

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2016

Dublin City

Planning Authority Reference Number: 0260/16

An Bord Pleanála Reference Number: 29N.RL.3502

WHEREAS a question has arisen as to whether the use of residential apartments as serviced apartments at Metro Apartments, Santry Cross, Ballymun Road, Dublin is or is not development or is or is not exempted development:

AND WHEREAS Metro Santry Hospitality Limited care of Declan Brassil and Company Limited of Lincoln House, Phoenix Street, Smithfield, Dublin requested a declaration on the said question from Dublin City Council and the said Council issued a declaration on the 4th day of August, 2016 stating that the said matter is development and is not exempted development:

AND WHEREAS the said Metro Santry Hospitality Limited referred the declaration for review to An Bord Pleanála on the 30th day of August, 2016:

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

- (a) sections 2, 3, 4 and 5 of the Planning and Development Act, 2000, as amended,
- (b) Articles 5 and 10 of the Planning and Development Regulations, 2001, as amended,
- (c) the submissions on file,
- (d) the permitted residential use as apartments,
- (e) the proposed use as serviced apartments including use for short-term serviced lettings,
- (f) the High Court decision of Barron, J in *Thomas McMahon and Others v The Right Honourable the Lord Mayor, Aldermen and Burgesses of Dublin* (High Court 1989 No. 9870P), and
- (g) the report of the Planning Inspector:

AND WHEREAS An Bord Pleanála has concluded that -

- (a) the use of residential apartments for use as serviced apartments including for short-term lettings constitutes a change of use,
- (b) the change of use to serviced apartments, as described above, raises planning considerations that are materially different to the planning considerations relating to permitted use as residential apartments. In particular, (i) the extent and frequency of coming and going to and from the apartments from short-term renters and servicing staff, and (ii) the fully commercial nature of the activity,

- (c) the change of use, therefore, constitutes 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, nor the Planning and Development Regulations, 2001, as amended, provide any exemption in respect of such a 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 residential apartments as serviced apartments at Metro Apartments, Santry Cross, Ballymun Road, 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 2017.