



An  
Bord  
Pleanála

## Board Order 09.RL.3486

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### Planning and Development Acts 2000 to 2017

**Planning Authority: Kildare County Council**

**Planning Register Reference Number: ED/00582**

**WHEREAS** a question has arisen as to whether the proposed change of use of a former car sales premises to use as a shop at Gallowshill, Athy, County Kildare is or is not development or is or is not exempted development:

**AND WHEREAS** Emma Pillion of Fardrum, Athlone, County Westmeath requested a declaration on this question from Kildare County Council and the said Council issued a declaration on the 24<sup>th</sup> day of May, 2017 stating that the matter was development and was not exempted development:

**AND WHEREAS** Emma Pillion referred the declaration for review to An Bord Pleanála on the 31<sup>st</sup> day of May, 2016:

**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 planning permission register reference number 03/300074,
- (d) the existing as built structure on the site in question,
- (e) the submissions on file, and
- (f) the Inspector's reports on file, including the details of her inspection of the premises in July, 2017, included in her Addendum report dated 10<sup>th</sup> August, 2017.

**AND WHEREAS** An Bord Pleanála has concluded that -

- (a) the proposed 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 impacts on the town centre of Athy and 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 proposed 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 number 1 of permission file 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, as amended, hereby decides that the proposed change of use of a former car sales premises 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.

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

**Dated this      day of      2018**