



Board Direction

Ref: 29S.RL.3490

The submissions on this file and the Inspector's report were considered at a Board meeting of all available Board members held on 29th, September 2016.

The Board unanimously agreed and generally approved of the terms of the draft Board Order as set out below.

The Board decided that the use of this residential apartment for short term holiday lettings at Apartment No.1, 5/5A Crown Alley, Dublin 2 is development and is not exempted development.

WHEREAS a question has arisen as to whether the use of a residential apartment for short term holiday lettings at apartment No. 1, 5/5A Crown Alley, Dublin 2 is or is not development and is or is not exempted development.

AND WHEREAS Dublin City Council by Order dated 23rd, May 2016 declared that the use of this residential apartment for short term holiday lettings is development and is not exempted development.

AND WHEREAS this question was referred to An Bord Pleanála by Mr. Michael Melinn on the 20th day of June 2016.

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

- (a) Sections 2, 3, 4, 5, and 127 of the Planning and Development Act, 2000 – 2015,
- (b) Articles 5 and 10 of the Planning and Development Regulations, 2001 – 2015,

- (c) The following submissions:
 - (i) The subsequent referrer's submission,
 - (ii) The original referrer's submission and response to the subsequent referrer's submission, and
 - (ii) The planning authority's assessment, declaration, and response to the subsequent referrer's submission,
- (d) The use of the entire apartment on a year round basis for a series of short term holiday lettings,
- (e) The absence of any occupation of the apartment, or any portion of the apartment, by any permanent resident,
- (f) 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)
- (g) The material planning considerations involved with short term holiday lettings use and
- (h) The report of the inspector.

AND WHEREAS An Bord Pleanála has concluded that –

- (a) That the use of a residential apartment for short-term holiday lettings, as described above, at Apartment 1A, 5 – 5A Crown Alley, Dublin 2 constitutes a change of use,
- (b) The change of use to an apartment for short term holiday lettings, as described above, raises planning considerations that are materially different to the planning considerations relating to the permitted use as a residential apartment. 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) Thus, the change of use is a material change of use and is development, 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 change of use.

NOW THEREFORE An Bord Pleanála in exercise of the powers conferred on by Section 5(4) of the Planning and Development Act, 2000, hereby decides that the change of use of a residential apartment to an apartment for short term holiday lettings is development and is not exempted development.

Board Member: _____ Date: 7th, October 2016
Paddy Keogh