

An
Bord
Pleanála

**Board Direction
ABP-310281-21**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 20/09/2021.

The Board decided, as set out in the following Order, that

Board Order as follows:-

WHEREAS a question has arisen, in relation to The Lamplighter Public House, 79 The Coombe / 1 Brabazon Street, Dublin 8 as to:-

1. Whether the internal alteration of a 5-bedroom accommodation for a maximum of 11 guests to a 9-bedroom accommodation for a maximum of 18 guests is or is not development or is or is not exempted development. AND
2. Whether the change of use from short term lettings in excess of 15 days duration per letting to a short-term letting for any period not exceeding 14 days, is or is not development and if development, whether it is exempted development or not.

AND WHEREAS Andreas Bruggener requested a declaration on these questions from Dublin City Council and the Council issued a declaration on the 19th day of April 2021 stating that the matter relating to internal alterations was development and was exempted development and that the

matter relating to the change of use was development and was not exempted development:

AND WHEREAS referred this declaration for review to An Bord Pleanála on the 11th day of May 2021:

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) 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),
- (e) relevant referral cases previously decided by An Bord Pleanála,
- (f) the material planning considerations involved with short-term letting use
- (g) the planning history of the site,
- (h) the pattern of development in the area,
- (i) the documentation on file, including submissions from the referrer and from the owner/occupier
- (j) the report of the Inspector:

AND WHEREAS An Bord Pleanála has concluded in relation to the question 'Whether the internal alteration of a 5-bedroom accommodation for a maximum of 11 guests to a 9-bedroom accommodation for a maximum of 18 guests is or is not development or is or is not exempted development' that:

- (a) The scope of the internal works carried out in the building, which include the installation of en-suites to the existing rooms to provide for 9 single occupancy rooms falls within the provisions of Section 4(2) of the Planning and Development Act, 2000 as amended, is development and is exempted development.

AND WHEREAS An Bord Pleanála has concluded in relation to the question 'Whether the change of use from short term lettings in excess of 15 days duration per letting to a short-term letting for any period not exceeding 14 days, is or is not development and if development, whether it is exempted development or not' that:

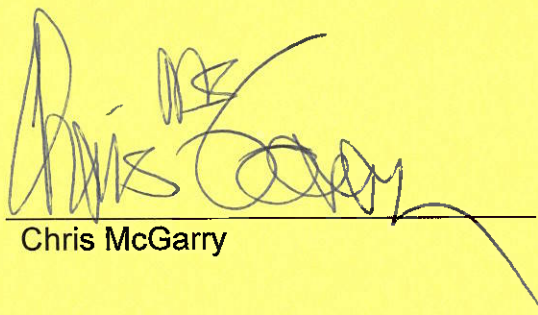
- (a) the use of the rooms for use as short-term lettings for a period not exceeding 14 days duration, constitutes a change of use from use as short term lettings in excess of 15 days duration,
- (b) the change of use, as described above, raises planning considerations that are material, including, (i) the extent and frequency of coming and going to and from the building by short term renters and servicing staff and (ii) associated concerns for other residents in respect of security and general disturbance.
- (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 2000 Act, hereby decides that the internal alteration of a 5-bedroom accommodation for a maximum of 11 guests to a 9-bedroom accommodation for a maximum of 18 guests is exempted development and the change of use from short term lettings in excess of 15 days duration per letting to a short-term letting for any period not exceeding 14 days, is development and is not exempted development.

Board Member:



Chris McGarry

Date: 20/09/2021