



Planning and Development Acts 2000 to 2019

Planning Authority: Dublin City Council

Planning Register Reference Number: 0298/17

WHEREAS a question has arisen as to whether the erection of utility boxes on College Green and Lower Grafton Street, Dublin is or is not development and is or is not exempted development:

AND WHEREAS Frank McDonald of Apartment 4, The Granary, 20 Temple Lane, Dublin requested a declaration on this question from Dublin City Council and the Council issued a declaration on the 15th day of January, 2018 stating that the matter was exempted development:

AND WHEREAS Frank McDonald referred this declaration for review to An Bord Pleanála on the 8th day of February, 2018:

AND WHEREAS An Bord Pleanála, in considering this referral, had regard particularly to –

- (a) Sections 2(1), 3(1), 4(1)(aa), 57(1) and 82 of the Planning and Development Act 2000, as amended,

- (b) Articles 6(1), 9(1) and 31(f) of the Planning and Development Regulations 2001, as amended,
- (c) Class 23 of Part 1, Schedule 2 of the Planning and Development Regulations 2001, as amended,
- (d) the Road Traffic Act 1994,
- (e) the Transport (Railway Infrastructure) Act 2001,
- (f) the Boards Order and accompanying schedules for PL29N.N0004,
- (g) the submissions on file including the identification of the individual utility boxes provided by Dublin City Council and Transport Infrastructure Ireland, and
- (h) the report of the Inspector:

AND WHEREAS An Bord Pleanála has concluded that:

- (a) all of the identified utility boxes involved the carrying out of works and therefore constitute development,
- (b) utility boxes numbers 2, 3 and 5 at College Green and the utility boxes 3, 4, 6, 7, 8 and 9 on Lower Grafton Street adjoining the wall of the Provost's House, are all works carried out by Dublin City Council and therefore come within the scope of the exemption provided for under Section 4(1)(aa) of the Planning and Development Act 2000, as amended, and are, therefore, exempted development,

- (c) utility box number 5 on Lower Grafton Street adjoining the wall of the Provost's House, was provided by Transport Infrastructure Ireland contractors as part of the Luas Cross City Light Rail Scheme (Luas BXD) and comes within the exemption provided for under Section 38 of the Transport (Railway Infrastructure) Act 2001 and is, therefore, exempted development,

- (d) utility boxes number 4 at College Green and numbers 10 and 11 at Lower Grafton Street adjoining the wall of the Provost's House, were provided by Infrastructure Ireland and therefore consist of development undertaken by a Statutory Undertaker in connection with the movement of traffic by rail, on, in, over or under the operational land of the railway, or any part of a Railway, and comes within the scope of Class 23 of Part 1, Schedule 2 of the Planning and Development Regulations 2001, as amended, and are, therefore, exempted development,

- (e) utility box number 2 on Lower Grafton Street adjoining the wall of the Provost's House, consists of the provision, by a statutory undertaker authorised to provide a telecommunications service (i.e. BT Telecoms), of a utility box forming part of a telecommunications system and comes within the exemption provided for in Class 31(f) of the Planning and Development Regulations 2001, as amended, and complies with the Conditions and Limitations to which this class is subject and is, therefore, exempted development,

- (f) the utility boxes, by reason of their scale and use would not materially affect the character of a protected structure (Provost's House, TCD) or the Grafton Street and Environs Architectural Conservation Area, or of any element of the structure, which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest, and therefore, the restrictions on exemption under Section 57(1) and Section 82 of the Planning and Development Act 2000, as amended, do not apply in this instance, and

- (g) the development in question does not endanger public safety by reason of traffic hazard and therefore, the restriction on exemption in Article 9(1)(a)(iii) of the Planning and Development Regulations 2001, as amended, do not apply in this instance.

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 utility boxes on College Green and Lower Grafton Street, Dublin is development and is 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.

Philip Jones

Member of An Bord Pleanála

duly authorised to authenticate

the seal of the Board.

Dated this day of 2019.