



Board Direction

Ref: 29S.RL.3455

The submissions on this file and the Inspector's report were considered at a Board meeting held on 25th May 2016.

The Board decided by a majority of 2:1 that the erection on an annual basis from May to August of (i) a structure providing 12 number nest boxes for and (ii) sound speakers emitting swift bird call swifts is development and is not exempted development.

The Board agreed with the Inspector's view that the works were development but did not concur that the works were exempted development as it is considered they do not clearly come within the scope of section 4(1)(h) of the P+D Act 2000 in that they are not for the "*maintenance, improvement or other alteration*" of the parent structure nor do they come within the scope of section 4(1)(j) of the P+D Act 2000 as they are not considered "*incidental to the enjoyment of the house as such*".

WHEREAS a question has arisen as to whether the erection, annually from May to August (inclusive) only, of:

- (a) a structure providing 12 number nest boxes for swifts, and
- (b) sound speakers emitting swift bird call

on the rear elevation at 199A Strand Road, Sandymount, Dublin are or are not development or are or are not exempted development:

AND WHEREAS Ray McGovern care of Auveen Byrne and Associates of Lioscarran House, 32 Dale Road, Kilmacud, Stillorgan, County Dublin requested a declaration on the said question from Dublin City Council and the said Council issued a declaration on the 17th day of December, 2015 stating that the said matter is development and is not exempted development:

AND WHEREAS the said Ray McGovern referred the declaration for review to An Bord Pleanála on the 22nd day of January, 2016:

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

- (a) sections 2(1), 3(1), 4(1)(h) and 4(1)(j) of the Planning and Development Act, 2000, as amended,
- (b) Articles 6(1) and 9(1) of the Planning and Development Regulations, 2001, as amended,
- (c) Classes 1, 3 and 4 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001,
- (d) the planning history of the site,
- (e) the location of the nest boxes to the rear of the property, and
- (f) the de-mountable and temporary nature and small scale of the structure:

AND WHEREAS An Bord Pleanála has concluded that -

- (a) the works constitute development, being works which come within the scope of section 3(1) of the Planning and Development Act, 2000,
- (b) the works do not come within the scope of section 4(1)(h) and 4(1)(j) of the Planning and Development Act, 2000,
- (c) the works do not come within the scope of the restrictions on exempted development set out in Article 9(1) of the Planning and Development Regulations, 2001, as amended, and
- (d) the works do not fall within the description of exempted development set out in Classes 1, 3 and 4 of Column 1 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001:

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 erection, annually from May to August (inclusive) only, of:

- (a) a structure providing 12 number nest boxes for swifts, and
- (b) sound speakers emitting swift bird call

are development and are not exempted development,

all at 199A Strand Road, Sandymount, Dublin.

MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

Board Member: _____ Date: 25th May 2016
G.J. Dennison