



An
Bord
Pleanála

Board Order
ABP-302542-18

Planning and Development Acts 2000 to 2018

Planning Authority: Donegal County Council

Planning Register Reference Number: S5 18/29

WHEREAS a question has arisen as to whether the use of part of a dwelling house as a solicitors' office at Beachside, Braade, Kincasslagh, County Donegal is or is not development or is or is not exempted development:

AND WHEREAS Geraldine Boyle of Beachside, Braade, Kincasslagh, County Donegal, requested a declaration on the question from Donegal County Council and the Council issued a declaration on the 16th day of August, 2018 stating that the matter is development and is not exempted development:

AND WHEREAS Geraldine Boyle referred the declaration for review to An Bord Pleanála on the 11th day of September, 2018:

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

- (a) sections 2(1), 3(1), and 4(1)(j) of the Planning and Development Act, 2000, as amended,
- (b) Part 4 of the Second Schedule to the Planning and Development Regulations, 2001, as amended,
- (c) the planning history of the site,
- (d) the scale, nature and layout of the solicitors' office use, the description of the use carried on therein, including receptionist function, the availability of access to the premises by visiting members of the public, and
- (e) the presence of free-standing signage at the property, advertising a solicitors' practice, as observed by the Inspector during his site visit:

AND WHEREAS An Bord Pleanála has concluded that -

- (a) the use of part of the house as a solicitors' office does not constitute use as a house as defined at Section 2(1) of the Planning and Development Act, 2000, as amended, and therefore such use is a change of use;
- (b) the change of use from use as part of a house to use as a solicitors' office, raises issues which are material in relation to the proper planning and sustainable development of the area and this change of use constitutes a material change of use having regard to the considerations outlined above and is therefore development;

- (c) the development does not come within the scope of Section 4(1)(j) of the Planning and Development Act, 2000, as amended, as the use as a solicitors' office in this instance is not considered incidental to the enjoyment of the house,
- (d) the development would correspond to use as an office as defined in Class 2(b) of Part 4 of the Second Schedule to the Planning and Development Regulations, 2001, as amended, and
- (e) there are no other provisions in the Act or Regulations whereby such development would be exempted 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 use of part of a dwelling house as a solicitors' office at Beachside, Braade, Kincasslagh, County Donegal 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.

Chris McGarry
Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.

Dated this day of 2019.