



Board Direction

Ref: 06F.RL3481.

The submissions on this file and the Inspector's report were considered at a Board meeting held on 28th October 2016.

The Board generally approved of the terms of the attached draft order, subject to the amendments shown below.

The Board decided that the change of use of part of a unit from toy store to use as a coffee shop is development and is not exempted development.

WHEREAS a question has arisen as to whether the change of use of part of the unit from a toy shop to use as a coffee shop at Unit 1A Airside Retail Park, Crowcastle, Swords, County Dublin is or is not development or is or is not exempted development:

AND WHEREAS this question was referred to An Bord Pleanála by Fingal County Council on the 18th day of May, 2016:

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

- (a) Sections 2(1), 3(1), 4(1)(h), and 4(2)(a)(i) of the Planning and Development Act, 2000 as amended,
- (b) Articles 5(1), 6(1), 9(1), and 10(1) of the Planning and Development Regulations, 2001, as amended,
- (c) Class 14 of Part 1 and Class 1 of Part 4 of Schedule 2 to the said Regulations,
- (d) the previous use of the unit as a retail warehouse for sale and display of toys, and
- (e) the scale, nature and layout of the coffee shop, the range of goods sold on the premises and the layout and services provided to visiting members of the public, in particular, customer toilet facilities, the extent of seating provided, the physical separation from the retail unit

and the existence of independent access from the exterior to the subject use and independent external signage for the subject use.

AND WHEREAS An Bord Pleanála has concluded that –

- (a) the use of the subject premises as a coffee shop does not constitute use as a “shop” as defined in Article 5(1) of the Planning and Development Regulations 2001, as amended, because the scale, nature and layout of the coffee shop is more akin to a restaurant use which is expressly excluded from the definition of ‘shop’ under Article 5(1) of the said Regulations, as amended,
- (b) the change of use of the subject premises, from use as a shop (retail warehouse) to use as a coffee shop, raises issues that are material in relation to the proper planning and sustainable development of the area and this change of use constitutes a material change of use having regard to the considerations outlined above and to the terms of condition 6 of planning register reference number F14A/0442, and is, therefore, “development” within the meaning of section 3 of the Planning and Development Act, 2000,
- (c) there are no provisions in the Act or Regulations whereby such development would be exempted.

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 said change of use of part of the unit from a toy shop to use as a coffee shop at Unit 1A Airside Retail Park Crowcastle, Swords, County Dublin is development and is not exempted development.

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.

Board Member: _____
G.J. Dennison

Date: 28th October 2016