



An
Bord
Pleanála

Inspector's Report ABP-300148-17.

Question

Whether the renewal of an existing authorised and the addition of a loading mechanism over an authorised loading area is or is not development and is or is not exempted development.

Location

Ballymacquirk, Kanturk, Co. Cork.

Declaration

Planning Authority

Cork County Council

Planning Authority Reg. Ref.

D/271/17.

Applicant for Declaration

Ducon Concrete Ltd.

Planning Authority Decision

Is development and is not exempted development.

Referral

Referred by

Ducon Concrete Ltd.

Owner/ Occupier

Ducon Concrete Ltd.

Observer

None.

Date of Site Inspection

13th February 2018.

Inspector

Mairead Kenny.

1.0 Site Location and Description

- 1.1. The referrer Ducon Concrete Ltd operates a concrete products manufacturing premises located in a rural area south of Kanturk in north Cork.
- 1.2. The referral relates to the eastern side of the overall premises, which is the area closest to the public road. In particular this case relates to a building known as Production Factory 1 (PF1) and the associated loading gantry, which are positioned parallel to the regional road. The intervening area between the factory building and gantry and the public road are laid out as a surface parking area and a single storey office and reception block. The area to the south of the subject structures and to the west are in use for production, which includes extensive areas of yard associated with drying of concrete blocks.
- 1.3. PF1 is utilised for the construction of concrete stairs and has two associated loading gantry areas to accommodate different weights of structures. From inspection of the interior of the factory it is clear that it is constructed of new concrete slab walls on three sides. The western side of the building, which is shared with the adjacent slab manufacturing building PF2 is made up of a range of different wall finishes. During my inspection it was clear from ground level that the roof trusses are not new structures as they show signs of discolouration. The steel stanchions internal to PF1 and the associated external loading mechanism all appear to be of recent date.
- 1.4. In the north-east of the site there are settlement ponds, which take the surface water drainage. These outfall at a point at the north-east of the site adjacent the public road. The drains connect to the River Allow which is about 300m to the east.
- 1.5. Photographs taken by me at the time of my inspection are attached.

2.0 The Question

- 2.1. The Irish Concrete Federation (on behalf of the owner operator of Ducon Concrete Ltd) has referred the Section 5 Declaration of the planning authority for review under section 5(3) of the Planning and Development Act (PDA) 2000 as amended.
- 2.2. The question as presented in the declaration refers specifically to section 4(1)(h) and whether the renewal of Factory 1 and the erection of a loading mechanism over an authorised loading area is exempted development.

2.3. Having regard to the submissions presented by the applicant and the law pertaining I recommend that this question be reworded as follows:

2.3.1.1. *Whether the renewal of an existing authorised building and the addition of a loading mechanism over an authorised loading area is or is not development and is or is not exempted development.*

3.0 Planning Authority Declaration

3.1. Declaration

On the 17th of October 2017 the planning authority issued a declaration as follows:

- the work subject of the request constitute development
- the works carried out to Factory 1 do not come within the scope of section 4(1)(h)
- the building has effectively been replaced by a new building with minimal retention of the original building fabric
- there is no provision under the PDA 2000 or PDR 2001 whereby the development, amounting to construction of a replacement factory building would constitute exempted development
- the renewal works to factory building 1 is not exempted development.

3.2. In terms of legislation the planning authority had regard to:

- sections 2, 3 (1) and 4(1)(h) of the PDA 2000
- article 6 and 9 of the PDR 2001
- Classes 21 and 50 of Part 1 of Schedule 2 of the PDR 2001.

3.3. I note attached to the end of the declaration indicated that while the additional new plant and machinery could ordinarily be considered come within the scope of Class 21(a)(iii) of PDR 2001 and might be considered to not materially alter the external appearance of the premises, the plant and machinery erected appears to form an integral part of an adjoining building developed in tandem with same which was determined above to constitute development which is not exempted development.

On the basis the planning authority is not satisfied that the plant and machinery work undertaken constitutes development and is exempted development.

3.4. **Planning Authority Reports**

3.4.1. Planning Reports

The report of the Acting Senior Executive Planner which refers to the report of the Area Planner includes the following comments:

- the works amounted to the substantial replacement and rebuilding of the original building incorporating a significant increase in floor to ridge height and could not be concluded to be the same as that replaced
- in effect the building has been demolished and replaced
- demolition of an industrial building in excess of 100 m² is not exempted development with reference to Class 50(a)(ii) of Schedule 2 Part 1 of PDR 2001 and construction of a factory building requires planning permission
- the plant and machinery is integrally linked to and dependent on the structure which is considered to constitute development and is not exempted development
- plant and machinery could ordinarily come within the scope of Class 21(a)(iii)
- not satisfied that the plant and machinery constitutes exempted development.

3.5. In addition to the above the following comments of the Area Planner's report are noted:

- a watercourse is located adjacent to the site and an SAC is approximately 150m m to the east of the complex site
- no clear visible evidence of the previous structure
- new structure is clearly and highly visible from regional road
- RL2027 found that for 'maintenance and improvement' to have occurred something has to be retained
- the unit is a new replacement unit – similar footprint – substantial increase in ridge height

- development cannot avail of exemption as outlined in section 4(1)(h) as would materially alter the external appearance of the premises
- does not come within the provisions of Class 50
- regarding Class 21(a)(iii) limitation 1 is referenced
- regarding class 16 this would not appear to be a temporary development
- Heritage Officer notes insufficient information to enable determination of appropriate assessment – further information required
- not a scheduled activity for the purposes of the EIA directive
- loading mechanism includes a gantry crane supported by new stanchions, which form part of PF1, which is not exempted development
- Is development and is not exempted development.

3.5.1. Other Technical Reports

3.6. The report of the Heritage Officer includes the following points:

- Notes discharge from the northern portion of the overall facility including PF1 to a sump, settlement tank, final filter and to a watercourse on the eastern side of the R597 and into the River Allow approximately 370m east of the site and the regulation of the discharge by licence from the local authority
- hydrological connection to River Blackwater SAC, the conservation of which is an objective of the development plan
- there is insufficient information on file to make a determination on whether the works would compromise a site of ecological interest the preservation, conservation and protection of which is not objective of the development plan or which would comprise development in relation to which appropriate assessment is required
- notes that details on water quality tests to be carried out as part of the district licence were not submitted
- set out a range of further information.

4.0 Planning History

- 4.1.1. Permission to retain extant development on the overall site including the then existing Factory 1 was granted permission – reg. ref. 01/6934 refers.

5.0 Policy Context

5.1. Development Plan

Cork County Development Plan 2014

The site is not within scenic landscapes, scenic views or route protection corridors.

The River Blackwater SAC is protected and the obligations of the Council in terms of Appropriate Assessment are noted.

5.2. Natural Heritage Designations

The site is close to the **River Blackwater Special Area of Conservation** Site Code 002170. The qualifying interests include Freshwater Pearl Mussel, White-clawed Crayfish, Lamprey (3 no. species), Twaite Shad, Atlantic Salmon and Otter. Site specific conservation objectives have been adopted.

6.0 The Referral

6.1. Referrer's Case

The main points set out in the referral are as follows:

- In essence the declaration of the planning authority comes down to an opinion that the renewal of the factory in question comprised non-exempt demolition and the erection of the country would have been exempt if it were not attached to the factory which found to be non-exempt
- works involved increasing the ridge height from 8m to 11m over an almost identical production floor footprint using the original roof trusses and replacement of non-structural side masonry infill walls with precast panels, replacement of original steel stanchions with longer ones to add height to the

structure (to improve working conditions) and improvement by means of overlaying with concrete of the production floor resulting in a slight increase in height of the floor but improvement in overall levels

- the renewed building is approximately the same size as that granted permission with no material extension other than with fits within Class 21
- submission is that the renewed building does not add to the visual impact
- renewed facility will not result in any increase in production capacity and intensity as the production facility has not intrinsically changed – it is the same production floor area and same gantry serving the production floors as before
- regarding the enforcement letter and the reference to demolition it is assumed that this refers solely to limitations in class 50 (a)(ii) which imposes a 100 m² limit – works were not those of demolition just acts of renewal of elements which were substantially non-structural and non-production related
- the Oxford definition refers to pulling down of the building or completely destroying and no such occurrence happened in this instance
- the act of renewal, which is exempt requires a scheme of works which may include alteration, including elements of dismantling the construction, to a structure with the object of maintaining the same general functionality in the renewed structure as was present in the original
- for health and safety reasons and to accommodate heavier and larger panels and products that require to be loaded, the external loading mechanism supported by new stanchions on one side and by the east-side stanchions of the renewed PF1 were erected (after 40 years requirements have changed)
- the maximum height of the local loading mechanism is approximately at eaves level of the renewed factory which is approximately 9 m - meets the criteria for exempt status under Class 21(a)(iii) and / or Class 16
- site discharge is strictly controlled and managed and the licence was reviewed in 2011 meaning that the development at that time underwent Stage I screening for appropriate assessment and was not found to be at threat to Natura site 4

- not a scheduled activity for the purposes of EIA.

6.2. Planning authority response

6.2.1. The planning authority has indicated that it has no further comments or observations.

7.0 Statutory Provisions

7.1. Planning and Development Act, 2000

Section 3 of the Act sets out the meaning of development as follows:

“...the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land.”

Section 2(1) of the Act, states that "works" includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

“Structure” means any building, structure, excavation or other thing constructed or made on, in or under any land, or any part of a structure so defined.

“Alteration” includes -

a) plastering or painting or the removal of plaster or stucco, or

b) the replacement of a door, window or roof,

that materially alters the external appearance of a structure so as to render the appearance inconsistent with the character of the structure or neighbouring structures.

Section 4 - defines a range of development to be exempted development including:

Section 4(1)(h) – Development consisting of the carrying out of works for the maintenance, improvement or other alteration of a structure which affect only the interior of the structure or which, if external, do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures.

7.2. **Planning and Development Regulations, 2001**

Article 6 states:-

(1) Subject to Article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1.

Article 9 (1) states:-

Development to which article 6 relates shall not be exempted development for the purposes of the Act

(a) if the carrying out of such development would

(viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site.

(viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use.

Schedule 2, Part 1

Class 16 states: -

The erection, construction or placing on land on, in, over or under which, or on land adjoining which, development consisting of works is being or is about to be, carried out pursuant to a permission under the Act or as exempted development, of structures, works, plant or machinery needed temporarily in connection with that development during the period in which it is being carried out.

Class 21 states:-

(a) Development of the following descriptions, carried out by an industrial undertaker on land occupied and used by such undertaker for the carrying on, and for the purposes of, any industrial process

(iii) the installation or erection by way of addition or replacement of plant or machinery, or structures of the nature of plant or machinery.

Conditions and limitations include such development should not materially alter the external appearance of the premises and shall not exceed 15 m in height.

Class 50 states:-

- (a) the demolition of a building or buildings, within the curtilage of-
- (ii) an industrial building .

7.2.1. Conditions and limitations refer to a maximum floor area of 100 square metres.

7.3. Relevant Cases

- 7.3.1. Under RL2027 the Board considered the demolition and replacement of a house during the course of carrying out a permitted development. The Board determined that the development and reconstruction works did not come within the scope of Section 4(1)(h), not being "development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure" as the works resulted in the demolition of the structure. The works involved the rebuilding of a house which was determined to be unsound.
- 7.3.2. RL2385 – the stacking of steel containers was not considered to be in the nature of plant and machinery that come within the scope of Class 21.
- 7.3.3. RL2793 related to extraction fans installed at a bakery. The Board decided that the fans came within the scope of the exempted development provisions of Class 21 being development for industrial purposes, either the provision of apparatus or the installation or erection by way of addition or replacement of plant and machinery.
- 7.3.4. RL2486 refers to replacement machinery at a quarry. The replacement fixed plant and new additional fixed plant is exempted development under Class 21.
- 7.3.5. In a recent Supreme Court decision of Cronin v An Bord Pleanála the limitations to section 4(1) (h) were explored. The case referred to the laying out of a concrete yard for the drying of blocks. It is stated in the concluding remarks relating to section 4 (1) (h).

it is true that, in principle an extension could be considered to be an improvement.... It seems to me that an improvement for the purposes of an exemption, must be something that relates to the internal use and function of the structure resulting in not externally noticeable difference or an insignificant difference.... I accept the arguments of the board... And consider that an extension is a development that does not come within the exemption.

8.0 Assessment

8.1. Is or is not development

- 8.1.1. The question relates to 'works' which have been undertaken at the premises. The act of renewal of Factory 1 (PF1) and the erection of the external gantry both involved an operation of construction. In the case of PF1 there were also elements of demolition and renewal (of existing walls) and extension (of the building volume by lateral and vertical increases).
- 8.1.2. The renewal of the factory and the erection of a gantry / loading mechanism is development.

8.2. Is or is not exempted development

- 8.2.1. The position of the referrer is that there is no change to the nature, scale or intensity of the authorised site activity by way of the renewal of PF1 and/or the addition of an open-air loading mechanism over an authorised access road/hardstanding.
- 8.2.2. In consideration of whether or not the development is exempted development I will separately consider the two structures (PF1 and the loading mechanism) and will address the following:
- The planning history
 - Section 4(1)(h) and the decision in Cronin v an Bord Pleanála
 - Class 21 of Part 1 of Schedule 2 of PDR
 - Class 50(a)(ii) of Part 1 of Schedule 2 of PDR

- Class 16 of Part 1 of Schedule 2 of PDR
- Article 9
- Appropriate Assessment.

8.3. Factory 1

8.4. I would accept that the development which has taken place related to works to a long-standing building and note the authorised status of that building (as it existed at the time) under a permission which dates to 2002.

8.4.1. **Section 4 (1)(h)**

8.4.2. I now address whether the renewal of PF1 might be deemed to constitute exempted development under section 4(1)(h). This provides for 'maintenance, improvement or other alteration' and subject to the limitation 'do not materially affect the external appearance of the structure so as to render the appearance inconsistent ...'

8.4.3. *Maintenance, improvement or other alteration*

8.4.4. Regarding the relevance of section 4(1)(h) my opinion is that the building was effectively demolished. I consider that the precedent decision of RL2027 is relevant in this case. The referrer makes much of the fact that the production floor was not altered and that production did not cease (except for the duration of works to the floor). The referral also comments relating to the dictionary definition of demolition. From inspection my conclusion is that the previously existing building can only reasonably be described as having been demolished. Virtually nothing of the original structure now remains in place. The development involved removal of the side walls, the incorporation of a former lean-to into PF1, the installation of new stanchions to support the re-used roof trusses and a new roof finish. At a point in time nothing other than the original floor slab would have been in place and at that time it has to be concluded that the building had been demolished. Even if the development was phased the fact is that all of the building elements were removed and replaced, which I consider is an act of demolition. The fact that some of these elements were not structural is not relevant in my opinion. Section 4(1)(h) provides for maintenance, improvements or alterations of structures, not for the demolition of structures.

8.4.5. Having regard in particular to demolition of the original building the act of renewal of PFI does not constitute exempted development under the provisions set out in section 4(1)(h).

8.4.6. *External appearance*

8.4.7. Regarding the extent of the works, I note that the roof trusses were reinstated (indicating the width of the building was largely unchanged) and that any increase in floor area is in the order of 3.5%. The development which has been undertaken at PF1 included an increase, which I consider constitutes a material increase in the height of the building. The replacement building is materially different in terms of its external appearance insofar as it is clearly a much higher structure. It would be visible from a wider distance in addition. I consider that the height of PF1 has materially affected the external appearance of the structure so as to render the appearance inconsistent with the original building. As such I conclude a determination of exempted development by reason of section 4(1)(h) cannot be made.

8.4.8. *Extension*

8.4.9. My opinion is that this increase should be regarded as an extension. I do not consider that it is the intention of 4(1)(h) to provide for any significant forms of extension. My opinion on that matter is supported by the SC judgement under *Cronin v ABP*, which is quoted earlier. I consider that it is significant that the structure is extended albeit primarily in a vertical direction. I conclude that this would preclude consideration under section 4(1)(h).

8.4.10. I refer at this point to the rationale for the increase in height, which is stated to be related to the creation of a healthier workplace. At the time of inspection I noted that internal lifting mechanisms are placed at an elevated position. There is also a reference (made regarding the external loading mechanism) to the handling of larger and heavier loads. The increased height of the internal area seems to be very generous in terms of its proportions if its purpose is related solely to employee well-being, but on balance I accept the submission of the referrer that the production has not changed.

8.4.11. *Works to floor*

8.4.12. I consider that the nature of the works involved in the raising of the floor, which essentially was a concrete pour to provide for a more even and clean surface within a building does fall under section 4(1)(h). I consider that this aspect of the works undertaken is exempted development. However, this matter is not specifically referenced in the question posed and in the context of the overall scheme of things is a minor issue.

8.4.13. Class 21 of Part 1 of Schedule 2 of PDR

8.4.14. Regarding the renewal of the factory the referrer's case rely significantly on Class 21(a)(iii). That is a relevant section of legislation in terms of development for industrial purposes. However, I consider that the referrer's case misconstrues the provisions of Class 21(a)(iii) and incorrectly infers that this relates to buildings. The wording is:

installation or direction by way of additional replacement of plant or machinery or structures of the nature of plant or machinery.

8.4.15. Separately in Class 21(b) there is use of the term 'industrial building'. I have reviewed relevant referral cases relating to this Class. I have found no precedent cases which support the interpretation presented by the referral. My opinion is that the terms 'plant or machinery' are similar to each and are related to the industrial process but not to the structures within which industrial processes might take place.

8.4.16. If the Board decided that Class 21 is in fact relevant to its consideration of the renewal of PF1, then it should consider the limitations in column 2, which relates to not materially altering the external appearance of the premises and to a maximum height of 15 m. I consider that due to the increase in height it would not be reasonable to conclude that the external appearance of the premises has not been materially altered.

8.4.17. Class 50(a)(ii) of Part 1 of Schedule 2 of PDR

8.4.18. The referrer indicates that the planning authority considers that the renewal of the building is beyond the exempted development provisions with regard to demolition and infers that this relates to the limitations in Class 50(1)(ii). The case is that this is not relevant insofar as no clear and discreet act of demolition occurred.

8.4.19. I do not agree with this interpretation of the word demolition and I have addressed the matter above. I consider that an act of demolition has occurred and I note that the conditions and limitations relevant under the exempted development provision would limit the floor area to 100 m².

8.4.20. I am satisfied that the renewal of the factory is not exempted development by reason of the provisions of Class 50(a).

8.4.21. *The external loading mechanism*

The referrer's case is that this is exempted development under Class 16 and / or Class 21.

8.4.22. **Class 16 of Part 1 of Schedule 2 of PDR**

8.4.23. The purpose of Class 16 is to provide for structures, works, plant or machinery needed temporarily in connection with the undertaking of works. It is a provision for a temporary period. The Class does not exempt the erection of the external loading mechanism, which is not for construction related or similar purposes and is not temporary in nature.

8.4.24. **Class 21 of Part 1 of Schedule 2 of PDR**

8.4.25. Class 21 provides for the installation or erection by way of addition or replacement of plant or machinery. In terms of whether it constitutes 'replacement' plant or machinery, I consider that the loading mechanism constitutes a structure which would be reasonably defined as plant / machinery. I also note that it will fall within the height limitations set in column 2 (15 m). However, I do not consider it reasonable to conclude that such development would not materially alter the external appearance of the premises, having regard to the significant scale of the structure and its height.

8.4.26. Further, as the loading mechanism is built into the wall of the renewed FP1 it might be considered to be an extension to an unauthorised development. The provisions of article 9(viii), which imposes restrictions on exempted development under the Classes in Schedule 2, where such development will consist of or comprise the extension or alteration of an unauthorised structure.

8.4.27. It is accepted to avail of the exempted development provisions it is necessary that there is no ambiguity about the exemption relied upon. Therefore, I am not satisfied

in the particular circumstances of this case that the loading mechanism, which is in fact integral to the structure of PF1 is exempted under Class 21.

8.5. Restrictions on exempted development

- 8.5.1. I have considered the restrictions on exempted development which would apply and in this case I consider that the restrictions under article 9(viiB) and (viii) are the only provisions which may be relevant. In the event that the board considers that development subject of this referral would fall within the Classes of Part 1 of Schedule 2, then article 9 should also be considered.
- 8.5.2. Regarding the requirement for EIA this matter is not relevant as the development does not fall within a Class listed in Schedule 5.

8.6. Appropriate Assessment

- 8.6.1. The site is very close to the River Blackwater Special Area of Conservation Site Code 002170. The qualifying interests include Freshwater Pearl Mussel, White-clawed Crayfish, Lamprey (3 no. species), Twaité Shad and Atlantic Salmon. Site specific Conservation Objectives have been adopted.
- 8.6.2. I have examined the information available on the NPWS website. The Allow is identified as a location within the catchment where Freshwater Pearl Mussel is known. Of the three populations in the SAC which are listed on the European Communities Environmental Objectives (Freshwater Pearl Mussel) Regulations of 2009, the Allow is the largest population (up to 20,000). In terms of the other qualifying interests the information on the NPWS website indicates that Lamprey are present in the Allow.
- 8.6.3. There is a hydrological connection between the site and the River Allow. The surface water infrastructure at the northern part of the site discharges to a drain which connects to the Allow. The site is separated from the edge of the designated SAC by a length of stream of 175m approximately. Due to the nature of cementitious material, which is highly toxic to fish there is potential that if not properly constructed and operated the development subject of this referral could give rise to significant effects on the SAC.

- 8.6.4. The referrer's submission notes the review by the local authority in 2011/12 of the discharge licence and that at that time the development underwent Stage I Screening for Appropriate Assessment and was not found to be a threat to Natura sites in the vicinity. Therefore it is stated that as the renewed structure is identical in terms of its ongoing use and the loading mechanism has no impact on emissions and there are no changes to the site drainage the renewal of the structure and the ongoing use may logically avail of the previous screening.
- 8.6.5. In terms of the operational impacts of the proposed development I consider there are not likely to be any significant changes compared with the development which was previously in situ. I consider that a finding of no significant effects may reasonably be drawn in relation to the operation of the development, subject to control of emissions under the terms of the licence. As such no requirement for a stage II submission involving a NIS arises.
- 8.6.6. The referrer's submission does not address the potential construction stage impacts which might have arisen and has not detailed the construction methods. Based on the available information it is not possible to determine that a 'finding of no significant effects' can be made in relation to the construction phase.
- 8.6.7. Any exemption which might ordinarily be availed of under the Classes in Part 1 Schedule 2 would be restricted by the provisions of Article 9(viiiB) if it would comprise development which the Board considers would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site. I consider that there is insufficient information available to make a judgement on this matter and refer to the matters raised in the Council's Heritage Officer's report in the event that the Board decides to seek further information. However, as this information is not necessary for the purpose of this referral, I recommend that the case be decided based on the available information and without drawings conclusions on the matter of appropriate assessment.

9.0 Recommendation

- 9.1. I recommend that the Board should decide this referral in accordance with the following draft order.

WHEREAS a question has arisen as to whether the renewal of an existing authorised building and the addition of a loading mechanism over an authorised loading area is or is not development or is or is not exempted development:

AND WHEREAS Ducon Concrete Ltd requested a declaration on this question from Cork Council and the Council issued a declaration on the 17th day of October, 2017 stating that the matter was development and was not exempted development:

AND WHEREAS Ducon Concrete Ltd referred this declaration for review to An Bord Pleanála on the 8th day of November, 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,
- (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) Class 16, Class 21 and Class 50 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (f) the planning history of the site,
- (g) the pattern of development in the area:

AND WHEREAS An Bord Pleanála has concluded that:

- (a) The renewal of the building and the addition of the loading

mechanism is development

- (b) The renewal of the building involved an act of demolition
- (c) The replacement building is materially different in terms of its external appearance by reason of the increased height
- (d) The scope of works undertaken in the renewal of the building does not fall within section 4(1)(h), Class 21 or Class 50
- (e) The loading mechanism is an integral part of the renewed building
- (f) The loading mechanism materially alters the external appearance of the premises by reason of its location, height and width
- (g) The loading mechanism is not a temporary structure for the purpose of development of lands
- (h) The loading mechanism does not fall within Class 16 or Class 21.

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 renewal of an existing authorised building and the addition of a loading mechanism over an authorised loading area is development and is not exempted development.

Mairead Kenny
Senior Planning Inspector

23rd February 2018