



Planning and Development Acts 2000 to 2019

Planning Authority: Kildare County Council

Planning Register Reference Number: ED/00682

WHEREAS a question has arisen as to whether the change of use of the premises from use for the sale or leasing or display for sale or leasing of motor vehicles (Class 14 (a)) to use as a shop at Gallowshill, Athy, County Kildare is or is not development or is or is not exempted development:

AND WHEREAS Mr. Price Branded Bargains of Number 1 Airton Road, Tallaght, Dublin requested a declaration on the said question from Kildare County Council and the said Council issued a declaration on the 26th day of October, 2018 stating that the said matter is not development and is not exempted development:

AND WHEREAS the said Mr. Price Branded Bargains referred the declaration for review to An Bord Pleanála on the 20th day of November, 2018:

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 the planning permission register reference number 03/300074,
- (d) the existing as built structure on the site,
- (e) the submissions on file,
- (f) the previous section 5 Referral determination made by An Bord Pleanála under referral number 09.RL3486, and
- (g) the Inspector's report dated 28th February, 2020:

AND WHEREAS An Bord Pleanála has concluded that -

- (a) the 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 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 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 the planning permission register reference number 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 2000 Act, hereby decides that the change of use of the premises from use for the sale or leasing or display for sale or leasing of motor vehicles (Class 14 (a)) to use as a shop at Gallowshill, Athy, County Kildare is development and is not exempted development.

Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

John Connolly

Member of An Bord Pleanála

duly authorised to authenticate

the seal of the Board.

Dated this day of 2020