



Building Control Acts 1990 to 2014

Building Control Authority: Donegal County Council

Building Control Authority Register Reference Number: FS/19/32R

Appeal by Fanad Head Limited care of Maurice Johnson and Partners of Unit 265 Colab, Port Road, Letterkenny, County Donegal in relation to the decision made on the 24th day of May, 2019 by Donegal County Council to grant subject to conditions a regularisation certificate under section 6 (2)(a)(vii) of the Building Control Act, 1990, as amended by section 5 of the Building Control Act 2007, in respect of the material change of use of boutique to public bar and alterations to integrate new bar into the existing public venue at McCafferty's Bar, The Diamond, Donegal Town, County Donegal in accordance with plans and particulars lodged with the Building Control Authority:

WHEREAS the appeal relates to conditions numbers 1, 2, 3 and 6 attached to the decision of the Building Control Authority:

AND WHEREAS An Bord Pleanála is satisfied, having regard to the nature of the conditions, that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted:

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 7 of the Building Control Act, 1990, as amended by section 6 of the Building Control Act 2007, and by Article 40 (2) of the Building Control Regulations, 1997, and based on the Reasons and Considerations set out below, hereby directs the Building Control Authority to remove conditions numbers 1, 2, 3 and 6 and the reasons therefor, and to attach a new condition so that it shall be as follows for the reason set out:

New condition

The existing window to the first floor toilets overlooking Quay Street shall be retained, with an openable section to provide an unobstructed clear open area of at least 0.33 square metres with a minimum width and height of 450 millimetres. The opening section shall be capable of remaining in the position which provides this minimum clear open area. The bottom of the window opening shall be not more than 1100 millimetres and not less than 800 millimetres above the floor.

Reason: To comply with the provisions of Part B of the Second Schedule to the Building Regulations, 1997 to 2019.

Reasons and Considerations

Having regard to the Regularisation Fire Safety Certificate application, the appeal, to the provisions of Technical Guidance Document B, and to the recommendation of the reporting inspector, and given that the stairs is serving sanitary facilities, with limited occupancy loading, the Board is satisfied that subject to the removal of conditions numbers 1, 2, 3 and 6, and the attachment of a new condition as set out above, the proposed works would achieve an adequate level of fire safety and would comply with the requirements of Part B of the Second Schedule of the Building Regulations 1997 to 2019.

Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Building Control 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.

Michelle Fagan
Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.

Dated this day of 2019.