



An
Bord
Pleanála

Board Order ABP-308258-20

Planning and Development Acts 2000 to 2020

Planning Authority: Galway City Council

Planning Register Reference Number: P/DC/3/4/20

WHEREAS a question has arisen as to whether the change of use of a structure from a commercial use to a residential use at rear of 31 Shantalla Road, Galway is or is not development or is or is not exempted development:

AND WHEREAS John Lawless care of Planning Consultancy Services of Suite 3, Third Floor, Ross House, Victoria Place, Eyre Square, Galway requested a declaration on this question from Galway City Council and the Council issued a declaration on the 26th day of August, 2020 stating that the matter was development and was not exempted development:

AND WHEREAS John Lawless referred this declaration for review to An Bord Pleanála, on the 22nd day of September 2020:

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 10 of the Planning and Development Regulations, 2001, as amended by the Planning and Development (Amendment) Regulations, 2018,

- (c) Classes 1, 2, 3, 4 and 6 of Part 4 to the Second Schedule to the Planning and Development Regulations 2001, as amended,
- (d) the planning history of the subject site including planning permission granted under planning register reference number 250/71 for the erection of a printing workshop and store on the subject premises and in particular planning register reference number P/DC/3/22/18 (An Bord Pleanála reference number ABP-303154-18) whereby it was determined that the authorised use on the site is within Class 4 (light industrial use) of Part 4 of Schedule 2 to the Planning and Development Regulations, 2001,
- (e) the documentation submitted with the file,
- (f) the submissions made by all parties, including the planning authority,
- (g) the report of the Inspector.

AND WHEREAS An Bord Pleanála has concluded that:

- (a) the authorised use of the subject premises, having regard to the planning history of the subject site, is as a printing workshop and store to which planning permission granted under planning register reference number 250/71 relates,
- (b) the change of use of the subject structure from printing workshop and store to residential use is a change of use that is material in planning terms, having regard to different patterns of activity, and impacts on the pattern of development in the vicinity, and, therefore, constitutes a material change of use which is development,
- (c) the authorised use (as a printing workshop and store), based on the

planning history, is not a use within the scope of Classes 1, 2, 3 and 6 of Part 4 of the Second Schedule to the Planning and Development Regulations, but is within the scope of Class 4 (that is, use as a light industrial building), and in particular does not represent use for professional or other services under Class 2 of Part 4, and it has not been established that the use authorised under planning permission granted under register reference number 250/71 involved services provided principally to visiting members of the public, as is a requirement of Class 2,

- (d) the development in question, not being a change of use from Classes 1, 2, 3 or 6 of Part 4 of the Second Schedule to residential use, would not, therefore, come within the scope of Article 10 (6) of the Planning and Development Regulations, 2001, as amended by the Planning and Development (Amendment) Regulations, 2018, and
- (e) there are no other 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, and the proposed material change of use in this instance is, therefore, not 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 of a structure from a commercial use to a residential use at rear of 31 Shantalla Road, Galway 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.

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

Dated this day of 2021