



An  
Bord  
Pleanála

**Board Direction  
ABP-318746-23**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 16/01/2025.

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

**WHEREAS** a question has arisen as to whether (1) the intensified change of use from residential to commercial short term let, (2) The construction of a wooden jetty at Teach Jones, 2 Knockastroller, Bunbeg is or is not development or is or is not exempted development.

**AND WHEREAS** Máire Nic Niallais and Niall Hackett, requested a declaration on this question from Donegal County Council, and the Council issued a declaration on the day of 29<sup>th</sup> day of November 2023 stating that:

- (1) the intensified change of use from residential to commercial short term let is not development,
- (2) construction of a wooden, roofed, open ended entertainment bar and hot tub with associated drainage is development and is not exempted development.
- (3) The construction of a wooden jetty is development and is exempted development
- (4) Putting in a foundation and gravel cover on an unused road to commercial Airbnb is development and is not exempt development.

(5) **AND WHEREAS** Máire Nic Niallais and Niall Hackett referred parts (1) the intensified change of use from residential to commercial short term let is not development, and (3) The construction of a wooden jetty is development and is exempted development, of this declaration for review to An Bord Pleanála, on the 18<sup>th</sup> day of December 2023.

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

- (a) Section 2(1) of the Planning and Development Act, 2000, as amended,
- (b) Section 3(1) and Section 3 (A) of the Planning and Development Act, 2000,
- (c) Section 4(1)(a) of the Planning and Development Act, 2000, as amended,
- (d) article 6(1), article 9(1) and article 10 of the Planning and Development Regulations, 2001, as amended,
- (e) Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (f) the planning history of the site,

**AND WHEREAS** An Bord Pleanála has concluded that:

- (a) The use of the subject house for short term letting use in an area that is not a rent pressure zone is not a material change of use, and is not development. The Board considered that on the facts of the case; the property is used by the owner as a holiday home and while it is made available on occasion for short term letting the property is not located in a rent pressure zone therefore in accordance with Section 3A of the Planning and Development Act 2000 (As Amended) no material change of use has occurred.

- (b) The jetty extends to an area of the adjoining lake which does not fall within the curtilage of the house
- (c) The jetty does not come within the description provided for in Class 6 of the Planning and Development Regulations 2001, as amended.

**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

- 1) the use of a house that is the owners holiday home, that is not located in a rent pressure zone as defined by Section 3A(5) of the Planning and Development Act 2000 (As Amended) , on occasion for short term let is not a material change of use in accordance with Section 3A of the Planning and Development Act 2000 (As Amended) and therefore is not development.
- 2) The construction of a wooden jetty is development and is not exempted development

The Board concurred with the Inspector recommendation regarding the second question, on the first question the Board concurred with the Planning Authorities original decision and not the Inspector's recommendation. On the matter of the use of the house for short term let the Board considered that on the facts of the case; the property is used by the owner as a holiday home and while it is made available on occasion for short term letting the property is not located in a rent pressure zone the Board concluded that in accordance with Section 3A of the Planning and Development Act 2000 (As Amended) no material change of use has occurred.

**Board Member:**   
Mary Henchy

**Date:** 16/01/2025