



An
Bord
Pleanála

**Board Direction
61.RL3564**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 2nd May, 2018.

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

Board Order as follows:-

WHEREAS a question has arisen as to whether a change of use of use from office use (class 2) to use as a shop is or is not development and is or is not exempted development.

AND WHEREAS ITC Delta Fund requested a declaration on this question from Galway City Council and the Council issued a declaration on the 24th day of February, 2017 stating that the matter was development and was not exempted development:

AND WHEREAS ITC Delta Fund referred this declaration for review to An Bord Pleanála on the 22nd day of March, 2017:

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(4) of the Planning and Development Act, 2000, as amended,
- (d) article 6(1) and article 9(1) of the Planning and Development Regulations, 2001, as amended,
- (e) Class 14 (d) of Part 1 and Part 4 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (f) the planning history of the site,

AND WHEREAS An Bord Pleanála has concluded that:

- (a) Permission was granted under Galway City Council Ref. 04/926 for a change of use from existing retail warehouse / retail unit to office use.
- (b) Neither the application documentation submitted in relation to ref. 04/926 nor the conditions attached to the grant of permission issued specify that the permitted office use is restricted to Office (class 3) use only.
- (c) The proposed change of use would constitute development in accordance with s.3(1) of the Planning and Development Act, 2000 (as amended) as the proposed change of use would be material.
- (d) The proposed change of use would come within the scope of Class 14 (d) of Part 1 of the Second Schedule of the Planning and Development Regulations, 2001 (as amended) and would therefore constitute exempted development
- (e) The restriction of exemptions set out in Art. 9(1)(a) are not applicable in this case. Specifically, the Board does not consider that the proposed development would contravene a condition attached to Galway City Council Ref. 04/926 or otherwise be

inconsistent with any use specified in any permission granted under the Planning and Development Act, 2000 (as amended).

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 change of use from office use (class 2) to use as a shop is development and is exempted development.

Board Member

Date: 03/05/2018

Terry Prendergast