



An  
Bord  
Pleanála

**Board Direction**  
**ABP-303034-18**

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The submissions on this file and the Inspector's report were considered at a Board meeting held on 05/03/2020.

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

Board Order as follows:-

**WHEREAS** a question has arisen as to whether the change of use of the premises from use for the sale or leasing or display for sale or leasing of motor vehicles (Class14(a)) to use as a shop at Gallowshill, Athy, Co. Kildare is or is not development or is or is not exempted development:

**AND WHEREAS** Mr. Price Branded Bargains, No.1 Airton Road, Tallaght, Dublin 24 requested a declaration on this question from Kildare County Council and the Council issued a declaration on the 26<sup>th</sup> day of October, 2018 stating that the matter was development and was not exempted development:

**WHEREAS** Mr. Price Branded Bargains No.1 Airton Road, Tallaght, Dublin 24 referred this declaration for review to An Bord Pleanála on the 20<sup>th</sup> day of November, 2018:

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

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- (b) Articles 5, 6 article 9 of the Planning and Development Regulations, 2001, as amended, and Class 14 (a) of Part 1 of Schedule 2 to those Regulations
- (c) the planning history of the site and in particular condition 1 of planning permission Reg.Ref.03/300074,
- (d) the existing as built structure on the site,
- (e) the submissions on file,
- (f) the previous Section 5 Referral determination by the Board under 09.RL3486.
- (g) the Inspectors report of 28<sup>th</sup> February 2020.

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

- (a) the change of use of a former car sales premises to use as a shop is a factual change of use and such change of use would raise material planning issues, including implications in terms of traffic and pedestrian safety, and would constitute development within the meaning of section 3 (1) of the Planning and Development Act, 2000 as amended;
- (b) the change of use pertaining to the former car sales premises would generally come within the scope of the exemption provided in Class 14 (a) of Part 1 of Schedule 2 to the Planning and Development Regulations as amended.
- (c) however, the existing premises on the site has a larger footprint and a more symmetrical configuration compared to that permitted under planning permission register reference number 03/300074 and the

changes from the permitted development are material in nature and would constitute development and would not have been exempted development.

(d) condition 1 of permission File Ref. No. 03/300074 required the development to be carried out and completed in accordance with the drawings and documentation submitted to the Planning Authority, and

(e) the exemption that would generally be available under Class 14 (a) is therefore restricted under the provisions of Article 9 (1)(a)(i).

**NOW THEREFORE** An Bord Pleanála, in exercise of the powers conferred on it by section 5 (3) (a) of the Planning and Development 2000 Act, as amended, hereby decides that the change of use of the premises for the sale or leasing or display for sale or leasing of motor vehicles to a shop at Gallowshill, Athy, Co. Kildare is development and is not exempted development.

**Board Member:**

**Date:** 05/03/2020

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John Connolly