



An
Bord
Pleanála

Board Direction
06F.RL3557

The submissions on this file and the Inspector's report were considered at a Board meeting held on December 13th 2017.

The Board decided, as set out in the following Order, that the use of room indicated as “study” to use as “bedroom” in four number ground floor apartments in the permitted development under planning reference number PL06F.246519 at the former Castle Inn, St. Margaret’s Road, Meakstown, Dublin 11, is development and is not exempted development.

Board Order as follows:-

WHEREAS a question has arisen as to whether the use of room indicated as “study” to use as “bedroom” in four number ground floor apartments in the permitted development under planning reference number PL06F.246519 at the former Castle Inn, St. Margaret’s Road, Meakstown, Dublin 11, is or is not development or is or is not exempted development.

AND WHEREAS AKM Design on behalf of Greenwich Project Holdings Limited requested a declaration on this question from Fingal Council and the Council issued a declaration on the 22nd day of February, 2017 stating that the matter was development and was not exempted development:

AND WHEREAS AKM Design on behalf of Greenwich Project Holdings Limited referred this declaration for review to An Bord Pleanála on the 9th day of March, 2017:

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

- (a) Sections 2(1), 3(1) and 4(1)(h) of the Planning and Development Act, 2000, as amended,
- (b) Article 9 (1) of the Planning and Development Regulations, 2001, as amended,
- (c) The development approved under planning reference number PL06F.246519 (F15A/0552)
- (d) The pattern of development in the area.

AND WHEREAS An Bord Pleanála has concluded that:

- (a) The permitted development under planning permission reference number PL06F.246519 in respect of this Block was four number ground floor (one bedroom with study) own door family apartments and four number two storey (two bedroom with study) duplex own door family dwellings.
- (b) The proposal in respect of which the planning authority's declaration was made related to the use of the room in each of the ground floor apartments identified in that planning application and permission as "study" to use as a "bedroom".
- (c) The change of use of these rooms from use as a "study" to use as a "bedroom" would be a factual change of use and, without a commensurate increase in the car parking provisions for the development, would constitute a material change of use, having regard to the terms and conditions of the

permitted development, due to the greater demand on car parking that would result and the implications for traffic and pedestrian safety in the area, which are material planning issues. The change of use would, therefore, constitute development.

- (d) There are no exemptions, set out in the Planning and Development Act and associated Regulations, which could be availed of by which such change of use would be exempted development.
- (e) Furthermore, any exemption that might apply would be restricted by reason of Article 9 (1)(a)(i) of the Planning and Development Regulations, 2001, as amended, as the development would contravene the terms of condition 1 of planning permission reference number PL06F.246519, and the use of the room as a bedroom in each case would be inconsistent with the permitted use of the room as “study” in this permission.

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 room indicated as “study” to use as “bedroom” in four number ground floor apartments in the permitted development under planning reference number PL06F.246519 at the former Castle Inn, St. Margaret’s Road, Meakstown, Dublin 11, is development and is not exempted development.

In not accepting the Inspector’s recommendation, the Board was satisfied that, as no new works were involved to these rooms, beyond those already permitted, the provisions of Section 4(1)(h) of the Planning and Development Act 2000, as amended, were not relevant, and considered that the question related to a proposal to change of use from the permitted use of the rooms in question (identified on the drawings as “study” in the case of each of the four ground floor duplex units granted under planning permission reference number PL06F.246519, and referred to as such in the public notices for that application) to use as “bedroom”. The Board did not agree with the Inspector that this was an issue of intensification of use of the overall

residential units, but rather considered that the matter before the Board simply involved a factual change of use from the permitted use to a new use, and that this factual change of use was material for planning purposes in this instance, having regard to the quantum of car parking spaces allocated to the duplex block in that planning permission, and the Board concurred with the view of the Planning Authority that a shortfall of car parking provision would result, which shortfall would have implications for the proper planning and sustainable development of the area.

Note: In deciding this referral, the Board considered that the question which was the subject matter of the request to the planning authority and which was the subject matter of the planning authority's declaration was as worded above in the Board Order, and did not accept that the question should be reformulated, as proposed by the Inspector, to align with the revised wording put forward by the referrer in his submission to the Board. The Board had regard to the overall content of the request for the declaration and was of opinion that the issue was, in essence, whether the use of a room, indicated in the planning permission as a "study", to use as a "bedroom", was or was not development or was or was not exempted development. In this regard, the Board noted the legislative provision under Section 5 (3)(a), where it is the Planning Authority's declaration that is referred to it for review.

[Please issue a copy of this Direction with the Board Order]

Board Member

Date: 14th December 2017

Philip Jones