

An
Bord
Pleanála

Board Order
06S.RL.3520

Planning and Development Acts 2000 to 2017

Planning Authority: South Dublin County Council

Planning Register Reference Number: ED16/0045

WHEREAS a question has arisen as to whether as to whether a material change of use arises by reason of the type of goods being sold at Unit Number 3, Fonthill Retail Park, Fonthill Road, Dublin and consequently whether it is or is not development or is or is not exempted development:

AND WHEREAS PKB Partnership care of GVA of 2nd Floor, Seagrave House, 19-20 Earlsfort Terrace, County Dublin requested a declaration on the said question from South Dublin County Council and the said Council issued a declaration on the 2nd day of November, 2016 stating that the said matter is not exempted development:

AND WHEREAS the said PKB Partnership referred the declaration for review to An Bord Pleanála on the 28th day of November, 2016:

AND WHEREAS An Bord Pleanála decided to reformulate the question as follows:

Whether the use of a permitted retail warehouse unit to use as a discount store for the sale of small scale convenience goods at Unit Number 3, Fonthill Retail Park, Fonthill Road, Dublin is or is not development or is or is not exempted development.

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

- (a) section (3)1 of the Planning and Development Act 2000,
- (b) Articles 5(1), 6(1), 9(1), 10(1), 10(1)(c) of the Planning and Development Regulations, 2001, as amended,
- (c) the planning history of the premises, in particular the permissions granted under planning register reference number S97A/0791 for a Retail Warehouse, and also the subsequent permission for a subdivision of this unit under planning register reference number SD15A/0152,
- (d) the definition of a retail warehouse as set out in Annex 1 of the Retail Planning Guidelines for Planning Authorities issued by the Department of the Environment and Local Government in 2000, (as updated by the revision of these Guidelines in 2005 and 2012), and
- (e) the documentation on file including the Inspector's Report:

AND WHEREAS An Bord Pleanála has concluded that -

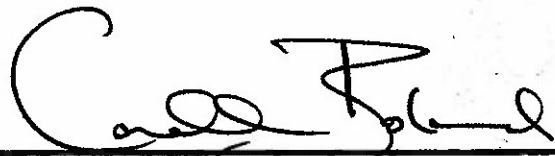
- (a) the permitted use of the premise, as stipulated by the permitted use of the unit granted under planning reference number S97A/0791 is as a Retail Warehouse,
- (b) the subsequent permission to subdivide the unit (planning register reference number SD15A/0152) did not alter the retail warehouse use of any element of the unit,
- (c) the retailing activity currently carried out at the premises involves the retail sale of small scale convenience goods directly to members of the public,

- (d) the retail sale of convenience goods is not consistent with the permitted use, and does not come within the scope of the definition of activities of a retail warehouse as set out in the said Retail Planning Guidelines,
- (e) accordingly, the use of the unit as a discount store for the sale of small scale convenience goods constitutes a change of use, and the said change of use constitutes development being a material change of use by reason of the character of the retailing being undertaken and its material external impacts on the proper planning and sustainable development of the area (including its impacts on town centre retailing, traffic movements and parking).

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 use of a permitted retail warehouse unit to use as a discount store for the sale of small scale convenience goods at Unit Number 3, Fonthill Retail Park, Fonthill Road, Dublin 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 12th day of June 2018