An Coimisiún Pleanála

Direction
ACP-323936-25

The submissions on this file and the Inspector's report were considered at a meeting held on 29/10/2026.

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

Commission Order as follows:-

WHEREAS a question has arisen as to whether the change of use (no material alterations) of the lower floor ground area of Bert International Hotel to Bedrooms to accommodation for people seeking international protection (IPS).

AND WHEREAS having regard the totality of information on file and the amended question set out in the question as referred to An Coimisiún Pleanála, the Commission reframed the question to read as follows:

'Whether the change of use of part of the lower ground floor of Bert House, a protected structure, to bedrooms for the accommodation of persons seeking international protection, in accordance with Class 20F of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended, at Bert House, Athy, County Kildare is or is not development and / or is or is not exempted development'.

AND WHEREAS Damien Malone requested a declaration on the initial question from Kildare County Council and the Council issued a declaration on the 12th day of November, 2025 stating that the matter is development and is not exempted development,

AND WHEREAS Damien Malone referred this question for review to An Coimisiún Pleanála on the 10th day of December, 2025,

AND WHEREAS An Coimisiún Pleanála, in considering this referral, reframed the question and had regard particularly to:

(a) Section 2(1) of the Planning and Development Act, 2000, as amended,

(b) Section 3(1) of the Planning and Development Act, 2000,

(c) Section 4(2) of the Planning and Development Act, 2000, as amended,

(d) Section 57(1) of the Planning and Development Act, 2000, as amended,

(e) Articles 5, 6(1) and article 9(1) of the Planning and Development Regulations, 2001, as amended,

(f) Class 20F of Part 1 Exempted Development - General of Schedule 2 to the Planning and Development Regulations, 2001, as amended,

(g) Class 14 of Part 1 Exempted Development - General of Schedule 2 to the Planning and Development Regulations, 2001, as amended,

(h) The European Union (Planning and Development) (Displaced Persons from Ukraine Temporary Protection) Regulations 2022 (S.I. No. 306/2022)

(i) the planning history of the site,

(j) the established and current use of the site,

(k) the works evidently carried out and proposed to be carried out to facilitate the proposed change of use,

(l) the documentation submitted in connection with the referral; and

(m)the report and recommendation of the Inspector following a site visit.

AND WHEREAS An Coimisiún Pleanála has concluded that:

(a) The permitted use of the basement area concerned is as a leisure centre, which use was partly implemented, together with use for storage rooms and a wine cellar ancillary to the permitted and previous hotel use;

(b) The proposed use of part of the basement for the accommodation of persons seeking international protection require works to a protected structure to facilitate the change of use which the Commission decided is a material change of use. The works include the insertion of bathrooms and a kitchen, the addition of fire doors to the corridor, the blocking of two window openings, and (in a recent extension) plastering and painting of walls, subdivision with partition walls, and insertion of a new window.

(c) These works required to facilitate the proposed change of use and the change of use is a material change of use and hence development with the meaning of Section 3(1) of the Act.

(d) The works would materially affect the character of the protected structure and, accordingly, the proposed development is not exempted development, having regard to section 57(1) of the Planning and Development Act 2000, as amended.

NOW THEREFORE An Coimisiún Pleanála, in exercise of the powers conferred on it by section 5 of the 2000 Act, hereby decides that the change of use of part of the lower ground floor of Bert House, a protected structure, to bedrooms for the accommodation of persons seeking international protection, in accordance with Class 20F of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended, at Bert House, Athy, County Kildare is development and is not exempted development.

Note:

Notwithstanding the decision arrived at, the Commission noted the provisions of Class 20F of Part 1 of Schedule 2 of the Planning and Development Regulations

2001, as amended, being the class of development specifically referenced by the referrer in the question before the Commission. The Commission noted that the description of the proposed use as set out in question does not refer to a 'temporary' use. Furthermore, notwithstanding the statement submitted by the referrer that a contract exists between Bert House Hotel and the Government of Ireland to accommodate people seeking international protection, no evidence, for example a copy of a contract, has been submitted to establish that the area concerned would be used by, or on behalf of, the Minister for Children, Equality, Disability, Integration and Youth. Accordingly, the exemption afforded under Class 20F cannot be availed of for these two reasons. Therefore, notwithstanding the finding that the proposed change of is development and not exempted development having regard to section 57(1) of the Planning and Development Act 2000, as amended, the development would not benefit from an exemption under Class 20F of the Planning and Development Regulations 2001, as amended, having regard to the specific wording contained therein and which provisions have not been met by the question referred or the documentation received by the Commission.

Planning Commissioner: Patricia Calleary

Date: 29/10/2026

Patricia Calleary.