

For the attention of An Bord Pleanála

ABP Reference No. ABP-315097-22

Fingal Ref FS5/ 057/22

AN BORD PLEANÁLA

LDG- _____

ABP- _____

26 JAN 2023

Fee: € _____ Type: _____

Time: _____ By: *post*

Further to your letter dated January 9th 2023 which I received today January 23rd 2023 I am now formally responding to the points raised by the Fingal Planning Department in their Decision Order dated October 21st 2022 and their subsequent comments in respect of my appeal of their decision to An Bord Pleanála dated December 5th 2022.

I would like to acknowledge that an error was made in my original submission to the Planning Authority in respect of the location of the Tennis Court. Two conflicting locations were highlighted on maps submitted with my original submission to the Planning Authority. This matter has been clarified in my

Appeal of the Fingal Decision dated November 10th 2022 and registered by An Bord Pleanala on November 15th 2022.

The Pickleball Court (quarter size Tennis Court of c. 6meters x 12 meters)proposed is to be located within the residential curtilage of Heather Cottage. The Court proposed is considerably smaller than a standard Tennis Court and it will not be visible from any Public Right of Way or any public area on Howth head.

The refusal reasons in the Fingal Decision Order which relate to a reduction of Heathland and Maritime Grassland would not in my view apply to the long established residential curtilage of Heather Cottage.

The Pickleball Court is for the enjoyment and use of the residents of Heather Cottage only.

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it is stated on the Fingal Website [Planning area] that a Tennis Court within the curtilage of a domestic dwelling is exempted development. I note that several full size Tennis Courts have been constructed within the curtilage of domestic dwellings in the Fingal Administrative area both within and outside the Howth Special Amenity Area in the past 20 years and to my knowledge none have been required by the Planning Authority to obtain a planning permission.

I have carried out a search on the Fingal Planning Website and nowhere can a Planning Application for a Tennis Court within the curtilage of a domestic dwelling either inside or outside the Howth Special Amenity Area be found.

It is therefore somewhat surprising that in the Fingal Planning Department response to my Appeal there is a reference to a lack

of substantial detail, cross sections etc. There is also a reference to fences / boundary treatment for the Tennis Court, proposed surfaces or ancillary details. As pointed out in my Appeal to the Board there will be no boundary treatments or fences associated with the Court as it will be used for Pickleball rather than Tennis and as a consequence no fences or boundary treatments are required. I propose to use the standard Tennis Court hard surface and there will be no question of the ground level within the curtilage of the dwelling being altered by one metre or more. The ground level will not be altered at all .

I am aware that such an alteration would give rise to enforcement action by the Planning Authority.

Essentially, I wish to establish that the principle of exemption for the small Tennis Court which appears to have applied to similar developments both

inside and outside the Howth Special Amenity Area applies in this instance.

I have attached an extract from Google Earth showing the Tennis Courts at Portmarnock Leisure Centre [6 in total] There is a single Pickleball Court at the Southern end of the line of Tennis Courts. This Pickleball Court is outlined in red. A standard Tennis Court at the Northern end of the line of Courts is outlined in blue.

This Satellite Photograph illustrates the relative size of a Pickleball Court to that of a standard Tennis Court.

As stated earlier I only received the letter from An Bord Pleanála today {January 23rd 2023} despite the fact that the decision to request Additional Information was made on January 9th 2023. I am happy to provide any further information which the Board might require if requested. I would be grateful if you could

**contact me via email as well as by letter.
Email Address attached separately.**

**I would hope that
An Bord Pleanála will confirm that
a Pickleball Court [quarter size Tennis
Court] within the curtilage of a domestic
dwelling [for residential use only] is
exempted development.**

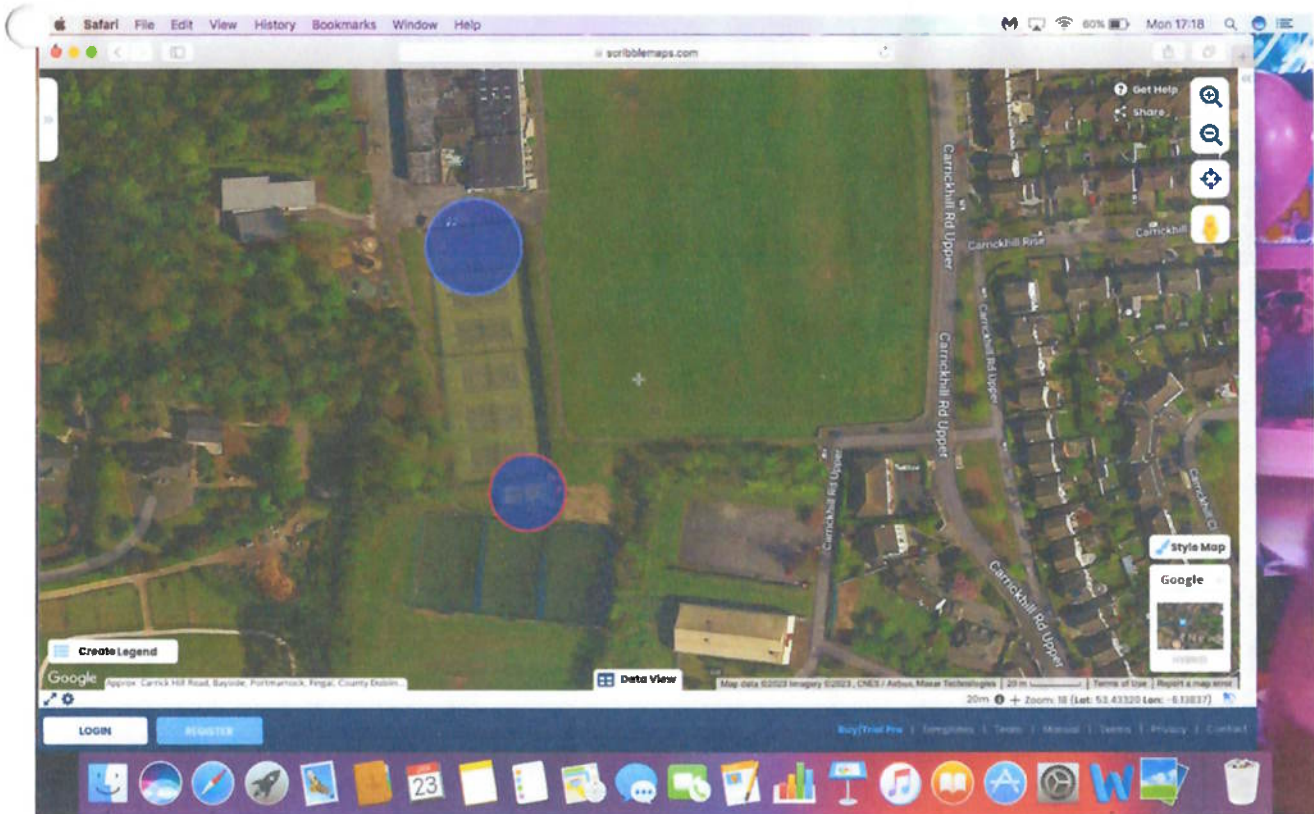
Yours sincerely,

Patrick O'Reilly

**Heather Cottage, Upper Cliff
Road, Howth D13A326**

EM/SL

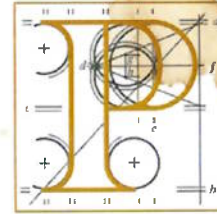




**Pickleball Court at Portmarnock Leisure Centre outlined in red. Standard Tennis Court is outlined in blue.
Eircode for Portmarnock Leisure is D13 X662**

Our Case Number: ABP-315097-22

Planning Authority Reference Number: FS5/057/22



An
Bord
Pleanála

Patrick O'Reilly
Heather Cottage
Upper Cliff Road
Howth
Co. Dublin

Date: 09 January 2023

Re: Whether the construction of a tennis court is or is not development or is or is not exempted development
Heather Cottage, Upper Cliff Road, Howth, County Dublin

Dear Sir / Madam,

I have been asked by An Bord Pleanála to refer to the above mentioned referral.

The Board is of opinion that, in the particular circumstances of this referral, it is appropriate in the interests of justice to request you to make submissions or observations in relation to the enclosed submission received on 5th December 2022 from Fingal County Council.

In accordance with section 131 of the Planning and Development Act, 2000, (as amended), you are requested to make any submissions or observations that you may have in relation to this enclosure on or before **30th January 2023**. The Board cannot consider comments that are outside the scope of the matter in question. Your submission in response to this notice must be received by the Board not later than **5.30 p.m. on 30th January 2023**.

If no submission or observation is received before the end of the specified period, the Board will proceed to determine the referral without further notice to you, in accordance with section 133 of the 2000 Act, (as amended).

Please quote the above referral number in any further correspondence.

Yours faithfully,

Garry Dorgan
Executive Officer
Direct Line: 01-8737157

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64 Sráid Maoilbhríde	64 Marlborough Street
Baile Átha Cliath 1	Dublin 1
D01 V902	D01 V902



The Secretary,
An Bord Pleanála,
64 Marlborough Street,
Dublin 1.

Our Ref. FS5/057/22

Your Ref. ABP-315097-22

5th December, 2022

**Re: Whether the construction of a tennis court is or is not development or is or is not exempted development.
Heather Cottage, Upper Cliff Road, Howth, County Dublin.**

Dear Sir/Madam,

I refer to your correspondence dated 16th November, 2022 regarding the above application.

The Planning Authority's comments are as follows:

This is an application for a **DECLARATION of EXEMPTED DEVELOPMENT** under **SECTION 5** of the Planning and Development Act 2000 as amended for a tennis court at Heather Cottage, Upper Cliff Road, Howth for Patrick O'Reilly.

The planning authority made a determination based on the information submitted. The assessment was made relating to a tennis court as opposed to a 'pickleball' court as now suggested.

The submitted application is lacking in substantial detail. No drawings have been submitted with respect to the proposed development. The site slopes steeply and no cross sections have been given. This is of relevance as development within a residential curtilage that involves a change in level of 1m requires planning permission. It is not clear as to the extent of earth works that will be required to allow for a level tennis court.

In addition no details on proposed surfaces or ancillary details with respect to fences/boundary treatment for the tennis court have been given, although the applicant suggests that boundary treatment is not required for a pickleball court which is a development that was not suggested under the original section 5 application.

An Bord Pleanála is requested to uphold the decision of the Planning Authority.

Yours faithfully,

Colm McCoy
Colm McCoy,
Senior Planner.

Date: 05.12.22.
