



An  
Bord  
Pleanála

## Inspector's Report ABP-317659-23

### Question

Whether the (a) demolition of a two-storey extension measuring 92 sq. m. to the rear of dwelling, (b) construction of new two-storey extension measuring 129 sq. m. to the rear of dwelling, (c) demolition of a single storey sunroom measuring 5 sq. m. on the western side elevation, (d) construction of a single storey extension measuring 2 sq. m. on the western side elevation, (e) construction of lean-to roof on the western elevation measuring approx. 6900mm long and 160mm wide and (f) construction of a wooden fence measuring 2m in height along the western boundary in the front garden of the house is or is not development or is or is not exempted development.

### Location

10 Burrow Road, Sutton, Dublin 13

### Declaration

Planning Authority

Fingal County Council

Planning Authority Reg. Ref.	N/A
Applicant for Declaration	Fingal County Council
Planning Authority Decision	N/A

**Referral**

<b>Referred by</b>	Fingal County Council.
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<b>Owner/ Occupier</b>	Philip Farrelly.
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<b>Observer(s)</b>	None.
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<b>Date of Site Inspection</b>	20 <sup>th</sup> June 2024.
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<b>Inspector</b>	Lucy Roche
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## Contents

1.0 Site Location and Description .....	4
2.0 The Question .....	4
3.0 Planning History.....	5
4.0 Policy Context.....	5
4.1. Development Plan.....	5
4.2. Natural Heritage Designations .....	5
5.0 The Referral.....	6
5.1. Referrer’s Case.....	6
5.2. Owner/ occupier’s response.....	7
6.0 Statutory Provisions.....	9
6.1. Planning and Development Act, 2000.....	9
6.2. Planning and Development Regulations, 2001 .....	11
7.0 Referral Cases:.....	13
8.0 Assessment.....	19
9.0 Recommendation.....	32

## 1.0 Site Location and Description

- 1.1. The referral site is located on Burrow Road in Sutton, c800m west of Sutton train station. The site is bounded by and accessed from Burrow Road to the south and by Burrow Beach to the north. Burrow Beach at this location is designated Baldoyle Bay SAC. A gated laneway providing access to the beach from Burrow Road extends along the site's western boundary while the neighbouring property, No.11 Burrow Road, lies to the east. The railway line runs parallel and to the south of Burrow Road.
- 1.2. The referral site is occupied by a two-storey end-of-terrace dwelling which has been extended in recent years via the construction of a new two-storey extension to the north of the property and single storey bay window addition to the west. A lean-to roof / canopy structure has also been added to the side (west) elevation of the original house, extending over the bay window and what appears to be a newly constructed entranceway extension.

## 2.0 The Question

- 2.1. The question has arisen as to whether the following is or is not development or is or is not exempted development.
- (a) Demolition of a two-storey extension measuring 92 sq. m. to the rear of dwelling,
  - (b) Construction of new two-storey extension measuring 129 sq. m. to the rear of dwelling,
  - (c) Demolition of a single storey sunroom measuring 5 sq. m. on the western side elevation,
  - (d) Construction of a single storey extension measuring 2 sq. m. on the western side elevation,
  - (e) Construction of lean-to roof on the western elevation measuring approx. 6900mm long and 160mm wide and
  - (f) Construction of a wooden fence measuring 2m in height along the western boundary in the front garden of the house

### **3.0 Planning History**

In 2007 Fingal County Council issued a declaration under Section 5 (1) of the Planning and Development Act 2000-2006 in respect of whether the removal of an existing conservatory and the construction of a new frameless glass conservatory and alterations to internal layout at 10 Burrow Road, Sutton, Dublin 13 is or is not exempted development.

The Planning Authority concluded that (1) the removal of an existing conservatory and the construction of a new frameless glass conservatory – is not exempted development as the works involved extensions to the side of the dwelling and (2) the proposed internal alterations are exempted development.

### **4.0 Policy Context**

#### **4.1. Development Plan**

The Fingal County Development Plan 2023 to 2029 is the operative plan for the area. The site is zoned 'RS' Residential with an objective to provide for residential development and protect and improve residential amenity. The vision for the zoning is to ensure that any new development in existing areas would have minimal impact on and enhance existing residential amenity. The referral site is not within or adjacent to an ACA nor are there any protected structures or recorded monuments on or in the immediate vicinity. The site is within the Coastal Landscape Character zone which is classified as highly sensitive.

#### **4.2. Natural Heritage Designations**

The site is not within a designated area. The referral site backs onto the Baldoyle Bay SAC (Site Code 000199) and is to the south, east and west of the Northwest Irish Sea SPA (Site Code 004236), c95m at the closest point.

## 5.0 The Referral

### 5.1. Referrer's Case

The referrer in this case is Fingal County Council (FCC). In accordance with the details submitted:

- An Enforcement Notice was issued under Section 154 of the Planning and Development Act 2000 (as amended) in 2020 as Fingal County Council considered the works do not constitute exempted development. Since issuing the Enforcement Notice the developer has put forward the case that the development is exempted development. Fingal County Council considered it appropriate to seek a declaration from An Bord Pleanála on the matter.
- The development includes the demolition of part of a habitable dwelling in the form of a two-storey rear extension measuring 92sqm, which was stated verbally to Fingal County Council Planning Enforcement Inspector as having been constructed prior to 1964.
- The development includes the construction of a new two storey rear extension measuring 129sqm on a different footprint.
- In issuing the enforcement notice Fingal County Council considered that the development was not exempted development it does not comply with the conditions and limitations set out in the P&D Regulations 2001 (as amended) under Schedule 2, Part 1, Exempted Development – General, Class 1 and 50.
- Further, additional works to the western side elevation including the demolition of a sunroom have since been carried out and a new sunroom and lean to roof is under construction.
- The referral is supported by plans and elevations prepared by Fingal County Council and showing the pre-existing dwelling and the amended dwelling.

## 5.2. Owner/ occupier's response

A response on behalf of the owner/occupier of the property Mr. P. Farrelly, was submitted by Stephen Ward Town Planning and Development Consultants and is summarised as follows:

- 10 burrow Road, Sutton, Dublin 13 is a pre-1963 two-storey end-of -terrace house. Prior to 1<sup>st</sup> October 1964 the house underwent extensions consisting of the addition of a rear two-storey extension (92sqm). Given the completion of the development was prior to 1<sup>st</sup> October 1964, it is considered part of the original home (and is referred to as such in the remainder of the document). Reference is made to OPR Planning Leaflet 8 – A Guide to Doing Work around the Home to support the owner/occupier's position in this regard.
- In or around 2000, a 5sqm single storey sunroom was added to the western elevation without the benefit of planning permission.
- Mr. Farrelly disputes the dimensions as shown on the Fingal County Council drawings. He contends that the total area of the new extension is 123sqm and not 129sqm as indicated by FCC. The extension comprises the reconstruction of the 92sqm (demolished area) and an additional 31sqm (25sqm at ground floor level and 6 sqm at first floor level).
- It is contended that even if the dimensions on FCC drawings were accepted, the net extension area is still less than 40sqm and therefore within the exempted development limits.
- The sunroom was demolished and replaced by a bay window extending to 2sqm.
- Drawings 202-005/A2 and 2020-005/A1 have been submitted as part of the referral response statement. It is stated that these drawings were submitted to FCC in July 2020.
- It was the originally intended to retain the now demolished part of the dwelling and to extend that; however, the area was found to be unstable. The submission includes correspondence from Rankin and Associates Architectural and Engineering Consultants in this regard.

- Section 4.0 of the Owner/Occupiers submission refers to previous referral cases decided by the Board. These are summarised in Section 7.1 of this report.
- Section 5.0 includes an individual response to each of the queries posed by FCC.
  - **On the question of the demolition of the pre-existing extension:** it is contended that this would be exempted development under Class 50(b) provided that the extension is also deemed exempted development under Class 1.
  - **On the question of the construction of the new extension:** it is contended that subject to possible compliance works to meet condition 6(b) relating to the position of windows - this would be exempted development under Class1.
  - **On the questions relating to the demolition of the sunroom and the construction of a single storey extension measuring 2 sqm,** on the western side elevation, it is contended that the works are exempted development having regard to Section 4(1)(h) of the planning and development Act 2000 (as amended).
  - **On the question of the construction of lean-to roof** on the western elevation, there is uncertainty regarding to what the planning authority are referring to. If the question relates to the canopy over the side door, it is submitted that this is exempted development.
  - **On the question of the wooden fence** measuring 2m in height along the western boundary in the front garden of the house it is accepted that this structure is development and is not exempted development by virtue of its height.
- It is submitted that the questions posed in the S5 Declaration submitted by FCC do not accurately reflect the nature and extent of the development. FCC' submission fails to set out the reasoning as to why the referral request was made, it fails to state that the area of the dwelling that was demolished was



not in fact an 'extension' but part of the existing dwelling and that it was demolished because it was structurally unsound.

- It is submitted that it is not possible for the Board to make a determination in this case as the questions posed do not accurately reflect what is determined in this case.
- The new build element is narrower than the pre-existing structure and thus is further set back from property boundaries on both sides.
- It would be illogical, unreasonable, unfair, and unjust for a position to arise where the property owner could simply have left the demolished part of the building in place (92sqm) and then added 40sqm but if the 92sqm area is deducted from the allowance of 40sqm extension he would in effect be denied his rights under the regulations to construct a 40sq.m extension.

## 6.0 Statutory Provisions

### 6.1. Planning and Development Act, 2000

**Section 2 (1) of the Act** provides the following definitions:

“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.

“works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair, or renewal...

“structure” means any building, structure, excavation, or other thing constructed or made on, in or under land, or any part of a structure so defined.” and-  
(a) Where the context so admits, includes the land on, in or under which the structure is situate,”

“unauthorised structure” means a structure other than—

(a) a structure which was in existence on 1 October 1964, or

(b) a structure, the construction, erection or making of which was the subject of a permission for development granted under Part IV of the Act of 1963 or deemed to be such under section 92 of that Act or under section 34 of this Act, being a permission which has not been revoked, or which exists as a result of the carrying out of exempted development (within the meaning of section 4 of the Act of 1963 or section 4 of this Act);

‘use’, In relation to land, does not include the use of land by the carrying out of any works thereon.

**Section 3(1) of the Act** states the following in respect of ‘development’:

“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 4 (1)** sets out various forms and circumstances in which development is exempted development for the purposes of the Act and includes:

*(h) development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which 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.*

**Section 4(2)(a)(i)** “The Minister may by regulations provide any class of development to be exempted development for the purposes of this Act where he or she is of the opinion that – (i) By reason of the size, nature or limited effect on its surroundings, of development belonging to that class, the carrying out of such development would not offend against principles of proper planning and sustainable

development, or ....”

**Section 4(4)** provides that development shall not be exempted development if an Environmental Impact Assessment (EIA) or an Appropriate Assessment (AA) of the development is required.

## 6.2. Planning and Development Regulations, 2001

6.2.1. **Article 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.”

6.2.2. **Article 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— (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,

6.2.3. **Schedule 2 of Part 1** of the Regulations set out the classes of exempted development including those pertaining to ‘general development within the curtilage of a house’ and other ‘miscellaneous’ development:

<i>Column 1 – Description of Development</i>	<i>Column 2 Conditions and Limitations</i>
<i>Class 1</i> <i>The extension of a house, by the construction or erection of an extension (including a conservatory) to the rear of the house or by the conversion for use as part of the house of any garage, store, shed or other similar structure attached to the rear or to the side of the house.</i>	1. (a) Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres. (b) Subject to paragraph (a), where the house is terraced or semi-detached, the floor area of any extension above ground level shall not exceed 12 square metres. (c) Subject to paragraph (a), where the house is detached [...] 2. (a) Where the house has been extended previously, the floor area of any such extension, taken together

	<p><i>with the floor area of any previous extension or extensions constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 40 square metres.</i></p> <p><i>(b) Subject to paragraph (a), where the house is terraced or semi-detached and has been extended previously, the floor area of any extension above ground level taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 12 square metres.</i></p> <p><i>(c) Subject to paragraph (a), where the house is detached [,,,]</i></p> <p><i>3. Any above ground floor extension shall be a distance of not less than 2 metres from any party boundary</i></p> <p><i>4. (a) Where the rear wall of the house does not include a gable, the height of the walls of any such extension shall not exceed the height of the rear wall of the house.</i></p> <p><i>(b) Where the rear wall of the house includes a gable, the height of the walls of any such extension shall not exceed the height of the side walls of the house.</i></p> <p><i>(c) The height of the highest part of the roof of any such extension shall not exceed, in the case of a flat roofed extension, the height of the eaves or parapet, as may be appropriate, or, in any other case, shall not exceed the height of the highest part of the roof of the dwelling.</i></p> <p><i>5. The construction or erection of any such extension to the rear of the house shall not reduce the area of private open space, reserved exclusively for the use of the occupants of the house, to the rear of the house to less than 25 square metres.</i></p> <p><i>6. (a) Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces. [...]</i></p> <p><i>7. The roof of any extension shall not be used as a balcony or roof garden.</i></p>

<p><i>Class 5</i></p> <p><i>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.</i></p>	<ol style="list-style-type: none"> <li>1. <i>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.</i></li> <li>2. <i>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.</i></li> <li>3. <i>No such structure shall be a metal palisade or other security fence</i></li> </ol>
<p><b>CLASS 50</b></p> <p>(a) <i>The demolition of a building, or buildings, within the curtilage of—</i>  <i>(i) a house, (ii) an industrial building, (iii) a business premises, or (iv) a farmyard complex</i></p> <p>(b) <i>The demolition of part of a habitable house in connection with the provision of an extension or porch in accordance with Class 1 or 7, respectively, of this Part of this Schedule or in accordance with a permission for an extension or porch under the Act.</i></p>	<ol style="list-style-type: none"> <li>1. <i>No such building or buildings shall abut on another building in separate ownership.</i></li> <li>2. <i>The cumulative floor area of any such building, or buildings, shall not exceed: (a) in the case of a building, or buildings within the curtilage of a house, 40 square metres, and (b) in all other cases, 100 square metres.</i></li> <li>3. <i>No such demolition shall be carried out to facilitate development of any class prescribed for the purposes of section 176 of the Act. Commented [i800]: Inserted by article 5 of S.I. No. 235/2008 – Planning and Development Regulations 2008 Commented [i801]: Substituted by article 5 of S.I. No. 235/2008 – Planning and Development Regulations 2008 376 permission for an extension or porch under the Act.</i></li> </ol>

## 7.0 Referral Cases:

### 7.1. The following referrals have been referenced in the ‘Referral Response Statement’ submitted on behalf of the Owner/Occupier, Mr. P. Farrelly:

- 7.1.1. *On the issue of demolition, the exemption under Class 50 of Part 1 of Schedule 2 and the conditions and limitations of said class:*

***ABP-305802-19 –whether works consisting of demolition and construction at 6 Florence Terrace, Leeson Park Avenue, Dublin are or are not development or are or are not exempted development:***

The Board (in 2020) decided that works consisting of demolition and construction at 6 Florence Terrace, Leeson Park Avenue, Dublin are development and are exempted development.

In considering the matter the Board concluded that the demolition of the previous rear return to the house on the site occurred in connection with development in accordance with Class 1, and so was in accordance with Class 50(b) of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, as amended. The description of development for Class 50(b) refers to the demolition of part of a habitable house, in contrast to Class 50(a) which refers to the demolition of a building or buildings. As Condition and Limitation number 1 on Class 50 refers only to “such building or buildings” and does not refer to “part of a habitable house”, it therefore restricts the scope of the exemption under Class 50(a) but not that under Class 50(b). Therefore, the abutment or otherwise or the previous rear return to the house with a building in separate ownership does not affect the exempted status of its demolition.

7.1.2. On the exemption under Class 1 of Part 1 of Schedule 2 relating to the extension of a house and the definition of ‘Rear Extension’:

***RL3491 - Whether the extension and alterations to an existing house at Annascannon, Thomastown, Killucan, County Westmeath are or are not development, or are or are not exempted development.***

The Board (2017) concluded that the extended area of the house failed to come within the scope of the exempted development provided for under Class 1 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended, arising from its location partly to the side of the house.

- 7.1.3. In this case, the extension in question was not solely located behind the rear building line of the existing house, instead it wrapped around to the side and projected 1.94m from the gable wall.
- 7.1.4. The case is made in the Referral Response Statement, that by logical continuation, any extension which is solely located behind the rear building line of the existing house should be classified to being to the rear of the house.
- 7.1.5. On the Question of Pre-1963 Extension:

***ABP304129-19 - whether the proposed extension to the rear of Rockwell Cottage, Spanish Point, Miltown Malbay, County Clare is or is not development or is or is not exempted development.***

The Board concluded (2019) that the extension in question fell within the definition of Class 1 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 and the relevant conditions and limitations associated with the said Class. However, the Board was not satisfied that it had been demonstrated that the extension would not interfere with the character. The proposal was deemed not be exempt on this basis.

This referral relates to Rockwell Cottage, a late 19<sup>th</sup>/early 20<sup>th</sup> century cottage which had been previously extended via the construction of a rear extension and front porch prior to 1963 and a rear sunroom in 1980. The development in this case consisted of the demolition of the sunroom (constructed 1980), and the construction of a new 39.7sqm extension to the rear. The new extension being 39.7sqm came within the 40sqm limitation under Class 1. While the dwelling had been extended previously, said extension were not accounted for in the calculation of the area of the proposed extension because (i) the rear extension and front porch were erected prior to 1st of October 1964 and (2) the sunroom, constructed c1980, was demolished.

- 7.2. **The following referral decisions by the Board are also noted:**

7.2.1. On the exemption under Class 1 of Part 1 of Schedule 2 relating to the extension of a house and the definition of 'Rear Extension'

***L2506 whether a single storey rear extension with a projection to the side of the house at 38 Ragoon Road, Shantalla, Galway is or is not exempted development.***

The extension in this case was to the rear of the house but with a 1.95m projection to the side. The Board concluded (2017) that said extension would not come within the scope of the exemption provided in Class 1 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, because it is positioned partly to the side, projecting beyond the side wall of the house by a distance of 1.95 metres.

**RL2107 - whether an extension at 'Culard', 2 Ardfoile Crescent, Ballintemple, Cork is or is not exempted development.**

The Board (2004) decided that the said extension was not exempted development as it did not come within the scope of Class 1 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001.

The Board, in deciding not to accept the Inspectors decision, considered that the extension was not entirely to the rear of the house and projected significantly (2.15m) to the side and therefore does not come within the scope of Class 1 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001.

7.2.2. On the issue of an extension under Class 1 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001:

**ABP – RL2455 – Whether the extension of a house at number 18 Parnell Street, Tullamore, County Offaly is or is not development or is or is not exempted development:**

The development the subject matter of this referral consisted of a single storey (approximate area 64 square metres) extension to the rear of the existing house.



The new extension replaced a previous flat roofed 'extension' which had been demolished prior to the construction of the new extension. The works of demolition and extension resulted in a net increase in floor area of 38sqm.

The case was made by the referrer that area of demolition, described in the documentation on file as both an 'extension' and as an 'integral part of the original house' was constructed prior to 1964.

The Board decided (2007) that the previously existing 'extension', having been demolished, was not relevant to the question, and that the new extension which exceeds 40 square metres and includes a window at ground level less than one metre from the boundary, and does not come within the scope of class 1 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001:

**RL3544 - Whether the construction of a domestic extension and attic conversion is or is not development or is or is not exempted development.**

This referral relates to a single-storey detached house at Seapoint Avenue in Blackrock. The house was extended to the rear via a pitched roof extension with a stated GFA of 50sq.m, of which 12sq.m represents a replacement of a pre-1963 extension. The case was made that the 40sq.m exemption should be allowable over and above the floor area of the now demolished pre-1964 return (12m<sup>2</sup>) and that while the new-build area was 50sq.m, the additional floor area (beyond the footprint of the previous return) was only 38m<sup>2</sup> and would therefore comply with the conditions of Class 1 of Schedule 2, Part 1 of the P & D Regulations, 2001 (as amended)

The Board concluded (2017) that the said extension being to the rear of the dwelling comes within the scope of the exemption provided for under Class 1 of Part 1 of Schedule 2 to the Planning and Development Regulations 2001, but by reason of its scale and extent, comprising a ground floor area of 50 square metres and a first floor area of circa 28 square metres, exceeds the relevant thresholds set out in conditions and limitations 1(a) and 1(c) respectively of Class 1, and is therefore not exempted development.

It further concluded that the existing extensions to the rear of the house, whether or not they were constructed or erected prior to 1st October 1964, cannot be taken into account in respect of the floor area of the new extension, the subject of the referral, as these extensions were demolished and removed prior to the construction of the new extension.

**RL3115 – Whether the existing extension to the rear and alterations to the front of the dwelling house at Baltray, Drogheda, Co. Louth, are or are not development or are or are not exempted development.**

The Board concluded (2013) that the said extension does not satisfy Cond 1(a) of class 1 in that the extension exceeds 40sq.m. It was further concluded that the extension did not qualify under Class 1 as it was not fully to the rear of the building and that the alterations to the front came within the scope of Section 4(1)(h). The Inspector's report indicated that the ground floor area was calculated to be c.42.169sq.m and the first floor, 21.29sq.m, which exceeded the 40sq.m limitation.

In addition, the referring party had sought to have the floor area of the extension which had been demolished included in the calculation. However, the Inspector noted that "the area demolished.....no longer exists and there is no allowance in the P & D Regulations for any extension of a house in excess of 40sq.m". The Board agreed. It was therefore concluded that the works comprising the extension were development and were not exempted development.

**ABP-309975 - Whether the construction of an extension to the rear of existing dwelling house, including minor works and repairs to the existing dwelling house at No6 Palace Road, Elphin, Co Roscommon, is or is not development and is or is not exempted development.**

The Board concluded (2022) that the previously existing rear annex, now demolished is not relevant to the question and the proposed extension exceeds 40sqm and does not come within the scope of Class 1 of Schedule 2 to the P&D Regulations 2001 (as amended).

### **7.3. The following case law is considered relevant:**

- 7.3.1. In Michael Cronin (Readymix) Ltd v An Bord Pleanála and Others [2017] IESC 36, [2017] 2 I.R. 658, the Supreme Court considered whether an extension to a structure (a concrete yard within a quarry) constituted exempted development. The court agreed with the Board's submission that the exemption under Section 4(1)(h) of the Act applies to a limited category of works that amount to alterations (with the concepts of maintenance and improvement being subsets), which are either wholly internal or, if external, are insignificant. An "improvement", for the purposes of an exemption, must be something that relates to the internal use and function of the structure, resulting in either no externally noticeable difference or an insignificant difference.

## **8.0 Assessment**

### **8.1. Preliminary Issues**

- 8.1.1. It should be stated at the outset that the purpose of this referral is not to determine the acceptability or otherwise of the referenced elements of demolition and construction at No. 10 Burrow Road, in respect of the proper planning and sustainable development of the area, but rather whether or not the referenced elements of demolition and construction constitutes development, and if so, fall within the scope of exempted development. Likewise, planning enforcement is a matter for the planning authority and does not fall within the jurisdiction of the Board.
- 8.1.2. In assessing the merits of the case, I have reviewed all documentation on file and inspected the site. I have also considered previous relevant declarations made by the Board including those referenced in the referral response statement submitted on behalf of Mr. P Farrelly, the Owner / Occupier of No. 10 Burrow Road.
- 8.1.3. The main parties to this referral are as follows:
- Fingal County Council (FCC) (the referrer)
  - Mr. P. Farrelly (Owner/Occupier)

- 8.1.4. The referral relates to No.10 Burrow Road, a two-storey end of terrace house in Sutton. The house appears as one of six terraced houses on the OSI's Historic 25 Inch Map which dates from 1863-1924 ([GeoHive Map Viewer](#)), indicating that it is of pre-1963 construction. The relevant extract from the historic 25 Inch is appended to this report. This map clearly details the front and rear building line of No's 10 to 15 Burrow Road as they appeared at the time of issue.
- 8.1.5. It is submitted by the agent acting on behalf of Mr. Farrelly, that prior to 1<sup>st</sup> October 1964 (appointed day), the house [no.10 burrow Road] underwent extensions consisting of a rear two-storey extension (92sqm) and that said extension should therefore be considered part of the original home. No definite evidence has been submitted to support the pre-1963 status of this extension; however, as the extension in question (hereafter referred to as the pre-existing extension) has been demolished in its entirety and replaced with a new extension of completely different design, I do not consider this matter to be central to the assessment. Essentially, I consider that once demolished the pre-existing extension 'ceased to exist' and that the new extension constitutes a 'fresh start'. In support of this position, I refer the Board to referral RL.2455 where the Board determined that the previously existing extension (stated by the referrer as being constructed pre-1963), now demolished, was not relevant to the question. In this case neither the Inspector or the Board supported the case of the referrer that as the 'original structure and extension were both constructed prior to the 1st of October 1964', that the extension the subject of the referral, should not be considered in isolation and on its own merits...'. The Board reached a similar decisions under RL3544 and RL3115 (see section 7.2.2 above).
- 8.1.6. Both the pre-existing and existing extensions are shown on plans and elevations submitted by the referrer (FCC). The plans of FCC detail a two-storey extension with a total GFA of 129sqm (73sq.m at ground floor level and 56sq.m first floor level). Mr Farrelly disputes the dimensions as shown on FCC's drawings stating that the new extension extends to 123sqm GFA, (71sqm at ground floor level and 52sq.m at first floor level). Additional plans and elevations were included as part of Mr. Farrelly's Referral Response statement; however, there drawings are not shown to scale. The Board will note that the dimensions (internal room length and width) shown on both

sets of drawings are the same. For example, the dimensions of the first-floor master bedroom are shown on both sets of drawings as 7.7m(l) x 6.760m(w) which equates to a floor area c52sqm. However, this calculation does not include the additional floor area contained within the small link corridor newly constructed between the main dwelling and the master bedroom, which is shown on the drawings to incorporate a WC. The corresponding space at ground floor level is occupied by a 'lobby'. This leads me to believe that the discrepancy in floor area calculations arises from the inclusion or not of the floor area within this 'link' space. However, this view is based solely on my review of the plans submitted, I did not take any internal measurements of the extension and therefore I cannot verify the floor areas. Notwithstanding, I am satisfied that this issue does not need to be resolved for the purposes of this assessment and I am satisfied that the Board can make a determination on the referral questions based on the information available.

8.1.7. It is further submitted in the Referral Response Statement that in or around 2005 a single storey sunroom extension was added to the western elevation without the benefit of planning permission. The sunroom has since been demolished and replaced with a bay window extending to 2sqm. A new lean-to roof structure has been constructed over the bay window, extending north along the western elevation, connecting with the southern elevation of the new extension.

8.1.8. The demolition of the sunroom, the new bay window and lean-to roof have been included as part of the referral question. During my inspection of the property, I observed what appear to be additional works to the western elevation of the original dwelling, comprising:

- The construction of a new entranceway addition, under the lean-to roof at the point of connection between the original dwelling and new extension. This new addition appears to occupy the area outlined in yellow and described as a 'concrete base' on FCC's drawing entitled 'Current Ground Floor Plan with New Extension'.
- The installation of a window between the new entranceway and the bay window.

- The removal of render from part of the western elevation to reveal the underlying stone.

In the interests of clarity, as these works do not form part of the referral question, I shall not consider them in any detail in my assessment nor shall I make any determination on whether such works are or are not exempted development.

## **8.2. Is or is not development:**

8.2.1. The first matter is to determine whether the described elements of demolition and extension constitute development within the meaning of the Act.

8.2.2. Section 3 of the Planning and Development Act, 2000, as amended, defines 'development' as 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 defines 'works' as including 'any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal.'

8.2.3. Having regard to the above definitions, I am satisfied that the referenced elements of demolition and construction constitute 'works' and are 'development' within the meaning of the Act. This is not disputed by the parties.

## **8.3. Is or is not exempted development:**

8.3.1. Having established that the referenced elements of demolition and construction are development, it is necessary to consider whether they are or are not exempted development.

8.3.2. Development can be exempted from the requirement for planning permission by either (a) Section 4 of the Planning and Development Act, 2000 (The Act), or (b) Article 6 of the Planning and Development Regulations 2001 (the Regulations). Section 4 is separate to and has primacy over the exempted development provisions of the Regulations. Article 6 of the Regulations provides that development of a class specified in Schedule 2 to the Regulations shall be exempted provided that the conditions and limitations attached to those various classes are met. In order to qualify for exemption under a particular class, the development must meet the

definitions set out in Column 1 and the conditions and limitations set out in Column 2. These classes of development can, however, be de-exempt under the restrictions set out in article 9. This evaluation will first consider if the works fall within the said classes of exempt development, and then, if relevant, whether they would de-exempted by virtue of article 9.

8.3.3. For assessment purposes, I intended to consider the issues before the Board under the following headings:

- The demolition of a two-storey extension (hereafter referred to as the 'pre-existing extension') with a stated gross floor area of 92 sq. m. and its replacement with a new two-storey extension with a stated gross floor area of 129 sq. m (hereafter referred to as the 'new extension')
- The Demolition of a single storey sunroom with a stated GFA of 5 sq. m. and its replacement within a single storey extension of 2sqm on the western side elevation,
- The Construction of lean-to roof on the western elevation measuring approx. 6900mm long and 160mm wide and
- The Construction of a wooden fence measuring 2m in height along the western boundary in the front garden of the house

**8.4. The Demolition of a two-storey extension with a stated gross floor area of 92 sq. m. and its replacement with a new two-storey extension with a stated gross floor area of 129 sq. m**

8.4.1. I am satisfied that there is no exemption under Section 4 of the Planning and Development Act, 2000 relevant to the demolition and/or construction an extension.

Demolition:

8.4.2. In respect of the exemptions under Article 6 of the regulations, I note that Class 50 of Schedule 2, Part 1 relates to demolition. Class 50(b) is I consider the relevant class in this instance. Class 50(b) allows for the demolition of part of a habitable house in connection with the provision of an extension or porch in accordance with Class 1 or 7, respectively, or in accordance with a permission for an extension or porch under the Act.

- 8.4.3. While I am satisfied that the works involved the demolition of part of a habitable house in connection with the provision of a new extension, I am not satisfied that said extension accords with Class 1 of Schedule 2, Part 1 and therefore in my opinion the demolition of the pre-existing two-storey extension is not exempted development. Compliance with Class 1 of Schedule 2, Part 1 of the regulations is considered below.
- 8.4.4. In the interest of completeness, I consider it appropriate to refer to the conditions and limitations of Class 50. In this regard, I agree with the position outlined in Section 4.1 of the referral response statement, that the conditions and limitations set out in Column 2 as they relate to the demolition of a building or buildings and not to the demolition of part of a house in connection with the provision of an extension, are not relevant to Class 50(b).

Extension – Class 1:

- 8.4.5. Class 1 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended) provides an exemption for “the extension of a house, by the construction or erection of an extension (including a conservatory) to the **rear of the house** or by the conversion for use as part of the house of any garage, store, shed or other similar structure attached to the rear or to the side of the house’ [*Emphasis added*].
- 8.4.6. As the extension, the subject of this referral, did not involve the conversion for use as part of the house of any garage, store, shed or other similar structure, the pertinent issue is whether it has been constructed to the rear of the house. It is evident that in this case that the rear of the house is to the north. This is not disputed by the parties.
- 8.4.7. As detailed on the drawings submitted, the pre-existing two storey extension was positioned behind the rear (northern) building line of the original house (as it appears on the Historic 25-inch map) and projected approximately 4.1m from the dwelling’s western elevation. Therefore, prior to demolition it could be argued that the rear of the house was defined by the northern elevation of the pre-existing extension. However, as previously established, once the pre-existing extension was demolished, it ceased to exist and therefore in my opinion, the rear of house at the time of the construction of the new extension was defined by the northern elevation of the original house (as it appears on the Historic 25-inch map).



8.4.8. As detailed on the drawings submitted, the new two-story extension (the subject of this referral) is partially constructed over the footprint of the pre-existing extension. It is positioned behind the rear (northern) building line of the original house and projects c3.7m to the side, beyond the dwelling's primary western elevation. Since the new extension projects significantly to the side, beyond the side elevation of the original dwelling, the extension cannot, in my opinion, be classified as being 'to the rear of the house'. I therefore consider that the exemption under Class 1 cannot apply in this instance. In support of this position, I refer the Board to referrals RL.2107, RL2506 and RL3115, where the Board determined in all cases, that an extension to the rear of an existing house that projected significantly to the side, beyond the side elevation / gable was not exempted development.

8.4.9. Notwithstanding the above, I consider it appropriate in the interests of clarity and completeness, to consider whether the new extension meets the conditions/limitations of Class 1.

8.4.10. The exemption under Class 1 is constrained by seven limiting factors. (set out in Section 6.2.3 above).

- **Cond's 1 and 2** relate to floor area, both conditions place a restriction on the size of any qualifying extension at 40sqm. The distinction between these two conditions is whether or not the house has been extended previously. In this case, although the house has been extended previously, said extension has been demolished and no longer exists. As such I consider that Cond 1(a) "where a house has not been extended previously" to be the relevant limitation. In support of this position, I refer again to referral RL.2455. The newly constructed extension with a floor area of c123sqm, far exceeds the 40sqm limit set by Cond. 1(a). The floor area of the extension above ground level (+52sqm) also far exceeds the 12sqm limit set by Cond.1(b).
- **Cond. 3** requires a separation distance of not less than 2 metres between any above ground floor extension and any party boundary. I am satisfied that this condition has been complied with.
- **Cond. 4** relates to the height of the extension. As the rear wall of the original house includes a gable, it is a requirement under Cond.4(b) that the walls of any such extension not exceed the height of the side walls of the house. As

detailed on the elevation drawings submitted by FCC, the height of the side walls of the original house steps down from c6.3m at the front to c5.1m at the rear (original rear projection, which includes a gable). The walls of the extension, at c5.8m (measured from drawings submitted by FCC), do not exceed the height of the highest part of the side wall of the house. In compliance with Cond.4(c), the height of the highest part of the roof of the extension does not exceed, the height of the highest part of the roof of the dwelling.

- In compliance with **Cond 5**, the extension has not reduced the area of private open space to the rear of the house to less than 25 square metres.
- **Cond. 6(a)** requires a separation distance of not less than 1m between any ground floor window and the boundary it faces. I am satisfied that this condition has been complied with. **Cond. 6(b)** requires a separation distance of not less than 11m between any above ground floor window and the boundary it faces. The extension includes a first-floor window in the eastern elevation that is approximately 4.2m from the opposing boundary. It is submitted on behalf of Mr. Farrelly that this window is to a shower room and can readily be blocked up and the development brought into compliance; however, as it stands this window does not meet the requirements of Cond. 6(b). In addition, I note that the northern (rear) elevation of the extension comprises a large double height glazed projection with angled windows on both sides and that these angled windows are positioned less than 11m from the boundary of which they face. As such the development does not comply with this limitation.
- In compliance with **Cond. 7** the roof of the extension is not used as a balcony or roof garden.

### Conclusion

8.4.11. Given the foregoing it is considered that the extension would not be exempted development in accordance with Class 1 'Development within the curtilage of a house' of Schedule 2 of the Planning and Development Regulations 2001, as

amended. There are no other exemptions that would allow for the construction of an extension with a floor area exceeding 40sq.m.

**8.5. The Demolition of a single storey sunroom with a stated GFA of 5 sq. m. and its replacement within a single storey extension of 2sqm on the western side elevation.**

- 8.5.1. It is position of the owner/occupier, Mr. Farrelly, as set out in the Referral Response Statement that the demolition of the 5sqm sunroom and its replacement with a bay window comes within the exemption as per Section 4.(1)(h) of the Planning and Development Act 2000, as amended i.e.: *Development consisting of the carrying out of works for the maintenance, improvement or alteration of any structure, being works which only affect the interior of the structure or which do not materially affect the external appearance so as to render it inconsistent with the character of the structure or neighbouring structures.* The case is made that the bay window is in line with, and in the style of, the original bay window of the house and of adjoining houses and that these works were specifically done to improve the structures visual consistency and are therefore exempted development. I disagree.
- 8.5.2. In my opinion the demolition of an extension (albeit an unauthorised one) and its replacement with a new extension does not come within the scope of Section 4(1)(h). To support my position in this regard, I refer the Board to the Supreme Court judgement in Michael Cronin (Readymix) Ltd - v - An Bord Pleanála (Supreme Court Appeal No. 304/2010, 30th May 2017) that an extension is a development that does not come within the exemption afforded by Section 4 (1)(h) of the Planning and Development Act 2000, as amended. In consideration of the case the Court agreed with the Board that the exemption under Section 4(1)(h) of the Act applies to a limited category of works that amount to alterations (with the concepts of maintenance and improvement being subsets), which are either wholly internal or, if external, are insignificant. An “improvement”, for the purposes of an exemption, must be something that relates to the internal use and function of the structure, resulting in either no externally noticeable difference or an insignificant difference.

8.5.3. While I accept that bay projections are an original feature of the house and of neighbouring houses, the bay window, the subject of this referral is not, in line with or in the style of these original features (in terms of scale, style, design proportion, finish etc). The bay projections on the original house are prominent double height features that extend into the roof. Each projection contains three distinct windows at ground and first floor level, comprising a central window flanked by two smaller windows. The windows are a traditional timber sash, with strong vertical emphasis and are separated by wall with a cement render finish. The bay window, the subject of this referral is a single storey structure, constructed under a lean-to roof. It comprises a uPVC window frame with three windows of similar size, positioned on a low wall finished in stone cladding.

8.5.4. In respect of the exemptions under Article 6 of the regulations, Class 1 and Class 50(b) of Schedule 2, Part of the Planning and Development Regulations are again relevant. In this regard I consider that:

- The single storey extension being to the side of the house does not come within the scope of Class 1.
- The demolition of sunroom does not come within the scope of Class 50(b) as it did not occur in connection with the provision of an extension or porch in accordance with Class 1 or 7, respectively, or in accordance with a permission for an extension or porch under the Act.

8.5.5. I therefore conclude that the demolition of a single storey sunroom with a stated GFA of 5 sq. m. and its replacement within a single storey extension of 2sq.m on the western side elevation, is not exempted development.

**8.6. The Construction of lean-to roof on the western elevation measuring approx. 6900mm long and 160mm wide.**

8.6.1. The lean-to-roof in question comprises an addition to the western elevation of the dwelling. It has been constructed over the bay window (considered in Section 8.5 above) and what appears to be a new entranceway addition that does not form part

of the referral question. The introduction of this lean-to-roof has altered the appearance of the western elevation of the structure and like the bay window extension discussed previously, does not in my opinion come within the scope of Section 4(1)(h).

8.6.2. There are no exemptions under Article 6 of the regulations that I consider relevant.

### 8.7. **The Construction of a wooden fence measuring 2m in height along the western boundary in the front garden of the house**

8.7.1. There is no exemption under Section 4 of the Planning and Development Act, 2000 relevant to the construction / erection of a wooden fence within the curtilage of a house.

8.7.2. Class 5 of Schedule 2, Part 1 provides an exemption for '*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*'. Class 5 is subject to three conditions / limitations.

- **Cond.1** requires that 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. As the fence in question extends to the front of the house and as it exceeds 1.2m in height, it does not meet with this condition.
- **Cond.2** relates only to walls and is therefore not relevant.
- **Cond.3** requires that no such structure shall be a metal palisade or other security fence. The wooden fence in question is not a metal palisade or other security fence and is therefore compliance with this condition.

In light of the above, the construction of a wooden fence measuring 2m in height along the western boundary in the front garden of the house is development but is not exempted development. This is not disputed by the owner/occupier.

## 8.8. Restrictions on exempted development

- 8.8.1. As set out above, it is my opinion that save for lean-to roof on the western elevation the referred elements of demolition and extension are development and are not exempted development.
- 8.8.2. The development must now be considered in light of the statutory restrictions set out under Section 4(4) of the Act and under Article 9(1)(a) of the PDR 2001. Section 4(4) de-exempts any development where Appropriate Assessment (AA) or Environmental Impact Assessment (EIA) is required. A similar de-exemption is provided for under Article 9(1)(a)(viiB) in respect of AA only. The following paragraphs set out my assessment of the relevant provisions under Section 4(4) of the PDA 2000 and Article 9(1)(a) of the PDR 2001. In this regard, the Board should note that the referred development is not a class of development set out in Schedule 5, Part 1 or Part 2 of the PDR 2001 and therefore no preliminary EIA examination is required as provided for under Article 132C of the PDR 2001.
- 8.8.3. The requirements of Article 6(3) of the Habitats Directive as related to screening the need for AA of a project under section 177U of the Act are considered fully hereunder.
- 8.8.4. The Planning and Development Regulations, 2001 (as amended), state under Article 9 (1) Restrictions on Exemption, that 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.
- 8.8.5. The project is not directly connected with or necessary to the management of a European site and, therefore, it needs to be determined if the referred development is likely to have significant effects on European sites. The referred development is examined in relation to any possible interaction with European sites designated as Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European sites in view of the conservation objectives of those sites.

- 8.8.6. The referral site is not located within a European site; however, it is located directly adjacent to the Baldoyle Bay SAC (Site code: 000199). This SAC is selected for the following habitats:
- [1140] Tidal Mudflats and Sandflats
  - [1310] Salicornia Mud
  - [1330] Atlantic Salt Meadows
  - [1410] Mediterranean Salt Meadows
  - The conservation objectives for the Baldoyle Bay SAC (Site code: 000199) is to maintain the favourable conservation condition of listed Annex I habitats.
- 8.8.7. In accordance with the site synopsis - Baldoyle Bay SAC extends from just below Portmarnock village to the west pier at Howth in Co. Dublin. It is a tidal estuarine bay protected from the open sea by a large sand-dune system. Two small rivers, the Mayne and the Sluice, flow into the bay. The area surrounding Baldoyle Bay is densely populated and so the main threats to the site include visitor pressure, disturbance to wildfowl and dumping. In particular, the dumping of spoil onto the foreshore presents a threat to the value of the site.
- 8.8.8. Having regard to the nature and scale of the development, comprising works of demolition and construction on lands within the curtilage of a house and the location of the site within an established urban area, and having regard to the conservation objectives, I am satisfied, notwithstanding the proximity of the referral site to the SAC that there no likelihood of significant effects on the SAC.
- 8.8.9. Having regard to the source-pathway-receptor (S-P-R) model, potential impacts on other designated site including the North Dublin Bay SAC (c95m to the north) can be ruled out having regard to the nature and scale of the development, separation distance and the dilution factor.
- 8.8.10. I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required. The reason for this conclusion is based on the nature and scale of the development, the established use of the site for

residential purposes (single dwelling) and its location within an established urban area.

## 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 following or is not development or is or is not exempted development:

- (a) Demolition of a two-storey extension measuring 92 sq. m. to the rear of dwelling,
- (b) Construction of new two-storey extension measuring 129 sq. m. to the rear of dwelling,
- (c) Demolition of a single storey sunroom measuring 5 sq. m. on the western side elevation,
- (d) Construction of a single storey extension measuring 2 sq. m. on the western side elevation,
- (e) Construction of lean-to roof on the western elevation measuring approx. 6900mm long and 160mm wide and
- (f) Construction of a wooden fence measuring 2m in height along the western boundary in the front garden of the house

**AND WHEREAS** Fingal County Council requested a declaration on this question from the Board on the 19<sup>th</sup> day of July 2023:

**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 1, Class3, Class5 and Class 50 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, as amended.
- (d) The documentation on file, including submissions on behalf of the referrer, Fingal County Council and the owner / occupier of the property, Mr. P Farrelly.
- (e) Relevant precedent referrals and judgements; and
- (f) The pattern of development in the area.

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

- (a) The referred elements of demolition and construction constitute development as defined in Section 3 of the Planning and Development Act 2000, as amended.
- (b) The demolition of a two-storey extension and single storey sunroom do not come within the scope of Class 50(b) as the said works of demolition did not occur in connection with the provision of an extension or porch in accordance with Class 1 or 7, respectively, or in accordance with a permission for an extension or porch under the Act.
- (c) The construction of the new two-storey extension does not come within the scope of Class 1 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 as:
  - a. The extension projects significantly to the side of the house and not solely to the rear of the house, and therefore does not meet the definition of Class 1 extension set out in Column 1, and
  - b. The extension does not meet the conditions and limitations set out in column 2 of Class 1, namely conditions 1(a) and (b), and 6 (b) as:

- (i) The floor area of the extension exceeds the limitations set out in condition 1(a) and (b). in consideration of this matter the Board concluded that the pre-existing extension to the rear of the house, whether or not it was constructed or erected prior to 1st October 1964, cannot be taken into account in respect of the floor area of the new two-storey extension, the subject matter of this referral, as it was demolished and removed prior to the construction of the subject extension.
  - (ii) the extension includes windows above ground floor level that are not less than 11m from the boundary they face.
- (d) The demolition of the sunroom and the construction of a single storey extension measuring 2 sq. m. on the western side elevation, do not come within the scope of Section 4(1)(h) of the Planning and development Act 2000 as amended,
- (e) The construction of lean-to roof on the western elevation measuring approx. 6900mm long and 160mm wide does not come within the scope of Section 4(1)(h) of the Planning and development Act 2000 as amended,
- (f) The construction of a wooden fence measuring 2m in height along the western boundary in the front garden of the house does not come within the scope of Class 5 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, as amended, as the height of the fence exceeds 1.2m

**NOW THEREFORE** An Bord Pleanála, in exercise of the powers conferred on it by section 5 (4) of the 2000 Act, hereby decides that:

- (a) Demolition of a two-storey extension measuring 92 sq. m. to the rear of dwelling, is development and is not exempted development.
- (b) Construction of new two-storey extension measuring 129 sq. m. to the rear of dwelling, is development and is not exempted development.
- (c) Demolition of a single storey sunroom measuring 5 sq. m. on the western side elevation, is development and is not exempted development.
- (d) Construction of a single storey extension measuring 2 sq. m. on the western side elevation, is development and is not exempted development.
- (e) Construction of lean-to roof on the western elevation measuring approx. 6900mm long and 160mm wide is development and is not exempted development.
- (f) Construction of a wooden fence measuring 2m in height along the western boundary in the front garden of the house is development and is not exempted development.

*I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.*

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Lucy Roche  
Planning Inspector

18<sup>th</sup> July 2024

Appendix 1

Extract from OSI Historic 25 Inch Map (1863-1924) showing the original front and rear building lines of No.10 Burrow Road, Sutton, and those of other dwellings within the terrace.

