



Planning and Development Acts 2000 to 2018

Planning Authority: Dublin City Council

Planning Register Reference Number: 0422/18

WHEREAS a question has arisen as to whether the “as-constructed” structure at 16 Cullenswood, Dublin (Plan Ref: 2690/16) is or is not development or is or is not exempted development:

AND WHEREAS Highgate Properties Limited care of DTA Architects of 12-14 College Green, Dublin requested a declaration on this question from Dublin City Council and the Council issued a declaration on the 16th day of November, 2018 stating that the matter is development and is exempted development:

AND WHEREAS Highgate Properties Limited referred the declaration for review to An Bord Pleanála on the 11th day of December, 2018:

AND WHEREAS An Bord Pleanála decided, in the light of the submissions made in connection with this referral, to reformulate the question as follows:

whether the “as-constructed” structure, incorporating an increase in height and an increase in length over that permitted under Dublin City Council register reference number 2690/16 (An Bord Pleanála appeal reference number PL 29S.246883) at 16 Cullenswood Park, Ranelagh, Dublin is or is not development or is or is not exempted development:

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

- (a) sections 2 (1) and 3 (1) of the Planning and Development Act, 2000,
- (b) Articles 6 (1) and 9 (1) of the Planning and Development Regulations, 2001, as amended,
- (c) the planning history of the subject site, and in particular the plans and particulars submitted as part of planning application register reference number 2690/16 (An Bord Pleanála appeal reference number PL 29S.246883),
- (d) the submissions made as part of this referral, including site surveys, photographs and drawings, and visual and sunlight/daylight analyses, and
- (e) the report of the Inspector:

AND WHEREAS An Bord Pleanála has concluded that -

- (a) the construction of the dwelling, being the structure referred to in this case, involved the carrying out of works, and is, therefore, development, as defined,
- (b) the development that has been carried out differs from that for which planning permission was granted under register reference number 2690/16 (An Bord Pleanála appeal reference number PL 29S.246883), notwithstanding the fact that the dimensions shown on the drawings as submitted with that application for permission were denoted to be approximate, and the Board is satisfied that these differences from that approved have material impacts on the residential amenities of adjacent properties, and the deviations from the permitted development are, when taken cumulatively, significant and material, and are not immaterial or de minimis, and are not, therefore, within the scope of the development that was approved under planning permission register reference number 2690/16 (An Bord Pleanála appeal reference number PL 29S.246883), and
- (c) there are no exemptions, in the Planning and Development Act, 2000, as amended, or in the Planning and Development Regulations, 2001, as amended, whereby such material deviations would be 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 “as-constructed structure, incorporating an increase in height and an increase in length over that permitted under Dublin City Council register reference number 2690/16 (An Bord Pleanála appeal reference number PL 29S.246883) at 16 Cullenswood Park, Ranelagh, Dublin 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.

Philip Jones
Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.

Dated this day of 2019.