



An
Bord
Pleanála

**Board Direction
ABP-304548-19**

The submissions on this file and the Inspector's report were considered at a Board meeting held on September 26th, 2019.

The Board decided, as set out in the following Order, that the change of use of a building previously granted planning permission under register reference number 05/1008 as a timber workshop for manufacturing of kitchen units, to its current use for steel fabrication, at Rathgory, Dunleer, Co Louth, is development and is not exempted development.

Board Order as follows:-

WHEREAS a question has arisen as to whether the change of use that has already occurred at premises owned by Kevin Wall and operated by Swift Engineering Ltd at Rathgory, Dunleer, Co. Louth, having regard to condition number 1 of planning permission register reference number 05/1008 is or is not development or is or is not exempted development.

AND WHEREAS Liam and Deirdre Ryan c/o Brady Hughes Consulting of 26 Magdalene Street, Drogheda, requested a declaration on this question from Louth County Council, and the Council issued a declaration on the 3rd day of May 2019 stating that the matter was exempted development.

AND WHEREAS Liam and Deirdre Ryan referred this declaration for review to An Bord Pleanála, on the 27th day of May 2019.

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

“Whether the change of use of a building previously granted planning permission under register reference number 05/1008 as a timber workshop for manufacturing of kitchen units, to its current use for steel fabrication, at Rathgory, Dunleer, Co Louth, 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 5, 6, 9 and 10 of the Planning and Development Regulations 2001, as amended, including in particular the definition of the term “light industrial building”,
- (c) Part 4 of the Second Schedule to the Planning and Development regulations 2001, as amended, and in particular Class 4 of that Part,
- (d) The documentation on file, including details submitted by the referrer and by the owner as to the nature of the current use of the site, and
- (e) The planning and enforcement history of the site, including the terms and conditions of planning permission register reference number 05/1008, and in particular condition number 1 of that permission.

AND WHEREAS An Bord Pleanála has concluded that:

- (a) The authorised use of the subject premises, under planning permission register reference number 05/1008, is as a timber workshop and showroom;
- (b) The change of use of the premises to use for steel fabrication is a factual change of use, and this change of use raises material issues relevant to the proper planning and sustainable development of the area, including having regard to the pattern of development in the vicinity and the impacts on the residential amenities of adjoining properties through increased movement of heavy commercial vehicles and noise, and would, therefore, constitute a material change of use, and is development;
- (c) The authorised use of the subject premises would come within the definition of “light industrial building”, but the current use for metal fabrication would not, in the circumstances of this case, come within such definition, and therefore the change of use is not within the scope of the exemption provided for in Article 10 of the Planning and Development Regulations 2001, as amended;
- (d) There are no other provisions, in the Act and Regulations, by which the development in this case would constitute exempted development;
- (e) In any event, any exemption would be restricted having regard to the terms of condition number 1 of planning permission register reference number 05/1008, which limited the authorised use, for the stated reason to prevent unauthorised development, to use as a timber workshop with associated showroom.

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 of a building previously granted planning permission

under register reference number 05/1008 as a timber workshop for manufacturing of kitchen units, to its current use for steel fabrication, at Rathgory, Dunleer, Co Louth, is development and is not exempted development.

Board Member

Date: 26th September 2019

Philip Jones