

An
Coimisiún
Pleanála

Direction
ABP-322400-25

The submissions on this file and the Inspector's report were considered at a meeting held on 16/12/2025.

The Commission decided on a split vote majority of 2:1, as set out in the following Order as follows:-

WHEREAS questions have arisen as to:

- (a) whether the use of Park House, Ashdale Road, Dublin as a residential dwelling, constitutes exempt development or does not constitute exempt development, and
- (b) whether the use of a residential building, where care is not provided, to house homeless persons, constitutes exempted development or does not constitute exempted development,

AND WHEREAS Cooleridge Limited care of Hughes Planning and Development Consultants of 85 Merrion Square, Dublin requested a declaration on those questions from Dublin City Council, and the Planning Authority issued a declaration on the 2nd day of April 2025, stating that the matter constitutes development and is not exempted development:

AND WHEREAS Cooleridge Limited referred this declaration for review to An Coimisiún Pleanála on the 29th day of April 2025:

AND WHEREAS An Coimisiún Pleanála, having considered the totality of the information on file, reframed the query for reasons of clarity to read:

‘whether the use of a residential building known as Park House, and where care is not provided, to house homeless persons is or is not development and is or is not exempted development’,

AND WHEREAS in arriving at its decision, the Commission had regard to:

- (a) Section 2(1), 3(1) and 4(1)(h) of the Planning and Development Act, 2000, as amended,
- (b) Section 39(3)(a) of the Planning and Development, 2000, as amended,
- (c) the planning history of the site, including ABP Ref: PL29.5/87595, whereby permission was granted for a temporary period of 5 years for a change of use of part of premises from residential use to Montessori school/crèche within a part of the building,
- (d) information on file including drawings submitted by the referrer of existing and proposed plans where the building is shown to be laid out as part residential use and part former crèche use,
- (e) No works beyond minor work are stated to have been undertaken pursuant to s4(1)(h) of the Planning and Development Act 2000, as amended,
- (f) the report and recommendation of the Planning Inspector,

AND WHEREAS An Coimisiún Pleanála has concluded that:

- (a) the former crèche facility within part of Park house, permitted for a temporary five-year period, is governed by Section 39(3)(a) of the Planning and Development, 2000, as amended and accordingly reverted to residential use after the expiration of that temporary period, notwithstanding that it is stated that it continued its crèche use until 2023, and accordingly the commission was

satisfied that the area occupied by a former crèche is in residential use at the time of the question referred,

- (b) There is no evidence that, in planning terms, the residential use of all or any part of the building has been abandoned, notwithstanding that the crèche facility continued its use in part of the building for a stated period of approximately 26 years post its permitted temporary period of five years,
- (c) The current use of the building as a residential use and the intended use to house homeless persons where care is not provided are both residential uses and therefore no material change of use and as a consequence no development within the meaning of section 3 of the Planning Act 2000, as amended arises.

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 use of a residential building known as Park House, and where care is not provided, to house homeless persons does not constitute development.

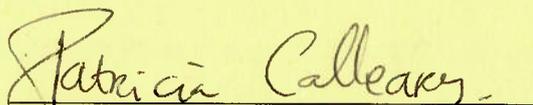
In not accepting the inspector's recommendation that the matter in the question referred is development and is not exempted development, the commission did not share this finding. The commission noted the inspector considered that the residential use in the building that was occupied by the crèche had been abandoned in planning terms and the resumption for residential use constitutes a material change of use. The commission reached a different conclusion, finding that no abandonment of use occurred, on the basis that there is no evidence that the residential use of the area that was occupied by the crèche (unauthorised for a substantial period) has been abandoned. In this regard, the commission considered the abandonment tests set out in 'Environmental and Planning Law in Ireland' (Yvonne Scannell, 2006) are relevant. Specifically, the commission concluded that there is no evidence put in front of it of the intention of the owner and/or occupier to abandon the residential use and accordingly fails that test. Accordingly, the commission was satisfied that the resumption of residential use did not constitute a material change of use and in turn did not constitute development.

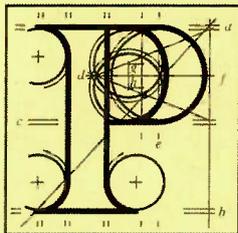
In relation to the inspector's finding that an intensification of use would/has occurred by reference to the proposed use when compared to a residential dwelling, the commission noted that the existing use is not shown on the drawings as an existing dwelling but rather is laid out across multiple residential units (and a former crèche). In this context, the commission concluded that no unreasonable intensification of use would arise that would lead to a material change of use or development and increased occupancy alone is insufficient where the use remains as residential.

Planning

Commissioner:

Date: 16/12/2025


Patricia Calleary.



An
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Pleanála

Direction
CD-021536-25
ABP-322400-25

The submissions on this file and the Inspector's report were considered at a meeting held on 10/12/2025.

The Commission decided to defer this case for consideration at a further meeting.

Planning

Commissioner:

Date: 10/12/2025

Patricia Calleary

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