# An Bord Pleanála



#### PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

## Fingal County

Planning Register Reference Number: F15A/0553

An Bord Pleanála Reference Number: PL 06F.246390

**APPEAL** by Mark Wright care of Peter P. Gillett and Associates of 55 Glencarraig, Sutton, Dublin against the decision made on the 29<sup>th</sup> day of January, 2016 by Fingal County Council to grant subject to conditions a permission to Greg Rickard care of McMullan and Company of Suite 5, Manor House, 3 Church Road, Malahide, County Dublin in accordance with plans and particulars lodged with the said Council.

**PROPOSED DEVELOPMENT:** Renewal of temporary permission for five years for a market which was previously granted permission under planning register reference number 11A/0433. The development comprises (i) five single storey shops (total area 108.6 square metres), and two pairs of covered access gates to the front, (ii) seasonal market to the rear for outdoor stalls and (iii) toilet block (12.4 square metres) to the rear and related site development works, all at 3A Harbour Road, Howth, County Dublin.

#### **DECISION**

Having regard to the nature of the condition the subject of the appeal, the Board is satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and, based on the reasons and considerations set out below, directs the said Council under subsection (1) of section 139 of the Planning and Development Act, 2000 to REMOVE condition number 8 and the reason therefor.

#### REASONS AND CONSIDERATIONS

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Having regard to the specific wording of condition number 8, the Board considered that it allowed for the provision of uses which did not form part of the original permission granted under PL 06F.240659 and which uses were precluded by condition of that permission. The Board further felt that these uses were not applied for in the present application and that the condition was ultra vires.

### **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.

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

Dated this day of 2016.

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