



An
Bord
Pleanála

Board Direction
ABP-305436-19

The submissions on this file and the Inspector's report were considered at a Board meeting held on 17/01/2020.

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

WHEREAS questions have arisen as to

- (a) Whether or not the subdivision of the unit into two separate units is or is not development or is or is not exempted development?
- (b) Whether the use of existing Unit no. 1 for use for storage of materials, not solely comprising animal feedstuffs, is or is not development or is or is not exempted development?
- (c) Whether the use of the yard Area 3 for the storage of materials is or is not exempted development?

AND WHEREAS Peter Cafferky, Derek Hynes and Tommy Gallagher requested a declaration on these questions from Meath County Council and the Council issued a declaration on the 22nd day of August 2019 stating that the matter was development requiring planning permission:

AND WHEREAS Peter Cafferky, Derek Hynes and Tommy Gallagher referred this declaration for review to An Bord Pleanála on the 16th day of September, 2019:

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,
- (c) Section 4(1)(h) of the Planning and Development Act, 2000, as amended,
- (d) Article 5 of the Planning and Development Regulations, 2001, as amended,
- (e) Article 6(1) and article 9(1) of the Planning and Development Regulations, 2001, as amended,
- (f) Article 10(1) and Part 4 of Schedule 2, of the Planning and Development Regulations, 2001, as amended,
- (g) the planning history of the site,

AND WHEREAS An Bord Pleanála has concluded that:

- (a) the subdivision of the unit into two separate units comes within the scope of the definition of “development” as set out in section 3 of the Planning and Development Act, 2000, and
- (b) Such subdivision affects only the interior of the structure and, therefore, comes within the exempted development provisions of section 4(1)(h) of the said Act
- (c) The permitted use of the structures falls within Class 5 of Part 4 of Schedule 2, use as a wholesale warehouse and repository and that use for the storage of materials would come within the same use class.
- (d) Use of the structures for the storage of materials, not comprising animal foodstuffs, would be inconsistent with the use specified in

condition no. 1 of planning reference P75/1168 and the development therefore cannot avail of the exemption under the provisions of Class 9 of Part 4 of Schedule 2 of the planning and Development Regulations 2001, as amended, having regard to Article 10(1) of the same regulations.

- (e) The established authorised use of Yard Area 3 for storage purposes has not been demonstrated to the satisfaction of the Board and the use of this area for the storage of materials would therefore constitute a change of use thereof,
- (f) Such change of use is regarded as material and is therefore development, having regard to the scale of the site, severance from the adjoining buildings and the potential traffic safety impacts, and is not exempted development.

THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5 (X) (x) of the 2000 Act, hereby decides that the

- a) Subdivision of the unit into two separate units is development and is exempted development.
- b) Use of existing Unit no. 1 for storage of materials, not solely comprising animal feedstuffs, is development and is not exempted development
- c) The use of the yard Area 3 for the storage of materials is development and is not exempted development.

Board Member:

Date: 17/01/2020

Terry Ó Niadh