



An
Bord
Pleanála

Board Direction
ABP-301388-18

The submissions on this file and the Inspector's report were considered at a Board meeting held on 11/04/2019.

The Board decided, as set out in the following Order, that

Board Order as follows:-

WHEREAS a question has arisen as to whether the use of the first floor unit as a residential dwelling and associated internal alterations above SPAR, Main Street, Shankhill, Co. Dublin is or is not development or is or is not exempted development.

AND WHEREAS Libratech Limited requested a declaration on this question from Dun Laoghaire Rathdown County Council and the Council issued a declaration on the 9th day of March, 2018 stating that the matter was development and was not exempted development:

AND WHEREAS referred this declaration for review to An Bord Pleanála on the 5th day of April, 2018:

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

- (a) Section 2, 3 and 4 of the Planning and Development Act, 2000, as amended,

- (b) Articles 5 and 10 of the Planning and Development Regulations, 2001, as amended,
- (c) Class 1 and 9 of Part 4 of the Second Schedule to the Planning and Development Regulations, 2001, as amended, :
- (d) The Supreme Court decision in Dublin County Council v. Tallaght Block Co. Ltd and the High Court decision in Meath County Council v. Daly
- (e) the report of the Inspector

AND WHEREAS An Bord Pleanála has concluded that:

- (a) The internal works to facilitate the residential use of the first floor unit would constitute “works” that are “development” under Section 3 of the Planning and Development Act 2000 (as amended).
- (b) The internal works and alterations come within the scope of section 4 (1) (h) of the Act, being works which affect only the interior of the structure and are thus exempted development.
- (c) The use of the first floor unit for residential use ceased in the early 1970’s. Subsequently there was an intervening use as a shop (hairdressing salon) for a period in excess of 40 years. The residential use is, therefore, considered to be abandoned.
- (d) Having regard to section 3(1) of the Planning and Development Act 2000 (as amended), the resumption of residential use constitutes development as it is a material change of use.
- (e) No exemptions set out in the Act and Regulations were in effect at the time the change of use took place by which such a change of use would be 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:

1. The internal alterations above SPAR, Main Street, Shankhill, Co. Dublin are development and are exempted development.
2. The use of the first floor unit as a residential dwelling is development and is not exempted development.

Board Member:

Date: 11/04/2019

Michelle Fagan