



An  
Bord  
Pleanála

## Inspector's Report ABP-304771-19

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### Question

That the use of properties for commercial purposes in an area zoned as 'Residential' is a material change of use & is therefore not exempted development.

### Location

13 - 18, Gratton Court East, Dublin 2

### Declaration

Planning Authority

Dublin City Council South

Planning Authority Reg. Ref.

0203/19

Applicant for Declaration

Alavaro Lopez-Laguna & Sandra  
Schmidt Lopez-Laguna

Planning Authority Decision

Split Decision

### Referral

Referred by

Alavaro Lopez-Laguna & Sandra  
Schmidt Lopez-Laguna

Owner/ Occupier

DD SIS Homes Ltd. .

Observer(s)

None.

Date of Site Inspection

7<sup>th</sup> October 2019

Inspector

Bríd Maxwell

## **1.0 Site Location and Description**

- 1.1. The referral relates to 13-18 Gratton Court East, comprising 5 town houses and one apartment, within a recently constructed complex of five modern part three / part four storey townhouses and two apartments located in Dublin 2. The surrounding area is mixed use in character with a number of commercial and office blocks as well as residential complexes.
- 1.2. The submissions from the referrer outlines and provides evidence that the five townhouses within the development are used for short term accommodation / Airbnb on an all year-round basis and the seventh property (penthouse apartment) is rented out at weekends during high demand seasons.
- 1.3. The referral site is within a rent pressure zone under the Residential Tenancies Act 2014, as amended, so designated on 24<sup>th</sup> December 2016.

## **2.0 The Question**

- 2.1. The question as referred in the first instance to Dublin City Council is whether the use of residential properties 13-18 inclusive for commercial purposes, in contravention of the planning permission, in an area zoned “residential” is a material change of use and is therefore not exempted development.
- 2.2. I consider that in the interest of clarity and having regard to the detail provided on the case, the question can reasonably be formulated as follows:

“Whether the use of properties 13-18 Gratton Court East, inclusive, for short term holiday lettings, is or is not development or is or is not exempted development.”

## **3.0 Planning Authority Declaration**

### **3.1. Declaration**

3.1.1 By order dated 31 May 2019, Dublin City Council issued notification of its decision as follows:

“Grant exemption for use of numbers 14,15, 16 17, and 18 Grattan Court East as overnight guest accommodation.

Schedule 1. Conditions and Reasons

I recommend that the referrer be advised that having regard to the Planning and Development Act 2000(as amended) and the Planning and Development Regulations 2001 (as amended), the Planning Authority has considered that based on the submitted plans and documentation, the use of numbers 14, 15, 16, 17 and 18 Grattan Court East , Dublin 2, as overnight guest accommodation, would be exempted development, Issue declaration confirming that the submitted proposal I acceptable under exempted development legislation.

Refuse exemption for the use of 13 Grattan Court East for short stay accommodation lettings.

Schedule 2 The use of 13 Grattan Court East. Dublin 2 for short stay accommodation lettings is a material change of use. Accordingly, this change to a commercial use constitutes development under Section 3(1) of the Planning and Development Act 2000 (as amended) which is not exempted development either under the Act or the accompanying Planning and development Regulation 2001 (as amended).”

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

Report of Planning Officer asserts that as houses 14-18 Grattan Court are considered to be houses and the use of houses as overnight accommodation would be exempted development as set out by Article 10(4) of these the Regulations. However, Article 10(4) does not include apartments. The test for a material change

of use in respect of Apartment 13 has been met so it is considered that the use for short term holiday letting accommodation constitutes development which is not exempted development. A split decision was recommended.

#### 4.0 **Planning History**

**2806/16** Retention permission for revisions to previously granted planning application ref 3736/13 for the provision of 5 houses and 2 apartments.

**2899/16** Permission granted for revisions to previously granted planning application file register 3736/1 for the provision of 5 no houses and 2 no apartments.

**3736/13** Permission granted for a residential development 5 dwellings and 2 no 3 bed apartments on a site of 649 sq,m.

**E0927/18 E0928/18 E0929/18, E0930/18, E0931/18** – Refers to Dublin City Council Enforcement case history.

#### 5.0 **Policy Context**

##### 5.1. **Development Plan**

The site is zoned Z2 Residential Neighbourhoods Conservation Areas within the Dublin City Development Plan 2016-2022. The objective is “To protect and/or improve the amenities of residential conservation areas.”

##### 5.2. **Natural Heritage Designations**

None

## 6.0 The Referral

### 6.1. Referrer's Case

6.1.1 The referral submitted by Delahunty & Harley Architects Designers on behalf of Alvaro Lopez Laguna and Sandra Schmidt Lopes-Laguna, 12 Grattan Court (the remaining apartment unit within the development) is summarised as follows:

- Tortured logic of apparently contradictory statements in the planner's report difficult to comprehend
- The referrers purchased their property (12 Grattan Court) as family home with view to raising a family there and embracing city living.
- Five of the properties (Townhouses 14-18 inclusive) are used on year-round basis and no 13 (the penthouse apartment) is rented out on weekends during high demand seasons.
- The use is not making of rooms available within the home but is a commercial activity involving whole premises lettings.
- Permission was for a number of individual units with a degree of own door character and the commercial nature of the activity is in contravention of the permission.
- Circular letter 10/2017 refers to Article 10.4 in relation to exemptions and states that house does not include a building designed for use or used as 2 or more dwellings or a flat.
- Given location within a "rent pressure zone" development is in conflict with policies of the local Authority and Department to Housing.
- Nature of use results in significant disruption and disturbance to the referrers as permanent residents.
- Planner's report appears to create a volte face.
- Referral is accompanied by documentation including photographs and advertisements in respect of the Airbnb use.

## **6.2. Planning Authority Response**

### **6.2.1 Response by the Planning Authority**

- Comprehensive report deals fully with relevant issues and justifies decision with regard to No's 14,15,16, 17 &18 at the time of decision. However, since decision was made new regulations have come into effect.
- Residential Tenancies (Amendment) Act 2019 and supplementary regulations made by the Minister for Housing, Planning and Local Government entitled the Planning and Development Act 2000(Exempted Development) Regulations 2019 came into effect on 1<sup>st</sup> July 2019. SI 235 2019 attached.
- From a review of the new regulations which came into effect on 1<sup>st</sup> July 2019 the townhouses would not be exempted development give that the houses in question are not the principal private residence of the landlord or licensor concerned. Furthermore, it would appear that they are being let out for a cumulative period of more than 90 days.
- In light of the new regulations the use of No 14, 15, 16, 17 and 18 Grattan Court as guest accommodation would not be viewed as exempted development.
- With regard to No 13 Grattan Court East, the reasoning on which the Planning Authority's decision is based is set out in the planner's report. Notably new regulations also apply to apartments.

## **6.3. Owner/ occupier's response**

6.3.1 Owner occupier did not respond to the referral.

## **6.4. Further Responses**

6.4.1 Response by referrer to submission by the Local Authority concurs with the conclusion that the use is not exempted development.

## 7.0 Statutory Provisions

### 7.1. Planning and Development Act, 2000 (as amended)

Section 2(1) of the Act provides the following definitions of relevance –

“habitable house” means a house which

- (a) Is used as a dwelling,
- (b) Is not in use but when last used was used, disregarded by any unauthorised use, as a dwelling and is not derelict,
- (c) Was provided for use as a dwelling but has not been occupied.

“house” means a building or part of a building which is being or has been occupied as a dwelling or was provided for use as a dwelling but has not been occupied, and were appropriate, includes a building which was designed for use as 2 or more dwellings or a flat, an apartment or other dwelling within such a building.

“land” includes any structures and any land covered with water (whether inland or coastal);

“structure” means any building, structure, excavation, or other thing constructed or made on, in or under land, or any part of a structure so defined, and -

(a) Where the context so admits, includes the land on, in or under which the structure is situate...

“use”, in relation to land, does not include the use of land by the carrying out of works thereon;

Section 2(1) provides the following interpretation of works

“includes any act or operation of construction, excavation, demolition, extension, alteration repair or renewal.”

Section 3(1) in respect of development

In this act development means except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change of use of any structures or other land

Section 3(3) of the Act states

“For the avoidance of doubt, it is hereby declared that, for the purposes of this section, the use of two or more dwellings of any house previous used as a single dwelling involves a material change of use of the structure and of each part thereof which is so used.”

Section 4(1)(a)-(i) sets out what is exempted development for the purpose of the Act

(h) development consisting of the carrying out of works for the maintenance improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to rendered r the appearance inconsistent with the character of the structure or of neighbouring structures.

Section 4(2)(a)

The Minister may by regulations provide for any class of development to be exempted development for the purposes of this Act where he or she is of the opinion that –

(i) By reason of the size, nature or limited effect on its surroundings, of development belonging to that class, the carrying out of such development would not offend against the principles of proper planning and sustainable development....

Section 4(2) (c)

Regulations under this subsection may, in particular and without prejudice to the generality of paragraph (a), provide, in the case of structures or other land used for a purpose of any specified class, for the use thereof for any other purpose being exempted development for the purposes of this Act.



## Section 5(3)(A)

“Where a declaration is issued under this section, any person issued with a declaration under subsection (2)(a) may, on payment to the Board of such a fee as may be prescribed refer a declaration for review by the Board within 4 weeks of the date of issuing the declaration.

## 7.2. Planning and Development Regulations, 2001 as amended

### 7.2.1 Article 5(1)

In this part

“business premises” means –

- (a) Any structure or other land (not being an excluded premises) which is normally used for the carrying out of any professional, commercial industrial undertaking or any structure (not being an excluded premises) which is normally used for the provision therein of services to persons,
- (b) A hotel, hostel (other than a hostel where care is provided) or public house
- (c) Any structure or other land used for the purposes of or in connection with, the functions of a state authority;

“Care” means personal care, including help with physical intellectual or social needs;

“excluded premises” means

- (a) Any premises used for purposes of a religious educational cultural recreational or medical character
- (b) Any guest house or other premises (not being a hotel or a hostel) providing overnight guest accommodation, block of flats or apartments, club, or boarding house or
- (c) Any structure which was designed for use as one or more dwellings except such a structure which was used as a business premises immediately before 1 October, 1964 or is so used with permission under the Act.

“house” does not as regards development of classes 1, 2, 3,4, 6(b)(ii) 7 or 8 specified in column 1 of Part 1 of Schedule 2, or development to which articles

10(4) or 10(5) refer, include a building designed for use or used as 2 or more dwellings or a flat, an apartment or other dwelling within such a building;

#### **Part 4 of schedule 2 to Article 10**

##### **Class 6**

Use as a residential club, a guest house or a hostel (other than a hostel where care is provided).

#### **Article 10(1&2)**

- (1) Development which consists of a change of use within any one of the classes of use specified in Part 4 of Schedule 2 shall be exempted development for the purposes of the Act, provided that the development if carried out would not –
- (a) Involve the carrying out of works other than work which are exempted development,
  - (b) Contravene a condition attached to a permission under the Act
  - (c) Be inconsistent with any use specified or included in such a permission, or
  - (d) Be a development where the existing use is an unauthorised use, save where such a change of use consists of the resumption of a use which is not unauthorised and which has not been abandoned.
- (2) A use which is ordinarily incidental to any use specified in Part 4 of Schedule 2 is not excluded from that use as an incident thereto merely by reason of being specified in the said part of the said Schedule as a separate use,

**10(4)** of the regulations relates to changes of use and states that :

Development consisting of the use of not more than 4 bedrooms in a house, where each bedroom is used for the accommodation of not more than 4 persons as overnight guest accommodation, shall be exempted development for the purposes of the Act, provided that such development would not contravene a condition attached to a permission under the Act or be inconsistent with any use specified or included in such a permission.

**SI 235 of 2019 of the Planning and Development Act 2000 (Exempted development) (No 2) Regulations 2019.**

Article 6 is amended by the insertion of the following subarticle:

(5) (a) Each of the following shall be exempted development:

(i) development consisting of the short term letting in a rent pressure zone of not more than 4 bedrooms in a house that is the principal private residence of the landlord or licensor concerned provided that -

(l) It is a condition of the short term letting that each bedroom that is subject of the letting shall not be occupied by more than 4 persons,

And

(ii) The development –

(a) Does not contravene a condition attached to a permission granted in respect of the house under the Act, and

(b) Is consistent with any use specified in any such permission.

(ii) Development consisting of the short term letting in a rent pressure zone of a house that is the principal private residence of the landlord or licensor concerned provided that –

(i) The aggregate number of days during a year in which the house is the subject of short-term lettings does not exceed 90 days, and

(ii) The development –

(A) Does not contravene a condition attached to a permission granted in respect of the house under the Act, and

(B) Is consistent with any use specified in any such permission.

(b) where a person proposes to undertake development to which paragraph (a) applies, he or she shall, not later than 2 weeks before the commencement of the development, notify the planning authority in whose functional area the proposed development will occur of the proposed development, or cause the planning authority to be so notified, in writing

“Principle private residence” means, in relation to a house that is the subject of a short term letting, a house in which the landlord or licensor concerned ordinarily resides;

‘rent pressure zone’ and ‘short term letting have the meanings assigned to them by section 3A (inserted by section 38 of the Residential Tenancies (amendment) Act 2019 of the Planning and Development Act 2000.

### 7.3. **Relevant Precedent and Case Law**

**RL3490** Question Posed as to whether the use of a residential apartment 1A, 505A Crown Alley Dublin, for short term holiday lettings is or is not development or is or is not exempted development. The Board determined that

(a) The use of a residential apartment for short term holiday lettings, as described 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 resident is in respect of security and general disturbance, and (iii) the fully commercial nature of the activity.

(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;

**RL 3502** On the question as to whether the use of residential apartments as serviced apartments at Metro Apartment, Santry Cross, Ballymun Road is development or is not exempted development.

The Board 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:

The Board decided that the use of residential apartments as serviced apartments at Metro Apartments, Santry Cross, Ballymun Road, Dublin is development and is not exempted development.

**ABP302856, ABP302859, ABP302862, ABP302865, ABP302861, ABP302858, ABP302866, ABP302857.** The questions posed as to whether the proposed use of Apartments No 26, No 22, No 7 and No 4, No 16, No 24, No 5 and No 30 Chancery Hall, Blackhall Place, Dublin 7 for short term letting is or is not development and whether the development constitutes exempted development.

The Board determined that

(a) The use of a residential apartment for short term accommodation lettings, as outlined in the submissions, constitutes a change of use from the permitted use as a residential apartment, having regard to case law,

(b) The change of use to an apartment for short term accommodation lettings, as described above, raises planning considerations relating to the permitted use as a residential apartment, having regard to case law. 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,

(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 nor the Planning and Development Regulations, 2001, as amended, provide any exemption in respect of such a material change of use;”

The Board decided in all cases that the use of the apartments as set out for short stay accommodation is development and is not exempted development.

### **300996**

The question as to whether the use of the property at number 28 Leinster Square, Rathmines as short-term lettings based on internet bookings is a change of use from the established use of short-term lettings as bedsits and, if it is, whether it is a material change of use and or is not development or is or is not exempted development:

The Board decided that (a) the use of the building for a short-term holiday letting based on internet bookings is a change of use from the current established use for lettings for bedsits, in the light of the different matters that it raises for planning assessment compared to those which would have arisen for original use as residential accommodation, including intensification of use and associated disturbance at neighbourhood level and as the building is exclusively used for commercial short term letting purposes on a year round basis, is a material change of use and is, therefore, development, and

(b) that 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 material change of use:

The Board decided that the change of use of the property from the established use of short-term lettings as bedsits to short term lettings based on internet bookings is development and is not exempted development.

## **7.3.2 Case Law**

7.3.2.1 The following case law is of relevance

**PL29/8/279 McMahon v Dublin Corporation 1997 1 ILRM 227**, The Board’s declaration was upheld. Barron J held that:

“in the absence of explicit reference in the planning permission to a permitted use, regard must be had to the use for which the structure is designed, i.e, the use which was objectively intended for the structure having regard to the relevant planning documentation. The purpose for which the plaintiff’s homes had been designed was private residential, whereas the use to which they were currently being put was commercial.”

The question of whether a change of use is a material one was addressed by Keane J in the case of *Monaghan County Council v Brogan* [1987] I. R. 333. He stated that the issues of relevant to the question are

*...the matters which the planning authority would take into account in the event of a planning application being made for its use, If these matters are materially different (from the original use), then the nature of the use must equally have been materially different.*

## **8.0 Assessment**

### **8.1. Is or is not development**

8.1.1. The question to be addressed under this referral is as follows:

Whether the use of properties 13, 14, 15, 16, 17 and 18 Gratton Court East, Dublin 2 as short-term guest lettings is or is not development and whether the development constitutes exempted development or does not constitute exempted development. The details provided on the referral file indicate that the townhouses (14, 15, 16, 17 & 18) are available for short term letting / Airbnb on a year-round basis while the penthouse apartment unit 13 is rented out at weekends or during high demand seasons.

8.1.2. In the interest of clarity and based on the documentation provided on the referral file, I note that there is no indication of ‘works’ having been undertaken in association with the use of the properties therefore there is no question of development by

reason of works arising in the case. The key questions arising in this case therefore is has a material change of use occurred and if so is this exempted development ?

- 8.1.3. In considering the authorised use of the dwellings houses and apartment subject of the referral I note Section 2(1) of the Planning and Development Act, 2000 includes the definition of “house” as a building or part of a building which is being used or has been occupied as a dwelling or was provided for use as a dwelling but not occupied and where appropriate includes building which was designed for use as 2 or more dwellings or a flat, an apartment or other dwelling within such a building.

Having regard to the definition in the Act I am satisfied that each of the units 13-18 Graton Court East in this case fall within the definition of house having been provided for use as a dwelling in accordance with the permission. I note that the governing permission 3736/13 for residential development was subject to 15 conditions none of which specified the precise nature of the use or imposed any restrictions or limitations on the use. Subsequent permissions 2899/16 and 2806/19 similarly did not impose any such limitations. In the context of the Mc Mahon judgement regarding interpretation of permitted use, it is evident that the units were intended and designed to be private residential apartments. It is evident that the houses were not to date occupied on a long-term residential basis and it is unclear as to whether the apartment has at any time been occupied by a permanent resident. Based on the submissions it is evident that the use as detailed is solely a commercial one and in the absence of occupation by a permanent resident there is no residential and therefore, a change of use has occurred.

- 8.1.5 Under Section 3(1) of the Act for a change of use to be considered development it must be a material change of use. I note that the McMahon judgement determined that the permanent occupation of a house or apartment as a home is different from the short-term occupation of the same structure, that the difference is material in planning terms and that the change of use from one to the other is considered development. The materiality of the distinction has been upheld by the Board in numerous referral precedent case as set out above. I note that various impacts which might arise from use for short term accommodation as opposed to residential use that would be material considerations including disturbance, traffic, noise and



security risk. The third-party referrer has outlined in some detail such impacts arising which distinguish the use from residential use and significantly affect residential amenity. The provision of an adequate supply of houses is also a material planning consideration of significant concern in the current climate and of significance in the current referral case in light of the location within a Rent Pressure Zone. The scale of the operation in question is of further note having regard to the cumulative impact of the use. Thus, the test for material change of use is met therefore this use constitutes development.

## 8.2. Is or is not exempted development

8.2.1. I note the provisions of the Planning and Development Act 2000 (Exempted development) No 2 Regulations 2019 which amend Article 6 in providing that Development consisting of the short term letting in a rent pressure zone of not more than 4 bedrooms in a house that is the principal private residence of the landlord or licensor concerned provided that –

(II) It is a condition of the short term letting that each bedroom that is subject of the letting shall not be occupied by more than 4 persons,

And

(iii) The development –

(c) Does not contravene a condition attached to a permission granted in respect of the house under the Act, and

(d) Is consistent with any use specified in any such permission.

(iii) Development consisting of the short term letting in a rent pressure zone of a house that is the principal private residence of the landlord or licensor concerned provided that –

(iii) The aggregate number of days during a year in which the house is the subject of short-term lettings does not exceed 90 days, and

(iv) The development –

(C) Does not contravene a condition attached to a permission granted in respect of the house under the Act, and

(D) Is consistent with any use specified in any such permission.

8.2.2. As the properties in question are not the principal private residence of the landlord and constitute an entirely commercial operation therefore the exemption does not apply. Accordingly, I conclude that a material change of use from residential use to short term holiday lettings has occurred which is development and is not exempted development.

## 9.0 Recommendation

9.1. I recommend that the Board should decide this referral in accordance with the following draft order.

**WHEREAS** a question has arisen as to whether the use of properties 13, 14, 15, 16, 17 and 18 Grattan Court East, Dublin 2 as short-term guest lettings is or is not development and whether the development constitutes exempted development or does not constitute exempted development.

**AND WHEREAS** Alvaro Lopez Laguna and Sandra Schmidt Lopez Laguna requested a declaration on this question from Dublin City Council and the Council issued a declaration on the 4th day of June, 2019 stating that the use of numbers 14, 15, 16, 17 and 18 Grattan Court East for short term accommodation lettings was development and was exempted development: and that the use of 13 Grattan Court East for short term accommodation lettings was development and was not exempted development.

**AND WHEREAS** Delahunty & Harley Architects on behalf of Alvaro Lopez Laguna and Sandra Schmidt Lopez Laguna referred this declaration for review to An Bord Pleanála on the 26th day of June, 2016:

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

- (a) Section 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) Parts 1 and 4 of the Second Schedule to those Regulations
- (d) The use of the entire dwellings and apartment for short term lettings,
- (e) The absence of any occupation of the dwellings and apartment by any permanent resident,
- (f) Relevant case law, and in particular the High Court decision of Baron K in Thomas McMahon and Others-v- Right Honorable The Lord Mayor, Alderman and Burgesses of Dublin (High Court 1989 No 9870P) and Monaghan County Council-v Brogan [1987] I. R 333;
- (g) Relevant case law previously decided by An Bord Pleanála including referral cases RL3490, RL3502, ABP300996, ABP302856, ABP302859, ABP302869, ABP302865, ABP302861, ABP302858, ABP302866, ABP302857
- (h) The material planning considerations involved with short term lettings use including cumulative considerations
- (i) the planning history of the site,
- (j) the submissions of the referrer and the planning authority
- (k) the report of the Inspector

**AND WHEREAS** An Bord Pleanála has concluded that:

- (a) The use of the houses / apartment for short term accommodation lettings as outlined in the submissions constitutes a change of use from the permitted use as a residential houses and apartment having regard to case law;

- (b) The change of use to a house / apartment for short term accommodation lettings as described above, raises planning considerations that are materially different to the planning considerations relating to the permitted use as a residential house / apartment. In particular the extent and frequency of coming and going to and from the houses/ 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,
- (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) The change of use does not comply with the provisions of Class 5(a) of Article 6 of the Planning and Development Regulations 2001 as inserted by the Planning and Development Act 2000(Exempted Development) (No 2) Regulations 2019:

**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 properties 13, 14, 15, 16, 17 and 18 Grattan Court East, Dublin 2 as short term lettings is development and is not exempted development.

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Bríd Maxwell  
Planning Inspector

7<sup>th</sup> October 2019