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**Planning and Development Acts 2000 to 2019**

**Planning Authority: Dún Laoghaire-Rathdown County Council**

**Planning Register Reference Number: Ref3419**

**WHEREAS** a question has arisen as to whether the change of use of an office building to use as an embassy at Saint Helier's, Stillorgan Park, Blackrock, County Dublin is or is not development or is or is not exempted development:

**AND WHEREAS** Dorothy Bergin, John O'Malley and Raymond O'Malley care of Kieran O'Malley and Company Limited of Saint Helier's, Saint Helier's Copse, Stillorgan Park, Blackrock, County Dublin requested a declaration on this question from Dún Laoghaire-Rathdown County Council and the Council issued a declaration on the 20<sup>th</sup> day of May, 2019 stating that the matter is development and is not exempted development:

**AND WHEREAS** Dorothy Bergin, John O'Malley and Raymond O'Malley referred the declaration for review to An Bord Pleanála on the 17<sup>th</sup> day of June, 2019:

**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, 6, 9 and 10 of the Planning and Development Regulations, 2001, as amended,
- (c) Part 4 of Schedule 2 of the Planning and Development Regulations, 2001, as amended, and in particular Classes 2 and 3 of that Part,
- (d) the planning history of the site, including the existing and permitted use of the site, and the nature of the proposed use as an embassy,
- (e) previous planning decisions of An Bord Pleanála under file reference numbers PL 29S.227769 and PL 29S.227770, and
- (f) relevant case law, and in particular the judgement of the High Court in the case of Derek Quinlan - v - An Bord Pleanála & Anor [2009] IEHC 228:

**AND WHEREAS** An Bord Pleanála has concluded that -

- (a) the permitted use of the subject premises, under planning permission register reference number ZA182 (An Bord Pleanála appeal reference number PL6/5/68454) is as offices, together with a caretaker's flat. Such office use would come within the scope of Class 3 of Part 4 of Schedule 2 of the Planning and Development Regulations, 2001, as amended,
- (b) the change of use of the premises to use as an embassy would be a factual change of use, and this change of use raises material issues relevant to the proper planning and sustainable development of the area, including differing levels of pedestrian and vehicular traffic, and the potential for impacts on the residential amenities of neighbouring properties through altered hours of operation, including evening functions and other activity, and would, therefore, constitute a material change of use, and is development,
- (c) having regard to case law, and to the nature of uses carried out in an embassy, it is considered that an embassy does not constitute an office and therefore does not come within the scope of Class 3 of Part 4 of Schedule 2 of the Planning and Development Regulations, 2001, as amended, or any other Class of Use set out in Part 4,
- (d) accordingly, the development in this instance cannot avail of the exemption provided for under Article 10 (1) of the Planning and Development Regulations, 2001, as amended, and

- (e) there are no other provisions, in the Act and Regulations, by which the development in this case would constitute 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 the change of use of an office building to use as an embassy at Saint Helier's, Stillorgan Park, Blackrock, County Dublin is development and is not exempted development.

### **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.

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**Philip Jones**

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

**Dated this            day of            2019.**