



## Board Direction

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**Ref: 14.RL.3445**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 28<sup>th</sup>, April 2016.

The Board decided that change of use from a former retail warehouse to use as a supermarket for the sale of non-bulky convenience goods including the retail sale of convenience goods directly to members of the public at 'Your Fresh Today Extra', N4 Axis Centre, Longford, is development and is not exempted development'

In deciding not to accept the Planning Inspector's recommendation in relation to this referral, the Board had regard to the fact that the use of the premises included an element of retail sale of convenience goods directly to members of the public which use would not come within the scope of the definition of retail warehousing contained within the Retail Planning Guidelines for Planning Authorities issued by the Department of the Environment and Local Government (2000) which guidelines were referred to in Condition No. 1 attached to the Board decision under Appeal No. PL68.126135 which restricted the use of the premises to retail warehouse use only.

The Board generally approved of the terms of the draft order, as set out below.

**AND WHEREAS** a Question has arisen as to whether change of use from the former retail warehouse to use as a supermarket for the sale of non-bulky convenience goods at 'Your Fresh Today Extra', N4 Axis Centre, Longford, is or is not development or is or is not exempted development.

**AND WHEREAS** a Declaration (Ref. No. DC 15/4) was issued by the Planning Authority Longford County Council on the 9<sup>th</sup> day of December, 2015,

**AND WHEREAS** the said Declaration was referred to An Bord Pleanála by Seán Keogh, 19 Brookville Estate, North Road, Dublin 11 on the 17<sup>th</sup> day of December, 2015 under Section 5(3) of the Planning and Development Act 2000 as amended,

**AND WHEREAS** An Bord Pleanála decided to reformulate the question as follows:

‘Whether change of use from a former retail warehouse to use as a supermarket for the sale of non-bulky convenience goods including the retail sale of convenience goods directly to members of the public at ‘Your Fresh Today Extra’, N4 Axis Centre, Longford, 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) Section 3(1) of the Planning and Development Act 2000 as amended,
- (b) Articles 5(1), 6(1), 9(1), 10(1), 10(2)(a) of the Planning and Development Regulations, 2001, as amended,
- (c) the planning history of the premises including permission (An Bord Pleanála Ref. No. PL68.126135 and Planning Authority Reg. Ref. 01/700049) and in particular Condition No. 1 thereof,
- (d) the definition of a retail warehouse as set out in Annex 1 of the Retail Planning Guidelines for Planning Authorities issued by the Department of the Environment and Local Government (2000)
- (e) the previous determination by the Board in respect of Referral No. 21.RL.2998 (Home Store and More - referred to An Bord Pleanála by Sligo Chamber of Commerce) and the subsequent decision of the High Court following Judicial Review of the case (Ógalas Limited (trading as Home Store and More) v An Bord Pleanála delivered on 20<sup>th</sup>, March 2015,
- (f) the documentation on file including the Inspector’s Report

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

- (a) the permitted use of the premises, as stipulated pursuant to Condition No. 1 of planning permission granted under Appel No. PL68.126135, is restricted to Retail warehousing only as defined in the Retail Planning Guidelines for planning authorities issued by the Department of the Environment and Local Government (2000),

- (b) the retailing activity carried out at the premises includes an element of the retail sale of convenience goods directly to members of the public
- (c) the retail sale of convenience goods does not come within the scope of the definition of activities of a retail warehouse as set out in the said Guidelines.
- (d) Accordingly, the use of the 'Your Fresh Today Extra' unit, constitutes a change of use, and the said change of use constitutes development being a material change of use by reason of the character of the retailing being undertaken and its material external impacts on the proper planning and sustainable development of the area ( including its impacts on town centre retailing, traffic movements and parking)
- (e) The said material change of use would be inconsistent with the use specified and included in the planning permission for retail warehousing granted under Appeal No. PL68.126135 which was in accordance with the definition of retail warehouse contained within the Retail Planning Guidelines for Planning Authorities issued by the Department of the Environment and Local Government (2000) and would, thereby, materially contravene Condition No. 1 attached to Appeal No. PL68.126135

**NOW THEREFORE** An Bord Pleanála, in exercise of the powers conferred on it by Section 5 of the 2000 Planning and Development Act as amended, hereby decides that the change of use change of use from a former retail warehouse to use as a supermarket for the sale of non-bulky convenience goods including the retail sale of convenience goods directly to members of the public at 'Your Fresh Today Extra', N4 Axis Centre, Longford, is development and is not exempted development'

Board Member: \_\_\_\_\_  
Paddy Keogh

Date: 28<sup>th</sup>, April 2016