



An
Bord
Pleanála

Board Direction
.RL29S.RL3524

The submissions on this file and the Inspector's report were considered at a Board meeting held on 24th January 2018.

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

Board Order as follows:-

WHEREAS a question has arisen as to whether the provision of a partial roof structure to replace an existing canopy and metal clad roof structure in an external beer garden at no.47 Temple Bar, Dublin 2 is or is not development or is or is not exempted development:

AND WHEREAS Temple Inns Limited requested a declaration on this question from Dublin City Council and the Council issued a declaration on the 18th day of November, 2016 stating that the matter was development and was not exempted development.

AND WHEREAS referred this declaration for review to An Bord Pleanála on the 1st day of December, 2016:

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, as amended,

(c) Section 4(1)(a) of the Planning and Development Act, 2000, as amended,

(d) the planning history of the site,

AND WHEREAS An Bord Pleanála has concluded that:

(a) the provision of a partial roof structure to replace an existing canopy and metal clad roof structure constitutes development, being works within the meaning of section 3 of the Planning and Development Act, 2000, as amended,

(b) the development would not come within the scope of Section 4(1)(h) not being works for the maintenance or improvement but consists of the provision of a new structure onto existing structures.

(c) the development would constitute an extension to the internal seating area of the existing public house, and, having regard to the Supreme Court judgement in Michael Cronin (Readymix) Ltd - v - An Bord Pleanála (Supreme Court Appeal No. 304/2010, 30th May 2017) an extension is a development that does not come within the exemption afforded by Section 4 (1)(h) of the Planning and Development Act 2000, as amended.

(d) there are no other provisions in the Act or Regulations by which the development would be exempted.

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred

on it by section 5 of the 2000 Act, hereby decides that the provision of a partial roof structure to replace an existing canopy and metal clad roof structure at no. 47 Temple Bar, Dublin 2 is development and is not exempted development.

Board Member

Date: 26th January 2018

Eugene Nixon