



Board Direction

Ref: 29N.RL.3502

The submissions on this file and the Inspector's report were considered at a meeting of all available Board Members held on 2nd, March 2017.

The Board (by a majority of 7 : 2) generally approved of the terms of the attached draft order.

The Board decided that the use of residential apartments as serviced apartments at Metro Apartments Santry Cross, Ballymun Road, Dublin 9 is development and is not exempted development.

DRAFT ORDER

WHEREAS the question has arisen as to whether the use of residential apartments as serviced apartments at Metro Apartments, Santry Cross, Ballymun Road, Dublin 9 is or is not development or is or is not exempted development

AND WHEREAS Metro Santry Hospitality Ltd. requested a declaration on the said question from Dublin City Council and the council issued a declaration on the 4th day of August, 2016 stating the use of the residential apartments as serviced apartments would constitute a material change of use and as such would be development and not exempted development

AND WHEREAS Metro Santry Hospitality referred the declaration for review to An Bord Pleanála on the 30th day of August, 2016.

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 – 2015,
- (c) The submissions on file,
- (d) The permitted residential use as apartments,
- (e) The proposed use as serviced apartments including use for short term serviced lettings,
- (f) The High Court decision of Barron, J in Thomas McMahon and Others vs. the Right Honourable The Lord Mayor, Aldermen and Burgesses of Dublin (High Court 1989 No. 9870P)
- (g) The report of the Planning Inspector.

AND WHEREAS An Bord Pleanála has concluded that:

- (a) The use of residential apartments for use as serviced apartments including for short term lettings constitutes a change of use,
- (b) The change of use to serviced apartments, as described above, raises planning considerations that are materially different to the planning considerations relating to permitted use as a residential apartment. In particular, (i) the extent and frequency of coming and going to and from the apartments from short term renters and servicing staff and (ii) 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 it by section 5 (3)(a) of the 2000 Act, hereby decides that the proposed use of the residential apartments as serviced apartments would be development and would not be exempted development.

Board Member: _____
Paddy Keogh

Date: 15th, March 2017