



An
Bord
Pleanála

Board Direction
ABP-303153-18

The submissions on this file and the Inspector's report were considered at a Board meeting held on 6/11/2019.

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

Board Order as follows:-

WHEREAS a question has arisen as to whether the change of use of part of a shop to use as a coffee shop at Dunnes Stores, Liffey Valley Shopping Centre, Fonthill Road, Dublin 22 is or is not development or is or is not exempted development:

AND WHEREAS Dunnes Stores referred this matter to South Dublin Co. Council on the 22nd day of October 2018 and requested that the matter be referred to An Bord Pleanála for determination:

AND WHEREAS South Dublin Co. Council referred this matter to the Board for a declaration on the 4th day of December 2018:

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

- (a) Section 2(1), 3(1) and 4(1)(h) of the Planning and Development Act, 2000, as amended,
- (b) The definition of a 'shop' provided under Article 5(1) of the *Planning and Development Regulations, 2001*, as amended,

- (c) The planning history of the site,
- (d) The small scale of the coffee shop (c. 79 sq. m.) relative to the scale of the overall shop (c. 5976 sq.m.)

AND WHEREAS An Bord Pleanála has concluded that:

- (a) Having regard to the minor nature of the creation of the coffee shop, which does not include an act or operation of construction, excavation, demolition, extension, repair, or renewal of the shop, and which does not materially alter the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or neighbouring structures, and therefore does not constitute an act or operation of alteration of the shop, it is considered that the creation of the coffee shop does not come within the definition of 'works' provided in Section 2 of the *Planning and Development Act, 2000* and, therefore, does not constitute development for the purpose of the Act.
- (b) The use of c. 79 sq.m. of the premises at ground floor level as a coffee shop for the sale of coffee and other items for consumption on and off the premises does not come within the scope of the definition of a shop as set out in *Article 5(1) of the Planning and Development Regulations, 2001*. This definition does not provide for the consumption of food on the premises. The use as a coffee shop is, therefore, a change of use.
- (c) Having regard to the minor scale of the coffee shop relative to the size of the overall shop, its operation only during the opening hours of, and in conjunction with, the overall shop, the absence of independent access from the internal shopping mall or from the Shopping Centre car park, and the absence of potential for use as an independent shopping unit, it is considered that the change of

use does not constitute a material change of use and, therefore,
does not constitute development for the purpose of the Act.

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5 (4) of the 2000 Act, hereby decides that the change of use of part of a shop to use as a coffee shop at Dunnes Stores, Liffey Valley Shopping Centre, Fonthill Road, Dublin 22 is not development.

Board Member:

Date: 12/06/2019

John Connolly