



An
Bord
Pleanála

Board Direction
ABP-307077-20

The submissions on this file and the Inspector's report were considered at a Board meeting held on 18/12/2020.

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

Board Order as follows:-

WHEREAS questions have arisen as to:

- whether the use of previously incomplete and abandoned apartments, as apartments, and
- whether the use of previously incomplete and abandoned apartments to use for the reception and care of protected persons, and
- whether the works to complete the previously incomplete and abandoned apartments, in order to use the apartments for the reception and care of protected persons,

at The Rockquarter, Cannaboe Street, Ballinamore, County Leitrim, is or is not development or is or is not exempted development:

AND WHEREAS Liam Madden requested a declaration on this question from Leitrim County Council, and the Council issued a declaration on the 31st day of March, 2020, stating the following:

- use of the then incomplete and abandoned apartments for use as apartments is development and is exempted development;
- change of use of the then incomplete and abandoned apartments and partly completed on foot of planning permission 04/1546 to 'The Reception and Care of those seeking International Protection' is not development;
- the built works carried out internally and externally at incomplete apartments currently in use as 'The Reception and Care of those seeking International Protection' are development and are exempted development.

AND WHEREAS Liam Madden requested a declaration on this question on the 14th day of April, 2020, from An Bord Pleanála:

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

- (a) sections 2(1), 3(1), 4, 5 and 40 of the Planning and Development Act 2000, as amended,
- (b) articles 5(1), 6(1), 9(1) and 10(1) of the Planning and Development Regulations 2001-2020,
- (c) the planning and development history of the site,
- (d) the nature of the current use of the site,
- (e) the submissions of the Referrer,
- (f) the report of the Planning Inspector:

AND WHEREAS An Bord Pleanála has concluded that:

- (a) the provision of works to complete the apartments, included in the relevant permission and which are either necessary for or ancillary

or incidental to the use of the building permitted, come within the scope of Section 40 of the Planning and Development Act 2000, as amended, and do not come within the scope of Section 5 of the Planning and Development Act 2000, as amended;

(b) the permitted use of the apartments was not abandoned and the current use of the premises as apartments, and not as a facility for the reception and care of protected persons, does not constitute a change of use from the permitted use and, therefore, does not constitute 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 use of the premises at The Rockquarter, Cannaboe Street, Ballinamore, County Leitrim as apartments, including residential accommodation for protected persons, is not development.

Board Member:

Date: 18/12/2020

Michelle Fagan