



An
Bord
Pleanála

Board Order 04.RL.3612

Planning and Development Acts 2000 to 2017

Planning Authority: Cork County Council

Planning Register Reference Number: D246/17

WHEREAS a question has arisen as to whether

- (1) the change of use of the premises from residential to commercial is or is not development or is or is not exempted development, and
- (2) the change of use from residential/commercial to restaurant/café is or is not development or is or is not exempted development,

all at number 5 Main Street, Doneraile, County Cork:

AND WHEREAS Gerry Shallow of Main Street, Doneraile, County Cork requested a declaration on the question from Cork County Council and the Council issued a declaration on the 17th day of July, 2017 stating that the matter is development and is not exempted development:

AND WHEREAS Ray O'Callaghan and Myra Ryall care of Cunnane Stratton Reynolds of Copley Hall, Cotters Street, Cork referred the declaration for review to An Bord Pleanála on the 14th day of August, 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,
- (b) the submissions made in connection with the referral,
- (c) the history and pattern of use of the site, and
- (d) it has not been proven that the previous use of the ground floor of the subject building for retail/shop purposes was in operation between 1987 and 2007, and, based on the evidence submitted in connection with this referral, the Board is satisfied that this floor area was instead used for residential purposes during this period and, accordingly, is satisfied that the use for retail purposes has been abandoned:

AND WHEREAS An Bord Pleanála has concluded that -

- (a) based on the evidence submitted, the period of non-use of the premises in question for any retail activity has extended over such a period that would represent an abandonment of use,
- (b) the change of use from a property used for residential purposes to a shop/retail outlet constitutes a change of use which is considered to be a material change of use within the meaning of Section 3 of the Planning and Development Act, 2000, as amended, and is, therefore, development,
- (c) the change of use from a property used for residential purposes to a café/restaurant constitutes a change of use which is considered to be a material change of use within the meaning of Section 3 of the Planning and Development Act, 2000, as amended, and is, therefore, development, and
- (c) there are no provisions in the Planning and Development Act, 2000, as amended or the Planning and Development Regulations, 2001, as amended, by which such development would be classified as exempted development:

