



An
Bord
Pleanála

**Board Direction
ABP-305515-19**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 04/02/2020.

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

WHEREAS a question has arisen as to whether change of use from nursing home to use as a homeless accommodation facility at 30 Haddon Road, Clontarf, Dublin 3 is or is not development or is or is not exempted development:

AND WHEREAS John Brierty and Turlough Considine requested a declaration on this question from Dublin City Council and the Council issued a declaration on the 6th day of September 2019, stating that the matter is development and is exempted development:

AND WHEREAS John Brierty and Turlough Considine referred this declaration for review to An Bord Pleanála on the 26th day of September, 2019:

AND WHEREAS, having regard to the nature of the question and the documentation submitted as part of the referral, the Board has decided to reformulate the question as follows:

WHEREAS a question has arisen as to whether the change of use from nursing home to use as an inpatient treatment and recovery centre, accessible strictly by referral and appointment, at 30 Haddon Road, Clontarf, Dublin is or is not development or is or is not exempted development:

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) Article 10(1) of the Planning and Development Regulations 2001, as amended,

(c) Part 4 (Classes 8 and 9) of the Second Schedule to the Planning and Development Regulations 2001, as amended,

(d) the nature of the subject development as outlined in the related case planning register reference number 0200/19, and

(e) the planning history of the site, the nature of the uses previously and currently on site and the pattern of development in the area.

AND WHEREAS An Bord Pleanála has concluded that:

(a) The permitted use on site is as a nursing home and is, therefore, a class of use coming within the scope of Class 9(b) of Part 4 of Schedule 2 to the Planning and Development Regulations 2001, as amended;

(b) The proposed use as an inpatient treatment and recovery centre, accessible strictly by referral and appointment, would be a factual change of use from use as a nursing home, and such change of use would be material in planning terms, including different patterns of traffic and pedestrian activity/movements, a different service to a different user group, including a population with a broader age profile, and with limited interaction with the local community, and is therefore a material change of use, and is development;

(c) This material change of use would come within the scope of Article 10(1) of the Planning and Development Regulations 2001, as amended, being a change of use

within Class 9 of Part 4 of Schedule 2 to these Regulations, from Class 9(b) to Class 9(a), and would therefore be exempted development.

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by Section 5(3)(a) of the Planning and Development Act 2000, as amended, hereby decides that the proposed change of use from a nursing home to use as an inpatient treatment and recovery centre, accessible strictly by referral and appointment at 30 Haddon Road, Clontarf, Dublin 3 is development and is exempted development. .

In not accepting the Inspector's recommendation, the Board considered that the proposed use as an inpatient treatment and recovery centre would not be inconsistent with the broad uses within Class 9 and as the nursing home, and that any differences in the types of care services provided, the age profile of the likely occupants and the greater geographical areas that would be served by the facility would not be sufficient to de-exempt this proposed change of use, pursuant to Article 10(1)(c) of the Planning and Development Regulations 2001, as amended.

Board Member:

Date: 05/02/2020

Dave Walsh