



An
Bord
Pleanála

Board Direction

PL29S.247104

The submissions on this file and the Inspector's report were considered at a Board meeting held on December 13th 2016.

The Board decided to treat this case under section 139 of the Planning and Development Act, 2000. The Board also decided, based on the Reasons and Considerations set out below, that the planning authority be directed, as follows:

Attach condition 2, and the reason therefor.

Reasons and Considerations

Having regard to the fact that the application did not include for change of use of the subject premises to use as a takeaway, but only as a café/restaurant, and to the fact that use as a takeaway (that is, “use for the sale of hot food for consumption off the premises”) is a separate use recognised under planning legislation, and having regard to the provisions of the Dublin City Development Plan 2016 – 2022, and in particular the permissible uses under the Z1 zoning objective in this Plan, which do not include use as a takeaway, and to the pattern of development in the vicinity of the subject site, it is considered that the restriction contained in the condition in question as imposed by the planning authority, was appropriate and reasonable.

In not accepting the recommendation of the Inspector to require the condition to be amended so as to limit the types of foods and beverages permitted to be sold on a take-away basis, the Board considered that such a stipulation would not be enforceable or reasonable, and considered that the restriction on use of the premises as a takeaway, as imposed by the planning authority, was appropriate in this instance.

Note: In arriving at its decision, the Board had regard, in addition to the provisions of the City Development Plan, to the particulars of the planning application submitted to the planning authority, including the content of the

public notices (which did not refer to use as a takeaway), and to the submitted plans. The Board also did not accept that, in the context of these particulars, a takeaway use would be ancillary to the primary use as a restaurant. Furthermore, the Board noted, and took into consideration, the submissions made to the planning authority, as well as the observation submitted to An Bord Pleanála, and was satisfied that use as a takeaway would raise issues with regard to the residential amenities of the adjoining residential properties, including those located on the floors immediately above the proposed development.

[Please issue a copy of this Direction with the Board Order]

Board Member: _____
Philip Jones

Date: 16th December 2016