



An
Bord
Pleanála

Board Direction 91.RL3570

The submissions on this file and the Inspector's report were considered at a Board meeting held on May 4th 2018.

The Board decided, as set out in the following Order, that the erection of an internally illuminated billboard sign in place of a static/tri-vision billboard sign on the gable wall of premises at 105 O'Connell Street, Limerick is development and is not exempted development.

Board Order as follows:-

WHEREAS a question has arisen as to whether the erection of an internally illuminated billboard sign in place of a static/tri-vision billboard sign on the gable wall of premises at 105 O'Connell Street, Limerick is or is not development or is or is not exempted development.

AND WHEREAS Limerick City and County Council referred this question to An Bord Pleanála on the 7th day of April 2017.

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(2) and 9 of the Planning and Development Regulations, 2001, as amended,
- (c) Part 2 of the Second Schedule to the Planning and Development Regulations, 2001, as amended,
- (d) The planning history of the subject site, and in particular conditions numbers 1 and 2 of planning permission register reference number 97/770354, for the replacement of two 6m x 3m gable mounted static advertising panels with one 6m x 3m gable mounted prismatic advertising panel, condition 1 of which permission required the removal of the then pre-existing two advertising panels prior to the erection of the new prismatic advertising panel and condition 2 of which required the permitted prismatic panel to be removed from the site within a period of 5 years from the date of granting of that permission unless in the intervening period a separate planning permission was granted for the retention of the panel for a further period (which five year period commenced on the 14th day of January 1998).
- (e) Relevant case law, including Dublin Corporation v Lowe [2000] IEHC 161 and Fingal County Council v Crean and Signways Holdings Ltd [2001] IEHC 148, and
- (f) The submissions on file, and the report of the Planning Inspector, including the results of his inspection of the subject internally illuminated advertising billboard and of the environs of the site.

AND WHEREAS An Bord Pleanála has concluded that:

- (a) The erection of the subject internally illuminated advertising billboard involves works within the meaning of Section 2 of the Planning and

Development Act, 2000, as amended, and therefore constitutes development under Section 3 of that Act;

- (b) The pre-existing tri-vision advertising sign, being the prismatic advertising panel to which planning permission register reference number 97/770354 relates, was not an authorised structure, not having the benefit of planning permission in the light of the expiry of the period specified in condition 2 of that permission, and not itself being exempted development or the subject of any subsequent planning permission;
- (c) The works to provide the subject internally illuminated advertising billboard would not come within the scope of Section 4(1)(h) of the Planning and Development Act 2000, as amended, not being works for the maintenance, improvement or other alteration of an existing structure, but rather the provision of a new structure substantially replacing the pre-existing structure, or, in the alternative, if the works involved modification of the pre-existing structure rather than its complete replacement, the subject billboard, by reason of the design and the form of illumination, materially affects the external appearance of the structure so as to render the appearance inconsistent of the character of the structure being altered or replaced, and therefore would not be exempted development pursuant to Section 4(1)(h);
- (d) The subject internally illuminated advertising billboard would not come within the scope of any of the exemptions provided for in Part 2 of the Second Schedule to the Planning and Development Regulations, 2001, as amended, and is therefore not exempted development.
- (e) In any event, the provisions of Article 9 (1)(a)(iii) apply in respect of the subject development, as the development in question, by reason of its scale, illuminated nature and location adjoining a busy road junction, would result in a traffic hazard by reason of distraction of road users at or adjoining this junction.

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 erection of an internally illuminated billboard sign in place of a static/tri-vision billboard sign on the gable wall of premises at 105 O'Connell Street, Limerick is development and is not exempted development.

Board Member

Date: 4th May 2018

Philip Jones