



An  
Bord  
Pleanála

**Board Direction**  
**ABP-302542-18**

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The submissions on this file and the Inspector's report were considered at a Board meeting held on 25/02/2019.

The Board decided, as set out in the following Order, that

**WHEREAS** a question has arisen as to whether the use of part of a dwelling house as a solicitors' office is or is not development or is or is not exempted development.

**AND WHEREAS** Ms. Geraldine Boyle, requested a declaration on this question from Donegal County Council, and the Council issued a declaration on the 16<sup>th</sup> day of August 2018 stating that the matter is development and is not exempted development:

**AND WHEREAS** Ms. Geraldine Boyle referred this declaration for review to An Bord Pleanála, on the 11<sup>th</sup> day of September 2018.

**AND WHEREAS** An Bord Pleanála, in considering this referral, had regard particularly to:

- (a) Section 2(1) of the Planning and Development Act, 2000, as amended,
- (b) Section 3(1) of the Planning and Development Act, 2000, as amended,
- (c) Section 4(1)(j) of the Planning and Development Act, 2000, as amended,
- (d) Part 4 of the Second Schedule to the Planning and Development Regulations, 2001, as amended,
- (e) The planning history of the site, and
- (f) The scale, nature and layout of the solicitors' office use, the description of the use carried on therein, including receptionist function, the availability of access to the premises by visiting members of the public,
- (g) the presence of free-standing signage at the property, advertising a solicitors' practice, as observed by the Inspector during his site visit:

**AND WHEREAS** An Bord Pleanála has concluded that:

- (a) The use of part of the house as a solicitors' office does not constitute use as a house as defined at Section 2(1) of the Planning and Development Act, 2000, as amended, and therefore such use is a change of use;
- (b) The change of use from use as part of a house to use as a solicitors' office, raises issues which are material in relation to the proper planning and sustainable development of the area and this change of use constitutes a material change of use having regard to the considerations outlined above and is therefore development;
- (c) The development does not come within the scope of Section 4(1)(j) of the Planning and Development Act, 2000, as amended, as the use as a solicitors' office in this instance is not considered incidental to the enjoyment of the house,

- (d) The development would correspond to use as an office as defined in Class 2(b) of Part 4 of the Second Schedule to the Planning and Development Regulations, 2001, as amended
  
- (e) There are no other provisions in the Act or Regulations whereby such development would be exempted in this instance;

**NOW THEREFORE** An Bord Pleanála, in exercise of the powers conferred on it by Section 5 (3)(a) of the Planning and Development Act, 2000, as amended, hereby decides that the use of part of a dwelling house as a solicitors' office, is development and is not exempted development.

Note: The Board noted the request by the referrer in the appeal correspondence, to reformulate the question from that which was the subject of the request to the Planning Authority. Having regard to its legislative provisions, The Board restricted itself to reviewing the Planning Authority declaration on the question originally submitted.

**Board Member:**

**Date:** 25/02/2019

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Chris McGarry