



An
Bord
Pleanála

Board Order
ABP-307179-20

Planning and Development Acts 2000 to 2019

Planning Authority: Fingal County Council.

Planning Register Reference Number: FS5/013/20.

WHEREAS a question has arisen as to whether the replacement of timber posts with round rubble stone pillars at the entrance gateway to Heather Cottage, Upper Cliff Road, Howth, County Dublin is or is not development or is or is not exempted development:

AND WHEREAS this question was referred to An Bord Pleanála by Fingal County Council on the 13th day of May, 2020:

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

- (a) sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6 and 9 of the Planning and Development Regulations, 2001, as amended,
- (c) Class 9 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, as amended,
- (d) the location of the site within the Howth Special Amenity Area and the provisions of the Special Amenity Area Order in respect of this area,
- (e) the provisions of the Fingal County Development Plan 2017-2023 as they apply to the site,
- (f) the planning history of the site, and
- (g) the pattern of development in the area:

AND WHEREAS An Bord Pleanála has concluded that -

- (a) the erection of pillars consists of carrying out of works and, therefore, constitutes development as defined in section 3 of the Planning and Development Act, 2000, as amended,
- (b) the pillars come within the scope of Class 9 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, as amended, which exemption is not prevented or limited by the provisions of the Howth Special Amenity Area Order,
- (c) by reason of the limited scale of the pillars, they do not interfere with the character of the landscape whose preservation is an objective of the Fingal County Development Plan 2017-2023, and accordingly the restrictions on exempted development status provided for in Article 9 (1)(a)(vi) of the Planning and Development Regulations, 2001, as amended, do not apply in this instance,
- (d) having regard to the limited nature and scale of the development, the characteristics of the area in which the existing posts are located, and to the nature of the qualifying interests of the Special Area of Conservation, the proposed development would not be likely to have a significant effect on the Howth Head Special Area of Conservation (Site Code: 000202) or any other European site and, accordingly, the restrictions on exempted development status provided for in Article 9 (1)(a)(vii B) of the Planning and Development, Regulations, 2001, as amended, do not apply in this instance,

- (e) the development does not consist of or comprise development which would be likely to have an adverse impact on an the Howth Head proposed Natural Heritage Area and accordingly the restrictions on exempted development status provided for in Article 9 (1)(a)(vii B) of the Planning and Development Regulations, 2001, as amended, do not apply in this instance, and
- (f) the pillars do not, of themselves, involve the fencing or enclosure of land that was habitually open to and used by the public during the 10 years preceding such enclosure for recreational purposes and as a means of access to a place of natural beauty and recreational utility, and accordingly the restrictions on exempted development status provided for in Article 9 (1)(a)(x) of the Planning and Development Regulations, 2001, as amended, do not apply in this instance:

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 replacement of timber posts with round rubble stone pillars at the entrance gateway to Heather Cottage, Upper Cliff Road, Howth, County Dublin is development and is 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.