



An  
Bord  
Pleanála

**Board Order**  
**ABP-304692-19**

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**Planning and Development Acts 2000 to 2019**

**Planning Authority: Cork City Council**

**Planning Register Reference Number: R 515/19**

**WHEREAS** a question has arisen as to whether the use of student accommodation for year-round short term letting at Amnis House, Western Road, Cork is or is not development or is or is not exempted development:

**AND WHEREAS** Irish Hotels Federation care of Coakley O'Neill Town Planning of NSC Campus, Mahon, Cork requested a declaration on this question from Cork City Council and no declaration issued by the planning authority:

**AND WHEREAS** Irish Hotels Federation referred this question for decision to An Bord Pleanála on the 14<sup>th</sup> day of June, 2019:

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

- (a) sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- (b) section 138 of the Planning and Development Act 2000, as amended,
- (c) Articles 6, 9 and 10 of the Planning and Development Regulations, 2001, as amended,
- (d) Part 2 of the Planning and Development (Housing) and Residential Tenancies Act 2016, and in particular the definition of “student accommodation” as set out in Section 13(d) of that Act,
- (e) the planning history of the subject site and in particular planning permission register reference number 16/36931 (An Bord Pleanála appeal reference number PL 28.247182) and conditions numbers 2 and 13 of that permission, and
- (f) the documentation on file, including submissions from the referrer and from the owner/occupier, and the Inspector’s report:

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

- (a) the authorised use of the subject premises is for student accommodation, in accordance with the terms and conditions of planning permission register reference number 16/36931 (An Bord Pleanála appeal reference number PL 28.247182),
- (b) the use of the subject premises for year-round short term letting would not be consistent with the permitted use, having regard to the statutory definition of student accommodation and having regard to conditions numbers 2 and 13 of that permission,
- (c) the use of the subject premises for year-round short term letting would represent a change of use from the permitted use, and such change of use would raise material issues relevant to the proper planning and sustainable development of the area, including differing levels of pedestrian and vehicular traffic, including demand for additional car parking, and the potential for impacts on residential amenity in terms of noise and opening hours and would constitute a material change of use, and would, therefore, be development,
- (d) there are no provisions, in the Planning and Development Act and Regulations made thereunder, whereby such development would constitute exempted development, and in any event, any exemption that might be argued to exist would be restricted in this instance under Article 9 (1)(a)(i) of the Planning and Development Regulations, 2001, as amended, by reason of conditions numbers 2 and 13 of planning permission register reference number 16/36931 (An Bord Pleanála appeal reference number PL 28.247182), which limit the use of the subject premises to use as student accommodation and for no other purpose, and

- (e) however, for clarity, it is considered that the use of the subject premises for short-term letting as tourist or visitor accommodation, where such use takes place solely outside of academic term times, would be consistent with the authorised use of these premises and within the scope of the definition of “student accommodation” as defined in Section 13 (d) of the Planning and Development (Housing) and Residential Tenancies Act 2016, as amended, and, therefore, would not represent a change of use from the authorised use, and would not be development:

**NOW THEREFORE** An Bord Pleanála, in exercise of the powers conferred on it by section 5 (3) (b) of the 2000 Act, hereby decides that the use of student accommodation for year-round short term letting at Amnis House, Western Road, Cork is development and is not exempted development.

## **Matters Considered**

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

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**Philip Jones**  
**Member of An Bord Pleanála**  
**duly authorised to authenticate**  
**the seal of the Board.**

**Dated this            day of            2019.**