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**Planning and Development Acts 2000 to 2019**

**Planning Authority: Dublin City Council**

**Planning Register Reference Number: 0365/19**

**WHEREAS** a question has arisen as to whether a change of use from a 30 bedroom nursing home to use as a homeless accommodation facility at 30 Haddon Road, Clontarf, Dublin is or is not development and whether this change of use is or is not exempted development:

**AND WHEREAS** John Brierty and Turlough Considine 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 6<sup>th</sup> day of September, 2019 stating that the matter is development and is exempted development:

**AND WHEREAS** John Brierty and Turlough Considine care of Hughes Planning and Development Consultants referred the declaration for review to An Bord Pleanála on the 26<sup>th</sup> day of September, 2019:

**AND WHEREAS** Having regard to the nature of the question and the documentation submitted as part of the referral, the Board has decided to reformulate the question as follows:

**WHEREAS** a question has arisen as to whether the change of use from nursing home to use as an inpatient treatment and recovery centre, accessible strictly by referral and appointment at 30 Haddon Road, Clontarf, Dublin is or is not development or is or is not exempted development:

**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) Article 10(1) of the Planning and Development Regulations 2001, as amended,
- (c) Part 4 (Classes 8 and 9) of the Second Schedule to these Regulations,
- (d) the nature of the subject development as outlined in the related case planning register reference number 0200/19, and
- (e) the planning history of the site, the nature of the uses previously and currently on site and the pattern of development in the area.

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

- (a) the permitted use on site is as a nursing home and is, therefore, a class of use coming within the scope of Class 9(b) of Part 4 of the Second Schedule to the Planning and Development Regulations 2001, as amended;
- (b) the proposed use as an inpatient treatment and recovery centre, accessible strictly by referral and appointment would be a factual change of use from use as a nursing home, and such change of use would be material in planning terms, including different patterns of traffic and pedestrian activity/movements, a different service to a different user group, including a population with a broader age profile and with limited interaction with the local community, and is, therefore, a material change of use, and is development;
- (c) this material change of use would come within the scope of Article 10(1) of the Planning and Development Regulations 2001, as amended, being a change of use within Class 9 of Part 4 of Second Schedule to these Regulations, from Class 9(b) to Class 9(a), and would, therefore, be exempted development.

**NOW THEREFORE** An Bord Pleanála, in exercise of the powers conferred on it by section 5(3)(a) of the Planning and Development 2000 Act, as amended, hereby decides that the proposed change of use from nursing home to use as an inpatient treatment and recovery centre, accessible strictly by referral and appointment at 30 Haddon Road, Clontarf, Dublin is development and is exempted development.

In deciding not to accept the Inspector's recommendation, the Board considered that the proposed use as an inpatient treatment and recovery centre would not be inconsistent with the broad uses within Class 9 and as the nursing home, and that any differences in the types of care services provided, the age profile of the likely occupants and the greater geographical areas that would be served by the facility would not be sufficient to de-exempt this proposed change of use, pursuant to Article 10(1)(c) of the Planning and Development Regulations 2001, as amended.

### **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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**Dave Walsh**

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

**Dated this            day of            2020**