

EXPP: 0347/24

Location: Apartment 12 Poplar, Grattan Wood, Dublin 13

Applicants: Baig and Mirza Real Estate Ltd

Due Date: 16-Oct-2024

Dublin City Development Plan 2022-2028 Zoning:
Z12 – Institutional Land (Future Development Potential)

Proposal:

Exemption of planning permission for change of use for a domestic house to a children's residential house.

The relevant facts are as follows:

Planning and Development Act 2000 (as amended)

Section 2 (1) of the Act states: -“In this Act, except where the context otherwise requires – “development” has the meaning assigned to it by Section 3 “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.

Section 3 (1) of the 2000 Planning and Development Act states: - “In this Act, ‘development’ means, except where the context otherwise requires, the carrying out of 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 (1) sets out various forms and circumstances in which development is exempted development for the purposes of the Act.

Section 4 (2) sets out various forms and circumstances by which the Minister may, by regulations, provide for any class of development to be exempted development for the purposes of this Act.

The Planning and Development Regulations 2001 (as amended) state in Schedule 2 Part 1 Exempted Development – General
Change of use

CLASS 14

Development consisting of a change of use, inter alia—

(f) From use as a house, to use as a residence for persons with an intellectual or physical disability or mental illness and persons providing care for such persons.

Subject to conditions and limitations as follows:

The number of persons with an intellectual or physical disability or a mental illness living in any such residence shall not exceed 6 and the number of resident carers shall not exceed 2.

(g) from use as a hotel, to use as a hostel (other than a hostel where care is provided),

(h) from use as a hotel, motel, hostel, guesthouse, holiday accommodation, convent, monastery, Defence Forces barracks or other premises or residential institution providing overnight accommodation, or part thereof, or from the change of use specified in paragraph (i) of the said premises or institution, or part thereof, to use as accommodation for protected persons,

(i) from use as a hotel, motel, hostel, guesthouse, holiday accommodation, convent, monastery, Defence Forces barracks or other premises or residential institution providing overnight accommodation, or part thereof, or from the change of use specified in paragraph (h) of the said premises or institution, or part thereof, to use as an emergency reception and orientation centre for

protected persons, and

(j) from the change of use specified in paragraph (h) or (i) or both, to the permitted use of the premises immediately prior to the change of use specified in the said paragraph (h) or (i) or both.

Class 14 (j) is limited as follows:

Class 14(j) shall not apply after a period of 3 years from the date of the commencement of the change of use specified in Class 14(h) or (i) or both, whichever date is the earliest.

Appraisal:

The applicant seeks a determination as to whether planning permission is required for change of use for a domestic house to a children's residential house. The dwelling, an apartment on the second floor of an apartment block, is to be used as temporary accommodation for young people aged 15-18 seeking international protection. It is further stated that "none of the children have any intellectual or physical disabilities or mental illnesses that [they] are aware of".

The Planning and Development Act 2000 (as amended)

Section 2 Interpretation

"house" means a building or part of a building which is being or has been occupied as a dwelling or was provided for use as a dwelling but has not been occupied, and where appropriate, includes a building which was designed for use as 2 or more dwellings or a flat, an apartment or other dwelling within such a building.

"House" is defined under the Act to include an apartment and therefore the apartment the subject of the application fulfils the requirement for consideration as a "house" under Class 14.

The change of use of a house, as defined by the Act, allows for use as a residence for persons with an intellectual or physical disability or mental illness and persons providing care for such persons. The Regulations do not provide for care of children under this Class and the applicant's submission specifies that the apartment would not be used to accommodate any person with additional needs as set out in Class 14.

While the applicant wishes to house children seeking international protection the change of use exemptions set out in the Regulations under 14(h) & (i) do not apply to a dwelling.

The change of use classification from domestic house to a residence for those with specific additional needs does not accommodate use as a children's residence and any such change of use would require planning permission and is not exempt development as set out in the Planning and Development Regulations 2001 (as amended) Schedule 2 Part 1 Exempted Development Class 14 (f).

Furthermore the exemption for change of use of a building to accommodation for protected persons under the Planning and Development Regulations 2001 (as amended) Schedule 2 Part 1 Exempted Development Class 14 (h) & (i) does not apply to a dwelling. The proposed development would not be exempt on this basis and would require planning permission.

Recommendation:

The Planning and Development Regulations 2001 (as amended) Schedule 2 Part 1 Exempted Development Class 14 (f) permits as exempt development the change of use from use as a house, to use as a residence for persons with an intellectual or physical disability or mental illness and persons providing care for such persons. The proposed use is stated to be for the care and housing of children who do not have the above mentioned additional needs,

Furthermore the exemption class allowing for change of use of a building to accommodation for protected persons under the Planning and Development Regulations 2001 (as amended) Schedule 2 Part 1 Exempted Development Class 14 (h) & (i) does not apply to a domestic dwelling,

Therefore, the '*Change of use from domestic house to a children's residential house*' constitutes development and **does not constitute exempted development** under the Planning and Development Regulations, 2001 (as amended) as there are no exemptions provided for in the

Planning and Development Act, 2000, as amended, or the Planning and Development Regulations, 2001, as amended that allows for the aforementioned proposed change of use.

The applicant should be advised accordingly.

A handwritten signature in black ink, appearing to read 'SHHealy', written over a light blue rectangular background.

10/10/24

Shane Healy

A handwritten signature in dark red ink, appearing to read 'Siobhán O'Connor', written in a cursive style.

Siobhán O'Connor
Senior Executive Planner
11.10.2024