

Board Order 06F.RL.3539

Planning and Development Acts 2000 to 2018

Planning Authority: Fingal County Council

Planning Register Reference Number: FS5/042/16

WHEREAS a question has arisen as to whether the change of use from the sale and display for sale of motor vehicles to use as a shop at the former Tom Walsh Motors, Grange Road, Baldoyle, Dublin is or is not development or is or is not exempted development:

AND WHEREAS Emma Pillion care of Emma Pillion Planning of Fardrum, Athlone, County Westmeath requested a declaration on the question from Fingal County Council and the Council issued a declaration on the 15th day of December, 2016 stating that the matter is not exempted development:

AND WHEREAS Emma Pillion care of Emma Pillion Planning referred the declaration for review to An Bord Pleanála on the 20th day of January, 2017:

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, including the provisions of Section 4(4), as amended, in respect of Environmental Impact Assessment and Appropriate Assessment,
- (b) Articles 5, 6 and 9 of the Planning and Development Regulations 2001, as amended,
- (c) Class 14(a) of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended, and
- (d) The planning history and permitted uses on the site:

AND WHEREAS An Bord Pleanála has concluded that -

- (a) the permitted use of the site is for the sale or leasing, or display for sale or leasing of motor vehicles;
- (b) the change from the permitted use to use as a shop is a factual change of use, and this change of use would raise material planning considerations including planning policy, in relation to the location of retail development (as outlined in the Guidelines for Planning Authorities on Retail Planning, issued by the Department of the Environment, Community and Local Government in April, 2012), in relation the potential for impact on neighbouring residential property and in relation to pedestrian and traffic safety and accordingly is a material change of use, within the meaning of Section 3(1) of the Planning and Development Act 2000, as amended, and is therefore development;

(c) the proposed change of use to use as a shop comes within the scope of the exemption provided in Class 14 (a) of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended, but, in this instance, it is considered that this exemption is restricted by the provisions of Article 9(1)(a)(iii) as, having regard to the inadequacy of car parking currently on the site in the context of the proposed use, the development would endanger public safety by reason of traffic hazard or obstruction of road, and the development would therefore not be exempted development.

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 change of use from the sale and display for sale of motor vehicles to use as a shop at the former Tom Walsh Motors, Grange Road, Baldoyle, Dublin 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.

> Terry O'Niadh Member of An Bord Pleanála duly authorised to authenticate the seal of the Board.

Dated this day of 2018