



An
Bord
Pleanála

Board Direction
06S.RL3520

The submissions on this file and the Inspector's report were considered at a Board meeting held on 1st June 2018.

The Board decided, generally in accordance with the inspector's recommendation, that the change to the type of goods being sold in the subject unit is development and is not exempted development.

Board Order as follows:-

WHEREAS a question has arisen as to whether a material change of use arises by reason of the type of goods being sold at Unit No. 3 Fonthill Retail Park, Fonthill Road, Dublin 22 and consequently whether it is or is not development or is or is not exempted development:

AND WHEREAS PKB Partnership, Unit D5, Swords Enterprise Park, Feltrim Road, Co. Dublin requested a declaration on the said question from South Dublin County Council and the said Council issued a declaration on the 2nd of November 2016 stating that the said matter is not exempted development:

AND WHEREAS the said PKB Partnership referred the declaration for review to An Bord Pleanála on the 28th of November 2016:

DECISION QUASHED

AND WHEREAS An Bord Pleanála decided to reformulate the question as follows:

Whether the use of a permitted retail warehouse unit to use as a discount store for the sale of small scale convenience goods at Unit No. 3 Fonthill Retail Park, Fonthill Road, Dublin 22 is or is not development or is or is not exempted development

AND WHEREAS An Bord Pleanála in considering this Referral had regard to:

- (a) section (3)1 of the Planning and Development Act 2000,
- (b) Articles 5(1), 6(1), 9(1), 10(1), 10(1)(c) of the Planning and Development Regulations, 2001, as amended,
- (c) the planning history of the premises in particular planning reference S97A/0791 for a Retail Warehouse, and also the subsequent permission for a subdivision of this unit under planning reference 15A/0152,
- (d) the definition of a retail warehouse as set out in Annex 1 of the Retail Planning Guidelines for Planning Authorities issued by the Department of the Environment and Local Government 2000, (as updated by the revision of these guidelines in 2005 and 2012);
- (e) the documentation on file including the Inspector's Report:

AND WHEREAS An Bord Pleanála has concluded that -

- (a) the permitted use of the premise, as stipulated by the permitted use of the unit granted under planning reference number S97A/0791 is a Retail Warehouse,
- (b) the subsequent permission to subdivide the unit (PA Reg Ref 15A/0152) did not alter the retail warehouse use of any element of the unit,
- (c) the retailing activity currently carried out at the premises involves the retail sale of small scale convenience goods directly to members of the public,

DECISION QUASHED

- (d) the retail sale of convenience goods is not consistent with the permitted use, and does not come within the scope of the definition of activities of a retail warehouse as set out in the said Retail Planning Guidelines,
- (e) accordingly, the use of the unit, constitutes a change of use, and the said change of use constitutes development being a material change of use by reason of the character of the retailing being undertaken and its material external impacts on the proper planning and sustainable development of the area (including its impacts on town centre retailing, traffic movements and parking).

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 use of a permitted retail warehouse unit to use as a discount store for the sale of small scale convenience goods at Unit No. 3 Fonthill Retail Park, Fonthill Road, Dublin 22 is development and is not exempted development.

Board Member



Conall Boland

Date: 1st June 2018

DECISION QUASHED