



Planning & Development
Consultants

AN BORD PLEANÁLA	
LDG:	080295-25
ABP:	
16 MAY 2025	
Fee: €	220
Type:	Check
Time:	10:32
By:	Hand

PK

Section 127 'Provisions as to making of appeals and referrals' of the Planning and Development Act 2000 (as amended) Referral to An Bord Pleanála - CHECKLIST

- Section 127 (1) An appeal or referral shall—

- (a) be made in writing.

Response: Please find a written referral attached.

- (b) state the name and address of the appellant or person making the referral and of the person, if any, acting on his or her behalf.

Response:

The person making the referral is Michael McCann with an address at The Mount Street Residents Group, Apartment 19, 1821 Mount Street Lower, Dublin 2, D02 RR58.

The name and address of the person acting on Michael McCann's behalf is Brendan Buck of BPS Planning Consultants Ltd., PO Box 13658, Dublin 14, D14Rw01.

- (c) state the subject matter of the appeal or referral.

Response: Please find a written referral attached. The attached letter sets out a Section 5 (3)(a) and section 127 (1)(b) of the Planning and Development Act 2000 (as amended) declaration referral to An Bord Pleanála, at Nos. 33-41 Mount Street Lower, Dublin 2, in respect of a section 5 declaration issued by Dublin City Council under Application Number 0093/25 (and Decision Order No. P3075) on the 29th of April 2025. EXPP: A question arises as to whether a temporary change of use from office use to accommodate or support displaced persons seeking international protection and associated works is development and is or is not exempted development.

- (d) state in full the grounds of appeal or referral and the reasons, considerations and arguments on which they are based.

Response: Please find a written referral attached which sets out full grounds for referral and the reasons, considerations and arguments on which they are based.

- (e) in the case of an appeal under section 37 by a person who made submissions or observations in accordance with the permission regulations, be accompanied by the acknowledgement by the planning authority of receipt of the submissions or observations,

Response: This is not applicable. BPS has however provided details of the Dublin City Council section 5 case to which this referral refers.

- (f) be accompanied by such fee (if any) as may be payable in respect of such appeal or referral in accordance with section 144.

Response: Please find the statutory fee of €220 attached.

- (g) be made within the period specified for making the appeal or referral.

Response: This referral submission is made to the Board within 4 weeks of the Dublin City Council section 5 declaration being issue don the 29th of April 2025.



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- (2) (a) An appeal or referral which does not comply with the requirements of subsection (1) shall be invalid.

Response: This referral complies with the requirements of subsection (1).

- (b) The requirement of subsection (1)(d) shall apply whether or not the appellant or person making the referral requests, or proposes to request, in accordance with section 134, an oral hearing of the appeal or referral.

Response: This referral complies with the requirements of subsection (1)(d). Please refer to the attached BPS letter.

- (3) Without prejudice to section 131 or 134, an appellant or person making the referral shall not be entitled to elaborate in writing upon, or make further submissions in writing in relation to, the grounds of appeal or referral stated in the appeal or referral or to submit further grounds of appeal or referral and any such elaboration, submissions or further grounds of appeal or referral that is or are received by the Board shall not be considered by it.

Response: Our client has been advised of this.

- (4) (a) An appeal or referral shall be accompanied by such documents, particulars or other information relating to the appeal or referral as the appellant or person making the referral considers necessary or appropriate.

Response: This referral includes all of the details which were required to make a valid section 5 submission to Dublin City Council and all of the details required to make a valid section 5 referral to the Board. Please refer to the attached BPS letter.

- (b) Without prejudice to section 132, the Board shall not consider any documents, particulars or other information submitted by an appellant or person making the referral other than the documents, particulars or other information which accompanied the appeal or referral.

Response: Our client has been advised of this.

- (5) An appeal or referral shall be made—

- (a) by sending the appeal or referral by prepaid post to the Board,
- (b) by leaving the appeal or referral with an employee of the Board at the offices of the Board during office hours (as determined by the Board), or
- (c) by such other means as may be prescribed.

Response: This referral is lodged by hand to the Board.

BPS Planning Consultants LTD
Members of the Irish Planning Institute
14 May 2024

BY HAND

The Secretary,
An Bord Pleanála,
64 Marlborough Street,
Dublin 1.

14 May 2025

Dear Sir/Madam,

Section 5 (3)(a) and section 127 (1)(b) of the Planning and Development Act 2000 (as amended) declaration referral to An Bord Pleanála, at Nos. 33-41 Mount Street Lower, Dublin 2, in respect of a section 5 declaration issued by Dublin City Council under Application Number 0093/25 (and Decision Order No. P3075) on the 29th of April 2025. EXPP: A question arises as to whether a temporary change of use from office use to accommodate or support displaced persons seeking international protection and associated works is development and is or is not exempted development.

BPS Planning and Development Consultants LTD, a firm of Irish Planning Institute accredited town planning consultants, have been retained by Michael McCann of the Mount Street Residents Group, Apartment 19, 1821 Mount Street Lower, Dublin 2, D02 RR58¹ [hereafter "client"] to prepare and to lodge a Section 5 (3)(a) and section 127 (1)(b) of the Planning and Development Act 2000 (as amended) declaration referral to An Bord Pleanála [hereafter "ABP"], at Nos. 33-41 Mount Street Lower, Dublin 2, in respect of a section 5 declaration issued by Dublin City Council [hereafter "DCC"] under Application Number 0093/25 (and Decision Order No. P3075) on the 29th of April 2025. EXPP: A question arises as to whether a temporary change of use from office use to accommodate or support displaced persons seeking international protection and associated works is development and is or is not exempted development.

For the attention of ABP, this letter addresses matters pertaining to the validation of the referral, notes relevant areas of background information, and then sets out a complete section 5 referral

Validation and background matters are addressed below and in the attached section 127 checklist form pertaining to section 5 referrals.

I Validation

The statutory basis for this referral is section 5 (3)(a) of the Planning and Development Act 2000 (as amended) ("the Act") which provides for referrals of section 5 declarations issued by local authorities to An Bord Pleanála. Section 5(3)(a) states:

(3) (a) Where a declaration is issued under this section, any person issued with a declaration under subsection (2)(a) may, on payment to the Board of such fee as may be prescribed, refer a declaration for review by the Board within 4 weeks of the date of the issuing of the declaration.

The decision of DCC was issued on the 29th of April 2025. This section 5 referral is submitted to ABP within 4 weeks of the date of the issuing of the declaration. This section 5 referral is accompanied by:

- A completed section 127 'Provisions as to making of appeals and referrals' of the Planning and Development Act 2000 (as amended) Referral to An Bord Pleanála – CHECKLIST. This includes, inter alia, the name and address of our client and fully addresses all validation requirements arising.
- The prescribed statutory fee of €220.
- A copy of the section 5 declaration issued by DCC.
- This letter setting out our client's grounds for referring the DCC declaration to ABP.
- A copy of the section 5 originally issued to DCC (including: DCC section 5 Form, BPS section 5 letter containing photographs, OS Site Location Map, and a copy of concurrent section 5 application's floor plans (available in the public domain in DCC archives).
- A copy of a Further Information letter of response issued by BPS to DCC.

¹ The section 5 submitted to Dublin City Council was lodged c/of BPS Planning & Development Consultants LTD, PO BOX 13658, Dublin 14, D24RW01. Our client's full address is now provided as required by section 127(1)(b) of the 2000 Act (as amended).



I Background matters

In assessing and determining this section 5 referral, ABP is asked to have regard to the following matters.

Concurrent section 5 not referred to ABP

We note that a concurrent section 5 referral was lodged to DCC by Lower Mount Street Accommodation Services Limited in relation to this matter under DCC section 5 reg. ref. 0063/25². DCC has also issued a declaration in respect of this concurrent section 5. As this section 5 will not be referred to ABP, our client submits that this section 5 referral to ABP represents a *de facto* appeal of that DCC decision.

As ABP is aware, there is no provision under section 5 for Third Parties to lodge a submission regarding section 5s, our client could not comment on DCC section 5 reg. ref. 0063/25 and was left with no alternative but to lodge their own section 5. Section 5 was enacted so as to allow for this. It states:

*5.—(1) If any question arises as to what, in any particular case, is or is not development or is or is not exempted development within the meaning of this Act, **any person may**, on payment of the prescribed fee, request in writing from the relevant planning authority a declaration on that question, and that person shall provide to the planning authority any information necessary to enable the authority to make its decision on the matter (emphasis added).*

ABP is asked to consider the current referral *de novo* such that a definitive declaration can be issued which would apply to both section 5s.

The issue of Further Information requested from client by DCC & not from the buildings owner

In making the original section 5 to DCC, we accepted that it may need more detail, and we noted how under section 5(2)(b) "A planning authority may require any person who made a request under subsection (1) to submit further information with regard to the request in order to enable the authority to issue the declaration on the question ...".

DCC also had the legal power to ask for further information from the owner of the building. Section 5(2)(c) states: " (c) A planning authority may also request persons in addition to those referred to in paragraph (b) to submit information in order to enable the authority to issue the declaration on the question."

Our client's section 5 raises questions over how the proposed "temporary change of use from office use to accommodate or support displaced persons seeking international protection" could be achieved without any associated works which would require planning permission. An office is a wholly different type of building format, and some works would be required to make the conversion. This was accepted by DCC under section 5, reg. ref. 0017/14³.

DCC's Planner's Report considers the issue of the likely associated works stating:

The floor plans submitted with the current Section 5 Declaration indicate proposed internal works to the subject building including internal partitioning. There are no existing floor plans or existing and proposed elevational drawings submitted as part of the Application. Given the lack of detail regarding the existing and proposed works to facilitate the use, it is considered there is insufficient detail to assess whether the associated works come under the meaning of Section 4(1)(h) of the Planning and Development Act, 2000, as amended which includes for 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.

On balance, it is considered that further details are required to sufficiently assess whether the associated works fall within the meaning of Section 4(1)(h) of the Planning and Development Act, 2000 (as amended). Specifically, existing and proposed floor plans, existing and proposed elevational drawings, and details of all additional associated works should be provided, to ensure a comprehensive evaluation can be undertaken. This can be requested via Further Information Request (emphasis added).

DCC issued our client a letter dated 4th of April 2025 which stated:

1. The Applicant is requested to provide further details to allow the Planning Department to sufficiently assess whether the associated works fall within the meaning of Section 4(1)(h) of the Planning and Development Act, 2000 (as amended). Specifically, existing and proposed floor plans, existing and proposed elevational drawings, and details of all additional associated works should be provided to ensure a comprehensive evaluation can be undertaken.

We responded as follows:

We respectfully note that DCC's letter inadvertently assumes our client is the property owner.

² <https://planning.agileapplications.ie/dublincity/application-details/165846>

³ <https://planning.agileapplications.ie/dublincity/application-details/105435>

Again, respectfully, DCC is aware that the owner of the site is as it had only just decided – on the 1st of April 2025 – a concurrent section 5 under reg. ref. 0063/25.

Again, respectfully, DCC is aware that it has the power under section 5 (1)(c) of the Planning and Development Act 2000 (as amended) to "request persons in addition to those referred to in paragraph (b) to submit information in order to enable the authority to issue the declaration on the question." The appropriate party to address the request to was Lower Mount Street Accommodation Services Limited. Our client cannot provide these details.

We ask DCC to review section 5, reg. ref. 0017/14³. Under this section 5, it was very clear that the change of use could not take place on its own and that it would be accompanied by works. In its assessment of section 5 reg. ref. 0063/25 DCC accepted the applicant's claim that no works were involved in what is a significant change to the operations of an office which only maintains permission for use as an office. DCC has previously determined, in 2014, that "office" does not include support services for visiting members of the public 'and' that internal works to facilitate support services provision for visiting members of the public is development and requires planning permission. Our client would appreciate if it DCC could explain why the current case is different. DCC could reasonably have asked for this information under reg. ref. 0063/25 (as the same issues arise).

The DCC Planner's Report offers no explanation for why it did not ask the landowner for this Further Information whether under this section 5 or under the concurrent section 5.

DCC also offers no updated Planner's Report setting out how it decided to respond to our client's Further Information submission and to the issue of associated works being unavoidable – works which may require planning permission. The DCC Planner's Report disregards its own assessment that: **"it is considered that further details are required to sufficiently assess whether the associated works fall within the meaning of Section 4(1)(h) of the Planning and Development Act, 2000 (as amended). Specifically, existing and proposed floor plans, existing and proposed elevational drawings, and details of all additional associated works should be provided, to ensure a comprehensive evaluation can be undertaken"** [emphasis added].

With respect, DCC appears to have made an exception for the property owner in this instance and decided not to pursue the issue of whether works are required. Two section 5s have been issued by DCC and neither properly addresses whether the associated works required to act on Class 20F do or do not require planning permission.

Concerns over the DCC referral decision

The DCC section 5 declaration states:

NOTIFICATION OF DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT

In pursuance of its functions under the Planning & Development Acts 2000 (as amended), Dublin City Council has by order dated 29-Apr-2025 decided to issue a Declaration that the above proposed development is EXEMPT from the requirement to obtain planning permission under Section 32 of the Planning & Development Acts 2000 (as amended).

Reasons & Considerations: Having regard to Sections 2, 3 and 4 of the Planning and Development Act, 2000 (as amended) and Part 1 of Schedule 2, the Planning and Development Regulations 2001, as amended, the Planning Authority has concluded that: (a) The proposed change of use of the office building is development within the meaning of Sections 2 and 3 of the Planning and Development Act, 2000, as amended; (b) The temporary change of use from office use to accommodate or support displaced persons seeking international protection and associated works is exempted development on the grounds that the works fall within the applicable category for Class 20(F) of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended and is being carried out on behalf of the Minister for Children, Equality, Disability, Integration and Youth.

*NOTE: In the interests of clarity, this Certificate of Exemption relates only to the temporary use of the building as detailed under Class 20F of Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended. **No further works or alterations to the buildings can be confirmed under this declaration** [emphasis added].*

In issuing this declaration, DCC is required to consider that the Conditions and Limitations of Class 20(F) apply. Class 20(F) applies only to use. Our client is concerned that Class 20(F) does not apply as all the Conditions and Limitations to not apply.

The declaration states **"No further works or alterations to the buildings can be confirmed under this declaration"** [emphasis added]. Class 20(F) cannot and does not exempt any works and it is unclear what DCC means by "No Further works". Our client considers that it would be impossible to convert this large building as proposed without carrying out works.

The DCC decision is made, in our client's opinion, without any proper or due consideration of whether all associated works would require planning permission or not. The DCC decision does not refer to any exemption for these associated works and the DCC Planner's Report acknowledges it does not have sufficient information to assess whether section 4(1)(h) of the Act would apply.

As noted above, BPS considers that DCC should have sought Further Information from the owner of the building as regards what works would be needed to convert, the building from office to supported accommodation for displaced persons seeking international protection.

³ <https://planning.agileapplications.ie/dublincity/application-details/105435>

III Contents of the section 5 referral

- 1.0 Site location & description
- 2.0 Section 5 question arising
- 3.0 Background to Section 5
- 3.1 Planning & Enforcement History of the Site
- 4.0 Policy context
- 4.1 Dublin City Development Plan 2022-2028
- 5.0 Statutory Provisions
- 5.1 PDA - Planning and Development Act 2000 (as amended)
- 5.2 PDR - Planning and Development Regulations, 2001 (as amended)
- 6.0 Assessment
- 6.1 Assessment under the PDA
- 6.1.1 Is or is not development
- 6.1.1.1 PDA - Planning and Development Act, 2000 (as amended)
- 6.1.1.2 PDR - Planning and Development Regulations, 2001 (as amended)
- 6.1.1.3 Conclusion – 'Is or is not development'
- 6.2 The question of "exempted Development"
- 6.2.1 "Exempted Development" - Conclusion
- 7.0 Conclusion
- 8.0 Recommendation

1.0 Site location & description

Nos. 33-41 Mount Street Lower is a large floor plate building with open plan offices on multiple floors on Mount Street Lower is located just east of Merrion Square Park that. It sits on the south side of Mount Street Lower between the Passport Office and a shop/cafe, with apartments on the upper floors. It is zoned in the Dublin City Development Plan (2022 - 2028) as Zone 10: 'Inner Suburban and Inner City Sustainable Mixed uses'. The use is further described as a zoning which aims: "To consolidate and facilitate the development of inner city and inner suburban sites for mixed-uses".

The ground floor is used for parking (36 spaces) and the upper floors are all in office use. The building dates to the 1960s and is finished with a brick frontage. Vehicular access to the parking area is via the rear laneway off Verschoyle Court.

The site does not lie in an Architectural Conservation Area and is not listed on the record of Protected Structures; however, there are both Architectural Conservation Areas and Protected Structures in the immediate vicinity with views toward the site. The site is located close to the Grand Canal whose waters are shared with Dublin Bay and its various Natura 2000 sites.

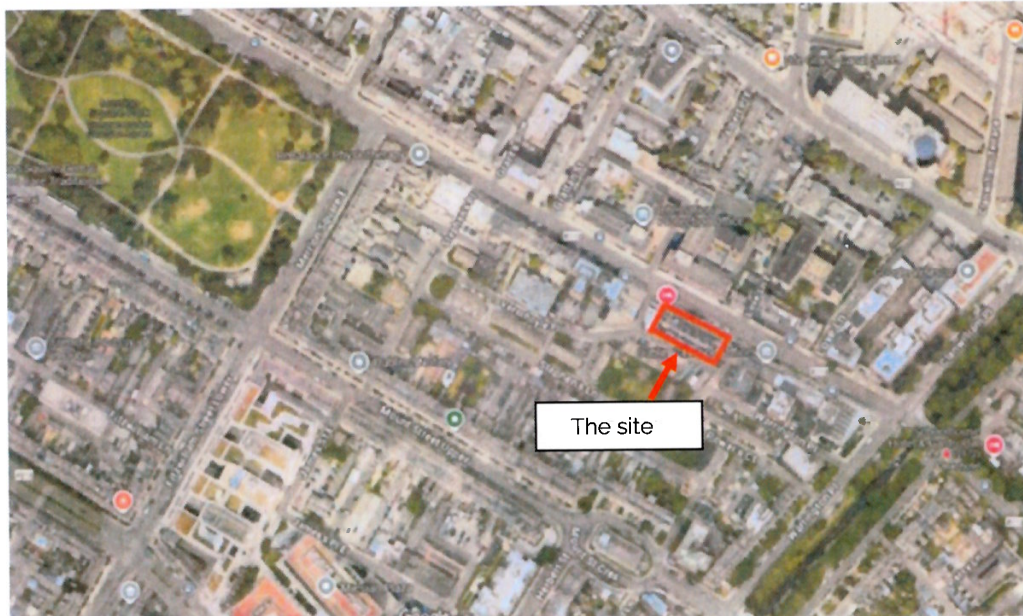


Fig. 1: The location of the site

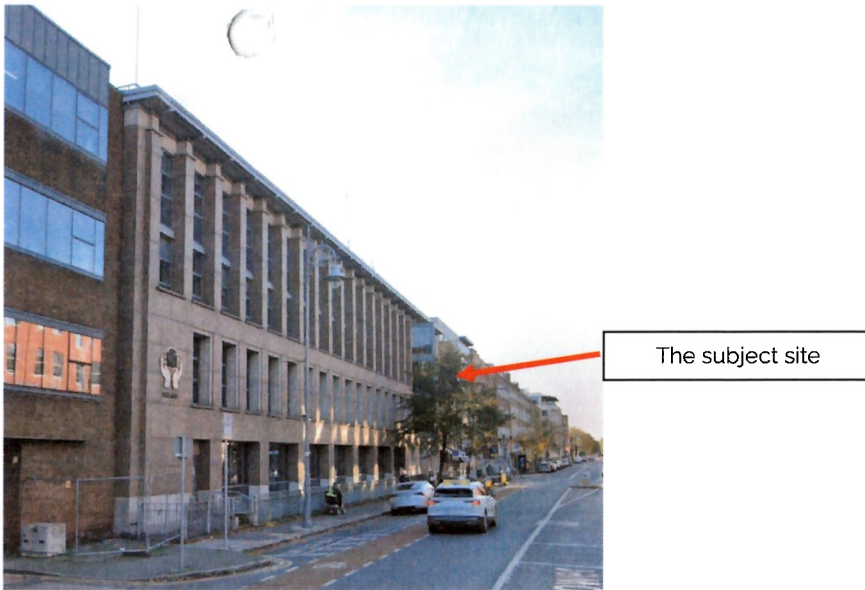


Fig. 2: The location of the site



Fig. 3: The location of the site

2.0 Section 5 referral question arising

The question referred to ABP pursuant to section 5(3)(a) of the Act is as follows: "Whether a temporary change of use from office use to accommodate or support displaced persons or persons seeking international protection and associated works is development and is or is not exempted development."

The determination of DCC in respect of this section 5 is set out above.

3.0 Background to Section 5

3.1 Planning & Enforcement History of the Site

The following planning applications have previously been made in respect of this site. Condition No. 1 of each permission require that the development be carried out in accordance with the plans submitted and the use be office. Development includes "use" and "works". The building's use as an office is required by way of the following statutory planning permissions:

- **Ref. No. 774/97** - An application for 'Erection of flagpoles (3 no.) at fourth floor level, erection of signage logos (2 no.) behind glass at second floor level and exterior illumination of signage and front facade of the building' was submitted to Dublin City Council in May 1997. Two refusal reasons were put forward by the Council stating the flag poles, illumination and signage proposal was potentially visually obtrusive and therefore recommend refusal. The application was appealed to An Bord Pleanála which resulted in a split decision to approve the exterior illumination and refuse the flagpole and signage logos proposal. The decision is dated December 1997. Conditions:

1. **Insofar as the Local Government (Planning & Development) Acts 1963/93 and the Regulations made thereunder are concerned the development shall be carried out in accordance with the plans, particulars and specifications lodged with the application, save as may be required by the conditions attached hereto.** REASON: To comply with permission regulations [emphasis added].
 2. The proposed flags at fourth floor level would constitute an unnecessary and visually obtrusive form of advertising and would set an undesirable precedent for similar flags at high level on Mount Street. The proposed development would thus be contrary to the proper planning and development of the area.
 3. (ii) The proposed signage logos behind the glass at second floor level would contribute to a clutter of advertising on the front elevation of the newly refurbished building at 33 - 41 Lower Mount Street and would also be contrary to the objectives of the Planning Authority, as set out in paragraph 15.15.15 of the Development Plan, wherein it is stated that all advertising above ground level will be severely restricted in order to avoid such clutter and to preserve the amenity of the streetscape. The proposed development would thus be contrary to the proper planning and development of the area.
- **Ref. No. 2538/96** - An application for 'Extension to existing fourth floor penthouse office' was submitted to the Dublin City Council by Irish League of Credit Unions on 13-Nov-1996. A grant of permission was issued by the Council with two conditions relating to the adhering to the submitted plans and making a development contribution. Conditions:
 1. **Insofar as the Local Government (Planning & Development) Acts 1963/93 and the Regulations made thereunder are concerned the development shall be carried out in accordance with the plans, particulars and specifications lodged with the application, save as may be required by the conditions attached hereto.** REASON: To comply with permission regulations [emphasis added].
 2. Before this development commences a financial contribution in the sum of #1,560.00 shall be paid by the applicant to Dublin Corporation, in accordance with Section 26 of the Local Government (Planning & Development) Act 1963. REASON : Investment by Dublin Corporation in Local Authority works has facilitated and will facilitate the proposed development. It is considered appropriate and reasonable that the developer should contribute to the cost of same.
 - **Ref. No. 0013/96** - An application for 'Refurbishment of office building to include for construction of new ground floor office, replacement of existing facade and provision of new landscaped area to Mount Street Lower, replacement of existing windows to front and rear; storage facility at car park level and new security car park gates to Verschoyle Court amending previously permitted development' was submitted to the Dublin City Council by Irish League of Credit Unions on 04-Mar-1996. A grant of permission was issued by the Council with 8 conditions relating to adhering to the submitted plans, the external appearance and making a development contribution. Conditions:
 1. **Insofar as the Local Government (Planning and Development) Acts 1963/93 are concerned the development shall be carried out in accordance with the plans, particulars and specifications lodged with the application, as revised by the additional information received on the 14/03/96 and the unsolicited additional information received 21/05/96, save as may be required by the conditions attached hereto.** Reason: To comply with permission regulations [emphasis added].
 2. The select stone cladding for the columns and the ground floor front elevation shall be predominantly red/brown in colour, with grey granite architraves to windows and entrance elements. Prior to the commencement of the development full details of the front elevation indicating use and colour of materials and including stone and cladding samples to be used, shall be submitted for the agreement in writing of the Planning Authority. The development shall thereafter be constructed only in accordance with such details as shall be agreed. Reason: To ensure a satisfactory appearance on completion of the development and to ensure that the building is compatible with the streetscape of Mount Street Lower which is characterised by red/brown coloured facades.
 3. The building shall not be externally illuminated without the prior grant of a separate planning permission. Reason: In the interests of visual amenities.
 4. Full details of the two front entrances including elevations and floor plans at a scale of 1:50 shall be submitted for the written agreement of the planning authority and the development shall be carried out in accordance with the agreed details. Reason: So that the planning authority may be satisfied as to these details of the development.
 5. Full details of the railings and hard landscaped area including detailed/specified landscaping scheme shall be submitted for the written agreement of the planning authority prior to the commencement of development and the development shall be carried out in accordance with the agreed details. Reason: So that the planning authority may be satisfied as to these details of the development.
 6. The projecting lead/zinc eaves at parapet level shall be reduced from the proposed 1200mm (as indicated on drawing no.PL-06/A) to approximately 750mm in width. Details of this alteration shall be submitted to and agreed in writing by the Planning Authority prior to the commencement of development. Reason: In order to conform with the parapet treatment of adjoining buildings on the Mount Street Lower, in the interests of visual amenities.
 7. The high level signs in the projecting bay window shall be omitted. Reason: In the interests of visual amenities
 8. Before this development commences a financial contribution in the sum of #7,995.00 shall be paid by the applicant to Dublin Corporation, in accordance with Section 26 of the Local Government (Planning & Development) Act 1963. REASON : Investment

by Dublin Corporation in Local Authority works has facilitated and will facilitate the proposed development. It is considered appropriate and reasonable that the developer should contribute to the cost of same.

- **Ref. No. 2268/90** - An application for 'Refurbishment of building including modification to the front and rear facade, the construction of a new core and new ground floor, with office/retail/showroom/financial services use and provision of a new landscaped area on the frontage' was submitted to Dublin City Council in 1990. A grant of permission was issued by the Council on February 7th, 1991, with 8 conditions relating to adhering to the submitted plans, road and traffic policies and the Building Bye-Laws, consulting with the Fire, Engineering and Environmental Health Departments, and restricting external signs and car sales showrooms. Conditions not available online.
- **Ref. No. 1359/67** - An application for the 'Erection of a four-storey office building with set-back storey at 4th floor level' was submitted to the Dublin City Council in October 1967. A grant of permission was issued by the Council with two conditions relating to the adhering to the submitted plans and making a development contribution. Conditions not available online.
- **Ref. No. 0661/65** - Not enacted - An application for the 'Erection of a three-storey office building' was submitted to the Dublin City Council in May 1965. A grant of approval was issued by the Council on 25/8/1965 with two conditions relating to the adhering to the Corporation in terms of car parking, access, ratios, electrical treatment and general amenity, and where the building is positioned. Conditions not available online.

4.0 Policy context

4.1 Dublin City Development Plan 2022-2028

The subject site is not a sensitive one regarding the following:

- The site is zoned in the Dublin City Development Plan (2022 - 2028) as Zone 10: 'Inner Suburban and Inner City Sustainable Mixed uses'. The use is further described as a zoning which aims: "To consolidate and facilitate the development of inner city and inner suburban sites for mixed-uses".

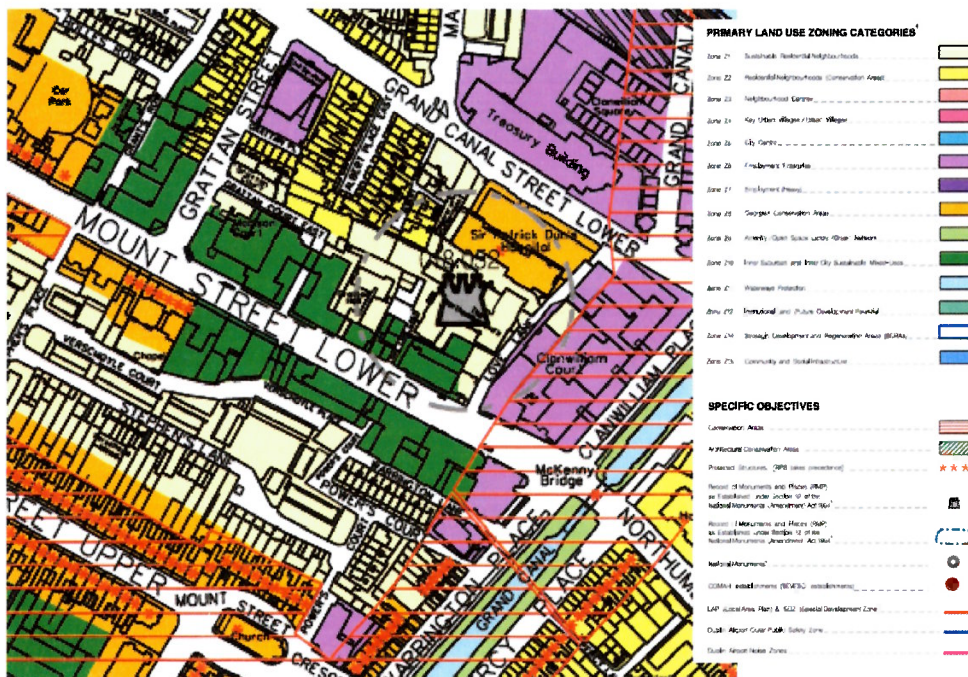


Fig. 4: Excerpt from Map E of the Dublin City Development Plan 2022-2028

- The site and buildings thereon do not constitute a protected structure'; however, there are a number of protected structures sited to the west of the site along Mount Street Lower.
- The site is located close to the Conservations Areas including the Georgian Conservation Areas.
- The site does not contain a protected structure and is not sited within an Architectural Conservation Area.
- Regarding Environmental Impact Assessment and Appropriate Assessment screening, neither this section 5 or the concurrent section 5 offer any accompanying screening reports despite being located a short distance from the Grand Canal whose waters pass into Dublin Bay.

5.0 Statutory Provisions

5.1 PDA- Planning and Development Act 2000 (as amended)⁴

Section 2(1) 'Interpretation' of the Planning and Development Act 2000 (as amended).

In this Act, except where the context otherwise requires—

"use", in relation to land, does not include the use of the land by the carrying out of any works thereon;

"unauthorised development" means, in relation to land, the carrying out of any unauthorised works (including the construction, erection or making of any unauthorised structure) or the making of any unauthorised use.

"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 (emphasis added).

"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, and

(b) in relation to a protected structure or proposed protected structure, includes:

(i) the interior of the structure,

(ii) the land lying within the cartilage of the structure,

(iii) any other structures lying within that cartilage and their interiors, and

(iv) all fixtures and features which form part of the interior or exterior of any structure or structures referred to in subparagraph (i) or (iii).

"alteration" includes—

(a) plastering or painting or the removal of plaster or stucco, or

(b) the replacement of a door, window or roof,

that materially alters the external appearance of a structure so as to render the appearance inconsistent with the character of the structure or neighbouring structures.

Section 3

3.—(1) 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.

Section 4

Section 4(1)(a) of the Act sets out various forms and circumstances in which development is exempted development for the purposes of the Act. It states: "The following shall be exempted developments for the purposes of this Act ...". An example is section 4 (1)(h):

(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;

Also, section 4(2)(a) states that the Minister may by regulations provide for any class of development to be exempted development where he or she is of the opinion that the carrying out of such development by virtue of its size, nature or limited effect on its surroundings, would not offend against the principles of proper planning and sustainable development

Section 4(2)(b) of the Act states that regulations under paragraph (a) may be made subject to conditions and be of general application or apply to such area or place as may be specified in the regulations.

5.2 PDR - Planning and Development Regulations, 2001 (as amended)

Article 5 (1) In this Part -

"protected person", for the purposes of Schedule 2, means—

(a) a person who has made an application to the Minister for Justice and Equality under the Refugee Act of 1996 or the Subsidiary Protection Regulations 2013 (S.I. No. 426 of 2013), (b) a person who falls to be considered or has been considered under section 3 of the Immigration Act of 1999, or (c) a programme refugee within the meaning of section 24 of the Refugee Act of 1996.

⁴ References refer to: <https://revisedacts.lawreform.ie/eli/2000/act/30/revised/en/html#SEC4>

Article 6(1)

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 (emphasis added).

Article 9(1)(a)

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** (emphasis added).
- (ii) consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,
- (iii) endanger public safety by reason of traffic hazard or obstruction of road users ...
- (vi) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,
- (vii) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,
- (viiA) consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12 (1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to and in accordance with a consent granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended,
- (viiB) **comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site** (emphasis added).
- (viiC) consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000.
- (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,
- **(ix) consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan ...** (emphasis added)
- (xii) further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area.

Article 10 (1)

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,

(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 (emphasis added).

Article 10 (2) (a) states: "A use which is ordinarily incidental to any use specified in Part 4 of Schedule 2 is not excluded from that use as an incident thereto merely by reason of its being specified in the said Part of the said Schedule as a separate use."

Schedule 2

Part 1 'Exempted Development', 'General', of Schedule 2 sets out exempted development class for exempted development general to which Art 6(1) refers.

Schedule 2 sets out a wide range of 'Exempted Development'. Any relevant possible exemption is addressed below.

6.0 Assessment

The purpose of this assessment is not to determine the acceptability or otherwise of the matters raised 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 within the meaning of the relevant legislation.

6.1 Assessment under the PDA

6.1.2 Is or is not development

The subject site or property at 33-41 Mount Street Lower, Dublin 2 has been in use for many years as the Irish League of Credit Unions Building. In this office use, the site has obtained many planning permissions, including reg. refs. 774/97, 2538/96, 0013/96, 2268/90, 1359/67, and 0661/65 for various developments that supported and/or were ancillary to the site's and property's office use. Condition No. 1 of each planning permission states: "the development shall be carried out in accordance with the plans, particulars and specifications lodged with the application, save as may be required by the conditions attached hereto." Each permission pertains to the use of the building as office.

DCC's CDP 2022-2028 has zoned this site/property 'Inner Suburban and Inner City Sustainable Mixed-Uses – Zone Z10'. Section 14.7.10 of the DCDP sets out objectives pertaining to this zoning and states:

The purpose of this zoning is to promote mixed-use in order to deliver sustainable patterns of development in line with the principles of the 15-minute city. The concept of mixed-use will be central to the development or redevelopment of these sites and mono uses, either all residential or all employment/office use, shall not generally be permitted. In order to ensure that a mixed-use philosophy is adhered to on Z10 zoned lands, the focus will be on delivering a mix of residential and commercial uses. There will be a requirement that a range of 30% to 70% of the area of Z10 zoned lands can be given to one particular use, with the remaining portion of the lands to be given over to another use or uses (e.g. residential or office/employment). For very small sites, typically less than 0.5ha, flexibility on mix requirement may be considered on a case-by-case basis, where it can be demonstrated that the proposal would not result in an undue concentration of one particular land-use on the Z10 landholding as a whole. The primary uses supported in this zone are residential, office and retail, with ancillary uses also facilitated where they deliver on the overall zoning objective ... [emphasis added].

In short, the DCDP 2022-2028 does not permit large sites/properties within the Z10 zoned areas to be used for single uses. Further, the DCDP contains objectives seeking to protect employment uses and office uses in the city centre within the canals:

- Section 6.5.2 'Strategic and Targeted Employment Growth' refers to 'The City Centre' and states: "The focus of the strategy for the inner city and its immediately surrounding neighbourhoods within the canals will be to encourage balanced economic investment with an increased focus on liveability, enhanced public realm and mobility measures. **The city centre will retain and build upon its existing role as one of Ireland's most important employment areas** with a mix of office, retail, residential, tourism related and cultural activities" [emphasis added].
- CEE8 'The City Centre' aims **"To support the development a vibrant mix of office, retail, tourism related and cultural activities in the city centre** and to facilitate the regeneration and development of key potential growth areas such as the Diageo lands, the St. James's Healthcare Campus and Environs and the TU Dublin campus at Grangegorman" [emphasis added].
- Section 6.5.6 states: **"A choice of good quality and cost-competitive office and commercial space is critical in attracting investment, supporting enterprises and generating employment and there is an ongoing need to encourage the high quality re-development of outdated office stock"** [emphasis added].
- It is the Policy of Dublin City Council: 'CEE21' – 'Supply of Commercial Space and Redevelopment of Office Stock': "(i) **To promote and facilitate the supply of commercial space, where appropriate, including larger office floorplates suitable for indigenous and FDI HQ-type uses. (ii) To consolidate employment provision in the city by incentivising and facilitating the high-quality re-development of obsolete office stock in the city"** [emphasis added].

The site/property is therefore subject to planning permission conditions requiring it to retain in office use 'and' subject to DCDP 2022-2028 objectives which prevent any new single use on the site, and which seek to protect office and employment uses in the city centre/within the canals.

The site is located proximate to the Grand Canal whose waters connect directly to Dublin Bay and to numerous Natura 2000 sites including: North Dublin Bay SAC (000206), South Dublin Bay SAC (000210), South Dublin Bay and River Tolka Estuary (004024), and North Bull Island (004006). The DCDP 2022-2028 contains a range of objectives which seek to protect Natura 2000 sites including:

It is the Policy of Dublin City Council	
G19	European Union Natura 2000 Sites To conserve, manage, protect and restore the favourable conservation condition of all qualifying interest/special conservation interests of all European sites designated, or proposed to be designated, under the EU Birds and Habitats Directives, as Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) (European / Natura 2000 sites).
G10	Flora and Fauna Protected under National and European Legislation Located Outside Designated Areas To adequately protect flora and fauna (under the EU Habitats and Birds Directives), the Wildlife Acts 1976 (as amended), the Fisheries Acts 1959 (as amended) and the Flora (Protection) Order 2022 S.I. No. 235 of 2022, wherever they occur within Dublin City, or have been identified as supporting the favourable conservation condition of any European sites.

Fig. 5: Objectives G19 and G10 of the DCDP 2022-2028

Finally, the site/property is located close to protected structures and conservation areas the views of which are protected.

6.1.1.1 PDA - Planning and Development Act, 2000 (as amended)

Section 2(1) 'Interpretation' of the Planning and Development Act 2000 (as amended) states "use", in relation to land, does not include the use of the land by the carrying out of any works thereon.

This Section 5 pertains to the proposed temporary change of use of Nos. 33-41 Mount Street Lower, Dublin 2 from office use to accommodate or support displaced persons or persons seeking international protection. **This would represent a material change of use.**

Section 3(1) of the Planning and Development Act 2000 (as amended) states "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.

The existing permitted use of the site as required by Condition No. 1 of the planning permissions listed in Section 3.1 of this letter is office. The proposed use is as de facto hostel to accommodate or support displaced persons or persons seeking international protection. **This would represent a material change of use and, as such, constitutes "development".**

We submit that a material change of use is proposed; therefore, "development" is proposed to take place.

Section 4

Section 4(1)(a) of the Act sets out various forms and circumstances in which development is exempted development for the purposes of the Act.

Section 4(1)(a) does not itself include any exemption as regards the change of use of an office building to de facto hostel to accommodate or support displaced persons or persons seeking international protection.

Section 4(1)(a) 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.

As noted above, section 4(2)(a) states that the Minister may by regulations provide for any class of development to be exempted development where he or she is of the opinion that the carrying out of such development by virtue of its size, nature or limited effect on its surroundings, would not offend against the principles of proper planning and sustainable development. Section 4(2)(b) of the Act states that regulations under paragraph (a) may be made subject to conditions and be of general application or apply to such area or place as may be specified in the regulations. The Planning and Development Regulations, 2001 (as amended) are reviewed below.

6.1.1.2 PDR - Planning and Development Regulations, 2001 (as amended)

Article 3 of the Planning and Development Regulations, 2001 (as amended) does not contain any provision which would contradict the Planning Act 2000 (as amended) as regards whether "development" is proposed.

The existing permitted use of the site as required by Condition No. 1 of the planning permissions listed in Section 3.1 of this letter is office. The proposed use is as de facto hostel to accommodate or support displaced persons or persons seeking international protection. **This would represent a material change of use and, as such, constitutes "development".**

The associated works involved in converting a large open plan office into a supported hostel would also constitute "development".

61.1.3 Conclusion – 'Is or is not development'

Arising from the above assessment carried out under the PDA and PDR, we conclude that the proposed change of use represents a material change of use which is "development" and the associated works involved in converting a large open plan office into a supported hostel would also constitute "development".

6.2 The question of "exempted development"

For any applicant to rely on the exempted development provisions of the Act and the Regulations, the onus is on him or her to prove the development constitutes exempted development (see *South Dublin County Council v Fallowvale Ltd.* [2005] IEHC 408; later approved in *Meath County Council v. Murray* [2017] 2 I.R. 297; and accepted (obiter) in the statement of Simons J in *Waterford v Centz* [Judgement of Simons J, 27 November 2020] as being correct). See also *Doorly v Corrigan* [2022] IECA 6 at p. 121; and *Diamrem Limited v Cliffs of Moher Centre Limited* [2021] IECA 291 at p. 47.

Section 4(1) of the Act sets out various forms and circumstances in which development is exempted development for the purposes of the Act. As noted above, section 4(2)(a) states that the Minister may by regulations provide for any class of development to be exempted development where he or she is of the opinion that the carrying out of such development by virtue of its size, nature or limited effect on its surroundings, would not offend against the principles of proper planning and sustainable development. Section 4(2)(b) of the Act states that regulations under paragraph (a) may be made subject to conditions and be of general application or apply to such area or place as may be specified in the regulations. The Planning and Development Regulations, 2001 (as amended) are reviewed below.

Article 9 – Restrictions on Article 6

Under the provisions of the Planning and Development Regulations 2001 (as amended) [hereafter referred to as the PDR], Article 6 provides that: "**Subject to Article 9**, development of a class specified in column 7 of Part 7 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 7 opposite the mention of that class in the said column 1" (emphasis added).

It is therefore necessary to first consider if Article 9 of the PDR may restrict any claim made by the site/property owner to rely on Article 6 exemptions. 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.

Response: The site/property maintains multiple planning permissions whose conditions No. 1 require the building to be used as offices. The proposed change of use would therefore contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act.

- (iii) endanger public safety by reason of traffic hazard or obstruction of road users ...

Response: The proposed change of use of the site from office to de facto hostel to accommodate or support displaced persons or persons seeking international protection may raise traffic hazard concerns. BPS has provided no road engineering assessment with this Section 5 and the concurrent section 5 offers no assessment either. The matter is unresolved.

- (vi) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan.

Response: The proposed change of use of the site from office to de facto hostel to accommodate or support displaced persons or persons seeking international protection may raise concerns as regards adverse impacts on the settings of nearby protected structures and conservation areas. BPS has provided no architectural heritage assessment with this Section 5 and the concurrent section 5 offers no assessment either. The matter is unresolved.

- (viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site.

Response: It is acknowledged how Section 4 was amended by the Environmental (Miscellaneous Provisions) Act 2011 to prescribe that notwithstanding the provisions of Section 4, development shall not be exempted development if an EIA or an AA of the development is required. Our client is not in a position to provide any AA or EIAR Screening Reports. The applicant in the concurrent section 5 has not provided these either. The matter is unresolved and ABP is not in a position to determine if the proposal would or would not cause adverse impacts on a Natura 2000 site.

- (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.

Response: Our client notes that to convert this large office building into a de facto residential supported hostel would require significant internal works to be undertaken. Neither this section 5 prepared by BPS nor the concurrent section 5 offer ABP any detail as to the extent of works required. The concurrent section 5 claims an exemption as regards these works under Section 4(1)(h) of the PDA. Concerns arise that these works constitute development, are not exempted development, and would result in the alteration of structure which would be unauthorised and contrary to Condition No. 1 of the planning permissions listed in Section 3.1 of this letter. The works required to convert this building into a de facto residential hostel are not works for the maintenance, improvement or other alteration of the structure, which pertain to its permitted use as an office block. The works are required to change the use of the building. The change of use would likely fundamentally alter the interior of the structure and 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. The purpose of section 4(1)(h) is not and never has been to allow any building over to wholly re-purpose and redevelop a building without planning permission.

- (ix) consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan ...

Response: Our client notes that to convert this large office building into a de facto residential supported hostel would require significant internal works, including areas of demolition, to be undertaken. These works would preclude or restrict the continuance of the existing office use of the building. It is an objective(s) of the planning authority, as set out in Section 6.0 of this letter, to ensure that the building will remain available for office and/or mixed use (such objective has been specified in a development plan for the area). Neither this section 5 prepared by BPS or the concurrent section 5 offer ABP any detail as to the extent of works required and neither section 5 claims any exemption as regards these works. Concerns arise that these works would essentially be permanent and result in the long term use of the 100% of the building as a residential hostel when this is not permitted by the DCDP 2022-2028 (see Section 6.0 of this letter). The concurrent section 5 has not addressed this concern.

For these reasons, in this case, our client considers that Article 9 prevents reliance on Article 6 exemptions. This being the case, the proposed development cannot be exempted development.

The application of Article 10 (i) restrictions on change of use exemptions

Article 10 (i) states: "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":

- involve the carrying out of any works other than works which are exempted development,

Response: Section 4(1)(h) can allow some works to the existing office building in its present use to allow "maintenance, improvement or other alteration"; However, this exemption applies to the existing building whose various planning permissions require it to be used as an office. The works required are significant. While the existing building is a "structure" it is difficult to envisage how the wholesale conversion of the building from office (open place in large areas) to supported hostel represent an "alteration". Under the Act (as noted above) "alteration includes— (a) plastering or painting or the removal of plaster or stucco, or (b) the replacement of a door, window or roof". When one reviews the submitted existing floor plans one is left to consider how the works required could be deemed an "alteration". Neither BPS or the applicant in the concurrent section 5 offers any drawings or details of the proposed works such that ABP can determine if section 4(1)(h) applies. ABP is asked to consider the appeal to the Supreme Court under Michael Cronin (Readymix Limited) v An Bord Pleanála & Others [2017] IESC 36. The Supreme Court ruled that the effect of the associated High Court judgment would be to render exempt a range of developments well beyond what the Oireachtas had originally intended under the s.4 exemption. O'Malley J agreed with Counsel for the Board and found that s.4(1)(h) provided for a limited category of works that amount to alterations (with concepts of maintenance and improvement being subsets), which are either wholly internal or, if external, are significant. She approved the Dillon judgment (referred to at 4.1) which recognised that exemptions fall into a privileged category and should therefore be strictly construed. O'Malley J found that the High Court's interpretation of s.4(1)(h) was incorrect. She accepted the arguments of the Board as to its true meaning and concluded that an extension is a development that does not come within the exemption. **Our client therefore submits that the proposed development involves the carrying out of any works other than works which are exempted development.**

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

Response: The site/property maintains multiple planning permissions whose conditions No. 1 require the building to be used as offices. The proposed change of use would therefore contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act.

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

Response: The site/property maintains multiple planning permissions whose conditions No. 1 require the building to be used as offices. The proposed change of use would therefore contravene and be inconsistent with a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act.

- (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.

Response: Our client notes that to convert this large office building into a de facto residential supported hostel would require significant internal works to be undertaken. Neither this section 5 prepared by BPS nor the concurrent section 5 offer ABP any detail as to the extent of works required. The concurrent section 5 claims an exemption as regards these works under Section 4(1)(h) of the PDA. Concerns arise that these works constitute development, are not exempted development, and would result in the alteration of structure which would be unauthorised and contrary to Condition No. 1 of the planning permissions listed in Section 3.1 of this letter. The works required to convert this building into a de facto residential hostel are not works for the maintenance, improvement or other alteration of the structure, which pertain to its permitted use as an office block. The works are required to change the use of the building. The change of use would likely fundamentally alter the interior of the structure and 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. The purpose of section 4(1)(h) is not and never has been to allow any building over to wholly re-purpose and redevelop a building without planning permission.

- Article 10 (2) (a) states: "A use which is ordinarily incidental to any use specified in Part 4 of Schedule 2 is not excluded from that use as an incident thereto merely by reason of its being specified in the said Part of the said Schedule as a separate use."

Response: A supported residential hostel for the stated persons is not a use incidental to the permitted office use.

For these reasons, in this case, our client considers that Article 10 prevents reliance on Article 6 / Part 4 of Schedule 2 exemptions. This being the case, the proposed development cannot be exempted development.

The possible application of Class 20F

The concurrent section 5 does not address Article 9, but instead seeks to rely wholly on Class 20F of column 1 of Part 1 of Schedule 2. This exemption is included in Fig. 6, and it is subject to 8 no. 'Conditions and Limitations'.

The possible application of Class 20F is assessed point by point below:

- Class 20F provides for "Temporary use by or on behalf of the Minister for Children, Equality, Disability, Integration and Youth ..."

Response: Our client is not and cannot act on behalf of the Minister or claim to be acting on his or her behalf by issuing this section 5 application to ABP, yet we have provided much the same details as the concurrent section 5. The applicant for the concurrent section 5 is not the Minister and has not provided any evidence with the concurrent section 5 that this proposal is being made at the behest of the Minister. The applicant for the concurrent section 5 is Lower Mount Street Accommodation Services Ltd, The Exchange, George's Dock International Financial Services Centre, Dublin 1, D01P2V6.

- Conditions and Limitations 1 states: "The temporary use shall only be for the purposes of accommodating displaced persons or for the purposes of accommodating persons seeking international protection."

Response: Our client cannot confirm with any evidence that this section 5 proposal pertains to accommodating displaced persons or for the purposes of accommodating persons seeking international protection. The applicant for the concurrent section 5 has also not provided any evidence that this proposal is to be temporary or for any given type of person.

- Conditions and Limitation 2 states: "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 2022² comes to an end in accordance with Article 6 of the Council Directive 2001/55/EC of 20 July 2001²."

Response: No timescale is placed on how long this period will be. By definition, temporary means temporary, yet BPS is not supplying any statement as regards proposed timescale and the concurrent section 5 does not either. There is no way for ABP to determine if the proposal is temporary or not. Council Implementing Decision (EU) 2022/382 of 4 March 2022 may be in place for significant time which would leave this office block in full residential use which is contrary to the DCDP 2022-2028 and to extant planning permissions pertaining to the site.

- Conditions and Limitation 3 states: "The use for the purposes of accommodating persons seeking international protection shall be discontinued not later than 31 December 2028."

Response: Our client submits that the Minister could alter this timeline at any time.

- Conditions and Limitation 4 states: "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."

Response: Our client submits that the Minister could alter this timeline at any time. Further, if the period is to be shorter than until 2028, concerns arise that this "temporary" use is not justified given the short timescale involved.

- Conditions and Limitation 5 states: "The relevant local authority must be notified of locations where change of use is taking place prior the commencement of development."

Response: No comment.

- Conditions and Limitations 6, 7 and 8 state: 6. 'Displaced persons', for the purpose of this class, means persons to whom temporary protection applies in accordance with Article 2 of 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."

Response: No comment.

For the above reasons, our client considers that neither they or the applicant in the concurrent section 5 have provided DCC or now ABP with sufficient information and/or neither has offered sufficient *locus standi* to make this section 5 for or on behalf of the Minister.

<p>CLASS 20F</p> <p>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, offices, 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</p>	<p>1 The temporary use shall only be for the purposes of accommodating displaced persons or for the purposes of accommodating persons seeking international protection.</p> <p>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 2001¹.</p> <p>3 The use for the purposes of accommodating persons seeking international protection shall be discontinued not later than 31 December 2028.</p> <p>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.</p> <p>5 The relevant local authority must be notified of locations where change of use is taking place prior the commencement of development.</p> <p>6 'displaced persons', for the purpose of this class, means persons to whom temporary protection applies in accordance with Article 2 of Council Implementing Decision (EU) 2022/382 of 4 March 2022.</p>	<p>Commented [777]: Class 20F is inserted in article 2 of S.I. No. 603 Planning and Development (Amendment) (No. 4) Regulations 2022.</p> <p>Commented [778]: Class 20F is submitted by article 2 of S.I. No. 378-2021 Planning and Development (Accepted Development) (No. 4) Regulations 2021.</p> <p>Note: Footnote No. 1 in regulation no. 2 of class 20F is referred to in article 2 of S.I. 378-2021. OJ No. L 71, 04.02.2022, p. 1 Footnote No. 2 in regulation no. 2 of class 20F is referred to in article 2 of S.I. 378-2021. OJ No. L 212, 01.08.2001, p. 12</p>
	<p>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).</p> <p>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.</p>	

Fig. 6: Class 20F of the PDR (consolidated version)

6.2.1 "Exempted Development" - Conclusion

In the opinion of our client that the proposed development is not exempted development as:

- Article 9 restrictions on exempted development apply in this instance. Further, there is a lack of information and associated details, plans, and reports needed to allow ABP to determine with any confidence that Article 9 restrictions do or do not apply in this case.
- Article 10 prevents reliance on Article 6 / Part 4 of Schedule 2 exemptions. This being the case, the proposed development cannot be exempted development. Further, there is a lack of information and associated details, plans, and reports needed to allow ABP to determine with any confidence that Article 10 restrictions do or do not apply in this case.
- As regards Class 20F of the PDR, for the above reasons, our client considers that neither they or the applicant in the concurrent section 5 have provided ABP with sufficient information and/or neither has offered sufficient *locus standi* to make this section 5 for or on behalf of the Minister.

While Class 20F appears to present an unobstructed route to converting an existing office building wholly into a de facto residential supported hostel, for the reasons given above, this is not the case.

Finally, and to repeat a point made above, we acknowledge that Section 4(1)(h) can allow some works to the existing office building in its present use to allow "maintenance, improvement or other alteration"; However, this exemption applies to the existing building

whose various planning permissions require it to be used as an office. The works required are significant. While the existing building is a "structure" it is difficult to envisage how the wholesale conversion of the building from office (open plan in large areas) to supported hostel represent an "alteration". Under the Act (as noted above) "alteration includes— (a) plastering or painting or the removal of plaster or stucco, or (b) the replacement of a door, window or roof. When one reviews the submitted existing floor plans one is left to consider how the works required could be deemed an "alteration". Neither BPS or the applicant in the concurrent section 5 offers any drawings or details of the proposed works such that ABP can determine if section 4(1)(h) applies. ABP is asked to consider the appeal to the Supreme Court under Michael Cronin (Readymix Limited) v An Bord Pleanála & Others [2017] IESC 36. The Supreme Court ruled that the effect of the associated High Court judgment would be to render exempt a range of developments well beyond what the Oireachtas had originally intended under the s.4 exemption. O'Malley J agreed with Counsel for the Board and found that s.4(1)(h) provided for a limited category of works that amount to alterations (with concepts of maintenance and improvement being subsets), which are either wholly internal or, if external, are significant. She approved the Dillon judgment (referred to at 4.1) which recognised that exemptions fall into a privileged category and should therefore be strictly construed. O'Malley J found that the High Court's interpretation of s.4(1)(h) was incorrect. She accepted the arguments of the Board as to its true meaning and concluded that an extension is a development that does not come within the exemption.

Our client therefore submits that the proposed development involves the carrying out of any works other than works which are exempted development. DCC's section 5 assessment and decision fail to properly assess this matter and its referrals are issued without it first determining whether the associated works would or would not constitute exempted development.

We therefore respectfully say that neither the change of use nor the associated works constitute exempted development.

7.0 Conclusion

The proposed change of use and associated works ("the development") consisting of office use to supported hostel type accommodation for displaced persons or persons seeking international protection at 33-41 Mount Street Lower, Dublin 2, fails to comply with:

- Section 4(1)(h) of the Planning Act as regards "works" as DCC did not obtain sufficient details and drawings from any party to enable it to make any determination as to this matter.
- Article 9(1) (a) of the Planning Regulations as regards "development".
- Article 10 of the Planning Regulations as regards "use".

Note: The concurrent section 5 sought to rely on sections 4(1)(h) and 57 of the Act. However, no adequate proposed plans were submitted to DCC to allow all associated works to be assessed, and the site is not a protected structure and section 57 is irrelevant.

As such, whether or not Class 20F applies does not arise. Even if it did, non-compliance concerns arise as set out above.

Accordingly, it is submitted that the change of use and works (the "development") required to alter the existing office building to accommodate or support displaced persons or persons seeking international protection is not exempted development.

BPS notes how we fully reviewed the concurrent section 5, and we found it to offer insufficient details, drawings, and accompanying reports to allow ABP to determine with any confidence that our conclusions are correct or incorrect. Given this, we submit that the precautionary principle should apply, and the benefit of the doubt be given to retaining the existing legally correct and DCDP supported office use on this site.

8.0 Recommendation

BPS recommends that An Bord Pleanála should decide this section 5 referral in accordance with the following.

WHEREAS a question has arisen as to whether "a temporary change of use from office use to accommodate or support displaced persons or persons seeking international protection and associated works is development and is or is not exempted development"

BPS, in considering this matter, has had regard particularly to –

- Sections 2(1), 3(1) and 4(1)(h) of the Planning and Development Act, 2000, as amended.
- Articles 5 (1), 6, 9 and 10 of the Planning and Development Regulations 2001, as amended.
- The Environmental (Miscellaneous Provisions) Act 2011,
- Articles 5, 6, 9 and 10 of the Planning and Development Regulations 2001, as amended,
- The planning history of the site whose planning permissions' conditions require the building to be retained in office use.
- The Dublin City Development Plan 2022-2028 whose objectives do not permit a single use building at this location and otherwise support mixed use, office use, the avoidance of adverse impacts on Natura 2000 sites, and the protection of views within this area characterised by protected structures and conservation areas.

AND WHEREAS BPS has concluded that the proposal constitutes "development".

NOW THEREFORE BPS submits that a material change of use is proposed, and works are proposed which likely do not constitute exempted development.

9.0 Finally

We trust that sufficient information has been provided to allow this Section 5 referral to be fully assessed.

Please direct all correspondence to this office.

If you have any questions, please call BPS on 01-5394960 or 087-2615871.

Best wishes,

Brendan Buck

Brendan Buck MIPI
Managing Director
BPS Planning & Development Consultants LTD
Corporate Member of the Irish Planning Institute



An Roinn Pleanála & Forbairt Maoine, Bloc 4, Uirlár 3, Oifigi na Cathrach, An Ché Adhmaid, Baile Átha Cliath 8.

Planning & Property Development Department, Block 4, Floor 3, Dublin City Council, Civic Offices, Wood Quay, Dublin 8.

T: (01) 222 2288

E. Planning@dublincity.ie

30-Apr-2025

BPS Planning and Development Consultants
PO Box 13658
Dublin 14, D14 RW01

Application Number	0093/25
Application Type	Section 5
Registration Date	08-Apr-2025
Decision Date	29-Apr-2025
Decision Order No.	P3075
Location	33-41 Mount Street Lower, Dublin 2
Proposal	EXPP: A question arises as to whether a temporary change of use from office use to accommodate or support displaced persons seeking international protection and associated works is development and is or is not exempted development.
Applicant	Michael McCann, Mount Street Residents Group

- If you have any queries regarding this Decision, please contact the email shown above

Note:

Any person issued with a declaration on development and exempted development, may, on payment of the prescribed fee, refer a declaration for review by A Bord Pleanála within four weeks of the date of the issuing of the declaration.

NOTIFICATION OF DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT

In pursuance of its functions under the Planning & Development Acts 2000 (as amended), Dublin City Council has by order dated 29-Apr-2025 decided to issue a Declaration that the above proposed development is EXEMPT from the requirement to obtain planning permission under Section 32 of the Planning & Development Acts 2000 (as amended).

Reasons & Considerations:

Having regard to Sections 2, 3 and 4 of the Planning and Development Act, 2000 (as amended) and Part 1 of Schedule 2, the Planning and Development Regulations 2001, as amended, the Planning Authority has concluded that:

(a) The proposed change of use of the office building is development within the meaning of Sections 2 and 3 of the Planning and Development Act, 2000, as amended;

(b) The temporary change of use from office use to accommodate or support displaced persons seeking international protection and associated works is exempted development on the grounds that the works fall

An Roinn Pleanála & Forbairt Maoine, Bloc 4, Uirlár 3, Oifigi na
Cathrach, An Ché Adhmaid, Bóthar Átha Cliath 8.

Planning & Property Development Department, Block 4, Floor 3,
Dublin City Council, Civic Offices, Wood Quay, Dublin 8.

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30-Apr-2025

within the applicable category for Class 20(F) of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended and is being carried out on behalf of the Minister for Children, Equality, Disability, Integration and Youth.

NOTE: In the interests of clarity, this Certificate of Exemption relates only to the temporary use of the building as detailed under Class 20F of Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended. No further works or alterations to the buildings can be confirmed under this declaration.

Signed on behalf of Dublin City Council

for Administrative Officer

An Roinn Pleanála & Forbairt Maoine, Bloc 4, Urlár 3, Oifigi na Cathrach, An Ché Adhmaid, Baile Átha Cliath 8.

Planning & Property Development Department, Block 4, Floor 3, Dublin City Council, Civic Offices, Wood Quay, Dublin 8.

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30-Apr-2025

An Roinn Pleanála & Forbairt Maoine, Bloc 4, Urlár 3, Oifigi na Cathrach, An Ché Adhmaid, Baile Átha Cliath 8.

**Planning & Property Development Department, Block 4, Floor 3
Dublin City Council, Civic Offices, Wood Quay, Dublin 8.**

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04-Apr-2025

BPS Planning and Development Consultants
PO Box 13658
Dublin 14, D14 RW01

Application Number	0093/25
Registration Date	11-Mar-2025
Decision Date	03-Apr-2025
Decision Order No.	P2835
Location	33-41 Mount Street Lower, Dublin 2
Proposal	EXPP: A question arises as to whether a temporary change of use from office use to accommodate or support displaced persons seeking international protection and associated works is development and is or is not exempted development.
Applicant	Michael McCann, Mount Street Residents Group

- **If you have any queries regarding this Request, please contact the email shown above**

Please note that the effective lodgement date of your application will be the date on which this notice has been complied with.

Dear Sir/Madam,

With reference to the above application, I am directed by the Assistant Chief Executive to formally request that you submit the following ADDITIONAL INFORMATION in accordance with Section 5 of the Planning and Development Act 2000 (as amended).

1. The Applicant is requested to provide further details to allow the Planning Department to sufficiently assess whether the associated works fall within the meaning of Section 4(1)(h) of the Planning and Development Act, 2000 (as amended). Specifically, existing and proposed floor plans, existing and proposed elevational drawings, and details of all additional associated works should be provided to ensure a comprehensive evaluation can be undertaken.

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An Roinn Pleanála & Forbairt Maoine, Bloc 4, Urlár 3, Oifigi r
Cathrach, An Ché Adhmaid, Baile Átha Cliath 8.

Planning & Property Development Department, Block 4, Floor 3
Dublin City Council, Civic Offices, Wood Quay, Dublin 8.

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04-Apr-2025

Signed on behalf of the Dublin City Council _____

for Assistant Chief Executive



**Planning & Development
Consultants**

M 087 261 5871

T 01 539 4960

E info@bpsplanning.ie

W www.bpsplanning.ie

PO Box 13658

Dublin 14

BY HAND

The Secretary,
Dublin City Council,
Planning Registry Section,
Block 4, Floor 0,
Civic Offices,
Wood Quay, Dublin 8.

7 April 2025

Dear Sir/Madam,

Reg. ref. 0093/25. Additional Information in respect of a Section 5 referral / exemption declaration at 33-41 Mount Street Lower, Dublin 2. A question arises as to whether a temporary change of use from office use to accommodate or support displaced persons or persons seeking international protection and associated works is development and is or is not exempted development.

BPS Planning and Development Consultants LTD, a firm of Irish Planning Institute accredited town planning consultants, have been retained by Michael McCann of the Mount Street Residents Group, c/o BPS Planning & Development Consultants LTD, PO BOX 13658, Dublin 14, D24RW01 [hereafter "client"] to respond to the Dublin City Council [hereafter "DCC"] letter dated 4th of April 2025 which pertains to section 5 referral reg. ref. 0093/25. The nature of the section 5 question and the location of the site are set out above and in our original submission.

Your Additional Information request states:

1. The Applicant is requested to provide further details to allow the Planning Department to sufficiently assess whether the associated works fall within the meaning of Section 4(1)(h) of the Planning and Development Act, 2000 (as amended). Specifically, existing and proposed floor plans, existing and proposed elevational drawings, and details of all additional associated works should be provided to ensure a comprehensive evaluation can be undertaken.

Response

We respectfully note that DCC's letter inadvertently assumes our client is the property owner.

Again, respectfully, DCC is aware that the owner of the site is as it had only just decided – on the 1st of April 2025 – a concurrent section 5 under reg. ref. 0063/25.

Again, respectfully, DCC is aware that it has the power under section 5 (1)(c) of the Planning and Development Act 2000 (as amended) to "request persons in addition to those referred to in paragraph (b) to submit information in order to enable the authority to issue the declaration on the question." The appropriate party to address the request to was Lower Mount Street Accommodation Services Limited. Our client cannot provide these details.

We ask DCC to review section 5, reg. ref. 0017/14¹. Under this section 5, it was very clear that the change of use could not take place on its own and that it would be accompanied by works. In its assessment of section 5 reg. ref. 0063/25 DCC accepted the applicant's claim that no works were involved in what is a significant change to the operations of an office which only maintains permission for use as an office. DCC has previously determined, in 2014, that "office" does not include support services for visiting members of the public 'and' that internal works to facilitate support services provision for visiting members of the public is development and requires planning permission. Our client would appreciate if it DCC could explain why the current case is different. DCC could reasonably have asked for this information under reg. ref. 0063/25 (as the same issues arise).

DCC is asked to make its decision at the earliest opportunity such that this matter can be referred to the Board as reg. ref. 0063/25 has already been issued a Declaration. This is a concurrent section 5 with that case. DCC has 3 weeks to make its decision (see section 5 (1) (b) of the Act). If a decision is or is not issued, a referral will be made to the Board (having regard to section 5 (3)(b)).

¹ <https://planning.agileapplications.ie/dublincity/application-details/105435>

For the record, Lower Mount Street Accommodation Services Limited is advised by way of this submission that a referral to the Board will follow.

Finally

We trust that sufficient information has been provided.

Please direct all correspondence to this office.

If you have any questions, please call BPS on 01-5394960 or 087-2615871.

Best wishes,

Brendan Buck

Brendan Buck MIPI
Managing Director
BPS Planning & Development Consultants LTD
Corporate Member of the Irish Planning Institute

BY HAND

The Secretary,
Dublin City Council,
Planning Registry Section,
Block 4, Floor 0,
Civic Offices,
Wood Quay, Dublin 8.

11 March 2025

Dear Sir/Madam,

Section 5 referral / exemption declaration at 33-41 Mount Street Lower, Dublin 2. A question arises as to whether a temporary change of use from office use to accommodate or support displaced persons or persons seeking international protection and associated works is development and is or is not exempted development.

BPS Planning and Development Consultants LTD, a firm of Irish Planning Institute accredited town planning consultants, have been retained by Michael McCann of the Mount Street Residents Group, c/o BPS Planning & Development Consultants LTD, PO BOX 13658, Dublin 14, D24RW01 [hereafter "client"] to prepare and to lodge a section 5 referral / exemption declaration application to Dublin City Council [hereafter "DCC"]. A question arises as to whether a temporary change of use from office use to accommodate or support displaced persons or persons seeking international protection and associated works is development and is or is not exempted development.

We note that a concurrent section 5 referral has been lodged to DCC by Lower Mount Street Accommodation Services Limited in relation to this matter under DCC section 5 reg. ref. 0063/25¹. As there is no provision under section 5 for Third Parties to lodge a submission regarding such applications, our client is left with no alternative but to lodge their own section 5. There is no provision within section 5 to prevent this. Indeed, section 5 of the Planning and Development Act 2000 (as amended) states:

*5.—(1) If any question arises as to what, in any particular case, is or is not development or is or is not exempted development within the meaning of this Act, **any person may**, on payment of the prescribed fee, request in writing from the relevant planning authority a declaration on that question, and that person shall provide to the planning authority any information necessary to enable the authority to make its decision on the matter [emphasis added].*

Please find the prescribed fee of €80 attached to this letter which constitutes a request in writing for DCC to determine if the proposed development is or is not development and is or is not exempted development. On behalf of our client, BPS has provided the planning authority with information necessary to enable it to make its decision on the matter.

i Validation of this section 5

In terms of validation of this section 5, we refer to Section 5.—(1) of the Planning and Development Act 2000 (as amended) which states:

If any question arises as to what, in any particular case, is or is not development or is or is not exempted development within the meaning of this Act, any person may, on payment of the prescribed fee, request in writing from the relevant planning authority a declaration on that question, and that person shall provide to the planning authority any information necessary to enable the authority to make its decision on the matter.

Please find a cheque for **€80** attached which is the statutory fee payable for a section 5.

To further support this section 5 application, BPS has:

1. Provided a completed DCC section 5 Form.
2. Set out in this letter the question which has arisen in this case as to whether:

A question has arisen as to whether a temporary change of use from office use to accommodate or support displaced persons or persons seeking international protection and associated works is development and is or is not exempted development.

¹ <https://planning.agileapplications.ie/dublincity/application-details/165846>

3. Set out in this letter details of matters relevant to the assessment of this section 5.
4. Attached an OS Site Location Map outlining the location of the subject lands. Photographs are also provided in this letter.

We accept that DCC may need more detail, and we note how under Section 5 (2) (b) "A planning authority may require any person who made a request under subsection (1) to submit further information with regard to the request in order to enable the authority to issue the declaration on the question ...".

Contents

1.0	Site location & description
2.0	Section 5 question arising
3.0	Background to Section 5
3.1	Planning & Enforcement History of the Site
4.0	Policy context
4.1	Dublin City Development Plan 2022-2028
5.0	Statutory Provisions
5.1	PDA - Planning and Development Act 2000 (as amended)
5.2	PDR - Planning and Development Regulations, 2001 (as amended)
6.0	Assessment
6.1	Assessment under the PDA
6.1.1	Is or is not development
6.1.1.1	PDA - Planning and Development Act, 2000 (as amended)
6.1.1.2	PDR - Planning and Development Regulations, 2001 (as amended)
6.1.1.3	Conclusion - 'Is or is not development'
6.2	The question of "exempted Development"
6.2.1	"Exempted Development" - Conclusion
7.0	Conclusion
8.0	Recommendation

1.0 Site location & description

Nos. 33-41 Mount Street Lower is a building on Mount Street Lower is located just east of Merrion Square Park that. It sits on the south side of Mount Street Lower between the Passport Office and a shop/cafe, with apartments on the upper floors. It is zoned in the Dublin City Development Plan (2022 - 2028) as Zone 10: 'Inner Suburban and Inner City Sustainable Mixed uses'. The use is further described as a zoning which aims: "To consolidate and facilitate the development of inner city and inner suburban sites for mixed-uses".

The ground floor is used for parking (36 spaces) and the upper floors are all in office use. The building dates to the 1960s and is finished with a brick frontage. Vehicular access to the parking area is via the rear laneway off Verschoyle Court.

The site does not lie in an Architectural Conservation Area and is not listed on the record of Protected Structures; however, there are both Architectural Conservation Areas and Protected Structures in the immediate vicinity with views toward the site. The site is located close to the Grand Canal whose waters are shared with Dublin Bay and its various Natura 2000 sites.

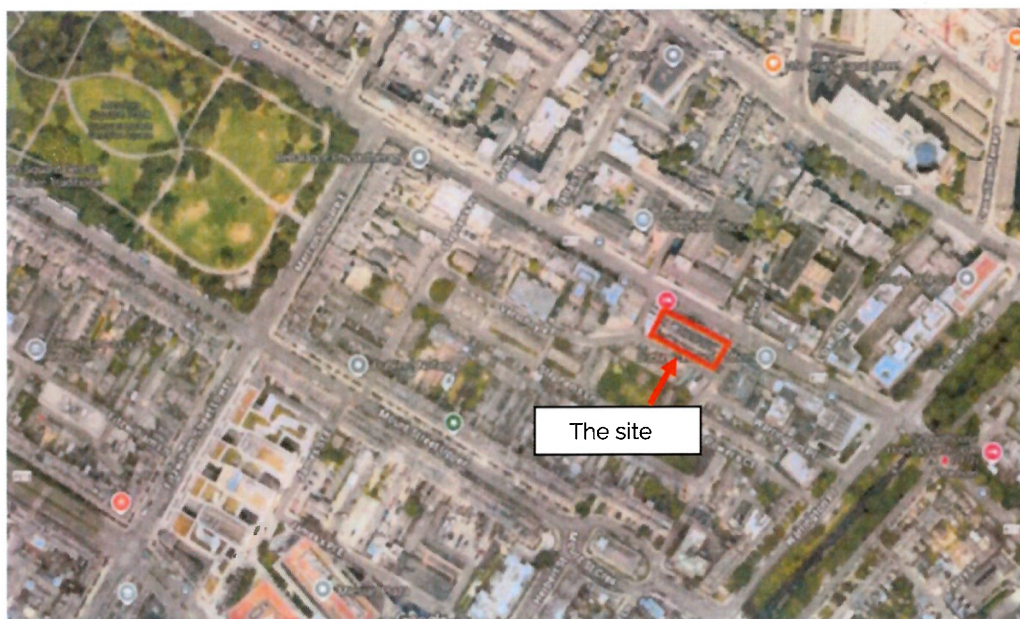


Fig. 1: The location of the site

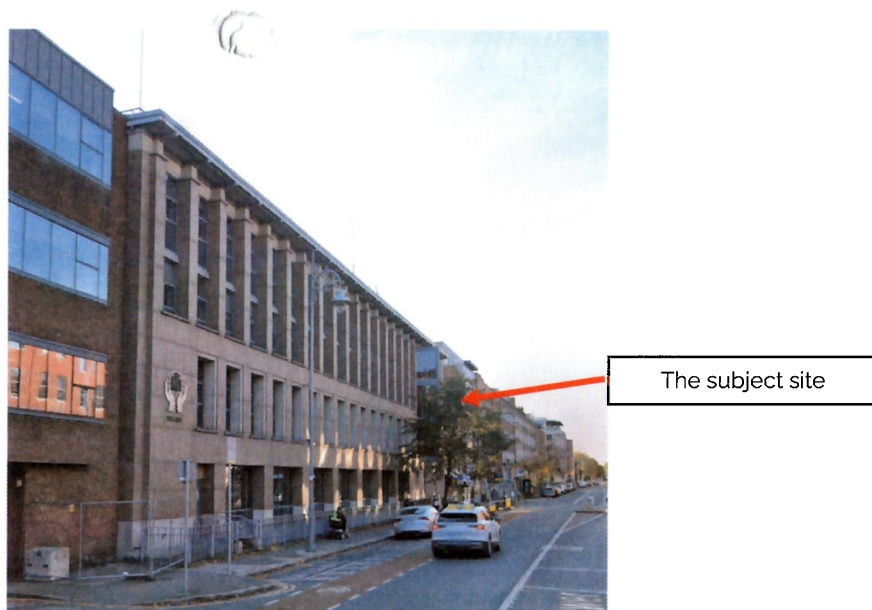


Fig. 2: The location of the site



Fig. 3: The location of the site

2.0 Section 5 question arising

The question referred to the planning authority pursuant to section 5(1) of the Planning and Development Act, 2000, as amended ("the Act") for review is, as follows: "Whether a temporary change of use from office use to accommodate or support displaced persons or persons seeking international protection and associated works is development and is or is not exempted development."

3.0 Background to Section 5

3.1 Planning & Enforcement History of the Site

The following planning applications have previously been made in respect of this site. Condition No. 1 of each permission require that the development be carried out in accordance with the plans submitted and the use be office. Development includes "use" and "works". The building's use as an office is required by way of the following statutory planning permissions:

- **Ref. No. 774/97** - An application for 'Erection of flagpoles (3 no.) at fourth floor level, erection of signage logos (2 no.) behind glass at second floor level and exterior illumination of signage and front facade of the building' was submitted to Dublin City Council in May 1997. Two refusal reasons were put forward by the Council stating the flag poles, illumination and signage proposal was potentially visually obtrusive and therefore recommend refusal. The application was appealed to An Bord Pleanála which resulted in a split decision to approve the exterior illumination and refuse the flagpole and signage logos proposal. The decision is dated December 1997. Conditions:

1. **Insofar as the Local Government (Planning & Development) Acts 1963/93 and the Regulations made thereunder are concerned the development shall be carried out in accordance with the plans, particulars and specifications lodged with the application, save as may be required by the conditions attached hereto.** REASON: To comply with permission regulations [emphasis added].
 2. The proposed flags at fourth floor level would constitute an unnecessary and visually obtrusive form of advertising and would set an undesirable precedent for similar flags at high level on Mount Street. The proposed development would thus be contrary to the proper planning and development of the area.
 3. (ii) The proposed signage logos behind the glass at second floor level would contribute to a clutter of advertising on the front elevation of the newly refurbished building at 33 - 41 Lower Mount Street and would also be contrary to the objectives of the Planning Authority, as set out in paragraph 15.15.15 of the Development Plan, wherein it is stated that all advertising above ground level will be severely restricted in order to avoid such clutter and to preserve the amenity of the streetscape. The proposed development would thus be contrary to the proper planning and development of the area.
- **Ref. No. 2538/96** - An application for 'Extension to existing fourth floor penthouse office' was submitted to the Dublin City Council by Irish League of Credit Unions on 13-Nov-1996. A grant of permission was issued by the Council with two conditions relating to the adhering to the submitted plans and making a development contribution. Conditions:
 1. **Insofar as the Local Government (Planning & Development) Acts 1963/93 and the Regulations made thereunder are concerned the development shall be carried out in accordance with the plans, particulars and specifications lodged with the application, save as may be required by the conditions attached hereto.** REASON: To comply with permission regulations [emphasis added].
 2. Before this development commences a financial contribution in the sum of #1,560.00 shall be paid by the applicant to Dublin Corporation, in accordance with Section 26 of the Local Government (Planning & Development) Act 1963. REASON : Investment by Dublin Corporation in Local Authority works has facilitated and will facilitate the proposed development. It is considered appropriate and reasonable that the developer should contribute to the cost of same.
 - **Ref. No. 0013/96** - An application for 'Refurbishment of office building to include for construction of new ground floor office, replacement of existing facade and provision of new landscaped area to Mount Street Lower, replacement of existing windows to front and rear; storage facility at car park level and new security car park gates to Verschoyle Court amending previously permitted development ' was submitted to the Dublin City Council by Irish League of Credit Unions on 04-Mar-1996. A grant of permission was issued by the Council with 8 conditions relating to adhering to the submitted plans, the external appearance and making a development contribution. Conditions:
 1. **Insofar as the Local Government (Planning and Development) Acts 1963/93 are concerned the development shall be carried out in accordance with the plans, particulars and specifications lodged with the application, as revised by the additional information received on the 14/03/96 and the unsolicited additional information received 21/05/96, save as may be required by the conditions attached hereto.** Reason: To comply with permission regulations [emphasis added].
 2. The select stone cladding for the columns and the ground floor front elevation shall be predominantly red/brown in colour, with grey granite architraves to windows and entrance elements. Prior to the commencement of the development full details of the front elevation indicating use and colour of materials and including stone and cladding samples to be used , shall be submitted for the agreement in writing of the Planning Authority. The development shall thereafter be constructed only in accordance with such details as shall be agreed. Reason: To ensure a satisfactory appearance on completion of the development and to ensure that the building is compatible with the streetscape of Mount Street Lower which is characterised by red/brown coloured facades.
 3. The building shall not be externally illuminated without the prior grant of a separate planning permission. Reason: In the interests of visual amenities.
 4. Full details of the two front entrances including elevations and floor plans at a scale of 1:50 shall be submitted for the written agreement of the planning authority and the development shall be carried out in accordance with the agreed details. Reason: So that the planning authority may be satisfied as to these details of the development.
 5. Full details of the railings and hard landscaped area including detailed/specified landscaping scheme shall be submitted for the written agreement of the planning authority prior to the commencement of development and the development shall be carried out in accordance with the agreed details. Reason: So that the planning authority may be satisfied as to these details of the development.
 6. The projecting lead/zinc eaves at parapet level shall be reduced from the proposed 1200mm (as indicated on drawing no.PL-06/A) to approximately 750mm in width. Details of this alteration shall be submitted to and agreed in writing by the Planning Authority prior to the commencement of development. Reason: In order to conform with the parapet treatment of adjoining buildings on the Mount Street Lower, in the interests of visual amenities.
 7. The high level signs in the projecting bay window shall be omitted. Reason: In the interests of visual amenities
 8. Before this development commences a financial contribution in the sum of #7,995.00 shall be paid by the applicant to Dublin Corporation, in accordance with Section 26 of the Local Government (Planning & Development) Act 1963. REASON : Investment

by Dublin Corporation in Local Authority works has facilitated and will facilitate the proposed development. It is considered appropriate and reasonable that the developer should contribute to the cost of same.

- **Ref. No. 2268/90** - An application for 'Refurbishment of building including modification to the front and rear facade, the construction of a new core and new ground floor, with office/retail/showroom/financial services use and provision of a new landscaped area on the frontage' was submitted to Dublin City Council in 1990. A grant of permission was issued by the Council on February 7th, 1991, with 8 conditions relating to adhering to the submitted plans, road and traffic policies and the Building Bye-Laws, consulting with the Fire, Engineering and Environmental Health Departments, and restricting external signs and car sales showrooms. Conditions not available online.
- **Ref. No. 1359/67** - An application for the 'Erection of a four-storey office building with set-back storey at 4th floor level' was submitted to the Dublin City Council in October 1967. A grant of permission was issued by the Council with two conditions relating to the adhering to the submitted plans and making a development contribution. Conditions not available online.
- **Ref. No. 0661/65** - Not enacted - An application for the 'Erection of a three-storey office building' was submitted to the Dublin City Council in May 1965. A grant of approval was issued by the Council on 25/8/1965 with two conditions relating to the adhering to the Corporation in terms of car parking, access, ratios, electrical treatment and general amenity, and where the building is positioned. Conditions not available online.

4.0 Policy context

4.1 Dublin City Development Plan 2022-2028

The subject site is not a sensitive one regarding the following:

- The site is zoned in the Dublin City Development Plan (2022 - 2028) as Zone 10: 'Inner Suburban and Inner City Sustainable Mixed uses'. The use is further described as a zoning which aims: "To consolidate and facilitate the development of inner city and inner suburban sites for mixed-uses".

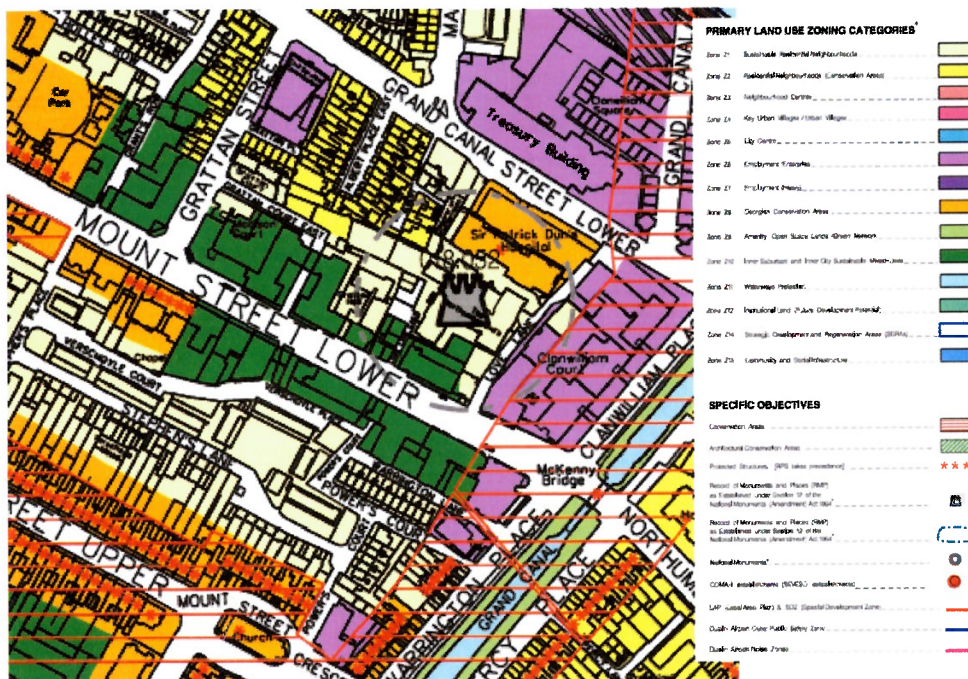


Fig. 4: Excerpt from Map E of the Dublin City Development Plan 2022-2028

- The site and buildings thereon do not constitute a protected structure; however, there are a number of protected structures sited to the west of the site along Mount Street Lower.
- The site is located close to the Conservations Areas including the Georgian Conservation Areas.
- The site does not contain a protected structure and is not sited within an Architectural Conservation Area.
- Regarding Environmental Impact Assessment and Appropriate Assessment screening, neither this section 5 or the concurrent section 5 offer any accompanying screening reports despite being located a short distance from the Grand Canal whose waters pass into Dublin Bay.

5.0 Statutory Provisions

5.1 PDA - Planning and Development Act 2000 (as amended)

Section 2(1) 'Interpretation' of the of the Planning and Development Act 2000 (as amended).

In this Act, except where the context otherwise requires—

"use", in relation to land, does not include the use of the land by the carrying out of any works thereon;

"unauthorised development" means, in relation to land, the carrying out of any unauthorised works (including the construction, erection or making of any unauthorised structure) or the making of any unauthorised use.

"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 (emphasis added).

"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, and

(b) in relation to a protected structure or proposed protected structure, includes:

(i) the interior of the structure,

(ii) the land lying within the cartilage of the structure,

(iii) any other structures lying within that cartilage and their interiors, and

(iv) all fixtures and features which form part of the interior or exterior of any structure or structures referred to in subparagraph (i) or (iii).

"alteration" includes—

(a) plastering or painting or the removal of plaster or stucco, or

(b) the replacement of a door, window or roof,

that materially alters the external appearance of a structure so as to render the appearance inconsistent with the character of the structure or neighbouring structures.

Section 3

3.—(1) 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.

Section 4

Section 4(1)(a) of the Act sets out various forms and circumstances in which development is exempted development for the purposes of the Act. It states: "The following shall be exempted developments for the purposes of this Act ...". An example is section 4 (1)(h):

(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;

Also, section 4(2)(a) states that the Minister may by regulations provide for any class of development to be exempted development where he or she is of the opinion that the carrying out of such development by virtue of its size, nature or limited effect on its surroundings, would not offend against the principles of proper planning and sustainable development

Section 4(2)(b) of the Act states that regulations under paragraph (a) may be made subject to conditions and be of general application or apply to such area or place as may be specified in the regulations.

5.2 PDR - Planning and Development Regulations, 2001 (as amended)

Article 5 (1) In this Part -

"protected person", for the purposes of Schedule 2, means—

(a) a person who has made an application to the Minister for Justice and Equality under the Refugee Act of 1996 or the Subsidiary Protection Regulations 2013 (S.I. No. 426 of 2013), (b) a person who falls to be considered or has been considered under section 3 of the Immigration Act of 1999, or (c) a programme refugee within the meaning of section 24 of the Refugee Act of 1996.

² References refer to: <https://revisedacts.lawreform.ie/eli/2000/act/30/revised/en/html#SEC4>

Article 6(1)

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 [emphasis added].

Article 9(1)(a)

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** [emphasis added].
- (ii) consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,
- (iii) endanger public safety by reason of traffic hazard or obstruction of road users ...
- (vi) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,
- (vii) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,
- (viiA) consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12 (1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to and in accordance with a consent granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended,
- (viiB) **comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site** [emphasis added].
- (viiC) consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000.
- (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,
- **(ix) consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan ...** [emphasis added]
- (xii) further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area.

Article 10 (1)

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,**
- (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 [emphasis added].

Article 10 (2) (a) states: "A use which is ordinarily incidental to any use specified in Part 4 of Schedule 2 is not excluded from that use as an incident thereto merely by reason of its being specified in the said Part of the said Schedule as a separate use."

Schedule 2

Part 1 'Exempted Development', 'General', of Schedule 2 sets out exempted development class for exempted development general to which Art 6(1) refers.

Schedule 2 sets out a wide range of 'Exempted Development'. Any relevant possible exemption is addressed below.

6.0 Assessment

The purpose of this assessment is not to determine the acceptability or otherwise of the matters raised 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 within the meaning of the relevant legislation.

6.1 Assessment under the PD A

6.1.2 Is or is not development

The subject site or property at 33-41 Mount Street Lower, Dublin 2 has been in use for many years as the Irish League of Credit Unions Building. In this office use, the site has obtained many planning permissions, including reg. refs. 774/97, 2538/96, 0013/96, 2268/90, 1359/67, and 0661/65 for various developments that supported and/or were ancillary to the site's and property's office use. Condition No. 1 of each planning permission states: "the development shall be carried out in accordance with the plans, particulars and specifications lodged with the application, save as may be required by the conditions attached hereto." Each permission pertains to the use of the building as office.

DCC's CDP 2022-2028 has zoned this site/property 'Inner Suburban and Inner City Sustainable Mixed-Uses – Zone Z10'. Section 14.7.10 of the DCDP sets out objectives pertaining to this zoning and states:

***The purpose of this zoning is to promote mixed-use in order to deliver sustainable patterns of development in line with the principles of the 15-minute city. The concept of mixed-use will be central to the development or redevelopment of these sites and mono uses, either all residential or all employment/office use, shall not generally be permitted.** In order to ensure that a mixed-use philosophy is adhered to on Z10 zoned lands, the focus will be on delivering a mix of residential and commercial uses. There will be a requirement that a range of 30% to 70% of the area of Z10 zoned lands can be given to one particular use, with the remaining portion of the lands to be given over to another use or uses (e.g. residential or office/employment). For very small sites, typically less than 0.5ha, flexibility on mix requirement may be considered on a case-by-case basis, where it can be demonstrated that the proposal would not result in an undue concentration of one particular land-use on the Z10 landholding as a whole. The primary uses supported in this zone are residential, office and retail, with ancillary uses also facilitated where they deliver on the overall zoning objective ... [emphasis added].*

In short, the DCDP 2022-2028 does not permit large sites/properties within the Z10 zoned areas to be used for single uses. Further, the DCDP contains objectives seeking to protect employment uses and office uses in the city centre within the canals:

- Section 6.5.2 'Strategic and Targeted Employment Growth' refers to 'The City Centre' and states: "The focus of the strategy for the inner city and its immediately surrounding neighbourhoods within the canals will be to encourage balanced economic investment with an increased focus on liveability, enhanced public realm and mobility measures. **The city centre will retain and build upon its existing role as one of Ireland's most important employment areas** with a mix of office, retail, residential, tourism related and cultural activities" [emphasis added].
- CEE8 'The City Centre' aims **"To support the development a vibrant mix of office, retail, tourism related and cultural activities in the city centre** and to facilitate the regeneration and development of key potential growth areas such as the Diageo lands, the St. James's Healthcare Campus and Environs and the TU Dublin campus at Grangegorman" [emphasis added].
- Section 6.5.6 states: **"A choice of good quality and cost-competitive office and commercial space is critical in attracting investment, supporting enterprises and generating employment and there is an ongoing need to encourage the high quality re-development of outdated office stock"** [emphasis added].
- It is the Policy of Dublin City Council: 'CEE21' – 'Supply of Commercial Space and Redevelopment of Office Stock': "(i) **To promote and facilitate the supply of commercial space, where appropriate, including larger office floorplates suitable for indigenous and FDI HQ-type uses. (ii) To consolidate employment provision in the city by incentivising and facilitating the high-quality re-development of obsolete office stock in the city"** [emphasis added].

The site/property is therefore subject to planning permission conditions requiring it to retain in office use 'and' subject to DCDP 2022-2028 objectives which prevent any new single use on the site, and which seek to protect office and employment uses in the city centre/within the canals.

The site is located proximate to the Grand Canal whose waters connect directly to Dublin Bay and to numerous Natura 2000 sites including: North Dublin Bay SAC (000206), South Dublin Bay SAC (000210), South Dublin Bay and River Tolka Estuary (004024), and North Bull Island (004006). The DCDP 2022-2028 contains a range of objectives which seek to protect Natura 2000 sites including:

It is the Policy of Dublin City Council:	
GI9	<p>European Union Natura 2000 Sites</p> <p>To conserve, manage, protect and restore the favourable conservation condition of all qualifying interest/special conservation interests of all European sites designated, or proposed to be designated, under the EU Birds and Habitats Directives, as Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) (European / Natura 2000 sites).</p>
GI10	<p>Flora and Fauna Protected under National and European Legislation Located Outside Designated Areas</p> <p>To adequately protect flora and fauna (under the EU Habitats and Birds Directives), the Wildlife Acts 1976 (as amended), the Fisheries Acts 1959 (as amended) and the Flora (Protection) Order 2022 S.I No. 235 of 2022, wherever they occur within Dublin City, or have been identified as supporting the favourable conservation condition of any European sites.</p>

Fig. 5: Objectives GI9 and GI10 of the DCDP 2022-2028

Finally, the site/property is located close to protected structures and conservation areas the views of which are protected.

6.1.1.1 PDA - Planning and Development Act, 2000 (as amended)

Section 2(1) 'Interpretation' of the of the Planning and Development Act 2000 (as amended) states "use", in relation to land, does not include the use of the land by the carrying out of any works thereon.

This Section 5 pertains to the proposed temporary change of use of Nos. 33-41 Mount Street Lower, Dublin 2 from office use to accommodate or support displaced persons or persons seeking international protection. **This would represent a material change of use.**

Section 3(1) of the of the Planning and Development Act 2000 (as amended) states "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.

The existing permitted use of the site as required by Condition No. 1 of the planning permissions listed in Section 3.1 of this letter is office. The proposed use is as de facto hostel to accommodate or support displaced persons or persons seeking international protection. **This would represent a material change of use and, as such, constitutes "development".**

We submit that a material change of use is proposed; therefore, "development" is proposed to take place.

Section 4

Section 4(1)(a) of the Act sets out various forms and circumstances in which development is exempted development for the purposes of the Act.

Section 4(1)(a) does not itself include any exemption as regards the change of use of an office building to de facto hostel to accommodate or support displaced persons or persons seeking international protection.

Section 4(1)(a) 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.

As noted above, section 4(2)(a) states that the Minister may by regulations provide for any class of development to be exempted development where he or she is of the opinion that the carrying out of such development by virtue of its size, nature or limited effect on its surroundings, would not offend against the principles of proper planning and sustainable development. Section 4(2)(b) of the Act states that regulations under paragraph (a) may be made subject to conditions and be of general application or apply to such area or place as may be specified in the regulations. The Planning and Development Regulations, 2001 (as amended) are reviewed below.

6.1.1.2 PDR - Planning and Development Regulations, 2001 (as amended)

Article 3 of the Planning and Development Regulations, 2001 (as amended) does not contain any provision which would contradict the Planning Act 2000 (as amended) as regards whether "development" is proposed.

The existing permitted use of the site as required by Condition No. 1 of the planning permissions listed in Section 3.1 of this letter is office. The proposed use is as de facto hostel to accommodate or support displaced persons or persons seeking international protection. **This would represent a material change of use and, as such, constitutes "development".**

6.1.1.3 Conclusion – 'Is or is not development'

Arising from the above assessment carried out under the PDA and PDR, we conclude that the proposed change of use represents a material change of use which is "development".

6.2 The question of "exempted development"

For any applicant to rely on the exempted development provisions of the Act and the Regulations, the onus is on him or her to prove the development constitutes exempted development (see *South Dublin County Council v Fallowvale Ltd.* [2005] IEHC 408; later approved in *Meath County Council v. Murray* [2017] 2 I.R. 297; and accepted (obiter) in the statement of Simons J in *Waterford v Centz* [Judgement of Simons J, 27 November 2020] as being correct). See also *Doorly v Corrigan* [2022] IECA 6 at p. 121; and *Diamrem Limited v Cliffs of Moher Centre Limited* [2021] IECA 291 at p. 47.

Section 4(1) of the Act sets out various forms and circumstances in which development is exempted development for the purposes of the Act. As noted above, section 4(2)(a) states that the Minister may by regulations provide for any class of development to be exempted development where he or she is of the opinion that the carrying out of such development by virtue of its size, nature or limited effect on its surroundings, would not offend against the principles of proper planning and sustainable development. Section 4(2)(b) of the Act states that regulations under paragraph (a) may be made subject to conditions and be of general application or apply to such area or place as may be specified in the regulations. The Planning and Development Regulations, 2001 (as amended) are reviewed below.

Article 9 – Restrictions on Article 6

Under the provisions of the Planning and Development Regulations 2001 (as amended) [hereafter referred to as the PDR], Article 6 provides that: "**Subject to Article 9**, development of a class specified in column 7 of Part 7 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 7 opposite the mention of that class in the said column 1" (emphasis added).

It is therefore necessary to first consider if Article 9 of the PDR may restrict any claim made by the site/property owner to rely on Article 6 exemptions. 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.

Response: The site/property maintains multiple planning permissions whose conditions No. 1 require the building to be used as offices. The proposed change of use would therefore contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act.

- (iii) endanger public safety by reason of traffic hazard or obstruction of road users ...

Response: The proposed change of use of the site from office to de facto hostel to accommodate or support displaced persons or persons seeking international protection may raise traffic hazard concerns. BPS has provided no road engineering assessment with this Section 5 and the concurrent section 5 offers no assessment either. The matter is unresolved.

- (vi) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan.

Response: The proposed change of use of the site from office to de facto hostel to accommodate or support displaced persons or persons seeking international protection may raise concerns as regards adverse impacts on the settings of nearby protected structures and conservation areas. BPS has provided no architectural heritage assessment with this Section 5 and the concurrent section 5 offers no assessment either. The matter is unresolved.

- (viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site.

Response: It is acknowledged how Section 4 was amended by the Environmental (Miscellaneous Provisions) Act 2011 to prescribe that notwithstanding the provisions of Section 4, development shall not be exempted development if an EIA or an AA of the development is required. Our client is not in a position to provide any AA or EIAR Screening Reports. The applicant in the concurrent section 5 has not provided these either. The matter is unresolved and DCC is not in a position to determine if the proposal would or would not cause adverse impacts on a Natura 2000 site.

- (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.

Response: Our client notes that to convert this large office building into a de facto residential supported hostel would require significant internal works to be undertaken. Neither this section 5 prepared by BPS nor the concurrent section 5 offer DCC any detail as to the extent of works required. The concurrent section 5 claims an exemption as regards these works under Section 4(1)(h) of the PDA. Concerns arise that these works constitute development, are not exempted development, and would result in the alteration of structure which would be unauthorised and contrary to Condition No. 1 of the planning permissions listed in Section 3.1 of this letter. The works required to convert this building into a de facto residential hostel are not works for the

maintenance, improvement or other alteration of the structure, which pertain to its permitted use as an office block. The works are required to change the use of the building. The change of use would likely fundamentally alter the interior of the structure and 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. The purpose of section 4(1)(h) is not and never has been to allow any building over to wholly re-purpose and redevelop a building without planning permission.

- (ix) consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan ...

Response: Our client notes that to convert this large office building into a de facto residential supported hostel would require significant internal works, including areas of demolition, to be undertaken. These works would preclude or restrict the continuance of the existing office use of the building. It is an objective(s) of the planning authority, as set out in Section 6.0 of this letter, to ensure that the building will remain available for office and/or mixed use (such objective has been specified in a development plan for the area). Neither this section 5 prepared by BPS or the concurrent section 5 offer DCC any detail as to the extent of works required and neither section 5 claims any exemption as regards these works. Concerns arise that these works would essentially be permanent and result in the long term use of the 100% of the building as a residential hostel when this is not permitted by the DCDP 2022-2028 (see Section 6.0 of this letter). The concurrent section 5 has not addressed this concern.

For these reasons, in this case, our client considers that Article 9 prevents reliance on Article 6 exemptions. This being the case, the proposed development cannot be exempted development.

The application of Article 10 (i) restrictions on change of use exemptions

Article 10 (i) states: "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":

- involve the carrying out of any works other than works which are exempted development,

Response: Section 4(1)(h) can allow some works to the existing office building in its present use to allow "maintenance, improvement or other alteration"; However, this exemption applies to the existing building whose various planning permissions require it to be used as an office. The works required are significant. While the existing building is a "structure" it is difficult to envisage how the wholesale conversion of the building from office (open place in large areas) to supported hostel represent an "alteration". Under the Act (as noted above) "alteration includes— (a) plastering or painting or the removal of plaster or stucco, or (b) the replacement of a door, window or roof". When one reviews the submitted existing floor plans one is left to consider how the works required could be deemed an "alteration". Neither BPS or the applicant in the concurrent section 5 offers any drawings or details of the proposed works such that DCC can determine if section 4(1)(h) applies. DCC is asked to consider the appeal to the Supreme Court under Michael Cronin (Readymix Limited) v An Bord Pleanála & Others [2017] IESC 36. The Supreme Court ruled that the effect of the associated High Court judgment would be to render exempt a range of developments well beyond what the Oireachtas had originally intended under the s.4 exemption. O'Malley J agreed with Counsel for the Board and found that s.4(1)(h) provided for a limited category of works that amount to alterations (with concepts of maintenance and improvement being subsets), which are either wholly internal or, if external, are significant. She approved the Dillon judgment (referred to at 4.1) which recognised that exemptions fall into a privileged category and should therefore be strictly construed. O'Malley J found that the High Court's interpretation of s.4(1)(h) was incorrect. She accepted the arguments of the Board as to its true meaning and concluded that an extension is a development that does not come within the exemption. **Our client therefore submits that the proposed development involves the carrying out of any works other than works which are exempted development.**

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

Response: The site/property maintains multiple planning permissions whose conditions No. 1 require the building to be used as offices. The proposed change of use would therefore contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act.

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

Response: The site/property maintains multiple planning permissions whose conditions No. 1 require the building to be used as offices. The proposed change of use would therefore contravene and be inconsistent with a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act.

- (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.

Response: Our client notes that to convert this large office building into a de facto residential supported hostel would require significant internal works to be undertaken. Neither this section 5 prepared by BPS nor the concurrent section 5 offer DCC any detail as to the extent of works required. The concurrent section 5 claims an exemption as regards these works under Section 4(1)(h) of the PDA. Concerns arise that these works constitute development, are not exempted development, and would result

in the alteration of structure which would be unauthorised and contrary to Condition No. 1 of the planning permissions listed in Section 3.1 of this letter. The works required to convert this building into a de facto residential hostel do not work for the maintenance, improvement or other alteration of the structure, which pertain to its permitted use as an office block. The works are required to change the use of the building. The change of use would likely fundamentally alter the interior of the structure and 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. The purpose of section 4(1)(h) is not and never has been to allow any building over to wholly re-purpose and redevelop a building without planning permission.

- Article 10 (2) (a) states: "A use which is ordinarily incidental to any use specified in Part 4 of Schedule 2 is not excluded from that use as an incident thereto merely by reason of its being specified in the said Part of the said Schedule as a separate use."

Response: A supported residential hostel for the stated persons is not a use incidental to the permitted office use.

For these reasons, in this case, our client considers that Article 10 prevents reliance on Article 6 / Part 4 of Schedule 2 exemptions. This being the case, the proposed development cannot be exempted development.

The possible application of Class 20F

The concurrent section 5 does not address Article 9, but instead seeks to rely wholly on Class 20F of column 1 of Part 1 of Schedule 2. This exemption is included in Fig. 6, and it is subject to 8 no. 'Conditions and Limitations'.

The possible application of Class 20F is assessed point by point below:

- Class 20F provides for "Temporary use by or on behalf of the Minister for Children, Equality, Disability, Integration and Youth ..."

Response: Our client is not and cannot act on behalf of the Minister or claim to be acting on his or her behalf by issuing this section 5 application to DCC, yet we have provided much the same details as the concurrent section 5. The applicant for the concurrent section 5 is not the Minister and has not provided any evidence with the concurrent section 5 that this proposal is being made at the behest of the Minister. The applicant for the concurrent section 5 is Lower Mount Street Accommodation Services Ltd, The Exchange, George's Dock International Financial Services Centre, Dublin 1, D01P2V6.

- Conditions and Limitations 1 states: "The temporary use shall only be for the purposes of accommodating displaced persons or for the purposes of accommodating persons seeking international protection."

Response: Our client cannot confirm with any evidence that this section 5 proposal pertains to accommodating displaced persons or for the purposes of accommodating persons seeking international protection. The applicant for the concurrent section 5 has also not provided any evidence that this proposal is to be temporary or for any given type of person.

- Conditions and Limitation 2 states: "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 2022¹ comes to an end in accordance with Article 6 of the Council Directive 2001/55/EC of 20 July 2001²."

Response: No timescale is placed on how long this period will be. By definition, temporary means temporary, yet BPS is not supplying any statement as regards proposed timescale and the concurrent section 5 does not either. There is no way for DCC to determine if the proposal is temporary or not. Council Implementing Decision (EU) 2022/382 of 4 March 2022 may be in place for significant time which would leave this office block in full residential use which is contrary to the DCDP 2022-2028 and to extant planning permissions pertaining to the site.

- Conditions and Limitation 3 states: "The use for the purposes of accommodating persons seeking international protection shall be discontinued not later than 31 December 2028."

Response: Our client submits that the Minister could alter this timeline at any time.

- Conditions and Limitation 4 states: "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."

Response: Our client submits that the Minister could alter this timeline at any time. Further, if the period is to be shorter than until 2028, concerns arise that this "temporary" use is not justified given the short timescale involved.

- Conditions and Limitation 5 states: "The relevant local authority must be notified of locations where change of use is taking place prior the commencement of development."

Response: No comment.

- Conditions and Limitations 6, 7 and 8 state: 6. 'Displaced persons', for the purpose of this class, means persons to whom temporary protection applies in accordance with Article 2 of 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."

Response: No comment.

For the above reasons, our client considers that neither they or the applicant in the concurrent section 5 have provided DCC with sufficient information and/or neither has offered sufficient *locus standi* to make this section 5 for or on behalf of the Minister.

<p>CLASS 20F</p> <p>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</p>	<p>1. The temporary use shall only be for the purposes of accommodating displaced persons or for the purposes of accommodating persons seeking international protection.</p> <p>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 2022¹ comes to an end in accordance with Article 6 of the Council Directive 2001/55/EC of 20 July 2001².</p> <p>3. The use for the purposes of accommodating persons seeking international protection shall be discontinued not later than 31 December 2028.</p> <p>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.</p> <p>5. The relevant local authority must be notified of locations where change of use is taking place prior the commencement of development.</p> <p>6. 'displaced persons', for the purpose of this class, means persons to whom temporary protection applies in accordance with Article 2 of Council Implementing Decision (EU) 2022/382 of 4 March 2022.</p>	<p>Commented (1787): Class 20F is inserted by article 2 of S.I. No. 619 Planning and Development (Amendment) (No. 4) Regulations 2022.</p> <p>Commented (1788): Class 20F is substituted by article 2 of S.I. No. 376/2023 Planning and Development (Amendment) (Development) (No. 4) Regulations 2023.</p> <p>Note:</p> <p>¹ Council Decision No. 1 in accordance with article 2 of Council Decision (EU) 2022/382 of 4 March 2022.</p> <p>² Council Directive 2001/55/EC of 20 July 2001.</p>
	<p>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).</p> <p>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.</p>	

Fig. 6: Class 20F of the PDR (consolidated version)

6.2.1 "Exempted Development" - Conclusion

In the opinion of our client that the proposed development is not exempted development as:

- Article 9 restrictions on exempted development apply in this instance. Further, there is a lack of information and associated details, plans, and reports needed to allow DCC to determine with any confidence that Article 9 restrictions do or do not apply in this case.
- Article 10 prevents reliance on Article 6 / Part 4 of Schedule 2 exemptions. This being the case, the proposed development cannot be exempted development. Further, there is a lack of information and associated details, plans, and reports needed to allow DCC to determine with any confidence that Article 10 restrictions do or do not apply in this case.
- As regards Class 20F of the PDR, for the above reasons, our client considers that neither they or the applicant in the concurrent section 5 have provided DCC with sufficient information and/or neither has offered sufficient *locus standi* to make this section 5 for or on behalf of the Minister.

While Class 20F appears to present an unobstructed route to converting an existing office building wholly into a de facto residential supported hostel, for the reasons given above, this is not the case.

Finally, and to repeat a point made above, we acknowledge that Section 4(1)(h) can allow some works to the existing office building in its present use to allow "maintenance, improvement or other alteration"; However, this exemption applies to the existing building whose various planning permissions require it to be used as an office. The works required are significant. While the existing building is a "structure" it is difficult to envisage how the wholesale conversion of the building from office (open place in large areas) to supported hostel represent an "alteration". Under the Act (as noted above) "alteration includes— (a) plastering or painting or the removal of plaster or stucco, or (b) the replacement of a door, window or roof. When one reviews the submitted existing floor plans one is left to consider how the works required could be deemed an "alteration". Neither BPS or the applicant in the concurrent section 5 offers any drawings or details of the proposed works such that DCC can determine if section 4(1)(h) applies. DCC is asked to consider the appeal to the Supreme Court under Michael Cronin (Readymix Limited) v An Bord Pleanála & Others [2017] IESC 36. The Supreme Court ruled that the effect of the associated High Court judgment would be to render exempt a range of developments well beyond what the Oireachtas had originally intended under the s.4 exemption. O'Malley J agreed with Counsel

for the Board and found that s.4(1)(h) provided for a limited category of works that amount to alterations (with concepts of maintenance and improvement being subsets), which are either wholly internal or, if external, are significant. She approved the Dillon judgment (referred to at 4.1) which recognised that exemptions fall into a privileged category and should therefore be strictly construed. O'Malley J found that the High Court's interpretation of s.4(1)(h) was incorrect. She accepted the arguments of the Board as to its true meaning and concluded that an extension is a development that does not come within the exemption. **Our client therefore submits that the proposed development involves the carrying out of any works other than works which are exempted development.**

We therefore respectfully say that neither the change of use nor the associated works constitute exempted development.

7.0 Conclusion

The proposed change of use and associated works ("the development") consisting of office use to supported hostel type accommodation for displaced persons or persons seeking international protection at 33-41 Mount Street Lower, Dublin 2, fails to comply with:

- Section 4(1)(h) of the Planning Act as regards "works".
- Article 9(1) (a) of the Planning Regulations as regards "development".
- Article 10 of the Planning Regulations as regards "use".

Note: The concurrent section 5 seeks to rely on section 57 of the Act. However the site is not a protected structure and section 57 is irrelevant.

As such, whether or not Class 20F applies does not arise. Even if it did, non-compliance concerns arise as set out above.

Accordingly, it is submitted that the change of use and works (the "development") required to alter the existing office building to accommodate or support displaced persons or persons seeking international protection is not exempted development.

BPS notes how we have fully reviewed the concurrent section 5 and we find it to offer insufficient details, drawings, and accompanying reports to allow DCC to determine with any confidence that our conclusions are correct or incorrect. Given this, we submit that the precautionary principle should apply, and the benefit of the doubt be given to retaining the existing legally correct and DCDP supported office use on this site.

8.0 Recommendation

BPS recommends that Dublin County Council should decide this section 5 referral in accordance with the following.

WHEREAS a question has arisen as to whether "a temporary change of use from office use to accommodate or support displaced persons or persons seeking international protection and associated works is development and is or is not exempted development"

BPS, in considering this matter, has had regard particularly to –

- (a) Sections 2(1), 3(1) and 4(1)(h) of the Planning and Development Act, 2000, as amended.
- (b) Articles 5 (1), 6, 9 and 10 of the Planning and Development Regulations 2001, as amended.
- (c) The Environmental (Miscellaneous Provisions) Act 2011,
- (b) Articles 5, 6, 9 and 10 of the Planning and Development Regulations 2001, as amended,
- (f) The planning history of the site whose planning permissions' conditions require the building to be retained in office use.
- (g) The Dublin City Development Plan 2022-2028 whose objectives do not permit a single use building at this location and otherwise support mixed use, office use, the avoidance of adverse impacts on Natura 2000 sites, and the protection of views within this area characterised by protected structures and conservation areas.

AND WHEREAS BPS has concluded that the proposal constitutes "development".

NOW THEREFORE BPS submits that a material change of use is proposed, and works are proposed which do not constitute exempted development.

9.0 Finally

We trust that sufficient information has been provided to allow this Section 5 to be fully assessed.

Please direct all correspondence to this office.

If you have any questions, please call BPS on 01-5394960 or 087-2615871.

Best wishes,

Brendan Buck

Brendan Buck MIPI
Managing Director
BPS Planning & Development Consultants LTD
Corporate Member of the Irish Planning Institute

Encl:

2 x copies of:

- Completed DCC Section 5 Form.
- OS Map.
- Photographs – included in this letter.
- Cheque for the €80 statutory fee.
- Copy of concurrent section 5 application's floor plans (available in the public domain in DCC archives).

DECLARATION ON DEVELOPMENT & EXEMPTED DEVELOPMENT



SECTION 5 APPLICATION FORM

PART 1 – SECTION 5 APPLICATION FORM

NAME OF APPLICANT: Michael McCann of the Mount Street Residents Group, c/o BPS Planning & Development Consultants LTD, PO BOX 13658, Dublin 14, D24RW01.

NAME OF AGENT: Brendan Buck MIPI, BPS Planning & Development Consultants LTD, PO BOX 13658, Dublin 14, D24RW01.

LOCATION OF SUBJECT SITE: (Please include Eircode): 31-41 Mount Street Lower, Dublin

Is this a Protected Structure or within the curtilage of a Protected Structure? ☒

No.

If yes, has a Declaration under Section 57 of the Planning & Development Act 2000 been requested or issued for the property by the Planning Authority? ☐

N/A

Please provide details of works (where applicable) or proposed development. (Note: only works listed and described under this section will be assessed under this section 5 application. Use additional sheets if required.)

Section 5 referral / exemption declaration at 33-41 Mount Street Lower, Dublin 2. A question arises as to whether a temporary change of use from office use to accommodate or support displaced persons or persons seeking international protection and associated works is development and is or is not exempted development.

List of plans, drawings etc. submitted with this application

See enclosed covering letter, OS Map and photocopies of plans (also as submitted with and validate by DCC under concurrent section 5 reg. ref. reg. ref. 0063/25).

Please state Applicant's interest in this site:

Concerned Third Party – "Other" person under section 5 of the Act.

If applicant is not owner of site, please provide name & address of owner on part 2 of the application form.


See below.

Are you aware of any enforcement proceedings connected to this site?
If so please supply details:

No.

Were there previous planning application/s on this site? ☐
If so please supply details:

Yes, please refer to the attached cover letter and to concurrent section 5 reg. ref. reg. ref. 0063/25.

Signed  Date 11/3/25

NOTES

Applications shall be accompanied by 2 copies of an OS Map (Scale 1:1000) with site clearly outlined in red and a fee of €80.00. Please submit 2 copies of any additional plans/reports etc. you may wish to include as part of the application.

Applications shall be forwarded to: Dublin City Council, Planning Registry
Section, Block 4, Floor 0, Civic Offices, Wood Quay, Dublin 8.
Contact Details: Phone: 01 222 2149 Fax: 01 222 2675

PART 2 – SECTION 5 APPLICATION FORM

ADDRESS OF APPLICANT: Mount Street Residents Group, BPS Planning & Development Consultants LTD, PO BOX 13658, Dublin 14, D24RW01.

EMAIL ADDRESS: info@bpsplanning.ie

TELEPHONE NO. Day: 01- 5394960 **Mobile:** 087-2615871

ADDRESS OF AGENT: BPS Planning & Development Consultants LTD, PO BOX 13658, Dublin 14, D24RW01.

EMAIL ADDRESS: info@bpsplanning.ie

TELEPHONE NO. Day: 01- 5394960 **Mobile:** 087-2615871

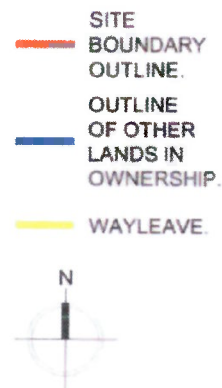
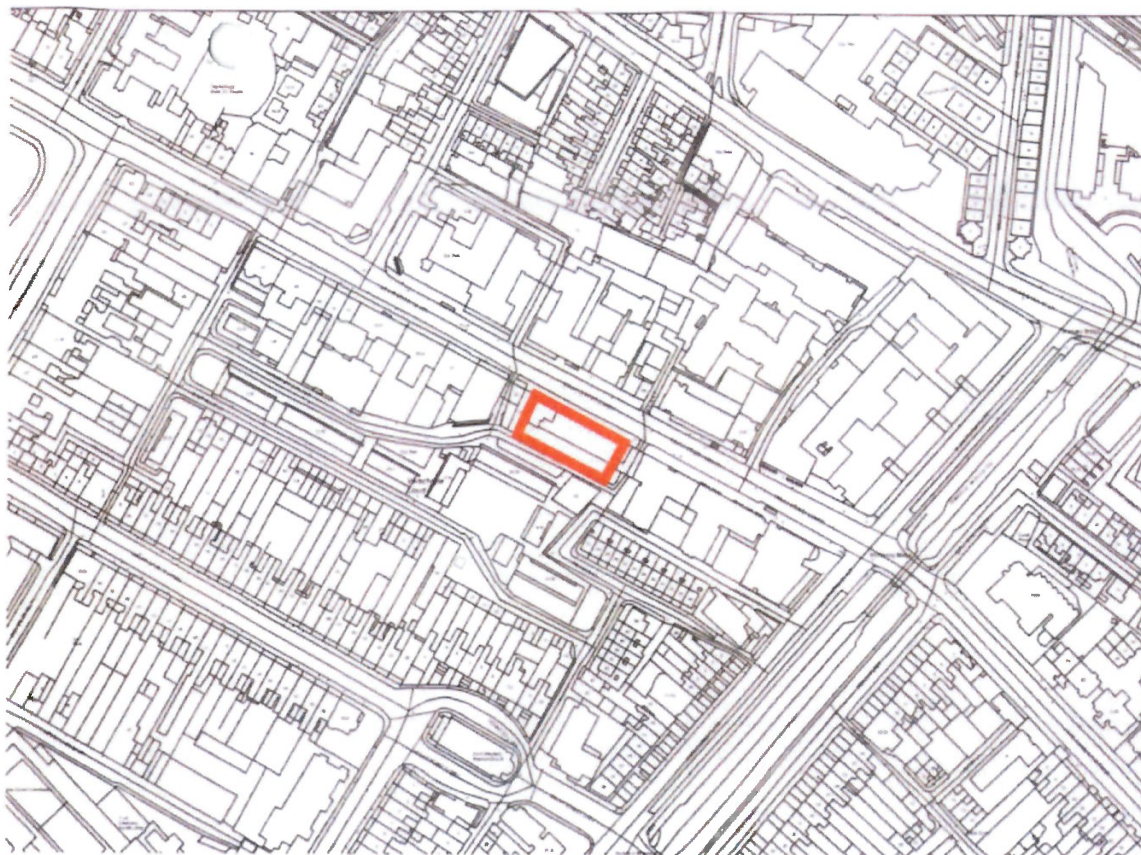
ADDRESS FOR CORRESPONDENCE: Mount Street Residents Group, BPS Planning & Development Consultants LTD, PO BOX 13658, Dublin 14, D24RW01.

Please tick the box to indicate if correspondence is to go to the applicant or agent ☒

Applicant Agent Legal Interest If applicant is not owner of site, please provide name & address of owner:

Lower Mount Street Accommodation Services Limited.

The Exchange, George's Dock International Financial Services Centre, Dublin 1, D01P2V6.



PROPOSED O.S. MAP. SCALE 1:2500.

Description:

Digital Landscape Model (DLM)

Publisher / Source:

Tailte Éireann

Data Source / Reference:

PRIME2

File Format:

Autodesk AutoCAD (DWG_R2013)

File Name:

v_50448639_1.dwg

Clip Extent / Area of Interest (AOI):

LLX,LLY= 716729 3547,733219 5997
LRX,LRY= 717312 3547,733219 5997
ULX,ULY= 716729 3547,733649 5997
URX,URY= 717312 3547,733649 5997

Projection / Spatial Reference:

Projection= IREN95_Irish_Transverse_Mercator

Centre Point Coordinates:

X,Y= 717020 8547,733434 5997

Reference Index:

Map Series | Map Sheets

1:1,000 | 3264-17

1:1,000 | 3264-12

Data Extraction Date:

Date= 05-Feb-2025

Source Data Release:

DCMLS Release V1 183 119

Product Version:

Version= 1.4

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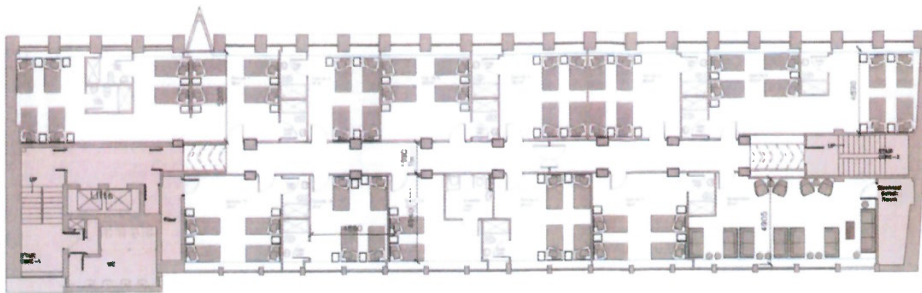
Gach cead ar cosnamh.

Ní ceadmhach aon chuid
den fhoilseachán seo
a chóipeáil, a atáirgeadh nó a tharchur
in aon fhoirm ná ar aon
bhealach gan cead i scríbhinn roimh
ré úinéirí an chóipchirt

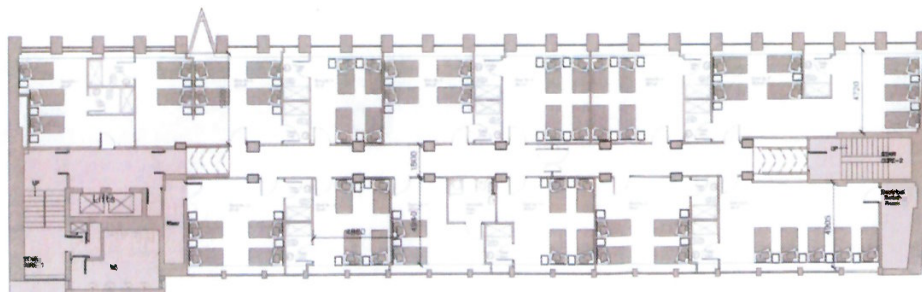
Ní hionann bóthar,
bealach nó cosán a bheith
ar an léarscáil seo agus
fianaise ar chead slí.

Ní thaispeánann an léarscáil
topagrafach seo teorainneacha
réadmhaíne dílthúla,
agus ní léiríonn sé úinéireacht
ar ghnéithe fisiceacha.

GROUND & 1ST FLOOR	1-200W3	AUG 2
	SS	LW
GENERAL APPROXIMATE SETOUT	PRELIM	
	P24 D008	
	GA-00-01	0



SECOND FLOOR PLAN
MOUNT STREET



THIRD FLOOR PLAN
MOUNT STREET

AREA SCHEDULE MAY 2021 - 11.1.2021	
NET INTERNAL AREA	2000.00 (m ²)
NET EXTERNAL AREA	2000.00 (m ²)
COVERED AREA	2000.00 (m ²)
AREA OF 1st FLOOR	2000.00 (m ²)
AREA OF 2nd FLOOR	2000.00 (m ²)
AREA OF 3rd FLOOR	2000.00 (m ²)
AREA OF 4th FLOOR	2000.00 (m ²)
AREA OF 5th FLOOR	2000.00 (m ²)
AREA OF 6th FLOOR	2000.00 (m ²)
AREA OF 7th FLOOR	2000.00 (m ²)
AREA OF 8th FLOOR	2000.00 (m ²)
AREA OF 9th FLOOR	2000.00 (m ²)
AREA OF 10th FLOOR	2000.00 (m ²)

AREA SCHEDULE MAY 2021 - 11.1.2021	
NET INTERNAL AREA	2000.00 (m ²)
NET EXTERNAL AREA	2000.00 (m ²)
COVERED AREA	2000.00 (m ²)
AREA OF 1st FLOOR	2000.00 (m ²)
AREA OF 2nd FLOOR	2000.00 (m ²)
AREA OF 3rd FLOOR	2000.00 (m ²)
AREA OF 4th FLOOR	2000.00 (m ²)
AREA OF 5th FLOOR	2000.00 (m ²)
AREA OF 6th FLOOR	2000.00 (m ²)
AREA OF 7th FLOOR	2000.00 (m ²)
AREA OF 8th FLOOR	2000.00 (m ²)
AREA OF 9th FLOOR	2000.00 (m ²)
AREA OF 10th FLOOR	2000.00 (m ²)

SECOND & THIRD FLOOR	2000.00 (m ²)
GENERAL LAYOUT	PRELIM
SETOUT	PRELIM
SEA-02-05	B

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[illegible]

FOURTH FLOOR	1206AS AUG 2024	
	SS	LW
GENERAL ARRANGEMENT SETOUT	PRELIM	
	P74 DGBB	
	GEA-04	B

11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100

