

# An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2010

## Kerry County

**Planning Register Reference Number: 11/75**

An Bord Pleanála Reference Number: PL 08.238833

**APPEAL** by Mary O'Neill, John and Emma Willis of 38 Convent Court, Delgany, County Wicklow against the decision made on the 5<sup>th</sup> day of April, 2011 by Kerry County Council to grant subject to conditions a permission to Ganesan Balkerishna care of Hickey Moynihan Design of Courtyard House, The Courtyard, Fairhill, Killarney, County Kerry.

**PROPOSED DEVELOPMENT:** Change of use from retail unit to restaurant and take-away, including an extension to the rear of the building at first floor level, and associated elevational changes at the premises known as Movie Magic, Church Street, Milltown, County Kerry.

## DECISION

**REFUSE permission for the above proposed development based on the reasons and considerations set out below.**

## 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.

## REASONS AND CONSIDERATIONS

Having regard to the limited size and terraced nature of the site, it is considered that the proposed development would give rise to an unacceptable level of noise, odours and general late-night disturbance in the immediate area which is substantially and essentially residential in nature (notwithstanding the “mixed use” zoning objective in the current development plan for the area and the established commercial nature of the premises). The proposed development would, therefore, seriously injure the residential amenities of property in the vicinity and be contrary to the proper planning and sustainable development of the area.

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**Member of An Bord Pleanála  
duly authorised to authenticate  
the seal of the Board.**

**Dated this            day of            2011.**