



Planning and Development Acts 2000 to 2018

Planning Authority: Cork County Council

Planning Register Reference Number: D/236/18

WHEREAS a question has arisen as to whether the current use of part of the retail unit for the preparation of hot food for consumption off the premises and associated delivery service in association with “Pizza Hut” at Sweeney’s Daybreak, Monfieldstown, Rochestown, County Cork is or is not development or is or is not exempted development:

AND WHEREAS Sean Sweeney requested a declaration on the said question from Cork County Council and the said Council issued a declaration on the 27th day of April, 2018 stating that the said matter is development and is not exempted development:

AND WHEREAS Sean Sweeney referred the declaration for review to An Bord Pleanála on the 18th day of May, 2016:

AND WHEREAS An Bord Pleanála, in considering this referral, had regard particularly to –

- (a) sections 2(1), 3(1), 5 and 127 of the Planning and Development Act, 2000, as amended,
- (b) Article 5(1), 6 and 10 of the Planning and Development Regulations, as amended,
- (c) Part 4 of Schedule 2 to the Planning and Development Regulations, as amended, and
- (d) the planning history of the site:

AND WHEREAS An Bord Pleanála has concluded that -

- (a) the permitted use of this premises is as a shop under permission granted under planning permission reference number 05/5960,
- (b) the sale of hot food for consumption off the premises is considered not to be subsidiary to the main use of the premises as a shop,
- (c) having regard to the definition of 'shop' under article 5(1) of the Planning and Development Regulations, 2001, as amended, the use of part of the shop for the preparation and sale of hot food for consumption off the premises has resulted in a change of use,
- (d) having regard to the potential for material planning consequences in relation to traffic, noise and general disturbance, this change of use is considered to be material in planning terms, and this matter therefore, constitutes development,

- (e) the said use contravenes condition number 4 attached to permission granted under planning register reference number 05/5960, and
- (f) the development does not come within the scope of exemptions from the requirement to obtain planning permission, as provided under planning legislation.

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 current use of part of the retail unit for the preparation of hot food for consumption off the premises and associated delivery service in association with “Pizza Hut” at Sweeney’s Daybreak, Monfieldstown, Rochestown, County Cork is development and is not exempted development.

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.

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

Dated this day of 2018.