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**Planning and Development Acts 2000 to 2022**

**Planning Authority: Cork City Council**

**Planning Register Reference Number: R705/22**

**WHEREAS** a question has arisen as to whether the use of development at “Sarsfield Heights” as permitted under planning authority reference 1704877/An Bord Pleanála reference PL04/242194, planning authority reference 185275 and planning authority reference 2140139/An Bord Pleanála reference ABP-311519-21 for institutional purposes and as predominantly/exclusively Part V of P.D.A housing at Sarsfield Heights, Doughcloyne, Sarsfield Road, Cork is or is not development or is or is not exempted development:

**AND WHEREAS** Eagle Valley Association of Residents and Homeowners care of 113 Eagle alley, Sarsfield Road, Wilton, Cork requested a declaration on this question from Cork City Council and the Council issued a declaration on the 22<sup>nd</sup> day of April, 2022 stating the following:

- (a) the permitted use of the development permitted under planning register reference numbers 174877 An Bord Pleanála reference PL04.294194, planning authority references 185275 and 2140139) is residential,

- (b) the proposed use of the dwelling units may be by an approved housing body, which is not considered to come within the scope of commercial institutional investment in housing,
- (c) the proposed use, which may be by an approved housing body, would remain in residential use, and this would not be material in planning terms and, therefore, is not development, and
- (d) there is no evidence the development will be used predominately/exclusively Part V of the P.D.A. housing:

**AND WHEREAS** Eagle Valley Association of Residents and Homeowners referred this declaration for review to An Bord Pleanála, on the 19<sup>th</sup> day of May, 2022:

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

- (a) Section 2(1) of the Planning and Development Act, 2000, as amended,
- (b) Section 3(1) of the Planning and Development Act, 2000,
- (c) Section 4(1)(a) of the Planning and Development Act, 2000, as amended,
- (d) Section 5(3)(a) of the Planning and Development Act, 2000, as amended,
- (e) Part V of the Planning and Development Act, 2000, as amended,
- (f) Articles 5(1), 6(1), 9(1) and 10(1) of the Planning and Development Regulations, 2001, as amended,
- (g) Parts 1 and 4 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (h) the provisions of the Cork City Development Plan 2022-2028,
- (i) the planning history of the site,


- (j) the submissions on file, and
- (k) the pattern of development in the area:

**AND WHEREAS** An Bord Pleanála has concluded that the use of Sarsfield Heights residential estate predominantly or exclusively for Part V Social and Affordable Housing, and residential accommodation and care for individuals in need, would not contravene the conditions set out under planning authority reference 174877/An Bord Pleanála reference PL04.249194, planning authority reference 185275 and planning authority reference 2140139 and does not involve the carrying out of any works on, in or under land and does not constitute a material change in the use of any structures or other land, and therefore, does not constitute 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 the use of Sarsfield Heights residential estate predominately or exclusively for Part V Social and affordable housing, and residential accommodation and care for individuals in need at Sarsfield Heights, Doughcloyne, Sarsfield Road, Cork is not development.

In deciding not to accept the Inspector's recommendation, the Board considered that, insofar as a 'change of use' might be considered to occur by virtue of a change of ownership and tenure mix from that originally envisaged, that this change would not be material. In particular, the Board did not consider that the care and support services that might be provided by an entity such as Respond Housing Association would be of such a level and intensity as to constitute 'care' within the meaning of Class 9 of Schedule 2 Part 4 of the Planning and Development Regulations 2001, as amended, and would not differ materially from the care and support that may from time to time be required by any potential residents of a new development. The Board did not consider that any material differences in traffic generation would arise and was satisfied that the purported use would not give rise to any planning considerations that would differ materially from those that arose at the time of the granting of permission.



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

Dated this 31<sup>st</sup> day of October 2023.