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**Planning and Development Acts 2000 to 2018**

**Planning Authority: Limerick City and County Council.**

**Planning Register Reference Number: DC-029-17.**

**WHEREAS** a question has arisen as to whether the installation of new replacement uPVC windows to the front façade of building at 27 O'Connell Street, Limerick is or is not development or is or is not exempted development:

**AND WHEREAS** this question was referred to An Bord Pleanála by Limerick City and County Council on the 19<sup>th</sup> day of October, 2018:

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

- (a) sections 2, 3 and 4 (1)(h) of the Planning and Development Act, 2000, as amended,

- (b) the nature and extent of the works that are the subject matter of the referral, and the pattern of development in the vicinity,
- (c) relevant case law, including *Cairnduff v O'Connell* [1986] I R 73 and *Dublin Corporation v Bentham* [1993] 2 I R 58, and
- (d) the submissions on file, including photographs of the subject building prior to the carrying out of the works that are the subject matter of the referral:

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

- (a) the works of replacement of six windows on the front elevation of the building come within the definition of development, as set out in Section 3 of the Planning and Development Act, 2000, as amended,
- (b) the replacement of the six sash windows that had previously been on the front elevation of the subject property with uPVC framed windows involves the carrying out of works for the alteration of this structure. However, the works materially affect the external appearance of the structure so as to render that appearance inconsistent with the character of the structure, having regard to the glazing pattern, the thickness of the frames and the openings of the replacement windows, and having regard to the fact that the original fenestration design and materials used contributed to the character of the structure,

- (c) the replacement of the six sash windows that had previously been on the front elevation of the subject property with uPVC framed windows materially affects the external appearance of the structure so as to render that appearance inconsistent with the character of the neighbouring structures, and in particular the adjoining property to the south, which has retained its original openings and sash windows, and the Augustinian Church to the north, which is a Protected Structure, and
- (d) the subject development therefore does not come within the scope of the exemption afforded under section 4 (1)(h) of the Planning and Development Act 2000, as amended, and there are no other exemptions provided for in the Act, or in Regulations made pursuant to the Act, whereby such development would be classified as exempted development. The subject development is, therefore, not exempted development:

**NOW THEREFORE** An Bord Pleanála, in exercise of the powers conferred on it by section 5 (4) of the 2000 Act, hereby decides that the installation of new replacement uPVC windows to the front façade of building at 27 O'Connell Street, Limerick 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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**Philip Jones**

**Member of An Bord Pleanála**

**duly authorised to authenticate**

**the seal of the Board.**

**Dated this            day of            2019.**