



An
Bord
Pleanála

Board Order
ABP-313815-22 (ABP-
305471-19)

Planning and Development Acts 2000 to 2022

Planning Authority: Dublin City Council

Planning Register Reference Number: 0346/19

WHEREAS a question has arisen as to whether a change-of-use from 'office' to 'embassy office' at 23 Shelbourne, 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 the said question from Dublin City Council and the said Council issued a declaration on the 21st day of August, 2019 stating that the said matter was development and was exempted development:

AND WHEREAS Finance Ireland Limited referred the declaration for review to An Bord Pleanála on the 17th day of September, 2019:

AND WHEREAS the original determination of An Bord Pleanála on this referral was judicially reviewed to the High Court; wherein the determination of the Board was quashed, and the case remitted to the Board to be determined in accordance with law:

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

- (a) Sections 2(1), 3(1), 4 and 138 of the Planning and Development Act, 2000, as amended,
- (b) Article 10 of the Planning and Development Regulations, 2001, as amended,
- (c) Part 4 of Schedule 2 to those Regulations and in particular, Class 2 and Class 3,
- (d) relevant case law, and in particular the Judgment of Heslin J in *Narconon Trust v An Bord Pleanála & Others*,
- (e) the Judgement of the High Court in relation to Judicial Review [2020 176 JR],
- (f) the planning history of the site, and in particular, permission granted under planning register reference number 3148/20 by Dublin City Council,
- (g) the precedent section 5 declarations on change-of-use from 'office' to 'embassy office', issued by Dublin City Council in relation to this property, and

- (h) the precedent section 5 declarations on change-of-use from 'office' to 'embassy office', issued by Dublin City Council in relation to other properties within its functional area:

AND WHEREAS An Bord Pleanála has concluded that -

- (a) the change-of-use from 'office' to 'embassy office' at this site is development and is exempted development,
- (b) the Judgement of Heslin J in *Narconon Trust v An Bord Pleanála & Others*, does not have applicability in the instance of this referral – where Finance Ireland Limited had not improperly invoked the provisions of Section 5 of the 2000 Act,
- (c) Dublin City Council, based on the use class definitions contained within its development plan, has determined a number of similar Section 5 referral cases in relation to change-of-use from 'office' to 'embassy office' within its functional area,
- (d) the previous determinations of Dublin City Council in relation to the change-of-use from 'office' to 'embassy office' at this site, being declared exempted development, are of relevance, and
- (e) the decision of Dublin City Council to grant permission for change-of-use from 'office' to 'embassy office' at this site (planning register reference number 3148/20), renders the question before the Board moot:

NOW THEREFORE An Bord Pleanála is satisfied that, in the particular circumstances, the referral should not be further considered by it and, in exercise of the powers conferred on it by subsection (1) (b) (ii) of section 138 of the Planning and Development Act, 2000, hereby dismisses the said referral.

Eamonn James Kelly

Eamonn James Kelly

Member of An Bord Pleanála

**duly authorised to authenticate
the seal of the Board.**

Dated this *4th* day of *December*, 2023.

