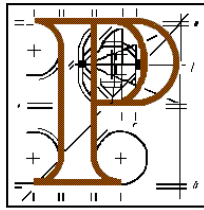


An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Fingal County

Planning Authority Reference Number: FS5/038/15

An Bord Pleanála Reference Number: 06F.RL.3438

WHEREAS a question has arisen as to whether the ground and first floor extension works to the rear of the house at 26 Estuary Road, Malahide, County Dublin are or are not development or are or are not exempted development:

AND WHEREAS the Estuary Road Residents Group care of Downey Planning of 1 Westland Square, Pearse Street, Dublin requested a declaration on the question from Fingal County Council and the Council decided not to issue a declaration on this matter:

AND WHEREAS the said Estuary Road Residents Group referred the question for decision to An Bord Pleanála on the 2nd day of December, 2015: :

AND WHEREAS the Board, in considering this referral, had regard particularly to –

- (a) sections 2(1) and 3(1) of the Local Government (Planning and Development) Act, 1963, as amended,
- (b) sections 2(1), 3(1) and 4(1)(h) of the Planning and Development Act, 2000, as amended,

- (c) Articles 9 and 10 of the Local Government (Planning and Development) Regulations, 1994, as amended, and Classes 1 and 7 of Part 1 of the Second Schedule to those Regulations,
- (d) Articles 6 and 9 of the Planning and Development Regulations, 2001, as amended, and Classes 1 and 7 of Part 1 of Schedule 2 to those Regulations, and
- (e) the planning and development history of the site, including the measurements undertaken by the Inspector under An Bord Pleanála referral reference number 06F.RL2994, the drawings submitted in support of planning authority register reference number F13B/0061, the photographic evidence on file, and the report of the Inspector:

AND WHEREAS An Bord Pleanála concluded that –

- (i) the construction of the original extension to the rear of the house comprised works, which constituted development,
- (ii) the extension as originally constructed, which is stated by the owner/occupier and by the planning authority to have been constructed in 1999/2000, does not come within the scope of the Conditions and Limitations set out under Class 1 of Part 1 of the Second Schedule to the Local Government (Planning and Development) Regulations, 1994, as amended, as it exceeds 23 square metres in floor area; neither did the rear porch come within the scope of Class 7 of Part 2 of the Second Schedule to those Regulations, as it exceeds two square metres in area,
- (iii) subsequently, in or around 2011, this extension was amended by the extension of the rear porch and the alteration of the roof over the extended porch and the existing ground floor extension (which resulted from the previous construction of an additional first floor extension and its subsequent part removal); this involved construction, which comprises works, and therefore constitutes development, and
- (iv) these subsequent works are not of a nature or character that come within the scope of section 4(1)(h) of the Planning and Development Act, 2000; neither can these works avail of any exemptions set out under the Planning and Development Regulations, 2001, as amended, arising from the restriction on exemptions set out under Article 9(1)(a)(viii) of those Regulations, in the circumstances of the case:

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5(3)(b) of the 2000 Act, hereby decides that the ground and first floor extension works to the rear of the house at 26 Estuary Road, Malahide, County Dublin, are development and are not 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.

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

Dated this day of 2016.