

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2016

Kildare County

Planning Register Reference Number: 16/515

An Bord Pleanála Reference Number: PL 09.247522

APPEAL by Michael Lynch of The Forge, Calverstown, County Kildare against the decision made on the 11th day of October, 2016 by Kildare County Council to grant subject to conditions a permission to John McCann care of O'Flynn Architects of Lower Eyre Street, Newbridge, County Kildare in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: Retention of the change of use of a portion of the shop premises (44.2 square metres) at ground level from retailing of goods to the preparation, storage and cooking of hot food for consumption off the premises, mainly consisting of fish, chicken, burgers and chips at McCann's Newsagent, Calverstown, Kilcullen, County Kildare.

DECISION

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

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

Having regard to the nature and scale of the development proposed to be retained, its central location within the village of Calverstown, and the pattern of development in the vicinity, it is considered that, subject to compliance with the conditions set out below, the development would not seriously injure the amenities and character 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 14th day of September, 2016, 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 takeaway shall not operate outside the hours of 17:00 to 23.00 on any day, unless otherwise authorised by a further grant of planning permission.

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

3. (1) The noise level shall not exceed 55 dB(A) $L_{eq,30min}$ (corrected by penalty for any tonal or impulsive components) at the nearest residential unit between 08:00 and 18:00 hours on Monday to Friday, and shall not exceed 45 dB(A) $L_{eq,30min}$ at any other time.

(2) Within three months of the date of this Order, a detailed noise survey and report shall be submitted to, and agreed in writing with, the planning authority. The survey shall be undertaken by an appropriately qualified and experienced professional in accordance with procedures that shall be submitted to, and agreed in writing with, the planning authority.

(3) Any recommendations arising from the report shall be implemented to the written satisfaction of the planning authority within six months of the date of this Order.

Reason: To protect the residential amenities of property in the vicinity.

4. The developer shall control odour emissions from the premises in accordance with measures, including extract duct details, which shall be submitted to, and agreed in writing with, the planning authority within three months of the date of this Order.

Reason: In the interest of public health and to protect the amenities of property in the vicinity.

5. A plan containing details for the management of waste and recyclable materials within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials shall be submitted to, and agreed in writing with, the planning authority within three months of the date of this Order. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and recyclable materials, in the interest of protecting the environment and residential amenity.

6. Litter in the vicinity of the premises shall be controlled in accordance with a scheme of litter control which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the provision of litter bins and refuse storage facilities.

Reason: In the interest of visual amenity.

7. Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no advertisement signs (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the buildings or within the curtilage of the site, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

8. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

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

Dated this day of 2017.