



An  
Bord  
Pleanála

**Board Direction**  
**BD-015394-24**  
**ABP-312616-22**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 09/02/2024.

The Board decided this referral generally in accordance with the Inspector's recommendation and the following draft order:

**WHEREAS a question has arisen as to whether** the current use of the premises at 10 Wickham Street, and 25 Upper Gerald Griffin Street, Limerick as a "market" on Fridays, Saturdays and Sundays is, or is not, a material change of the established retail use of the premises and is or is not development under section 3 of the Planning Act.

2. In the event that the Planning Authority decides that development in the form of a material change of use has occurred, whether that change use is exempted development under Article 10 of the Planning and Development Regulations 2000(as amended) in so far as it is a change within Class1 of Part 4 of Schedule 2:

**AND WHEREAS** Eva Clarke requested a declaration on this question from Limerick City and County Council and the Council issued a declaration on the 4<sup>th</sup> day of January, 2022 stating that the matter was development and was not exempted development:

**AND WHEREAS** Eva Clarke referred this declaration for review to An Bord Pleanála on the 28<sup>th</sup> day of January, 2022:

**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, and,
- (c) Class 37, Part 1, Schedule 2 of the Planning and Development Regulations, 2001, as amended;
- (d) The meaning of the word “fair” including in
  - (i) The Compact Oxford English dictionary, where it is given as: “an event at which people, businesses, etc. display and sell goods” and
  - (ii) The Cambridge Dictionary Online, where it is given as “a large public event where goods are bought and sold, usually from tables which have been specially arranged for the event, and where there is often entertainment”.
- (e) The submissions received by the Board and the report of the Inspector:

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

- (a) Class 37 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, provides, subject to certain conditions and limitations, for the exemption from the need to obtain planning permission for certain developments, including those constituting a “fair”

- (b) The operation of the public markets constitutes a “fair”
- (c) The said public markets do not comply with the conditions and limitations of the said Class 37 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001-2011, as amended

**NOW THEREFORE** An Bord Pleanála, in exercise of the powers conferred on it by section 5 of the 2000 Act, hereby decides that the use of the premises on Fridays, Saturdays and Sundays is development and is not exempted development.

**Board Member**

*Eamonn James Kelly*

**Date:** 09/02/2024

Eamonn James Kelly