

An  
Bord  
Pleanála

**Board Direction**  
**ABP-318628-23**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 08/07/2024.

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

**WHEREAS** a question has arisen as to whether the use of part of premises for takeaway food ancillary to shop use at GALA, Aghards House, Thornhill Gardens, Celbridge, Co. Kildare is or is not development or is or is not exempted development.

**AND WHEREAS** Mohammad Rahman care of DH Architectural of Clownings, Newbridge, County Kildare requested a declaration on this question from Kildare County Council and the Council issued a declaration on the 9<sup>th</sup> day of November 2023 stating that the matter was development and was not exempted development:

**AND WHEREAS** Mohammad Rahman referred this declaration for review to An Bord Pleanála on the 5<sup>th</sup> day of December 2023:

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

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended.
- (b) Articles 5, 6, 9 and 10 of the Planning and Development Regulations, 2001, as amended.
- (c) Class 1 of Part 4, Schedule 2 of the Planning and Development Regulations 2001, as amended.

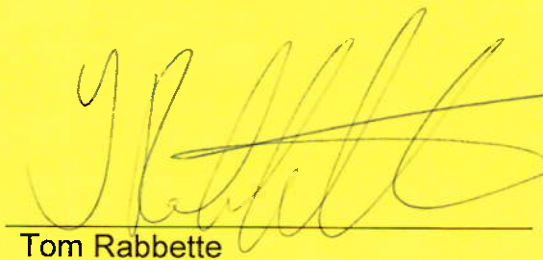
- (d) the planning history of development on the site, in particular, planning register reference number 891106, and
- (e) the existing use of the retail unit and the layout of the premises as now constituted:

**AND WHEREAS** An Bord Pleanála has concluded that:

- (a) condition number 8 of planning register reference number 891106 excluded the use of the neighbourhood shop for the sale of hot food for consumption off the premises (i.e. 'take-away');
- (b) the take-away use would contravene the condition referred to in (a) above;
- (c) the restrictions on exempted development pursuant to Article 9(a)(i) of the Planning and Development Regulations 2001, as amended, are applicable, and
- (d) the restrictions on changes of use pursuant to Article 10(1)(b) of the Planning and Development Regulations 2001, as amended are applicable.

**NOW THEREFORE** An Bord Pleanála, in exercise of the powers conferred on it by section 5 (3) (a) of the 2000 Act, hereby decides that use of part of premises for takeaway food ancillary to shop use at GALA, Aghards House, Thornhill Gardens, Celbridge, County Kildare is development and is not exempted development.

**Board Member:**



Tom Rabbette

**Date:** 08/07/2024