



An
Bord
Pleanála

Board Direction
ABP-305471-19

The submissions on this file and the Inspector's report were considered at a Board meeting held on 30/01/2020.

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

Board Order as follows:-

WHEREAS a question has arisen as to whether the change of use of the fifth floor of 23 Shelbourne Road, Ballsbridge, Dublin 4, from office use to embassy office is or is not development or is or is not exempted development:

AND WHEREAS Hughes Planning and Development Consultants on behalf of Finance Ireland Ltd. requested a declaration on this question from Council and the Council issued a declaration on the 21st day of August, 2019 stating that the matter was development and was exempted development:

AND WHEREAS Hughes Planning and Development Consultants on behalf of Finance Ireland Ltd referred this declaration for review to An Bord Pleanála on the 17th day of September 2019:

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, 6, 9 and 10 of the Planning and Development Regulations 2001, as amended,
- (c) Part 4 of Schedule 2 of the Planning and development Regulations 2001, as amended, and in particular Classes 2 and 3 of that Part,
- (d) Previous decisions of An Bord Pleanála under file reference numbers PL29S2247769 and PL29S227770 and ABP 305471-19
- (e) Relevant case law, and in particular the judgement of the High Court in the case of Derek Quinlan – v - An Bord Pleanála & Anor [2009] IEHC 228

AND WHEREAS An Bord Pleanála has concluded that:

- (a) The permitted use of the subject premises is as offices. Such office use would come within the scope of Class 3 of Part 4 of the Second Schedule to the Planning and Development Regulations, 2001, as amended;
- (b) The change of use of the premises to use as an embassy would be a factual change of use, and this change of use raises material issues relevant to the proper planning and sustainable development of the area, including differing levels of pedestrian and vehicular traffic and the potential for impacts on the amenities of the area through altered hours of operation, including evening functions and other activity, and would, therefore, constitute a material change of use, and is development;
- (c) Having regard to case law, and to the nature of uses carried out in an embassy, it is considered that an embassy does not constitute an office and therefore does not come within the scope of Class 3

of Part 4 of the Second Schedule to the Planning and Development Regulations, 2001, as amended, or any other Class of Use set out in Part 4;

- (d) Accordingly, the development in this instance cannot avail of the exemption provided for under Article 10 (1) of the Planning and Development Regulations, 2001, as amended.
- (e) There are no other provisions, in the Act and Regulations, by which the development in this case would constitute 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 change of use of the fifth floor of an office building of 23 Shelbourne Road to use as an embassy office is development and is not exempted development.

Board Member:

Terry Prendergast

Terry Prendergast

Date: 31/01/2020

DECISION QUASHED