

Planning and Development Act 2000, as amended

Planning Authority: Cork City Council

Planning Register Reference Number: R91825

WHEREAS a question has arisen as to whether the temporary change of use of the basement, ground, first, second and third floors of the cube building from office to residential accommodation for International Protection Applicants, as per the provisions of Class 20F of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended, at The Cube Building, Monahan Road, Ballintemple, Cork is or is not development or is or is not exempted development,

AND WHEREAS Cherryinn Limited requested a declaration on this question from Cork City Council and the Council did not issue a declaration,

AND WHEREAS Cork City Council referred the matter to An Bord (Coimisiún) Pleanála for consideration on the 24th day of April, 2025,

AND WHEREAS An Coimisiún Pleanála, in considering this referral had regard to:

- (a) Sections 2(1), 3(1), 4(1)(h) and 181(1)(a) of the Planning and Development Act 2000, as amended,
- (b) Article 6(1) and Article 9(1) of the Planning and Development Regulations 2001, as amended,

- (c) Class 20F of Schedule 2 Part 1 of the Planning and Development Regulations 2001, as amended,
- (d) the provisions of the European Union (Planning and Development) (Displaced Persons From Ukraine Temporary Protection) Regulations 2022,
- (e) the planning history of the site,
- (f) the nature of the current use of the Cube Building,
- (g) the pattern of development in the area,
- (h) the provisions of the Cork City Development Plan 2022-2028,
- (i) relevant case law, specifically Leitrim County Council and Dromaprop Ltd. [2024] IEHC 233, and
- (j) the submissions of Cherryinn Limited, Cork City Council, and the observations received,

AND WHEREAS An Coimisiún Pleanála has concluded that:

- (a) the temporary change of use of the basement, ground, first, second, and third floors of the Cube Building from office use to accommodate or support displaced persons or persons seeking international protection and associated works constitutes development as defined under Section 3(1)(a) of the Planning and Development Act 2000, as amended, and
- (b) on the basis of the information contained on the file, there is no evidence that the temporary change of use of the basement, ground, first, second, and third floors of the Cube Building from office use to accommodate or support displaced persons or persons seeking international protection and associated works is by or on behalf of the Minister for Children, Equality, Disability, Integration and Youth. In this regard the temporary change of use and associated works do not come within the scope of class 20F of schedule 2 Part 1 of the Planning and Development

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Regulations 2001, as amended, and Section 4(1)(h) of the Planning and Development Act 2000, as amended.

NOW THEREFORE An Coimisiún Pleanála, in exercise of the powers conferred on it by Section 5(4) of the Planning and Development Act 2000, as amended, hereby decides that the temporary change of use of the basement, ground, first, second and third floors of the cube building from office to residential accommodation for International Protection Applicants, as per the provisions of Class 20(f) of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended, at The Cube Building, Monahan Road, Ballintemple, Cork is development and is not exempted development.



In deciding not to accept the recommendation of the Inspector that the proposed change of use and associated works would constitute development and exempted development, the Commission noted the commentary of the Inspector that no documentation was provided in relation to the requirement that the change of use was being carried out by or on behalf of the Minister, which is a specific requirement as set out in the legislation to enable a proposed change of use to come within the scope of Class 20(b). The Commission noted but did not share the view of the Inspector that 'notwithstanding, in practice it is only logical to assume that the occupation of the relevant floors of the building with displaced persons or persons seeking international protection would effectively be carried out on behalf of the Minister'. The Commission determined that the legislation is clear and it is not appropriate to rely on, surmise, or other assumption on this fact.

Furthermore, the Commission noted the comment of the Inspector, that the class [20(b)] does not require a supporting letter, or similar, to be provided and that notwithstanding the absence of supporting documentation from the Minister, '... the proposed use... would be consistent with the provisions of Column 1'. On this matter the Commission disagreed with the Inspector and



considered that the meaning of Class 20(b) can only be determined on a logical reading whereby any such exemption can only be by or on behalf of the Minister. If such a narrowing of the exemption was not intended by the legislature, then that phrasing would not likely have been inserted into the legislation. Equally, if any proposal for a Class 20(b) exemption was allowed to be confirmed merely by an implied assumption that it would effectively be by, or on behalf of, the Minister, this would dilute the appropriate meaning and applicability of the relevant legislation to the point of it not being capable of practical implementation.

The Commission also noted the expressed concerns of third parties to the proposed change of use, with regard to whether or not the detail of the change of use might lead to a traffic hazard by reference to the nature of activity that might arise at the basement area from a new introduced use here, in addition to the continuation of employment use within part of the subject building. While ordinarily this issue would merit at least further consideration, having regard to the substantive reasoning set out above, it was decided not to pursue this issue in the context of the current referral.



Chris McGarry

**Planning Commissioner of An Coimisiún
Pleanála duly authorised to authenticate
the seal of the Commission.**

Dated this 20th day of April 2026.