

An
Bord
Pleanála

Ordú ón mBord
ABP-318746-23

Na hAchtanna um Pleanáil agus Forbairt, 2000 go 2022

Planning and Development Acts 2000 to 2022

Údarás Pleanála: Comhairle Contae Dhún na nGall

Planning Authority: Donegal County Council

Uimhir Thagartha ar an gClár Pleanála: 2357

Planning Register Reference Number: 2357

DE BHRÍ gur tháinig ceist chun cinn maidir le cé acu is forbairt nó forbairt dhíolmhaithe nó nach forbairt nó forbairt dhíolmhaithe é

- (1) an t-athrú úsáide dianaithe ó ligean cónaithe go ligean tráchtála gearrthéarmach,
- (2) barra siamsaíochta adhmaid neamhiata a bhfuil díon air agus limistéar tobáin the agus draenáil ghaolmhar a thógáil
- (3) lamairne adhmaid a thógáil chun cadhcáil ar loch a éascú le haghaidh aíonna tráchtála, agus
- (4) bunsraith agus cumhdach gairbhéil a leagan ar sheanbhóthar nach bhfuil in úsáid a thuilleadh ar choimín chun bóthar isteach príobháideach nua a chruthú chuig réadmhaoin tráchtála Airbnb

ag Teach Jones, 2 Cnoc an Stollaire, An Bun Beag, Contae Dhún na nGall.

AGUS DE BHRÍ gur iarr Máire Nic Niallais agus Niall Hackett dearbhú ar an gceist sin ar Chomhairle Contae Dhún na nGall agus gur eisigh an Chomhairle dearbhú an 29^ú lá de mhí na Samhna 2023 á rá:

- (1) Nach forbairt é an t-athrú úsáide dianaithe ó ligean cónaithe go ligean tráchtála gearrthéarmach.
- (2) Gur forbairt é barra siamsaíochta adhmaid neamhiata a bhfuil díon air agus limistéar tobáin the agus draenáil ghaolmhar a thógáil agus nach forbairt dhíolmhaithe é.
- (3) Gur forbairt é lamairne adhmaid a thógáil agus gur forbairt dhíolmhaithe é.
- (4) Gur forbairt é bunsraith agus cumhdach gairbhéil a leagan ar sheanbhóthar nach bhfuil in úsáid a thuilleadh ar choimín chun bóthar isteach príobháideach nua a chruthú chuig réadmhaoin tráchtála Airbnb agus nach forbairt dhíolmhaithe é.

AGUS DE BHRÍ go ndearna Máire Nic Niallais agus Niall Hackett cuid (1), an t-athrú úsáide dianaithe ó ligean cónaithe go ligean tráchtála gearrthéarmach, agus cuid (3), lamairne adhmaid a thógáil chun cadhcáil ar loch a éascú le haghaidh aíonna tráchtála, den dearbhú sin a tharchur chuig an mBord Pleanála an 18^ú lá de mhí na Nollag 2023 lena athbhreithniú.

AGUS DE BHRÍ go raibh aird ar leith ag an mBord Pleanála ar na nithe seo a leanas agus an tarchur sin á bhreithniú aige –

- (a) ailt 2(1), 3(1) 3A agus 4(1)(a) den Acht um Pleanáil agus Forbairt, 2000, arna leasú,
- (b) Airteagail 6(1), 9(1) agus 10 de na Rialacháin um Pleanáil agus Forbairt, 2001, arna leasú,

- (c) Cuid 1 de Sceideal 2 a ghabhann leis na Rialacháin um Pleanáil agus Forbairt, 2001, arna leasú,
- (d) stair phleanála an láithreáin,
- (e) an tuarascáil agus an moladh ón gCigire Pleanála

AGUS DE BHRÍ gur tháinig an Bord Pleanála ar an gconclúid –

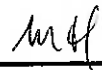
- (a) Nach athrú ábhartha úsáide é an teach is ábhar don cheist seo a úsáid le haghaidh ligean gearrthéarmach i limistéar nach crios brú cíosa é agus nach forbairt é. Mheas an Bord, ar bhonn fhíorais an cháis – úsáideann an t-úinéir an réadmhaoin mar theach saoire agus, cé go gcuirtear an réadmhaoin ar fáil ó am go ham le haghaidh ligean gearrthéarmach, níl an réadmhaoin lonnaithe i gcrios brú cíosa – nár tharla aon athrú ábhartha úsáide de réir alt 3A den Acht um Pleanáil agus Forbairt, 2000, arna leasú.
- (b) Go síneann an lamairne go limistéar den loch tadhlach nach dtagann faoi chúirtealáiste an tí.
- (c) Nach dtagann an lamairne faoin tuairisc dá bhforáiltear in Aicme 6 de na Rialacháin um Pleanáil agus Forbairt, 2001, arna leasú.



ANOIS, DÁ BHRÍ SIN, cinneann an Bord Pleanála leis seo, i bhfeidhmiú na gcumhachtaí a thugtar dó le halt 5(3)(a) d'Acht 2000:

- (1) Nach forbairt é an t-athrú úsáide dianaithe ó ligean cónaithe go ligean tráchtála gearrthéarmach.
- (3) Gur forbairt é lamairne adhmaid a thógáil chun cadhcáil ar loch a éascú le haghaidh aíonna tráchtála agus nach forbairt dhíolmhaithe é.

Maidir leis an gcéad cheist, d'aontaigh an Bord leis an gcinneadh bunaidh ón údarás pleanála agus ní leis an moladh ón gCigire. Maidir leis an teach a úsáid le haghaidh ligean gearrthéarmach, tháinig an Bord ar an gconclúid, ar bhonn fhíorais an cháis – úsáideann an t-úinéir an réadmhaoín mar theach saoire agus, cé go gcuirtear an réadmhaoín ar fáil ó am go ham le haghaidh ligean gearrthéarmach, níl an réadmhaoín lonnaithe i gcrios brú cíosa – nár tharla aon athrú ábhartha úsáide de réir alt 3A den Acht um Pleanáil agus Forbairt, 2000, arna leasú. D'aontaigh an Bord leis an moladh ón gCigire maidir leis an dara ceist.



WHEREAS a question has arisen as to whether

- (1) the intensified change of use from residential to commercial short term let,
- (2) construction of wooden, roofed, open-ended entertainment bar and hot-tub area with associated drainage
- (3) the construction of a wooden jetty to facilitate kayaking on lake for use of commercial guests, and
- (4) putting in a foundation and gravel cover on an old unused road on commonage in order to create new private entrance road to commercial Airbnb

at Teach Jones, 2 Knockastroller, Bunbeg County Donegal, is or is not development or is or is not exempted development.

AND WHEREAS Máire Nic Niallais and Niall Hackett, requested a declaration on this question from Donegal County Council, and the Council issued a declaration on the 29th day of November 2023 stating that:

- (1) The intensified change of use from residential to commercial short term let is not development.
- (2) Construction of wooden, roofed, open-ended entertainment bar and hot-tub area with associated drainage is development and is not exempted development.
- (3) The construction of a wooden jetty is development and is exempted development.
- (4) Putting in a foundation and gravel cover on an old unused road on commonage in order to create new private entrance road to commercial Airbnb is development and is not exempted development.



AND WHEREAS Máire Nic Niallais and Niall Hackett referred parts (1), the intensified change of use from residential to commercial short term let, and (3) the construction of a wooden jetty to facilitate kayaking on lake for use of commercial guests, of this declaration for review to An Bord Pleanála, on the 18th day of December 2023.

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

- (f) Sections 2(1), 3(1) 3A and 4(1)(a) of the Planning and Development Act, 2000, as amended,
- (g) Articles 6(1), 9(1) and 10 of the Planning and Development Regulations, 2001, as amended,
- (h) Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (i) the planning history of the site,
- (j) the report and recommendation of the Planning Inspector

AND WHEREAS An Bord Pleanála has concluded that -

- (a) The use of the subject house for short-term letting use in an area that is not a rent pressure zone is not a material change of use, and is not development. The Board considered that on the facts of the case; the property is used by the owner as a holiday home and while it is made available on occasion for short-term letting the property is not located in a rent pressure zone therefore in accordance with Section 3A of the Planning and Development Act 2000, as amended, no material change of use has occurred.
- (b) The jetty extends to an area of the adjoining lake which does not fall within the curtilage of the house.

- (c) The jetty does not come within the description provided for in Class 6 of the Planning and Development Regulations 2001, as amended.

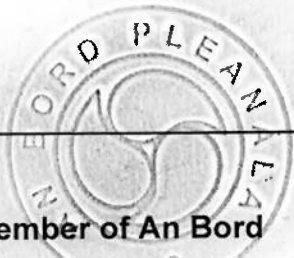
NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5 (3) (a) of the 2000 Act, hereby decides that:

- (1) The intensified change of use from residential to commercial short term let is not development.
- (3) The construction of a wooden jetty to facilitate kayaking on lake for use of commercial guests is development and is not exempted development.

Regarding the first question the Board concurred with the planning authority's original decision and not the Inspector's recommendation. On the matter of the use of the house for short term let, the Board considered that on the facts of the case; the property is used by the owner as a holiday home and while it is made available on occasion for short term letting the property is not located in a rent pressure zone the Board concluded that in accordance with Section 3A of the Planning and Development Act 2000, as amended, no material change of use has occurred. The Board concurred with the Inspector recommendation regarding the second question.



Mary Henchy
Comhalta den Bhord
Pleanála atá údaraithe go cuí
chun séala an Bhord a
fhíordheimhniú



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

Dátaithe ar an *19th* lá seo de *Feabhra* 2025