



An  
Bord  
Pleanála

**Board Direction**  
**09.RL3486**

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The submissions on this file, including the responses to the Board's Section 137 notice of 2<sup>nd</sup> February 2017, and the Inspector's Addendum report were further considered at a Board meeting held on January 16<sup>th</sup> 2018.

The Board decided, as set out in the following Order, that the proposed change of use of a former car sales premises to use as a shop at Gallowshill, Athy, Co. Kildare is development and is not exempted development.

Board Order as follows:-

**WHEREAS** a question has arisen as to whether the proposed change of use of a former car sales premises to use as a shop at Gallowshill, Athy, Co. Kildare is or is not development or is or is not exempted development:

**AND WHEREAS** Emma Pillion of Fardrum, Athlone, Co. Westmeath requested a declaration on this question from Kildare County Council and the Council issued a declaration on the 24<sup>th</sup> day of May 2016 stating that the matter was development and was not exempted development:

**AND WHEREAS** Emma Pillion referred this declaration for review to An Bord Pleanála on the 31<sup>st</sup> day of May, 2016:

**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 and 9 of the Planning and Development Regulations 2001, as amended, and Class 14 (a) of Part 1 of Schedule 2 to those Regulations,
- (c) the planning history of the site and in particular condition 1 of planning permission register reference number 03/300074,
- (d) the existing as built structure on the site in question,
- (e) the submissions on file,
- (f) the Inspector's reports on file, including the details of her inspection of the premises in July 2017, included in her Addendum report dated 10th August 2017.

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

- (a) the proposed change of use of a former car sales premises to use as a shop is a factual change of use and such change of use would raise material planning issues, including impacts on the town centre of Athy and implications in terms of traffic and pedestrian safety, and would therefore constitute development within the meaning of section 3 (1) of the Planning and Development Act, 2000 as amended;
- (b) the proposed change of use pertaining to the former car sales premises would generally come within the scope of the exemption provided in Class 14 (a) of Part 1 of Schedule 2 to the Planning and Development Regulations as amended;
- (c) However, the existing premises on the site has a larger footprint and a more symmetrical configuration compared to that permitted under planning permission register reference number 03/300074 and the changes from the

permitted development are material in nature and would constitute development and would not have been exempted development,

(d) condition 1 of permission File Ref. No. 03/300074 required the development to be carried out and completed in accordance with the drawings and documentation submitted to the Planning Authority, and

(e) the exemption that would generally be available under Class 14 (a) is therefore restricted under the provisions of Article 9 (1)(a)(i).

**NOW THEREFORE** An Bord Pleanála, in exercise of the powers conferred on it by section 5 (3) (a) of the Planning and Development Act, 2000, as amended, hereby decides that the proposed change of use of a former car sales premises to use as a shop at Gallowshill, Athy, Co. Kildare is development and is not exempted development.

**Board Member**

**Date:** 16<sup>th</sup> January 2018

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Philip Jones