

Paul and Maria Arnold
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10th July 2023
To: An Bórd Pleanála,
64 Marlborough Street,
Dublin 1

ABP Case Number: ABP-317404-23
Planning Authority Reference Number: 0149/23

Re: Lennox Street Grocer, 38 Lennox Street, Portobello, Dublin 8

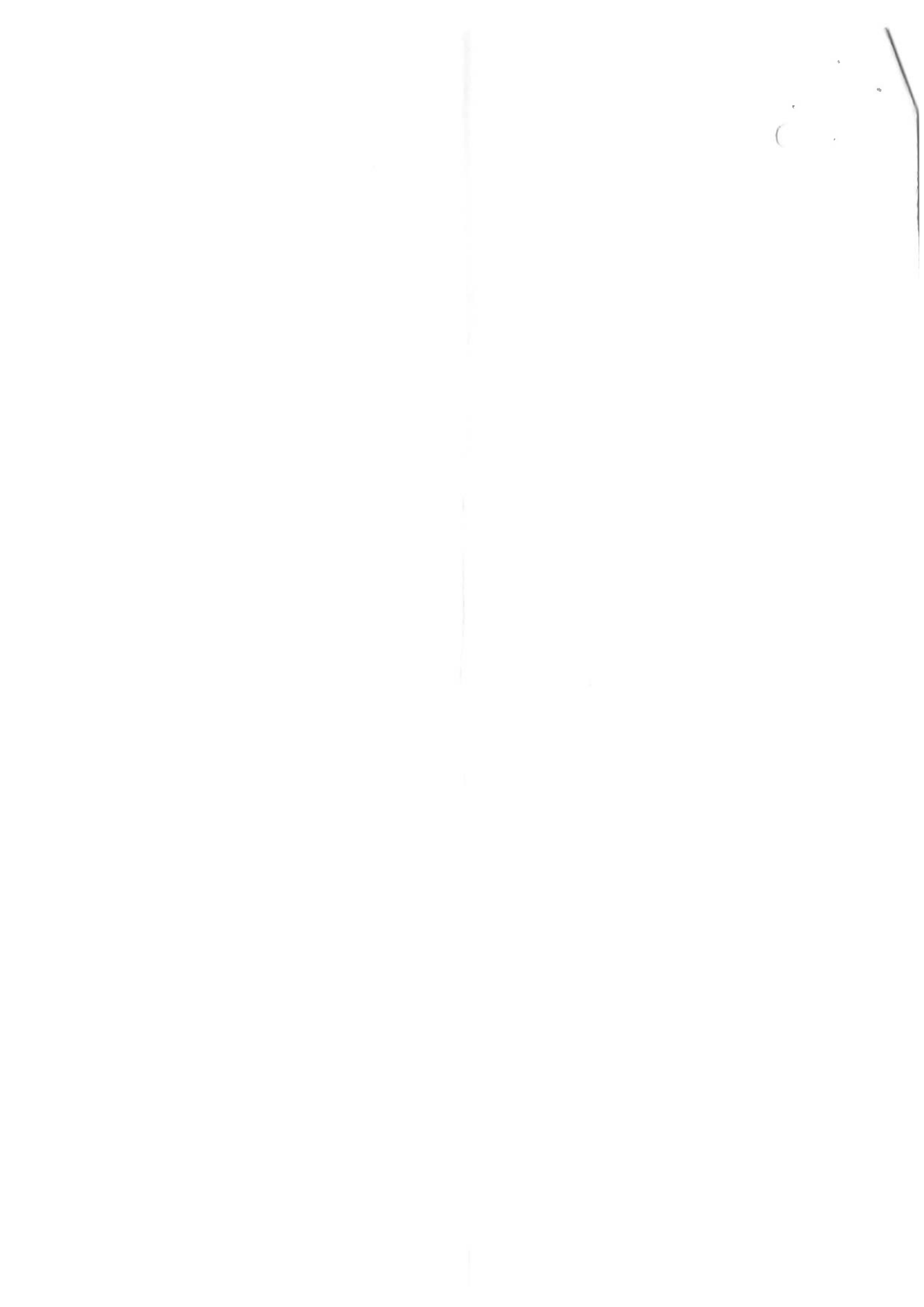
AN BORD PLEANÁLA	
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Time: 14:42	By: Hanna

A Chara,

Thank you for inviting a submission on this matter.

My observations are as follows:

1. What activities are part of the normal functioning of a grocery shop? Grocery shops are primarily in the business of selling comestibles: food and drink. As part of the well-established custom, samples of food are frequently distributed to customers for tasting: think of the many stalls to be found in supermarkets offering pieces of cheese, charcuterie, pesto, bread, cereals and so on.
2. It would be difficult to imagine a successful grocery which does not provide tastings. Some groceries conduct them continuously, such as at cheese counters.
3. This function is patently not a restaurant function, nor a café. The question of direct payment does not feature in planning law: it is of no account if patrons are not charged for these tastings directly: clearly, the intention and practice is to recover the cost of such tastings through enhanced sales.
4. Tastings are established by precedent, tradition and custom as an integral part of the function 'grocery shop'.
5. The practice of grocery shops providing take-away coffee has grown in the last generation. Frequently, small bar -counters are provided where customers can help themselves to condiments, and linger to enjoy their coffee. This ancillary use does not make a grocery a 'café'.
6. Off-licences, licensed for the sale of wine off the premises, frequently host tastings on the premises, allowing customers to taste their main offering, wine, sometimes accompanied by small snacks. This usage is part-and-parcel of the function 'wine off-licence' and is inseparable from it. It is inconceivable that a wine seller not be allowed to give their customers the opportunity to taste the produce.



7. Wine tastings are an integral component of the function 'wine off-licence'.
8. In addition to being a grocery, in an abundance of prudence, the Lennox Street Grocer has availed of a wine on-licence, a type of licence explicitly available, inter-alia, to shops, (see appendix 2) legalising consumption on the premises, while allowing sales of wine for consumption off the premises.
9. Thus, the Lennox Street Grocer is, by custom and law, fully within their rights to trade as a grocer and wine seller, holding tastings as necessary to support those functions. There is no justification for choosing the Lennox Street Grocer, alone of the shops and off-licences in Ireland, to restrict the trading practices so commonplace throughout the country.
10. An Bórd Pleanála can also decree that the tasting functions, being necessary for or ancillary or incidental to the main function, are of minor consequence in planning terms, and could further clarify what level of activity is permissible before the shop and off-licence nature of the premises becomes subsumed into another category.
11. It should be noted that no meals are served on the premises, nothing more substantial than finger-food being occasionally offered. The business is patently not a restaurant, nor a bar: it is a contemporary, popular, local shop, with an extraordinary social media following, in excess of 5,000 people. It is the sort of neighbourhood function which so much of the planning system is designed to encourage.
12. An Bórd Pleanála is invited to endorse the function and activity of the Lennox Street Grocer.
13. The nature and quality of the wines being offered is of considerable interest. The business owner, Claire Arnold, is a qualified sommelier, her selection of wines being carefully assessed prior to being offered for sale. The combination of good produce and specialist knowledge of wine and food is of interest to customers keen to develop their own understanding of wines. In formalising occasions when tastings of a selection of wines are offered to groups not exceeding sixteen people, in the context of an informative talk, the educational aspect of the business is to the fore. This in no way should be confused with any restaurant or café function.

Le gach dhea-ghuidhe,



Paul Arnold

Appendix 1: Planning Regulations

The planning regulations are unclear in their definition of what constitutes a shop:

Shop means a structure used for any and all of the following purposes, where the sale, display or service is principally to visiting members of the public

(a) for the retail sale of goods,

.....

(d) for the sale of sandwiches or other food or of wine for consumption off the premises, where the sale of such food or wine is subsidiary to the main retail use, and "wine" is defined as any intoxicating liquor which may be sold under a wine retailer's off-licence (within the meaning of the Finance (1909-1910) Act, 1910), 10 Edw. 7. & 1 Geo. 5, c.8,

.....

How can a grocery conduct its main business if the sale of food (groceries) for consumption off the premises must be 'subsidiary to the main retail use' ?

If these regulations are to be taken literally, it seems a grocery must be a 'supermarket' if it is to be allowed to sell mainly food, but must then be self-service.

"supermarket" means a self-service shop selling mainly food

But regulations must be interpreted in the light of reality, law and equity: if there is a lack of clarity concerning a citizen's legal obligations, then the onus is on the legislators to provide clarity and greater certainty. In general terms, the function of the planning laws is to facilitate the proper planning and development of the physical infrastructure of society; confronted with an anomaly in the regulations, it might be best to change the regulations to reflect the reality of successful, contemporary development and contemporary retail practices and to seek to accommodate small-scale, local entrepreneurship.

Appendix 2: From the Revenue Commissioners web site July 2023:

A Wine Retailer's On Licence holder may sell fine wine, sherry and fermented liquor containing less than 23% vol. The licence is confined to premises deemed a Refreshment House.

A Refreshment House is defined as:

'all houses, rooms, shops, or buildings kept open for public refreshment, resort and entertainment at any time between the hours of 10 o'clock and 7 o'clock of the following morning not being licensed for the sale of beer, cider, wine or spirits respectively'.

