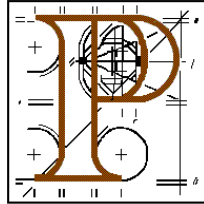


AN BORD PLEANÁLA REF.: RL25M.3392

AN BORD PLEANÁLA



FILE REFERENCE: **RL25M.RL3392**

QUESTION: Whether external works: rear extension, elevation modifications, rooflights, chimney removal and stone flue installation is or is not development or is or is not exempted development.

LOCATION: No.1 Lynnderry Court, Ballinderry, Mullingar, Co. Westmeath.

OWNER/OCCUPIER: John Bagnall

REFERRER: Madge Martin

DATE LODGED: 18/08/2015

INSPECTOR Fiona Fair

SITE INSPECTION 26th October 2015

1.0 INTRODUCTION

This is a referral by Madge Martin under Section 5(3)(b) of the Planning and Development Act 2000. The referral relates to *'whether external works: rear extension, elevation modifications, rooflights, chimney removal and stone flue installation is or is not development or is or is not exempted development'* at No.1 Lynnderry Court, Ballinderry, Mullingar, Co. Westmeath.

2.0 DESCRIPTION OF DEVELOPMENT AND LOCATIONAL CONTEXT

The site is located at No.1 Lynnderry Court, Ballinderry, Mullingar, Co. Westmeath. The site is a corner site at the junction of Ballinderry Road and Lynnderry Court residential estate. The dwelling on the subject referral site is single storey and has recently been extended and renovated. The site is bounded to the south along Ballinderry Road by a mature tree line. To the west with Lynnderry Court by a solid capped and rendered block wall. To the north with No. 2 Lynnderry Court, by a part timber fence and part block wall, and to the east by mature hedgerow and tree line. The surrounding area comprises an established residential area characterized by a mix of two storey and single storey detached dwellings.

3.0 BACKGROUND

I note that planning permission was granted on foot of PL 25M.232290 / Reg. Ref. 08/5358, see history section of this report below, for the demolition of the existing dwelling house and the construction of 2 no. 4 bedroom two storey detached houses, at No.1 Lynnderry Court. This development was not carried out.

Details of enforcement history pertaining to the lands are attached to the file. The occupiers of No. 2 Lynnderry Court made a complaint against the renovation

works being undertaken at No. 1 Lynnderry Court. The planning authority assessed the complaint and issued a decision that the works being undertaken at no. 1 Lynnderry Court are exempted development under Schedule 2 Part 1 of the Planning and Development Regulations 2001, as amended, and Section 4(1) (h) of the Planning and Development Act 2000 as amended.

The referrer, Madge Martin, who resides at No. 2 Lynnderry Court sought a declaration from Westmeath County Council pursuant to section 5 of the Act with respect to *'Whether external works: rear extension, elevation modifications, rooflights, chimney removal and stone flue installation is or is not development or is or is not exempted development'*

The Council concluded that works to the front elevation consisting of 2 no. windows increased in size, 2 no. bedroom windows broken out to box windows, 1 no. velux roof light, alterations to front door, works to the side elevation consisting of side window made smaller, side window blocked up, 1 no. velux roof light, construction of a rear extension, 2 no. velux roof lights, installation of a stove flue and reroofing of whole dwelling by removing existing concrete tiles and replacing with slates at 1 Lynnderry Court, Mullingar, County Westmeath is development and is exempted development.

They further concluded that works consisting of concrete post and timber panel fence, block boundary wall with Lynnderry Court and front boundary fence at 1 Lynnderry Court Mullingar County Westmeath is development which is not exempted development.

Hence this is a referral received from Sean Lucy & Associates Ltd. on behalf of Madge Martin, pursuant to section 5(3)(a) of the Planning and Development Act, 2000, in respect of whether external works and alterations to the existing single storey dwelling at No. 1 Lynnderry Court is or is not development or is or is not exempted development.

On the 18th August 2015 a referral was received by An Bord Pleanála

4.0 PLANNING HISTORY

4.1 PL 25M.232290 / Reg. Ref. 08/5358 Planning Permission Granted for the demolition of a granny flat and single storey extension to the side and alterations to existing house and the construction of a two storey detached house with new vehicular access to the side at 199 Briar Walk, Portmarnock, Co. Dublin.

4.2 Reg. Ref. 08/5025 Permission Refused for demolition of existing dwelling and construction of 6 no two-bedroom apartments on two floors, together with 6 car parking spaces.

4.3 Reg. Ref. 78/247 Permission granted to erect house at Ballinderry Court

4.4 Reg. Ref. 76/266 Permission granted to erect 38 houses at Ballinderry Court.

4.5 Enforcement:

The planning authority report states: *'14099: Alterations to No.1 Lynnderry Court including side extension without planning permission. Exempt development.'*

5.0 SUBMISSION BY REFERRER

The referral by Sean Lucy & Associates on behalf of Madge Martin of No. 2 Lynnderry Court set's out the following;

- The works carried out do not constitute works which come under Section 4(1)(h) of the Planning and Development Act 2000 (as amended)
- A number of alterations have been made to the structure which cumulatively materially affect the external appearance of the structure.

- Two no. existing front window openings have been increased in size by a significant amount.
- Two no. bedroom windows to the front have been broken out and converted to box windows with the subsequent increase in size
- 1 no. velux (roof light) has been installed in the front elevation
- The previously recessed front door has been broken out and the area extended forward with a subsequent increase in floor space.
- A front boundary fence of 1.546m has been erected
- One no. existing side window has been made smaller
- One no. existing side window has been blocked up
- A velux (roof light) window has been installed
- A block boundary wall (at present 2.1m in areas) is being constructed along the property boundary with Lynnderry Court.
- A question arises as to what constitutes the front of the house given that the house is accessed only from within Lynnderry Court.
- The referrer at No. 2 Lynnderry Court has experienced direct impact on foot of the extension of this dwelling house to a point within 2m of the shared boundary.
- Request that the Board conclude that cumulatively the development which has taken place is development and is not exempted development
- Referral accompanied with
 - Declaration under section 5 (1) Ref. S5-5-15

6.0 SUBMISSION BY JOHN BAGNALL

A submission was received from John Bagnall it is summarized as follows:

- Concur with the determination of Westmeath County Council
- Wish only to respond to unresolved issues i.e. New Block Wall to Lynnderry Court and the concrete post and timber panel fence

- The wall as built has approx. a 1.3m section only constructed where the height marginally exceeds the regulation restriction height of 2m for exemption, as shown on MCOH Architects Drg. Enclosed
- Request that in the circumstances that An Bord Pleanála rule that the wall be retained 'as built' and avoid further costs to the owner.
- Request that An Bord Pleanála grant a 'waver' to permit retention of the concrete post and timber fence 'as built', as shown on the photographs enclosed.
- The height of the concrete post and timber fence only marginally exceeds the Regulations and respectfully suggest that the new fence visually enhances the boundary treatment and provides, in the circumstances, an adequate level of privacy between No. 1 Lynnderry Court and the referrer at No. 2
- The front door has not been extended forward, photographs attached for clarification.
- The original planning permission Ref. No. 78/27 granted to Mr. Albert Lee for the bungalow was conditional on having the entrance off Lynnderry Court
- The existing entrance has been retained as part of the site refurbishment works
- The extension has been constructed to the rear of the house and not the side as suggested by the referrer.
- Westmeath County Council have ruled that the rear of the dwelling is to the north.
- 'Before' and 'after' photographs indicate that the upgrade and refurbished house does not render it inconsistent with the character of the structure or of neighboring structures.
- Other neighbours in the vicinity are pleased with the quality of the refurbishment
- Submission accompanied with

- Letter by MCOH Architects submitted to Mr. Eamon Brennan, Planning Department Westmeath County Council dated 12th February 2015
- 'Before' and 'After' photographs of the upgrade refurbishment of the dwelling at 1 Lynnderry Court

7.0 SUBMISSION BY SEAN LUCY & ASSOCIATES ON BEHALF OF THE REFERRER MADGE MARTIN

The submission is summarized as follows:

- Cumulatively the development which has taken place is development and is not exempted development under the Planning and Development Act 2000 (as amended)
- The address of the house is no. 1 Lynnderry Court and the only entrance to this residential site is directly from within Lynnderry Court estate. Thus it is reasonable to conclude that the front elevation is the elevation which faces the road – the primary elevation which is visible from the road.
- Regard should be had to the Inspectors report in the case of PL12.237169
- The boundary walls / fences as constructed are not exempt
- A reduced height boundary wall forward of the building line of a dwelling is to ensure that vehicles exiting the site have an adequate sightline
- The extension to the side of the dwelling at No. 1 Lynnderry Court constitutes a significant increase in the length of the façade of the structure when viewed from the public road and therefore renders the appearance of the structure inconsistent with the character of the structure.
- Primary consideration whether given all of the works, incl. construction of a new entrance to the dwelling which were carried out at the same time are exempted development.

8.0 SUBMISSION BY THE PLANNING AUTHORITY

No submission received from the planning authority.

9.0 STATUTORY PROVISIONS

9.1 Planning and Development Act 2000, as amended

- Section 2(1) of the Planning and Development Act states as follows

“In this Act, accept where the context otherwise requires – “development” has the meaning assigned to it by Section 3...”

- Section 3.1 of the Planning and Development Act states as follows:

“In this Act “development” means accept where the context otherwise requires the carrying out of works on/in/over or under land or the making of any material change in the use of any structures or other land”.

- Exempted development is provided for in Section 4 of the Planning and Development Act 2000 as follows:

4(1) The following shall be exempted development for the purposes of this Act –

(h) Development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which effect only the interior of the structure or which do not materially effect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures”

- The definition of alteration is provided in Section 2(1) as follows

“Alteration” includes –

Plastering or painting or the removal of plaster or stucco,

or

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.

9.2 Planning and Development Regulations 2001, (as amended).

Part 1 of Schedule 2 Development within the curtilage of a house

CLASS 1

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.

1. (a) Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres.

3. Any above ground floor extension shall be a distance of not less than 2 metres from any party boundary.

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.

(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.

(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.

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.

6. (a) Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces.

CLASS 2

(a) The provision as part of a heating system of a house, of a chimney or flue, boiler house or fuel storage tank or structure.

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.

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 50

(a) The demolition of a building, or buildings, within the curtilage of—

- (i) a house,
- (ii) an industrial building,
- (iii) a business premises, or
- (iv) a farmyard complex.

(b) 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.

10.0 PREVIOUS BOARD DECISIONS

10.1 RL3115

The referral relates to ‘whether the existing extension to the rear and the existing alterations to the front of the subject dwelling house, is or is not exempted development’, at Baltray, Drogheda, Co. Louth.

An Bord Pleanála has concluded that -

- (a) the extension of the house, being not solely located to the rear of the house, does not come within the scope of Class 1 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001,
- (b) the gross floor area of the extension at ground and first floor does not satisfy Condition and Limitation number 1 (a) under Column 2 of Class 1 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, which requires that where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres, and

(c) the alterations to the front of the dwelling, comprising replacement of the flat roof of the porch with a pitched roof, comes within the scope of section 4(1)(h) of the Planning and Development Act, 2000:

10.2 RL2041

The referral relates to whether the proposed domestic extension to be built at 8 Torcail, Blackwood Lane, Portmarnock, County Dublin is or is not exempted development. An Bord Pleanála concluded that the said domestic extension is not exempted development.

(a) the proposed domestic extension does not come within the scope of class 1 of Part 1 of Schedule 2 to the 2001 Regulations as the “extension” is/was being constructed at the same time as the construction of the house and, therefore, represents the construction of a revised house type on this site rather than an extension to a house, and

(b) the construction of the 6.9 square metres area described as a domestic extension at the same time as the construction of the house is subject to the restriction on exemption provided for in article 9 (1) (a) (i) of the 2001 Regulations as it contravenes condition number 1 attached to the permission granted under planning register reference number F00A/1448 under which the house was being developed:

11.0 DEVELOPMENT PLAN

The operative development plan for the referral site is the Westmeath County Development Plan 2014 – 2020 (CDP). The site is zoned Residential with the Objective O-LZ1 ‘To provide for residential development, associated services and to protect and improve residential amenity’

12.0 ASSESSMENT

The question before the Board in this instance can be stated as follows:

Whether external works: rear extension, elevation modifications, rooflights, chimney removal and stone flue installation is or is not development or is or is not exempted development at No.1 Lynnderry Court, Ballinderry, Mullingar, Co. Westmeath.

The section 5 declaration submitted to Westmeath County Council sets out a comprehensive description of development as follows:

Front Elevation

- Two no. existing front window openings have been increased in size by a significant amount.
- Two no. bedroom windows to the front have been broken out and converted to box windows with the subsequent increase in size
- 1 no. velux (roof light) has been installed in the front elevation
- The previously recessed front door has been broken out and the area extended forward with a subsequent increase in floor space.
- A front boundary fence of 1.546m has been erected

Side Elevation

- One no. existing side window has been made smaller
- One no. existing side window has been blocked up
- A velux (roof light) window has been installed
- A block boundary wall (2.1m in areas) is constructed along the property boundary with Lynnderry Court.

Rear Elevation

- Extension constructed to the rear (1.6m away from neighbouring boundary wall)

- Construction of a 2.12m concrete post and timber panels
- Removal of chimney
- Installation of stove flue on the extension
- Installation of 2 no. velux (roof lights) windows

As well as the foregoing it is stated that the whole dwelling has been reroofed, removing concrete tiles and replacing them with slates. The entrance gate piers have been demolished and are in the process of being rebuilt.

The relevant legislative provisions to consider in determining the question are as follows:

- Section 2, 3 and 4 of the Planning and Development Act, 2000
- Article 6 and 9 of the Planning and Development Regulations 2001, as amended.
- Class 1, Class 2, Class 5 and Class 50 (b), Part 1, Schedule 2 of the Planning and Development Regulations, 2001.

Is it development?

Section 3(1) of the Planning and Development Act, 2000, defines 'development' as meaning, 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 structure or other land'*.

'Works' are defined under Section 2 of the Act as including *'any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal...'*

Therefore, it is considered having regard to the above definitions that the alterations carried out to the exterior of the structure involve 'works' and 'development' within the meaning of the Act.

Is it exempt under Planning and Development Act, 2000?

A question arises as to what constitutes the front of the house given that the house is accessed from Lynnderry Court.

The planning authority are of the opinion that the front of the house was / is onto Ballinderry Road and not Lynnderry Court. This opinion is based upon the original permitted plans Reg. Ref. 78/247. The referrer does not dispute that at the time the house was constructed the primary elevation, which contained the front door, and addressed Ballinderry Road, represented the front elevation of the house. However it is argued that the situation has changed. It is submitted that the address of the house is no. 1 Lynnderry Court and the only entrance to this residential site is directly from within Lynnderry Court estate. Thus it is reasonable to conclude that the front elevation is the elevation which faces Lynnderry Court – the primary elevation which is visible from the road. I note that a closed off driveway and access, albeit unused, was visible on the ground at the time of my site visit from the referral site to Ballinderry Road.

From information on the file including photographic evidence and compounded by my site visit I am satisfied that the front of the house is to the south of the site and faces Ballinderry Road. The in-situ front door (to the south of the dwelling) has a door bell and main entrance hall and in my opinion this façade / elevation is clearly the front elevation, unchanged from that permitted and constructed as per the original plans, Reg. Ref. 78/247.

The internal dimensions of the rear single storey extension and bay windows was undertaken by the planning authority. The extensions that have been undertaken at No. 1 Lynnderry Court amount to 37.0932 sq. m. The measurements are not disputed by the referrer. I note the referrer's submission that the previously recessed front door has been broken out and the area extended forward with a subsequent increase in floor space. From my observations on site and from

photographs submitted this does not appear to be the case. While alterations have been carried out to the front elevation with amended glazing panels incorporated and adjoining window blocked up, it does not appear additional floor area has been added. In this regard I note the owner's response that 'the front door has not been extended forward'.

In agreement with the planning authority I am of the opinion that the additional ground floor area extension to the dwelling would be exempted development by virtue of Class 1 of Schedule 2 Part 1 of the planning and Development Regulations 2001, as amended, as it does not exceed 40 sq. m. The house has not been extended previously, the extension does not extend above ground level, private open space remains greater than 25 sq. m, there is no window within 1 meter of the boundary it faces, in particular, the flank wall of the extension, and the roof cannot be used as a balcony. I also agree that the bay windows along the front elevation (i.e. Facing Ballinderry Road) would be exempt by virtue of Section 4 (1) (h) of the Planning and Development Act 2000, as amended.

(h) Development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which effect only the interior of the structure or which do not materially effect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures"

The referrer does not so much dispute that the renovation and extension works broken down into a series of individual and separate elements would constitute exempt development with respect to Section 4(1) (h) of the Planning and Development Act 2000, as amended. However it is argued that cumulatively the development which was all carried out at the same time would be in breach of Section 4(1) (h).

I do not agree. It is my opinion in agreement with the planning authority that the works to the front elevation consisting of 2 no. windows increased in size, 2 no. bedroom windows broken out to box windows, 1 no. velux roof light, alterations to front door, works to the side elevation consisting of side window made smaller, side window blocked up, 1 no. velux roof light, construction of a rear extension, 2 no. velux roof lights, installation of a stove flue and reroofing of whole dwelling by removing existing concrete tiles and replacing with slates at 1 Lynnderry Court, Mullingar, County Westmeath is development and is exempted development. Regard being had to Section 4(1) (h) of the Planning and Development Act 2000, as amended, Class 1 and Class 2, Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended, and Article 6 Schedule 2 Part 1 Class 50 (b) of the Planning and Development Regulations 2001, as amended.

With respect to the new block boundary wall to Lynnderry Court.

I note that the block wall has been rendered and capped and painted. The height at its maximum point externally is in excess of 2m, this is not disputed by the owner / occupier, and therefore breaches Class 5, Condition 1, of Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended, which states:

'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'.

From Google Street View September 2014 it is clear that the northern boundary where it abuts No. 2 Lynnderry Court and the western boundary with Lynnderry Court has been altered considerably. The western boundary (side of the dwelling) which included a vehicular entrance and piers in a similar location to the on the ground entrance comprised a timber fence approx. 1.2m in height, back planted with mature tall conifers in 2014. The block wall now in situ, from

the entrance northwards to the boundary with No. 2 Lynnderry Court, is clearly a new structure I refer the Board to Wall Elevation Drawing submitted by John Bagnall in response to the referral. It indicates the varying height of the 17.7m length of western boundary wall (dependent on ground level) rising from 1.78 m – 2.04 m. I note that the panel fence and evergreen tree planting is still in situ from the entrance to No. 1 southwards towards the boundary with Ballinderry Road.

Given my deliberations with respect to what constitutes the front and rear of the house at No. 1 Lynnderry Court I am of the opinion that the western boundary is a side boundary. I am also of the opinion that while the northern boundary is arguably to the front of No. 2 Lynnderry Court given the layout on the ground that the western boundary wall of No. 1 Lynnderry Court is not to the front of No. 2 and therefore a height of 2m is the applicable standard.

With respect to the concrete post and timber fence constructed on the northern boundary to the side and front of No. 2 Lynnderry Court it appears from Google Street View Sept 2014 that this boundary was previously demarcated by evergreen trees and a wooden panel fence of between I estimate from the photographs some 1.5 – 1.8m. The fence was set off the party boundary. The wooden fence and trees have been removed and a new wooden panel fence structure erected. The boundary fence exceeds 1.2 again, this is not disputed by the owner / occupier, and therefore breaches Class 5, Condition 1, of Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended, which states:

‘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’.

Front Boundary Fence at the unused access from the referral site onto Balinderry Road. From Google Street View Sept 2014 it is evident that this

boundary was previously demarcated by mature trees and hedgerow which remain largely in-situ while the boundary at the unused access has been replaced by a new wooden panel fence which exceeds 1.2 m in height.

Given that this boundary is considered the front boundary to No. 1 Lynnderry Court the alterations to the boundary thereby breaches Class 5, Condition 1, of Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended.

The owner / occupier has responded to the referral. It is requested that An Bord Pleanála rule the wall as built along the western boundary, which only marginally exceeds the regulations, be retained 'as built' and further costs to the owner are avoided. It is also requested that An Bord Pleanála grant a 'waiver' to permit retention of the concrete post and timber fence 'as built'. It is submitted that the height of the concrete post and timber fence only marginally exceeds the Regulations and respectfully suggest that the new fence visually enhances the boundary treatment and provides, in the circumstances, an adequate level of privacy between No. 1 Lynnderry Court and the referrer at No. 2

I agree with the owner occupier that the wall to the western boundary and fence to the northern boundary provides screening between the properties however given that it is not exempted development regard being had to Class 5, Condition 1, of Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended it is open to the applicant to apply for planning permission / seek to retain the boundary development.

12.0 CONCLUSION

It is considered that works to the front elevation consisting of 2 no. windows increased in size, 2 no. bedroom windows broken out to box windows, 1 no. velux roof light, alterations to front door, works to the side elevation consisting of

side window made smaller, side window blocked up, 1 no. velux roof light, construction of a rear extension, 2 no. velux roof lights, installation of a stove flue and reroofing of whole dwelling by removing existing concrete tiles and replacing with slates at 1 Lynnderry Court, Mullingar, County Westmeath is development and is exempted development.

And that works consisting of concrete post and timber panel fence, block boundary wall with Lynnderry Court and front boundary fence at 1 Lynnderry Court Mullingar County Westmeath is development which is not exempted development.

In considering this referral, I have had regard to the planning history on the site, the Development Plan, the Planning and Development Act 2000 (as amended), the Planning and Development Regulations and precedent Board Declarations.

12.0 RECOMMENDATION

Having regard to the foregoing, I recommend that it be decided that the works to the front elevation consisting of 2 no. windows increased in size, 2 no. bedroom windows broken out to box windows, 1 no. velux roof light, alterations to front door, works to the side elevation consisting of side window made smaller, side window blocked up, 1 no. velux roof light, construction of a rear extension, 2 no. velux roof lights, installation of a stove flue and reroofing of whole dwelling by removing existing concrete tiles and replacing with slates at 1 Lynnderry Court, Mullingar, County Westmeath constitute development and is exempt development.

And that works consisting of concrete post and timber panel fence, block boundary wall with Lynnderry Court and front boundary fence at 1 Lynnderry Court Mullingar County Westmeath is development which is not exempted development.

A draft order is set out below.

WHEREAS a question has arisen as to *'whether external works: rear extension, elevation modifications, rooflights, chimney removal and stone flue installation is or is not development or is or is not exempted development'* at No.1 Lynnderry Court, Ballinderry, Mullingar, Co. Westmeath.

AND WHEREAS Madge Martin of No. 2 Lynnderry Court requested a declaration on the said question from Westmeath County Council and the said Council issued a declaration on the 13th July 2015 stating that:

'Westmeath County Council in exercise of its powers conferred on it, by Section 5 of the Planning & Development Act 2000, as amended, hereby decides that works to the front elevation consisting of 2 no. windows increased in size, 2 no. bedroom windows broken out to box windows, 1 no. velux roof light, alterations to front door, works to the side elevation consisting of side window made smaller, side window blocked up, 1 no. velux roof light, construction of a rear extension, 2 no. velux roof lights, installation of a stove flue and reroofing of whole dwelling by removing existing concrete tiles and replacing with slates at 1 Lynnderry Court, Mullingar, County Westmeath is development and is exempt development.

Westmeath County Council in exercise of its powers conferred on it, by Section 5 of the Planning & Development Act 2000, as amended, hereby decides that works consisting of concrete post and timber panel fence, block boundary wall with Lynnderry Court and front boundary fence at 1 Lynnderry Court Mullingar County Westmeath is development and is not exempted development.

AND WHEREAS the said Madge Martin referred the declaration for review to An Bord Pleanála dated the 18th August 2015.

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, Class 2, Class 5 and Class 50 of Part 1 of the Second Schedule to the Planning and Development Regulations, 2001, and the conditions and limitations in these classes;

AND WHEREAS An Bord Pleanála has concluded that –

- (a) The works to the front elevation consisting of 2 no. windows increased in size, 2 no. bedroom windows broken out to box windows, 1 no. velux roof light, alterations to front door, works to the side elevation consisting of side window made smaller, side window blocked up, 1 no. velux roof light, construction of a rear extension, 2 no. velux roof lights, installation of a stove flue and reroofing of whole dwelling by removing existing concrete tiles and replacing with slates at 1 Lynnderry Court, Mullingar, County Westmeath constitute development and is exempt development as per Class 1, Class 2 and Class 50 of Part 1 of the Second Schedule to the Planning and Development Regulations, 2001, as amended
- (b) And that works consisting of concrete post and timber panel fence, block boundary wall with Lynnderry Court and front boundary fence at 1 Lynnderry Court Mullingar County Westmeath is development which is not exempted development as per Class 5 of Part 1 of the Second Schedule to the Planning and Development Regulations, 2001, as amended

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5 (3) (b) of the 2000 Act, hereby decides that the works to the front elevation consisting of 2 no. windows increased in size, 2 no. bedroom windows broken out to box windows, 1 no. velux roof light, alterations to front door, works to the side elevation consisting of side window made smaller, side window blocked up, 1 no. velux roof light, construction of a rear extension, 2 no. velux roof lights, installation of a stove flue and reroofing of whole dwelling by removing existing concrete tiles and replacing with slates at 1 Lynnderry Court, Mullingar, County Westmeath constitute development and is exempt development.

And that works consisting of concrete post and timber panel fence, block boundary wall with Lynnderry Court and front boundary fence at 1 Lynnderry Court Mullingar County Westmeath is development which is not exempted development.

Fiona Fair
Planning Inspector
22.12.2015