



An
Bord
Pleanála

Board Direction
06F.RL3539

The submissions on this file and the Inspector's report were considered at a Board meeting held on 26th July 2018.

The Board decided, by a majority of 6 to 3, as set out in the following Order, that the change of use from the sale and display for sale of motor vehicles to use as a shop at the former Tom Walsh Motors, Grange Road, Baldoyle, Dublin 13 is development and is not exempted development.

In not agreeing with the Inspector, the Board considered and agreed with the Planning Authority that, having regard to the inadequacy of car parking currently on the site in the context of the proposed use, the development would endanger public safety by reason of traffic hazard or obstruction of road, and the development would therefore not be exempted development.

Board Order as follows:-

WHEREAS a question has arisen as to whether the change of use from the sale and display for sale of motor vehicles to use as a shop at the former Tom Walsh Motors, Grange Road, Baldoyle, Dublin 13 is or is not development or is or is not exempted development.

AND WHEREAS Emma Pillion Planning of Fardrum, Athlone requested a declaration on this question from Fingal County Council and the Council issued a declaration on the 15th day of December 2016 stating that the proposal was development and was not exempted development.

AND WHEREAS Emma Pillion referred this declaration for review to An Bord Pleanála on the 20th day of January 2017:

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, including the provisions of Section 4(4), as amended, in respect of environmental impact assessment and appropriate assessment,
- (b) Articles 5, 6 and 9 of the Planning and Development Regulations 2001-2018,
- (c) Class 14(a) of Part 1 of Schedule 2 of the Planning and Development Regulations 2001-2018,
- (d) The planning history and permitted uses on the site.

AND WHEREAS An Bord Pleanála has concluded that:

- (a) the permitted use of the site is for the sale or leasing, or display for sale or leasing of motor vehicles;
- (b) the change from the permitted use to use as a shop is a factual change of use, and this change of use would raise material planning considerations including planning policy, in relation to the location of retail development (as outlined in the Retail Planning Guidelines for Planning Authorities, issued by the Department of the Environment, Community and Local Government in 2012), in relation the potential for impact on neighbouring residential property and in relation to pedestrian and traffic safety and accordingly is a material change of use, within the meaning of Section 3(1) of the Planning and Development Act 2000, as amended, and is therefore development.
- (c) The proposed change of use to use as a shop comes within the

scope of the exemption provided in Class 14 (a) of Part 1 of Schedule 2 of the Planning and Development Regulations 2001-2018, but, in this instance, it is considered that this exemption is restricted by the provisions of Article 9(1)(a)(111) as, having regard to the inadequacy of car parking currently on the site in the context of the proposed use, the development would endanger public safety by reason of traffic hazard or obstruction of road, and the development would therefore not be exempted development.

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5(3)(a) of the 2000 Act, as amended, hereby decides that the change of use from the sale and display for sale of motor vehicles to use as a shop at the former Tom Walsh Motors, Grange Road, Baldoyle, Dublin 13 is development and is not exempted development.

Board Member

Date: 27th July, 2018

Terry O'Niadh