

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Cork City

An Bord Pleanála Reference Number: 28.RL.3424

WHEREAS a question has arisen as to whether the use of a premises as a coffee shop and the erection of associated signage at 11 Emmet Place, Cork is or is not development or is or is not exempted development:

AND WHEREAS the said question was referred to An Bord Pleanála by Cork City Council of City Hall, Cork on the 22nd day of October, 2015:

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

- (a) sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- (b) Articles 5(1), 6(1), 6(2), 9(1)(a)(i) and 10(1) of the Planning and Development Regulations 2001, as amended,
- (c) Class 14 of Part 1, Classes 5, 9 and 15 of Part 2, and Class 1 of Part 4 of Schedule 2 to the said Regulations,
- (d) the previous use of the premises as a clothing shop,
- (e) the planning history of the site, in particular, planning register reference number T.P. 06/30595 and condition numbers 4(a) and 8(a) of that permission and planning register reference number T.P. 10/34669 and condition number 1(b) of that permission,

- (f) the information submitted on behalf of the site occupier/operator regarding the scale, nature and layout of the coffee shop, and
- (g) the nature and range of goods sold on the premises and the layout and services provided to visiting members of the public, in particular, the extent of seating provided:

AND WHEREAS An Bord Pleanála has concluded that -

- (a) the use of the subject premises as a coffee shop does not constitute use as a “shop” as defined in Article 5(1) of the Planning and Development Regulations 2001, as amended, because the scale, nature and layout of the coffee shop is more akin to a restaurant use which is expressly excluded from the definition of ‘shop’ under Article 5(1) of the said Regulations, as amended,
- (b) the change of use of the subject premises, from use as a shop to use as a coffee shop raises issues that are material in relation to the proper planning and sustainable development of the area and is, therefore, material and is, therefore, “development” within the meaning of section 3 of the Planning and Development Act, 2000,
- (c) the erection of external signage on the exterior of these premises, relating to the use as a coffee shop, involves “works” and is, therefore, “development” within the meaning of section 3 of the said Act,
- (d) the erection of such signage would contravene conditions numbers 4(a) and 8(a) of planning register reference number T.P. 06/30595, condition number 1(b) of planning register reference number T.P. 10/34669 in that it would constitute signage, other than the signage authorised by that permission, and would, therefore, come within the restrictions on exemption set out in Article 9(1)(a)(i) of the said Regulations, and
- (e) the erection of such signage does not come within the meaning of section 4(1)(h) of the said Act, not being ‘development consisting of the carrying out of works for the maintenance, improvement or other alteration of the structure:

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5 (4) of the 2000 Act, hereby decides that the said use of a premises as a coffee shop and the erection of associated signage at 11 Emmett Place, Cork 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.

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

Dated this day of 2016.