



An  
Coimisiún  
Pleanála

## Inspector's Report ACP323195-25

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### Question

Whether the change of use at the Paramount Hotel from use as a 'hotel' to use as a 'hostel (non-tourist) where care or short-term homeless accommodation is provided' is or is not development or is or is not exempted development.

### Location

The Paramount Hotel, Numbers 7-8 and 9 & 10 Exchange Street Upper, and Numbers 1, 27-28 and 29-30 Parliament Street, Dublin 2.

### Declaration

Planning Authority

Dublin City Council.

Planning Authority Reference.

0050/24

Applicant for Declaration

Old City Management Limited

### Type of Application

Section 5 referral.

### Planning Authority Decision

Is Exempted Development.

### Referral

Third Party

### Referred by

Old City Management Limited

<b>Owner</b>	Ampbay Limited, The Paramount Hotel.
<b>Occupier</b>	Ampbay Limited The Paramount Hotel,
<b>Observer(s)</b>	Ampbay Limited, The Paramount Hotel.
<b>Date of Site Inspection</b>	17 <sup>th</sup> September 2024.
<b>Inspector</b>	Derek Daly.

## 1.0 Introduction

- 1.1. The question relates to whether the change of use at the Paramount Hotel from use as a “hotel” to use as a “hostel” (non-tourist) where care or short term homeless accommodation is provided is development and whether it is exempted development.
- 1.2. On the 15th November, 2024, under ref. 319436-24 the Commission decided that the change of use, at the Paramount Hotel, from use as a 'hotel' to use as a 'hostel' (non-tourist) where care or short-term homeless accommodation is provided at Paramount Hotel is development and is not exempted development.
- 1.3. On the 17th January, 2025, a judicial review was lodged against the Commission's decision, by Ampbay Limited (third party) and the case was conceded on the basis that there was a lack of adequate reasons in the Commission's Order for departing from the Inspector's reasoning in relation to the interpretation of "care" under Article 5 (1) of the P & D Regulations 2001, as amended.
- 1.4. Accordingly, the case was remitted back to the Commission and participants were provide the opportunity to make further submissions under s.131.
- 1.5. This report should be read in conjunction with my original report dated 10/10/2024.

## 2.0 Submissions received.

### 2.1. Referrer’s Submission.

- 2.1.1. Old City Management Limited c/o Armstrong Planning on behalf of the referrer in a submission dated the 21<sup>st</sup> August 2025 in summary refer to;
- 2.1.2. The submission should be read in conjunction with the previous Section 5 Declaration Request dated the 15th August 2024.
- 2.1.3. This submission briefly summarises the original grounds and responds to the respondents in the judicial review proceedings and maintains that the change of use from hotel to hostel (non-tourist), where care or short term homeless accommodation is provided, constitutes development requiring planning permission.

- 2.1.4. The submission outlines the background and original case contending that hotels, hostels (tourist) and hostels (non-tourist) are separate and distinct land use categories for planning purposes and while the exemption in class 14(g) of the Planning Regulations permit change between hotels and tourist hostels without planning permission this exemption does not extend to non-tourist hostels serving vulnerable persons and the fundamental distinction lies in the nature of the operation.
- 2.1.5. Responding to the issue of care the respondent's contention that providing accommodation alone does not constitute "care" and that actual personal assistance is required is disagreed with. Part 2 Article 5 of the Regulations defines care as "personal care, including help with physical, intellectual or social needs". In this regard homelessness is a social need and this is consistently identified as such in government policy.
- 2.1.6. Even if care is not considered by the Commission to be provided the fundamental change from commercial hotel to social service accommodation fundamentally alters the use beyond a material change.
- 2.1.7. In relation to the respondent's contention that hotels can accommodate any clientele without restriction, it is contended that while this is partially correct complete conversion to single purpose social accommodation fundamentally alters the use beyond what can reasonably be considered hotel operation.
- 2.1.8. Reference is made to the Hotel Proprietors Act 1963 and that the premises is not open to all comers and is operated under a contract which serves only persons referred by homeless services.
- 2.1.9. The contention of the Inspector that a front desk and food service is provided do not preserve the fundamental character of the use.
- 2.1.10. Reference is made to the respondent's reference to sections 15.13.9 and 13.14.1 of the current development plan, which argue that these provisions do not establish materially different planning considerations but this misreads these provisions as 15.13.9 specifically addresses "non-tourist hostel accommodation" explicitly linking it with homeless accommodation and social support institutions and requires detailed assessment in relation to this form of accommodation. In contrast section 13.14.1

encourages hotels to provide publicly accessible facilities envisioning hotels as publicly accessible commercial establishments.

- 2.1.11. Reference is also made to Policy Objective QHSN28 which further restates the provisions stated in section 15.13.9 and requires obligations in relation to non-tourist hostel accommodation” which do not apply to hotel development.
- 2.1.12. Policy Objective QHSN29 addresses temporary accommodation located in the city centre and establishes a presumption against expansion of tourist hostels and hotels for use as temporary/homeless accommodation in Dublin 1, 7 and 8 and is a recognition that it is not a continuation of an existing use.
- 2.1.13. The provisions as stated are mandatory regulatory burdens for the planning authority.
- 2.1.14. Reference is made to the Brogan test in relation to material change of use and the planning authority considerations in assessing change of use and a material change of use. This applies in relation to the Paramount Hotel with reference to the provisions of the development plan stated and an assessment based on the criteria stated for assessment of any proposal.
- 2.1.15. Reference is made to different user groups and their distinct planning impacts. In this regard reference is made to ABP308540-20 where the inspector specifically identified the different user group as the main reason for finding material change has occurred. Reference is also made to ABP307064-20 where accommodating individuals with some degree of vulnerability would not come within the meaning of a commercial guesthouse. Reference is made to the impact on the area arising from the current premises operations. In this regard based on the Brogan test the planning authority must assess fundamentally different matters.
- 2.1.16. Reference is made to a wider definition of care than in the inspector’s report and also operational similarities as identified do not preserve hotel use given the change in user group.
- 2.1.17. The premises has undergone a complete transformation from a commercial enterprise serving the public to a closed social service facility

## 2.2. Respondent’s Submission

- 2.2.1. Ampbay Limited, the Paramount Hotel c/o Brock McClure in a submission dated the 25<sup>th</sup> August 2025 in summary refer to;
- 2.2.2. The Commission is requested to review the case *de novo* and reaffirms all previously prepared observations.
- 2.2.3. From the outset it is unequivocally emphasised to the Commission that the Paramount Hotel continues to operate as a hotel as per its permitted use. Notably there has been no change of use in the essential nature or function of the use of the building and the only element that has varied is the social economic status of guests occupying rooms within the hotel.
- 2.2.4. Planning legislation does not distinguish between different types of occupiers or the funding source for accommodation.
- 2.2.5. Reference is made to the HC judgement in *Leitrim County Council v Dromaprop Limited IEHC 233* which addresses this point and the High Court held that the use of a hotel to provide accommodation for homeless persons remains within the scope of its existing use citing paragraphs 27 and 33 of the judgement and does not constitute a change of use.
- 2.2.6. Reference is made to the report of the Dublin City Council Enforcement Officer that there is no deviation from the approved use and continuity of the hotel's operations.
- 2.2.7. The question of whether or not the accommodation of homeless persons constitutes "care" for the purposes of Article 5(1) Part 2 of the Regulations and therefore engages the exemption under Class 14 (g) of Part 1 of Schedule 2 is a secondary question that only arises if a change of use is first established. Since no change of use has occurred the question does not arise and is irrelevant.
- 2.2.8. It is denied that the accommodation of homeless persons constitutes care within the meaning of the Regulations.
- 2.2.9. The interpretation that the provision of accommodation for homeless persons meets a social need and therefore constitutes care is a misapplication of the relevant law and distortion of legislative intent.
- 2.2.10. It is clear from the regulations that the concept of personal care does not include accommodation and that social need in Article 5(1) does not include the provision of accommodation as that is not personal care and the ordinary and natural meaning of

personal care means it relates to some aspect of the person (or personal aspect) which may be physical, intellectual or social. It may include nursing and/or health services and personal care therefore includes support with tasks essential with everyday living. It does not include the provision of accommodation.

- 2.2.11. Reference is made to the distinction between hostel and hostel where care is provided and the legislation intention is clear with reference to Part 4 of Schedule 2 Class 9(a) and Part 1 of Schedule 2 Class 14(g) and this was clearly stated in a committee of the Oireachtas which leaves no room for ambiguity that the intention was to facilitate not restrict the use of hotels to accommodate vulnerable groups.
- 2.2.12. The Board's interpretation that the use of the building for the accommodation of homeless means it no longer constitutes a business premises is also flawed as the use of the hotel in these circumstances remains commercial in nature and alter its status as a hotel and the Dromaprop Judgement is cited in this regard.
- 2.2.13. The Board's conclusions in points (b), (c) and (d) are based on the erroneous assumption that a change of use has occurred.
- 2.2.14. If no change of use has occurred then the issue of material change or development has occurred.
- 2.2.15. An exemption under class 14(g) only becomes relevant if a change of use is first established and as no change of use has occurred the question is moot.
- 2.2.16. If the Commission considers that a change of use has occurred the development can be considered exempt under Class 14(g).

### **3.0 Assessment**

- 3.1. The submissions received in response to the Section 131 notice largely restate the issues presented in the initial submissions under 319436-24 with comments on the previous direction and material raised in the High Court proceedings commenting on the previous direction. Having read and considered the submissions received I do not consider that the submissions received raised such matters as might require further circulation from the other parties.
- 3.2. Central to the submissions is the issue of the provision of "care" and whether this alters the current established use of the premises as a hotel as it is contended by the

owner/operator of the premises that no change of use has occurred to the current established use of the premises as a hotel and even if it considered that a change of use has occurred it would be deemed exempt under Schedule 2 Part 1 Class 14(b). The contention of the referrer is that it has been demonstrated that homeless accommodation is a social need and meets the definition of care under Part 2 Article 5(1) of the Regulations and cannot be considered as exempt or within the scope of Schedule 2 Part 1 Class 14.

- 3.3. I noted that reference was made to the issue of care provided in initial submissions and the referrer in the initial submission contended that that there is evidence that care is provided or has been provided by social care staff on the premises. This matter was refuted by the operators of the premises and no clear evidence is presented since the initial submission to support this contention in relation to social care staff on the premises providing care.
- 3.3.1. There is no dispute that addressing homeless accommodation is broadly a social issue and there are provisions in the current Dublin City Development Plan which distinguish between assessment of development which are hotels and non-tourist hostel accommodation and in particular identify criteria for assessment of planning applications for hotel and non-tourist hostel accommodation developments. The provisions as stated would present mandatory regulatory burdens for the planning authority in assessing any application for development.
- 3.4. The question in the referral however does not relate to essentially an assessment of proposals for such developments which the development plan can provide guidance and requirements for assessing and regulating any new proposals but whether a change of use has occurred to the premises in question and if a change of use is deemed to have occurred whether it is exempted development.
- 3.5. The referrer does refer in the submission to Part 2 Article 5(1) of the Planning and Development Regulations 2001 as amended and that care *means personal care, including help with physical, intellectual or social needs*.
- 3.6. There is no definition of social need but it is contended by the referrer that the provision of accommodation provides for a 'social need' and therefore constitutes care as defined in Article 5(1), Part 2 of the Planning Regulations 2002, as amended.

- 3.7. Social care as distinct from social need for homelessness involves providing support services in relation to health, addiction, mental health, financial aid, and case management through government agencies such as local authorities, Dept of Social Protection, Tusla and charities and providing accommodation may also be a support service adopting and using holistic models like *Housing First* to address complex needs and offer permanent housing with wraparound support for stability.
- 3.8. *Housing First* published in December 2020 provides a comprehensive and holistic approach to addressing homelessness for people experiencing mental health, physical health, substance misuse, social, behavioural, and other challenges. The programme consists of three major components: permanent, affordable housing; mobile case management and treatment services (mental health, health, and addiction services) and a programme philosophy based on client choice and recovery.
- 3.9. Tackling homelessness therefore does form part of a wide range of intervention measures and supports which are linked to the wider question of social care and need.
- 3.10. Providing temporary accommodation for homeless persons may form part of addressing support but it is not necessarily central to it and for example providing temporary accommodation is often necessary for persons who for a wide range of circumstances become homeless and do not require other supports.
- 3.11. Therefore, I consider that providing assistance in homelessness does not infer a care other than providing a place to reside on a temporary basis and not a wider provision of social care needs and a range of professional supports associated with purposely defined hostels to meet persons requiring on-site supports which is not offered or available on the premises or demonstrated as provided on the premises which is the subject of this referral.
- 3.12. I would note that in defining what is a “business premises” Article 5(1) Part 2 of the Planning and Development Regulations 2001 as amended defines this as
- (a) any structure or other land (not being an excluded premises) which is normally used for the carrying on of any professional, commercial or industrial undertaking or any structure (not being an excluded premises) which is normally used for the provision therein of services to persons,

(b) a hotel, hostel (other than a hostel where care is provided) or public house.

In this regard I do not consider that the premises has materially deviated from the its permitted and authorised use as a hotel and accommodating persons in a premises in use as a hotel does not therefore, I consider, alter the status of hotel to a non-tourist hostel or render occupancy by a specific group of people to be a material change of use as determined by the Dromaprop Judgement.

- 3.13. I would also note in this regard that the referrer has referred to the definition of a hotel in the Proprietors Act 1963 to a hotel as establishments providing accommodation *“for all comers without special contract”*.
- 3.14. However a hotel is defined section 1(1) of the Hotel Proprietors Act, 1963, *“as an establishment which provides or holds itself out as providing sleeping accommodation, food and drink for reward for all comers without special contract and includes every establishment registered in the register of hotels kept under Part III of the Tourist Traffic Act, 1939”*. The Tourist Traffic Act, 1939 it is noted provided for the establishment and general powers of the Irish Tourist Board. Section 3 Hotel Proprietors Act, 1963 provides for a duty to receive all comers and *“proprietor of a hotel is under a duty to receive at the hotel as guests all persons who, whether or not under special contract, present themselves and require sleeping accommodation, food or drink and to provide them therewith unless he has reasonable grounds of refusal”*.
- 3.15. Hotels vary greatly in the range of facilities and services they offer and I would note and acknowledge that currently the entire hotel is given over to accommodating homeless persons but there is nothing to indicate that any class of person is precluded from a hotel, that a hotel requires to make provision for a defined mix of guests or that the guests using the accommodation presently render and/or cease the currently authorised use of the premises as a hotel.
- 3.16. I note reference in the submissions made in relation to the provisions of the current Dublin City Development Plan and that nothing has altered since the Section 5 was submitted and that there is nothing in the Development Plan which is relevant to the exempted development question Structures 27 and 28 Parliament Street and 9 and 10 Exchange Street Upper are listed as protected structures but no works or alteration are proposed relevant to the question raised.

3.17. I consider that no new issues or matters which were not previously considered arise in the submissions.

3.18. I therefore conclude that my original recommendation remains valid.

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Derek Daly  
Planning Inspector

15<sup>th</sup> January 2026