

# An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

**Dublin City**

**Planning Authority Reference Number: 0173/16**

An Bord Pleanála Reference Number: 29S.RL.3495

**WHEREAS** a question has arisen as to whether the use of 1.16 square metres of shop area at GO Kylemore Service Station for the sale of hot food at GO Kylemore Road Service Station, Kylemore Road, Dublin is or is not development or is or is not exempted development:

**AND WHEREAS** Bernard Byrne care of Brock McClure Consultants of 63 York Road, Dún Laoghaire, County Dublin requested a declaration on the said question from Dublin City Council and the said Council issued a declaration on the 7<sup>th</sup> day of June, 2016 stating that the said matter is not exempted development:

**AND WHEREAS** the said Bernard Byrne referred the declaration for review to An Bord Pleanála on the 30<sup>th</sup> day of June, 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) the definition of 'shop' under article 5(1) of the Planning and Development Regulations, 2001, as amended,
- (c) Articles 6, 9 and 10 of the Planning and Development Regulations, 2001, as amended, and Part 4 of Schedule 2 of these Regulations, and
- (d) the planning history of the site, including planning register number 2685/14, whereby planning permission was granted for the Service Station and associated retail sales area on this site and, in particular, the provisions of condition number 9 of that permission:

**AND WHEREAS** An Bord Pleanála has concluded that -

- (a) the nature and limited scale of the use and its character as an ancillary use to the principal use as a shop,
- (b) the sale of hot food for consumption on or off the premises results in a change of use,
- (c) the change of use in this case by reason of its limited scale and ancillary nature is not a material change of use, and
- (d) the change of use in this case, therefore, is not development as described in section 3(1) of the Planning and Development Act, 2000:

**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 said change of use of 1.16 square metres of shop area for the sale of hot food at GO Kylemore Road Service Station, Kylemore Road, Dublin is not 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.

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

**Dated this        day of                    2016.**