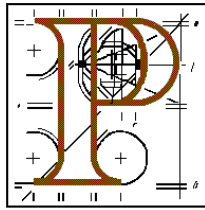


An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Longford County

Planning Authority Reference Number: DC15/4

An Bord Pleanála Reference Number: 14.RL.3445

WHEREAS a question has arisen as to whether change of use from the former retail warehouse to use as a supermarket for the sale of non-bulky convenience goods at 'Your Fresh Today Extra', N4 Axis Centre, Longford is or is not development or is or is not exempted development:

AND WHEREAS Seán Keogh of 19 Brookville Estate, North Road, Dublin requested a declaration on the said question from Longford County Council and the said Council issued a declaration on the 9th day of December, 2015 stating that the said matter is exempted development:

AND WHEREAS the said Seán Keogh referred the declaration for review to An Bord Pleanála on the 17th day of December, 2015:

AND WHEREAS An Bord Pleanála decided to reformulate the question as follows:

'Whether change of use from a former retail warehouse to use as a supermarket for the sale of non-bulky convenience goods including the retail sale of convenience goods directly to members of the public at 'Your Fresh Today Extra, N4 Axis Centre, Longford is or is not development or is or is not exempted development':

AND WHEREAS An Bord Pleanála, in considering this referral, had regard particularly to –

- (a) section (3)1 of the Planning and Development Act 2000,
- (b) Articles 5(1), 6(1), 9(1), 10(1), 10(2)(a) of the Planning and Development Regulations, 2001, as amended,
- (c) the planning history of the premises including permission (An Bord Pleanála appeal reference number PL68.126135 and planning register reference number 49/01) and in particular condition number 1 thereof,
- (d) the definition of a retail warehouse as set out in Annex 1 of the Retail Planning Guidelines for Planning Authorities issued by the Department of the Environment and Local Government 2000,
- (e) the previous determination by the Board in respect of referral number 21.RL.2998 (Home Store and More - referred to An Bord Pleanála by Sligo Chamber of Commerce) and the subsequent decision of the High Court following Judicial Review of the case (Ógalas Limited (trading as Home Store and More) v An Bord Pleanála delivered on 20th March, 2015, and
- (f) the documentation on file including the Inspector's Report:

AND WHEREAS An Bord Pleanála has concluded that -

- (a) the permitted use of the premises, as stipulated pursuant to condition number 1 of planning permission granted under An Bord Pleanála appeal reference number PL68.126135, is restricted to Retail warehousing only as defined in the Retail Planning Guidelines for Planning Authorities issued by the Department of the Environment and Local Government 2000,
- (b) the retailing activity carried out at the premises includes an element of the retail sale of convenience goods directly to members of the public,
- (c) the retail sale of convenience goods does not come within the scope of the definition of activities of a retail warehouse as set out in the said Guidelines,

- (d) accordingly, the use of the 'Your Fresh Today Extra' unit, constitutes a change of use, and the said change of use constitutes development being a material change of use by reason of the character of the retailing being undertaken and its material external impacts on the proper planning and sustainable development of the area (including its impacts on town centre retailing, traffic movements and parking), and
- (e) the said material change of use would be inconsistent with the use specified and included in the planning permission for retail warehousing granted under An Bord Pleanála appeal reference number PL68.126135 which was in accordance with the definition of retail warehouse contained within the Retail Planning Guidelines for Planning Authorities issued by the Department of the Environment and Local Government 2000 and would, thereby, materially contravene condition number 1 attached to the said appeal reference number PL68.126135:

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 said change of use from a former retail warehouse to use as a supermarket for the sale of non-bulky convenience goods including the retail sale of convenience goods directly to members of the public at 'Your Fresh Today Extra', N4 Axis Centre, Longford is development and is not exempted development.

In deciding not to accept the Planning Inspector's recommendation in relation to this referral, the Board had regard to the fact that the use of the premises included an element of retail sale of convenience goods directly to members of the public which use would not come within the scope of the definition of retail warehousing contained within the Retail Planning Guidelines for Planning Authorities issued by the Department of the Environment and Local Government 2000 which guidelines were referred to in condition number 1 attached to the Board decision under appeal reference number PL68.126135 which restricted the use of the premises to retail warehouse use only.

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 2016.