

An
Bord
Pleanála

Board Direction
ABP-315535-23

The submissions on this file and the Inspector's report were considered at a Board meeting held on 08/05/2024.

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

WHEREAS a question has arisen as to whether the change of use from dwelling to homeless hostel accommodation is or is not development or is or is not exempted development.

AND WHEREAS Kiltipper Kiltalown Residents Association requested a declaration on this question from South Dublin County Council and the Council issued a declaration on the 6th day of December 2022 stating that the matter was development and was exempted development:

AND WHEREAS Kiltipper Kiltalown Residents Association referred this declaration for review to An Bord Pleanála on the 11th day of January, 2023:

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

- (a) Section 2(1), 3(1), 4(1)(f), and 178(2) of the Planning and Development Act, 2000, as amended,

- (b) Article 5(1), and Article 6(1) of the Planning and Development Regulations, 2001, as amended,
- (c) Parts 1 and 4 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (d) The provisions of the South Dublin County Development Plan 2022 – 2028,
- (e) the planning history of the site,
- (f) the pattern of development in the area:

AND WHEREAS An Bord Pleanála has concluded that:

- (a) the change of use from residential accommodation use on site comprising 7 bedrooms to the current use on site as accommodation for the homeless comprising of 7 bedrooms with 15 bed spaces constitutes development;
- (b) the current use constitutes a change of use from residential use to a use for the provision of residential accommodation and care to people in need of care as defined under Class 9 (a) of Part 4 of Schedule 2 of the Planning and Development Regulations 2001, as amended, which is a material change of use by reason of providing a different service to a different user group;
- (c) the Service Level Agreement in place with the Peter McVerry Trust to manage bedspaces on behalf of South Dublin County Council is consistent with Section 4(1)(f) of the Planning and Development Act, 2000, as amended;

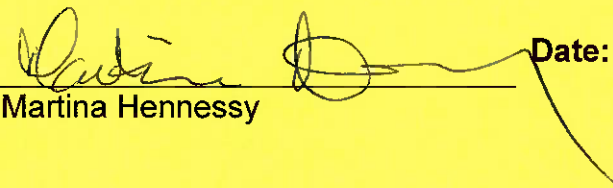
NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5 (3) (a) of the Planning and Development Act 2000, as amended, hereby decides that the change of use from dwelling to

homeless hostel accommodation is development and is exempted development.

Note:

In considering whether or not the development is exempt, the Board had regard to Section 4(1)(f) of the Planning and Development Act, 2000, as amended, which states "development carried out on behalf of, or jointly or in partnership with, a local authority that is a planning authority, pursuant to a contract entered into by the local authority concerned, whether in its capacity as a planning authority or in any other capacity" shall be exempted development for the purposes of the Act. The Board agreed with the planning authority that the proposal being provided at the site comes under a Service Level Agreement with the local authority, acting in its capacity as a housing authority and the exemption provided under Section 4(1)(f) does apply. The Board disagreed with the Inspector that Section 80(1)(k) of the Planning and Development Act, 2000, as amended, would apply in such circumstances. The Board, therefore, concluded that the development is exempt under Section 4(1)(f) of the Planning and Development Act, 2000, as amended.

Board Member:


Martina Hennessy

Date: 08/05/2024