

An  
Bord  
Pleanála

**Board Direction**  
**ABP-318321-23**

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The submissions on this file and the Inspector's report were considered at a Board meeting held on 18/09/2024.

The Board decided, as set out in the following Order, as follows:-

**WHEREAS** a question has arisen as to

- a) Whether the change of use of the property from a store/lock up to a photography business is or is not development or is or is not exempted development
- b) Whether the works carried out to the facade of the property is or is not development or is or is not exempted development
- c) Whether the signage erected on the property is development which is or is not development or is or is not exempted development:

**AND WHEREAS** Marcus Hayes requested a declaration on these questions from Dublin City Council and the Council issued a declaration on the 26<sup>th</sup> day of September, 2023 stating that the matter was exempted development:

**AND WHEREAS** Marcus Hayes referred this declaration for review to An Bord Pleanála on the 23<sup>rd</sup> day of October, 2023:

**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)(a) of the Planning and Development Act, 2000, as amended,
- (d) Article 5(1) of the Planning and Development Regulations, 2001, as amended,
- (e) Article 6(2) and article 9(1) of the Planning and Development Regulations, 2001, as amended,
- (f) Article 10(1) and Parts 2 & 4 of Schedule 2 to the Planning and Development Regulations, 2001, as amended, including in particular Class 2, Class 4 and Class 5 thereof,
- (g) the planning history of the site and pattern of development in the area,
- (h) the documentation submitted with the referral:

**AND WHEREAS** An Bord Pleanála has concluded in relation to question a) that:

- (a) The use of the premises as a photography business is within the scope of Class 4 (that is, use as a light industrial building), and does not represent use for professional or other services under Class 2 of Part 4 of Schedule 2 of the Planning & Development Regulations 2001 (as amended).
- (b) It has not been satisfactorily established that the use of the premises for light industrial purposes is either authorised under a grant of planning

permission or that such use ever existed prior to the 1<sup>st</sup> October, 1964 at the premises.

- (c) The use of the premises as a photography business is within the scope of Class 4, was therefore a change of use, which was materially different from other commercial uses in respect of, e.g. patterns of use and levels of visitation by members of the public, to that of other uses which existed at the premises and the change of use is, therefore, material and constitutes development, as defined under the Planning & Development Acts.
- (d) There are no provisions in the Planning & Development Act, 2000 (as amended) or in the Planning & 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.

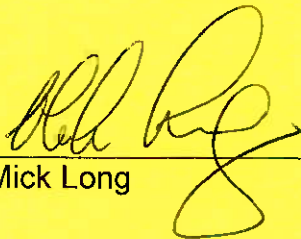
**AND WHEREAS** An Bord Pleanála has concluded in relation to question b) and c) that:

- (a) The works of alteration to the facade, including the erection of signage, of the property come within the meaning of Section 3 of the Planning and Development Act 2000 (as amended) and are, therefore, development,
- (b) The works of alteration to the façade of the property come within the meaning of Section 4(1) of the Planning and Development Act 2000 (as amended) and are, therefore, exempted development
- (c) The works of erection of signage on the façade of the property come within the meaning of Class 5, Part 2 of Schedule 2 of the Planning & Development Regulations 2001 (as amended) and are, therefore, exempted development;

**NOW 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

- a) The change of use of the property from a store/lock up to a photography business is development and is not exempt development.
- b) The works carried out to the façade of the property is development and is exempted development.
- c) The signage erected on the property is development and is exempted development.

**Board Member:**



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Mick Long

**Date:** 24/09/2024