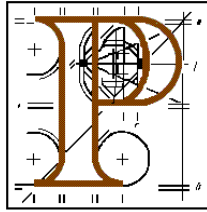


An Bord Pleanála



Inspector's Report

Referral No: PL20.RL.3430

Details of Reference: Whether works consisting of the erection of advertising signs is or is not development or is or is not exempted development.

Location: O'Connor's Bar and The Friary Restaurant, Tulsk, Co. Roscommon

Referred By: Eugene O'Connor

Owner/ occupier: Eugene O'Connor

Planning Authority: Roscommon County Council

Planning Authority Reference: DED 174

Planning Authority Decision: Is development and is not exempted development

Inspector: Donal Donnelly

Date of Site Inspection: 22nd January 2016

Appendices: Photos, maps, etc.

1.0 INTRODUCTION

- 1.1 This is a referral, by the referrer, of the Declaration made by Roscommon County Council on 22nd October 2015 in relation to this matter.

2.0 DEVELOPMENT PLAN

- 2.1 Within the Roscommon County Development Plan, 2014-2020, the village of Tulsk is designated a Tier 4 settlement. The site lies within the "Village Core".
- 2.2 Advertising is covered under Section 9.21 of the Development Plan where it is noted that *"in towns, villages, and the open countryside, uncontrolled, haphazard and unduly visually imposing advertising structures detract from an area's character, identity and visual amenity."*
- 2.3 It is also stated that *"all advertisements and advertisement structures, other than those exempted under Part II, Second Schedule of the 2001 Planning and Development Regulations as amended, shall be the subject of a formal planning application. Commercial signage and advertising will be limited to commercial built-up areas where it is already a feature."*

3.0 SITE LOCATION AND DESCRIPTION

- 3.1 The subject site is located within the village of Tulsk in Co. Roscommon. The site is at the south-eastern end of the main street, which forms part of the N5 National Primary Route. The Ogulla River flows along the southern boundary of the site and under the N5. On the opposite side of the river is the Rathcroghan Visitor Centre.
- 3.2 The site comprises O'Connor's Bar and The Friary Restaurant and associated car park to the south thereof. The bar/ restaurant is a 2-storey gable fronted building adjoining a convenience shop. There is a single storey lean-to element to the southern side of the building. The site frontage measures approximately 40m and comprises the building itself, the vehicular entrance and a low stone wall. The hard shoulder of the N5 acts as a pedestrian way along the front of the site. The site is within the 50kph speed zone. The subject site also appears to include the adjoining convenience shop, although not included in the site location plan.
- 3.3 This referral relates to a number of signs and structures on site which advertise the bar, restaurant and shop. The word "RESTAURANT" has been painted in large writing on the southern roof slope of the bar/ restaurant building. A signage structure advertising "The Friary Café and Restaurant" has also been erected on the lean-to roof above the entrance. A banner on a flag pole advertising "RESTAURANT" has been positioned behind the low wall along the frontage and similar banners have been fixed to the bar and convenience shop advertising "BAR", "SHOP" and "LOTTO".

4.0 BACKGROUND

4.1 Planning History

Roscommon County Council Reg. Ref: PD03/1444

- 4.1.1 Woodmire Construction Ltd. were granted permission to construct an extension to the rear of the shop premises and to change the front elevation of the existing shop to accommodate automatic doors.

Roscommon County Council Reg. Ref: PD09/359

- 4.1.2 Eugene O'Connor was granted permission for (1) retention of internal alterations to existing lounge/bar layout; (2) retention of extension to rear of building containing kitchen and new toilets; (3) retention of extension/covered canopy to side elevation (c. 38sq.m.) and retention of change to front elevation with removal of front door; and PERMISSION for change of use of lounge/bar to restaurant/dining (c. 79sq.m).

- 4.1.3 Condition 2 attached to this decision stated that *"the car parking and boundary set back on site layout received on 01/10/2009 shall be completed prior to operation of the extension or restaurant"*.

Roscommon County Council Reg. Ref: PD09/710

- 4.1.4 Eugene O'Connor was granted permission for the change of use of 0.6483 hectares of land to the rear of the premises from agricultural to amenity area/park consisting of gravel walkways and park benches and planting scheme at a site to the rear (north-east) of the subject site.

Roscommon County Council Reg. Ref: UDR/147/MK (20.RL3085)

- 4.1.5 The Board decided that the construction of a wall blocking an entrance to Rathcroghan Visitor Centre is development and is exempted development. It was considered that the said wall comes within the scope of Class 11 of Part 1 of Schedule 2 of the Regulations, and accords with the conditions and limitations of this class.

4.2 Planner's Report

- 4.2.1 It is considered that all amendments in this case constitute works are therefore development.

- 4.2.2 The painting of the letters "RESTAURANT" on the roof of the premises is considered to be an *act of alteration*, which therefore constitutes *"works"*, and is an *"advertisement"* as defined under Section 2 of the Act. This is not exempted development save where it complies with the Classes, Conditions and Limitations under Schedule 2 of Part 2 of the Regulations. It is estimated that the lettering is approximately 10m in length and 1m in height and therefore exceeds Condition and Limitation 2 of Class 1. The letters also

begin 4.6m above ground level and this exceeds Condition and Limitation 4 (b) of Class 1. Furthermore, the letters at 1m high exceed Condition and Limitation 8 of Class 1.

- 4.2.3 It is stated that the sign advertising “The Friary Café and Restaurant” is made up of an “advertisement structure” and an “advertisement”. The lettering begins at the top of the advertisement structure and is therefore more than 4m above ground level, which does not therefore meet Condition and Limitation 4(b) of Class 1. It is also considered that the advertisement is not exempt under Class 11, which relates to the carrying out of building or similar works, or Class 13 as it exceeds 0.3 sq.m. in area. It is noted that Section 4(2) of the Act does not provide an exemption in itself but rather relates to the making of the Regulations.
- 4.2.4 The sign on the flagpole advertising “RESTAURANT” is made up of an “advertisement” and an “advertisement structure”. It is stated that the hanging cloth could be considered a kite, device or representation as indicated in the definition for “advertisement”. The flagpole is considered to be an “advertisement structure” and it is noted that the exemptions outlined under Part 2 of Schedule 2 do not relate to advertisement structures per se. It is therefore considered that the flagpole is not exempted development. No part of an advertisement not exhibited, attached or affixed to a building shall be more than 2.5m high under Condition and Limitation 4(a) of Class 1 to be exempted development. The flagpole is approximately 5m high.
- 4.2.5 The framed structures displaying “BAR”, “LOTTO” and “SHOP” are considered to be “advertisement structures” with hanging cloth “advertisements” that could also be deemed as a kite, device or other representation. These advertisements are more than 4m above ground level and therefore are not considered to fall under Condition and Limitation 4(b). Furthermore, the advertisements are 2.5m high and exceed the 0.6m height under Condition and Limitation 8 of Class 1. The letters themselves are also more than 0.3m high. Finally, it is noted that the advertisements exceed the 0.3 sq.m. limit under Class 13.

4.3 Declaration of the Planning Authority

- 4.3.1 The request for the Declaration was made by the agent for Eugene O’Connor as to whether the erection of advertising signage at O’Connor’s Bar, Tulsk, Co. Roscommon is or is not development or is or is not exempted development.
- 4.3.2 The Planning Authority decided to issue a declaration that letters advertising “RESTAURANT” painted on the south-east (side) roof of the premises; the sign advertising “The Friary Café and Restaurant” on the roof of the single storey extension to the south-east (side) elevation; the sign advertising “RESTAURANT” on a flagpole along the N5; and 3 no. signs advertising “BAR”, “LOTTO” and “SHOP” affixed to the front elevation of the property do constitute development and are not exempted development as defined within

the Planning and Development Act, 2000 (as amended) and associated Regulations.

6.0 REFERER'S SUBMISSION

- 6.1 The referrer's case, as per the letter submitted by his agent on 3rd November 2015, refers the Planning Authority's Declaration to the Board for review in accordance with Part 1 of Section 5(4) of the Planning and Development Act, 2000 as to whether signage is or is not development or is or is not exempted development.
- 6.2 It is contended that the lettering "RESTAURANT" painted onto the slates of the roof is not development, as defined, and therefore cannot be unauthorised development. The referrer's agent had submitted to the Planning Authority that "works" in relation to a protected structure includes the application or removal of paint to or from the interior or exterior of surfaces. It was submitted that painting the exterior of a surface of a structure, which is not a protected structure, is not "work" and therefore not "development".
- 6.3 The sign "THE FRIARY CAFÉ and RESTAURANT" on an advertisement structure over the side entrance to the premises is considered by the referrer to be exempted development, together with being immune from prosecution due to its age. It is considered that this advertisement structure falls within the umbrella of Section 4(2) of the Act and that the advertisement on the structure falls within Regulation Classes made thereunder, i.e. Part 2 of Schedule 2, Classes 1 and 11.
- 6.4 The "RESTAURANT" sign on a pole is considered to be exempted development on the grounds that it is an advertisement structure and there is no condition/ limitation restricting this structure. The advertisement itself is considered to fall within Class 1. It is stated that Conditions and Limitations 3-9 refer to the advertisement and not the advertisement structure. In addition, no part of the sign overhangs the public road and the tarmac outside the wall is in the applicant's ownership.
- 6.5 The "BAR", "LOTTO" and "SHOP" signs are considered by the referrer to be exempted development under Classes 1 and 13. The contention is that there is a 0.3 sq.m limitation (Class 13) on the area of the advertisement but no limitation on the area of the advertisement structure, i.e. the only restriction is on the area of the actual lettering. The same argument is put forward with reference to Condition and Limitation 4(b) of Class 1. The referrer's agent also makes the point that a cloth with no letters on it is not an advertisement.

7.0 RESPONSES

- 7.1 No responses.

9.0 RELEVANT LEGISLATION

8.1 In order to assess whether or not the signage constitutes development or exempted development, regard must be had to the following items of legislation:

Planning and Development Act, 2000

8.2 Under Section 2 (1), the following interpretations are relevant:

“advertisement” means any word, letter, model, balloon, inflatable structure, kite, poster, notice, device or representation employed for the purpose of advertisement, announcement or direction;

“advertisement structure” means any structure which is a hoarding, scaffold, framework, pole, standard, device or sign (whether illuminated or not) and which is used or intended for use for exhibiting advertisements or any attachment to a building or structure used for advertising purposes;

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

(a) where the context so admits, includes the land on, in or under which the structure is situate, and

(b) in relation to a protected structure or proposed protected structure, includes—

(i) the interior of the structure,

(ii) the land lying within the curtilage of the structure,

(iii) any other structures lying within that curtilage and their interiors, and

(iv) all fixtures and features which form part of the interior or exterior of any structure or structures referred to in subparagraph (i) or (iii)

“works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

8.3 Section 3 (1) states as follows:

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

- 8.4 Under Section 3 2 (a), it is stated that for the purposes of subsection (1) and without prejudice to the generality of that subsection where any structure or other land or any tree or other object on land becomes used for the exhibition of advertisements, the use of the land shall be taken as having materially changed.
- 8.5 Section 4 (1) (a) – (l) sets out what is exempted development for the purposes of this Act.
- 8.6 Section 4 (2) provides for the making of Regulations. The main Regulations are the Planning and Development Regulations, 2001 (as amended).

Planning and Development Regulations, 2001

- 8.7 Article 6 (2) states as follows:
- (a) Subject to article 9, development consisting of the use of a structure or other land for the exhibition of advertisements of a class specified in column 1 of Part 2 of Schedule 2 shall be exempted development for the purposes of the Act, provided that—
- (i) such development complies with the conditions and limitations specified in column 2 of the said Part 2 opposite the mention of that class in the said column 1, and
 - (ii) the structure or other land shall not be used for the exhibition of any advertisement other than an advertisement of a class which is specified in column 1 of the said Part 2 and which complies with the conditions and limitations specified in column 2 of the said Part 2 opposite the mention of that class in the said column 1.
- (b) Subject to article 9, development consisting of the erection of any advertisement structure for the exhibition of an advertisement of any one of the classes specified in column 1 of Part 2 of Schedule 2 shall be exempted development for the purposes of the Act, provided that—
- (i) the area of such advertisement structure which is used for the exhibition of an advertisement does not exceed the area, if any, specified in column 2 of the said Part 2 opposite the mention of that class in the said column 1,
 - (ii) the advertisement structure is not used for the exhibition of advertisements other than advertisements of the class to which the exemption relates.

Schedule 2, Part 2: Exempted Development – Advertisements

Column 1 Description of Development	Column 2 Conditions and Limitations
<p>CLASS 1 Advertisements (other than those specified in classes 2, 3 or 5 of this Part of this Schedule) exhibited on business premises, wholly with reference to the business or other activity carried on or the goods or services provided on those premises.</p>	<ol style="list-style-type: none"> 1. The total area of such advertisements exhibited on or attached or affixed to the front of any building on the premises shall not exceed an area equal to 0.3 square metres for every metre length of such front, less the total area of any such advertisements exhibited on the premises but not exhibited on or attached or affixed to a building, and in any event shall not exceed 5 square metres. 2. The total area of such advertisements exhibited on or attached or affixed to any face of a building on the premises other than the front thereof shall not exceed 1.2 square metres and the total area of any such advertisements on such face which are illuminated shall not exceed 0.3 square metres. 3. The total area of such advertisements which are not exhibited on or attached or affixed to a building on the premises shall not exceed 3 square metres, of which not more than 1.5 square metres shall consist of advertisements which are illuminated. 4. (a) No part of any such advertisement which is not exhibited on or attached or affixed to a building on the premises, or of an advertisement structure on which it is exhibited, shall be more than 2.5 metres in height. (b) No part of any such advertisement which is exhibited on or attached or affixed to a building on the premises shall be more than 4 metres in height above ground level. 5. Where any such advertisement projects more than 5 centimetres over any public road, the sign or other advertisement structure on which it is exhibited shall not be less than 2 metres above the level of such road and shall not project more than 1 metre over such road. 6. Where any such advertisement consists of a circular sign and projects more than 5 centimetres over any public road, the diameter of such sign shall not exceed 1 metre and no other such advertisement shall be exhibited on a sign or other advertisement structure projecting more than 5 centimetres over such road. 7. Where any one or more such advertisements are exhibited on a swinging or fixed sign or other advertisement structure (other than a circular

	<p>sign) projecting more than 5 centimetres from any external face of a building, the total area of such advertisements shall not exceed 1.2 square metres and the area of any face of any such advertisement shall not exceed 0.4 square metres.</p> <p>8. No such advertisement shall contain or consist of any symbol, emblem, model, logo or device exceeding 0.6 metres in height or any letter exceeding 0.3 metres in height.</p> <p>9. No such advertisement shall cover any part of any window or door of any building on which the advertisement is exhibited or to which it is attached or affixed.</p>
<p>CLASS 4 An advertisement in the form of a flag which is attached to a single flagstaff fixed in an upright position on the roof of a business premises and which bears no inscription or emblem other than the name, device or logo of a person or business occupying the business premises.</p>	<p>Not more than one such advertisement shall be exhibited on a business premises.</p>
<p>CLASS 13 Advertisements for the purposes of identification, direction or warning with respect to the land or structures on which they are exhibited.</p>	<p>No such advertisement shall exceed 0.3 square metres in area.</p>

8.8 Article 9 (1) (a) sets out the instances where development, to which Article 6 relates, shall not be exempted development for the purposes of the Act if the carrying out of such development would -

(iii) endanger public safety by reason of traffic hazard or obstruction of road users,

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

10.0 ASSESSMENT

10.1 This referral has arisen from Roscommon County Council’s Declaration, under Section 5 (1) of the Planning and Development Act, 2000 (as amended), that signage at O’Connor’s bar, restaurant and shop constitutes development that is not exempted development.

10.2 The agent for the owner/ occupier has referred the case to the Board on the basis that the lettering “RESTAURANT” painted onto the slates of the roof is not development; the sign “The Friary Café and Restaurant” on an

advertisement structure over the side entrance to the premises is exempted development, together with being immune from prosecution due to its age; the “RESTAURANT” sign on a pole is exempted development on the grounds that it is an advertisement structure and there is no condition/ limitation restricting this structure; and the “BAR”, “LOTTO” and “SHOP” signs are exempted development under Classes 1 and 13 of Part 2 of Schedule 2 of the Regulations.

- 10.3 The first part of the question to be examined in this case is whether or not 'development' has taken place within the meaning of the Act. If no development has occurred, no further question arises but if on the other hand the signage is considered to be development, the second part of the question arises as to whether or not it is exempted development by reference to the Act and Regulations.

The question of whether or not development has occurred

- 10.4 Section 2 (1) of the Planning and Development Act, 2000 (as amended) provides an interpretation of 'works' as including '*any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal...*'. An "alteration" includes "*...plastering or painting or the removal of plaster or stucco... 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.*"
- 10.5 The definition of works is therefore broad and covers any act or operation of construction. The advertisements or advertising structures comprising the flags or banners attached to the building and on flagpoles and the sign above the entrance to the restaurant would be considered works as an act of construction or alteration.
- 10.6 The referrer submits that the word "Restaurant" on the roof of the building represents the painting of the exterior of a surface, which is not a protected structure and is not "works" and therefore not "development". I would be of the view that this lettering falls under "alteration", i.e. painting that materially alters the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or neighbouring structures.
- 10.7 Section 3 (1) of the Act states that "*in this Act, 'development' means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land.*" Development would therefore take place if it is considered that 'works' have occurred in this case. As noted above, I consider that all signage including the painting of lettering onto the roof represents works and is therefore development.
- 10.8 It should also be noted that under Section 3(2)(a) of the Planning and Development Act, 2000 (as amended), for the purposes of subsection (1) and without prejudice to the generality of that subsection where any structure or other land or any tree or other object on land becomes used for the exhibition of advertisements, the use of the land shall be taken as having materially

changed. Thus, there may also be an argument that the signage constitutes development on the basis that the use has been materially altered to that of an advertisement structure.

The question of whether or not the development is exempt

- 10.9 Article 6(2) (a) and (b) of the Planning and Development Regulations, 2000 (as amended) refers separately to development consisting of the use of a structure or other land for the exhibition of advertisements, and to the erection of any advertising structure for the exhibition of an advertisement. All advertising signage the subject of this referral consists of either the use of a structure or the erection of a structure for the exhibition of an advertisement.

Restaurant roof sign

- 10.10 The “Restaurant” sign on the roof of the building would fall under Article 6(2)(a) as the use of a structure or other land for the exhibition of an advertisement, being a Class 1 advertisement exhibited on business premises, wholly with reference to the business or other activity carried on or the goods or services provided on those premises. This class of development would be exempted development, subject to Article 9, and provided that it complies with the conditions and limitations specified in Column 2.
- 10.11 Condition and Limitation No. 2 states that the total area of such advertisements exhibited on or attached or affixed to any face of a building on the premises other than the front thereof shall not exceed 1.2 square metres. As per the drawings submitted with Reg. Ref: PD09/359, it is estimated that the lettering is approximately 10 sq.m. This Condition and Limitation is therefore well exceeded. The lettering would also exceed Condition and Limitation 1 of Class 1 if the roof was considered to be the front of the building. Furthermore, the height of the lettering above ground level (c.4.6m) and the height of the lettering itself, are likely to exceed Conditions and Limitations 4(b) and 8 of Class 1 respectively.
- 10.12 In addition to the above, there may valid grounds under Article 9(1)(a)(iii) that the sign would endanger public safety by reason of a traffic hazard or obstruction of road users having regard to its height and scale and the potential for distraction of motorists.

The Friary Café and Restaurant Sign

- 10.13 The referrer makes the argument that this sign is exempt under Classes 1 and 11. Class 11 refers to advertisements relating to the carrying out of building or similar works and is therefore not relevant to signage advertising a café/restaurant. Class 13 regarding advertisements for the purposes of identification, direction or warning with respect to the land or structures on which they are exhibited would also not be applicable in this case.
- 10.14 There may be grounds that this sign is also exempted development under Class 1 as an advertisement exhibited on business premises, wholly with

reference to the business or other activity carried on or the goods or services provided on those premises. However, the Planning Authority refers to Condition and Limitation 4(b) as reason for the advertisement not meeting the exempted development requirements. It is stated that the advertisement begins at a height of approximately 3.2m above ground level and is approximately 1m high. Therefore, it is considered that part of the advertisement would be more than 4m above ground level and in excess of the requirements under Condition and Limitation 4 (b).

- 10.15 The eastern elevational drawing of the development proposed under Reg. Ref: PD09/359 shows the lean-to extension, on which the sign now rests, rising to a height of 3.6m. The sign sits off the main elevation and at a point approximately halfway down the mono-pitched roof. The midpoint of the sign is roughly at the location where the top of the lean-to meets the main wall of the building, i.e. at a height of 3.6m. There are no exact measurements for the height of the sign itself. However, I would be satisfied that the top of the sign is in or around 4m above ground level. Accordingly, I would be of the opinion that this sign could be considered exempted development under Condition and Limitation 1 of Class 1 if this façade is considered the front of the building. The building has a gable addressing the road; however, the main entrance is to the side and I would be satisfied that this is the principal elevation of the restaurant building for the purposes of this Condition and Limitation.

Signage flags

- 10.16 As noted under Section 2 (1) of the Act, an *“advertisement” means any word, letter, model, balloon, inflatable structure, kite, poster, notice, device or representation employed for the purpose of advertisement, announcement or direction. An “advertisement structure” means “...any structure which is a hoarding, scaffold, framework, pole, standard, device or sign (whether illuminated or not) and which is used or intended for use for exhibiting advertisements or any attachment to a building or structure used for advertising purposes.”*
- 10.17 I would agree that the sign on the pole advertising “restaurant” and the devices attached to the buildings advertising “bar”, “shop” and “lotto” are made up of an advertisement structure (flagpole/ frame) and an advertisement (hanging cloth).
- 10.18 Under Article 6(2)(b) it is stated that *“subject to article 9, development consisting of the erection of any advertisement structure for the exhibition of an advertisement of any one of the classes specified in column 1 of Part 2 of Schedule 2 shall be exempted development for the purposes of the Act, provided that (i) the area of such advertisement structure which is used for the exhibition of an advertisement does not exceed the area, if any, specified in column 2 of the said Part 2 opposite the mention of that class in the said column 1, and (ii) the advertisement structure is not used for the exhibition of advertisements other than advertisements of the class to which the exemption relates.”*

- 10.19 Therefore, under this Article, the advertisement structure and the advertisement should be assessed together for the purposes of compliance with the classes of development and their conditions and limitations. Class 1 also applies to this case as an advertisement referencing the business activity on the premises.
- 10.20 Condition and Limitation 4(a) states that *“no part of any such advertisement which is not exhibited on or attached or affixed to a building on the premises, or of an advertisement structure on which it is exhibited, shall be more than 2.5 metres in height”*. The flagpole advertising “Restaurant” is approximately 5m in height and would therefore exceed this Condition and Limitation. The banners attached to the bar and shop would also be in excess of Condition and Limitation 4(b), which states that *“no part of any such advertisement which is exhibited on or attached or affixed to a building on the premises shall be more than 4 metres in height above ground level.”* These banners are, in part, 4m above ground level.
- 10.21 It would also be the case that all banner advertisements do not comply with Condition and Limitation 8 as they contain a logo that exceeds 0.6m in height and in the case of the banners attached to the building, would comprise of lettering exceeding 0.3m in height. In my opinion, the advertisement comprises the entire banner including the letters themselves and the cloth onto which they are printed.
- 10.22 Finally, it would be necessary to conduct detailed measurements of all signage to confirm compliance with Condition and Limitations 1 and 2. This would also require an appraisal of what is considered to be the front of the building and all other building faces other than the front. This case is somewhat unusual in that the restaurant/ bar building addresses the car park to the side and the shop is street-fronting. I would be of the view, therefore, that the “shop” and “lotto” signage are located on the front of the shop and these would be assessed separately under Condition and Limitation 1. As noted above, the principal elevation for the purposes of assessing *“The Friary Café and Restaurant Sign”* is the eastern elevation facing towards the car park and containing the main entrance to the bar/ restaurant. If the “bar” banner and the “O’Connors” name are considered to be on the side of the bar/ restaurant building, they should be assessed under Condition and Limitation 2. However, it would not be possible for the Board to determine if the signage complies with Conditions and Limitations 1 and 2 in the absence of accurate elevational drawings containing all signage.

RECOMMENDATION

Having regard to the above, I would consider that all advertising signage at the subject site including the painting of lettering onto the roof represents works and is therefore development. The signage would be exempted development under Class 1 of Part 2 of Schedule 2 of the Planning and Development Regulations, 2001 (as amended) as advertisements exhibited on business premises, wholly with reference to the business or other activity carried on or the goods or services provided on

those premises where it complies with the Condition and Limitations of Column 2 of said Class. The Friary Café and Restaurant Sign complies with the relevant Conditions and Limitations and is therefore development that is exempted development. The remaining advertising signage fails to comply with one or more of said Conditions and Limitations and is therefore development that is not exempted development. Accordingly, I recommend an Order in the following terms:

WHEREAS a question has arisen as to whether advertising signs at O'Connor's Bar and The Friary Restaurant, Tulsk, Co. Roscommon is or is not development or is or is not exempted development:

AND WHEREAS Mr. Eugene O'Connor, c/o Vitruvius Hibernicus, Convent Road, Longford requested a declaration on the said question from Roscommon County Council and the said Council issued a declaration on the 22nd day of October, 2015 stating that the said development was development and was not exempted development:

AND WHEREAS the said Mr. Eugene O'Connor referred the declaration for review to An Bord Pleanála on the 3rd day of November, 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, and
- (c) Class 1 of Part 2 of Schedule 2 to the said Regulations.

AND WHEREAS An Bord Pleanála has concluded that-

- (a) The letters advertising "Restaurant" painted onto the south-eastern roof slope of the bar/ restaurant building constitutes development that is not exempted development;
- (b) The sign advertising "The Friary Café and Restaurant" displayed on the roof of the single storey lean-to extension at the south-eastern elevation of the bar/ restaurant constitutes development that is exempted development;
- (c) The sign advertising "Restaurant" displayed on the flagpole at the south-western side of the property along the N5 constitutes development that is not exempted development; and

- (d) The three banner signs advertising “bar”, “lotto” and “shop” affixed to the south-western elevation of the shop and bar/ restaurant facing the N5 constitutes development that is not exempted development;

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5 (3) (a) of the 2000 Act, hereby decides that “The Friary Café and Restaurant” sign is development that is exempted development the remaining advertising signage is development that is not exempted development.

Donal Donnelly
Inspector

2nd February 2016