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**Planning and Development Acts 2000 to 2018**

**Planning Authority: South Dublin County Council.**

**Planning Register Reference Number: ED 18/0035**

**WHEREAS** a question has arisen as to whether the change of use of part of a shop for use as a coffee shop at Dunnes Stores, Liffey Valley Shopping Centre, Fonthill Road, Clondalkin, Dublin is or is not development or is or is not exempted development:

**AND WHEREAS** Dunnes Stores referred this matter to South Dublin County Council on the 22<sup>nd</sup> day of October, 2018 and requested that the matter be referred to An Bord Pleanála for determination:

**AND WHEREAS** South Dublin County Council referred the question for decision to An Bord Pleanála on the 4<sup>th</sup> day of December, 2018:

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

- (a) Sections 2(1), 3(1) and 4(1)(h) of the Planning and Development Act, 2000, as amended,

- (b) the definition of a 'shop' provided under article 5(1) of the Planning and Development Regulations, 2001, as amended,
- (c) the planning history of the site, and
- (d) the small scale of the coffee shop (circa 79 square metres) relative to the scale of the overall shop (circa 5,976 square metres)

**AND WHEREAS** An Bord Pleanála has concluded that –

- (a) Having regard to the minor nature of the creation of the coffee shop, which does not include an act or operation of construction, excavation, demolition, extension, repair, or renewal of the shop, and which does not materially alter the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or neighbouring structures and, therefore, does not constitute an act or operation of alteration of the shop, it is considered that the creation of the coffee shop does not come within the definition of 'works' provided in Section 2 of the Planning and Development Act, 2000 and, therefore, does not constitute development for the purpose of the Act.
- (b) The use of circa 79 square metres of the premises at ground floor level as a coffee shop for the sale of coffee and other items for consumption on and off the premises does not come within the scope of the definition of a shop, as set out in article 5(1) of the Planning and Development Regulations, 2001. This definition does not provide for the consumption of food on the premises. The use as a coffee shop is, therefore, a change of use.

- (c) Having regard to the minor scale of the coffee shop relative to the size of the overall shop, its operation only during the opening hours of, and in conjunction with, the overall shop, the absence of independent access from the internal shopping mall or from the Shopping Centre car park, and the absence of potential for use as an independent shopping unit, it is considered that the change of use does not constitute a material change of use and, therefore, does not constitute development for the purpose of the Act.

**NOW THEREFORE** An Bord Pleanála, in exercise of the powers conferred on it by section 5 (3) (b) of the 2000 Act, hereby decides that the change of use of part of a shop for use as a coffee shop at Dunnes Stores, Liffey Valley Shopping Centre, Fonthill Road, Clondalkin, Dublin is not 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.

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

**Dated this            day of            2019.**