



06<sup>th</sup> July 2022

An Bord Plenala,  
64 Marlborough Street,  
Dublin 1  
D01 V902

<b>AN BORD PLEANÁLA</b>	
LDG-	<u>055056 - 22</u>
ABP-	_____
07 JUL 2022 o.k	
Fee: €	<u>110</u> Type: <u>cheque</u>
Time: _____	By: <u>reg post</u>

**Re: Section 5 Referral to An Bord Pleanala by Donegal County Council with regard to development at 31 The Rectory, Fahan, Co. Donegal F93 TH73**

A Chara,

Attached please find Section 5 referral and fee in the amount of €110.

Is mise le meas,

**Simon Harron**  
Executive Planner / Enforcement Officer  
Planning Enforcement Unit  
Community, Enterprise and Planning Services  
Donegal County Council



**Section 5 Referral to An Bord Pleanála by Donegal County Council with regard to development at 31 The Rectory, Fahan, Co. Donegal F93 TH73**

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**Applicants Name and Address:**

Donegal County Council, County House, Lifford, Co. Donegal.

**Developers / landowners:**

Julie Roddy, 31 The Rectory, Fahan, Co. Donegal F93 TH73

**Location of Proposed:**

31 The Rectory, Fahan, Co. Donegal F93 TH73

(see the site area outlined in red on map attached):

**Subject matter of referral:**

- (i) Whether or not the change of use of a dwelling, as a principal place of residence (outside of a rent pressure zone) to a dwelling in use for short term letting purposes, is or is not development, and
- (ii) whether (ii) this is, or is not exempt development.

A recent check on An Bord Pleanála's website, identified a significant number of planning appeals to the Bord seeking to overturn planning decisions to grant / refuse planning applications for short term lets. In addition, a Section 5 query was submitted to the Bord, which determined that short term lets is development and is not exempt development (See details below).

*ABP Ref. 300996: 28, Leinster Square, Rathmines, Dublin 6 (0501/17)*

*Whether current use of property 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 WHEREAS An Bord Pleanála, in considering this referral, had regard particularly to – (a) Section 2, 3 and 4 of the Planning and Development Act, 2000, as amended, (b) Article 5 and 10 of the Planning and Development Regulations, 2001, as amended, (c) The following submissions: (i) The referrers submission, (ii) The planning authority's assessment and declaration, (d) The report of the Inspector, (e) The pattern of development in the area: AND WHEREAS An Bord Pleanála has concluded 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 thus development, and (b) That neither the Planning and Development Act, 2000, as amended, nor the Planning and Development Regulations, 2001, as amended, recognise the said material change of use to be exempted development.*

*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 change of use of the property from the established use of lettings as bedsits to short term lettings based on internet bookings is development and is not exempted development.*

17/10/2018

**Planning History:** There is no recent relevant planning history on the subject site.

**Grounds of referral and reasons and considerations on which it based:**

The development comprises of the change of use of a private detached dwelling to a dwelling for short term letting purposes, within a housing estate, located in a village, outside of a rent pressure zone. The case is currently being investigated as an unauthorised development under planning enforcement case reference UD20248 following the receipt of a complaint received.

No planning application has been submitted for the change of use of this development.

**Historic Enforcement Action:**

There is no other recorded unauthorised history at the subject site.

**Other matters:**

The Planning Authority issued a Warning Letter on 09/11/2021 in accordance with S.152 of the Planning and Development Act, 2000 (as amended) with respect of the use of a private dwelling for short term letting purposes (see attached Warning Letter dated 09/11/2021 – Appendix A).

In response to this letter, the developer's agent submitted a written response on 01/02/2022 to advise that, 'planning permission is not required for this use as the property is not within a Rent Pressure Zone'.

Having reviewed the Planning & Development Act 2000 (As amended) and the Planning & Development Regulations 2001 (As amended) it is not apparent;

Whether or not the change of use of a dwelling, as a principal place of residence (outside of a rent pressure zone) to a dwelling in use for short term letting purposes, is or is not development,

and



Whether (ii) this is, or is not exempt development.

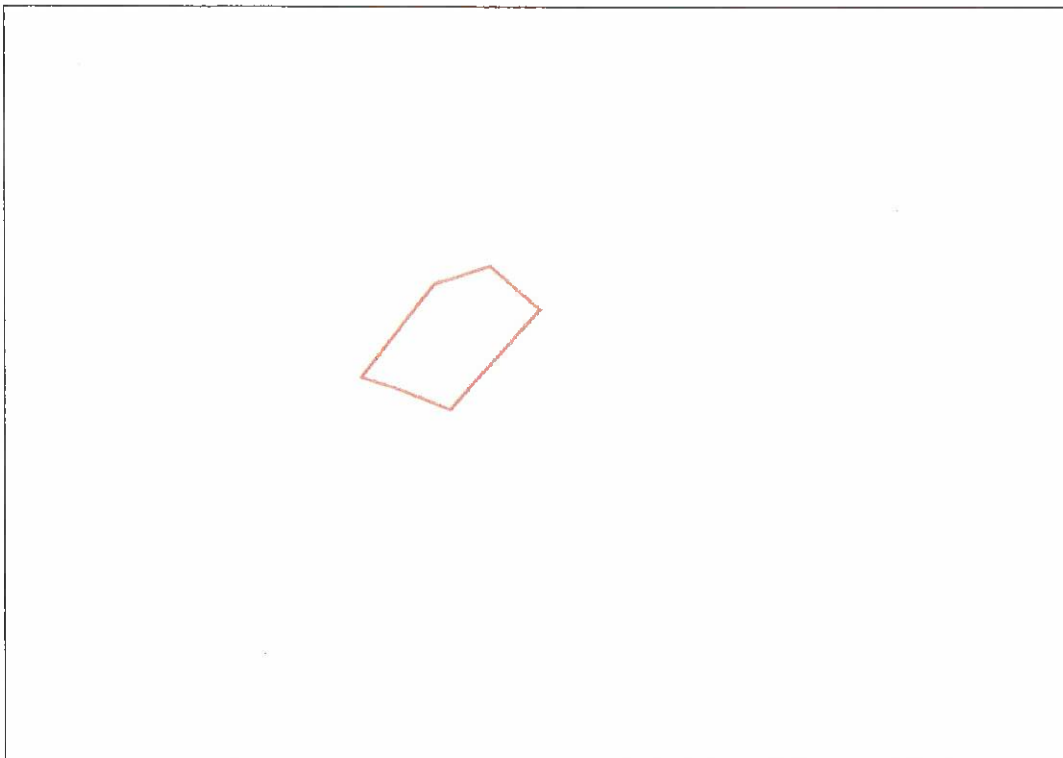


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Simon Harron  
Executive Planner / Enforcement Officer  
Planning Enforcement Office  
Donegal County Council

### Appendix A

#### Site Location Map









Comhairle Chontae Dhún na nGall  
Donegal County Council

County House,  
Lifford,  
Co. Donegal.  
Enquiries 074 9172315/6/8

REMITTANCE ADVICE / FAISNÉIS ÍOCAÍOCHTA

AN BORD PLEANALA  
64 MALBOROUGH STREET  
DUBLIN 1  
Ireland

Cheque No. 214696  
Supp ID / Uimh. Aitheantais 393548  
Date / Dáta 05/07/2022  
Page / Leathanach 1/1

Your Ref/ Bhur dTagairt	Inv Date/ Dáta Sonraisc	Our Ref/ Ár dTagairt	AMOUNT/ SUIM EUR	Payable Iníochta EUR
REF SECT 5 FEE	29/06/2022	30956334	110.00	110.00
PAGE TOTAL / IOMLÁN AN LEATHANAIGH			EUR	110.00
GRAND TOTAL / MÓRIOMLÁN			EUR	110.00

WH = Withholding Tax CT = Subcontractors Tax RA = Non Resident Landlord  
CMP = Late Payment Compensation

