



An
Bord
Pleanála

Board Direction
ABP-307064-20

The submissions on this file and the Inspector's report were considered at a Board meeting held on 18/09/2020.

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

Board Order as follows:-

WHEREAS a question has arisen as to whether a change of use of Westbrook House from a commercial guesthouse to a homeless hostel operated by an approved housing body at Westbrook House, Gort Road, Ennis, County Clare, is or is not development or is or is not exempted development.

AND WHEREAS Aughanteeroe Residents Association requested a declaration on the Question from Clare County Council and the Council issued a declaration on 18th March, 2020 stating that the matter is not a material change of use and is exempted development.

AND WHEREAS Aughanteeroe Residents Association referred this declaration for review to An Bord Pleanála, on the 3rd day of April 2020.

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) Class 6 and Class 9, of Part 4 of the Second Schedule to the Planning and Development Regulations 2001, as amended,
- (c) The definition of 'care' as set out in article 5 of the Planning and Development Regulations 2001, as amended,
- (d) the planning history of the site, namely the grant of permission under planning register reference number 95/128,
- (e) the nature of the current use at the subject site,
- (f) the submissions on the file, and
- (g) the report of the Planning Inspector.

AND WHEREAS An Bord Pleanála has concluded that:

- (a) the permitted use on site is as a guesthouse and is, therefore, a use coming within the scope of Class 6 of Part 4 of the Second Schedule to the Planning and Development Regulations 2001, as amended, namely use as a guesthouse;
- (b) the current use is as a homeless hostel wherein the approved housing body provides support to the residents. This support is stated to include, 'supporting them to address any presenting challenges that may inhibit accessing private rental accommodation or transitioning to more permanent solutions', as recorded in an email correspondence from Clare County Council dated 18th March 2020, on file;
- (c) the provision of the support described above falls within the scope of 'care' as defined at article 5 of the Planning and Development Regulations 2001, as amended, namely personal care including help with social needs;

- (d) the current use does not therefore come within the scope of Class 6 of Part 4 of the Second Schedule to the Planning and Development Regulations 2001, as amended, namely use as a hostel (other than a hostel where care is provided) as the current use includes the provision of care to residents and instead falls within the scope of Class 9 of Part 4 of the Second Schedule to the Planning and Development Regulations 2001, as amended, namely the provision of residential accommodation and care to people in need of care;
- (e) the current use therefore constitutes a change of use from the permitted use and which is a material change of use by reason of providing a different service to a different user group;
- (f) this material change of use would not come within the scope of article 10(1) of the Planning and Development Regulations 2001, as amended, as it does not constitute a change of use within any one class;
- (g) there are no other exemptions available for this material change of use within existing legislation.

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 that the change of use of Westbrook House from commercial guesthouse to a homeless persons hostel managed by an approved housing body is development and is not exempted development.

In deciding not to accept the recommendation of the Inspector that the change of use at the subject site did not constitute development, the Board considered the totality of the submissions on file, and noted the description of the operation of the current hostel which incorporates the provision of direct support to the residents by Mid West Simon and also the presence of *inter alia*, support staff, case manager and night support worker at the subject site. In this regard it was determined that the current use did not constitute a use under Class 6 of Part 4 of the Second Schedule of the Planning and Development Regulations 2001, as amended and was therefore a material change from the permitted use of the site as a guesthouse.

Board Member:

Date: 18/09/2020

Chris McGarry