



An  
Coimisiún  
Pleanála

Commission Order  
ABP-322308-25

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**Planning and Development Act 2000, as amended**

**Planning Authority: Fingal County Council**

**Planning Authority Reference Number: FS5/020/25**

**WHEREAS** a question has arisen as to whether the amendments to the internal road and the turning circle, conversion from garage to habitable room to the side of House Dwelling Type A, and elevational changes to House Types A, B and C at Baile Bhuin, Oldtown, County Dublin are or are not development and are or are not exempted development:

**AND WHEREAS** MNH Carlow Holdings Limited care of STRUTEC of Garryhill, Bagnelstown, County Carlow requested a declaration on this question from Fingal County Council and the Council issued a declaration on the 8<sup>th</sup> day of April, 2025 stating that the matter was not exempted development:

**AND WHEREAS** the said MNH Carlow Holdings Limited care of STRUTEC of Garryhill, Bagnelstown, County Carlow referred this declaration for review to An Coimisiún Pleanála on the 16<sup>th</sup> day of April, 2025:

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

- (a) Section 2(1) of the Planning and Development Act, 2000, as amended,
- (b) Section 3(1) of the Planning and Development Act, 2000,
- (c) Section 4(1)(h) of the Planning and Development Act, 2000, as amended,
- (d) Article 6(1) and Article 9(1) of the Planning and Development Regulations, 2001, as amended,
- (e) Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (f) relevant case law,
- (g) previous referrals to the Commission, including RL2564,
- (h) the planning history of the site (reference number ABP-300045-22, planning authority reference 17A/0357),
- (i) the documentation on the file, including submissions on behalf of the referrer MNH Carlow Holdings Limited and Fingal County Council, and
- (j) the pattern of development in the area:

**AND WHEREAS** An Coimisiún Pleanála has concluded that:

- (a) the realignment of the road, revised turning circles, the garage conversions and the elevation changes to House Types A, B and C constitutes development, as it involves the carrying out of 'works',
- (b) the development that has been carried out differs from that for which planning permission was granted under An Coimisiún Pleanála reference number ABP-300045-22 (planning authority reference 17A/0357) and the Commission is satisfied that the deviations from the permitted development area, when taken cumulatively, are significant and material, and are not immaterial or de minimis, and are not, therefore, within the scope of the development granted planning permission under An Coimisiún Pleanála reference number ABP-300045-22 (planning authority reference 17A/0357),
- (c) the development that has taken place, which is the subject of the referral, involves works not included in the permission (An Coimisiún Pleanála reference number ABP-300045-22 (planning authority reference 17A/0357)). In such circumstances and in accordance with case law (Horne vs Freeney), the subject works cannot avail of the exemption provided under Section 4(1)(h) of the Planning and Development Act 2000, as amended,
- (d) in any event, the restriction on exemption provided for in Article 9(1)(a)(i) of the Planning and Development Regulations 2001, as amended, applies as the development contravenes a condition attached to a permission (An Coimisiún Pleanála reference number ABP-300045-22 (planning authority reference 17A/0357) under the Act, and
- (e) there are no other exemptions in the Planning and Development Act, 2000, as amended, or in the Planning and Development Regulations, 2001, as amended, whereby such material deviations would constitute exempted development:

**NOW THEREFORE** An Coimisiún Pleanála, in exercise of the powers conferred on it by section 5 (3) (a) of the 2000 Act, hereby decides that the amendments to the internal road and the turning circle, conversion from garage to habitable room to the side of House Dwelling Type A, and elevational changes to House Types A, B and C at Baile Bhuin, Oldtown, County Dublin are development and are not exempted development:

  
Declan Moore

Planning Commissioner of An Coimisiún  
Pleanála duly authorised to authenticate  
the seal of the Commission.

Dated this 8<sup>th</sup> day of JANUARY 2026.