



An  
Bord  
Pleanála

**Board Direction**  
**ABP-305242-19**

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The submissions on this file and the Inspector's report were considered at a Board meeting held on 22/01/2020.

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

**WHEREAS** a question has arisen as to whether the change of use from a car sales premises for the sale or leasing, or display for the sale or leasing of motor vehicles, to use for the sale of furniture is or is not development or is or is not exempted development.

**AND WHEREAS** Kilian and Bronwen Coyle, requested a declaration on this question from Fingal County Council, and the Council issued a declaration on the 2<sup>6th</sup> day of July 2019 stating that the matter is development and is not exempted development.

**AND WHEREAS** Kilian and Bronwen Coyle referred this declaration for review to An Bord Pleanála, on the 22<sup>nd</sup> day of August 2019.

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

- (a) Section 2, 3 and 4 of the Planning and Development Act, 2000, as amended,

- (b) Article 5, 6 and article 9 of the Planning and Development Regulations, 2001, as amended,
- (c) Parts 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (d) the planning history of the site,
- (e) the pattern of development in the area,
- (f) the location of the site and its proximity to the M50,
- (g) the submissions on file, and
- (h) the report of the Inspector.

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

- (a) The permitted use of the site is for the sale or leasing, or display for sale or leasing, of motor vehicles;
- (b) The proposed change of use from the permitted use to use as a shop is a factual change of use and this change of use would raise material planning considerations, including planning policy, in relation to the location of retail development (as outlined in the Retail Planning Guidelines for Planning Authorities, issued by the Department of the Environment, Community and Local Government in 2012) and in relation to the potential for impact on neighbouring property and traffic safety and accordingly is a material change of use within the meaning of Section 3(1) of the Planning and Development Act 2000 (as amended) and therefore constitutes development;
- (c) The proposed change of use comes within the scope of the exemption provided in Class 14(a) of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended), but, in this instance, it is

considered that the exemption is restricted by the provisions of Article 9(1)(a)(iii) as, having regard to the inadequacy of car parking within the control of the applicant, the development would endanger public safety by reason of traffic hazard or obstruction of road users, and the development would therefore not 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 proposed change of use from a car sales premises for the sale or leasing, or display for the sale or leasing of motor vehicles, to use for the sale of furniture, is development and is not exempted development.

**Board Member:**

**Date:** 22/01/2020

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Chris McGarry