows:-

WHEREAS a question has arisen as to whether the conversion of garage into home office with bathroom, replace garage door with window, removal of the rear porch and add the rear porch space to kitchen and add a rear garden entrance with metal garden gate to use the laneway/footpath at the back of the site is or is not development or is or is not exempted development:

AND WHEREAS Dongfang Qu requested a declaration on this question from Dun Laoghaire-Rathdown County Council and the Council issued a split declaration on the 17th day of December 2024 stating that the matter relating to conversion into home office and removing rear porch and adding the rear porch space to kitchen is development and is exempted development:

And a garden rear entrance to use the footpath is development and is not exempted development:

AND WHEREAS Dongfang Qu referred this declaration for review to An Bord Pleanála on the 23rd day of December 2024

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,
- (c) Section 4(1)(h) of the Planning and Development Act, 2000, as amended,
- (d) Article 6(1) and article 9(1) of the Planning and Development Regulations, 2001, as amended,
- (e) Class 1 and Class 5, Parts 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (f) The Roads Act, 1993
- (g) The pattern of development in the area:
- (h) The report of the Inspector

AND WHEREAS An Bord Pleanála has concluded that:

- (a) The conversion of a garage to home office with bathroom does constitute the carrying out of works which comes within the meaning of development in Section 3(1) of the Planning and Development Act, 2000 as amended, which is exempted development by way of Class 1 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, being attached to the side of the house and total floor area does not exceed 40m².
- (b) The replacement of the garage door with a window similar to the neighbouring property comes within the meaning of development in Section 3(1) of the Planning and Development Act, 2000 as amended, which is exempted development under section 4(1)(h) of the Planning and Development Act 2000 as amended. The works will not materially alter the external appearance of the house so as to render the appearance inconsistent with the character of the neighbouring houses.
- (c) The removal of rear porch and adding rear porch space to kitchen comes within the meaning of development in Section 3(1) of the Planning and

Development Act, 2000 as amended, which is exempted development under Section 4(1)(h) of the Planning and Development Act 2000 as amended. The works proposed are limited to the internal space layout of the house and will not alter the external appearance of the house.

- (d) The rear garden entrance to use the laneway/footpath constitute the carrying out of works which comes within the meaning of development in Section 3(1) of the Planning and Development Act, 2000 as amended, which is exempted development by way of Class 5 of Part 1 of Schedule 2 to the Planning and Development Regulations, 200, as amended, and is not de-exempted because of Article 9 of the Planning and Development Regulations 2001, as amended.

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 (a) conversion of garage into home office with bathroom, replacing garage door with window; (b) removal of the rear porch; (c) add the rear porch space to kitchen and (d) the addition of a garden rear entrance with metal garden gate to use the laneway/footpath at the back of the site are each development and exempted development.


Note:

In disagreeing with the inspector's recommendation that the provision of a rear garden entrance is development and is not exempted development on the basis that the rear laneway/footpath that it would open onto is a public road within the meaning of the Roads Act 1993 with, where the road (laneway/footpath) has a surface carriageway exceeding four metres in width, the Board held a different view.

The Board noted that while there is no definition of 'carriageway' contained in the Roads Act 1993, as amended (or the Planning and Development Act 2000, as amended), a 'roadway' is defined in the Roads Act 1993, as amended, as meaning a portion of a road which is provided primarily for the use of vehicles. Furthermore, the Board was satisfied that a carriageway is a component of a road and a 'carriageway' is defined in various dictionaries as 'a part of a roadway intended for vehicles'.

The Board was satisfied that the rear garden entrance opening onto a laneway/footpath would not be restricted by Article 9(1)(a)(ii) as while the laneway/footpath itself exceeds four metres in width, it does not contain a carriageway.

Board Member:


Patricia Calleary

Date: 17/04/2025