



Planning and Development Acts 2000 to 2017

Planning Authority: Waterford City and County Council

Planning Register Reference Number: D5/2017/40

WHEREAS a question has arisen as to whether the erection of a timber and perspex roof over part of the bar yard at The Spinnaker Bar, Dunmore East, County Waterford is or is not development and is or is not exempted development:

AND WHEREAS Niall Edmondson care of Peter Thomson of 4 Priory Grove, Kells, County Kilkenny requested a declaration on the said question from Waterford City and County Council and the said Council issued a declaration on the 14th day of November, 2017 stating that the said matter is development and is not exempted development:

AND WHEREAS Niall Edmondson referred the declaration for review to An Bord Pleanála on the 22nd day of November, 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,
- (c) section 4(1)(h) of the Planning and Development Act, 2000,
- (d) article 6(1) and article 9(1) of the Planning and Development Regulations, 2001, as amended,
- (e) case law, including, the Supreme Court decision in the case of Michael Cronin (Readymix) Limited versus An Bord Pleanála and others:

AND WHEREAS An Bord Pleanála has concluded that -

- (a) the erection of the timber and perspex roof involved the carrying out of works, and is, therefore, development within the meaning of Section 3 of the Planning and Development Act, 2000, as amended,
- (b) the yard area that has been enclosed by the timber and perspex roof, while part of the overall landholding, was not part of the structure that is the public house and the development that has taken place has involved the incorporation of this yard into the public area of the public house, and is, therefore, an extension of the existing structure. An extension of the existing structure does not come within the scope of Section 4(1)(h) of the Act, having regard to the decision of the Supreme Court in the case of Cronin (Readymix) Limited versus An Bord Pleanála and others, and

- (c) there are no exemptions set out in the Planning and Development Act, 2000, as amended, or the Planning and Development Regulations 2001, as amended, whereby an extension to a public house would be exempted development. The development that has taken place in this instance is, therefore, not exempted development.

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 of a timber and perspex roof over part of the bar yard at The Spinnaker Bar, Dunmore East, County Waterford is development and is not exempted development:

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.

Terry Ó Niadh
Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.

Dated this day of 2018.