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Application Number	0139/23
Application Type	Section 5
Registration Date	25-Apr-2023
Decision Date	18-May-2023
Decision Order Number	P3221
Location	Lennox Street Grocer, 38, Lennox Street, Portobello, Dublin 8
Proposal	EXPP: Whether the holding of occasional wine tasting with finger food as an ancillary event at a retail store on a once-per-month basis is considered development and if so does it constitute exempted development under the provisions of the Planning and Development Act 2000 (as amended) and the Planning and Development Regulations, 2001 (as amended)?
Applicant Details	La Gourmande

- **If you have any queries regarding this Decision, please contact the email shown above**

Note:

Any person issued with a declaration on development and exempted development, may, on payment of the prescribed fee, refer a declaration for review by An Bord Pleanála within four weeks of the date of the issuing of the declaration.

NOTIFICATION OF DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT

In pursuance of its functions under the Planning & Development Act 2000 (as amended), Dublin City Council has by order dated 18-May-2023 decided to issue a Declaration that the proposed development is NOT EXEMPT from the requirement to obtain planning permission under Section 32 of the Planning & Development Act 2000 (as amended) for the following reason:

Recommendation

Whereas a question has arisen as to:

Whether the holding of occasional wine tasting with finger food as an ancillary event at a retail store on a once-per-month basis is considered development and if so does it constitute exempted development under the provisions of the Planning and Development Act 2000 (as amended) and the Planning and Development Regulations, 2001 (as amended)?



Dublin City Council in considering this section 5, had regard particularly to:

- a) Sections 2, and 3 of the Planning and Development Act, 2000, as amended;
- b) Articles 5 (1) ,6(1) , and 10(1) of the Planning and Development Regulations, 2001, as amended;
- c) Class 1 of Part 4, Schedule 2 of the Planning and Development Regulations 2001 as amended;
- d) The planning history of the site;
- e) The existing use of the retail unit
- f) The information submitted on behalf of the application/operator regarding the nature of the use of the premises.

AND WHEREAS Dublin City Development has concluded that:

- a) The use of part of the ground floor retail unit of this premises for occasional wine tasting with finger food is not ancillary to the retail use
- b) The use of the subject premises for wine tasting and finger food on an occasional basis, does not constitute use as a 'shop' as defined in Article 5(1), as amended, as the use described 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.
- c) The use would constitute a material change of use and would therefore constitute development within the scope of Section 3(1) of the Planning and Development Act, 2000, as amended,
- d) The change of use is not within the scope of the exemption provided in Article 10(1) of the Planning and Development Regulations 2001, as amended.

And therefore Dublin City Council, conclude that is development and is not exempted development.

Signed on behalf of Dublin City Council


For Administrative Officer