



Planning and Development Acts 2000 to 2019

Planning Authority: Kildare County Council

Planning Register Reference Number: ED/00740

WHEREAS a question has arisen as to whether the change of use of an existing retail unit (clothes shop) to use as a bakery including the sale of sandwiches, cakes, breads and other bakery related products for consumption on and off the premises and ancillary use of the unit for the sale of tea and coffee with ancillary seating at Unit Number 13, Manor Mills Shopping Centre, Maynooth, County Kildare is or is not development or is or is not exempted development:

AND WHEREAS Natural Bakery Company Limited care of Green Design Build of 142 Upper Leeson Street, Dublin requested a declaration on the said question from Kildare County Council and the said Council issued a declaration on the 8th day of July, 2019 stating that the said matter is development and is not exempted development:

AND WHEREAS Natural Bakery Company Limited referred the declaration for review to An Bord Pleanála on the 6th day of August, 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(1)(h) of the Planning and Development Act, 2000,
- (d) section 4(4) of the Planning and Development Act, 2000, as amended,
- (e) Article 5(1) of the Planning and Development Regulations, 2001, as amended, and the definition of a ‘shop’ provided therein,
- (f) Article 10(1) of the Planning and Development Regulations, 2001, as amended, and
- (g) the planning history of the site and the nature of the subject use:

AND WHEREAS An Bord Pleanála has concluded that -

- (a) modifications to the interior of the retail unit (clothes shop) at Unit Number, 13 Manor Mills Shopping Centre involved the carrying out of works to the interior of the property,
- (b) the works carried out being minor nature and being works which only affect the interior of the structure or which do not materially affect the external appearance of the structure so as to render the external

appearance inconsistent with the character of the structure or of neighbouring structures come within the scope of Section 4(1)(h) of the Planning and Development Act, 2000, and are, therefore, exempted development,

- (c) the use of the retail unit (clothes shop) at Unit Number 13, Manor Mills Shopping Centre as a retail bakery including the sale of sandwiches, cakes, breads, teas and coffee for consumption on (with limited seating area) and off the premises represents a change of use, and such change of use would raise issues which are material in terms of the proper planning and sustainable development of the area, for example, odour issues arising from the installation of a kitchen, ovens (and other equipment), and the baking of raw materials into finished product (bread and confectionery) and would, therefore, constitute a material change of use which is development,
- (d) the current use of Unit Number 13 as a retail bakery which provides for the sale of food for consumption on and off the premises does not fall within the definition of a 'shop' as provided under Article 5(1) of the Planning and Development Regulations, 2001, as amended, where a shop may include for the sale of sandwiches or other food or of wine for consumption off the premises, where the sale of such food or wine is subsidiary to the main retail use. Furthermore, the definition of a shop does not include any use associated with a restaurant. Therefore, the change of use from a shop to a retail bakery does not constitute exempted development by reason of the operation of Article 10(1) of these Regulations (that is, does not consist of a change of use within Class 1 Use as a shop as specified in Part 4 of Schedule 2 to these Regulations),
- (e) there are no other exemptions that can be availed of under the Planning Act or the Planning Regulations which would render the development to be exempted development, and

- (f) therefore, the change of use of an existing retail unit (clothes shop) to use as a bakery including the sale of sandwiches, cakes, breads and other bakery related products for consumption on and off the premises and ancillary use of the unit for the sale of tea and coffee with ancillary seating constitutes development which is not exempted development.

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 change of use of an existing retail unit (clothes shop) to use as a bakery including the sale of sandwiches, cakes, breads and other bakery related products for consumption on and off the premises and ancillary use of the unit for the sale of tea and coffee with ancillary seating at Unit Number 13, Manor Mills Shopping Centre, Maynooth, County Kildare 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.

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

Dated this day of 2020.