



An
Bord
Pleanála

Board Order
ABP-305471-19

Planning and Development Acts 2000 to 2019

Planning Authority: Dublin City Council

Planning Register Reference Number: 0346/19

WHEREAS a question has arisen as to whether the change of use of the fifth floor from office use to embassy office at 23 Shelbourne Road, Ballsbridge, Dublin is or is not development or is or is not exempted development:

AND WHEREAS Finance Ireland Limited care of Hughes Planning and Development Consultants of 70 Pearse Street, Dublin requested a declaration on this question from Dublin City Council and the Council issued a declaration on the 23rd day of August, 2019 stating that the said matter is exempted development:

AND WHEREAS Finance Ireland Development care of Hughes Planning and Development Consultants referred this declaration for review to An Bord Pleanála on the 17th day of September, 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) previous decisions of An Bord Pleanála under file reference numbers PL29S.227769, PL29S.227770 and ABP-305471-19, and
- (e) 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 is as offices. Such office use would come within the scope of Class 3 of Part 4 of the Second Schedule to 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 amenities of the area 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 the Second Schedule to 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 the fifth floor of an office building to use as an embassy office at 23 Shelbourne Road, Ballsbridge, 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.



Terry Prendergast

Member of An Bord Pleanála

duly authorised to authenticate
the seal of the Board.

Dated this 6th day of February 2020.