



Planning and Development Acts 2000 to 2018

Planning Authority: Kerry County Council

Planning Register Reference Number: EX589

WHEREAS a question has arisen as to whether renovation works carried out to an old dilapidated cottage at Ballyarkane, Oughter, Castlemaine, County Kerry are or are not development or are or are not exempted development:

AND WHEREAS Mahmood and George Hussain care of Cunnane Stratton Reynolds of Copley Hall, Cotters Street, Cork requested a declaration on this question from Kerry County Council and the Council issued a declaration on the 8th day of August, 2017 stating that the said matter is development and is not exempted development:

AND WHEREAS Mahmood and George Hussain referred this declaration for review to An Bord Pleanála on the 1st day of September, 2017:

AND WHEREAS An Bord 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, as amended,
- (c) section 4(1)(h) of the Planning and Development Act, 2000, as amended,

- (d) articles 6(1) and 9(1) of the Planning and Development Regulations, 2001, as amended,
- (e) Class 1 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (f) the planning history of the site, and
- (g) the pattern of development in the area:

AND WHEREAS An Bord Pleanála has concluded that:

- (a) the residential use on this site has been abandoned,
- (b) the demolition, construction, alteration, repair and renewal operation at this site constitutes “works”, and is, therefore, development as defined in section 3 of the Planning and Development Act 2000, as amended,
- (c) the works carried out included the raising of the height of the roof of the original house, and installation of three roof-lights in the front pitch of the roof, which materially affect the external appearance of the structure, so as to render the appearance inconsistent with the character of the structure. Therefore, the provisions of section 4(1)(h) of the Planning and Development Act, 2000, do not apply,
- (d) the floor area of the original house on this site has been extended by more than 40 square metres, thereby removing any exemption which may have applied under Class 1 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended, and
- (e) the height of the two-storey extension to the rear of the original house exceeds the height of the rear wall of the original house (even though the height of the rear wall has been raised), thereby removing any exemption which may have applied under of Class 1 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended:

