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**Planning and Development Acts 2000 to 2021**

**Planning Authority: Leitrim County Council**

**Planning Register Reference Number: ED 21-03**

**WHEREAS** a question has arisen as to whether, at The Rock Centre, Ballinamore, County Leitrim, –

- (i) works to complete the then incomplete apartments for use as mere apartments,
- (ii) works to complete the then incomplete apartments for the reception and care of those seeking international protection, that is, protected persons,
- (iii) the use of the completed apartments for the reception and care of protected persons, that is, a material change of use from typical apartments, and
- (iv) use of the now complete apartments for non-paying tenants together with related facilities, for example, security office, doctors/nurses' station, pharmacy, food store, the ordering of tenants' food by way of food coupons, provision of mental health services and therapy rooms for tenants, transport to/from the Centre acknowledged by the developer to be an Asylum Centre for the reception and care of those seeking

International Protection (ors. protected persons) instead of use as a typical apartment block,

is or is not development and is or is not exempted development:

**AND WHEREAS** Ciaran Smith care of Liam Madden of Vitruvius Hibernicus, Convent Road, Longford requested a declaration on this question from Leitrim County Council and the Council issued a declaration on the 31<sup>st</sup> day of March, 2021 stating that –

- (i) Works to complete the then incomplete apartments for use as mere apartments, come within the scope of Section 40 of the Planning and Development Act 2000, as amended, and do not come within the scope of Section 5 of the Planning and Development Act, as amended. Nonetheless, the subject works are considered to constitute development but are exempted development within the provisions of Section 4 (i)(h) of the Planning and Development Act 2000 as amended.
- (ii) Works to complete the then incomplete apartments for the reception and care of those seeking international protection, that is, protected persons, come within the scope of Section 40 of the Planning and Development Act 2000 as amended and do not come within the scope of Section 5 of the Planning and Development Act 2000, as amended. Nonetheless, the subject works are considered to constitute development but are exempted development within the provisions of Section 4 (i)(h) of the Planning and Development Act 2000, as amended.
- (iii) The use of the completed apartments for the reception and care of protected persons, that is, a material change of use from use as typical apartments does not constitute a change of use in the manner provided for at The Rock Centre, Ballinamore and therefore does not constitute development.

- (iv) The use of the now complete apartments for non-paying tenants together with related facilities, for example, security office, doctor's/nurses station, pharmacy, food store, the ordering/provision of tenants' food by way of food coupons, provision of mental health services and therapy rooms for tenants, transport to/from the Centre acknowledged by the developer to be an Asylum Centre for the reception and care of those seeking international protection (ors. Protected persons) instead of use as a typical apartment block, at the Rock Centre Ballinamore, County Leitrim in the manner provided for at the Rock Centre, Ballinamore does not constitute a change of use from the permitted use of the 25 number apartment units and therefore does not constitute development:

**AND WHEREAS** Ciaran Smith referred this declaration for review to An Bord Pleanála, on the 9<sup>th</sup> day of April, 2021:

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

- (a) Section 2(1), 3(1), and 4 of the Planning and Development Act, 2000, as amended,
- (b) Articles 5, 6(1) and 10, and Part 4 of the Planning and Development Regulations, 2001, as amended,
- (c) the planning history of the site,
- (d) the pattern of development in the area,
- (e) the nature of the current use of the site,

- (f) the submissions of the Referrer, and the documents received from the planning authority, and
- (g) the report of the Planning Inspector:

**AND WHEREAS** An Bord Pleanála has concluded that in relation to items (i), (ii) and (iii) of the referral, these are the same, or substantially the same, and in respect of the same land, as a Referral issued by An Bord Pleanála under reference number ABP-307077-20 on the 4th day of January 2021, and there is no evidence of any change in the planning facts or circumstances underpinning the application:

**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, in these circumstances, the Board is precluded under Section 50(2) of the Planning and Development Act, 2000, as amended, from making a determination on items (i), (ii) and (iii) of the referral.

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

- (a) based on the documentation presented on the file, including the report of the planning authority the use of Unit 26 at The Rock Centre, Ballinamore, County Leitrim as a security office does not constitute a material change of use from the permitted office/business use of the unit and does not constitute development,
- (b) while it has not been demonstrated that a medical services station has been incorporated into the Unit, based on the documentation presented on the file, including the report of the planning authority, the provision of a medical services station within Unit 26 at The Rock Centre, Ballinamore, County Leitrim does not constitute a material change of use

from the permitted office/business use and therefore, does not constitute development,

- (c) based on the documentation presented on the file, including the report of the planning authority, no evidence has been provided that a pharmacy use operates within the now completed apartment units,
- (d) based on the documentation presented on the file, including the report of the planning authority, no evidence has been provided that a use comprising the provision of mental services and therapy rooms for tenants operates within the now completed apartment units,
- (e) the ordering of tenant's food by way of food coupons or the transport to/from the centre do not fall within the scope of Section 5 of the Planning and Development Act 2000, as amended, and
- (f) based on the documentation presented on the file, including the report of the planning authority, the use of the subdivided unit to the rear of the development for use as a foodstore and for medical services is development and is not 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 Act, 2000, as amended, hereby decides that:

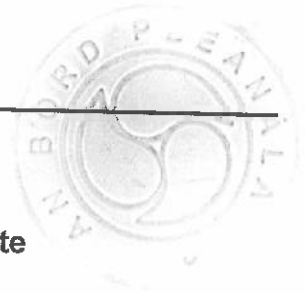
- (a) the use of Unit 26 at The Rock Centre, Ballinamore, County Leitrim as an office/security services hub does not constitute a material change of use from the permitted office/business use of the unit and is not development,

- (b) the provision of a medical services station within Unit 26 at The Rock Centre, Ballinamore, County Leitrim does not constitute a material change of use from the permitted office/business use and therefore, is not development, and
- (c) the use of the subdivided unit to the rear of the development for use as a foodstore and for medical services is development and is not exempted development.

*Una Crosse*

Una Crosse

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



Dated this *7<sup>th</sup>* day of *June* 2023.