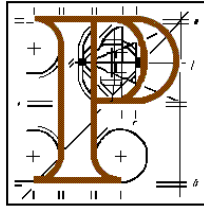


An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Dún Laoghaire-Rathdown County

Planning Authority Reference Number: Ref. 316

An Bord Pleanála Reference Number: 06D.RL.3464

WHEREAS a question has arisen as to whether the proposed relocation of the first floor portion of a retail shop back to the ground floor to include a new side emergency exit door and the provision of a small coffee dock at Comfort Furniture Premises, Dwarf Oak Shopping Centre, Church Road, Ballybrack Village, County Dublin is or is not development or is or is not exempted development:

AND WHEREAS James McCumiskey care of Architectural Construction Technology of An Tigh, Ballyogan Avenue, Carrickmines, Dublin requested a declaration on the said question from Dún Laoghaire-Rathdown County Council and the said Council issued a declaration on the 8th day of February, 2016 stating that:

- (a) the proposed relocation of the first floor portion of a retail shop back to the ground floor is not development,
- (b) the new side emergency exit door is development and is exempted development, and
- (c) the provision of a small coffee dock is development and is not exempted development:

AND WHEREAS the said James McCumiskey referred the declaration for review to An Bord Pleanála on the 25th day of February, 2016:

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), 9(1) and 10(1) of the Planning and Development Regulations, 2001, as amended,
- (c) Class 14 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001 and Class 1 of Part 4 of Schedule 2 to the Planning and Development Regulations, 2001,
- (d) the established and existing use of the ground and first floors of the premises as a retail outlet,
- (e) the location of the external door at the side of the premises, and
- (f) the nature and scale of the proposed coffee dock including the layout, provision of seating, incorporation of a food preparation area and its prominent position to the front of the premises:

AND WHEREAS An Bord Pleanála has concluded that -

- (a) retail use at ground floor is an established use,
- (b) provision of an emergency exit door would not materially alter the external appearance of the structure,
- (c) the use of the subject premises as a coffee shop does not constitute use as a “shop” 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 Planning and Development Regulations, 2001, as amended, and

