

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Fingal County

Planning Register Reference Number: F15A/0441

An Bord Pleanála Reference Number: PL 06F.245871

APPEAL by Declan Burke care of MacCabe Durney Barnes of 20 Fitzwilliam Place, Dublin against the decision made on the 11th day of November, 2015 by Fingal County Council to refuse permission.

PROPOSED DEVELOPMENT: Change of use of restaurant area at ground floor into new pizzeria takeaway and related works, with new detached cold room built at rear. The pizzeria takeaway is proposed at side of the existing takeaway at 28 Upper Main Street, Rush, County Dublin.

DECISION

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions 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 nature and modest scale of the proposed development, the TC zoning objective for the area as set out in the Fingal Development Plan 2011-2017, the pattern of urban development in the vicinity, and the planning history of the overall site, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the Main Street, Rush neighbourhood, or of property in the vicinity, would not be prejudicial to public health, would be acceptable in terms of traffic safety and convenience, would be in accordance with the provisions of the Development Plan, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The use of the proposed development shall be strictly limited to use as a pizzeria takeaway.

Reason: In the interest of clarity and of residential amenity, having regard to the close proximity of the proposed ventilation to the windows of residential accommodation.

3. The hours of operation of the proposed pizzeria shall be limited to between 12:00 and 23:00 on any day.

Reason: In the interest of clarity and of residential amenity.

4. Prior to commencement of development, a comprehensive scheme of landscaping of the rear garden shall be submitted to, and agreed in writing with, the planning authority. This scheme shall also provide for substantial improvements to the quality of the access between the residential accommodation and the remaining garden area. Any plants that die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential amenity, having regard to the reduction in garden area and to Condition 3 of planning register reference number 93A/0061.

5. The proposed shopfront shall be in accordance with the following requirements:-
 - (a) signs shall be restricted to a single fascia sign using sign writing or comprising either hand-painted lettering or individually mounted lettering,
 - (b) lighting shall be by means of concealed neon tubing or by rear illumination,
 - (b) no awnings, canopies or projecting signs or other signs shall be erected on the premises without a prior grant of planning permission,
 - (d) any internal shutter shall be only of the perforated type, coloured to match the shopfront colour, and
 - (e) no adhesive material shall be affixed to the windows or the shopfront.

Reason: In the interest of visual amenity.

6. Details including samples of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of the visual amenities of the area.

7. A comprehensive scheme for the effective control of mechanical noise, fumes and odours from the premises shall be submitted to, and agreed in writing with, the planning authority, prior to the commencement of development.

Reason: In the interest of residential amenity.

8. The noise level arising from ventilation shall not exceed 55 dB(A)(corrected for any tonal or impulsive component) at the boundaries of residential property, between 08:00 and 20:00 hours, Monday to Friday inclusive, and shall not exceed 45 dB(A) at any other time. Procedures and a timeframe for the purpose of determining and reporting compliance with this limit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To protect the residential amenities of property in the vicinity.

9. Litter in the vicinity of the premises shall be controlled in accordance with a scheme of litter control which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. This scheme shall include the provision of litter bins and refuse storage facilities.

Reason: In order to safeguard the civic amenities of the area.

10. The proposed development shall comply with the requirements of the planning authority in respect of environmental health, as set out in the report of the Environmental Health Officer dated 19th October 2015.

Reason: In the interest of environmental health.

11. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

12. Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no advertisement signs (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the buildings or within the curtilage of the site, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

13. No music or other amplified sound shall be broadcast externally from the proposed development.

Reason: To protect the amenities of the area.

14. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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

Dated this day of 2016.