



An
Bord
Pleanála

Board Order
ABP-313566-22

Planning and Development Acts 2000 to 2022

Planning Authority: Dublin City Council

Planning Register Reference Number: 0098/22

WHEREAS a question has arisen as to whether the placing of two number free-standing detachable steel framed and roofed structures including barrels, benches and planters on the private landings at front of The Merry Cobbler (Protected Structure), 78 to 82 Irishtown Road, Dublin is or is not development or is or is not exempted development:

AND WHEREAS James Trafford care of Kevin Hammell of D5 Swords Enterprise Park, Feltrim Road, Swords, County Dublin requested a declaration on the question from Dublin City Council and the Council issued a declaration on the 27th day of April, 2022 stating that the said matter is development and is not exempted development:

AND WHEREAS James Trafford referred the declaration for review to An Bord Pleanála on the 12th day of May, 2022:

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

- (a) Sections 2(1), 3(1), 4(1)(a) and 57 of the Planning and Development Act, 2000, as amended,
- (b) articles 6(1) and 9(1) of the Planning and Development Regulations, 2001, as amended,
- (c) Parts 1 and 3 of Schedule 2 to those Regulations,
- (d) the planning history of the site, and
- (e) the pattern of development in the area:

AND WHEREAS An Bord Pleanála has concluded that -

- (a) the provision of two number free-standing detachable steel framed and roofed structures including barrels, benches and planters is works and therefore constitutes development within the meaning of sections 2 and 3 of the Planning and Development Act, 2000,
- (b) the said works form an extension to the floor area of a public house premises which give rise to a formal smoking and dining area, which in turn forms part of the public area of the public house, and the consequent intensification of use has material consequences in terms of the proper planning and sustainable development of the area,
- (c) the use of the dining area/beer garden/smoking area, 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,

- (d) the existing external dining area/smoking area does not constitute exempted development, nor does it have the benefit of a grant of planning permission,
- (e) the works do not come within the scope of section 4(1)(h) of the said Act, not being works for the maintenance, improvement or other alteration of the structure but rather being works to facilitate uses that might have material planning impacts on properties in the vicinity, and
- (f) the said development does not come within the scope of the exempted development provisions of the said Act or Regulations made thereunder:

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 placing of two number free-standing detachable steel framed and roofed structures including barrels, benches and planters on the private landings at front of The Merry Cobbler (Protected Structure), 78 to 82 Irishtown Road, Dublin is development and is not exempted development.



Joe Boland

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

Dated this *2nd* day of *November* 2023.