



An  
Bord  
Pleanála

**Board Direction**  
**ABP-304771-19**

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

The Board decided, as set out in the following Order, that the use of properties numbers 13, 14, 15, 16, 17 and 18 Gratton Court East, Dublin 2, as short term letting accommodation is development and is not exempted development.

Board Order as follows: -

**WHEREAS** a question has arisen as to whether the use of properties numbers 13, 14, 15, 16, 17 and 18 Gratton Court East, Dublin 2, for commercial purposes as short-term accommodation, in contravention of the planning permission for those properties and in an area zoned "Residential" is or is not development and is or is not exempted development.

**AND WHEREAS** Alvaro Lopez-Laguna and Sandra Schmidt Lopez-Laguna c/o Lernihan O'Neill Solicitors of 6, Terenure Road East, Rathgar Village, Dublin 6, requested a declaration on this question from Dublin City Council, and the Council issued a declaration on the 4<sup>th</sup> day of June 2019 stating that the use of numbers 14, 15, 16, 17 and 18 Gratton Court East, Dublin 2, as overnight guest accommodation is development and is exempted development, and that the use of number 13 Gratton Court East, Dublin 2, for short stay accommodation lettings is development and is not exempted development.

**AND WHEREAS** Alvaro Lopez-Laguna and Sandra Schmidt Lopez-Laguna referred this declaration for review to An Bord Pleanála, on the 26<sup>th</sup> day of June 2019.

**AND WHEREAS** An Board Pleanála, in the light of the documentation submitted with the referral, has decided to re-word the question as follows:-

Whether the use of properties numbers 13, 14, 15, 16, 17 and 18 Grattan Court East, Dublin 2, for short term letting accommodation is or is not development and is or is not exempted development.

**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, 6 and 10 of the Planning and Development Regulations, 2001, as amended, including by Article 3 of the Planning and Development Act 2000 (Exempted Development) (No. 2) Regulations 2019;
- (c) Parts 1 and 4 of the Second Schedule to the Planning and Development Regulations, 2001, as amended;
- (d) the use of the entire houses at number 14, 15, 16, 17 and 18 Grattan Court East, and the entire apartment at number 13 Grattan Court East, for short term letting accommodation;
- (e) the absence of any evidence of occupation of the houses and apartment by any permanent resident, and accordingly that the houses and apartment are not principal private residences;

- (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, 300996, 302856, 302857, 302858, 302859, 302861, 302865, 302866 and 302862;
- (h) the material planning considerations involved with short term letting 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 the houses and apartment for short-term letting accommodation, as outlined in the submissions, constitutes a change of use from the permitted use as residential houses and a residential apartment, having regard to case law,
- (b) the change of use from the permitted use to use for short term letting accommodation, as described above, raises planning considerations that are materially different to the planning considerations relating to the permitted use as residential houses and a residential apartment, having regard to case law. In particular, (i) the extent and frequency of coming and going to and from the houses and 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,
- (d) The change of use in this case does not come within the scope of the exemption provided for in Article 6(5)(a) of the Planning and Development Regulations, 2001, as amended by Article 3 of the Planning and Development Act 2000 (Exempted Development) (No. 2) Regulations 2019, having regard to the definitions of “principal private residence” and “short term letting”, as set out in this Article, and the location of the subject premises within a rent pressure zone, and
- (e) there are no other exemptions provided for in the Planning and Development Act 2000, as amended, and in the Planning and Development Regulations, 2001, as amended, whereby such development would be exempted development.

**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 the use of properties numbers 13, 14, 15, 16, 17 and 18 Gratton Court East, Dublin 2, as short term letting accommodation is development and is not exempted development.

**Board Member**

**Date:** 7<sup>th</sup> March 2019

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Philip Jones