



An
Bord
Pleanála

Board Direction
ABP-315729-23

The submissions on this file and the Inspector's report were considered at a Board meeting held on 03/04/2024.

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

Board Order as follows:-

WHEREAS a question has arisen as to whether the use of the gallery room at the first floor at Northover Hall, St. Patrick's National School, Harbour Road, Dalkey, County Dublin as a Montessori school providing early childhood education is or is not development or is or is not exempted development,

AND WHEREAS Smart Cookies Montessori care of Armstrong Planning Limited of 12 Clarinda Park North, Dun Laoghaire, County Dublin requested a declaration on the said question from Dun Laoghaire-Rathdown County Council and the Council issued a declaration on the 13th day of January, 2023 stating that the matter is development and is not exempted development,

AND WHEREAS Smart Cookies Montessori referred the declaration for review to An Bord Pleanála on the 7th day of February, 2023,

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

- (a) Sections 2(1) and 3(1) of the Planning and Development Act 2000, as amended,
- (b) Article 5 (1) of the Planning and Development Regulations 2001, as amended, which defines a 'school' as having the meaning assigned to it by the Education Act 1998,
- (c) Section 2 of Part 1 of the Education Act 1998, as amended, where the term 'school' is defined as follows:
 - an establishment which:
 - (a) provides primary education to its students and which may also provide early childhood education, or
 - (b) provides post-primary education to its students and which may also provide courses in adult, continuing, or vocational education or vocational training.
- (d) the planning history of the site, including that the Gallery Room and Northover Hall form part of the grounds of St. Patrick's National School and the existence of the school prior to the 1st of October, 1964, and
- (e) the documentation submitted with the referral,

AND WHEREAS An Bord Pleanála has concluded that:

- (a) St. Patrick's National School is an established school use that became established as such a use prior to the 1st of October, 1964 and, therefore, the established use as a school does not require planning permission,

- (b) the change of use of the Gallery Room at the first floor at Northover Hall, St. Patrick's National School to a Montessori school providing early childhood education is not a material change of use by reference to Article 5(1)(a) of the Planning and Development Regulations 2001, as amended, and the definition of school set out in Section 2 of Part 1 of the Education Act, as amended, being an establishment which, of relevance to this referral, provides primary education to its students and which may also provide early childhood education, and

- (c) the change of use which is deemed not to be a material change of use thereby does not constitute 'development' within the meaning of section 3(1) 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 use of the Gallery Room and Meeting Room at Northover Hall, St. Patrick's National School as a Montessori School providing early childhood education is not development.

In deciding not to accept the Inspector's recommendation that the change of use is material and constitutes development that is not exempted development, the Board did not share the view of the Inspector. In this regard, the Board was satisfied that, by reference to Article 5(1) of the Planning and Development Regulations 2001, as amended, which defines a 'school' as having the meaning assigned to it by the Education Act 1998, both the use as a 'school' and a 'Montessori school' fall within the definition of a school.

The lack of provision for exemption within any classes set out in Part 4 of Schedule 2 of the Planning and Development Regulations 2001, as amended, for a change of use to a Montessori School under the exempted development provisions of the Planning and Development Regulations 2001, as amended, relied on by the Inspector was not considered by the Board to be of relevance in the context that the Board was satisfied that no material change of use would arise by reference to

Article 5(1)(a) of the Planning and Development Regulations 2001, as amended. Consequently, the Board was satisfied that the change of use which is deemed not to be a material change of use does not constitute 'development' within the meaning of section 3(1) of the Planning and Development Act 2000, as amended. As the Board concluded that no development would occur within the meaning of section 3(1) of the Planning and Development Act 2000, as amended, the matter of exempted development, although examined by the Inspector, was not a matter that warranted further consideration by the Board given that the Board was satisfied that the change of use is not development within the meaning of the Planning Acts.

Board Member:



Patricia Calleary

Date: 03/04/2024