



Planning and Development Acts 2000 to 2018

Planning Authority: Dún Laoghaire-Rathdown County Council

Planning Register Reference Number: Ref1618

WHEREAS a question has arisen as to whether the use of the first-floor unit as a residential dwelling and associated alterations above Spar, Main Street, Shankill, County Dublin is or is not development or is or is not exempted development:

AND WHEREAS Libratech Limited care of Bright Design Architects of 4 Seafield Park, Booterstown, County Dublin requested a declaration on this question from Dún Laoghaire-Rathdown County Council and the Council issued a declaration on the 9th day of March, 2018 stating that the matter is development and is not exempted development:

AND WHEREAS Libratech Limited care of Hughes Planning and Development Consultants of The Mash House, Distillery Road, Dublin referred the declaration for review to An Bord Pleanála on the 5th day of April, 2018:

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

- (a) sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- (b) Articles 5 and 10 of the Planning and Development Regulations, 2001, as amended,
- (c) Class 1 and Class 9 of Part 4 of Schedule 2 of the Planning and Development Regulations, 2001, as amended,
- (d) the Supreme Court decision in *Dublin County Council v Tallaght Block Company Limited* [1983] and the High Court decision in *Meath County Council v Daly* [1988], and
- (e) the report of the Inspector:

AND WHEREAS An Bord Pleanála has concluded that -

- (a) the internal works to facilitate the residential use of the first-floor unit would constitute “works” that are “development” under section 3 of the Planning and Development Act, 2000, as amended,
- (b) the internal works and alterations come within the scope of section 4 (1) (h) of the Planning and Development Act, 2000, as amended, being works which affect only the interior of the structure and are, therefore, exempted development,

- (c) the use of the first-floor unit for residential use ceased in the early 1970's. Subsequently there was an intervening use as a shop (hairdressing salon) for a period in excess of 40 years. The residential use is, therefore, considered to be abandoned,
- (d) having regard to section 3(1) of the Planning and Development Act, 2000, as amended, the resumption of residential use constitutes development as it is a material change of use, and
- (e) no exemptions set out in the Planning and Development Act and the Planning and Development Regulations were in effect at the time the change of use took place by which such a change of use would be exempted development:

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5 (3) (a) of the 2000 Act, hereby decides that:

- (a) the internal alterations above Spar are development and are exempted development, and
- (b) the use of the first-floor unit as a residential dwelling is development and is not exempted development,

all above Spar, Main Street, Shankill, County Dublin.

Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

Michelle Fagan
Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.

Dated this day of 2019.