

# An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2016

**Dublin City**

**Planning Authority Reference Number: 0399/16**

An Bord Pleanála Reference Number: 29N.RL.3533

**WHEREAS** a question has arisen as to whether the use of 21 number car parking spaces at basement level for commercial use, having regard to specific conditions attached to planning register reference number 1409/05, at Castleforbes Square, Dublin is or is not development or is or is not exempted development:

**AND WHEREAS** Castleforbes Square Management Limited care of Brock McClure Consultants of 63 York Road, Dún Laoghaire, County Dublin requested a declaration on this question from Dublin City Council and the Council issued a declaration on the 7<sup>th</sup> day of December, 2016 stating that the matter is development and is not exempted development:

**AND WHEREAS** David Carson, Statutory Receiver for Danninger Limited, of Deloitte, 28 Earlsfort Terrace, Dublin care of Tom Phillips and Associates of 80 Harcourt Street, Dublin referred this declaration for review to An Bord Pleanála on the 10<sup>th</sup> day of January, 2017:

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

- (a) sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- (b) article 6(1) and article 9(1)(a)(i) of the Planning and Development Regulations, 2001, and
- (c) the planning history of the site, and in particular planning permission register reference number 1409/05, and condition number 3 of that permission, which required that at least one car parking space shall be assigned permanently to each residential unit and solely reserved for this purpose and which required that a parking management plan, indicating how spaces within the basement car park were to be assigned and segregated by use, was to be prepared for the site and submitted for the written agreement of Dublin City Council (which plan does not appear, based on the documentation submitted with the referral, to have been submitted to, and agreed with, the Council).

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

- (a) the change of use of car spaces within this basement area from use for the residential apartments in the subject development, as authorised by planning permission register reference number 1405/09, to use for commercial purposes, is a change of use which raises external planning issues, including patterns of parking on surrounding streets and the intensification of commuter traffic into the area in the light of the provisions of the Dublin City Development Plan, which seeks to limit such traffic in the city centre. Such change of use is therefore material, and constitutes development; and

- (b) Having regard to the terms and conditions of planning permission register reference number 1405/09, and in particular condition 3 of that permission, any exemption that would otherwise apply to such development is restricted, pursuant to article 9 (1)(a)(i) of the Planning and Development Regulations, as it would contravene condition 3, and be inconsistent with the use specified, and is therefore not exempted development.

**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 the use of 21 number car parking spaces at basement level for commercial use, having regard to specific conditions attached to planning register reference number 1409/05, at Castleforbes Square, Dublin is development and is not exempted development.

#### **MATTERS CONSIDERED**

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

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

**Dated this      day of                      2017.**