



An
Bord
Pleanála

Board Order ABP-318627-23

Building Control Acts 1990 to 2014

Building Control Authority: Donegal County Council

Building Control Authority Register Reference Number: FSC/22/130R

Appeal by Charlie McGroarty care of Maurice Johnson and Partners of The Anchorage, Charlotte Quay, Dublin in relation to the decision made on the 6th day of November, 2023 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 a two-storey residential development comprising three apartments and one private dwelling known as Wild Atlantic Lodge, at Churchtown, Kilcar, County Donegal in accordance with plans and particulars lodged with the said Building Control Authority:

WHEREAS the said appeal relates to condition number 1 attached to the decision of the Building Control Authority:

AND WHEREAS An Bord Pleanála is satisfied, having regard to the nature of the said 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 attach the said condition number 1 and the reason therefor.

Reasons and Considerations

Having regard to the presented compliance report, drawings and supporting details, and to the submissions made in connection with the Regularisation Fire Safety Certificate application and the appeal, it is considered that, notwithstanding the information submitted by the appellant in relation to the time period during which certain works were carried out and evidence that the premises was used for guest accommodation in instances prior to 2006, the Board considers that the information submitted has not adequately demonstrated that the material change of use from dwelling to dwelling and apartments and associated material alterations, in the form now before the Board, took place prior to the coming into force of Part B of Technical Guidance Document B - Fire Safety 2006 (reprinted 2020). It is, therefore, considered appropriate that the current relevant technical guidance set out in Part B of Technical Guidance Document B - Fire Safety 2006 (reprinted 2020), requiring the construction of a compartment floor between the ground floor and first floor in accordance with Section 3.2.5, be applied in the assessment. The Board was not satisfied that it has been demonstrated that the building to which the material change of use and material alterations have occurred, adequately comply with Part B of the Second Schedule of the current Building Regulations, specifically Section B3: Internal Fire Spread (Structure). The Board decided to attach condition number 1, generally as attached by the Building Control Authority and as recommended by the reporting inspector and as set out below.

1. The floor separating ground floor dwelling unit from first floor apartment shall be designed and constructed as a compartment floor, complying with Section 3.2.5 of Technical Guidance Document B 2006 (reprint 2020), achieving minimum 30 minute fire resistance when tested to the relevant test standard and method of exposure set out in Table A1 of Technical Guidance Document B 2006 (reprint 2020).

Reason: To demonstrate compliance with Part B of the Second Schedule of the Building Regulations 1997-2024, Section B3: Internal Fire Spread (Structure).



Patricia Calleary
Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.

Dated this 15th day of October 2024