



Planning and Development Acts 2000 to 2019

Planning Authority: Dublin City Council

Planning Register Reference Number: 0001/19

WHEREAS a question has arisen as to whether the current use of the property at CrossFit353, Shaw's Lane, Bath Avenue, Dublin constitutes a change of use from the use permitted under planning register reference number 0900/98 and whether such a change of use constitutes a material change of use or is considered exempted development within the meaning of the Planning and Development Act, 2000, as amended:

AND WHEREAS Peter Burke of Craze Athletics Limited care of Downey Planning of 1 Westland Square, Pearse Street, Dublin, requested a declaration on this question from Dublin City Council, and the Council issued a declaration on the 7th day of March, 2019 stating that the matter is development and is not exempted development:

AND WHEREAS Peter Burke referred this declaration for review to An Bord Pleanála on the 2nd day of April, 2019:

AND WHEREAS An Bord Pleanála, in light of the documentation submitted as part of the referral, decided to re-word the question as follows:-

“whether the change of use from the established/permitted use of the property at CrossFit353, Shaw’s Lane, Bath Avenue, Dublin to its current use as a gym, is or is not development and is or is not exempted development.”

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 6 and 10 of the Planning and Development Regulations, 2001, as amended,
- (c) Classes 4 and 11 of Part 4 of the Second Schedule to the Planning and Development Regulations, 2001, as amended,
- (d) the planning history of the subject site, and in particular planning register reference number 0793/92, and
- (e) the documentation submitted in relation to the subject gym use by the referrer.

AND WHEREAS An Bord Pleanála has concluded that:

- (f) the established/permitted use of the subject premises is as a light industrial workshop, which use comes within the ambit of Class 4 of Part 4 of the Second Schedule to the Planning and Development Regulations, 2001, as amended,
- (g) the current use of the subject premises is as a gymnasium, which use comes within the ambit of Class 11 of Part 4 of the Second Schedule to the Planning and Development Regulations, 2001, as amended,
- (h) the change of use from a light industrial workshop to a gymnasium is a change of use, and such change of use would raise issues relevant to the proper planning and sustainable development of the area, including in relation to hours of operation, frequency of visits, visitor turnover and traffic, and materially different impacts on the residential amenities of properties in the vicinity, and would, therefore, constitute a material change of use, and is development, and
- (i) there are no provisions in the Planning and Development Act, 2000, as amended, or in the Planning and Development Regulations 2001, as amended, whereby such development would be exempted development.

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 change of use from the established/permitted use of the property at CrossFit353, Shaw's Lane, Bath Avenue, Dublin to its current use as a gym 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.

Philip Jones

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board**

Dated this day of 2019