



Planning and Development Acts 2000 to 2020

Planning Authority: Fingal County Council

Planning Register Reference Number: FS5/007/20

WHEREAS a question has arisen as to whether the construction of a garden room/gym to the side of the existing dwelling at Rose Cottage, Brackenstown Road, Swords, County Dublin is or is not development or is or is not exempted development:

AND WHEREAS Daniel Fanning of Rose Cottage, Brackenstown Road, Swords, County Dublin requested a declaration on the said question from Fingal County Council and the Council issued a declaration on the 12th day of March, 2020 stating that the matter is development and is not exempted development:

AND WHEREAS Daniel Fanning of Rose Cottage, Brackenstown Road, Swords, County Dublin referred the declaration for review to An Bord Pleanála on the 2nd day of June, 2020:

AND WHEREAS having regard to the nature of the question and the documentation submitted as part of the referral, the Board has decided to re-word the question as follows:

whether the construction of a timber framed structure, to the side of the existing dwelling, to be used as a garden room/gym, with a floor area less than 25 square metres when fully insulated and a pitched roof less than four metres in height 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) Section 2(1), 3(1) and 4(1)(a) of the Planning and Development Act, 2000, as amended,
- (b) Article 3, Article 6(1) and Article 9(1) of the Planning and Development Regulations, 2001, as amended,
- (c) Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (d) the referrer's submission,
- (e) the planning authority's assessment,
- (f) the planning history of the site,
- (g) previous relevant referrals decided by An Bord Pleanála, and
- (h) the report of the Inspector:

AND WHEREAS An Bord Pleanála has concluded that -

- (a) the construction of the subject structure would constitute “works” and is therefore “development” within the meaning of Section 3 of the Act,
- (b) the structure would come within the scope of Class 3 of Part 1 of Schedule 2 to the said Regulations;
- (c) the referrer states that the proposed structure will not be placed forward of the front wall of the house and would thereby satisfy Condition and Limitation Number 1 under Column 2 of Class 3 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, as amended. However on the basis of the information submitted with the referral, it cannot be determined precisely where the structure will be positioned on site and the referral drawings show that an area of garden is forward of the front wall of the house. In the absence of certainty as to the final position of the proposed structure, the Board cannot be satisfied that this limitation on exemption will not be breached;
- (d) the referrer states that external finishes of the proposed structure shall conform with those of the house and would thereby satisfy Condition and Limitation Number 4 under Column 2 of Class 3 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended. However, on the basis of the information submitted with the referral, the Board cannot be satisfied that this limitation on exemption will not be breached;
- (e) the referrer states that the proposed structure will have a tiled pitched roof and will have a height less than 4 metres and would thereby satisfy Condition and Limitation Number 4 under Column 2 of Class 3 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as

amended. However, on the basis of the information submitted with the referral, the Board cannot be satisfied this limitation on exemption will not be breached:

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 construction of a garden room/gym to the side of the existing dwelling at Rose Cottage, Brackenstown Road, Swords, County Dublin is development and is not exempted development:

In deciding not to accept the recommendation of the Inspector, the Board considered the totality of information on the file, including the drawing detail submitted by the referrer and noted the commentary of the Inspector on matters relating to the external finishes and roof covering, and the height of the proposed structure, specifically that these are 'open to question'. In this regard, the Board considered that the limited information submitted with the referral does not allow for a determination that the proposed structure would definitively satisfy the relevant conditions and limitations of Class 3.

In addition, the Board considered that in the absence of a definitive drawing showing the precise position of the proposed structure within the site and by specific reference to the front wall of the existing house, that it cannot be stated definitively from the wording of the referral itself and the associated documentation presented by the referrer, that it cannot be determined that the proposed structure would be 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.

Chris McGarry

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

Dated this day of 2020