

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Dublin City

Planning Register Reference Number: 2425/15

An Bord Pleanála Reference Number: PL 29S.246208

APPEAL by Barleyhouse Management Limited care of Brock McClure Planning and Development Consultants of 63 York Road, Dún Laoghaire, County Dublin against the decision made on the 9th day of December, 2015 by Dublin City Council in relation to an application by Green Label Investments Limited and Claude Fettes and Annette Cooper care of Edward Fitzgerald Selby of 32 Butterfield Grove, Rathfarnham, Dublin for permission for development comprising the change of use of ground-floor unit 5 from retail use to use as a food take-away premises and the reinstatement of the previous use of unit 6 as a Crèche/Childcare Facility; both units face Marrowbone Lane at Barley House, 90-97 Cork Street and Marrowbone Lane, Dublin in accordance with the plans and particulars lodged with the said Council (which decision was to grant subject to conditions a permission for the proposed takeaway facility at unit 5 and to refuse permission for the proposed crèche/childcare facility at unit 6).

DECISION

GRANT permission for the use of Unit 6 as a crèche/childcare facility in accordance with the said plans and particulars based on the reasons and considerations marked (1) under and subject to the conditions set out below. **REFUSE** permission for the use of Unit 5 as a food take-away premises based on the reasons and considerations marked (2) under.

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.

REASONS AND CONSIDERATIONS (1)

Having regard to the nature and scale of the proposed childcare facility, the pattern of development in the vicinity, and the planning history of the overall development at this location, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would be acceptable in terms of traffic safety and convenience, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 12th day of November, 2015, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The number of children to be accommodated within the premises shall not exceed 36 at any time on any day.

Reason: To limit the development in the interest of residential amenity

3. The proposed childcare facility shall not operate outside the period of 08:00 to 18:00, Monday to Friday inclusive, and shall not operate on Saturdays, Sundays or public holidays.

Reason: In the interest of clarity and of residential amenity.

4. A management plan for the outdoor play area, including hours of operation, shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interest of residential amenity.

5. Details of the unit frontage, including the proposed fascia sign, shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interest of the visual amenities of the building and of the area.

6. No advertisement or advertisement structure (other than those shown on the drawings submitted with the application) shall be erected or displayed on the building (or within the curtilage of the site) in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

In deciding not to accept the Inspector's recommendation to refuse permission for the childcare facility, the Board considered that a crèche located within a substantial apartment development would be of benefit to the community, and furthermore, had regard to the planning history of the site, whereby An Bord Pleanála appeal reference number PL29S.203642 (planning register reference number 1408/03) required under Condition 8 that appropriate childcare facilities be provided. The Board did not share the Inspector's concerns in relation to traffic in this city centre location, and where permission already exists for the use of this unit for retail purposes. The Board was satisfied that other concerns in relation to the level of crèche occupancy, and the use of open space to serve it, could be addressed by means of condition.

REASONS AND CONSIDERATIONS (2)

Having regard to the nature, layout and location of the proposed food takeaway premises, in particular the inadequate arrangements for ventilation, its proximity to apartments and to private shared amenity areas serving them, and the lack of a dedicated easily accessible bin storage area, it is considered that the proposed change of use would have a significant adverse impact on residential amenity by reason of noise, odour and conflict with the residential use of the rest of the site. The proposed development would, therefore, seriously injure the amenities of property in the vicinity and would be contrary to the proper planning and sustainable development of the area.

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this day of 2016.