



Board Direction

Ref: 29S.RL.3495

The submissions on this file and the Inspector's report were considered at a Board meeting held on 27th, October 2016.

The Board generally approved of the terms of the draft order as set out below,

The Board decided that

the use of 1.16 square metre of shop area at GO Kylemore Service Station for the sale of hot food at GO Kylemore Road Service Station, Kylemore Road, Dublin is not development.

WHEREAS a question has arisen as to whether the use of 1.16 square metres of shop area at GO Kylemore Service Station for the sale of hot food at GO Kylemore Road Service Station, Kylemore Road, Dublin is or is not development or is or is not exempted development:

AND WHEREAS Bernard Byrne care of Brock McClure Consultants of 63 York Road, Dún Laoghaire, County Dublin requested a declaration on the said question from Dublin City Council and the said Council issued a declaration on the 7th day of June, 2016 stating that the said matter is not exempted development:

AND WHEREAS the said Bernard Byrne referred the declaration for review to An Bord Pleanála on the 30th day of June, 2016:

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) the definition of 'shop' under article 5(1) of the Planning and Development Regulations, 2001, as amended,
- (c) Articles 6, 9 and 10 of the Planning and Development Regulations, 2001, as amended, and Part 4 of Schedule 2 of these Regulations, and

- (d) the planning history of the site, including planning register number 2685/14, whereby planning permission was granted for the Service Station and associated retail sales area on this site and, in particular, the provisions of condition number 9 of that permission:

AND WHEREAS An Bord Pleanála has concluded that -

- (a) The nature and limited scale of the use and its character as an ancillary use to the principal use as a shop,
- (b) the sale of hot food for consumption on or off the premises results in a change of use,
- (c) the change of use in this case by reason of its limited scale and ancillary nature is not a material change of use and
- (d) the change of use in this case, therefore, is not development as described in section 3(1) of the Planning and Development Act, 2000.

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 the said change of use of 1.16 sq. m. of the shop area for the sale of hot food at GO Kylemore Road Service Station, Kylemore Road, Dublin is not development.

Board Member: _____
Paddy Keogh

Date: 27th, October 2016