

Appeal of Declan Ferguson's Section 5 FS5W/018/23

The decision of Fingal County Council in respect of Section 5 lodged by Declan Ferguson is seriously flawed for a number of reasons.

Fingal County Council did not afford me, as the owner of the property being assessed, an opportunity to make an input into the Section 5 application which was lodged by my neighbour, Declan Ferguson on Brooklin View, Strawberry Beds, Dublin 15.

I was notified by letter on October 12th 2023, just eleven days before the date of the Fingal decision.

One of the reasons given by the Fingal Planning Officer for stating that restoration works on the dwelling and coach house was that the works in question did not fall within the scope of section 4(1)h of the 2000 Planning and Development Act. The Planning Officer further stated that the works would materially affect the external appearance of the structure.

The Planning Officer has selectively used part of the wording of section 4(1)h of the 2000 Planning and Development Act in arriving at the decision made on October 23rd 2023. Neighbouring structures must also be taken into account by Local Authorities and An Bord Pleanála under Section 4(1)h. However, the Planning Officer chose to ignore this element of Section 4 (1)h of the Primary Act. The wording of this section also states that works to any structure may fall within it's scope.

In a previous Section 5 Declaration [RL2748] a copy of which is attached to this appeal, An Bord Pleanála decided that the planning status of a structure, works to which fall within the scope of Section 4(1)h of the 2000 Planning and Development Act is not affected.

The Planning Officer did not inspect the site or speak to the registered owner and appeared to be briefed and informed by the party who lodged the Section 5 application.

AN BORD PLEANÁLA
ABP- 318478-23 068144-23
16 NOV 2023
Fee: € 220 Type: Cash
Time: 16:45 By: [Signature]

The party who lodged the section 5 application resides at Brooklin View which adjoins my property has a number of unauthorised structures on his site and these have been the subject of complaints to the local authority [Fingal County Council] several years ago but to date no enforcement notice has been issued in respect of them. I understand that An Bord Pleanala do not involve themselves in enforcement matters but as the applicant has referred to an enforcement notice in respect of my lands I believe it is reasonable to make reference to enforcement or lack thereof on his property.

Mr Ferguson also removed a mature tree line boundary between his property and mine so that he could have uninterrupted views across my land. Once again he was not subject to any sanction by the Planning Authority despite the fact that I had drawn the matter to their attention.

Under Nature of Development the Fingal Planning Officer states that “an enforcement notice has also been issued on the site at Lower Road, Strawberry Beds, Dublin 15 for Declan Ferguson” This is a very strange statement and appears to infer that Fingal County Council are acting as agents for Declan Ferguson [the applicant in respect of this section 5 application]

Given that the Fingal Planning Officer has not visited the site which is the subject of this section 5 application and has made assumptions about service connections etc based on information supplied by an adjoining owner, I would ask that An Bord Pleanala look at the matter afresh given the planning authority’s failure to adhere to fair procedures when processing this section 5 application.

The applicant referred in his application to an Enforcement Notice on the subject site and the Planning Officer also made a reference to this Notice. I would like to point out that since I purchased this property there has been no enforcement notice or other enforcement proceedings initiated by the Planning Authority in

respect of either of the structures which were the subject of this Section 5 application.

It appears that the policy of the Fingal County Council Planning Department is that structures within the Liffey Valley Special amenity area have a less desirable character when they are restored and modernised than when they are in a somewhat unkempt condition regardless of their use. This is a quite bizarre approach and it is certainly at odds with current government policy.

all services are on site and in use

all structures have been surveyed
and are sound

I have a licence to keep Poultry
on the site


Pete Rafter

Strawberry house
Lower Road
DUBLIN 20

D20 KD82



Julia Harun
Block C,
32 South Meath,
Ballinteer Road,
Dundrum,
Dublin 16

Date: 12th October, 2023

PLANNING & DEVELOPMENT ACTS 2000, AS AMENDED

Register Reference: FS5W/018/23

Development: The restoration and refurbishment of a formerly derelict building. This building and the site it is located on have already been subject to a number of rulings by Fingal CC and An Bord Pleanála. An enforcement notice has also been issued on the site.

Location: Lower Road, Strawberry Beds, Dublin 15

Applicant: Declan Ferguson

Application Type: Declaration under Section 5

Dear Sir/Madam,

I wish to inform you that an application for a Declaration under Section 5 of the Planning and Development Act 2000, as amended, is being sought in respect of the above location/address.

03/06/2021

MR PETER RAFTER
STRAWBERRY HOUSE
LOWER ROAD
DUBLIN 20

DISTRICT VETERINARY OFFICE
POPLAR HOUSE
POPLAR SQUARE
NAAS
CO KILDARE
Phone No: 076-1064410

Application for registration as a poultry keeper/ owner

Dear Mr Rafter,

I wish to let you know that the following unique poultry holding number has been allocated to you in respect of your poultry flock.



Poultry Holding Number

A Poultry Holding Number is an administrative device issued by the Department to keepers of (distinct) individual poultry holdings to enable rapid identification in the event of the threat of a disease outbreak. Such holding number issued neither confers nor infers ownership of production sites, lands or animals under that poultry holding number. Rather a keeper is the person responsible for the care and maintenance of animals. Please advise the Department in the event that poultry is no longer kept on the premises or if the permanent keeper changes.

Bio-security

Biosecurity measures are measures that you can take to reduce the likelihood of disease being introduced or spread and keepers of poultry are required to undertake bio-security measures to protect their flocks. Diseases can be spread via birds (their products, carcasses and litter/manure), other animals, people, vehicles, equipment, feed and water.

Protect your birds

1. Purchase your birds from a reliable source
2. Prevent contact with other species, poultry, wild birds or captive birds
3. Feed free-range birds indoors or under cover, clean up feed spills
4. Control the storage, treatment and access to water, don't allow access to surface water
5. Keep ducks and geese separate from other poultry
6. Ensure a safe, secure supply of feed, water and bedding
7. Ensure vehicles and equipment are clean and disinfected
8. Only allow essential visitors, ensure they use protective clothing and footwear and wash their hands
9. Store and Dispose of carcasses, litter/manure and waste eggs safely
10. Clean and disinfect houses before you put in new birds
11. Install perimeter fencing around the premises
12. Secure the premises where the poultry are kept
13. Provide and use footbaths and hand-washing facilities
14. Place controls on animals and vehicles to the premises

Check your birds daily for signs of disease

Know the signs of disease (sudden deaths, loss of appetite, excess thirst, depression, diarrhoea, nervous signs, respiratory signs, swollen eyes, combs or wattles, egg drop, egg shell abnormalities)

Report sick birds to your private vet or local District Veterinary Office

Additional information can be found on the Department's website at: http://www.agriculture.gov.ie/avian_influenza/

Records

It is important that the following records are maintained on a daily basis and retained for at least 3 years as they may be required by the Department for the purposes of tracing disease.

- all mortalities that occur in the flock or on the premises; (your veterinary practitioner should be advised if there are increased mortalities)
- the daily production of eggs in the flock*
- the intake of food and water by the flock*
- purchases, sales and supplies of eggs used for breeding purposes or poultry and copies of associated health certificates and commercial documents.

*If you have fewer than 350 poultry in the flock and do not sell or supply poultry or poultry products, then you do not need to keep a record of egg production and daily intake of food and water.

Other Regulatory Requirements

In addition to registration, you must contact DAFM on [REDACTED] regarding additional legal requirements to be adhered to if you intend to:

- a) sell eggs for human consumption to retail (e.g., a shop or restaurant)
- b) import or export poultry
- c) sell poultry
- d) operate a hatchery

Refer to the DAFM website for further information on complying with the legislative requirements for keeping poultry at: www.agriculture.gov.ie/farmingsectors/poultry/

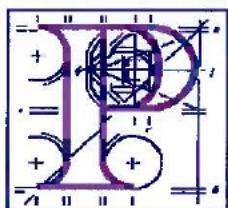
To summarise, the conditions are that the Poultry flock must be maintained separately without intermixing of stock from other Poultry flocks and that the flock is managed as an independent unit and that records are maintained.

I wish you every success with your poultry flock.

Yours sincerely,


District Veterinary Office

An Bord Pleanála



Board Direction

Ref: 17. RL 2748

The submissions on this file and the Inspector's report were considered at a Board meeting held on 9th September, 2010.

The Board generally approved of the terms of the attached draft order, subject to the amendments shown in manuscript.

The Board decided that –

The replacement of windows and alteration of door comes within the scope of S4 (1) (h) of the Planning and Development Act 2000, notwithstanding the planning status of the structure.

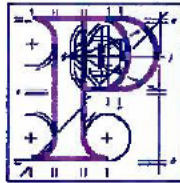
Note: The Board noted that the planning status of the structure itself is not affected by this ruling.

Please issue a copy of this direction with the order.

Board Member: _____
Mary Mac Mahon

Date: 9th September, 2010

An Bord Pleanála



Inspector's Report

Details of Reference

Whether the replacement and/or alterations of windows and doors is or is not development or is or is not exempted development at 'The Mews', Ballinlough, Dunsoughlin, Co. Meath

Referred By:

Richard Carter

Other Parties to Reference:

None

Planning Authority:

Meath County Council

Planning Authority Ref:

DA/551007

Date of Site Inspection:

August 30th 2010

Inspector:

Lorraine Dockery

1.0 SITE LOCATION AND DESCRIPTION

The subject site, which has an approximate area of 0.2 hectares is located within the townland of Ballinlough, Co. Meath on the northern side of the N3 roadway, south-east of the village of Dunsaulghlin. A two-storey residential property is located to the north-west of the subject site. The entrance to the site is such that a shared apron exists for the two properties with the proposed site entrance being accessed off that. The existing site entrance is unpaved and has a sharp slope from the shared apron.

Another residential property is located to the south-east of the subject site. The roadside boundary is comprised of dense planting and the subject site is not unduly visible from the N3.

The existing dwelling on site is a single storey property, with pitched roof and plaster finish. A relatively large garden area surrounds the modest property.

2.0 BACKGROUND TO REFERRAL

The referrer applied to Meath County Council for a declaration under Part 1 Section 5 of the Planning and Development Act 2000 as to whether the following works are development and/or exempted development or not:

- the removal of existing timber framed, single glazing window in front elevation and installation of replacement double-glazed window in the same aperture
- removal of existing full height patio-type sliding door in the southern side elevation, blocking up part of former opening and insertion of double-glazed window in the reduced size aperture
- insertion of new double doors in former blank flank wall to allow greater light penetration
- removal of two existing timber framed, single glazed windows in the southern side elevation of the house and installation of two new replacement double glazed windows
- removal of three existing timber framed, single glazed windows and insertion of new double glazed windows in the opposite flank elevation (facing neighbours house)
- no external works have been undertaken which affect the rear elevation of this dwellinghouse

The Planning Authority decided that the works outlined above was development that required planning permission.

3.0 REFERRAL

The submission refers and seeks a review of the declaration made by Meath County Council.

The Board's determination is sought as to whether the replacement and/or alterations of windows is or is not development, or is exempted development within the meaning of the Planning and Development Regulations 2000-2008 (as amended).

It is submitted by the referrer that the works at this location are exempted development under Schedule 2, Part 1, Class 2(d) of the Planning and Development Regulations 2001 (as amended).

The submission can be summarised as follows:

- Works undertaken at this property do not require planning permission by reason of Section 4(1)(h) of the Planning and Development Act
- While the existing house does not have the benefit of planning permission, its status does not affect the application of Section 4(1)(h) as this provision does not apply exclusively to authorised developments, with the actual text of this provision referring expressly and explicitly to 'any' structure
- Distinguish the statutory entitlement in Section 4(1)(h) of the Act from the separate exempted development provisions in the Planning and Development Regulations 2001 which only pertain to authorised developments
- As statutory provisions cannot be amended by regulation, the provision of Article 9 does not affect Section 4(1)(h) of the Planning and Development Act 2000 so as to otherwise disentitle the referrer from these statutory benefits in this particular case. It is a core principle of statutory interpretation that an Act cannot be amended by secondary legislation and if it had been the intention of the legislature to restrict privileges set out in Section 4(1)(h) to authorised structures only, this would have been explicitly and expressly stated in the Act.
- Cites previous cases from ABP, PL29S.RL2120 and PL06FRL.2162 which recognised that Section 4(1)(h) does not apply exclusively to lawful developments and confirms the relationship between primary and secondary legislation
- Question posed in the referral related exclusively to the works undertaken by the referrer and did not concern the use of the structure. However the planner's report intimates that permission is required for the reason that these changes are inextricably linked with the unlawful use of the property. This approach is fundamentally flawed. Planning law draws a sharp distinction between the two prongs of development, namely 'works' and 'use'. Cites planning law which states that 'the character of a structure relates to its shape, colour, design, ornamental features and layout and not to its particular use...' (Cairnduff v. O'Connell). Secondly, the use of the property as a dwelling has continued for 20 years and it is apparent that the physical changes

undertaken by the referrer are not essential for this property to be used for residential purposes

- Whilst the referrer undertook physical changes to one external wall of the building, such changes are minor in nature and merely comprised the installation of a double door, in an otherwise blank flank wall. Such works slightly altered the external detail of the structure and cannot be considered to be so materially inconsistent with its character or appearance so as to need permission.
- The works undertaken at The Mews comprise development for the maintenance, improvement or other alteration of this structure and based on *Cairnduff v. O'Connell*, as such works do not materially affect its external appearance so as to render such appearance inconsistent with its character or that of neighbouring structures, this project is covered by Section 4 (1)(h) of the Planning and Development Act 2000 and comprised exempted development for which permission is not needed

4.0 RESPONSE TO REFERRAL

A response was received from the planning authority in which no new issues were raised.

5.0 RELEVANT PLANNING HISTORY

DA/900671 (PL17.234282)

Permission REFUSED by ABP for the retention of 'The Mews' as an independent dwelling, retention of existing site access and planning permission for the installation of a proprietary effluent treatment plant, connection to the public water supply and for all ancillary works at The Mews, Ballinlough, Co. Meath. The reasons for refusal were:

1. The subject site is located in a rural area outside any designated settlement and in a 'Rural Area Under Strong Urban Influence' as designated in the Meath County Development Plan 2007-2013. It is the policy of the planning authority as set out in RUR DEV SP1 to ensure that individual house developments in rural areas satisfy the housing requirements of persons who are an intrinsic part of the rural community in which they are proposed, subject to compliance with normal planning criteria. This policy is considered reasonable. It is considered, based on the information submitted with the planning application and the appeal, that the applicant has not established a rural generated housing need for a dwelling at this location. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the location of the proposed development opening onto a section of the N3 National Primary Road, where the maximum speed limit applies, the proposed development would endanger public safety by reason of traffic hazard and the obstruction of road users. In

addition, the traffic turning movements generated by the development would interfere with the safety and free flow of traffic on the public road. The proposed development would also contravene the objectives of the planning authority, which are considered reasonable, to safeguard the carrying capacity of national roads network in the County through restricting further access points onto National primary roads outside of restricted speed limits. Furthermore, the proposed development would, if permitted, set an undesirable precedent for further similar developments in the vicinity and would, therefore, be contrary to the proper planning and sustainable development of the area.

3. The Bord is not satisfied on the basis of the information contained within the appeal that, notwithstanding the use of a proprietary wastewater treatment system, the ground would be suitable for the disposal of effluent. The proposed development would, therefore, be prejudicial to public health and would be contrary to the proper planning and sustainable development of the area.

DA/802984

Permission REFUSED for the retention of 'The Mews' as an independent dwelling, retention of existing site access and planning permission for the installation of a proprietary effluent treatment plant, connection to the public water supply and for all ancillary works on this site (same applicant). The reasons for refusal were that a rural generated housing need was not established; planning authority not satisfied that the ground would be suitable for the disposal of effluent and proposed access would endanger public safety by reason of a traffic hazard

01/271

Permission REFUSED to Ann Carter for retention of dwelling, septic tank, percolation area and entrance on this site

6.0 DEVELOPMENT PLAN PROVISIONS

The operative Development Plan is the Meath County Development Plan 2007-2013

7.0 LEGISLATIVE CONTEXT

In preparing my assessment for this reference, I have had regard to the following:

Planning and Development Act, 2000

Section 2(1)

In this Act, except where the context otherwise requires –

"works" includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal

"structure" as any building, structure, excavation or other thing constructed or made on, in or under any land, or 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

"use", in relation to land, does not include the use of the land by the carrying out of any works thereon

Section 3(1)

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

Section 4(1)

The following shall be exempted developments for the purposes of this Act -

(h) development consisting of the use 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;

(j) development consisting of the use of any structure or other land within the curtilage of a house for any purpose incidental to the enjoyment of the house as such;

Planning and Development Regulations, 2001

Part 2 deals with exempted development

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 2.

Article 9(1) of the Planning and Development Regulations 2001 provides for restrictions on exemption and states

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:

(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

8.0 ASSESSMENT

The referrer has requested the Board to adjudicate on whether the replacement and/or alterations of windows and doors is or is not development or is or is not exempted development at 'The Mews', Ballinlough, Dunsoughlin, Co. Meath.

I consider that the replacement and/or alterations of windows and doors would involve works within the meaning of Section 3 of the Act. As such it constitutes development.

Therefore the next question in this case is whether or not the subject works represent exempted development. Section 4(1)(h) of the 2000 Act as amended enables certain works to be deemed exempted development where the carrying out of such works is 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'. In this instance, I consider the replacement and alterations specified above to the windows and doors to be relatively minor in nature, modest in scale and are essentially replacing almost 'like with like' in terms of size and design within existing opes. The main changes to most of the windows is the material of the frame, namely from timber framed to PVC and a change from single glazed to double glazed. The proposed works do not in my opinion 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. The remainder of the property is being retained as existing with the only works being proposed to the doors and windows. Therefore, having regard to all of the above it is my opinion that the proposed works would appear to be exempted development by virtue of Section 4(1)(h) of the Planning and Development Act 2000 as amended.

However, the main reasoning for the planning authority's decision is as follows. They state that as the existing dwelling unit does not have the benefit of a grant of planning permission, it is not considered that the proposed works in this application constitute exempted development due to their direct use associated with an unauthorised change of use of a garage to a residential unit. They contend that these works do not therefore come either (i) within the scope of section 4(1)(h) of the Planning and Development Act 2000 or (ii)

within the exempted development provisions of Class 1 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001.

It is recognised that the change of use of a garage to the existing dwelling to which these works pertain is unauthorised. It is stated that this change of use occurred approximately twenty years ago. The Planning Authority in their assessment are essentially stating that by virtue of the unauthorised use of the structure as a dwelling house the proposed works are not exempted development. In response, the referrer cites planning law which state that 'the character of a structure relates to its shape, colour, design, ornamental features and layout and not to its particular use...' (Cairnduff v. O'Connell). They continue by stating that as statutory provisions cannot be amended by regulation, the provision of Article 9 does not affect Section 4(1)(h) of the Planning and Development Act 2000 so as to otherwise disentitle the referrer from these statutory benefits in this particular case. I concur that it is a core principle of statutory interpretation that an Act cannot be amended by secondary legislation and if it had been the intention of the legislature to restrict privileges set out in Section 4(1)(h) to authorised structures only, this would have been explicitly and expressly stated in the Act.

I would concur with the opinion of the referrer and consider that the planning authority misinterpreted the legislation in this instance. While the secondary legislation provides for an expansion of classes of exempted development over and above those described in Section 4(1) (a)-(l) of the Act, it does not provide, as the referrer correctly points out, for any amendment to the exempted development provisions of the Act by way of subsequent regulation. I acknowledge that this point was also made in the Inspectors report of RL2162 in relation to a development in Swords, Co. Dublin. In addition, I concur with the referrer's assertion that it is clear from the text of Article 9(1) of the Regulations that the de-exemption referred to therein relates to development to which Article 6 relates, namely development of a class specified in Column 1 of Part 1 of Schedule 2 and does not apply to exempted development as set out in Section 4(1) of the Act, as amended.

7.0 RECOMMENDATION

Having regard to the above, I would consider that the proposed works are development and are exempted development. Accordingly I recommend an Order on the following terms:

WHEREAS the question has arisen as to whether the replacement and/or alterations of windows and doors is or is not development is or is not exempted development at 'The Mews', Ballinlough, Dunsaulghlin, Co. Meath.

AND WHEREAS Richard Carter requested a declaration on the said question from Meath County Council and the said Council issued a declaration on the 30th day of April 2010, stating that the said development was not exempted development requiring planning permission, having regard to the direct use associated with an unauthorised change of use:

AND WHEREAS the said Richard Carter referred the declaration for review to An Bord Pleanála on the 11th day of May 2010:

AND WHEREAS An Bord Pleanála, in considering this reference, had regard particularly to:

- a) Section 3(1) of the Planning and Development Act, 2000,
- b) Section (4)(1)(h) of the Planning and Development Act, 2000,
- c) Articles 6 and 9(1)(a)(viii) of the Planning and Development Regulations, 2001,

AND WHEREAS An Bord Pleanála has concluded that

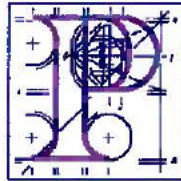
- a) the proposed replacement and/or alterations to windows and doors at 'The Mews', Ballinlough, Dunsaulghlin, Co. Meath does come within the scope of Section (4)(1)(h) of the Planning and Development Act, 2000 as amended and are considered to be exempted development
- b) the restrictions on exemption contained in Article 9 of the Planning and Development Regulations 2001 apply to exemptions allowed under Article 6 of the said Regulations only and do not restrict any exempted development under Section 4(1) of the Planning and Development Act 2000

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 said provision of replacement and/or alterations of windows and doors at 'The Mews', Ballinlough, Dunsaulghlin, Co. Meath is development and is exempted development

L. Dockery
Inspectorate

31st August 2010

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2010

Meath County

Register Reference Number: DA/S51007

An Bord Pleanála Reference Number: 17.RL.2748

WHEREAS a question has arisen as to whether the replacement and/or alterations of windows and doors at 'The Mews', Ballinlough, Dunsauglin, County Meath is or is not exempted development:

AND WHEREAS Richard Carter care of Vincent J.P. Farry and Company Limited of Suite 180, 28 South Frederick Street, Dublin requested a declaration on the said question from Meath County Council and the said Council issued a declaration on the 30th day of April, 2010 stating that the said development was development and was not exempted development:

AND WHEREAS the said Richard Carter referred the declaration for review to An Bord Pleanála on the 11th day of May, 2010:

AND WHEREAS An Bord Pleanála, in considering this referral, had regard particularly to -

- (a) Sections 3(1) and (4)(1)(h) of the Planning and Development Act, 2000, and
- (b) Articles 6 and 9(1)(a)(viii) of the Planning and Development Regulations, 2001:

AND WHEREAS An Bord Pleanála has concluded that -

- (a) the replacement of windows and alteration of doors at 'The Mews', Ballinlough, Dunsauglin, County Meath comes within the scope of Section (4)(1)(h) of the Planning and Development Act, 2000 as amended as the changes 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, and
- (b) the restrictions on exemption contained in Article 9 of the Planning and Development Regulations 2001 apply to exemptions allowed under Article 6 of the said Regulations only and do not restrict any exempted development under Section 4(1) of the Planning and Development Act 2000:

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 said replacement and/or alterations of windows and doors at 'The Mews', Ballinlough, Dunsauglin, County Meath is exempted development.

MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this day of 2010.