An Bord Pleanála

PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Dublin City

Planning Authority Reference Number: 0151/16

An Bord Pleanála Reference Number: 29S.RL.3490

WHEREAS a question has arisen as to whether the use of a residential apartment for short term holiday lettings at apartment number 1A, 5-5A Crown Alley, Dublin is or is not development or is or is not exempted development:

AND WHEREAS Temple Bar Residents care of Frank McDonald of The Granary, 20 Temple Lane, Dublin requested a declaration on the said question from Dublin City Council and the said Council issued a declaration on the 23rd day of May, 2016 stating that the said matter is development and is not exempted development:

AND WHEREAS Michael Melinn care of Property Resource Planning Management and Development of 70 Glengarriff Parade, Phibsborough, Dublin referred the declaration for review to An Bord Pleanála on the 20th day of June, 2016:

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)   Articles 5 and 10 of the Planning and Development Regulations, 2001, as amended,

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(c)   the following submissions:-

(i) the referrer's submission to An Bord Pleanála on the 20th day of June, 2016,

(ii) the original referrer's submission to the planning authority dated the 26th day of April, 2016 and the response to the referrer's submission to An Bord Pleanála dated the 6th day of July, 2016 , and

(ii) the planning authority's assessment and declaration, and response to the referrer's submission to An Bord Pleanála dated the 18th day of July, 2016,

(d)   the use of the entire apartment on a year round basis for a series of short term holiday lettings,

(e)   the absence of any occupation of the apartment, or any portion of the apartment, by any permanent resident,

(f)   the High Court decision of Barron, J in Thomas McMahon and Others v Right Honourable The Lord Mayor, Alderman and Burgesses of Dublin (High Court 1989 No. 9870P),

(g)   the material planning considerations involved with short term holiday lettings use, and

(h)   the report of the inspector:

AND WHEREAS An Bord Pleanála has concluded that -

(a)   the use of a residential apartment for short-term holiday lettings, as described above, at Apartment 1A, 5 – 5A Crown Alley, Dublin constitutes a change of use,

(b)   the change of use to an apartment for short term holiday lettings, as described above, raises planning considerations that are materially different to the planning considerations relating to the permitted use as a residential apartment. In particular, (i) the extent and frequency of coming and going to and from the apartment by short term renters and servicing staff, (ii) associated concerns for other residents in respect of security and general disturbance, and (iii) the fully commercial nature of the activity,

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(c)   the change of use constitutes, therefore, a material change of use and is development as defined in section 3 of the Planning and Development Act, 2000, and

(d)   neither the Planning and Development Act, 2000, as amended, or the Planning and Development Regulations, 2001, as amended, provide any exemption in respect of such a material 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 use of a residential apartment for short term holiday lettings at apartment number 1A, 5-5A Crown Alley, Dublin 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.

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

Dated this   day of   2016.

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