



An  
Bord  
Pleanála

**Board Direction**  
**08.RL3802**

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

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

Board Order as follows:-

**WHEREAS** a question has arisen as to whether renovation works carried out to an old dilapidated cottage is or is not development and is or is not exempted development:

**AND WHEREAS** Mahmood Hussain requested a declaration on this question from Kerry County Council, and the Council issued a declaration on the 8<sup>th</sup> day of August 2017, stating that the matter was development and was not exempted development:

**AND WHEREAS** Mahmood and George Hussain referred this declaration for review to An Bord Pleanála on the 1<sup>st</sup> day of September 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) articles 6(1) and 9(1) of the Planning and Development Regulations, 2001 (as amended);
- (e) Class 1, Part 1 of Schedule 2 to the Planning and Development Regulations, 2001 (as amended);
- (f) the planning history of the site;
- (g) the pattern of development in the area;

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

- (a) the residential use on this site has been abandoned;
- (b) the demolition, construction, alteration, repair and renewal act/operation at this site constituted “works”, and is therefore development as defined under section 3 of the Planning and Development Act 2000, as amended;
- (c) the works carried out included the raising of the height of the roof of the original house, and installation of three roof-lights in the front pitch of the roof, which materially affect the external appearance of the structure, so as to render the appearance inconsistent with the character of the structure. Therefore, the provisions of section 4(1)(h) of the Planning and Development Act, 2000 (as amended), do not apply;
- (d) the floor area of the original house on this site has been extended by more than 40sq.m, thereby removing any exemption which may have applied by virtue of Class 1, Part 1 of Schedule 2 of the

Planning and Development Regulations, 2001 (as amended);

- (e) the height of the two-storey extension to the rear of the original house exceeds the height of the rear wall of the original house (even though the height of the rear wall has been raised): thereby removing any exemption which may have applied by virtue of Class 1, Part 1 of Schedule 2 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 of the Planning and Development Act, 2000 (as amended), hereby decides that renovation works carried out to an old dilapidated cottage at Ballyarkane, Oughter, Castlemaine, Co. Kerry are development, and are not exempted development.

**Board Member**

**Date:** 7<sup>th</sup> September 2018

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John Connolly