



An
Bord
Pleanála

Board Order
ABP-312276-21

Planning and Development Acts 2000 to 2022

Planning Authority: Kilkenny County Council

Planning Register Reference Number: DEC 648

WHEREAS a question has arisen as to whether a building and its current use, that was granted permission as a garage/store (Class 4) by Kilkenny County Council under planning register reference number P478/84, and which was subsequently constructed 30% larger than that permitted and is now used as a wholesale/distribution business at Fruit and Vegetable Wholesale, Slieverue, County Kilkenny is or is not development or is or is not exempted development,

AND WHEREAS Martin and Deirdre Freyne of 16 The Village, Slieverue, County Kilkenny requested a declaration on the said question from Kilkenny County Council and the Council issued a declaration on the 19th day of November, 2021 stating that:

- (a) the building that was granted planning permission as a garage/store (Class 4) under planning register reference number P478/84 and used as a wholesale/distribution business is development and is exempted development, and

- (b) the area of building built approximately 30% larger than the plans submitted under planning register reference number P478/84 is development and is not exempted development,

AND WHEREAS Martin and Deirdre Freyne referred the declaration for review to An Bord Pleanála on the 15th day of December, 2021,

AND WHEREAS An Bord Pleanála, in considering the referral, had regard particularly to:

- (a) Sections 2(1), 3(1) and 4(1)(h) of the Planning and Development Act 2000, as amended,
- (b) the planning history of the site,
- (c) the stated nature of the current use, and
- (d) the report of the Planning Inspector,

AND WHEREAS An Bord Pleanála has concluded that:

- (a) the building and its current use, which was granted permission as a garage/store (Class 4) under planning register reference number P478/84, and which was built 30% larger than that permitted constitutes development under Section 3(1) of the Planning and Development Act 2000, as amended,
- (b) the alterations to the design from the parent permission materially affects the external appearance of the structure so as to render the appearance inconsistent with the character of the structure and, therefore, the works do not come within the scope of the exempted development provisions of Section 4(1)(h) of the Planning and Development Act 2000, as amended, and

- (c) there are no exemptions provided for in the Planning and Development Act 2000, as amended, or in the Planning and Development Regulations 2001, as amended, by which such works would be deemed 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 a building and its current use, that was granted permission as a garage/store (Class 4) by Kilkenny County Council under planning register reference number P478/84, and which was subsequently constructed 30% larger than that permitted and is now used as a wholesale/distribution business at Fruit and Vegetable Wholesale, Slieverue, County Kilkenny is development and is not exempted development.



Patricia Calleary

Member of An Bord Pleanála

**duly authorised to authenticate
the seal of the Board.**

Dated this 9 day of July 2024.