

An
Bord
Pleanála

Board Order
ABP-311177-21

Planning and Development Acts 2000 to 2021

Planning Authority: Galway City Council

Planning Register Reference Number: P/DC/3/15/21

WHEREAS a question has arisen as to whether the removal of extract duct and existing air handling units at ground level and the installation of new carbon filtration at ground level to rear of Capital Kebabs and extract through existing vertical shaft and all ancillary mechanical and electrical works at Capital Kebabs, Eglinton Court, Eglinton Street, Galway is or is not development or is or is not exempted development:

AND WHEREAS Eglinton Co-Ownership care of Daniel Melia of Collinamuck, Rosscahill, County Galway requested a declaration on this question from Galway City Council and the Council issued a declaration on the 22nd day of July, 2021 stating that the works are not exempted development:

AND WHEREAS Eglinton Co-Ownership care of Reid Associates of 2 Connaught Place, Crofton Road, Dun Laoghaire, County Dublin referred this declaration for review to An Bord Pleanála, on the 18th day of August, 2021:

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

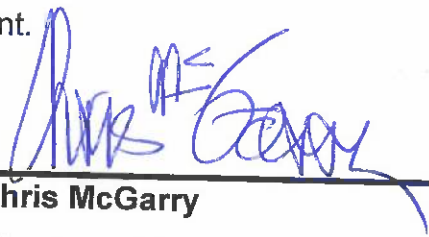
- (a) Sections 2(1), 3(1), 4(1)(h) and Section 82 (1) of the Planning and Development Act, 2000, as amended;
- (b) articles 6(1) and 9(1) of the Planning and Development Regulations, 2001, as amended;
- (c) Class 41(e) of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended;
- (d) the planning history of the site;
- (e) the pattern of development in the area; and
- (f) the report of its Inspector.

AND WHEREAS An Bord Pleanála has concluded that:

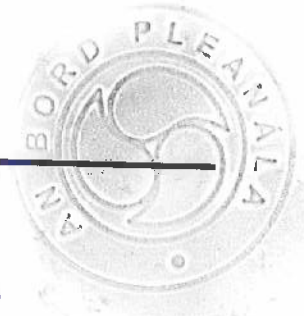
- (a) The referral includes the removal of extract duct and existing air handling units, the installation of a new filtration unit, an extract through an existing vertical shaft and all ancillary mechanical and electrical works, which comprise works, and therefore comes within the scope of the definition of development as set out at Section 3 of the Planning and Development Act, 2000, as amended.
- (b) The works which are the subject of this referral come within the scope of Section 4 (1) (h) of the Planning and Development Act, 2000, as amended.
- (c) The works which are the subject of this referral do not come within the scope of Class 41(e) of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended.

- (d) The restrictions on exemptions set out in article 9 of the Planning and Development Regulations, 2001, as amended, are not applicable to the circumstances of this case.
- (e) Section 82(1) of the Planning and Development Act, 2000, as amended, does not restrict the proposal noting the nature, extent and location of the proposal.
- (f) The works which are the subject of this referral are not likely to have significant effects on any European sites.
- (g) The works which are the subject of this referral do not fall within a class of development set out in Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations, 2001, as amended, and therefore, are not subject to Environmental Impact Assessment requirements.

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by Section 5(3)(a) of the Planning and Development Act, 2000, as amended, hereby decides that the removal of extract duct and existing air handling units at ground level and the installation of new carbon filtration at ground level to rear of Capital Kebabs and extract through existing vertical shaft and all ancillary mechanical and electrical works at Capital Kebabs, Eglinton Court, Eglinton Street, Galway is development and is exempted development.



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



Dated this 3rd day of March 2023.