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**Planning and Development Acts 2000 to 2018**

**Planning Authority: Kerry County Council**

**Planning Register Reference Number: EX639**

**WHEREAS** a question has arisen as to whether:

- (a) the installation of six windows at first floor level on the south-western elevation of Liber House is or is not development or is or is not exempted development, and
- (b) the installation of six windows at first flow level on the south-western elevation of Liber House is already permitted under the parent permission, planning register reference number 06/307281

at Liber House, Monavalley, Traleen, County Kerry:

**AND WHEREAS** Liam Davis of “Rockall”, The Spa, Tralee, County Kerry requested a declaration on this question from Kerry County Council and the Council issued a declaration on the 19<sup>th</sup> day of February, 2018 stating that the matter is development and is not exempted development:

**AND WHEREAS** Liam Davis referred the declaration for review to An Bord Pleanála on the 13<sup>th</sup> day of March, 2018:

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

- (a) sections 2 and 3 of the Planning and Development Act, 2000, as amended,
- (b) section 4(1)(h) of the Planning and Development Act, 2000, as amended,
- (c) the planning history of the site,
- (d) the nature and extent of the works, and
- (e) the pattern of development in the area:

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

- (a) the works of installation of six windows on the south-western elevation of the building come within the scope of 'development' as set out in Section 3 of the Planning and Development Act, 2000, as amended,
- (b) the installation of a row of six windows at first-floor level on the south-western elevation would materially affect the external appearance of this elevation of the building, which is visible from the public road, so as to render the appearance inconsistent with the character of the structure,
- (c) the installation of six windows at first floor level on the south-western elevation of the building does not, therefore, come within the scope of the exemptions provided by section 4(1)(h) of the Planning and Development Act, 2000, as amended, and is not, therefore, exempted development, and
- (d) the installation of the six windows was authorised by the grant of permission under planning register reference number 06/307281, but as the development was not completed in accordance with the permitted plans and has since been superseded by a further grant of planning permission under planning register reference number 5/240, An Bord Pleanála appeal reference number PL 08.245576, which did not include the installation of any windows at first floor level of the south-western elevation, the installation of the six windows is not, therefore, authorised by any current planning permission:

**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 installation of six windows at first floor level on the south-western elevation of Liber House, Monavalley, Tralee, County Kerry 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.

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**Dave Walsh**  
**Member of An Bord Pleanála**  
**duly authorised to authenticate**  
**the seal of the Board.**

**Dated this            day of            2018.**