

An  
Bord  
Pleanála

**Board Direction**  
**ABP-318275-23**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 22/10/2024.

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

Board Order as follows:-

**WHEREAS** a question has arisen as to whether (1) the partial/incidental use of a room within a dwelling house on the part ground floor for part-time art school is incidental to the enjoyment of the dwelling house and as such, does not come within the scope of Section 4(1)(j) of the Planning and Development Act 2000, as amended, and the character of the residence has not altered from the intensification of the use at 4 Woodhaven Drive, Woodhaven, Kilrush Road, Ennis, County Clare is or is not development or is or is not exempted development; and, (2) whether the current warning letter dated 24<sup>th</sup> February 2023 is a completely new issue that should not be linked to file UD17-056:

**AND WHEREAS** Carmel Doherty requested a declaration on this question from Clare County Council and the Council has not made a declaration:

**AND WHEREAS** Clare County Council referred this declaration for review to An Bord Pleanála, on the 19<sup>th</sup> day of October 2023:

**AND WHEREAS** the Board rephrased the question to read:

“Whether the use of a room within a dwelling as a part-time art school is or is not development or is or is not exempted development”

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

- (a) Sections 2(1), 3(1) and 4(1)(j) of the Planning and Development Act, 2000, as amended,
- (b) Part 4 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (c) the planning history of the site,
- (d) the scale and nature of the art school use, and the availability of access to the premises by visiting members of the public, and
- (e) the impact on the character of the residential area resulting from general activity associated with the art school use, and including parking and traffic generation, as observed by the Inspector during her site visit

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

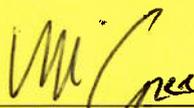
- (a) the use of a room within a dwelling as a part-time art school does not constitute use as a house as defined at Section 2(1) of the Planning and Development Act, 2000, as amended, and therefore such use is a change of use;
- (b) the change of use from use as part of a house to use as a part-time art school, raises issues which are material in relation to the proper planning and sustainable development of the area and this change of use constitutes a material change of use having regard to the considerations outlined above and is therefore development;
- (c) the development does not come within the scope of Section 4(1)(j) of the Planning and Development Act, 2000, as amended, as the use as an art school in this instance is not considered incidental to the enjoyment of the house;

- there are no other provisions in the Act or Regulations whereby such development would be exempted in this instance

**NOW THEREFORE** An Bord Pleanála, in exercise of the powers conferred on it by section 5(4) of the 2000 Act, hereby decides that the use of a room within a dwelling as a part-time art school, at 4 Woodhaven Drive, Woodhaven, Kilrush Road, Ennis, County Clare is development and is not exempted development.

It is further noted that the referrer sought a determination on a second question. This question relates to an enforcement matter, which is not a valid matter for determination in accordance with the provisions of section 5 of the Planning and Development Act, 2000 (as amended) and the Board decided not to issue a determination in relation to that specific issue.

**Board Member:**



Liam McGree

**Date:** 22/10/2024