



Question

Whether the replacement of timber posts with concrete posts at the entrance gateway to Heather Cottage is or is not development or is or is not exempted development.

Location

Heather Cottage, Upper Cliff Road,
Howth, Co. Dublin.

Declaration

Planning Authority

Fingal County Council

Planning Authority Reg. Ref.

FS5/013/20

Applicant for Declaration

Patrick O' Reilly.

Planning Authority Decision

No declaration issued.

Referral

Referred by

Fingal County Council.

Owner/ Occupier

Patrick O' Reilly.

Observer(s)

None.

Date of Site Inspection

19/08/2020

Inspector

Stephanie Farrington

1.0 Site Location and Description

- 1.1. The referral relates to existing timber posts located at either side of an access road to Heather Cottage, Upper Cliff Road, Howth, Co. Dublin. Heather Cottage is a contemporary style house located in an upland area on the eastern side of the Howth peninsula.
- 1.2. Two wooden piers / gate posts are in place on either side of the access. These posts were deemed as exempted development under PA Ref FS5/014/13, An Bord Pleanala Ref RL3131. Both posts have a plate with the name of the property thereon. There is no obstruction to pedestrians or other road users utilizing the access road at this location.
- 1.3. In the vicinity of the site Upper Cliff Road serves several houses and agricultural entrances. A vehicular turning circle is provided adjacent to the existing access road.

2.0 The Question

- 2.1. The question before the Board relates to the replacement of the existing gateposts at either side of the access road to Heather Cottage on Upper Cliff Road. As detailed above, these posts were deemed exempted development under An Bord Pleanala Reference RL3131.
- 2.2. The original question before the Board was:

Whereas the replacement of timber posts with concrete posts at the entrance gateway to Heather Cottage, Upper Cliff Road, Howth, Co. Dublin is or is not development or is or is not exempted development”.
- 2.3. By correspondence dated 20th of May 2020 the applicant provided the following clarification in relation to the description of the proposed replacement posts:

“Whether the replacement of timber posts with round rubble stone pillars at the entrance gateway to Heather Cottage, Upper Cliff Road, Howth, Co. Dublin is or is not development or is or is not exempted development”.
- 2.4. I intend to proceed with my assessment on the basis of the reworded question.
- 2.5. The following documentation is submitted in conjunction with the Section 5.

- Completed Section 5 Application Form.
- Aerial View illustrating location of existing gateposts.
- Photo of Existing Gate posts on site
- Sketch of Proposed Gateposts. The following notation is included on the sketch – “Proposed New Traditional Stone Round Posts (using Hawth Stone)”
- 120 cm high.

3.0 Planning Authority Declaration

3.1. Declaration

The referral was directed to An Bord Pleanála by Fingal County Council in accordance with Section 5 (4) of the Planning and Development Act 2000, as amended on the 6th of May 2020.

4.0 Planning History

P.A. Ref. FS5/014/13 (Board Ref. 06F.RL.3131 Referral) – Whereas a question arose as to whether the erection of a gate, at Heather Cottage, Cliff Road, Howth is or is not development or is or is not exempted development.

The Board decided to reformulate the question as follows:- Whether the erection of gateposts at Heather Cottage, Upper Cliff Road, Howth, County Dublin is or is not development and is or is not exempted development on the basis of the development evident at site inspection.

The Board decided, by Order dated 19th of May 2016, in exercise of the powers conferred on it by section 5(4) of the 2000 Act, that the erection of gateposts at Heather Cottage, Upper Cliff Road, Howth is development and is exempted development.

P.A. Ref FS5/013/02 (ABP Ref RL06F. RL3078) Whereas questions have arisen as to whether:

- a) the erection of a gate on the road leading to a house,

- b) the erection of fencing on the walls around the dwelling and on lands outside the curtilage of a house,
- c) the erection of decking and pergola structure,
- d) planting, sowing, cultivation and dumping of waste inside and outside the curtilage of a house including on protected dry heath, and
- e) the installation of floodlighting on the curtilage of a house at and in the vicinity of Heather Cottage, Upper Cliff Road, Howth, Dublin are or are not development or are or are not exempted development.

The Board issued a decision on 15th of July 2013 that the erection of the gate constitutes development as defined in section 3 of the Planning and Development Act, 2000, as amended, the said erection of a gate leading on the road to Heather Cottage, Upper Cliff Road, Howth, Dublin is development and is not exempted development, and did not to make a decision on the other matters raised in the referral on the basis that the other elements (b) to (e) cited in the request and the referral have not been adequately described to allow a declaration to be made as to their status as development or exempted development or otherwise.

Heather Cottage

The following provides a summary of applications relating to Heather Cottage. The extent of the application boundary identified within the following applications did not extend to include the area in which the existing gateposts are located.

P.A Reg. Ref. F19B/0080, ABP Ref. PL06F.305966/19 – Permission granted by An Bord Pleanála on the 27th March 2020 for construction of a new single-storey extension to the rear of existing house and associated site works at Heather Cottage, Upper Cliff Road, Howth, Co Dublin. Condition no. 7 of this permission is noted:

Condition 7: Notwithstanding the provisions of the Planning and Development Regulations 2001, as amended, no walls, fences or railings shall be erected on any part of the boundary of the site or dwelling curtilage.

Reason: In the interest of visual amenity and in the context of the site's location within the Howth Head Special Area of Conservation.

P.A. Reg. Ref. F96A/0199, ABP Ref. PL06F.100342– Permission granted by An Bord Pleanala on the 3rd of April 1997 for revised design for a previously approved split level, single dwelling together with garage and septic tank on site subject to 11no. conditions.

PA Reg. Ref. F97A/0563, PL06F.105191 – Permission granted by An Bord Pleanala on the 29th of July 1998 for revised design for a previously approved, split level single dwelling, together with garage and Biocycle Filtration unit on the site of Heather Cottage (demolished).

5.0 Policy Context

5.1. Development Plan - Fingal County Development Plan 2017-2023.

Land use zoning

- 5.1.1. The site is zoned Objective 'HA' High Amenity Area with an objective: *“Protect and enhance high amenity areas”*.
- 5.1.2. The vision for this zone as set out within the County Development Plan is: *“To protect these highly sensitive and scenic locations from inappropriate development and reinforce their character, distinctiveness and sense of place. In recognition of the amenity potential of these areas opportunities to increase public access will be explored”*.
- 5.1.3. Objectives NH51 and NH52 relate to High Amenity Areas as follows:
- *Objective NH51 - Protect High Amenity areas from inappropriate development and reinforce their character, distinctiveness and sense of place.*
 - *Objective NH52 Ensure that development reflects and reinforces the distinctiveness and sense of place of High Amenity areas, including the retention of important features or characteristics, taking into account the various elements which contribute to its distinctiveness such as geology and landform, habitats, scenic quality, settlement pattern, historic heritage, local vernacular heritage, land-use and tranquility.*

- 5.1.4. There is a Specific Objective which seeks “To Preserve Views” in the immediate vicinity of the site. Objective NH40 seeks to *“Protect views and prospects that contribute to the character of the landscape, particularly those identified in the Development Plan, from inappropriate development”*.
- 5.1.5. The site is also located in the Howth SAAO (Special Amenity Area Order). Objective NH44 seeks to *“Protect and enhance the character, heritage and amenities of the Howth and the Liffey Valley Special Amenity Areas in accordance with the relevant Orders”*.

Landscape Character

- 5.1.6. The site lies within a Coastal Landscape Character Type. The Coastal Landscape Character Type is identified as being highly sensitive to development (Table LC01).
- 5.1.7. Objectives NH33-NH39 relate to Coastal Landscape areas. These objectives seek to preserve the uniqueness of landscape character type and ensure that development reflects and reinforces this character. Objective NH36 seeks to ensure that new development does not impinge in any significant way on highly sensitive areas or detract from the scenic value of the area.

5.2. Howth Special Amenity Area Order, 1999

- 5.2.1. Following a direction from the minister the planning authority made a special amenity area order (SAAO) for part of Howth in 1999. The site is within that area. The objectives of the Howth SAAO for the area are to –
- Conserve its natural and cultural assets
 - Realise its exceptional potential as a place for informal recreation, tourism and environmental education
 - Ensure that all sections of the local community have an equal opportunity to enjoy the natural attractions of the area,
 - Protect the amenity of local residents, and
 - Ensure effective local participation in the management process.
- 5.2.2. The site falls within a defined ‘Other Areas within the Special Amenity Area’ as identified in Map A of the Order.

- 5.2.3. The site is proximate to three pathways that have the designation 'To Preserve Views' to the north, east and west including, the Upper Cliff Path, the Lower Cliff Path and the Right of Way linking the Upper and Lower Cliff Paths as indicated on Map B of the Howth SAAO.
- 5.2.4. The order designates certain existing rights of way as public footpaths. The area in which the existing posts are located is not one of the designated public footpaths.
- 5.2.5. Schedule 2 of the Order sets out objectives for the preservation of the character or special features of the area, these include, to preserve views from public footpaths and roads (Objective 2.1).
- 5.2.6. Objective 2.4 of the order seeks to preserve existing areas of heath and maritime grassland. The area adjacent the access road is recorded as heathland and maritime grassland on Map B accompanying the order.
- 5.2.7. Policy 3.4.2 sets out policy guidelines for development in other areas. In relation to boundaries to public roads and footpaths it is stated that such boundaries "*shall be of masonry construction and capped with either limestone or local stone*".
- 5.2.8. Section 4.6 of the order specifies that the exemption for the construction of gates, gateway, railing or wooden fence up to 2m remains in force in the area i.e. Sundry Minor Works – *Construction, erection, renewal or replacement of any gate or gateway provided the height does not exceed 2 metres.*

5.3. **Natural Heritage Designations**

The site is located immediately adjacent the Howth Head SAC (site code 000202).

Other Natura 2000 sites which lie in the vicinity of the site include:

- Howth Head Coast SPA (site code 004113),
- Rockabill to Dalkey Island SAC (site code 003000),

Howth Head is also designated as a proposed Natural Heritage Area.

6.0 The Referral

6.1. Referrer's Case

The referral was directed to An Bord Pleanála by Fingal County Council in accordance with Section 5 (4) of the Planning and Development Act 2000, as amended.

6.2. Further Responses

Observation from the applicant, Patrick O' Reilly, dated 19th of May 2020. The following points are raised:

- Correspondence from Fingal County Council is inaccurate as it refers to the replacement of timber posts with concrete posts. For clarification, the timber posts will be replaced with round rubble stone pillars which are traditional pillars historically used throughout Howth as entrances to fields and houses.
- The aesthetic of the pillars are in keeping and harmonious with the Howth Landscape and most particular in the area of East Mountain and on Upper Cliff Road.

6.3. Planning Authority Response

Correspondence from Fingal County Council dated the 9th of July 2020 outlines the following:

- The development description set out within correspondence issued from the planning authority was taken from the description set out within the application form.
- The image of the proposed pillars does not reflect the description set out within the application form.
- Reference is further made to the location of the site within the SAAO for Howth which includes additional constraints on boundary treatment including fences and the planning history pertaining to the site which have conditions relating to boundary treatment including Condition no. 7 of PA Ref F19B/0080, ABP Ref 305966-19.

7.0 Statutory Provisions

7.1. Planning and Development Act, 2000

Section 3(1) of Planning and Development Act 2000-2012 states – In this Act, “development” means, except where the context otherwise requires, 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 - “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.

Section 4 (1) sets out various forms and circumstances in which development is exempted development for the purposes of the Act.

7.2. Planning and Development Regulations, 2001

Article 6 - Exempted Development

6. (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.

Schedule 2, Part 1 – Exempted Development

CLASS 5 The construction, erection or alteration, within or bounding the curtilage of a house, of a gate, gateway, railing or wooden fence or a wall of brick, stone, blocks with decorative finish, other concrete blocks or mass concrete.

Conditions and Limitations –

- (1) The height of any such structure shall not exceed 2 metres or, in the case of a wall or fence within or bounding any garden or other space in front of a house, 1.2 metres.

(2) Every wall other than a dry or natural stone wall bounding any garden or other space shall be capped and the face of any wall of concrete or concrete block (other than blocks with decorative finish) which will be visible from any road, path or public area, including public open space, shall be rendered or plastered.

(3) No such structure shall be a metal palisade or other security fence.

CLASS 9 The construction, erection, renewal or replacement, other than within or bounding the curtilage of a house, of any gate or gateway.

Conditions and Limitations - The height of any such structure shall not exceed 2 metres.

Article 9 - Restrictions on Exemption.

9. (1) 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—
 - (i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,
 - (vi) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,
 - (vii B) 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,
 - (vii C) consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000.

- (x) consist of the fencing or enclosure of any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility,
 - (xi) obstruct any public right of way,
- (b) in an area to which a special amenity area order relates, if such development would be development:
- (i) of class 1, 3, 11, 16, 21, 22, 27, 28, 29, 31, (other than paragraph (a) thereof), 33 (c) (including the laying out and use of land for golf or pitch and putt or sports involving the use of motor vehicles, aircraft or firearms), 39, 44 or 50(a) specified in column 1 of Part 1 of Schedule 2, or
 - (ii) consisting of the use of a structure or other land for the exhibition of advertisements of class 1, 4, 6, 11, 16 or 17 specified in column 1 of Part 2 of the said Schedule or the erection of an advertisement structure for the exhibition of any advertisement of any of the said classes, or
 - (iii) of class 3, 5, 6, 7, 8, 9, 10, 11, 12 or 13 specified in column 1 of Part 3 of the said Schedule, or
 - (iv) of any class of Parts 1, 2 or 3 of Schedule 2 not referred to in subparagraphs (i), (ii) and (iii) where it is stated in the order made under section 202 of the Act that such development shall be prevented or limited,

7.3. **Howth Special Area Amenity Order 1999**

Details of the Howth Special Amenity Area Order are set out in Section 5.2. Of note Section 4.6 of the order specifies that the exemption for the construction of gates up to 2m remains in force in the area.

8.0 Assessment

8.1. Is or is not development

- 8.1.1. The question is raised as to whether the replacement of timber posts with round rubble stone pillars at the entrance gateway to Heather Cottage, Upper Cliff Road, Howth, Co. Dublin is or is not development or is or is not exempted development.
- 8.1.2. At the outset I note that Development is defined, under Section 3(1) of the Planning and Development Act, 2000 – 2014, as “the carrying out of works on, in, over or under land...” Works are defined, under Section 2(1) of this Act, as including “any act or operation of construction, excavation, demolition...”
- 8.1.3. The erection of stone pillars consists of carrying out of works and therefore constitutes development as defined in Section 3 of the Planning and Development Act 2000, as amended.
- 8.1.4. The development would not fall within any of the categories of exemptions set out within Section 4(1) of the Act.

8.2. Is or is not exempted development

- 8.2.1. Schedule 2, Part 1 of the Planning and Development Regulations 2001-2019 as amended sets out classes of development where are deemed as exempted development.
- 8.2.2. Class 5 relates to boundary treatment within the curtilage of a house. The issue of curtilage was addressed under RL3131/ RL3708 where it was deemed that posts do not form part of the curtilage of Heather Cottage. I see no reason to revisit this conclusion.
- 8.2.3. Class 9 relates to the construction, erection, renewal or replacement, other than within or bounding the curtilage of a house, of any gate or gateway as exempted development subject to the limitation that the height of any such structure shall not exceed 2 metres.
- 8.2.4. The proposed pillars are 1.2m high and are in accordance with the height restrictions set out under Class 9. Under ABP Ref. 06F.RL.3131 the existing timber posts in place at this location were deemed to be exempted development. The current

referral relates to the replacement of the existing timber posts with round rubble stone pillars.

- 8.2.5. In the absence of any other legal provision to exclude exemption, the development would be exempted development under Class 9 of Part 1 of Schedule 2 of the planning regulations.

8.3. Restrictions on exempted development

- 8.3.1. The gateposts come within the scope of Class 9 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended. This exemption is not prevented or limited by the provisions of the 1999 Special Amenity Area Order for Howth, either expressly by the terms of the order or by operation of article 9(1)(b) of the regulations.
- 8.3.2. The development is therefore assessed in light of the relevant restrictions set out under Article 9 (1) (a) of the Planning and Development Regulations 2001 as amended.

Article 9 (1) (a) (i)

- 8.3.3. Correspondence received from Fingal County Council refers to conditions on boundary treatment attached to planning permissions for Heather Cottage. Condition no. 7 of .PA Reg. Ref. F19B/0080, ABP Ref. PL06F.305966/19 is specifically noted in this regard which states that “*Notwithstanding the provisions of the Planning and Development Regulations 2001, as amended, no walls, fences or railings shall be erected on any part of the boundary of the site or dwelling curtilage*”.
- 8.3.4. In this regard I note that (a) the development relates to replacement of existing posts which were deemed exempted development under RL 3131 and (b) that the area in which the posts are located were not included within the application boundary illustrated under Ref. F19B/0080, ABP Ref. PL06F.305966/19 or any other permissions pertaining to the property.
- 8.3.5. The restrictions on exempted development status provided for in Article 9 (1)(a)(i) of the Planning and Development Regulations, 2001, do not apply in this instance.

Article 9 (1) (a) (vi)

- 8.3.6. Article 9 (1) (vi) relates to development which would interfere with the character of a landscape, or a view or prospect of special amenity value or special interest.
- 8.3.7. The site is zoned Objective 'HA' High Amenity Area with an objective to *“Protect and enhance high amenity areas”* and *“To protect these highly sensitive and scenic locations from inappropriate development”*. There is a Specific Objective which seeks *“To Preserve Views”* in the immediate vicinity of the site. Objective NH40 seeks to protect such views from *“inappropriate development”*.
- 8.3.8. The pillars are described within the referral documentation as being round rubble stone pillars and materials proposed include Howth stone. The pillars have a stated height of 1.2m and are therefore of a similar height to the existing timber posts at this location. A sketch of the pillars has been submitted in conjunction with the application documentation.
- 8.3.9. The applicant has made the case that these are traditional pillars historically used throughout Howth as entrances to fields and houses and that the aesthetic of the pillars are in keeping and harmonious with the Howth Landscape and most particular in the area of East Mountain and on Upper Cliff Road.
- 8.3.10. Stone pillars and boundary treatment are currently provided within the immediate vicinity of the site along Cliff Road, examples of which are illustrated in the attached presentation document. The materials proposed for the extension to Heather Cottage permitted under P.A Reg. Ref. F19B/0080, ABP Ref. PL06F.305966/19 was Howth stone. The use of local stone in boundary treatments is also in accordance with the guidance set out within the Howth SAAO.
- 8.3.11. Having regard to the existing and permitted nature of development in the area I consider that the use of natural stone would be consistent with the character of the landscape and the proposed materials would not interfere with any particular view or prospect of special amenity value of special interest.
- 8.3.12. Accordingly, the restrictions on exempted development status provided for in Article 9 (1)(a)(vi) of the Planning and Development Regulations, 2001, do not apply in this instance.

Article 9 (1) (a) (vii B)

- 8.3.13. The restriction imposed under Article 9 (i) (a) (vii B) relates to development which would comprise development which would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site.
- 8.3.14. Due to the nature of available mapping illustrating the position of the Howth Head SAC boundary it is difficult to establish the precise position of the SAC boundary with respect to the replacement pillars. I note that under RL3131 the gateposts were identified as being within the SAC boundary. The referral relates to works which I consider to be partially within and directly adjacent to the Howth Head SAC (site code 000202).
- 8.3.15. Howth Head is described as a rocky headland situated on the northern side of Dublin Bay within the SAC site synopsis. The peninsula is composed of Cambrian slates and quartzites, joined to the mainland by a post-glacial raised beach. Limestone occurs on the north-west side while glacial drift is deposited against the cliffs in places.
- 8.3.16. The site is a Special Area of Conservation (SAC) selected for the following habitats
- [1230] Vegetated Sea Cliffs of the Atlantic and Baltic Coasts;
 - [4030] European Dry Heath
- 8.3.17. Map 3 of the site synopsis identifies the estimated distribution of sea cliffs in the SAC, the area identified does not extend to include the subject site. In terms of Dry Heath it is stated that European dry heath has not been mapped in detail for Howth Head SAC and thus the total area of the qualifying habitat is unknown.
- 8.3.18. The Howth SAAO records the landscape to the south, east and west of the site as Heathland and Maritime Grassland. The existing gateposts are located on hardstanding ground at either side of an existing access road to a residential property and directly adjacent to a vehicular turning circle.
- 8.3.19. Notwithstanding the location of the site partially within and directly adjacent the Howth Head SAC it is my view that, having regard to the limited nature and scale of the development, the characteristics of the area in which the existing posts are located at either side of an access road directly adjacent to a vehicular turning area

and to the nature of the qualifying interests of the SAC, that the proposed development would not be likely to have a significant effect on the Howth Head SAC.

8.3.20. It is reasonable to conclude that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on the Howth Head SAC (site code 000202) or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) would not be required before consent if it were granted.

8.3.21. Accordingly, the restrictions on exempted development status provided for in Article 9 (1)(a)(vii B) of the Planning and Development Regulations, 2001, do not apply in this instance.

Article 9 (1) (a) (vii C)

8.3.22. Article 9(1) (a) (vii C) of the Planning and Development Regulations states that development to which Article 6 relates shall not be exempted development for the purposes of the Act if the carrying out of such development would consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000.

8.3.23. The development that is the subject of this referral is located within the Howth Head proposed Natural Heritage Area (site code 000202). Having regard to the characteristics of the site and nature of the works I do not consider the proposed works are likely to have an adverse impact on the Howth Head pNHA.

Article 9 (1) (a) (x) and (xi)

8.3.24. On review of the restrictions on exemptions imposed under Article 9 (1) (a) (x) and (xi) I note that the pillars would not restrict access to the area or obstruct any public right of way. The principle of gateposts at this location is established and deemed exempted development under RL3131 on the basis that the gateposts "*do not, of themselves, involve the fencing or enclosure of land*". The sketch submitted in conjunction with the referral indicates an access of 3m between the pillars and in this regard would not comprise of the "*fencing or enclosure of land*".

8.3.25. Accordingly, the restrictions on exempted development status provided for in Article 9 (1)(a)(x) and (xi) of the Planning and Development Regulations, 2001, do not apply in this instance.

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 replacement of timber posts with round rubble stone pillars at the entrance gateway to Heather Cottage, Upper Cliff Road, Howth, Co. Dublin is or is not development or is or is not exempted development.

AND WHEREAS Fingal County Council referred the question to An Bord Pleanála on the 6th day of May 2020.

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 9 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, as amended,
- (d) The location of the 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 County Development Plan 2017-2023 as they apply to the site, and
- (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 erection of pillars consists of carrying out of works and therefore constitutes development as defined in Section 3 of the Planning and Development Act 2000, as amended.

(b) the pillars come within the scope of Class 9 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, which exemption is not prevented or limited by the provisions of the Howth Special Amenity Area Order,

(c) by reason of the limited scale of the pillars, they do not interfere with the character of the landscape whose preservation is an objective of the Fingal County Development Plan 2017-2023, and accordingly the restrictions on exempted development status provided for in Article 9 (1)(a)(vi) of the Planning and Development Regulations, 2001, do not apply in this instance,

(d) having regard to the limited nature and scale of the development, the characteristics of the area in which the existing posts are located, and to the nature of the qualifying interests of the SAC, that the proposed development would not be likely to have a significant effect on the Howth Head SAC (site code 000202) or any other European site and accordingly the restrictions on exempted development status provided for in Article 9 (1)(a)(vii B) of the Planning and Development Regulations, 2001, do not apply in this instance,

(e) the development does not consist of or comprise development which would be likely to have an adverse impact on an the Howth Head pNHA and accordingly the restrictions on exempted development status provided for in Article 9 (1)(a)(vii B) of the Planning and Development Regulations, 2001, do not apply in this instance,

(f) the pillars do not, of themselves, involve the fencing or enclosure of land that was habitually open to and used by the public during the 10 years preceding such enclosure for recreational purposes and as a means of access to a place of natural beauty and recreational utility, and accordingly the restrictions on exempted development status provided for in Article 9

(1)(a)(x) of the Planning and Development Regulations, 2001, as amended, do not apply in this instance,

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5 (4) of the Planning and Development Act 2000, as amended, hereby decides that the replacement of timber posts with round rubble stone pillars at the entrance gateway to Heather Cottage, Upper Cliff Road, Howth, Co. Dublin is development and is exempted development.

Stephanie Farrington

Senior Planning Inspector

14th of September 2020