



An  
Bord  
Pleanála

**Board Direction**  
**ABP-308258-20**

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The submissions on this file and the Inspector's report were considered at a Board meeting held on 19/01/2021.

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 from a commercial use to a residential use is or is or is not development, or is or is not exempted development:

**AND WHEREAS** John Lawless requested a declaration on this question from Galway City Council and the Council issued a declaration on the 26<sup>th</sup> day of August 2020 stating that the matter was development and was not exempted development:

**WHEREAS** John Lawless referred this declaration for review to An Bord Pleanála on the 22<sup>nd</sup> day of September 2020:

**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, and 10 of the Planning and Development Regulations, 2001, as amended by the Planning and Development (Amendment) Regulations 2018,
- (c) Classes 1, 2, 3, 4 and 6 of Part 4 of the Second Schedule to the Planning and Development Regulations 2001, as amended,
- (d) the planning history of the subject site- planning permission register reference number 250/71, which was the for the erection of a printing workshop and store on the subject premises and in particular ABP-303154-18 whereby it was determined the authorised use on the site is within Class 4 (that is light Industrial use) of the 2001 Regulations.
- (e) The documentation submitted with the file
- (f) The submissions made by all parties including the planning authority,
- (g) The report of the Inspector.

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

- (a) the authorised use of the subject premises, having regard to the planning history of the subject site, is as a printing workshop and store to which planning permission register reference number 250/71 relates,
- (b) the change of use of the subject structure from printing workshop and store to residential use is a change of use that is material in planning terms, having regard to different patterns of activity, and impacts on the pattern of development in the vicinity, and is, therefore, a material change of use and is development,
- (c) the authorised use (as a printing workshop and store), based on the

planning history, is not a use within the scope of Classes 1, 2, 3 and 6 of Part 4 of the Second Schedule to the Planning and Development Regulations, but is within the scope of Class 4 (that is, use as a light industrial building), and in particular does not represent use for professional or other services under Class 2 of Part 4, and it has not been established that the use authorised under planning permission register reference number 250/71 involved services provided principally to visiting members of the public, as is a requirement of Class 2,

- (d) the development in question, not being a change of use from Classes 1, 2, 3 or 6 of Part 4 of the Second Schedule to residential use, would not, therefore, come within the scope of Article 10 (6) of the Planning and Development Regulations, 2001, as amended by the Planning and Development (Amendment) Regulations 2018, and
- (e) there are no other 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, and the proposed material change of use in this instance is, therefore, not exempted development.

**THEREFORE** An Bord Pleanála, in exercise of the powers conferred on it by section 5 (3) (a) of the 2000 Act, hereby decides that the change of use from commercial use to residential use is development and is not exempted development.

**Board Member:**

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Chris McGarry

**Date:** 21/01/2021