



Planning and Development Acts 2000 to 2019

Planning Authority: Fingal County Council

Planning Register Reference Number: FS5/036/19

WHEREAS questions have arisen as to whether, at Dublin Airport, County Dublin, –

- (a) the use of the “airport” in excess of 32 million passengers per annum (mppa) constitutes “development”, if the combined capacity of Terminal 2 as permitted, together with Terminal 1 does not exceed 32 mppa and if so, is it exempt development?,
- (b) the use of the “airport” by up to three million connecting passengers in excess of 32 million passengers per annum (mppa) constitutes “development” if those connecting passengers are facilitated by the separately permitted transfer facility and the combined capacity of Terminal 2 as permitted together with Terminal 1 does not exceed 32 mppa?, and
- (c) as currently a connecting passenger using Dublin Airport is double counted, as both an arriving and departing passenger (for the purposes of aviation security measures), if a connecting passenger is counted singly for the purpose of planning, is this development, and if so, is it exempt development?:

AND WHEREAS the questions were referred to An Bord Pleanála by Fingal County Council on the 17th day of September, 2019:

AND WHEREAS An Bord Pleanála, having considered the grounds of the referral, is satisfied that, in the particular circumstances, the referral should not be further considered by it having regard to the nature of the referral:

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 138 (1) of the Planning and Development Act, 2000, hereby dismisses the referral under subsection (1)(b)(i) of section 138 of the 2000 Act, based on the reasons and considerations set out below.

Reasons and Considerations

It is considered that the three questions raised in this referral relate to the interpretation of conditions attaching to already permitted development, and in particular condition number 3 of planning register reference number F06A/1248 (An Bord Pleanála appeal reference number PL 06F.220670) and condition number 2 of planning register reference number F06A/1843 (An Bord Pleanála appeal reference number PL06F.223469), and, as specifically noted by the Dublin Airport Authority which submitted the questions in the first instance to Fingal County Council, to confirming the geographic scope of these conditions. The interpretation of such conditions does not come within the scope of a referral under Section 5 (4) of the Planning and Development Act, 2000, which is restricted to considering whether a particular matter is or is not development or is or is not exempted development. Accordingly, the Board considers that the referral should not be further considered by it, having regard to the nature of the referral.

In not accepting the recommendation of the Inspector to determine the first two questions raised in the referral, the Board was not satisfied that any of the questions came within the scope of Section 5 of the 2000 Act, for the reasons outlined above.

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 2020.