An Coimisiún Pleanála

Inspector's Report
ABP-322400-25

Question	Whether the use of Park House is or is not development and whether it is or is not exempted development and whether the use of a residential building to house homeless persons is or is not development and whether it is or is not exempted development.
Location	Park House, Ashdale Road, Dublin 6W

Declaration

Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	0447/24
Applicant for Declaration	Coolebridge Limited
Planning Authority Decision	Is not exempted development.

Referral	First Party
Referred by	Coolebridge Limited
Owner	Coolebridge Limited
Observers	Brian & Darina Mangan

	Martin and Caroline McGuinness
	Margaret Brennan
	Meriel Huggard
	Daniel O'Connell
	Michael & Aileen Mulloolley
	William B Flynn
	Celine Boode
	Lorcan Colclough
	Tony Gaynor
	Richard Collins
	Ivan Healy
Date of Site Inspection	7th October 2025
Inspector	Aoife McCarthy

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1.0 Site Location and Description

1.1. The subject proposal relates to Park House, located at Ashfield Road, and Ashfield Gardens, Terenure, Dublin 6W.

1.2. The site comprises a detached building set within its own grounds. The house and rear garden have been subdivided, with residential use on the eastern side of the building. A former crèche / ("Manor Montessori") is located within the eastern side of the building.

1.3. Internally, the residential component includes 5 no. 1 bed apartments at ground, 1st and attic levels. The units are accessed from external doors at ground floor level and via an internal staircase to the south of the building, exiting at No. 1 Ashfield Gardens.

1.4. The former crèche was located at lower ground, 1st, 2nd and attic levels. The uses included an office, lobby, kitchen with storage, laundry with separate storage, 2 no. communal areas, and 2 no. WCs at basement level; 6 no. classrooms at ground to 1st floor levels, an entrance area at ground floor level, 2 no. bathrooms and a store at 1st floor level, a bedroom and storage area at attic level. An internal staircase extends through the crèche facility.

1.5. There is a gated entrance from Ashfield Road serving both uses and 2 no. pedestrian accesses to Ashfield Gardens serving the residential use. The site boundaries to the north and east, fronting Ashdale Road and Ashfield Gardens include metal fencing, capped concrete wall with intermittent trees.

1.6. The building comprises a mix of brick, rendered brick, concrete finish.

2.0 The Question

2.1. This referral has related to two questions as set out below:

(1) Whether the use of Park House, Ashdale Road, Dublin 6W as a residential dwelling, constitutes exempt development or does not constitute exempt development?

(2) 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?

2.1.1. From a review of the file, the proposals relate to the use of all of Park House, integrating a section comprising a former crèche, combining with existing apartments to provide accommodation for homeless persons.

2.1.2. I consider that the questions should be combined to a single query, as below:

> "Whether the residential use within the eastern portion of the building has been abandoned and whether the use of the building to house homeless persons, constitutes exempted development or does not constitute exempted development."

3.0 Declaration

3.1.1. Following a request from Cooleridge Limited the Planning Authority issued a declaration 2nd April 2025 as follows:

(1) The use of Park House as a residential dwelling is development as a material change of use has occurred and is not exempted development as the residential use in the eastern section of the building has been abandoned and the established use is a crèche/Montessori school, in which there is no exemption to change from this established use to a residential use.

(2) The use of the residential building, where care is not provided, to house homeless persons, is development as a material change of use has occurred and is not exempted development as the change of use raises planning considerations that are materially different to planning considerations relating to the established use.

3.2. Planning Authority Reports

3.2.1. Planning Report (1st April 2025)

- The report sets out that the area fronting onto Ashdale Road has been in use as a crèche and Montessori school, with access from Ashdale Road.

- The remaining area would appear to be in a separate residential use, accessed from Ashdale Gardens.
- A temporary permission with an expiry date in 1997 was granted for use of part of the house as a crèche and Montessori school (Reg. Ref. 2261/91.)
- The report notes that the covering submission states that the use as a Montessori school and crèche ceased in 2023 but does not state whether this use occupied the entire house or whether the remainder of the house is still in five residential units.
- The residential use in the eastern section of the building is considered to have been abandoned and the resumption of this residential use is not considered to be exempted development.
- The report recommends that the applicant submit FI relating to the following; (1) Submission of floor plans of existing and proposed uses (2) clarification on the extent of childcare and multiple occupancy residential uses within the building. (3) Submission of a copy of the An Bord Pleanála Grant of Permission for a childcare facility in the building (4) Clarification as whether it is intended that the proposal would relate to a single dwelling, with shared kitchen and dining facilities, or a building subdivided into a number of residential units, and should outline any additional services provided within the building (such as administrative services, meals or laundry).
- The report notes the response to the items of FI as follows: 1) the proposal to include a change from 5 no. self-contained units with 14 no. bedrooms, with shared communal spaces at lower ground to attic levels; (2) The report notes the referral relates to the eastern and western sides of Park House; the case of the applicant that the western area of the site remains in residential use and the eastern area reverted to residential use following the expiry of the temporary permission in 1997; reference to Class 14(e) of Schedule 2, Part 1, a change of use from two or more dwellings to a single dwelling in any structure which was previously used as a single dwelling is exempted development.; a copy of the decision of An Bord Pleanála (ABP Ref.: 29/587595) has been submitted confirming that the permission relating to crèche ceased after a five-year period. 4) the proposal would operate as a

shared residential facility with communal amenities for residents, to be co-ordinated with the Dublin Region Homeless Executive (DRHE).

- With respect to abandonment of use: The crèche use, whilst only authorised to operate for a period to 1997, operated in the eastern area of the building until 2023. There has therefore not been a residential use in this area since the crèche began operating, which was at some point between 1992 and 1997 (i.e. between 28 and 33 years ago). The enforcement case (E1080/24) is in respect of works and not in relation to the use as a crèche. This use ceased in 2023 prior to the making of the complaint.
- The report concludes that the residential use in the eastern section of the building has been abandoned. The resumption of a residential use in the building is considered to constitute a material change of use, which would constitute development, and is not considered to be exempted development.
- The proposed change from a single dwelling to the proposed use would be a material change of use; noting that a change of use of more than four rooms in a private house to bed and breakfast accommodation is not exempted development and requires planning permission.
- The report refers to Class 14(f) (Part 1 Schedule 2) of the Regulations, a change of use from use as a house to use as a residence for persons with an intellectual or physical disability or mental illness and persons providing care for such persons. This is subject to the number of persons with a disability or illness living in the residence not exceeding six and the number of resident carers not exceeding two.
- The report states that the proposal constitutes residential accommodation for homeless persons, for up to a minimum of 20 persons, noting that occupancy per room has not been shown. This together with the provision of an onsite management is considered to result in a greater intensify of use than as a single dwelling.
- The proposed use could therefore be considered as a hostel for homeless persons policy, under QHSN28 of the Development Plan.

- The report concludes that the facility providing between 12 and 14 bedrooms, with an unspecified number of bedspaces, to accommodate homeless persons for an unspecified period, and including an on-site management presence, is considered to be a more intensive use than a single dwelling. A change of use from a single dwelling to a facility of this nature would therefore constitute a material change of use.

3.2.2. **Other Technical Reports**

- None received.

4.0 Planning History

4.1. Subject Site

4.1.1. **P.A. Reg. Ref: 2834/25**: The local authority issued a Notification of a Decision to Grant Permission in November 2025 for change of use and conversion of a part two-storey with attic level and over lower ground floor, former part residential and part crèche / Montessori buildings, to use as a family hub (8 no. ensuite residential accommodation units), with vehicular access from existing access on Ashdale Road and 2 no. existing pedestrian entrance gates along Ashdale Gardens. The works include the provision of communal and staff facilities, centrally located steps and hallway at lower ground and first floor levels, 6 no. car parking and all associated works. Condition 3 limits the duration of the permission to a period of 3 years.

4.1.2. **ABP Ref.: PL29/5/87595; P.A. Reg. Ref 2261/91**: Permission granted in November 1991 by Dublin Corporation and subsequently by An Bord Pleanála in November 1992, for change of use of part of premises from residential use to Montessori school/crèche.

4.1.3. Condition 1 as attached by both the local authority and the Board, required that the permission would case after a period of 5 years from the date of this order unless before that date planning permission for its retention has been granted by the Planning Authority or An Bord Pleanála on appeal.

4.1.4. **P.A. Reg. Ref 1895/85**: The applicant's covering submission refers to a previous grant of permission for change of use from apartments to a nursing home.

4.1.5. **E1080/24:** Open enforcement case relating to alleged major construction / demolition in absence of planning permission.

4.2. **Cases Cited by the Referrer**

4.2.1. **P.A. Reg. Ref.: 0267/24 - 34 North Circular Road, Dublin 7**. Dublin City Council issued a Declaration on the 19th of September 2024 for 'The continued use of a residential building, where Care is not provided, to house homeless persons, is not development'.

4.2.2. The Council considered that the continued use of a residential building, subdivided into 12 no. bedsit rooms prior to the coming into force of the Planning & Development Act 1963 to house homeless persons in 11 no. net bedrooms, does not constitute a material change of use and, therefore, does not constitute development for the purpose of the Act.

4.2.3. **P.A. Reg. Ref.: 0396/24 46 - Cabra Road, Dublin 7**: on 26 November 2024 Dublin City Council issued a Declaration, that the continued use of a residential building, where care is not provided, to house homeless persons, is not development'. The property is a 2-storey semi-detached dwelling.

4.2.4. The Planners Report concludes that the use of property as accommodation for homeless persons is not providing residential accommodation and care; and as a result does not constitute a material change of use.

4.3. **Other Relevant Cases**

4.3.1. **ABP Ref: 310505 -** In March 2022, the Board decided that the use of the property as a guest house which provides rooms on a nightly basis offering Bed and Breakfast to Dublin City Council/Dublin Regional Homeless Executive to accommodate homeless people, is or is not development or is or is not exempted development. 16 Hollybrook Park, (a Protected Structure) Clontarf, Dublin 3 is not development.

4.3.2. The Board considered that the permitted use of the property as a guesthouse continues to be extant and valid, and has not been abandoned, (b) the permitted use of the property as a guesthouse would continue without the introduction of any different services, and (c) the accommodation of homeless people within the

guesthouse would not result in effects which would materially change the use of the property.

4.3.3. **ABP Ref.: 309873** - In March 2022, the Board decided exactly as per **ABP Ref: 310505** above, on a concurrent referral case on the same question.

4.3.4. **ABP Ref. 308540** – In April 2021 the Board decided that the change of use from residential to a hostel for homeless accommodation is development and is not exempted development. In this case, Dublin City Council had entered into a contract (5 years) with the owner to use the property as emergency accommodation for homeless single persons and that the owner would continue to manage the property under the supervision of the Dublin Regional Homeless Executive.

4.3.5. The Board considered that the new use for the provision of residential accommodation and 'care' (as defined in Article 5 of the Regulations) was defined under Class 9 (a) of Part 4 of Schedule 2 of the Regulations and was a material change of use by reason of providing a different service to a different user group. It considered that the material change of use would not come within the scope of Article 10(1) of the Regulations as it does not constitute a change of use within any one class.

4.3.6. Furthermore, the Board considered that, in the absence of evidence of the application of Policy QH30 and section 16.12 of the Dublin City Development Plan 2016-2022 in considering the proposal to develop and change the use of the premises, the Council in entering into the contract, effected development in the city which contravenes materially the development plan contrary to the provisions of section 178(2), by failing to comply with the specific procedures for such developments, and, therefore, any exemption which might have been available under the provisions of section 4(1)(f) cannot be availed of.

4.3.7. **ABP Ref. 307064** – in September 2020 the Board decided that the change of use of Westbrook House (Ennis, Co. Clare) from commercial guesthouse to a homeless persons hostel managed by an approved housing body is development and is not exempted development. Westbrook House at the time of the referral was in the ownership of Clare County Council and operated under the management of Mid-West Simon.

4.3.8. The Board considered that the use as a homeless hostel involved the provision of 'care' and came under Class 9 (a) of Part 4 of Schedule 2 of the Regulations.

4.3.9. **ABP Ref. 305515** – In February 2020, the Board decided that the change of use from a nursing home to use as a homeless accommodation facility is development and is exempted development.

4.3.10. **ABP Ref. 303392** – in September 2019 the Board decided that the change of use of a monastery to use as a hub/hostel for homeless families at the Carmelite Monastery, Firhouse Road, Dublin 24, is development and is exempted development. The Board considered that the material change of use took place on behalf of South Dublin County Council (a local authority) pursuant to a contract entered into by the local authority (and a service provider) acting its capacity as a housing authority, which comes within the scope of the exemption provided for under Section 4(1)(f) of the Act.

4.3.11. **ABP Ref. 301688** – in February 2019 the Board decided that the conversion of the premises at Nos.57, 59 & 61 Cabra Road (Protected Structure) which was in use as a nursing home, to a supported homeless accommodation facility is development and is exempted development.

4.3.12. The Board considered that the material change of use would come within the scope of Article 10(1) of the Regulations, being a change of use within Class 9 of Part 4 of Second Schedule, from Class 9(b) to Class 9(a).

5.0 Policy Context

5.1. Dublin City Development Plan 2021-2028

5.1.1. The site is subject to Z1 'Existing Residential', with an objective to "protect and enhance the amenity and character of developed residential communities."

5.1.2. Buildings for the health, safety and welfare of the public, childcare facility and residential uses are Permitted in Principle under this zoning objective.

5.2. Natural Heritage Designations

5.2.1. There are no European sites within the subject site.

5.2.2. The closest European sites to the subject site are the South Dublin Bay SAC (site code: 000210) and the River Tolka Estuary SPA (Site Code: 004024) SPA (Site Code: 004024), which share a boundary, and located c.5.27 km to the east at their closest point.

5.2.3. The closest site with a NHA designation is the Grand Canal pNHA (Site Code: 002104), located 1.75km to the north of the site.

5.3. EIA

5.3.1. The proposed development does not come within the definition of a 'project' for the purposes of EIA, that is, it does not comprise construction works, demolition or intervention in the natural surroundings. Refer to Form 1 in Appendix 1 of report.

6.0 The Referral

6.1. Referrer's Case

6.1.1. The First Party, the referrer in this case is seeking a review by the Commission of the planning authority declarations dated 2nd April 2025, as prepared by Hughes Planning & Development Consultants, on behalf of the applicant, and as summarised as follows:

- The Planning Authority did not consider the question put before them and instead applied a standard of assessment more appropriate to a planning application.
- The Referrer seeks to clarify the following two queries:

(i) Whether the eastern portion lawfully reverted to residential use following the expiry of a temporary permission for a crèche / Montessori facility.

(ii) whether the proposed use as homeless accommodation constitutes a material change of use requiring planning permission.

6.1.2. The Referrers case includes the following key provisions:

1) Unauthorised Continuation does not establish lawful use –

- The eastern half of Park House was subject to a temporary planning permission for crèche/Montessori use which expired in 1997.
- Under Section 39(3) of the Act, and as clarified in St. Margaret's Recycling v An Bord Pleanála [2024 IEHC 94], the temporary permission does not endure for the benefit of the land.
- The referrer also has regard to St. Audeon's School c An Bord Pleanála [2021], IEHC 453 with respect to the nature of temporary permissions. In both cases, the High Court confirmed that once a temporary permission expires the land reverts automatically to its prior lawful use, regardless of any unauthorised activities that may have occurred thereafter.
- Upon expiry, the lawful pre-existing residential use revived automatically.
- The subsequent unauthorised continuation of crèche activities did not extinguish or replace the underlying residential use.

2) No abandonment of residential use:

- The residential use of the eastern half of Park House has not been abandoned.
- In line with the principles established in Dublin County Council Management Block Company [1985] ILRM 512 and Kildare County Council v Goode [1991 2 IR, 495] abandonment requires both physical cessation and a demonstrable intention not to resume the use. Neither is evident in this case.
- The referrer has regard to the concept of abandonment of use, in the decision of Kildare County Council v. Goode [1999] 2 IR 495 and tests as listed in 'Environmental and Planning Law in Ireland' (Yvonne Scannell. 1995). The report concludes as follows with respect to each of these tests as they relate to the restoration of residential use within the eastern section of the property:

    1. The intention to abandon or not to abandon: the objective facts demonstrate a consistent intention to maintain and resume the residential use of the property as a dwelling in due course.
    2. The period during which the use was discontinued: The original residential use of the eastern portion of Park House persists as a matter of law and

remains unaffected by the unauthorised development and period of disuse.

3. Whether or not there have been any intervening uses: There have been no intervening uses inconsistent with the resumption of the lawful residential use in the eastern portion of Park House.
4. The physical condition of the land or structure: Overall, the physical condition of the property was found to be in good condition, with clear evidence that the property was used as a dwelling.

- The building retains its residential character. Minor works carried out constitute exempted development under section 4(1)(h) the Act.

3) Proposed use to combat homelessness in Dublin:

- The use of the property as accommodation for homeless persons, where no care or support services are provided on site. Socio-economic status or personal circumstances of future occupants are not planning considerations. This position is supported in Dublin Corporation v Moore (1984, ILRM 339]. Accordingly, the proposed use of Park House to accommodate homeless persons without the provision of care constitutes a continuation of the established residential use.
- The continued residential use of Park House, including its proposed use to accommodate homeless persons, where no care is provided, does not constitute a material change of use. There is no institutional, managed care, or support service provided beyond ordinary management and administration typically associated with residential accommodation for homeless persons. The operational character of the building remains residential.
- The eastern portion of Park House reverted lawfully to its prior residential use, following the expiration of its temporary crèche permission. The proposal to amalgamate both portions into a single residential dwelling under Class 14(e) (Part I, Schedule 2 of the Regulations 2001 (as amended) constitutes exempted development.
- The case is supported by planning precedent cases 0267/24; 0396/24 (see above).

4) The proposed use will not materially intensify the existing residential use applying the criteria set out in Cork County Council v Slattery Pre-Cast Concrete [2008, IEHC 291], and Molloy v Minister for Justice [2004] IEHC 74, the proposed development would not give rise to any material intensification of use that would amount to development under the Planning and Development Act 2000 as amended.

- Accordingly, it is submitted that:
  - the lawful use of the eastern portion of Park House remains residential.
  - the proposed amalgamation of the western and eastern halves of the building constitutes exempted development under Class 14(e).
  - the proposed change of use from its lawful residential use to use as homeless accommodation does not constitute development requiring planning permission under the Act.

6.2. **Planning Authority Response**

6.2.1. None received.

6.3. **Further Responses**

6.3.1. A total of 12 no. observations were received by the Board from residents within the immediate environs of the site, the grounds of which can be summarised as follows:

- Material change of use/intensification would occur, due to highly transient population; high level of occupancy; 24 hour usage. No management or servicing presence has been established.
- Loss of residential amenity and impact on the Ashdale community and neighbourhood.
- Impact on amenity / enjoyment of homes in the area;
- Negative impact on residential character in a mature established area;
- Lack on crèche and nursing home facilities in Terenure.

- The use of Park House as a commercial large scale, hostel style occupancy is not exempt due to established residential use of the house, and intensification of use involved.
- A HSE high dependency house located within the area should be taken into consideration.
- The eastern section of Park House was continuously used as a Montessori crèche for 30 years (from 1992 – 2023).
- Refute the argument of the Applicant that there has been a period of disuse of the building.
- The crèche side of the building has never been used for residential purposes.
- The western section comprises 5 no. apartments, one of which has historically been used by the crèche for a period of time, via an internal access from the building in residential use.
- As the local authority did not service a Notice regarding discontinuation of the use of the building as a crèche within the 7-year period; it is therefore not unauthorised development (s.46 (1) of the Act refers.)
- Supports the decision of the PA that the proposed change of use to house homeless persons constitutes development with different considerations.
- Lack of detail with respect to the multi-unit development; and health and safety implications.
- The use as homeless accommodation managed by the DRHE has not been confirmed; and suggests the intention is to provide emergency.
- The applicant has no connection to the local area.
- The applicant should have engaged in consultation in this case.
- The proposal should comply with Building Regulations (not specified).
- Inconsistent with local area, comprising a residential community, with narrow streets.
- The community are advancing proposals to enter the building on the RPS.

- The residential use in the eastern half has been abandoned, with the crèche operating for a significant period of time (1997-2023), and no residential use since this time.
- The works required to bring this part of the building to residential use are substantial; and demonstrate that it was never the intention to revert to residential use.
- The entrance to Park House from Ashdale Road has been extended (without planning permission). The use of the widened access onto Ashdale Road which is not sufficiently wide for two vehicles to pass will negatively affect traffic flow and safety in this area.
- The use of the building as homeless accommodation constitutes an intensification of use, with significant numbers visiting the centre daily, with noise impacts arising. The facility would have to include level of medical and psychological care and treatment as well as supports such as meals.
- No indication of numbers has been provided.
- An unauthorised use or temporary use which was carried on for 20 years does not automatically revert to an authorised use; nor is it permissible to declare that an unauthorised use automatically reverts to residential use, which can thereafter be declared exempted development.
- The closure of the crèche facility was a loss to the local area.
- The appellant has produced no evidence that the house was in residential use prior to its use as a crèche in 1997.
- The argument that the use of Park House as a crèche as having been in continuous residential use since 1997 cannot be supported by judicial decisions cited by the applicant.
- Legal precedent relating to (St. Audeon's School) has been misrepresented and relates to "whether it was unreasonable to grant a temporary permission which authorised the use for a three year period".
- Quotes relating to the St. Margarets Recycling, relating to non-conforming uses have been taken out of context. The case concluded that non-

conforming uses within the Development Plan are a matter of law rather than planning judgement, whereas intensification of use is a matter of planning judgement.

- Planning precedent cases relating to the use of a residential property as homeless accommodation do not apply. The cases referenced relate to whether continuation of residential use within multi-unit properties without the provision of care should be classed as a continuation of residential use in the context of those properties. Park House has never been a multi-unit property.
- The Board has previously determined that a change of use from residential accommodation to hostel accommodation for homeless persons constitutes development and is not exempted development. The Board also concluded that the provision of care to the residents in the form of social care, was not residential in use (ABP Ref.: 308540-20 see above).
- With respect to the intensification of use, reference is made to Simons Planning Law (3rd ed.) states that the most common complaint with respect to intensification arises in a comparison of the scale of operations with the prior use.
- Occupancy of Park House by 70-80 occupancy hostel accommodation represents an exponentially larger scale of use than any historical former use.
- The applicant has provided no evidence that the dwelling was previously used as a single dwelling/ when this occurred and as such, cannot avail of exemption under Class 14(e). It is plausible that the house has always maintained two separate residential properties on the one curtilage.

7.0 Statutory Provisions

7.1. Planning and Development Act, 2000 (as amended)

7.1.1. **Part 1, Section 2(1)** of the Act states that ""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. 'Development'; has the meaning assigned to it under section 3.

7.1.3. **Part 1, Section 3(1)** of the Act states that "in this Act, "development" means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land".

7.1.4. **Section 4(1)** sets out the various forms and circumstances in which development is exempted development for the purposes of the Act, including:

Section 4(1)(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 it inconsistent with the character of the structure or of neighbouring structures' is exempted development.'

7.1.5. **Section 39(3)(a)** states that:

Where permission to develop land is granted under this Part for a limited period only, nothing in this Part shall be construed as requiring permission to be obtained thereunder for the resumption, at the expiration of that period, of the use of the land for the purpose for which it was normally used before the permission was granted.

7.2. **Planning and Development Regulations, 2001 (as amended)**

7.2.1. **Article 5(1)** of Part 2 defines 'care' as personal care, including help with physical, intellectual or social needs.

7.2.2. **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".

7.2.3. **Article 9** states the following:

(1) Development to which article 6 relates shall not be exempted development for the purposes of the Act –

(a) If the carrying out of such development would –

(i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,

(viii) 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.

7.2.4. **Article 10** of the Planning and Development Regulations sets out circumstances in which a change of use is exempted development.

7.2.5. **Article 10, Part (1)** states that development which consists of a change of use within any one of the classes of use specified in Part 4 of Schedule 2, shall be exempted development for the purposes of the Act, provided that the development, if carried out would not:

(a) involve the carrying out of any works other than works which are exempted development,

(b) contravene a condition attached to a permission under the Act,

(c) be inconsistent with any use specified or included in such a permission, or

(d) be a development where the existing use is an unauthorised use, save where such change of use consists of the resumption of a use which is not unauthorised and which has not been abandoned.

7.2.6. **Class 14 (Part 1 Schedule 2)** lists the following as exempted development:

(e) Development consisting of a change of use from use as two or more dwellings, to use as a single dwelling, of any structure previously used as a single dwelling.

(f) from use as a house to use as a residence for persons with an intellectual or physical disability or mental illness and persons providing care for such persons. The number of persons with a physical disability or illness living in the residence shall not exceed 6 and the number of resident carers shall not exceed 2.

7.2.7. **Part 4 of Schedule 2** sets outs exempted development classes of use to which Article 10 refers:

Class 9

Use—

(a) for the provision of residential accommodation and care to people in need of care (but not the use of a house for that purpose),

(b) as a hospital or nursing home,

(c) as a residential school, residential college or residential training centre.

8.0 Assessment

8.1. Preliminary Matters

8.1.1. I inspected the site on the November 2025, during which works were being undertaken to and within the property. At the time of inspection an application had been made relating to change of use and use of the former part residential and part crèche / Montessori buildings, to use as a family hub with vehicular access from existing access on Ashdale Road (2894/34 refers). It was not sufficiently clear from this inspection, whether the works being undertaken related to this application.

8.1.2. The Referrer had supplied drawings of the existing and proposed uses within Park House. From site inspection, these accurately show existing uses throughput the property.

8.1.3. The third partes have raised concerns that the proposal would not meet Building and Health and Safety Regulations. For clarity, this appeal can also only address matters relevant under Section 34 of the Planning and Development Act, 2000 (as amended) (the Acts) and that, matters including those relating to, inter alia, compliance with Building and Health and Safety Regulations, are outside the scope of this report.

8.2. Is or is not development

Introduction

8.2.1. The Applicant had sought a determination relating to the two separate queries which I recommend combining to the following single query, as detailed in Section 2.0 of the Plan above:

Whether the residential use within the eastern portion of the Park House has been abandoned and whether the use of the building to house homeless persons, is or is not exempted development.

8.2.2. The purpose of this referral is not to determine the acceptability or otherwise of the abandonment of the residential use in the eastern portion of Park House and it's use to house homeless persons 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, falls within the scope of exempted development.

8.2.3. Section 3(1) of the Act defines development as "except where otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land." Under s.2 of the Act "works" includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal.

Works

8.2.4. The works as referenced by the Referrer relate to the use of Park House to house homeless persons. Park House currently comprises 5 no. apartments within the western side of the house and a former crèche within its eastern side. It is proposed that the uses will be amalgamated using the property in full to provide accommodation to house homeless persons.

8.2.5. From a review of plans as submitted at FI stage of the Section 5, the western section of the house consists of residential use comprising 5 no. 1 bed apartments within with 2 no. apartments each at ground and first floor levels, 1 no. at attic level with laundry and storage at basement.

8.2.6. A crèche facility has operated within the eastern side of the building.

8.2.7. Permission was granted for the change of use from residential to crèche facility by Dublin Corporation and subsequently by An Bord Pleanála in November 1992 (ABP Ref: 29/587595; P. A. Reg. Ref.: 2261/91). Condition 1 of the permission limited the duration of this permission to a period of 5 years. No subsequent applications have been made to further extend the duration of this use. The Referral states that the crèche/childcare facility operated for a period from 1992 -1997 until 2023.

8.2.8. From a review of the drawings as submitted at FI stage of the Section 5 and site inspection, the drawings correlate with this former use. The drawings illustrate a lobby, office, kitchen area with storage, 2 no. communal areas and 2 no. WCs at basement level; 3 no. classrooms each at ground and first floor levels (with 2 no. bathrooms and store on the first floor); storage and bedroom at attic level.

8.2.9. From a review of these same plans, the kitchen / living rooms within the apartment units would be reallocated as bedrooms within the proposed homeless accommodation. Within the former crèche facility, it is proposed that at basement level the communal room would change to a recreation room; 3 no. classrooms would be used as communal rooms at ground floor level. At first floor level, 3 no. classrooms would be used as bedroom units with no changes at attic level.

8.2.10. The drawings illustrate a total of 14 no. bedrooms within the homeless accommodation.

8.2.11. From a review of the drawings, there are no physical changes to the layout, with a change to the name of rooms only.

Material Change of Use

8.2.12. There is no statutory definition of 'material change of use'. However, I note the test proffered by Barron, J in The County of Galway v Lackagh Rock Ltd [1984 21 MCA] for the determining of whether or not a material change of use has occurred.

8.2.13. In this case, Barron, J considered that 'in determining whether or not a present use was materially different from a use being made on the appointed day one must look at matters which the planning authority would take into consideration if a planning application were made on both dates and if these matters are materially different (from the original use), then the nature of the use must equally be materially different were materially different than the present use must be equally materially different.'

8.2.14. In short, if the matters that a planning authority in considering a planning application for the use of overall building, including the integration of the crèche into a larger residence and then inclusion of apartment units combined to accommodate a larger residence with communal facilities to house homeless persons, are materially different to the matters that a planning authority would take into consideration in considering a planning application use as a crèche, and residential apartment

development then the uses must be materially different and a change from one use to the other must constitute a material change of use.

8.2.15. In this case, on the basis that the

Overall, I consider that the matters that a planning authority would take into consideration are materially different, with compliance with residential development and childcare guidelines applicable to the existing use only).

Thus, I consider that the change of use that the proposed change of use constitutes a material change, as the considerations are different, thereby constituting development.

8.2.16. As noted above, from a review of the existing and proposed drawings I am satisfied that the proposed change of use would not include any works.

Change of Use

8.2.17. The overall proposal would consist of the use of the property to house homeless persons. The intention is that the building would be subdivided into self-contained units and would operate as a shared residential facility with communal amenities for residents. No works are proposed as part of the change of use.

8.2.18. Article 10, Part (1) of the Regulations states that development which consists of a change of use within any one of the classes of use specified in Part 4 of Schedule 2 of the Regulations, shall be exempted development for the purposes of the Act, subject to meeting a series of criteria. Article 10 Part 1(d) refers to development where the existing use is an not an unauthorised use and which has not been abandoned.

8.2.19. I note that abandonment of use is not defined within the Acts. I refer the Commission to case law whereby Barron J. held that "Abandonment is the objective sign of a decision not to continue further with the development."

8.2.20. Case law on the matter suggests 4 no. tests of abandonment as listed in 'Environmental and Planning Law in Ireland' (Yvonne Scannell, 2006) as follows:

1. The intention of the owner and/or occupier to abandon or not abandon.
2. The period during which the use was discontinued.
3. Whether or not there have been any intervening uses.

4. The physical condition of the land or structure.

8.2.21. In this context, I note that the Planning Authority considers that the crèche was operating as an unauthorised use until 2023. They state that as enforcement action had taken place in relation to this use; crèche is the established use in that part of the building. Having regard to this and the length of time that the crèche operated, the Planning Authority consider that the residential use in this part of the building has been abandoned. The re-establishment of this use in this part of the building constitutes a material change of use, which therefore constitutes development.

8.2.22. With respect to the intention to abandon or not to abandon, the Referrer refers to the single permission at the subject site for a change of use from residential to crèche facility in 1992. No subsequent permissions were sought to seek a permanent change of use. No substantial work has been undertaken that would have altered the residential use of the property. Minor alteration works relating to the maintenance and improvement of the structure were undertaken, pursuant to s.4(1)(h) of the Act as amended. The Referrer also argues that there is no fixed minimum period of disuse required to establish abandonment under case law. I note that the Referrer appellant identifies that the structure is in good condition throughout. The Referrer states that the western section remains in multiple residential occupancy. The eastern area has reverted to its prior 'lawful' residential use, following the expiration of the temporary crèche permission.

8.2.23. In this case, the crèche (a non-residential use) operated in the eastern section of the building for a period from grant of permission in 1992 to 1997, depending on commencement of this use, until 2023. A period of 26 to 31 years (21-25 years as an unauthorised use.) The western section has remained in residential use for this duration. Having regard to the duration of the period, I consider that the residential use within the eastern section of the house has been abandoned. Whilst I acknowledge the argument that there is no fixed minimum period of disuse, I consider that every case needs to be determined on its own merits.

8.2.24. The Act, the Regulations and the Development Plan do not provide a specific definition of homeless accommodation. There is also no specified definition of a single dwelling unit.

8.2.25. The Referrer argues that the proposed use of Park house to accommodate homeless persons where no care of support services is provided, constitutes a continuation of the established residential use. The Referrer makes the case that the entire building may revert to use as a single dwelling under Class 14(e) of Schedule 2, Part 1 of the Regulations and that the building is therefore considered to be a single residential unit.

8.2.26. In this regard the applicant has specified that no care will be provided to residents, noting under Article 5 (1) 'care" means personal care, including help with physical, intellectual or social needs'.

8.2.27. I note that by way of reference and context, the PA has referred to Class (f) (Part 1 Schedule 2) of the Regulations relating to a change of use 'from use as a house to use as a residence for persons with an intellectual or physical disability or mental illness and persons providing care for such persons. This matter was raised by the PA in order to confirm the intended accommodation as part of the Section 5.

8.2.28. The PA includes reference to tourism hostel use, and Policy QHSN28 of the Development Plan refers to 'Temporary Homeless Accommodation and Support Services' on the basis that the policy implies a requirement to consider the provision of temporary homeless accommodation or support services as a separate and distinct use, and therefore a requirement to seek planning permission for the subject use.

8.2.29. The PA having had regard to the scale of the development, the number of bedrooms and potential number of bedspaces, the provision of an on site management facilities, cleaning and security, and notwithstanding the lack of clarity relating to the definition of a single dwelling unit, the proposed use as a residential building, where care is not provided, is considered to be a more intensive use than a single dwelling unit and is therefore considered to be a material change of use, which constitutes development, and is not consider to be exempted development.

8.2.30. From a review of the plans as submitted at FI stage of the Section 5, the drawings indicate a total of 14 no. bedrooms (with a total of 12 no. rooms referenced in the accompanying documentation). The occupancy per bedroom or in total is not shown. Given the size of a number of the rooms to potentially accommodate 2 or more persons, it is possible that the facility could result in accommodating at 20 persons.

This in association with on site management facilities, would, in my opinion, result in an intensity of use greater than that expected in the case of a single dwelling. It is therefore my opinion that the proposal constitutes a material change of use, which constitutes development.

8.2.31. In this context, I note that planning precedent cases (0267/24; 0396/24) as referenced by the Applicant/ Referrer, relate to the continuation of residential use where care is not provided, in properties which are in multi residential use. This is not the case with Park House, a property comprising a former crèche /childcare facility and residential use (5 no. apartments) to the east.

8.2.32. Having regard to the above, I consider that the residential use in the eastern section of the building has been abandoned.

8.2.33. The resumption of a residential use in this area is considered to constitute a material change of use, having regard to intensity of residential occupancy. The proposed development would therefore constitute development.

8.3. **Is or is not exempted development**

8.3.1. In the event that the Commission determine that the subject query constitutes development, I note a series of exemptions as set out below, which may be considered by the Commission, although I consider they do not specifically relate to the facts of the case before me, insofar as there is no allowance for a crèche to revert to a residence.

8.3.2. Under Class 8 (Part 4, Schedule 2) of the Regulations a change of use is exempted development, between the following:

a) use as a health centre or clinic or for the provision of any medical or health services (but not the use of the house of a consultant or practitioner, or any building attached to the house or within the curtilage thereof, for that purpose)

b) as a crèche,

c) as a day nursery,

d) as a day centre.

8.3.3. **Class 14 (Part 1 Schedule 2)** lists the following as exempted development:

(e) Development consisting of a change of use from use as two or more dwellings, to use as a single dwelling, of any structure previously used as a single dwelling.

8.3.4. The use of the crèche on the site, in your opinion, precludes the conversion of a multi unit building to a single dwelling and this class of exemption does not apply.

8.3.5. I have had regard to other considerations and in my opinion, there are no specific exemptions which allow the conversion this building to use for homeless accommodation and it is therefore, not exempt.

9.0 AA Screening

9.1.1. Having regard to the existing development on site, the minor nature of the development referenced in the questions above, the location of the referral site in a serviced area and the separation distance to the nearest European sites, no Appropriate Assessment issues arise, and it is not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

10.0 Recommendation

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

WHEREAS questions have arisen in relation to the following:

1) whether use of a Park House, Ashdale Road, Dublin 6W as a residential dwelling constitutes development or does not constitute development.

2) a question has arisen as to whether the use of a residential building, where care is not provided, to house homeless persons constitutes development and is or is not exempted development.

AND WHEREAS Coolebridge Limited requested a declaration on these questions from Dublin City Council and the Council issued a declaration on the 2nd day of April 2025 stating that;

(1) Having regard to length of time the crèche use operated, the residential use in this area of the building is considered to have been abandoned. The re-establishment of a residential use in this area is therefore considered to be a material change of use, which therefore constitutes development.

(2) The proposed change of use from a crèche or Montessori school to a residential use in part of a building previously used as a dwelling is not considered to be exempted development.

(3) Having regard to the scale of the proposed development as shown on the plans, the number of bedrooms, the number of potential bed spaces and the provision of an on-site management presence, the proposed use as a residential building, where care is not provided, is considered to be a more intensive use than a single dwelling unit and therefore considered to be a material change of use, which constitutes development, and is not considered to be exempted development.

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

AND WHEREAS An Coimisiún Pleanála, in considering this referral, 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(1)(a) of the Planning and Development Act, 2000, as amended,

(d) article 6(1) and article 9(1) of the Planning and Development Regulations, 2001, as amended,

(e) Parts 1 and 3 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,

(f) the planning history of the site,

(g) the pattern of development in the area:

AND WHEREAS An Coimisiún Pleanála consider the following revised query:

whether the residential use within the eastern section of a Park House, Ashfield Road, Dublin 6W has been abandoned, and whether the use of a residential building, where care is not provided, to house homeless persons constitutes development and is or is not exempted development,

AND WHEREAS An Coimisiún Pleanála has concluded that:

a) the residential use in the eastern section of the building has been abandoned.

b) resumption of a residential use in this area constitutes a material change of use.

Having regard to the scale of the proposed development, the number of bedrooms (including potential bed spaces),provision of an on-site management services, the proposed use as a residential building, where care is not provided, is considered to be a more intensive use than a single dwelling unit and therefore considered to be a material change of use, which constitutes development, and is not considered to be exempted development.

NOW THEREFORE An Coimisiún Pleanála, in exercise of the powers conferred on it by section 5 (4) of the 2000 Act, hereby decides as follows:

(1) that the uses of Park House as a residential dwelling is development and is not exempted development.

(2) the use of a residential building, where care is not provided, to house homeless persons constitutes development and is not exempted development.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Aoife McCarthy
Planning Inspector

1st December 2025

Form 1 - EIA Pre-Screening

Case Reference	322400-25
Proposed Development Summary	Whether the use of Park House is or is not development and whether it is or is not exempted development and whether the use of a residential building to house homeless persons is or is not development and whether it is or is not exempted development
Development Address	Park House, Terenure, Dublin 6W
	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. ☒ No, No further action required.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
☐ Yes, it is a Class specified in Part 1. **EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.**	
☐ 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 and 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. **No Screening required.**	
☐ Yes, the proposed development is of a Class and meets/exceeds the threshold. **EIA is Mandatory. No Screening Required**	
☐ Yes, the proposed development is of a Class but is sub-threshold. **Preliminary examination required. (Form 2)** **OR** **If Schedule 7A information submitted proceed to Q4. (Form 3 Required)**	

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 ☒	

Inspector: _____ Date: 01/12/2025

Inspector Report Discharge Form

322400

Lead Reporting Inspe... Aoife McCa...

General

File No:	322400

Please complete all relevant sections – (whether recommendation is to grant or to refuse)

(1) New Issues

New Issues	No

If 'Yes', provide brief description:

(2) Residential Development

(i) Number of dwellings: _____ as per my recommendation (enter...none...if refusal)

No. of Apts.

No. of Houses

Total No. of Units

(ii) Part V, Social and Affordable Housing

Section 96, Part V condition applies:

(3) Development Contributions (s. 48, s. 48(2) (c) and s.49)

Section 48 Development Contribution Scheme condition applies:	No
Section 48 (2) (c) Special Development Contribution condition applies:	No
Section 49 Supplementary Development Contribution Scheme condition applies	No

(4) Material Contravention of Development Plan

Section 37(2)(b) provisions apply:	No

(5) Statutory Notices (e.g. s.131/s.132)

Have all statutory notice periods expired? If 'No', the file should not be discharged.	No

(6) Habitats Directive

Is the integrity of a European site likely to be negatively affected?	No
Has AA, or screening for AA, previously been carried out by the EPA, and if so, has regard been had to this?	N/A

(7) EIA Development (including sub-threshold)

Does this application relate to an activity for which an IPPC or Waste Licence (or review of a Licence) is required from the EPA?	No
If an EIS was submitted, was the EPA notified and observations sought/received?	N/A
In the case of sub-threshold development where the submission of an EIS has not been sought, has the EPA been notified of this view and observations sought/received?	N/A

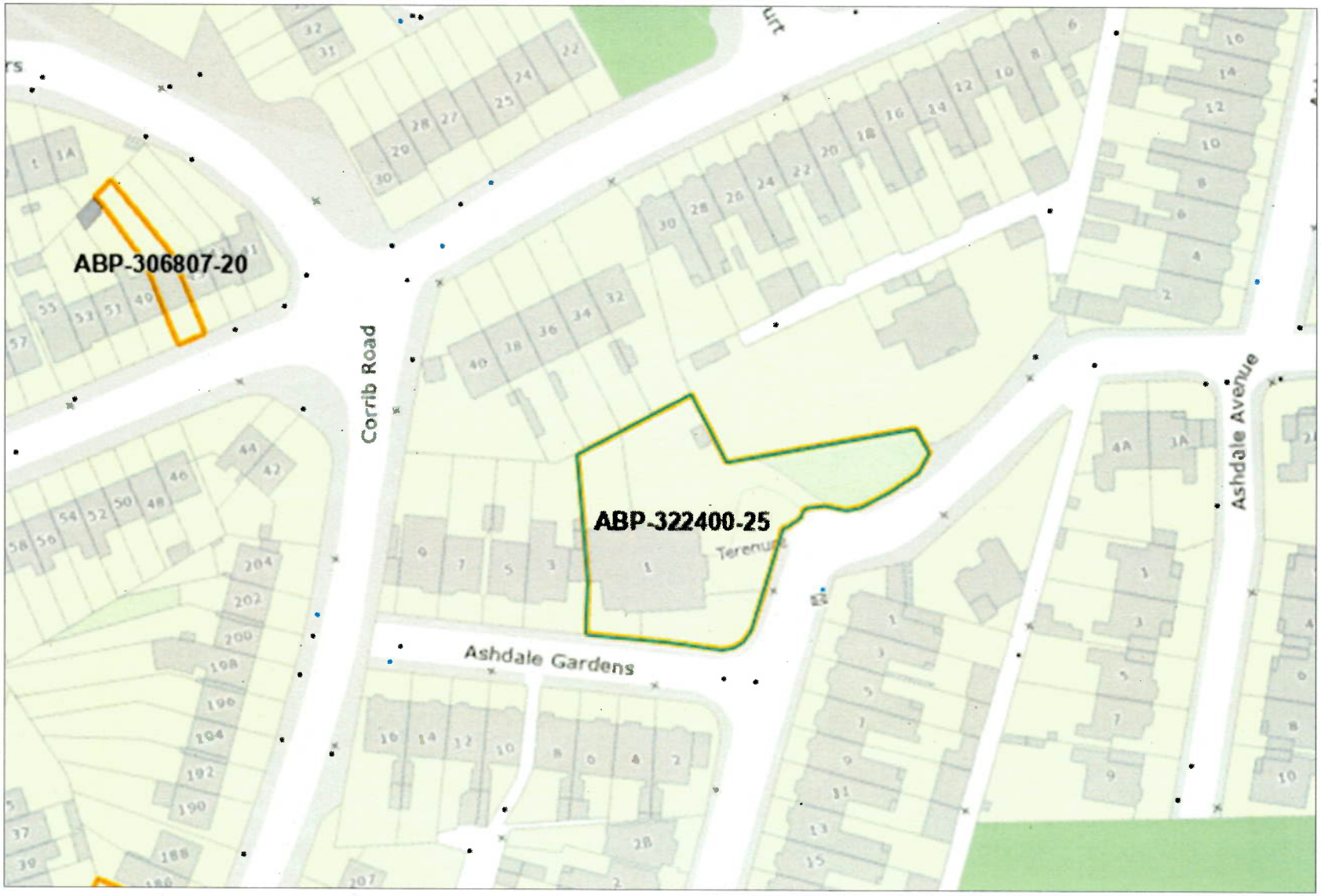
INSPECTOR	Aoife McCarthy
Date	01/12/2025

AO 01/12/25

Notes

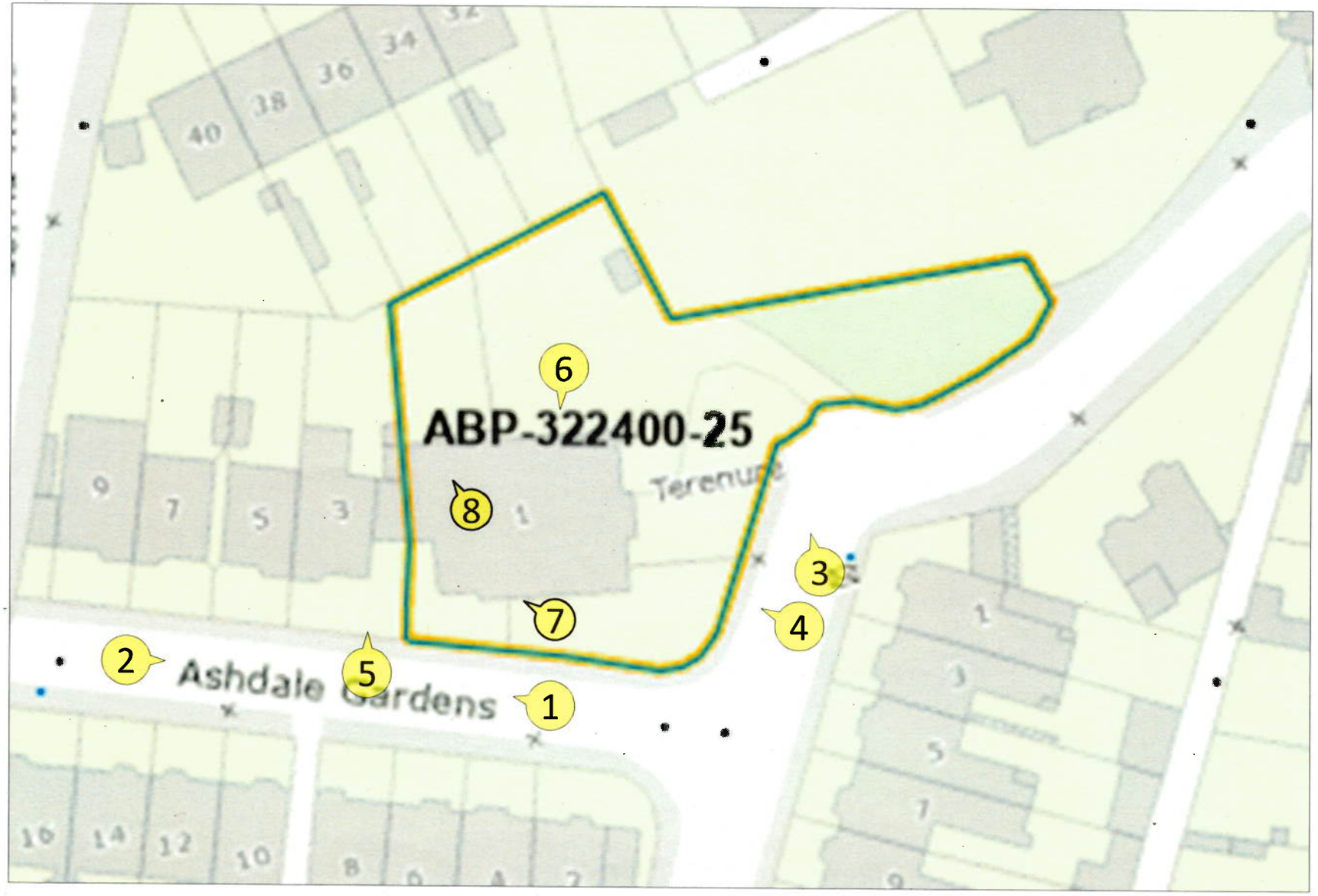
An Coimisiún Pleanála

Site Location Map



File No.: RL29S.322400

Map 2: Indicative Photo Locations 1



An Coimisiún Pleanála

View 1: View W Ashfield Gardens

File No. RL29S.322400

An Coimisiún Pleanála

View 2: View E on Ashfield Gardens

File No. RL29S.322400

View 2: View S to No. 1 Ashfield Gardens

View 3: Existing Entrance from Ashfield Road

View 4: Park House from Ashfield Road

View 5: Site from Ashfield Gardens

File No. RL29S.322400

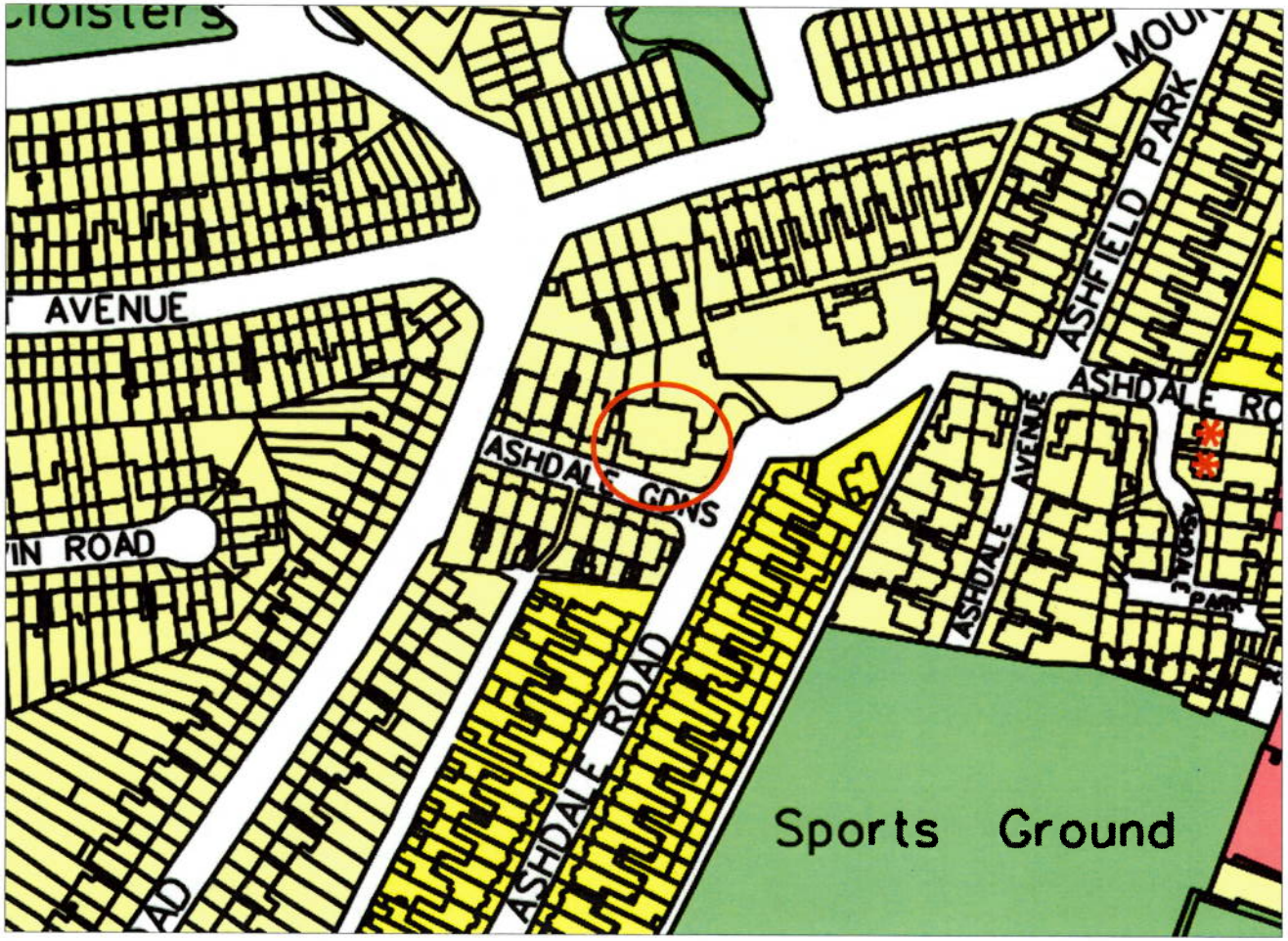
View 6: Rear View Park House from within site grounds

View 7: Access to former apartments at grade level

View 8: Typical Internal Works

Map 3: Indicative Site Outline, Dublin City Development Plan 2022-2028

An Coimisiún Pleanála



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