



An
Coimisiún
Pleanála

Inspector's Report ABP-324106-26

Question

Whether the change of use of the ground, 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 development, and, if so, is it exempted development.

Location

The Cube Building, Monahan Road,
Ballintemple, Cork

Declaration

Planning Authority

Cork City Council (CCC)

Planning Authority Reg. Ref.

R1019/26

Applicant for Declaration

Cherryinn Limited

Planning Authority Decision

No declaration.

Referral

Referred by

Cork City Council (CCC)

Owner/ Occupier

Cherryinn Limited

Observers

None

1.0 Site Location and Description

- 1.1. A site inspection was undertaken on the 01st of August 2025 by an Inspector for a similar referral R322371-25 (Reg Ref R918/25) and the inspector noted that the subject site includes a five storey over basement office block, located along the south side of Monahan Road in Ballintemple, approximately 1km southeast of Cork city centre. At the time of the inspectors report on for referral R322371-25 (Reg Ref R918/25) it was noted the building was in use as offices and is in a commercial/industrial area of the city. There is no contention in this referral that the current use of the building is not office, therefore it was considered that no additional site inspection was required for this referral.

2.0 The Question

- 2.1. The question for which was put to Cork City Council (CCC) related to:

Whether the temporary change of use of the basement, ground, first, second, and third floors of the Cube building from office use to residential accommodation for International Protection applicants as per the provisions of clad 20F of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended) is development and if so, it is exempt development?

The associated works to facilitate the proposed use will only affect the interior of the building and therefore comes within the exempted development provisions of Section 4(1) (h) of the Planning and Development Act, 2000.

- 2.2. Having regard to information on file I have reworded the question for consideration for the Commission as follows:

Whether the change of use at ground, second, and third floors of the Cube building from office use to use to temporarily accommodate or support displaced persons or persons seeking international protection is development, and, if so, is it exempted development.

3.0 Planning Authority Declaration

3.1. Declaration

- 3.1.1. No declaration made by the Planning Authority. The Planning Authority on the 24th of February 2026, in accordance with Section 5(4) of the Planning and Development Act, 2000 (as amended), referred a Section 5 application to the Commission for determination.

3.2. Planning Authority Reports

- 3.2.1. The referral to the Board, as received on 24th of February 2026, included the following:
- a cover letter from CCC including the question referred and applicant details,
 - a report stating the relevant legislation provision, particulars of the referral, the question referred, the referral site and zoning, background information, the planning history, development plan objectives, EIA screening and AA screening.
- 3.2.2. The report notes the referral is an almost identical question previously referred to CCC and with the Commission for consideration (R322371-25 (Reg Ref R918/25) as yet undecided. This case has been decided by the Commission since this referral has been submitted, as discussed below.

4.0 Planning History

R322371-25 (Reg Ref R918/25)

Referral from CCC *'Whether 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 development, and, if so, is it exempted development.'* The Commission determined that the use could not come within the scope of 20F of Schedule 1 of the Planning and Development Regulations 2001, because the applicant had not submitted evidence that the temporary change of use was on or behalf of the Minister for Children, Equality, Disability, Integration and Youth and was therefore not exempt.

Reg. Ref. 20/39182

Permission was granted for the alteration of the southern elevation by the inclusion of new windows at first floor level.

Reg. Ref. 19/38678

Permission granted for provision of solar panels on the roof and illuminated signage to the western elevation.

Reg. Ref. 16/37179

Permission granted for an alteration of the western elevation by inclusion of new windows, door, and associated works.

Reg. Ref. 08/33194

Permission granted for an ESB substation and switch room to service the permitted business and technology building.

Reg. Ref. 06/30815

Permission granted for the demolition of warehouses and construction of a business and technology building including a basement car park and a five-storey building for office use with central courtyard.

5.0 Policy Context

5.1. Cork City Development Plan (CCDP) 2022-2028

- 5.1.1. The site is in an area zoned 'ZO 04, Mixed Use Development' where it is an objective *'To provide and promote a mix of residential and other uses to ensure the creation of a vibrant and sustainable urban area.'*
- 5.1.2. The subject property is not a protected structure or located within an ACA. There are no views affecting the subject property.

5.2. Natural Heritage Designations

- 5.2.1. The nearest European site is Cork Harbour special protection area (SPA) approximately 1.6km to the southeast.

6.0 The Referral

6.1. Referrer's Case

- 6.1.1. Although the referrer of the section 5 application to the Commission is CCC, for the purpose of this report all references to the referrer should be taken to mean Cherryinn Limited who made the section 5 application to CCC in the first instance.
- 6.1.2. The referrer is stated as being the owner of the Cube building subject of the application in the section 5 declaration application form. The referrer makes the following points in their referral to CCC:
- The proposed development falls within Class 20F of Part 1 of Schedule 2 of the Planning & Development Regulations, 2001 (as amended) which relates to the temporary use to accommodate or support displaced persons or persons seeking international protection.
 - The associated works to facilitate the development will only affect the interior of the structure.
 - The use of the building only relates to ground, second and third floors.

Legislation

- The referrer notes the section of the Planning and Development Act, 2000 (as amended) which relate to the referral namely, Section 2, Section 3(1), Section 4, Section 4(1)(h), Section 4(2)(a) and Section 4(2)(b).
- The development will accord with the conditions and limitations associated with Class 20F. The section 5 application acts as notification to CCC as per condition and limitation 5.
- The proposed change of use complies with the provisions of article 9 (1)(a) of the Planning & Development Regulations, 2001 (as amended).

Seveso Site

- Reference to the HSA Guidance on Technical Land Use Planning Advice.
- This guidance document includes categories of 'zones' in terms of the site's proximity to a Seveso Site.

- The Cube building is located within the 'Outer Zone' in respect to Guldin's Chemicals.
- The HSA have been consulted as part of the Declaration request.

Parent permission

- The parent permission (Reg Ref No. 06/30815) established the use of the building as a business technology building.
- Condition No 5 restricts the use to Business and technology uses as defined in paragraph 10.6 of the Cork City Development Plan 2004, and subject to agreement of the Planning Authority.
- Paragraph 10.6 of this development plan includes Office based industry.

Conclusion

- The proposed change of use from Office to accommodation for international protection applicants is consistent with the provisions of Class 20F.
- This exemption will be discontinued at the end of 2028.
- The proposal complies with the provisions of Article 9(1)(a) of the regulations and will not contravene a condition of a permission etc.
- The works will only affect the interior of the building
- Consultation with the HSA is ongoing due to the location with Guldin's Chemicals.

6.1.3. Supporting documents

- Correspondence/ Consultation with the HSA
- A Letter from the Department of Children, Equality, Disability, Integration and Youth (partially redacted) confirming interest in the property for accommodating International Protection applicants subject to all necessary compliances.

6.2. Planning Authority

- 6.2.1. The referral was submitted to the planning authority by Cherryinn Limited in the first instance. The CCC Planning Report prepared on foot of the referral sets out the facts

of the refers request for a declaration and request the Commissions consideration and determination.

6.3. **Occupiers/Observers Responses**

- 6.3.1. The Commission will note that a number of observations from occupiers of the premises were received on the previous referral R322371-25. No observations have been received either by CCC or the Commission on this referral.

7.0 **Statutory Provisions**

7.1. **Planning & Development Act, 2000 (as amended)**

- 7.1.1. **Section 2** Definitions - “development” has the meaning assigned to it by section 3, and “develop” shall be construed accordingly.

“exempted development” has the meaning specified in section 4.

“structure” means any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined, and—

(a) where the context so admits, includes the land on, in or under which the structure is situate,

“works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

- 7.1.2. **Section 3 (1)(a)** states In this Act, except where the context otherwise requires, "development" means—

(a) the carrying out of any works in, on, over or under land, or the making of any material change in the use of any land or structures situated on land, or

(b) development within the meaning of Part XXI (inserted by section 171 of the Maritime Area Planning Act 2021).]

7.1.3. **Section 4 (1)** The following shall be exempted developments for the purposes of this Act—

(h) development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures

7.1.4. In addition to the various issues set out in section 4 (1), section 4 (2)(a) states that ‘The Minister may by regulations provide for any class of development to be exempted development for the purposes of this Act ...’

7.2. **Planning & Development Regulations, 2001- 2025**

7.2.1. **Article 6 (1)** states that ‘Subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1’.

7.2.2. **Article 9 (1)** outlines the circumstances when development to which article 6 relates shall not be exempted development for the purposes of the Act. For example, having regard to the Occupiers/Observers Response as per subsection 6.3, if the carrying out of such development would contravene a condition attached to a permission under the Act (subsection (a)(i)), endanger public safety by reason of traffic hazard or obstruction of road users (subsection (a)(iii)), or consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use (subsection (a)(viii)).

7.2.3. **Part 1 of Schedule 2** sets out the classes of exempted development, including Class 20F under which the exemption is sought in the referral.

PART 1	
<i>Exempted Development – General</i>	
Column 1	Column 2
Description of Development	Conditions and Limitations

<i>Temporary structures and uses</i> CLASS 20F Temporary use by or on behalf of the Minister for Children, Equality, Disability, Integration and Youth to accommodate or support displaced persons or persons seeking international protection of any structure or part of a structure used as a school, college, university, training centre, social centre, community centre, non-residential club, art gallery, museum, library, reading room, sports club or stadium, gymnasium, hotel, convention centre, conference centre, shop, office, Defence Forces barracks, light industrial building, airport operational building, wholesale warehouse or repository, local authority administrative office, play centre, medical and other health and social care accommodation, event and exhibition space or any structure or part of structure normally used for public worship or religious instruction [emphasis added]	1. The temporary use shall only be for the purposes of accommodating displaced persons or for the purposes of accommodating persons seeking international protection. 2. Subject to paragraph 4 of this class, the use for the purposes of accommodating displaced persons shall be discontinued when the temporary protection introduced by the Council Implementing Decision (EU) 2022/382 of 4 March 2022 comes to an end in accordance with Article 6 of the Council Directive 2001/55/EC of 20 July 2001. 3. The use for the purposes of accommodating persons seeking international protection shall be discontinued not later than 31 December 2028. 4. Where the obligation to provide temporary protection is discontinued in accordance with paragraph 2 of this class, on a date that is earlier than 31 December 2028, the temporary use of any structure which has been used for the accommodation of displaced persons shall continue for the purposes of accommodating persons seeking international protection in accordance with paragraph 3 of this class. 5. The relevant local authority must be notified of locations where change of use is taking place prior the commencement of development. 6. 'displaced persons', for the purpose of this class, means persons to whom temporary protection applies in accordance with Article 2 of
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	Council Implementing Decision (EU) 2022/382 of 4 March 2022. 7. ‘international protection’, for the purpose of this class, has the meaning given to it in section 2(1) of the International Protection Act 2015 (No. 66 of 2015). 8. ‘temporary protection’, for the purpose of this class, has the meaning given to it in Article 2 of Council Directive 2001/55/EC of 20 July 2001.
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- 7.2.4. A ‘displaced person’ as per Class 20F effectively means people displaced from Ukraine as a result of the Russian military invasion.
- 7.2.5. ‘Persons seeking international protection’ as per Class 20F effectively means status in the State as a refugee or a person eligible for subsidiary protection.
- 7.2.6. ‘Temporary protection’ means a procedure of exceptional character to provide, in the event of a mass, or imminent mass, influx of displaced persons from third countries who are unable to return to their country of origin, immediate and temporary protection, in particular if there is also a risk that the asylum system will be unable to process this influx without adverse effects for its efficient operation.

8.0 Assessment

The purpose of this referral is not to determine the acceptability or otherwise of the proposed use in respect of the proper planning and sustainable development of the area, but rather whether or not the matter in question constitutes development, and if so, whether it falls within the scope of exempted development.

I have addressed the issue of the question to be addressed as per Section 2 above and I consider the appropriate and intended question subject of this referral to be:

Whether the temporary change of use of the ground, 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 development, and, if so, is it exempted development.

The Commission has recently decided a similar referral on the same site (R322371-25 (Reg Ref No. 918/25)). This case was not decided by CCC who have also referred the current referral to the Commission. There are subtle differences in the referral where the previous referral related to the entire building including basement and first floor, while this referral only relates to the ground, second and third floors. In addition, the previous referral did not include the same documentation where this referral includes a letter from the Minister for Children, Equality, Disability, Integration and Youth. Due to these differences and allowing for the includes of additional supporting documentation I am satisfied that this referral is different and the terms of the Naraconon case are not applicable in this instance.

8.1. Is or is not Development

- 8.1.1. The Cube building is currently in use as an office and includes three floors over basement. The proposal relates to the temporary change of use of the ground, second, and third floors of the building to house persons seeking international protection. Plans submitted with the referral illustrate the current layout of all floors including the basement and the proposed layout of ground, second and third floor. The applicant's question for declaration only relates to the ground, second and third floors. The submitted plans illustrate alterations to the internal layout of these floors to accommodate persons living within, including bedrooms, bathrooms and living spaces.
- 8.1.2. The proposed use, to accommodate or support either displaced persons or persons seeking international protection, would require a change from the current office use to residential. This use is clearly a material change in the use of the relevant floors of the office building, including the works involved internally for the new rooms, and would therefore constitute **development** as defined in section 3(1)(a) of the Planning & Development Act, 2000 (as amended).

8.2. Is or is not Exempted Development

- 8.2.1. I consider the referral can be assessed under the following subheadings to reach a recommendation as to whether the proposed development would or would not comprise exempt development.

Change of use

- 8.2.2. The referral has sought an exemption under Class 20F of Schedule 2 Part 1 of the Planning and Development Regulations, 2001 (as amended). As stated above, the plans and particulars illustrate the use of the floors as accommodation to accommodate or support displaced persons seeking international protection and Class 20F allows a change from office for this use. I therefore consider the proposed change of use is within the scope of Class 20F.
- 8.2.3. Class 20F states that the temporary use is by or on behalf of the Minister for Children, Equality, Disability, Integration and Youth. The referrers submission includes a partially redacted letter confirming interest in the property for accommodating International Protection applicants subject to all necessary compliances. I am satisfied this letter is sufficient confirmation to accept that the applicant will reasonably be expected to provide the accommodation on behalf of the Minister.
- 8.2.4. The conditions and limitations of Class 20F restrict the occupation for the purposes of accommodating persons seeking international protection, shall be discontinued not later than 31 December 2028 and include notification to the relevant local authority before commencement of development. The refer notes these conditions and limitations and I am satisfied these can be reasonably complied with.
- 8.2.5. Having regard to the foregoing, I am satisfied that the proposed change of use would be consistent with the provisions of Class 20F and would comprise **exempted development**.

Associated works

- 8.2.6. The referral includes current floor plans of the entire building and proposed floor plans for the ground, second and third floors. Significant internal alterations are proposed to accommodate the proposed use, including the creation of 93 bedrooms, all with ensembles, among other uses such as storage, kitchens, social spaces and associated administration offices. The basement, first and fourth floor are not subject of the referral. The referral states that the associated works 'will affect only the interior of the structure' and is within the provisions of Section 4(1)(h) of the Planning and Development Act, 2000.

- 8.2.7. No external elevations have been submitted although there are no external changes cited in the referral and I am satisfied that the provisions of section 4 (1)(h) of the Planning and Development Act, 2000 (as amended), applies i.e. works which affect only the interior of the structure. Therefore, I consider that the proposed associated works comprise **exempt development**.

8.3. **Restrictions on Exempted Development**

- 8.3.1. Article 9 (1)(a-d) of the Planning and Development Regulations, 2001 (as amended) sets out the restrictions on exemption i.e. the circumstances under which Class 20F would not be exempt. The referral submission notes Condition No 5 of the parent permission (Reg Ref No. 06/30815) which restricts the use to Business and technology uses as defined in paragraph 10.6 of the Cork City Development Plan 2004, and subject to agreement of the Planning Authority. They note paragraph 10.6 of this 2004 development plan included office-based industry. In this regard they note the building was in office use and therefore comes within the scope of Class 20F.
- 8.3.2. Article 9 (1)(a)(i) restricts the exemptions in cases which would contravene a condition attached to a permission. I note the judgement in Leitrim County Council and Dromaprop Ltd. [2024] IEHC 233 which states that any reference to contravention of a condition (and in particular in the context of an exemption arising from doing something specifically allowed by an exemption, such as a change of use specifically allowed) does not include reference to a condition whose only relevance is merely that non-compliance is inherent in the very action being permitted. I consider that Condition No 5 as indeed required a commercial use, which the applicant states was compliant. The condition does not restrict a change of use applicable under any exemptions in the Regulations and therefore I do not condition it a restriction in this instance.

9.0 **Appropriate Assessment (AA) Screening**

- 9.1. I have considered this application in light of the requirements of section 177U of the Planning & Development Act, 2000 (as amended).
- 9.2. The five storey Cube building subject of the referral is located in a largely industrial / commercial area within the built-up area of Cork city, to the south east of the city centre. The referral involves the proposed temporary change of use of four floors from

office use to use to accommodate or support displaced persons or persons seeking international protection and associated works. The associated works would involve internal alterations within the building only and no external works.

9.3. The nearest European site is Cork Harbour SPA approximately 1.6km to the southeast.

9.4. Having considered the nature, scale and location of the proposed development I am satisfied that it can be eliminated from further assessment because it could not have any effect on a European site. The reasons for this conclusion are:

- the relatively small scale and nature of the proposed development which comprises a change of a use of four storeys of an existing five storey building with the only works being internal.
- the approximate 1.6km distance from the closest European site and lack of connections (the site is in an urban location and there is no watercourse adjoining the subject building).

9.5. I conclude, on the basis of objective information, that the proposed development would not have a likely significant effect on any European site either alone or in combination with other plans or projects. Likely significant effects are excluded and therefore AA (under section 177V of the Planning & Development Act, 2000 (as amended)) is not required.

10.0 Environmental Impact Assessment (EIA) Screening

10.1.1. The subject development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended. No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination. Refer to Form 1 in Appendix 1 of report.

11.0 Recommendation

11.1. I recommend that the Commission should decide this referral in accordance with the following draft order.

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 use to accommodate or support displaced persons or persons seeking international protection and associated works 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 question for review to An Coimisiún Pleanála on 24th of February 2026:

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

- (a) Section 2 (1) of the Planning & Development Act, 2000 (as amended),
- (b) Section 3 (1) of the Planning & Development Act, 2000 (as amended),
- (c) Section 4 (1)(h) of the Planning & Development Act, 2000 (as amended),
- (d) Article 6 (1) and article 9 (1) of the Planning & Development Regulations, 2001 (as amended),
- (e) Part 1 of Schedule 2 of the Planning and Development Regulations, as amended, and Class 20F thereof,
- (f) The planning history of the site,
- (g) the nature of the current use of the Cube building,
- (h) the pattern of development in the area,

- (i) the provisions of the Cork City Development Plan 2022-2028,
- (j) The submissions of Cherryinn Limited, Cork City Council,

AND WHEREAS An Coimisiún Pleanála has concluded that –

- (a) The temporary change of use of the ground, 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 in section 3 (1)(a) of the Planning and Development Act, 2000 (as amended).
- (b) The temporary change of use of the ground, 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 **exempted development** as it comes within the scope of Class 20F of Schedule 2 Part 1 of the Planning and Development 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 & Development Act, 2000 (as amended) hereby decides that the temporary change of use of the ground, 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 development and is exempted development.

02nd of July 2026

Appendix 1 – Environmental Impact Assessment (EIA) Pre-Screening

Case Reference	ABP-324106-26
Proposed Development Summary	Change of use of part of an office building to accommodate or support displaced persons or persons seeking international protection and associated works
Development Address	The Cube Building, Monahan Road, Ballintemple, Cork
	In all cases check box or leave blank
1. Does the proposed development come within the definition of a ‘project’ for the purposes of EIA? (For the purposes of the Directive, ‘Project’ means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	☒ Yes, it is a ‘Project’. Proceed to Q2. The proposed temporary change of use is not a project but the internal works to facilitate the change of use is a project. ☐ No. No further action required.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning & Development Regulations, 2001 (as amended)?	
☐ Yes, it is a Class specified in Part 1.	
☒ No, it is not a Class specified in Part 1. Proceed to Q3	
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning & Development Regulations, 2001 (as amended), OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	

☒ No, the development is not of a Class specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994.	
☐ Yes, the proposed development is of a Class and meets/exceeds the threshold.	
☐ Yes, the proposed development is of a Class but is sub-threshold.	

4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?	
Yes ☐	
No ☒	Pre-screening determination conclusion remains as above (Q1 to Q3)