



An
Bord
Pleanála

Board Order 28.RL.3810

Planning and Development Acts 2000 to 2018

Planning Authority: Cork City Council

Planning Register Reference Number: 449/17

WHEREAS a question has arisen as to whether the use of number 11 Saint Patrick's Street, Cork for the sale of convenience goods (as defined in the Retail Planning Guidelines, 2012) is or is not development or is or is not exempted development:

AND WHEREAS Mestonway Limited care of John Spain Associates of 39 Fitzwilliam Place, Dublin requested a declaration on this question from Cork City Council and the Council issued a declaration on the 31st day of August, 2017 stating that the matter is development and is not exempted development:

AND WHEREAS Mestonway Limited care of John Spain Associates of 39 Fitzwilliam Place, Dublin referred the declaration for review to An Bord Pleanála on the 27th day of September, 2017:

AND WHEREAS An Bord Pleanála, in the light of the documentation on the file, has reformulated the question as follows:

whether the use of number 11 Saint Patrick's Street, Cork currently operating as a Starbucks coffee shop 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 2(1) of the Planning and Development Act, 2000, as amended,
- (b) Section 3(1) of the Planning and Development Act, 2000, as amended,
- (c) Section 5(1) of the Planning and Development Act, 2000, as amended,
- (d) Article 5(1) and Article 10(1) of the Planning and Development Regulations, 2001, as amended,
- (e) Class 1 of Part 4 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (f) the planning history of the site,
- (g) the previous use of the subject premises as a shop,

- (h) the information submitted by the referrer as to the current use of the subject premises, and
- (i) the report of the Inspector:

AND WHEREAS An Bord Pleanála has concluded that -

- (a) the current use of the subject premises does not constitute use as a “shop” under Article 5(1) of the Planning and Development Regulations, 2001, as amended, because the sale of hot drinks and to a lesser extent hot food for consumption off the premises are in combination the predominant rather than the subsidiary use of the premises and so this use does not come within the scope of Paragraph (d) of this Article,
- (b) the current use of the subject premises does not come within the scope of Paragraph (a), due to the qualifying statement at the end of the definition of “shop” in Article 5(1) of the Planning and Development Regulations, 2001, as amended, and Paragraphs (b), (c), and (e) – (i) are not applicable to this use,
- (c) the current use of the subject premises has resulted in a change of use of these premises from their authorised use as a shop and this change of use raises issues that are material in terms of the proper planning and sustainable development of the area, including issues in relation to the planning policy on retailing set out in the current Cork City Development Plan, the potential for litter and management of waste arising from the primary use of the sale of sandwiches and other food for consumption off the premises, and the potential for differing pedestrian and vehicular traffic as compared to the former retail use, and the change of use is, therefore, “development” within the meaning of Section 3 of the Planning and Development Act, 2000, as amended, and

