



An  
Bord  
Pleanála

**Board Direction**  
**06S.RL3537**

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The submissions on this file and the Inspector's report were considered at a Board meeting held on March 20<sup>th</sup> 2018.

The Board decided, as set out in the following Order, that the extension to the rear and side of number 601 Woodview Cottages, Dublin 14, is development and is not exempted development.

Board Order to be as follows:-

**WHEREAS** a question has arisen as to whether the extension to the rear and side of number 601 Woodview Cottages, Dublin 14, is or is not development or is or is not exempted development.

**AND WHEREAS** Noeleen Cahill requested a declaration on this question from South Dublin County Council and the Council issued a declaration on the 13<sup>th</sup> day of December, 2016 stating that the matter was development and was not exempted development:

**AND WHEREAS** Vitruvius Hibernicus of Convent Road, Longford, on behalf of Noeleen Cahill, referred this declaration for review to An Bord Pleanála on the 17<sup>th</sup> day of January, 2017:

**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)(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 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (f) the planning history of the site, and in particular planning permission register reference number SD13B/0088, and,
- (g) relevant case law, and in particular the Supreme Court judgement in Cronin (Readymix) Ltd -v- An Bord Pleanála & ors [2017] IESC 36 (30<sup>th</sup> May 2017).

**AND WHEREAS** An Bord Pleanála has concluded that:

- (a) The permitted development on this site under planning permission register reference number SD13B/0088 was for an extension to the side and rear of the subject house, and was subject to a number of conditions, including condition number 1, which required that the permitted development was to be carried out in its entirety in accordance with the submitted drawings, save as may be required by the other conditions attached to the permission,
- (b) That planning permission was implemented following the submission of a Commencement Notice to the planning authority on the 25<sup>th</sup> day of February 2014,
- (c) On the basis of the documentation submitted with the referral, the development was not carried out in accordance with planning permission register reference number SD13B/0088, and accordingly did not comply with condition number 1 of that permission,
- (d) The development that has been carried out constitutes “works” and is therefore “development” within the meaning of the Planning and Development Act, 2000, as amended,

- (e) The works to extend this house would not come within the scope of Section 4 (1)(h) of the Planning and Development Act 2000, as amended, as the works are not for the maintenance, improvement or other alteration of a structure, but are works for the extension of the structure,
- (f) The works that have taken place to extend this house would not come within the scope of Class 1 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended, because the subject extension that has been constructed is partly to the rear and partly to the side of the house, and the exemption in Class 1 relates only to extensions to the rear of a house, and
- (g) Any exemption that might arise under Class 1 for that part of the extension that is located at the rear of the house is restricted under Article 9 (1)(a) (i), as the development that has been carried out would contravene condition number 1 of planning permission register reference number SD13B/0088, and would not, therefore, be exempted development.

**NOW THEREFORE** An Bord Pleanála, in exercise of the powers conferred on it by Section 5 (3)(a) of the Planning and Development Act, 2000, as amended, hereby decides that the extension to the rear and side of number 601 Woodview Cottages, Dublin 14, is development and is not exempted development.

**Note:** In deciding this referral, the Board did not agree with the referrer's agent, and with the Inspector, that the exemption afforded under Section 4 (1)(h) of the Planning and Development Act was relevant. In the light of the Supreme Court judgement in Cronin (Readymix) Ltd -v- An Bord Pleanála & ors, 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. Accordingly, any issue as to whether or not the extension that has been constructed is inconsistent with the character of the

house and the adjoining houses in the terrace (as suggested by the Inspector) does not arise. Furthermore, the Board did not concur with the Inspector regarding the impact of condition number 1 of planning permission register reference number SD13B/0088, and agreed generally with the view of the planning authority in this regard. In any event, as part of the subject extension is not located to the rear of the house, it would not come within the scope of Class 1 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001

*[Please issue a copy of this Direction with the Board Order]*

**Board Member**

**Date:** 20<sup>th</sup> March 2018

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Philip Jones