



Planning and Development Acts 2000 to 2019

Planning Authority: Fingal County Council.

Planning Register Reference Number: FS5W/12/19.

WHEREAS a question has arisen as to whether the use of the covered area to the west of the hotel as a bistro bar/sports bar and external area set out being used as a beer garden and whether the direct access from the canal bank to the uncovered area at 12th Lock Hotel, Old Navan Road, Castleknock, Dublin are or are not development or are or are not exempted development:

AND WHEREAS Myles Meagher requested a declaration on this question from Fingal County Council and the Council did not issue a declaration on this question but referred the question to An Bord Pleanála for determination:

AND WHEREAS this question was referred to An Bord Pleanála by Fingal County Council on the 1st day of July, 2019:

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

- (a) section 2(1) of the Planning and Development Act, 2000, as amended,
- (b) section 3(1) of the Planning and Development Act, 2000,
- (c) section 4 of the Planning and Development Act, 2000, as amended,
- (d) Article 6(1) and Article 9(1) of the Planning and Development Regulations, 2001, as amended,
- (e) Class 9 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, as amended,
- (f) the planning history of the site, and
- (g) the report of the Inspector:

AND WHEREAS An Bord Pleanála has concluded that -

- (a) the permitted use of the covered outdoor seating area, having regard to the planning history of the subject lands is as a smoking area ancillary to the existing hotel and bar,
- (b) the use of the covered outdoor seating area as a bistro bar with counter and dispensing facilities and with a counter for the sale of ice cream, is a change of use from the permitted use and this change of use raises material planning matters, including the generation of noise and disturbance, with implications for the residential amenity of nearby housing, and is, therefore, a material change of use and is development,
- (c) there are no provisions in the Planning and Development Act, 2000, as amended, whereby this development would be exempted development,
- (d) the permitted use of the uncovered area is as an open space ancillary to the hotel and bar. The use of this area for seating and as a terraced bistro dining area is a change of use from its permitted use. Such change of use raises material planning considerations, including the generation of noise and disturbance, with implications for the residential amenity of nearby housing and does not come within the scope of condition number 2 (c) of the permission granted under An Bord Pleanála appeal reference number PL 06F.248506 (planning register reference number FW17A/0020) and is, therefore, a material change of use and is, therefore, development,

- (e) there are no provisions in the Planning and Development Act, 2000, as amended, whereby this development would be exempted development, and
- (f) the use of the direct access from the canal bank to the uncovered area on the submitted map marked y at point c comes within the scope of Class 9 of Part 1 of Schedule 2 of the Planning and Regulations, 2001, as amended, and is considered by the Board to be exempted development:

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5 (4) of the 2000 Act, hereby decides that:

- (a) the use of the covered outdoor seating area as a Bistro Bar and the uncovered outdoor area as a Terrace Bistro Dining area is development and is not exempted development, and
- (b) the direct access from the canal bank to the uncovered area is exempted development,

all at 12th Lock Hotel, Old Navan Road, Castleknock, Dublin.

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 Ó Niadh

Member of An Bord Pleanála

duly authorised to authenticate

the seal of the Board.

Dated this day of 2019.