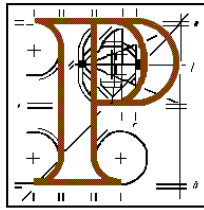


An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2016

Cork County

Planning Authority Reference Number: D/237/16

An Bord Pleanála Reference Number: 04.RL.3509

WHEREAS a question has arisen as to whether the use of part of the Futura Frames Factory to provide ancillary storage for Brandon Vale Fine Cheeses, at Laragh, Bandon, County Cork, is, or is not development, or is or is not exempted development:

AND WHEREAS Futura Frames Limited care of McCutcheon Halley Walsh of 6 Joyce House, Barrack Square, Ballincollig, County Cork requested a declaration on this question from Cork County Council and the Council issued a declaration on the 20th day of September, 2016 stating that the matter is development and is not exempted development:

AND WHEREAS Futura Frames Limited referred the declaration for review to An Bord Pleanála on the 17th day of October, 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) Article 5(1) of the Planning and Development Regulations 2001, as amended, including the definitions of ‘industrial building’, ‘light industrial building’, ‘industrial process’ and ‘repository’,
- (c) Article 10 and Classes 4 and 5 of Part 4 of Schedule 2 to the Planning and Development Regulations 2001, as amended,
- (d) the nature of the change of use that is the subject of the request for the declaration and referral, and
- (e) the planning history of the subject premises and in particular, planning register reference number 97/5596 (An Bord Pleanála reference PL 04.104291) and condition number 14 of that permission, and planning register reference number 04/2973 and condition number 2 of that permission.

AND WHEREAS An Bord Pleanála has concluded that:

- (a) the premises that are the subject matter of the referral consist of part of a factory and factory extension, as indicated on maps and plans submitted to the planning authority on the 11th day of July 2016 and the 30th day of August 2016. Such factory and factory extension is a separate building from the separate premises used by Bandon Vale Fine Cheeses,
- (b) the factory extension that is the subject of this referral was permitted under planning register reference number 97/5596 (An Bord Pleanála reference PL 04,104291) and planning register reference number 04/2973, to Futura Frames Ltd., and these planning permissions included conditions to control the use of the building, notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, as amended,
- (c) such permitted use would come within the scope of Class 4 of Part 4 of Schedule 2 to the Planning and Development Regulations, and within the definition of “industrial building”; and “light industrial building”,
- (d) the use of the subject premises to provide ancillary storage for Brandon Vale Fine Cheeses, for the storage of cheese and packaging, would come within the scope of Class 5 of Part 4 of Schedule 2 to the Planning and Development Regulations, and within the definition of a “repository”.

- (e) On the basis of the documentation submitted with the referral, the use for the storage of cheese and packaging is not ancillary or incidental to the permitted use of the subject premises, that is, for the manufacture of window frames and related products, and the subject premises wherein such storage takes place is physically separated from the premises operated by Bandon Vale Fine Cheeses,
- (f) the change of use, being from Class 4 to Class 5, constitutes a material change of use, and is therefore development, and
- (g) there are no exemptions, in the Planning and Development Act and Regulations, by which the subject material change of use would be exempted development, and any such development would, in any event, not be exempted development under Article 10 (1)(b), having regard to the terms of condition number 2 of the permission granted under planning register reference number 04/2973, and the development in this instance is not, therefore, 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 use of part of the Futura Frames Factory to provide ancillary storage for Brandon Vale Fine Cheeses, at Laragh, Bandon, County Cork, 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 2017.