Board Direction
ABP-302858-18

The submissions on this file and the Inspector's report were considered at a Board meeting held on March 7th 2019.

The Board decided, as set out in the following Order, that the proposed use of Apartment number 24, Chancery Hall, Blackhall Place, Dublin 7 (a corner building with Ellis Quay, Dublin 7), for short-stay accommodation lettings, is development and is not exempted development.

Board Order as follows:-

WHEREAS a question has arisen as to whether the proposed use of Apartment number 24, Chancery Hall, Blackhall Place, Dublin 7 (a corner building with Ellis Quay, Dublin 7), for short-stay accommodation lettings is or is not development and whether the development constitutes exempted development or does not constitute exempted development.

AND WHEREAS Sacreto Limited c/o Hughes Planning and Development Consultants of 70 Pearse Street, Dublin 2, requested a declaration on this question from Dublin City Council, and the Council issued a declaration on the 28th day of September 2018 stating that the matter is development and is not exempted development.

AND WHEREAS Sacreto Limited referred this declaration for review to An Bord Pleanála, on the 24th day of October 2018.

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

(a)   sections 2, 3, 4 and 5 of the Planning and Development Act, 2000, as amended;

(b)   Articles 5 and 10 of the Planning and Development Regulations, 2001, as amended;

(c)   Parts 1 and 4 of the Second Schedule to the Planning and Development Regulations, 2001, as amended;

(d)   the use of the entire apartment for a series of short term lettings;

(e)   the absence of any occupation of the apartment, or any portion of the apartment, by any permanent resident;

(f)   relevant case law, and in particular the High Court decision of Barron, J in Thomas McMahon and Others - v - Right Honourable The Lord Mayor, Alderman and Burgesses of Dublin (High Court 1989 No. 9870P), and Monaghan County Council - v - Brogan [1987] I. R. 333;

(g)   relevant cases previously decided by An Bord Pleanála, including referral cases RL3490, RL3502 and 300996-18, and planning appeal case PL29S.249430;

(h)   the material planning considerations involved with short term lettings use;

(i)   the planning history of the subject site;

(j)   the submissions of the referrer and of the planning authority;

(k)   the report of the Inspector.

AND WHEREAS An Bord Pleanála has concluded that -

(a)   the use of a residential apartment for short-term accommodation lettings, as outlined in the submissions, constitutes a change of use from the permitted use as a residential apartment, having regard to case law,

(b)   the change of use to an apartment for short term accommodation lettings, as described above, raises planning considerations that are materially different to the planning considerations relating to the permitted use as a residential apartment, having regard to case law.   In particular, (i) the extent and frequency of coming and going to and from the apartment by short term renters and servicing staff, (ii) associated concerns for other residents in respect of security and general disturbance, and (iii) the fully commercial nature of the activity,

(c)   the change of use constitutes, therefore, a material change of use and is development as defined in section 3 of the Planning and Development Act, 2000, and

(d)   neither the Planning and Development Act, 2000, as amended, nor the Planning and Development Regulations, 2001, as amended, provide any exemption in respect of such a material change of use:

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by Section 5 (3)(a) of the Planning and Development Act, 2000, as amended, hereby decides that proposed use of Apartment number 24, Chancery Hall, Blackhall Place, Dublin 7 (a corner building with Ellis Quay, Dublin 7), for short-stay accommodation lettings, is development and is not exempted development.

Board Member   **Date:** 7th March 2019
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Philip Jones