



An
Bord
Pleanála

Board Direction
ABP-304108-19

The submissions on this file and the Inspector's report were considered at a Board meeting held on September 3rd, 2019.

The Board decided, as set out in the following Order, that the change of use from the established/permitted use of the property at CrossFit353, Shaw's Lane, Bath Avenue, Dublin 4 to its current use as a gym is development and is not exempted development.

Board Order as follows:-

WHEREAS a question has arisen as to whether the current use of the property at CrossFit365, Shaw's Lane, Bath Avenue, Dublin 4 constitutes a change of use from the user permitted under register reference number 0900/98 and whether such a change of use constitutes a material change of use or is considered exempted development within the meaning of the Planning and Development Act 2000, as amended.

AND WHEREAS Peter Burke of Craze Athletics Ltd, c/o Downey Planning of 1 Westland Square, Pearse Street, Dublin 2, requested a declaration on this question from Dublin City Council, and the Council issued a declaration on the 7th day of March 2019 stating that the matter was development and was not exempted development.

AND WHEREAS Peter Burke referred this declaration for review to An Bord Pleanála, on the 2nd day of April 2019.

AND WHEREAS An Bord Pleanála, in the light of the documentation submitted as part of the referral, decided to re-word the question as follows:-

“whether the change of use from the established/permitted use of the property at CrossFit353, Shaw’s Lane, Bath Avenue, Dublin 4 to its current use as a gym is or is not development and is or is not exempted development.”

AND 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 6 and 10 of the Planning and Development Regulations, 2001, as amended,
- (c) Classes 4 and 11 of Part 4 of the Second Schedule to the Planning and Development Regulations, 2001, as amended,
- (d) The planning history of the subject site, and in particular planning permission register reference number 0793/92, and
- (e) The documentation submitted in relation to the subject gym use by the referrer.

AND WHEREAS An Bord Pleanála has concluded that:

- (f) The established / permitted use of the subject premises is as a light industrial workshop, which use comes within the ambit of Class 4 of Part 4 of the Second Schedule to the Planning and Development Regulations, 2001, as amended;

- (g) The current use of the subject premises is as a gymnasium, which use comes within the ambit of Class 11 of Part 4 of the Second Schedule to the Planning and Development Regulations, 2001, as amended;
- (h) The change of use from a light industrial workshop to a gymnasium is a change of use, and such change of use would raise issues relevant to the proper planning and sustainable development of the area, including in relation to hours of operation, frequency of visits, visitor turnover and traffic, and materially different impacts on the residential amenities of properties in the vicinity, and would, therefore, constitute a material change of use, and is development.
- (i) There are no provisions in the Planning and Development Act, 2000, as amended, or in the Planning and Development Regulations 2001, as amended, whereby such development would be exempted development.

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 change of use from the established/permitted use of the property at CrossFit353, Shaw's Lane, Bath Avenue, Dublin 4 to its current use as a gym is development and is not exempted development.

Board Member

Philip Jones

Date: 3rd September 2019