

An
Bord
Pleanála

Board Order ABP-314133-22

Planning and Development Acts 2000 to 2021

Planning Authority: Kildare County Council

Planning Register Reference Number: 22/252

Appeal by Hugh Statham care of David Mulcahy Planning Consultants Limited of 67 Old Mill Race, Athgarvan, Newbridge, County Kildare against the decision made on the 28th day of June, 2022 by Kildare County Council to grant subject to conditions a permission to Qasim Foods Limited of Unit 2, Johnstown Road, Enfield, County Meath in accordance with plans and particulars lodged with the said Council.

Proposed Development: (a) Change of use of the existing ground floor retail unit to a restaurant unit for the preparation of hot and cold foods for consumption on the premises with ancillary takeaway use, (b) the development will include a new kitchen layout, food wash and preparation area, toilets and new seating area to cater for maximum 25 people, (c) the name of the business will change on the façade from “Evita” to “Passion for Food – Turkish Cuisine”, the existing timber façade structure will not change physically and (d) all together with associated site works at number 23 South Main Street, Naas, County Kildare.

Decision

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Reasons and Considerations

Having regard to the nature and extent of the proposed development which comprises a change of use of an existing vacant retail use to a restaurant with ancillary take-away, the town centre location of the site and to the pattern of development in the area, it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would not detract from the architectural character of the site and surrounds and would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The proposed development shall comply with the plans and particulars lodged with the application submitted, and as amended by additional information on the 3rd day of June, 2022, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. This permission relates to the change of use of the ground floor of 23 South Main Street only and not to any other part of the premises. The opening hours of the premises shall be as indicated on the particulars received by the planning authority on the 3rd day of June, 2022 i.e., 16:00 to 24:00 Monday to Sunday and shall not be altered, unless agreed in writing with the planning authority.

Reason: In the interest of clarity.



3. Apart from the signage permitted in this permission, no advertising signs, or devices shall be erected outside the premises without a prior grant of planning permission. No display of goods or materials or advertising boards shall take place on the adjoining footpaths. No external roller shutters or their housings, awnings, canopies or grills, shall be erected without a prior grant of planning permission.

Reason: In order to prevent advertising clutter and in the interest of visual amenity.

4. Prior to the commencement of development, the developer shall submit to the planning authority for written agreement, the location and details of all services (plant, ventilation etc.) and associated screening. No such units shall be located above the ridge height of the building or to the front façade of the structure.

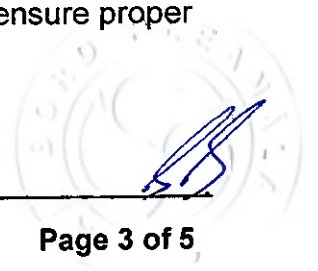
Reason: In the interests of visual and residential amenity.

5. The management of fats, oils and greases arising during operational activities shall be in accordance with Irish Water requirements. Prior to the opening of the development, a Section 16 License shall be required from Uisce Éireann.

Reason: In the interest of public health, to avoid pollution, and to ensure proper development.

6. All food waste shall be managed and disposed of in accordance with the Waste Management (Food Waste) (Amendments) Regulations 2015 and the Kildare County Council Waste Presentation Byelaws 2018, as amended. All segregated food waste from the development shall be offered for collection to a waste contractor in possession of a valid waste collection permit either under the Waste Management (Collection Permit) Regulations, 2001 or the Waste Management (Collection Permit) Regulations, 2007 and the Waste Management (Collection Permit) (Amendment) Regulations, 2008 whichever may be relevant.

Reason: In the interest of public health, to avoid pollution, and to ensure proper development.



7. All overground oil, chemical storage tank(s) shall be adequately bunded to protect against spillage. Bunding shall be impermeable and capable of retaining a volume equal to 1.1 times the capacity of the largest tank. Filling and offtake points shall be located within the bund.

Reason: In the interest of public health and the use of best practice guidelines to avoid pollution.

8. Drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

9. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Uisce Éireann.

Reason: In the interest of public health.

10. The developer shall ascertain and comply with the requirements of the Environmental Health Office.

Reason: In the interest of public health.

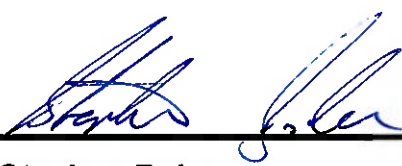
11. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0900 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.




12. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.



Stephen Bohan
Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.



Dated this 24th day of October 2023