



Planning and Development Acts 2000 to 2019

Planning Authority: Dublin City Council

Planning Register Reference Number: 0430/18

WHEREAS a question has arisen as to whether the provision of a framed, glazed and roofed structure to the front of 58 Grand Canal Street Upper, Dublin is or is not development or is or is not exempted development:

AND WHEREAS Paul James and Barry McNerney care of Simon Clear and Associates of 3 Terenure Road West, Terenure, Dublin requested a declaration on the said question from Dublin City Council and the Council issued a declaration on the 19th day of November, 2018 stating that the matter is development and is not exempted development:

AND WHEREAS Paul James and Barry McNerney care of Simon Clear and Associates referred the declaration for review to An Bord Pleanála on the 13th day of December, 2018:

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

- (a) section 2(1) of the Planning and Development Act, 2000, as amended,
- (b) section 3(1) of the Planning and Development Act, 2000,
- (c) section 4(1)(a) of the Planning and Development Act, 2000, as amended,
- (d) article 6(1) and article 9(1) of the Planning and Development Regulations, 2001, as amended,
- (e) Parts 1 and 3 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (f) the planning history of the site, and
- (g) the layout of the premises as now constituted:

AND WHEREAS An Bord Pleanála has concluded that –

- (a) The enclosure and use of the area to the front of the restaurant as an extension of the restaurant would constitute development, being the making of a material change in the use of land within the meaning of section 3 of the Planning and Development Act 2000.

- (b) The glazed roofed structure does not fall within the scope of section 4(1) (h) of the Planning and Development Act 2000, and is, therefore, considered to be development, which is not exempted development.
- (c) The replacement of the former external retractable umbrella with a glazed roofed structure comprises works that constitute development which is not exempted development.
- (d) The said use of the area enclosed by the structure has material consequences in terms of the proper planning and sustainable development of the area.
- (e) The said use of the area constitutes a material change of use being an extension of the net floorspace of the restaurant and consequently an intensification of use of the land.

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 works involving the erection of a glazed and roofed structure to the front of the restaurant at 58 Grand Canal Street Upper, 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.

Paul Hyde

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

Dated this day of 2020.