An Coimisiún Pleanála

Commission Order
ACP-323936-25

Planning and Development Act 2000, as amended

Planning Authority: Kildare County Council

Planning Authority Reference Number: ED/1275

WHEREAS a question has arisen as to whether the change of use (no material alterations) of the lower floor ground area of Bert International Hotel to Bedrooms to accommodation for people seeking international protection (IPS):

AND WHEREAS Damien Malone requested a declaration on the question from Kildare County Council and the Council issued a declaration on the 12th day of November, 2025 stating that the matter is development and is not exempted development:

AND WHEREAS Damien Malone referred this question for review to An Coimisiún Pleanála on the 10th day of December, 2025:

AND WHEREAS having regard the totality of information on file and the amended question set out in the question as referred to An Coimisiún Pleanála, the Commission reframed the question to read as follows:
'Whether the change of use of part of the lower ground floor of Bert House, a protected structure, to bedrooms for the accommodation of persons seeking international protection, in accordance with Class 20F of Part 1 of Schedule 2

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of the Planning and Development Regulations 2001, as amended, at Bert House, Athy, County Kildare is or is not development and is or is not exempted development':

AND WHEREAS An Coimisiún Pleanála, in considering this referral, reframed the question and 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(2) of the Planning and Development Act, 2000, as amended,
(d) Section 57(1) of the Planning and Development Act, 2000, as amended,
(e) Articles 5, 6(1) and 9(1) of the Planning and Development Regulations, 2001, as amended,
(f) Class 20F of Part 1 Exempted Development - General of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
(g) Class 14 of Part 1 Exempted Development - General of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
(h) The European Union (Planning and Development) (Displaced Persons from Ukraine Temporary Protection) Regulations 2022 (S.I. number 306/2022),
(i) the planning history of the site,
(j) the established and current use of the site,
(k) the works evidently carried out and proposed to be carried out to facilitate the proposed change of use,
(l) the documentation submitted in connection with the referral; and
(m) the report and recommendation of the Inspector following a site visit:

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AND WHEREAS An Coimisiún Pleanála has concluded that:

(a) the permitted use of the lower ground floor area concerned is as a leisure centre, which use was partly implemented, together with use for storage rooms and a wine cellar ancillary to the permitted and previous hotel use;

(b) the proposed use of part of the lower ground floor area for the accommodation of persons seeking international protection require works to a protected structure to facilitate the change of use which the Commission decided is a material change of use. The works include the insertion of bathrooms and a kitchen, the addition of fire doors to the corridor, the blocking of two window openings, and (in a recent extension) plastering and painting of walls, subdivision with partition walls, and insertion of a new window;

(c) these works required to facilitate the proposed change of use and the change of use is a material change of use and hence development with the meaning of Section 3(1) of the Act; and the works would materially affect the character of the protected structure and, accordingly, the proposed development is not exempted development, having regard to section 57(1) 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(3)(a) of the 2000 Act, hereby decides that the change of use of part of the lower ground floor of Bert House, a protected structure, to bedrooms for the accommodation of persons seeking international protection, in accordance with Class 20F of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended, at Bert House, Athy, County Kildare is development and is not exempted development.

Patricia Calleary

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

Dated this 04 **day of** November **2026**