



An  
Bord  
Pleanála

## Inspector's Report ABP-315684-23

### Question

Whether the change of use of a premises from a funeral home to a coffee shop is or is not development and, is or is not exempted development

### Location

12 The Mall, Youghal, Co. Cork

### Declaration

Planning Authority

Cork County Council

Planning Authority Reg. Ref.

D/277/22

Applicant for Declaration

Broadwalk Coffee Limited.

Planning Authority Decision

Is not exempted development

### Referral

Referred by

Boardwalk Coffee Limited.

Occupier

Boardwalk Coffee Limited.

Owner

Dorothy Heaphy.

Date of Site Inspection

8/3/2024

**Inspector**

Siobhan Carroll

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## **1.0 Site Location and Description**

- 1.1. The premises subject of the referral is located at no. 12 the Mall, Youghal, Co. Cork. The Mall is located to the eastern side of the town.
- 1.2. The property comprises a three-storey building forming part of a terrace. The attic of the building is converted with residential use to the upper floors of the building. The ground floor of the building is occupied by the premises of the Boardwalk Coffee on The Mall. There is signage for the premises, it comprises individual lettering affixed to the fascia board above the front door.
- 1.3. The internal layout comprises a counter area to the southern side of the ground floor, the coffee barista machine, food preparation area and wash up area are situated adjacent to this. The remaining floor space at the ground floor contains tables and seating for customers.
- 1.4. The building directly addresses the public footpath. There is car parking along the western side of the Mall. The area to the front of building adjacent to the surrounding car parking contains outdoor seating and tables. The area is separated from the edge of the road by three planter boxes.
- 1.5. The site lies within an Architectural Conservation Area.

## **2.0 The Question**

- 2.1. Whether the change of use of a premises from a funeral home to a coffee shop is or is not development and/or is or is not exempted development.

## **3.0 Planning Authority Declaration**

### **3.1. Declaration**

Cork County Council issued a declaration under Section 5 of the Planning and Development Act 2000, on the 17<sup>th</sup> of January 2023 stated that having considered whether the change of use from funeral home to café at Boardwalk Coffee, 12 The

Mall, Youghal, Co. Cork is or is not development and is or is not exempted development has declared that it is not exempted development.

### Reason for Decision

The Planning Authority in considering this referral had particular regard to:

- (a) Sections 2,3, 4 and 82 of the Planning and Development Act, 2000 (as amended),
- (b) Article 6 and 9 of the Planning and Development Regulations, 2001 (as amended),
- (c) Article 10 of the Planning and Development Regulations, 2001 (as amended),
- (d) Schedule 2, Part 1, Class 14 of the Planning and Development Regulations, 2001 (as amended) and
- (e) Schedule 2, Part 4, Class 2 of the Planning and Development Regulations, 2001 (as amended).

The Planning Authority concluded that there is no exemption provided in respect of the change of use from funeral home to café.

The Planning Authority therefore determines that the proposed change of use to a café at Broadwalk, Coffee, The Mall, Co. Cork is development and is not exempted development.

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Reports**

- It is stated in the report of the Planning Officer that the main points which can be taken from Question 3 of the referral form is whether or not the change of use from a funeral home (permitted under planning reference 94/58001) to a café is or is not exempt under Article 10(1) of the Planning and Development Regulations.
- In terms of the use of the premises the permitted use is as a funeral home. The report of the Planning Officer noted that from inspection of the premises it is no longer operated as a funeral home and is currently used as a café/coffee shop. The layout is such that there is seating which allows visiting patrons to

consume their purchases on site. Class 14 is the only class in the Regulations which provides for a change of use from a funeral home. It provides for the change of use from a funeral home to a shop. The subject premises which is defined as a café the primary use is for the sale of beverages and snacks both on and off the premises.

- The report of the Planning Officer refers to the test of whether or not a café/coffee shop can be classified as a 'shop' which has been extensively tested by An Bord Pleanála through the referral process. The report refers to two cases determined by the Board. The cases referred to whether or not the change of use from a retail unit/shop to a coffee shop is or is not exempted development. The cited cases are RL28. 3425 – no. 11 Patrick's Street Cork City and RL 28.3424 – 11 Emmett Place, Cork City. The Board determined that the use of a coffee shop would not constitute a 'shop' as defined in Article 5(1) of the Regulations.
- The Planning Officer determined that based on their inspection of the premises that the use of it would not fall within the definition of a shop. The significant majority of the overall floor area of the unit provides for the consumption of the food and beverage items available for purchase on the premises.
- The Planning Officer did not concur with the case put forward by the referrer that the use of a café may be defined within the same use class, Class 2(c) as which covers use as a funeral home.
- It is detailed in the report that it is determined that a café is a place where a patron may buy drinks and simple meals. A café is not a place where a service is provided but rather where a product or products, specifically comprising primarily hot beverages and snacks may be bought. Therefore, it was concluded that a café cannot be classed under Class 2(c) of the Planning and Development Regulations.
- Therefore, no exemption is provided in respect to the change of use which has occurred. In conclusion the change of use to no. 12 The Mall, Youghal, Co. Cork to a café is development and is not exempted development.

### 3.2.2. Other Technical Reports

- None

## 4.0 Planning History

- 4.1.1. Reg. Ref. 23/6155 & ABP 319513-24 – Permission was granted by the Planning Authority to retain conversion from funeral home and ancillaries to use as restaurant/coffee shop with all associated sanitary accommodation, food preparation and storage area as well as fixed advertising signage on shop-front. The application has been appealed by a third party.
- 4.1.2. Reg. Ref. 94/58001 – Permission was granted for the continued use of the premises as a funeral home.
- 4.1.3. Reg. Ref. 86/58004 – Temporary permission granted for use and extension of the premises as a funeral home.

## 4.2. Relevant Referrals

- 4.2.1. There are a number of previous Board decisions which are relevant.
- 4.2.2. ABP Reg. Ref. RL28.RL3424 – Whether the change of use of premises from retail unit to coffee shop is or is not development or is or is not exempt development at 11 Emmett Place, Cork.  
  
Decision: Is development and is not exempted development. (2016)
- 4.2.3. ABP Reg. Ref. RL28.3425 – Whether the change of use of premises from retail use to coffee shop is or is not development or is or is not exempt development at 11 St. Patrick's Street, Cork.  
  
Decision: Is development and is not exempted development. (2016)
- 4.2.4. ABP Reg. Ref. RL28.RL3426 – Whether the change of use of premises from retail to coffee shop is or is not development or is or is not exempt development at 39 Princes Street, Cork.  
  
Decision: Is development and is not exempted development. (2016)
- 4.2.5. ABP Reg. Ref. RL28.RL3515 – Whether the use of a former retail unit as a coffee shop on the ground floor is or is not development and is or is not exempted development at 11 Saint Patrick's Street, Cork.

Decision: Is development and is not exempted development. (2017)

- 4.2.6. ABP Reg. Ref. RL28.RL3810 – Whether the use of number 11 Saint Patrick’s Street, Cork currently operating as a Starbucks coffee shop is or is not exempted development.

Decision: Is development and is not exempted development. (2018)

- 4.2.7. ABP Reg. Ref. RL09.309803 – Whether the use of Shop Unit 3, 6 Railway Terrace, Naas Co. Kildare as a coffee shop, is or is not development and is or is not exempted development.

Decision: Is development and is not exempted development. (2021)

## **5.0 Policy Context**

### **5.1. Cork County Development Plan 2022-2028**

- 5.1.1. The subject premises no. 12 the Mall, Youghal, Co. Cork is located on lands which are zoned Town Centre/Neighbourhood Centre.
- 5.1.2. The site lies within Youghal Conservation Area.
- 5.1.3. Objective ZU 18-17: Town Centre/Neighbourhood Centres
- 5.1.4. Volume 4 of the Development Plan refers to Youghal
- 5.1.5. Section 3.4.1 refers to Vision and Strategic Context: - The vision for Youghal is to promote continued development of the town and its hinterland as a residential, employment, tourist and service location in a coastal setting with its special historical, recreational, heritage and marine tourism functions.
- 5.1.6. Objective YL-GO-06 – Support and promote Youghal Town Centre as the primary and most appropriate location for the expansion of retail development. Protect the amenities of existing residential areas within the centre of the town and encourage the provision of sustainable new residential uses to strengthen the vitality of the town centre.
- 5.1.7. Objective YL-GO-08 – Protect and enhance the attractive landscape character setting of the town. Conserve and enhance the character of the town centre (including the special character of Architectural Conservation Areas) by protecting



historic buildings, groups of buildings, the existing street pattern, town walls, historic laneways, zones of archaeological potential, plot size and scale while encouraging appropriate development in the town, including the development of regeneration areas and public realm improvements.

5.1.8. Objective YL-T-01 – Town Centre Core area. This is the primary and preferred location for any new retail development in Youghal.

(a) Promote the development of this area as the primary location for retail and other uses that provide goods or services principally to visiting members of the public and the priority area and preferred location for new retail development.

(b) Encourage greater use of backland areas and promote the development of brownfield sites within the town centre area where new development can positively contribute to the commercial vitality of the town centre.

(c) Encourage the use of upper floors of existing buildings for residential and office use.

(d) Continue to enhance the streetscape and heritage assets of the town centre and continue with environmental improvements.

(e) Encourage a sustainable mix of land uses in the core retail/town centre area.

## 5.2. Natural Heritage Designations

5.2.1. Blackwater River (Cork/Waterford) SAC (Site Code 002170) is located 20m to east.

5.2.2. Blackwater Estuary SPA (Site Code 004028) is located 511m to the north-east.

## 6.0 The Referral

### 6.1. Referrer's Case

- We have been reviewing the planning status of the coffee shop at The Boardwalk on the Mall, 12 The Mall Youghal, P36 VF85 with reference to Schedule 2 – Part 4 of the Planning and Development Regulations 2001-2022 – Exempted Development Classes of Use.

- The previous permitted use of the premises as a funeral home permitted under P4.86 (file number 86/58004) granted by Youghal Urban District Council on 25<sup>th</sup> April 1986 and p.1/94 (file number 94/58001).
- In our opinion, the previously permitted use is use Class (b) Professional Services other than health or medical services where the services are provided principally to visiting members of the public (there being no specific mention of use as a funeral home within the classes of use).
- The current use of a café is in our opinion, Use Class 2(c) Any other Service where the services are provided principally to visiting members of the public (there being no specific mention of this or similar uses within the classes of use and the class 2(c) description being open to use as a café).
- As change of use within Classes of Use is Exempted Development under Part 2 Exempted Development, Article 10(1) Changes of Use, of the Planning and Development Regulations 2001-2022, in our opinion, the change of use from funeral home to café is exempted development.

## 6.2. Planning Authority Response

A response to the subject referral from the Planning Authority was received by the Board on the 10<sup>th</sup> of February 2023.

- Further to your notification of the above referral, I wish to notify you that the Planning Authority has no further submissions or observations to make.

## 7.0 Statutory Provisions

### 7.1. Planning and Development Act, 2000 (as amended)

#### 7.1.1. Section 2

Under Section 2, the following is the interpretation of 'works': "...includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint,

wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.”

7.1.2. Section 3(1)

‘In this Act, “development” means, except where the context otherwise requires, “development”

(a) the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land’.

7.1.3. Section 4(2)

‘the Minister may by Regulation provide for any class of development to be exempted development for the purposes of the Act.

**7.2. Planning and Development Regulations, 2001 (as amended)**

7.2.1. Article 5 (1) of the Planning and Development Regulations, 2001 provides interpretations for the purposes of exempted development. The following are relevant in the context of the subject referral.

7.2.2. “Shop” means a structure used for any or all of the following purposes, where the sale, display or service is principally to visiting members of the public-

(a) for the retail sale of goods,

(b) as a post office,

(c) for the sale of tickets or as a travel agency,

(d) for the sale of sandwiches or other food or of wine for consumption off the premises, where the sale of such food or wine is subsidiary to the main retail use, and “wine” is defined as any intoxicating liquor which may be sold under a wine retailer’s off-licence (within the meaning of the Finance (1909-1910) Act, 1910), 10 Edw. 7. & 1 Geo. 5, c.8,

(e) for hairdressing,

(f) for the display of goods for sale,

(g) for the hiring out of domestic or personal goods or articles,

(h) as a laundrette or dry cleaners,

(i) for the reception of goods to be washed, cleaned or repaired,  
but does not include any use associated with the provision of funeral services or as a funeral home, or as a hotel, a restaurant or a public house, or for the sale of hot food or intoxicating liquor for consumption off the premises, except under paragraph (d), or any use to which class 2 or 3 of Part 4 of Schedule 2 applies.

7.2.3. Article 10 (1) specifies that development which consists of a change of use within any one of the classes of use specified in Part 4 of Schedule 2, shall be exempted development for the purposes of the Act, provided that the development, if carried out would not -

- (a) involve the carrying out of any works other than works which are exempted development,
- (b) contravene a condition attached to a permission under the Act,
- (c) be inconsistent with any use specified or included in such a permission, or,
- (d) be a development where the existing use is an unauthorised use, save where such change of use consists of the resumption of a use which is not unauthorised and which has not been abandoned.

7.2.4. Schedule 2, Part 1 Exempted Development

Class 14 - development consisting of the following changes of use would be exempted development –

- (a) from use for the sale of hot food for consumption off the premises, or for the sale or leasing or display for sale or leasing of motor vehicles, to use as a shop,
- (aa) from use for the sale of food for consumption on the premises to use for the sale of food for consumption off the premises
- (b) from use as a public house to use as a shop,
- (c) from use for the direction of funerals, as a funeral home, as an amusement arcade or as a restaurant, to use as a shop,
- (d) from use to which class 2 of Part 4 of this Schedule applies to use as a shop,

(e) from use as 2 or more dwellings, to use as a single dwelling, of any structure previously used as a single dwelling,

(f) from use as a house, to use as a residence for persons with an intellectual or physical disability or mental illness and persons providing care for such persons.

(g) from use as a hotel, to use as a hostel (other than a hostel where care is provided),

(h) from use as a hotel, motel, hostel, guesthouse, holiday accommodation, convent, monastery, Defence Forces barracks or other premises or residential institution providing overnight accommodation, or part thereof, or from the change of use specified in paragraph (i) of the said premises or institution, or part thereof, to use as accommodation for protected persons,

(i) from use as a hotel, motel, hostel, guesthouse, holiday accommodation, convent, monastery, Defence Forces barracks or other premises or residential institution providing overnight accommodation, or part thereof, or from the change of use specified in paragraph (h) of the said premises or institution, or part thereof, to use as an emergency reception and orientation centre for protected persons,

(j) from the change of use specified in paragraph (h) or (i) or both, to the permitted use of the premises immediately prior to the change of use specified in the said paragraph (h) or both

#### 7.2.5. Schedule 2, Part 4

##### Exempted development – Classes of Use

#### 7.2.6. Class 1 – Use as a shop

#### 7.2.7. Class 2 – Use for the provision of-

(a) Financial services,

(b) Professional services (other than health or medical services),

(c) Any other services (including use as a betting office), where the services are provided principally to visiting members of the public.

## 8.0 Assessment

### 8.1. The question

- 8.1.1. The question asked by the referrer as detailed in question 3 on the application form submitted to the Planning Authority is as follows; “We have been reviewing the planning status of the coffee shop at The Boardwalk on the Mall, 12 The Mall Youghal, P36 VF85 with reference to Schedule 2 – Part 4 of the Planning and Development Regulations 2001-2022 – Exempted Development Classes of Use. The previous permitted use of the premises as a funeral home permitted under P4.86 (file number 86/58004) granted by Youghal Urban District Council on 25th April 1986 and p.1/94 (file number 94/58001). In our opinion, the previously permitted use is Class 2(b) Professional Services other than health or medical services, where the services are provided principally to visiting members of the public (there being no specific mention of use as a funeral home within the classes of use). The current use as a café is, in our opinion, Use Class 2(c) Any Other Services are provided principally to visiting members of the public (there being no specific mention of this or similar uses within the classes of use and the Class 2(c) description being open to use as a café) As change of use within classes of Use is Exempted Development, Article 10(1) Changes of Use, of the Planning and Development Regulations 2001-2022, in our opinion, the change of use from funeral home to café is exempted development.
- 8.1.2. It is set out in the report of the Planning Authority that the main points which can be taken from the question 3 is whether or not the change of use from funeral home (permitted under planning reference 94/58001) to a café is or is not exempt under Article 10(1) of the Planning and Development Regulations, 2001, (as amended).

### 8.2. Is or is not development

- 8.2.1. In relation to the authorised use of the subject premises as detailed by the referrer in their question the permitted use of the premises is as a funeral home which was granted permission under Reg. Ref. 94/58001. The Planning Authority also acknowledge in their report that the permitted use of the premises is as a funeral home. The issue arising is whether the current use of the premises comes within the provisions of Article 10 (1) of the Planning and Development Regulations, 2001,

(as amended) which specifies that development which consists of a change of use within any one of the classes of use specified in Part 4 of Schedule 2, shall be exempted development for the purposes of the Act.

- 8.2.2. The question as submitted by the referrer to the Planning Authority and the Board sets out that they are of the opinion that the previously permitted use (funeral home) falls under the Use class 2(b) of the Regulations which refers to any other services (including use as a betting office), where the services provided principally to visiting members of the public and they consider that the use as a 'coffee shop' would fall under this use class on the basis that it would fall under class 2(c) the description being 'Any other services (including use as a betting office), where the services are provided principally to visiting members of the public.'
- 8.2.3. In order to determine whether the subject change of use constitutes 'development' it is necessary to examine whether it falls under the definition of the 'development' in the Act. Section 3(1)(a) of the Planning and Development Act, 2000, (as amended) states, 'In this Act, "development" means, except where the context otherwise requires, "development" the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land'. Accordingly, in order to determine if the subject change of use is development it is necessary to establish whether the change of use represents a material change.
- 8.2.4. In respect of a change of use from a funeral home, the report of the Planning Authority sets out that Class 14 is the only use class which provides for change of use from funeral home. I would concur with the assertion by the Planning Authority that Class 14 is the relevant use class to consider in the case of this referral.
- 8.2.5. Schedule 2, Part 1, Class 14 of the Planning and Development Regulations, 2001, (as amended) refers specifically to Change of Use and part (c) refers to change of use from for the direction of funerals, as a funeral home, as an amusement arcade or a restaurant, to use as a shop.
- 8.2.6. Accordingly, for the subject change of use to come within the provisions of Class 14(c) it is necessary to determine if the subject use as a "coffee shop" can be classified as a "shop". In respect of this matter, I note that the Board has decided a number of similar referral cases where the question arose as to whether the use of premises as a "coffee shop" came under the definition of a "shop" as set out in the

Planning and Development Regulations, 2001. These include, RL28.RL3424 (11 Emmett Place, Cork, 2016), RL28.3425 (11 St. Patrick's Street, Cork, 2016), RL28.RL3426 (39 Princes Street, Cork, 2016), RL28.RL3515 (11 St. Patrick's Street, Cork, 2017), RL28.RL3810 (11 St. Patrick's Street, Cork, 2018) and RL09.309803 (Shop Unit 3, 6 Railway Terrace, Naas Co. Kildare, 2021).

8.2.7. It was determined in these cited cases that the use as a "coffee shop" is not within the scope of the definition of a "shop" as set out in the Regulations. I also note that with reference to all the above cited examples it was determined that the change use raised issues that are material in relation to the proper planning and sustainable development of the area and therefore constituted development within the meaning of Section 3 of the Planning and Development Act.

8.2.8. The materiality arose in the cited cases in relation to matters concerning the potential for litter and management of waste arising from the use of the premises for the sale of coffee, sandwiches and other beverages and food for consumption off the premises, odour issues and the potential for differing pedestrian and vehicular traffic as compared to the former uses.

8.2.9. In relation to the subject premises at 12 The Mall, Youghal, it is occupied by Boardwalk Coffee on The Mall. On inspection of the site, I observed that the ground floor of the building is in use by Boardwalk Coffee. The ground floor contains a counter area to the southern side of the ground floor, the coffee barista machine, food preparation area and wash up area are situated adjacent to this. The remaining floor space at the ground floor contains tables and seating for customers. There are external tables and seating provided to the front of the premises on the Mall. Therefore, the layout of the premises is such that it provides for the consumption of purchased food and beverages within the seating area in the premises, at the external seating area to the front of the premises and also customers can purchase food and beverages to take away. The range of products for sale comprises that typical of a "coffee shop" primarily coffees and other hot beverages, breakfast items such as porridge, granola and toast, scones and lunch items including soup, sandwiches and toasties.

8.2.10. Accordingly, the primary use occurring at the premises is the sale of beverages and food items for consumption both on the premises and off site. As such the use



occurring at the premises does not constitute a 'shop' as defined under Article 5 (1) of the Planning and Development Regulations, 2001 (as amended). While I note that article 5(1)(d) refers to 'the sale of sandwiches or other food or of wine for consumption off the premises, where the sale of such food or wine is subsidiary to the main retail use.' This is not applicable in this case because the sale of sandwiches or other food off the premises is not subsidiary to a main retail use.

8.2.11. Returning the matter raised in the question submitted by the referrer as to whether the permitted use (funeral home) falls under the Use class 2(b) of the Regulations which refers to any other services (including use as a betting office), where the services provided principally to visiting members of the public and whether the use as a 'coffee shop' would falls under the Use class 2(c). The report of the Planning Authority referred to the matter and stated that they agreed with the opinion of the referrer that a funeral home would come within the scope of Class 2 of the Regulations on the basis that a service of funeral direction is provided at such a premises. I would consider that this is a reasonable interpretation. In relation to the matter of whether a café/coffee shop would also come within the scope of Class 2 of the Regulations the referrer put forward that they were of the opinion that the current use of a café would fall under, Use Class 2(c) which refers to 'any other services (including use as a betting office), where the services are provided principally to visiting members of the public. Regarding this assertion the Planning Authority in their report determined that a café would not come within the scope of Class 2(c) on the basis that it is not a place where a service is provided but rather is a place where products comprising hot beverages and snacks may be purchased. I would concur with the rationale, and I would add to this that a cafe/coffee shop is also a place where food and drinks purchased on the premises can be consumed on the premises and also off the premises. Therefore, on that basis I would agree with the Planning Authority use as a café does not come within the scope of Class 2(c) of the Regulations.

8.2.12. Returning to the matter of whether the subject change of use is a material change of use, I this regard I would note the similar referral cases decided by the Board set out above in this report. It was determined in those cited cases that the matter of materiality arose in terms of the change of use from retail to café.

- 8.2.13. In the case of the subject referral, the change of use from funeral home to coffee shop would give rise to material planning considerations in terms of land use policy, odours, traffic, litter, and hours of operation.
- 8.2.14. Accordingly, I would conclude that a change of use from funeral home to coffee shop use at the subject premises at no. 12 the Mall, Youghal, Co. Cork constitutes a material change of use which constitutes development.

### **8.3. Is or is not exempted development**

- 8.3.1. Accordingly, having regard to the assessment of the use of the subject premises set out in Section 8.2 of my assessment it does not come within the scope of Class 1 of Part 4 of Schedule 2 and Article 10 of the Planning and Development Regulations, (as amended). Furthermore, this use does not lie within the scope of any of the other said Classes.
- 8.3.2. Article 10 refers to changes of use which are deemed to be exempted development. Accordingly, none of these changes of use refer to the use of the subject premises. No other relevant provisions of the Planning and Development Act, 2000 (as amended) and the Planning and Development Regulations, 2001 (as amended) provide exempted development status on the change of use which has occurred.

### **8.4. Restrictions on exempted development**

- 8.4.1. As the development, which has occurred, is not exempted development the question as to any restrictions on exempted development does not arise.

## **9.0 Appropriate Assessment**

- 9.1. Having regard to the nature and scale of the development which is the subject of this referral and its location relative to Natura 2000 sites, no appropriate assessment issues arise and it is not considered that the development would be likely to have a significant effect either individually or in combination with other plans or projects on a European site.

## 10.0 Recommendation

10.1. I recommend that the Board should decide this referral in accordance with the following draft order.

**WHEREAS** a question has arisen as to whether the change of use of a premises from a funeral home to a coffee shop is or is not development or is or is not exempted development:

**AND WHEREAS** Boardwalk Coffee Limited requested a declaration on this question from Cork County Council and the Council issued a declaration on the 17<sup>th</sup> day of January, 2023 stating that the matter was development and was not exempted development:

**AND WHEREAS** referred this declaration for review to An Bord Pleanála on the 1<sup>st</sup> day of February, 2023:

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

- (a) Section 2(1) of the Planning and Development Act, 2000, as amended,
- (b) Section 3(1) of the Planning and Development Act, 2000, as amended,
- (c) Article 5(1) and Article 10(1) of the Planning and Development Regulations, 2001, as amended,
- (d) Schedule 2 Part 1 of the Planning and Development Regulations, 2001, as amended,
- (e) Schedule 2 Part 4 of the Planning and Development Regulations, 2001, as amended,

- (f) the planning history of the site,
- (g) the previous permitted use of the premises as a funeral home,
- (h) the nature of the existing use of the premises where the primary use is the sale of beverages and food items for consumption both on the premises and off the premises.
- (i) the report of the Inspector

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

- (a) The previous use of the premises was a funeral home permitted under planning reference 94/58001.
- (b) The change of use of the premises to a ‘coffee shop’ where the primary use of the premises is the sale of beverages and food items for consumption both on the premises and off the premises, does not constitute use as a ‘shop’ as defined in article 5(1) of the Planning and Development Regulations, 2001 (as amended).
- (c) The use of the subject premises as a “coffee shop” has resulted in a change of use of these premises from their authorised use as a funeral home and this change of use is a material one as it raises material planning considerations relating to land use policy, odours, traffic, litter, and hours of operation. It thus constitutes development under Section 3(1) of the Planning and Development Act, 2000, as amended.
- (d) There are no exemptions in the Planning and Development Act, 2000 (as amended) or in the Planning and Development Regulations, 2001 (as amended), by which this development would constitute 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 of a premises from a funeral home to a coffee shop at no. 12 the Mall, Youghal, Co. Cork is development and is not exempted development.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Siobhan Carroll  
Planning Inspector

26<sup>th</sup> April 2024