

An
Bord
Pleanála

Board Order
ABP-315097-22

Planning and Development Acts 2000 to 2022

Planning Authority: Fingal County Council

Planning Register Reference Number: FS5/057/22

WHEREAS a question has arisen as to whether the construction of a 6 metre by 12 metre pickleball court within the curtilage and to the rear of Heather Cottage, Upper Cliff Road, Howth, County Dublin is or is not development or is or is not exempted development:

AND WHEREAS Patrick O'Reilly of Heather Cottage, Upper Cliff Road, Howth, County Dublin requested a declaration on this question from Fingal County Council and the Council issued a declaration on the 21st day of October, 2022 stating that the matter was not exempted development:

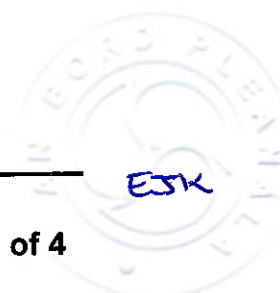
AND WHEREAS Patrick O'Reilly referred this declaration for review to An Bord Pleanála on the 15th day of November, 2022:

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 6 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended,
- (d) the location of the referral 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 Development Plan 2023-2029 as they apply to the referral site,
- (f) the documentation on file, including submissions from the referrer and the planning authority,
- (g) the planning history of the referral site,
- (h) the relevant precedent referrals and judgments, and
- (i) the pattern of development in the area:

AND WHEREAS An Bord Pleanála has concluded that:

- (a) the construction of a 6 metre by 12 metre pickleball court consists of the carrying out of works and therefore constitutes development as defined in Section 3 of the Planning and Development Act 2000, as amended,
- (b) the lack of cross-sectional drawings clearly demonstrating the level of the ground shall not be altered by more than one metre above or below the level of the adjoining ground,

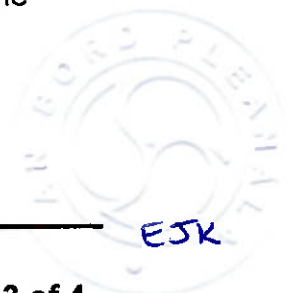


- (c) the lack of detail concerning the finished nature, including colouration, of the proposed development with respect to the distinctive character of the area and views from pathways, and
- (d) the lack of details concerning the nature and scale of the proposed project, particularly regarding construction methodology and surface water management, that would enable the Board to reasonably conclude the proposed project would not, either individually or in combination with other plans or projects, be likely to have significant effects on the Howth Head Special Area of Conservation (site code 000202), the Howth Head Coast Special Protection Area (site code 004113) or any other European site:

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 6 metre by 12 metre pickleball court within the curtilage and to the rear of Heather Cottage, Upper Cliff Road, Howth, County Dublin is development and is not exempted development.

In deciding not to accept the Inspector's recommendation, the Board considered that: -

- the provisions and limitations attached to Class 6 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, as amended, are a relevant consideration, and that insufficient details by way of cross-sectional drawings regarding the extent of alteration of the level of ground had been presented,
- the nature of colouration of the proposed pickleball court and the extent to which it would be visible from nearby pathways or be compatible with the character of the area was not adequately demonstrable from the details provided, and



- sufficient details concerning the construction and operation of the proposed project were not available to verify the nature and scale of the proposal would be sufficiently limited that it would be unlikely to have a significant effect on nearby European Sites.

Eamonn James Kelly

Eamonn James Kelly

Member of An Bord Pleanála

**duly authorised to authenticate
the seal of the Board.**



Dated this *8th* day of *February*, 2024.