



An
Bord
Pleanála

Board Direction ABP-312276-21

The submissions on this file and the Inspector's report were considered at a Board meeting held on 26/06/2024.

The Board decided, as set out in the following Order, that

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 P478/84 and which was subsequently constructed 30% than that permitted under the permission and is now used as a wholesale/ distribution business at Kilmurry, Slieverue, Co. Kilkenny, is or is not development and is or is not exempted development.

AND WHEREAS Martin and Deirdre Freyne of 16 The Village, Slieverue, Co. Kilkenny requested a declaration on this 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 reference P478/84 and used as a wholesale/ distribution business is development and is exempted development,
- (b) The area of building built approximately 30% larger than the plans submitted under planning reference P478/84 is development and is not exempted development,

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

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

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

AND WHEREAS An Bord Pleanála has concluded that:

- (a) The building and it's current use, that was granted permission as a Garage/ store (Class 4) under 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, and 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 P478/84 and which was subsequently constructed 30% than that permitted under the permission and is now used as a wholesale/ distribution business at Kilmurry, Slieverue, Co. Kilkenny, is development and is not exempted development.

Board Member:

Patricia Callea

Patricia Calleary

Date: 27/06/2024

