

SECTION 5 DECLARATION – PLANNER’S REPORT

File Reference: R 515/19

Question: *‘Whether the use of student accommodation at Amnis House, Western Road, Cork for year round short term letting constitutes a material change of use.’*

Applicant: Irish Hotels Federation.

Location: Amnis House, Western Road.

1. PURPOSE OF REPORT

Under Section 5 of the Planning and Development Act, 2000 (as amended), if any question arises as to what, in any particular case, is or is not development and is or is not exempted development within the meaning of the Act, any person may, on payment of the prescribed fee, request in writing from the relevant planning authority a declaration on that question, and that person shall provide to the planning authority any information necessary to enable the authority to make its decision on the matter.

2. SITE LOCATION

The site is located on the Western Road and backs onto the south channel of the River Lee.

3. RELEVANT PLANNING POLICY/OBJECTIVES

Cork City Development Plan 2015-2021

The site is zoned ZO5 *‘Residential, Local Services and Institutional Uses’* (Ref: Maps 3 and 9 Volume 2 of the Plan). The provision and protection of residential uses, and residential amenity is a central objective of this zoning, which covers much of the land in the suburban area.

‘The provision and protection of residential uses and residential amenity is a central objective of this zoning, which covers much of the land in the suburban area. However other uses, including small scale local services, institutional uses and civic uses and provision of public infrastructure and utilities are permitted, provided they do not detract from residential amenity and do not conflict with the employment use policies in Chapter 3 and related zoning objectives. Small scale ‘corner shops’ and other local services such as local medical services, will be open for consideration. Schools, third level education institutes, and major established health facilities are located within this zone and appropriate expansion of these facilities will be acceptable in principle. The employment policies in Chapter 3 designate particular locations for offices, office based industry, major retailing development and these uses are not generally permitted in this zone (Chapter 3: Enterprise and Employment). New local and neighbourhood centres or expansion of same are open for consideration in this zone provided they meet the criteria for such centres set out in Chapter 4.’

The proposed development site is located within Flood Zones A and B as specified in the *Flood Risk Management Guidelines for Planning Authorities 2009*.

Variation No 5 Student Accommodation

Following the adoption of Variation No. 5 of the City Development Plan on 9th July 2018 the following paragraphs were amended and/or inserted into Chapter 6 of Plan:

Student Accommodation

6.15a In response to housing supply and demand issues, *Rebuilding Ireland, Action Plan for Housing and Homelessness* was published, July 2016. Pillar 4: Improve the Rental Sector, made a commitment to provide national policy to address student housing supply and demand issues. The *National Student Accommodation Strategy* was published in July 2017 to inform national policy on increasing the supply of student accommodation. Key targets include a national increase of 7,000 additional Purpose Built Student Accommodation bed spaces by 2019 and a further increase of 21,000 bed spaces by 2024.

There has been a consistent national growth of student population with a projected national increased demand for Student Accommodation until at least 2024. The student population both nationally and in Cork has significantly increased growing from a full time student population of 19,589 in 2006 to 24,750 in 2016 (an increase of 26%). There is currently an undersupply of purpose built student accommodation in the city. The main source of student accommodation in the city is from the private rental sector in housing stock that has become over concentrated in certain areas. The student housing supply model must follow national policy and enable purpose built student accommodation to become a larger supply source for this specialised housing need in Cork Student rental market.

Objective 6.5 Student Accommodation

In accordance with the National Student Accommodation Strategy, the City Council will support the provision of high quality and managed, purpose built student accommodation, on campus, in areas in close proximity to Third Level Institutes and in locations within easy access of public transport corridors and cycle routes serving Third Level Institutes.

16.68 *The City Council will support the provision of high quality and managed, purpose built student accommodation, on campus, in areas in close proximity to Third Level Institutes and in locations within easy access of public transport corridors and cycle routes serving Third Level Institutes. Chapter 6 Residential Strategy outlines the City Council's policy on student accommodation, referring to the national policy set out in the National Student Accommodation Strategy.*

When assessing planning applications for such developments, the criteria that will be taken into account include:

- *The location and accessibility to Third Level Educational facilities and the proximity to existing or planned public transport corridors and cycle routes;*
- *The scale of development (capacity) and the potential impact on local residential amenities;*
- *The provision of amenity areas and open space, (quality and quantity);*
- *The provision of on-site facilities, including storage facilities, waste management, bicycle facilities, leisure facilities, (retail /café uses), car parking and amenity, (quality and quantity);*
- *The architectural quality of the design having regard to its context, including scale, height, massing, on-site layout and materials. The internal design and layout should be robust and capable of future adaptation and change of use.*
- *Include a Management Plan demonstrating how the scheme will be professionally managed and operated 'year round' (term-time and out -of-term periods).*
- *Demonstrate how the scheme positively integrates with receiving environmental and the local community and creates a positive and safe living environment for students.*
- *Demonstrate adherence to the Minimum Standards for Purpose Built Student Accommodation as outlined in Table 16.5a below.*

16.69 *Student accommodation developments shall only be used for accommodation for students of a tertiary / higher education institute, including residential accommodation that is used as tourist or visitor accommodation only outside of academic term times. Such developments shall not be used as*

permanent residential accommodation or (subject to the above) as a hotel, hostel, apart-hotel or similar use.

Table 16.5a Minimum Standards for Purpose Built Student Accommodation

Description of Development	Minimum Standard (Gross Floor Area)
Shared Unit/house: Minimum 3-bed up to Maximum 8-bed occupancy	55 sq. m.
Single/Double occupancy (self-contained) studio unit with ensuite bathroom and kitchenette/cooking facilities	25 sq. m. (min) 35 sq. m. (max)
Campus located townhouse / own-door Student Accommodation	max of 12 bed spaces per townhouse
Shared kitchen/ living/ dining rooms	4 sq. m. per bed space
Single Study Room (with en-suite shower, toilet and basin)	8 sq. m. (12 sq. m.)
Twin Study Room (with en-suite shower, toilet and basin)	15 sq. m. (18 sq. m.)
Single disabled study bedroom, with en-suite disabled shower, toilet and basin	15 sq. m.
Bathrooms	Either en-suite with study bedrooms/ studio units or to serve a maximum of 3 bed spaces
Car Parking	As per Table 16.8
Cycle Parking Standards	As per Table 16.9
Communal private open Space	5-7 sq. m. per bed space

4. SITE HISTORY

T.P. 16/36931: Permission granted by CCC and subsequently ABP for the construction of student accommodation development (omission of fifth floor by condition).

5. RELEVANT LEGISLATION

Section 2 (1) of Part 1 of the Planning and Development Act, 2000 (as amended) states as follows:-
"In this Act, except where the context otherwise requires –

"development" has the meaning assigned to it by Section 3...

"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, and
 (b) in relation to a protected structure or proposed protected structure, includes –*

(i) the interior of the structure,

(ii) the land lying within the curtilage of the structure,

(iii) any other structures lying within that curtilage or their interiors, and

(iv) all fixtures and features which form part of the interior or exterior of any structure or structures referred to in subparagraph (i) or (iii).

"works" includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal...

"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, where 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'.

Section 3 (1) of Part 1 of the Planning and Development Act, 2000 as amended, states as follows:-
'In this Act, "development" means, except where the context otherwise requires, the carrying out of works on, in, over or under land or the making of any material change in the use of any structures or other land.'

Section 4(1) of Part 1 of the Planning and Development Act, 2000 as amended sets out various forms and circumstances in which development is exempted development for the purposes of the Act.

Section 4(1)(h) of Part 1 of the Planning and Development Act, 2000 as amended states as follows:-
'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 render the appearance inconsistent with the character of the structure or of neighbouring structures'.

Section 4 (2) of the of Part 1 of the Planning and Development Act, 2000 as amended provides that the Minister may, by regulations, provide for any class of development to be exempted development. The principal regulations made under this provision are the Planning and Development Regulations 2001.

Article 6 (1) of these Regulations states as follows:-

'Subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1.'

Article 9 (1) of the Regulations sets out circumstances in which development to which Article 6 relates shall not be exempted development. Article 9 (1) states:-

"Development to which article 6 relates shall not be exempted development for the purposes of the Act –

(a) if the carrying out of such development would -

(i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act;

(viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure the use of which is an unauthorised use.'

Part 2 (Article 5) of the Planning and Development Regulations states as follows:

"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.'

6. ENVIRONMENTAL ASSESSMENT

Screening for Environmental Impact Assessment

Having regard to the contents of Article 103 (as amended by Article 14 of the Planning and Development (Amendment) (No 3) Regulations 2011) and Schedule 7 of the Planning and Development Regulations 2001 (as amended) it is considered that the proposed development by reason of its nature, scale and location would not be likely to have significant effects on the environment. Accordingly it is considered that an environmental impact statement is not required to be submitted.

Screening for Appropriate Assessment

The relevant European sites are the Cork Harbour SPA (Site Code 004030) and the Great Island Channel cSAC (site code 001058). Having regard to its nature, scale and location it is considered that the proposed development would not affect the integrity of the sites referred to. The applicant has submitted an A.A. Screening report which concludes that a Natura impact statement for the purposes of Article 6 of the Habitats Directive is not required to be submitted.

7. PLANNING ASSESSMENT & RECOMMENDATION

Condition 2 of the governing permission T.P. 16/36931 states as follows:

2. This permission is for student accommodation (and ancillary uses, as permitted) only. No permission is granted for any other type of use, and no change of use shall take place – including change of use to other types of residential accommodation – without a prior grant of permission from the planning authority or An Bord Pleanála.

Reason: In order to define the scope of the permission and in order to comply with Objective 6.5 of the Cork City Development Plan 2015-2021.

A further condition was included in the grant of permission – Condition 13 which states as follows:

13. The development hereby permitted shall only be occupied as student accommodation, and for no other purpose, without a prior grant of planning permission for change of use. Such application for permission shall make provision for such additional car parking/communal open space as may be specified by the planning authority.

Reason: In the interest of residential amenity and to limit the scope of the proposed development to that for which the application was made.

I note that student accommodation is defined in the Planning and Development (Housing) and Residential Tenancies Act 2016 as:

(a) means a building or part thereof used or to be used to accommodate students whether or not provided by a relevant provider (within the meaning of Qualifications and Quality Assurance (Education and Training) Act 2012), and that is not for use—

(i) as permanent residential accommodation, or

(ii) subject to paragraph (b), as a hotel, hostel, apart-hotel or similar type accommodation,

and

(b) includes residential accommodation that is used as tourist or visitor accommodation but only if it is so used outside of academic term times;”,

The definition of ‘short term letting’ in the Planning and Development Act (2000) is to be amended by the Residential Tenancies (Amendment) Act 2019 (means the letting of a house or part of a house for any period not exceeding 14 days, and includes a licence that permits the licensee to enter and reside in the house or part thereof for any such period in consideration of the making by any person (whether or not the licensee) of a payment or payments to the licensor.)

The owner of the development should be afforded an opportunity to clarify the nature of the current uses in the property. From research on the internet it is not clear to me whether the property is being used as year round short term letting. I searched Bookings.com for dates in September and October and it is stated not available although dates in August were available (outside of academic year) indicating that short term letting is available as per the definition of student accommodation. The applicant makes reference to other S. 5 references however these appear to relate to cases where standard apartments were used as short term letting.

The person making the S. 5 application has not submitted the relevant application form – this should be also sought.

I therefore recommend that the following Further Information be sought under Section 5(2)(c) of the Act as follows:

FURTHER INFORMATION REQUEST

Please write to the owner of the property as indicated under Item 1 below:

1. ‘Please note that a Section 5 Declaration request (under the Planning and Development Act 2000 (as amended)) has been received by the planning authority relating to Amnis House, Cork. Section 5 provides that if any question arises as to what, in any particular case, is or is not development or is or is not exempted development within the meaning of this Act, any person may request in writing from the relevant planning authority a declaration on that question. The question relates to whether the use of student accommodation at Amnis House for year-round short term letting constitutes a material change of use.

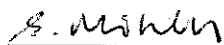
Having regard to the provisions of section 5(2)(c) of the Planning and Development Act 2000, as amended, you are requested to submit the following information to enable the planning authority to issue the declaration on the question:

- *Any information that may assist the Planning Authority in arising at a decision in answering the question in terms of letting arrangements at Amnis House.*
- *Clarification as to whether the building is in use for short term letting accommodation/ any use other than student accommodation and include whether this use is limited to certain times of the year and specify these dates if applicable.*

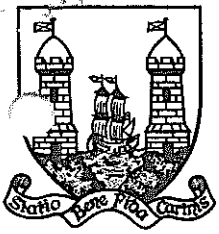
Please ensure that any information you submit is received by the planning authority as expeditiously as possible.

In accordance with section 5(2)(a) of the abovementioned Act, you will be issued with the declaration on the question that has arisen and the main reasons and considerations on which the decision of the planning authority is based.'

2. Please write to Coakley O Neill and request that they submit a completed application form and also advise that we have written to the owners requesting clarification on the current use.



Evelyn Mitchell,
Senior Executive Planner
12.06.2019



Comhairle Cathrach Chorcaí Cork City Council

Halla na Cathrach, Corcaigh - City Hall, Cork - T12 T997

Lynda O'Kelly
Area Manager
Amnis House,
Western Road,
Cork, T12 E2RF

17/06/19

Re.: Current use of Amnis House

A Chara,

Please note that a Section 5 Declaration request R515/19 (under the Planning and Development Act 2000 (as amended)) has been received by the planning authority relating to Amnis House, Cork. Section 5 provides that if any question arises as to what, in any particular case, is or is not development or is or is not exempted development within the meaning of this Act, any person may request in writing from the relevant planning authority a declaration on that question. **The question relates to whether the use of student accommodation at Amnis House for year-round short term letting constitutes a material change of use.**

Having regard to the provisions of section 5(2)(c) of the Planning and Development Act 2000, as amended, you are requested to submit the following information to enable the planning authority to issue the declaration on the question:

- Any information that may assist the Planning Authority in arising at a decision in answering the question in terms of letting arrangements at Amnis House.
- Clarification as to whether the building is in use for short term letting accommodation/ any use other than student accommodation and include whether this use is limited to certain times of the year and specify these dates if applicable.

Please ensure that any information you submit is received by the planning authority as expeditiously as possible.

In accordance with section 5(2)(a) of the abovementioned Act, you will be issued with the declaration on the question that has arisen and the main reasons and considerations on which the decision of the planning authority is based.

Mise, le meas,



We are Cork.

Paul Hartnett
Assistant Staff Officer
Community, Culture and Placemaking

COMHAIRLE CATHRACH CHORCAÍ
CORK CITY COUNCIL

Strategic Planning & Economic Development Directorate,
Cork City Council, City Hall, Anglesea Street, Cork.

R-Phost/E-Mail planning@corkcity.ie
Fón/Tel: 021-4924564/4321
Líonra/Web: www.corkcity.ie

SECTION 5 DECLARATION APPLICATION FORM
under Section 5 of the Planning & Development Acts 2000 (as amended)

1. POSTAL ADDRESS OF LAND OR STRUCTURE FOR WHICH DECLARATION IS SOUGHT

AMNUS HOUSE, WESTERN ROAD, CORK T12 E2RF

2. QUESTION/ DECLARATION DETAILS

PLEASE STATE THE SPECIFIC QUESTION FOR WHICH A DECLARATION IS SOUGHT:

Sample Question: Is the construction of a shed at No 1 Wall St, Cork development and if so, is it exempted development?

Note: only works listed and described under this section will be assessed under the section 5 declaration.

SEE ATTACHED REPORT

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:

(Use additional sheets if required).

SEE ATTACHED REPORT

3. APPLICATION DETAILS

Answer the following if applicable. Note: Floor areas are measured from the inside of the external walls and should be indicated in square meters (sq. M)

(a) Floor area of existing/proposed structure/s	N/A
(b) If a domestic extension, have any previous extensions/structures been erected at this location after 1 st October, 1964, (including those for which planning permission has been obtained)?	Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, please provide floor areas. (sq m) N/A
(c) If concerning a change of use of land and / or building(s), please state the following:	
Existing/previous use (please circle)	Proposed/existing use (please circle)
STUDENT ACCOMMODATION	YEAR-ROUND SHORT-TERM LETTING

4. APPLICANT/ CONTACT DETAILS

Name of applicant (principal, not agent):	IRISH HOTELS FEDERATION		
Applicants Address	13 NORTHBROOK ROAD DUBLIN 6 D06 PK18		
Person/Agent acting on behalf of the Applicant (if any):	Name:	AIDEN O'NEILL	
	Address:	CORLETT O'NEILL TOWN PLANNING LTD, NSC CAMPUS, MATHS CORAL	
	Telephone:		
	Fax:		
	E-mail address:		
Should all correspondence be sent to the above address? <small>(Please note that if the answer is 'No', all correspondence will be sent to the Applicant's address)</small>	Yes	<input checked="" type="checkbox"/>	<input type="checkbox"/>

5. LEGAL INTEREST

Please tick appropriate box to show applicant's legal interest in the land or structure	A. Owner	B. Other <input checked="" type="checkbox"/>
Where legal interest is "Other", please state your interest in the land/structure in question	AS THE NATIONAL ORGANISATION OF THE HOTEL & GUESTHOUSE SECTOR, THE IHA REPRESENTS OVER 40 PROPERTIES IN THE GRR AREA.	
If you are not the legal owner, please state the name and address of the owner if available	GSA DEVELOPMENTS (IRELAND) LTD FITZWILLIAM HOUSE, 10 PEMBROKE ST UPPER, DUBLIN 2	

6. I / We confirm that the information contained in the application is true and accurate:

Signature: Adrian O'Sullivan

Date: 23rd APRIL 2019

.....

ADVISORY NOTES:

The application must be accompanied by the required fee of €80

The application should be accompanied by a site location map which is based on the Ordnance Survey map for the area, is a scale not less than 1:1000 and it shall clearly identify the site in question.

Sufficient information should be submitted to enable the Planning Authority to make a decision. If applicable, any plans submitted should be to scale and based on an accurate survey of the lands/structure in question.

The application should be sent to the following address:

The Development Management Section, Strategic Planning & Economic Development
Directorate, Cork City Council, City Hall, Anglesea Street, Cork.

- The Planning Authority may require further information to be submitted to enable the authority to issue the declaration.
- The Planning Authority may request other person(s) other than the applicant to submit information on the question which has arisen and on which the declaration is sought.
- Any person issued with a declaration may on payment to An Bord Pleanála refer a declaration for review by the Board within 4 weeks of the date of the issuing of the declaration.
- In the event that no declaration is issued by the Planning Authority, any person who made a request may on payment to the Board of such a fee as may be prescribed, refer the question for decision to the Board within 4 weeks of the date that a declaration was due to be issued by the Planning Authority.

The application form and advisory notes are non-statutory documents prepared by Cork City Council for the purpose of advising as to the type information is normally required to enable the Planning Authority to issue a declaration under Section 5. This document does not purport to be a legal interpretation of the statutory legislation nor does it state to be a legal requirement under the Planning and Development Act 2000 as amended, or Planning and Development Regulations 2001 as amended.

DATA PROTECTION

The use of the personal details of planning applicants, including for marketing purposes, may be unlawful under the Data Protection Act 1988-2003 and may result in action by the Data Protection Commissioner against the sender, including prosecution



Comhairle Cathrach Chorcaí
Cork City Council
03 JUL 2019
Strategic Planning & Economic
Development Directorate

2nd July 2019

Paul Hartnett,
Assistant Staff Officer,
Community, Culture and Placemaking,
Cork City Council,
City Hall,
Cork.
T12 T997.

Re: Current use of 'Amnis House', Western Road, Cork.

Dear Sir,

We McCutcheon Halley, 6 Joyce House, Barrack's Square, Ballincollig, Co. Cork act on behalf our client Western Road Student Ireland Ltd – Irish Student Fund (Cork) IV with an address at Davy House, 49 Dawson Street, Dublin 2 and wish to respond to your letter addressed to Lynda O'Kelly, Area Manager of Amnis House dated June 17th last.

As you will be aware, the declaration sought by the Irish Hotels Federation (IHF) c/o Coakley O'Neill Planning Consultants, seeking a determination as to whether "*the use of the existing student accommodation at 'Amnis House', Western Road, Cork for year-round short term letting is or is not development, and is or is not exempted development*" has not been referred to An Bord Pleanála. I attached our response that has been submitted to the Board. As outlined in the attached response, the use of the existing student accommodation at 'Amnis House' on Western Road, has never been used for year-round short term letting and our client has no intention of using the existing student accommodation at Amnis House, for year-round short term letting.

We trust that this submission and the attached response to the Board, will be taken in to account in the consideration by the City Council. Please do not hesitate to contact us should you require any further information.

Yours sincerely,

McCutcheon Halley
Chartered Planning Consultants

Encl. 1) Response to An Bord Pleanála Referral Ref. 304692-19.

www.mhplanning.ie

McCutcheon Halley is a limited partnership registered under the Limited Partnerships Act, 1907, registration no. 1P512. Registered in Ireland No. 326490. Registered office: 6 Joyce House, Barrack Square, Ballincollig, Co. Cork. Directors: Brian McCutcheon, BA(Econ) DipTP DipGIS MIP (Chairman), Tom Halley, BA(Hon), MRUP BSc ARCH(Hons) Cert. Civil Eng. MIP.

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The Secretary,
 An Bord Pleanála,
 64 Marlborough Street,
 Dublin 1.

2nd July 2019

Re: An Bord Pleanála Referral Ref. 304692-19: Whether the use of the existing student accommodation at ‘Amnis House’, Western Road, Cork for “year-round short term letting” is or is not development/exempted development.

Dear Sir/Madam,

We McCutcheon Halley, 6 Joyce House, Barrack’s Square, Ballincollig, Co. Cork act on behalf our client Western Road Student Ireland Ltd – Irish Student Fund (Cork) IV¹ with an address at Davy House, 49 Dawson Street, Dublin 2 and wish to respond to the third party referral under Section 5 of the Planning and Development Act, 2000, (as amended) by Irish Hotels Federation (IHF) c/o Coakley O’Neill Planning Consultants, seeking a determination as to whether “*the use of the existing student accommodation at ‘Amnis House’, Western Road, Cork for year-round short term letting is or is not development, and is or is not exempted development.*”

As outlined in their submission, the 304692-19 referral to An Bord Pleanála followed a section 5 declaration submitted to Cork City Council (Ref. R515/19) which was not determined within the four week period and was therefore referred on to the Board for determination.

At the outset it is important to point out that the use of the existing student accommodation at ‘Amnis House’ on Western Road, has never been used for year-round short term letting and our client has no intention of using the existing student accommodation at Amnis House, for year-round short term letting. On this basis the referral is seeking clarification on a hypothetical and totally irrelevant question. As we will outline in Section 1 of this response, we believe that the referral should be dismissed under Section 138(1) of the Planning and Development Act (as amended).

1 Grounds for referral to be dismissed

Under Section 138(1) of the Planning and Development Act (PDA) 2000, as amended, the Board may dismiss referrals if they are of the opinion that the referral is without substance or foundation or where the Board is satisfied that it should not be further considered having regard to the nature of the referral.

¹ Uninest Student Residences are the current Operational Managers.

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McCUTCHEON HALLEY is a limited partnership registered under the Limited Partnerships Act, 1997, registration no. 1P512. Registered in Ireland No. 326490. Registered office: 6 Joyce House, Barrack Square, Ballincollig, Co. Cork. Directors: Brian McCutcheon, BA(fcon) DipTP DipGIS MIP (Chairman), Tom Halley, BA(Hon), MRUP RSt ARCH(Hons) Cert. Civil Eng. MIP.

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Specifically, under Section 138(1)(a)(i) the Board has an absolute discretion to dismiss a referral where, having considered the grounds of the referral, the Board is of the opinion that it is without substance or foundation. Furthermore, under Sections 138(1)(b)(i) and 138(1)(b)(ii) the Board can determine that a referral should not be considered further having regard to the nature or question raised in the referral or having regard to any planning permission which the Board considers relevant. The full wording of section 138(1) of the PDA is as follows:

“138(1) The Board shall have an absolute discretion to dismiss an appeal or referral —

(a) where, having considered the grounds of appeal or referral or any other matter to which, by virtue of this Act, the Board may have regard in dealing with or determining the appeal or referral, the Board is of the opinion that the appeal or referral—

- (i) is vexatious, frivolous or without substance or foundation, or
- (ii) is made with the sole intention of delaying the development or the intention of securing the payment of money, gifts, consideration or other inducement by any person,²

or

(b) where, the Board is satisfied that, in the particular circumstances, the appeal or referral should not be further considered by it having regard to —

- (i) *the nature of the appeal (including any question which in the Board's opinion is raised by the appeal or referral), or*
- (ii) *any previous permission which in its opinion is relevant.”*

We believe that this referral should be dismissed in accordance with Section 138(1)(a)(i) and/or Sections 138(1)(b)(i) and (ii) for the following reasons:

1. The referral is without substance or foundation - Section 138(1)(a)(i);
2. The question raised in the referral is completely hypothetical and irrelevant - Section 138(1)(b)(i); and
3. The permission granted by the Board under ABP Ref. 28.247182 - Section 138(1)(a)(ii).

Each of these criteria is dealt with in greater detail as follows:

1.1 The referral is without substance or foundation

In accordance with section 138(1)(a)(i) of the PDA the Board can dismiss a referral if it is without substance or foundation. In this instance the referral seeks a determination as to whether the use of the existing student accommodation at Amnis House for “year-round short term letting” is or is not development/exempted development. This referral has been sought despite the fact that Amnis House has never been used for year-round short term letting and despite the fact that our client has no intention using the existing student accommodation for year-round short term letting.

The referral provides no evidence that Amnis House is available or being used for year-round short term letting. In fact, the only information that is provided, completely undermines the question sought in this referral – see Section 2.1 of this submission.

² Substituted (17.10.2006) by Planning and Development (Strategic Infrastructure) Act 2006 (27/2006), s. 24, S.I. No. 525 of 2006.

On this basis, it is submitted that the referral is without substance or foundation and should be dismissed in accordance with section 138(1)(a)(i) of the PDA.

1.2 The question raised in the referral is completely hypothetical and irrelevant

In accordance with section 138(1)(b)(i) of the PDA, the Board can determine that a referral should not be further considered having regard to the question raised by the referral. As already outlined in this submission, this referral seeks a determination regarding the use of the existing student accommodation at Amnis House for "year-round short term letting" despite the fact that Amnis House has never been used for year-round short term letting and despite the fact that our client has no intention using the existing student accommodation for year-round short term letting.

The question raised in the referral is therefore, completely hypothetical and irrelevant and its consideration is a misuse of the Board's time and resources. In accordance with section 138(1)(b)(i) of the PDA, it is submitted that there is no valid reason or justification why the Board should be required to determine this referral further.

1.3 The permission granted by the Board under ABP Ref. 28.247182 - Section 138(1)(a)(ii).

As outlined in Section 2.2 of this submission, the existing student accommodation use of Amnis House was permitted under An Bord Pleanála ref. 28.247182. Under Section 13(d) of the 2016 Planning and Development (Housing) and Residential Tenancies Act (PDRTA) "student accommodation" use includes "*residential accommodation that is used as tourist or visitor accommodation but only if it is so used outside of academic term times*". As we will demonstrate in Section 2.1 of this submission, Amnis House is available for short term letting for tourist/visitor accommodation outside of academic term times only. This is entirely consistent with the permission granted under ABP ref. 28.247182 and the definition of "student accommodation" under Section 13(d) of the PDRTA.

Having regard to the 28.247182 permission, and our clients' compliance with that permission, it is submitted this referral should not be further considered in accordance with section 138(1)(b)(ii) of the 2000 PDA.

2 Response to the Issues raised in the Referral by IHF

Despite our genuine concerns regarding the substance and content of this referral, we will respond to the issues raised in the referral submitted to the Board, in the event that the Board decides to determine the referral in full. The issues raised in the referral are summarised as follows:

- Amnis House has never been used for year-round short term letting and our client has no intention of using the existing student accommodation for year-round short term letting;
- The use of the existing student accommodation at Amnis House as tourist/visitor accommodation outside of academic term times is consistent with Section 13(d) of the Planning and Development (Housing) and Residential Tenancies Act 2016 and therefore is not development.

2.1 Amnis House is not being used for year-round short term letting

As already outlined in this submission, our clients' student accommodation at Amnis House on Western Road, has never been used for year-round short term letting and our client has no intention of using the existing student accommodation for year-round short term letting. Despite this fact and in seeking to justify the referral, the referral made on behalf of the IHF includes excerpts from Booking.com and Expedia websites – however the excerpts provided support the fact that Amnis House is only available and being used for visitor accommodation outside of academic term times.

The case presented to the Board relies upon the facility in Booking.com which allows guests to seek or book accommodation outside of academic times i.e. "since 1 Feb 2019", however the **accommodation itself is only available outside of the academic year during the months of June, July and August**. It goes without saying that people will obviously book accommodation in advance of these months, so while a prospective visitor/tourist can book accommodation on 1st February (or on another date during the academic year), the accommodation that they can book will only be available outside of the academic year. This is demonstrated by the screen shots below, where it shows that Amis House is not available for visitor/tourist accommodation outside of academic term times.

The screenshot shows the Expedia.ie page for Amnis House, Cork. The URL is <https://www.expedia.ie/Amnis-House.h35105235.Hotel-Information?1=Amnis-House.8?Hotel-Information&chkin=6%2F4%2F2020&chkout=12%2F4%2F2020>. The page features a large photo of the building, a 'Choose your room' section with a message: "Your dates are popular! Rooms are unavailable for your trip dates on Expedia. Try new dates to check availability." Below this is a search bar with check-in date 8 Apr and check-out date 12 Apr. The 'About this area' section lists nearby landmarks like University College Cork and Saint Fin Barre's Cathedral. The 'What's nearby' section lists nearby landmarks like Marcy University Hospital, English Market, University College Cork, Fitzgerald Park, and Saint Fin Barre's Cathedral.

Figure 1: Extract from Expedia.ie confirming unavailability of accommodation in April

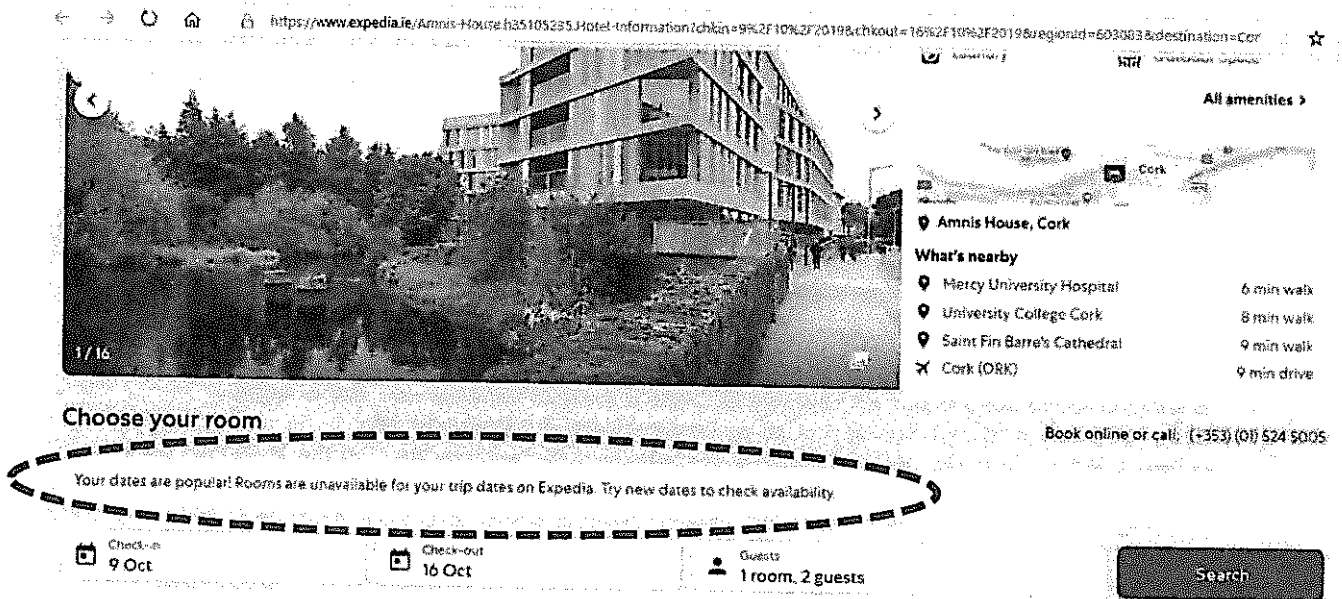


Figure 2: Extract from Expedia.ie confirming unavailability of accommodation in October

As can be seen from Figures 1 and 2, when accommodation is sought during the academic term, the Expedia.ie website confirms the unavailability of Amnis House for short term letting – this is because **the building is being used for student accommodation at this time.**

In relation to the Booking.com website, when a booking or accommodation is sought during the academic term, the website doesn't inform the user that the accommodation is unavailable, the page simply reloads with other accommodation options i.e. **with dates that are outside of the academic term.**

A review of both Expedia.ie and Booking.com websites confirms the unavailability of Amnis House for short term letting during the academic year and completely undermines the referral sought by IHF that the existing student accommodation at Amnis House is being used for year-round short term letting.

In considering this referral it is also important to point out that page 16 of the referral includes a guest review which confirms that the visitor stayed in Amnis House in **"June 2019"** i.e. outside of the academic term. Furthermore, the review refers to Amnis House as specifically being a student accommodation development.

Section 3.3 of the referral refers to a Circular letter (PL12/2016) by the Dept. of Planning, Housing and Local Government relating to the use of a "residential apartment for short term holiday lettings" and a Circular letter (PL10/2017) issued by the Dept. in 2017 relating to the use of a "house for overnight accommodation" – both of which have no relevance to this referral or to the use of student accommodation for tourist/visitor accommodation outside of academic term times.

Section 7.0 of the referral goes on to state that the applicants Operational Management Plan (OMP) submitted to Cork City Council, states that the student accommodation would be available from June to August to students who wish to stay on over the summer months and those on summer courses – the availability of

Amnis House for students outside of the academic term remains the case, however this does not preclude the use of the premises for tourist/visitor accommodation outside of academic term times in accordance with Section 13(d) of the 2016 PDRTA. The referral also overlooks the fact that on page 4 of that same OMP it is confirmed that it is and was always intended to accommodate tourists/visitors outside of academic term times (i.e. June to August) in line with the 2016 PDRTA:

Summer Letting

In line with the Planning and Development (Housing) and Residential Tenancies Act 2016 'student accommodation' is defined as a building used to accommodate students, but also includes residential accommodation that is used as tourist or visitor accommodation outside of academic term times.

In line with the definition of student accommodation included in the 2016 Act and as the length of the academic year means that rooms can be available outside of term times/over the summer months, it is intended to accommodate tourists and other visitors outside of academic term times from June to August – this will be subject to the same management and operational procedures outlined in this MP.

Figure 3: Extract from the OMP submitted in Compliance with Condition No. 7 of the 28.247182 permission

This referral therefore, provides no evidence that Amnis House has ever been used for year-round short term letting. However, the material/information submitted in the referral does confirm/acknowledge that:

- The principal and permitted use of Amnis House is student accommodation;
- There is no evidence of Amnis House being use for "year-round short term letting";
- Amnis House is available and is being used for tourist/visitor accommodation outside of academic term times only.

2.2 The use of Amnis House as tourist/visitor accommodation outside of academic term times is not development

As our clients' property at Amnis House is not used for "year-round" short term letting and is used for tourist/visitor accommodation outside of the academic year only, it is respectfully suggested that if the Board decides to consider this referral further, the relevant Section 5 question should relate to the use of the existing student accommodation at Amnis House, Western Road as tourist/visitor accommodation outside of academic term times.

In the context of this question, it is important to point out that permission was granted by An Bord Pleanála for the student accommodation on our clients' site on January 11th 2017 for 28 no. student accommodation apartments with reception, management facilities, substation, plant room and landscaping/amenity areas, subject to 17 no. conditions (Case reference: PL28.247182). Condition no. 2 of the Board's decision states that:

*"This permission is for student accommodation (and ancillary uses, as permitted) only. No permission is granted for any other type of use, and no change of use shall take place – including change of use to other types of residential accommodation – without a prior grant of permission from the planning authority or An Bord Pleanála."*³

Conditions no. 13 of the Board's decision states that:

³ The reason for the condition was: "In order to define the scope of the permission and in order to comply with Objective 6.5 of the Cork City Development Plan 2015-2021."



*"The development hereby permitted shall only be occupied as student accommodation, and for no other purpose, without a prior grant of planning permission for change of use. Such application for permission shall make provision for such additional car parking/communal open space as may be specified by the planning authority."*⁴

Following the Board's decision to grant permission, the development was completed in accordance with the plans and particulars submitted to the planning authority – see Figure 4.



Figure 4: Existing Student Accommodation at Amnis House, Western Road, Cork.

In order to assess whether or not the use of the existing student accommodation at Amnis House as tourist/visitor accommodation outside of academic term times is or is not development, regard must be had to planning legislation and regulations and in particular the 2016 Planning and Development (Housing) and Residential Tenancies Act (PDRTA). Under Section 13(d) of the 2016 Act, where "student accommodation" is defined as follows:

" student accommodation —

(a) means a building or part thereof used or to be used to accommodate students whether or not provided by a relevant provider (within the meaning of Qualifications and Quality Assurance (Education and Training) Act 2012), and that is not for use—

(i) as permanent residential accommodation, or

(ii) subject to paragraph (b), as a hotel, hostel, apart-hotel or similar type accommodation,
and

⁴ The reason for the condition was: "s."

(b) includes residential accommodation that is used as tourist or visitor accommodation but only if it is so used outside of academic term times (emphasis added).

Based on the above provisions, and given the permitted student accommodation use of Amnis House, it is clear from Section 13(d) of the 2016 Act that the use of the existing student accommodation at Amnis House for tourist/visitor accommodation outside of academic term times, falls within the definition of student accommodation use and therefore **is not development and accordingly the question of exempted development does not arise**.

While condition no.s 2 of the Board's (PL28.247182) decision stated that the permission is for student accommodation and ancillary uses only and that "no permission is granted for any other type of use, and no change of use shall take place – including change of use to other types of residential accommodation – without a prior grant of permission from the planning authority or An Bord Pleanála" and while condition no. 13 states that "the development hereby permitted shall only be occupied as student accommodation, and for no other purpose, without a prior grant of planning permission for change of use" – both conditions explicitly refer to the permitted use as being for **student accommodation**. The meaning of student accommodation is now defined under section 13(d) of the 2016 Act and includes "residential accommodation that is used as tourist or visitor accommodation but only if it is so used outside of academic term times" – we can confirm that the use of Amnis House for tourist/visitor accommodation **is only outside of academic term times** and therefore complies with section 13(d) of the 2016 Act.

While we don't believe that condition no.s 2 and 13 preclude the use of Amnis House for tourist or visitor accommodation outside of academic term times, it is important to point out that conditions which restrict the carrying out of works or uses which would not normally be considered development or which would normally be considered exempted development, is not in accordance with planning legislation and regulations. Scannell (1995) and case law precedents make it absolutely clear that unless there is clear evidence that the uses excluded/restricted by way of condition would have serious adverse effects on the environment or on amenity which is not susceptible to other control, the imposition of such conditions are unreasonable:

"A planning authority or An Bord Pleanála may validly grant planning permission subject to a condition which restricts the carrying out of works or uses which would otherwise be exempted development under the (Planning) Regulations... In the UK, the Secretary of State, in Circular 13/87, stated that there is a presumption against conditions designed to restrict future changes of use which would not otherwise constitute development. Unless there is clear evidence that the excluded uses would have serious adverse effects on the environment or on amenity which is not susceptible to other control, the Secretary of State will consider the imposition of such conditions to be unreasonable. No such indication has been given to Irish planning authorities but the principles underlying the Secretary of State's statement are even more important here where restrictions on property rights should be narrowly construed."

In considering this referral, it is important to state that the nature and extent of the permitted student accommodation will not be affected; there is no material alteration to the existing premises; there is no adverse effects on the environment or on amenities of the area; the use is consistent with the zoning of the area (see Figure 5); there is no change or intensification of use involved; and there are no physical works required to facilitate the use of the premises for tourist/visitor accommodation outside of the academic year.

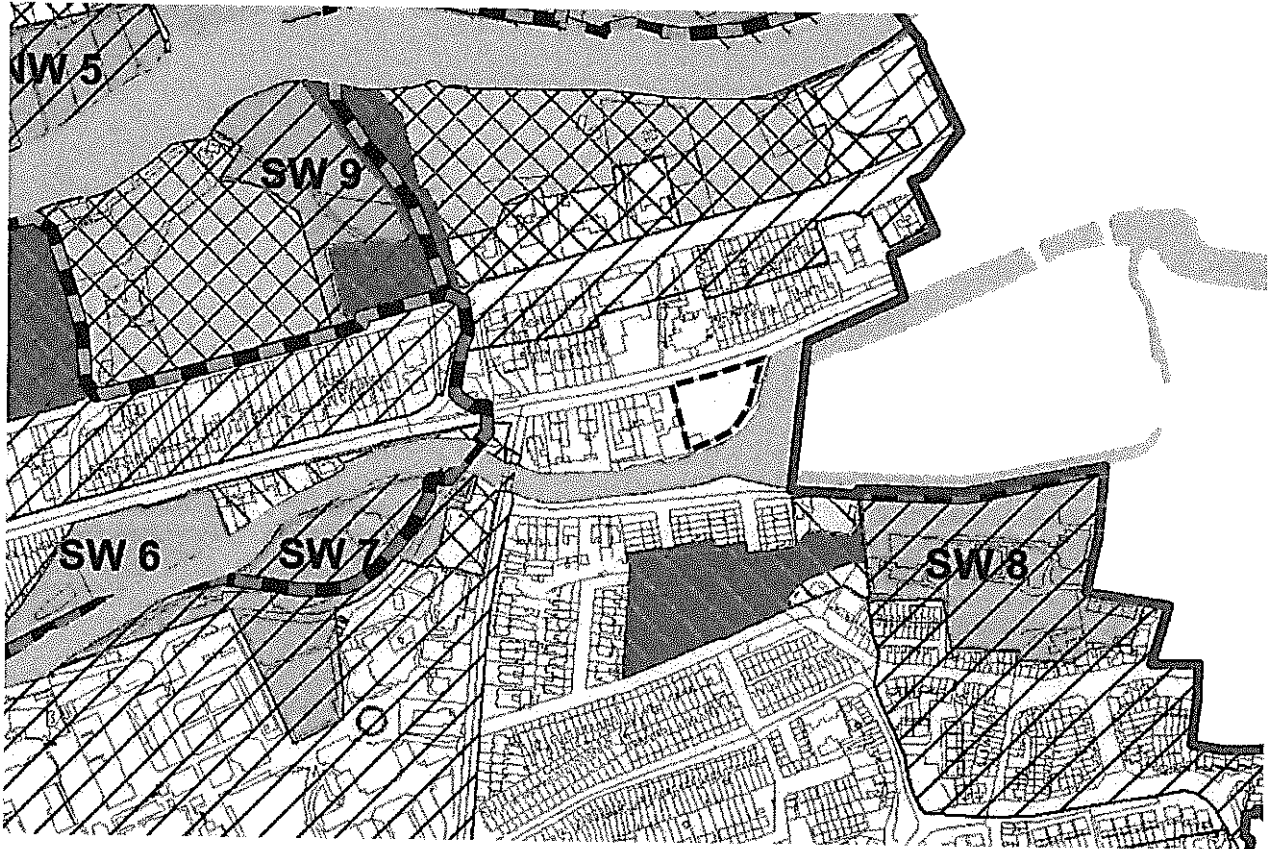


Figure 5: Site of Amnis House (outlined in dashed red line) in the context of the current zoning map.

Based on the above and given the permitted student accommodation use of the site, it is clear from the PDRTA that the use of the existing student accommodation at Amnis House on Western Road, as tourist/visitor accommodation outside of academic term times is not development and accordingly the question of exempted development does not arise.

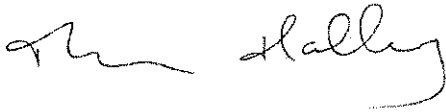
5.0 Conclusion

As the existing student accommodation at Amnis House has never been used for year-round short term letting and as our client has no intention of using the existing student accommodation at Amnis House, for year-round short term letting, this referral is seeking clarification on a hypothetical and totally irrelevant question and in our opinion should be dismissed and/or not considered further.

If the Board decides to consider this referral further, the relevant Section 5 question should relate to whether the use of the existing student accommodation at Amnis House as tourist/visitor accommodation outside of academic term times, is or is not development. In the context of this question, it is clear from the PDRTA that the use of the existing student accommodation at Amnis House on Western Road, as tourist/visitor accommodation outside of academic term times is not development and accordingly the question of exempted development does not therefore arise.

We trust that this submission will be taken in to account in the consideration of this referral. Please do not hesitate to contact us should you require any further information.

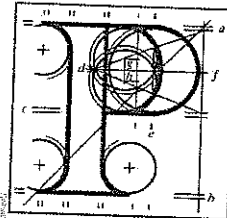
Yours sincerely,



McCutcheon Halley
Chartered Planning Consultants

Our Case Number: ABP-304692-19

Planning Authority Reference Number: R 515/19



An
Bord
Pleanála



Cork City Council
City Hall
Anglesea Street
Cork

16 OCT 2019

Re: Whether the use of student accommodation at Annis House, Western Road, Cork, for year-round short term letting is or is not development or is or is not exempted development.
Annis House, Western Road, Cork

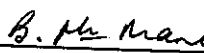
Dear Sir / Madam,

An order has been made by An Bord Pleanála determining the above-mentioned referral under the Planning and Development Acts 2000 to 2019. A copy of the order is enclosed.

In accordance with section 146(5) of the Planning and Development Act 2000, as amended, the Board will make available for inspection and purchase at its offices the documents relating to any matter falling to be determined by it, within 3 days following the making of its decision. The documents referred to shall be made available for a period of 5 years, beginning on the day that they are required to be made available. In addition, the Board will also make available the Inspector's Report, the Board Direction and Board Order in respect of the matter on the Board's website (www.pleanala.ie). This information is normally made available on the list of decided cases on the website on the Wednesday following the week in which the decision is made.

The Public Access Service for the purpose of inspection/purchase of file documentation is available on weekdays from 9.15am to 5.30pm (including lunchtime) except on public holidays and other days on which the office of the Board is closed.

Yours faithfully,


Brid McManus
Executive Officer

RL100n

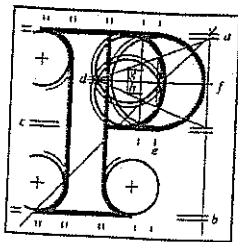
Teil
Glao Áitiúil
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D01 V902

64 Marlborough Street
Dublin 1
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An
Bord
Pleanála

Board Order
ABP-304692-19

Planning and Development Acts 2000 to 2019

Planning Authority: Cork City Council

Planning Register Reference Number: R 515/19

WHEREAS a question has arisen as to whether the use of student accommodation for year-round short term letting at Amnis House, Western Road, Cork is or is not development or is or is not exempted development:

AND WHEREAS Irish Hotels Federation care of Coakley O'Neill Town Planning of NSC Campus, Mahon, Cork requested a declaration on this question from Cork City Council and no declaration issued by the planning authority:

AND WHEREAS Irish Hotels Federation referred this question for decision to An Bord Pleanála on the 14th day of June, 2019:

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) section 138 of the Planning and Development Act 2000, as amended,
- (c) Articles 6, 9 and 10 of the Planning and Development Regulations, 2001, as amended,
- (d) Part 2 of the Planning and Development (Housing) and Residential Tenancies Act 2016, and in particular the definition of "student accommodation" as set out in Section 13(d) of that Act,
- (e) the planning history of the subject site and in particular planning permission register reference number 16/36931 (An Bord Pleanála appeal reference number PL 28.247182) and conditions numbers 2 and 13 of that permission, and
- (f) the documentation on file, including submissions from the referrer and from the owner/occupier, and the Inspector's report:

AND WHEREAS An Bord Pleanála has concluded that -


- (a) the authorised use of the subject premises is for student accommodation, in accordance with the terms and conditions of planning permission register reference number 16/36931 (An Bord Pleanála appeal reference number PL 28.247182),
- (b) the use of the subject premises for year-round short term letting would not be consistent with the permitted use, having regard to the statutory definition of student accommodation and having regard to conditions numbers 2 and 13 of that permission,
- (c) the use of the subject premises for year-round short term letting would represent a change of use from the permitted use, and such change of use would raise material issues relevant to the proper planning and sustainable development of the area, including differing levels of pedestrian and vehicular traffic, including demand for additional car parking, and the potential for impacts on residential amenity in terms of noise and opening hours and would constitute a material change of use, and would, therefore, be development,
- (d) there are no provisions, in the Planning and Development Act and Regulations made thereunder, whereby such development would constitute exempted development, and in any event, any exemption that might be argued to exist would be restricted in this instance under Article 9 (1)(a)(i) of the Planning and Development Regulations, 2001, as amended, by reason of conditions numbers 2 and 13 of planning permission register reference number 16/36931 (An Bord Pleanála appeal reference number PL 28.247182), which limit the use of the subject premises to use as student accommodation and for no other purpose, and

- (e) however, for clarity, it is considered that the use of the subject premises for short-term letting as tourist or visitor accommodation, where such use takes place solely outside of academic term times, would be consistent with the authorised use of these premises and within the scope of the definition of "student accommodation" as defined in Section 13 (d) of the Planning and Development (Housing) and Residential Tenancies Act 2016, as amended, and, therefore, would not represent a change of use from the authorised use, and would not be development:

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5 (3) (b) of the 2000 Act, hereby decides that the use of student accommodation for year-round short term letting at Amnis House, Western Road, Cork is development and is not exempted development.

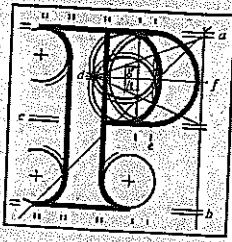
Matters Considered

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.



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

Dated this 15th day of *October* 2019.



An
Bord
Pleanála

**Board Direction
ABP-304692-19**

The submissions on this file and the Inspector's report were considered at a Board meeting held on October 10th, 2019.

The Board decided, as set out in the following Order, that the use of student accommodation at Amnis House, Western road, Cork for year-round short term letting is development and is not exempted development.

Board Order as follows:-

WHEREAS a question has arisen as to whether the use of student accommodation at Amnis House, Western road, Cork for year-round short term letting is or is not development or is or is not exempted development.

AND WHEREAS Irish Hotels Federation, c/o Coakley O'Neill Town Planning of NSC Campus, Mahon, Cork, requested a declaration on this question from Cork City Council, but the Council failed to make a determination within the statutory period.

AND WHEREAS Irish Hotels Federation referred this question for determination to An Bord Pleanála, on the 14th day of June 2019.

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

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- (b) Section 138 of the Planning and Development Act 2000, as amended,
- (c) Articles 6, 9 and 10 of the Planning and Development Regulations 2001, as amended
- (d) Part 2 of the Planning and Development (Housing) and Residential Tenancies Act 2016, and in particular the definition of "student accommodation" as set out in Section 13(d) of that Act,
- (e) The planning history of the subject site and in particular planning permission register reference number 16/36931 (An Bord Pleanála reference number PL28.247182) and condition numbers 2 and 13 of that permission, and
- (f) The documentation on file, including submissions from the referrer and from the owner/occupier, and the Inspector's report.

AND WHEREAS An Bord Pleanála has concluded that:

- (a) The authorised use of the subject premises is for student accommodation, in accordance with the terms and conditions of planning permission register reference number 16/36931 (An Bord Pleanála reference number PL28.247182);
- (b) The use of the subject premises for year-round short term letting would not be consistent with the permitted use, having regard to the statutory definition of student accommodation and having regard to condition numbers 2 and 13 of that permission;

- (c) The use of the subject premises for year-round short term letting would represent a change of use from the permitted use, and such change of use would raise material issues relevant to the proper planning and sustainable development of the area, including differing levels of pedestrian and vehicular traffic, including demand for additional car parking, and the potential for impacts on residential amenity in terms of noise and opening hours and would constitute a material change of use, and would, therefore, be development.
- (d) There are no provisions, in the Planning and Development Act and Regulations made thereunder, whereby such development would constitute exempted development, and in any event, any exemption that might be argued to exist would be restricted in this instance under Article 9 (1)(a)(i) of the Planning and Development regulations, 2001, as amended, by reason of conditions number 2 and 13 of planning permission register reference number 16/36931 (An Bord Pleanála reference number PL28.247182), which limit the use of the subject premises to use as student accommodation and for no other purpose.
- (e) However, for clarity, it is considered that the use of the subject premises for short-term letting as tourist or visitor accommodation, where such use takes place solely outside of academic term times, would be consistent with the authorised use of these premises and within the scope of the definition of "student accommodation" as defined in Section 13 (d) of the Planning and Development (Housing) and Residential Tenancies Act 2016, as amended, and therefore would not represent a change of use from the authorised use, and would not be development.

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by Section 5 (3)(b) of the Planning and Development Act, 2000, as amended, hereby decides that the use of student accommodation at Amnis House, Western Road,

Cork for year-round short term letting is development and is not exempted development.

Note 1. The Board concurred with the Inspector and decided not to dismiss the referral, as requested by the owner/occupier, as Section 5 of the Act provides for the determination of "any question" that has arisen in a particular case and accordingly it is legitimate to consider a hypothetical question, and the Board did not consider that the referral was without substance or foundation, but rather raised a significant issue.

Note 2. In reaching its decision, the Board did not accept the recommendation of the Inspector to re-word the question from the wording that had been posed by the referrer, as this fundamentally altered the nature of the issue raised. Accordingly, the Board considered the question as it had been submitted, which related to year-round short term letting, and therefore differed from the conclusion reached by the Inspector. However, the Board also decided, for clarity, and having regard to the content of the submission made by the owner/occupier, to decide whether the use of the subject premises for short term letting as tourist or visitor accommodation, solely outside of academic term times, would or would not be development.

[Please issue a copy of this Direction to the parties with the Board Order.]

Board Member


Philip Jones

Date: 10th October 2019

Paul

From: Deirdre Kiernan [<mailto:Deirdre@coakleyoneill.ie>]
Sent: 12 June 2019 11:19
To: Paul Hartnett
Subject: RE: Section 5

Hi Paul,

Ok. Would you know if there is a reference number on your system?
Nothing has been updated on the website.

Kind regards,

Deirdre

Coakley O'Neill Town Planning Ltd
NSC Campus
Mahon
Cork
T12 XY2N



T: +353 (0)21 2307018
F: +353 (0)21 2307047
E: deirdre@coakleyoneill.ie
W: www.coakleyoneill.ie

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Having regard to the General Data Protection Regulation ("GDPR"), which came into effect on 25 May 2018, and which governs the collection, storage and processing of personal data, we can advise that any data we have on our clients is securely stored and is not used for any purpose other than for the purpose of updating our clients on relevant planning matters. Should any client no longer wish to receive these communications, he or she can advise us accordingly.

From: Paul Hartnett <paul_hartnett@corkcity.ie>
Sent: Wednesday 12 June 2019 11:17
To: Deirdre Kiernan <Deirdre@coakleyoneill.ie>
Subject: RE: Section 5

Deidre,

I will follow up with the planner and get back to you, there's a bit of backlog because of the boundary extension.

Regards

Paul

From: Deirdre Kiernan [<mailto:Deirdre@coakleyoneill.ie>]
Sent: 12 June 2019 11:14

To: Paul Hartnett
Subject: RE: Section 5

Hi Paul,

This was for Amnis House, Western Road, Mardyke, Cork.

Kind regards,

Deirdre

Coakley O'Neill Town Planning Ltd

NSC Campus
Mahon
Cork
T12 XY2N

COAKLEY O'NEILL

T: +353 (0)21 2307018
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W: www.coakleyoneill.ie

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From: Paul Hartnett <paul_hartnett@corkcity.ie>
Sent: Wednesday 12 June 2019 11:12
To: Deirdre Kiernan <Deirdre@coakleyoneill.ie>
Subject: RE: Section 5

Deidre,

What was the address in question?

Regards

Paul

From: Deirdre Kiernan [<mailto:Deirdre@coakleyoneill.ie>]
Sent: 12 June 2019 10:26
To: Paul Hartnett
Subject: Section 5

Hi Paul,

I was wondering if you had the reference number for the Section 5 Request we submitted 23rd April?

I haven't heard any updates and was hoping I could follow up online.

Could let me know as soon as possible that would be great, alternatively I will be in the Council this afternoon if you had any updates.

Kind regards,

Deirdre

Coakley O'Neill Town Planning Ltd

NSC Campus

Mahon

Cork

T12 XY2N



T: +353 (0)21 2307018

F: +353 (0)21 2307047

E: deirdre@coakleyoneill.ie

W: www.coakleyoneill.ie

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Paul Hartnett

From: Paul Hartnett
Sent: 17 June 2019 11:57
To: 'Deirdre Kiernan'
Subject: RE: Section 5

Deidre,

We have written to the owner of the building asking for clarification of the existing use.

I have been asked by the area planner that you also fill out the attached form as we require this for all section 5 requests going forward.

Kind Regards

Paul

From: Paul Hartnett
Sent: 12 June 2019 11:32
To: 'Deirdre Kiernan'
Subject: RE: Section 5

Deidre,

Reference is R515/19 but its not available online at the moment. We will scan it once there is a decision.

Regards

Paul

From: Deirdre Kiernan [mailto:Deirdre@coakleyoneill.ie]
Sent: 12 June 2019 11:19
To: Paul Hartnett
Subject: RE: Section 5

Hi Paul,

Ok. Would you know if there is a reference number on your system?
Nothing has been updated on the website.

Kind regards,

Deirdre

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Mahon
Cork
T12 XY2N

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From: Paul Hartnett <paul_hartnett@corkcity.ie>
Sent: Wednesday 12 June 2019 11:17
To: Deirdre Kiernan <Deirdre@coakleyoneill.ie>
Subject: RE: Section 5

Deidre,

I will follow up with the planner and get back to you, there's a bit of backlog because of the boundary extension.

Regards

Paul

From: Deirdre Kiernan [<mailto:Deirdre@coakleyoneill.ie>]
Sent: 12 June 2019 11:14
To: Paul Hartnett
Subject: RE: Section 5

Hi Paul,

This was for Amnis House, Western Road, Mardyke, Cork.

Kind regards,

Deirdre

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T12 XY2N

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From: Paul Hartnett <paul_hartnett@corkcity.ie>
Sent: Wednesday 12 June 2019 11:12
To: Deirdre Kiernan <Deirdre@coakleyoneill.ie>
Subject: RE: Section 5

Deidre,

What was the address in question?

Regards

Paul

From: Deirdre Kiernan [<mailto:Deirdre@coakleyoneill.ie>]
Sent: 12 June 2019 10:26
To: Paul Hartnett
Subject: Section 5

Hi Paul,

I was wondering if you had the reference number for the Section 5 Request we submitted 23rd April?

I haven't heard any updates and was hoping I could follow up online.

If you could let me know as soon as possible that would be great, alternatively I will be in the Council this afternoon if you had any updates.

Kind regards,

Deirdre

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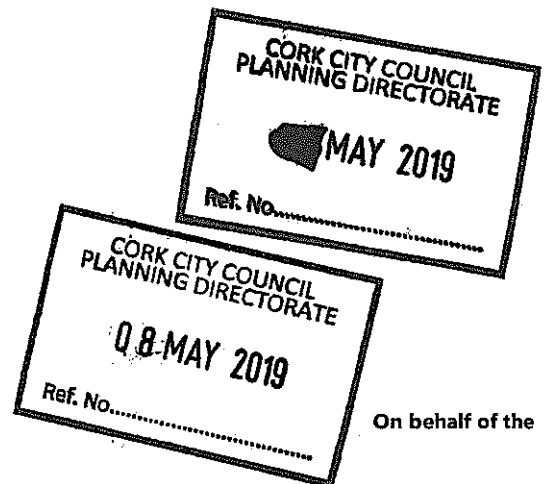
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COAKLEY O'NEILL
town planning

REQUEST FOR SECTION 5 DECLARATION

Amnis House Student Accommodation, Western Road, Cork



On behalf of the

Irish Hotels Federation

Prepared in

April 2019

Coakley O'Neill Town Planning Ltd
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Mahon
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1.0 INTRODUCTION

We, Coakley O'Neill Town Planning Ltd., NSC Campus, Mahon, Cork, have been engaged by the Irish Hotels Federation to request a Section 5 declaration from Cork City Council on whether the use of student accommodation at Amnis House, Western Road, Cork for year-round short term letting constitutes a material change of use and requires planning permission.

The report sets out our consideration of planning issues arising, and concludes with our opinion that the use of Amnis House, Western Road, Cork for year-round short term letting constitutes a material change of use that does require planning permission.

In arriving at a conclusion, our assessment has been informed by, and had regard to, the relevant planning policy documents regulating the development of the site, including, the Planning and Development Act 2000, as amended, the Planning and Development Regulations 2001, as amended, the Cork City Development Plan 2015 and various Ministerial Guidelines and Circulars.

2.0 SITE AND PLANNING CONTEXT

2.1 Site Location

The subject site occupies an area of 0.32ha along Western Road, Cork City. The development consists of a four to six storey student accommodation complex.

Site frontage on two sides is directly onto the River Lee, with main entrance accessed off Western Road. The River Lee Hotel lies across the River Lee from the site while a string of residential dwellings and guesthouses, are located across the road from the site on Western Road.



Plate 1. Amnis House in context of Western Road (looking eastwards)



Plate 2. Western Road Elevation



Plate 3. Entrance onto Western Road



Plate 4. Side Entrance on Western Road



Plate 5. Pedestrian Access on Western Road



Plate 6. River Lee Hotel and Amnis House

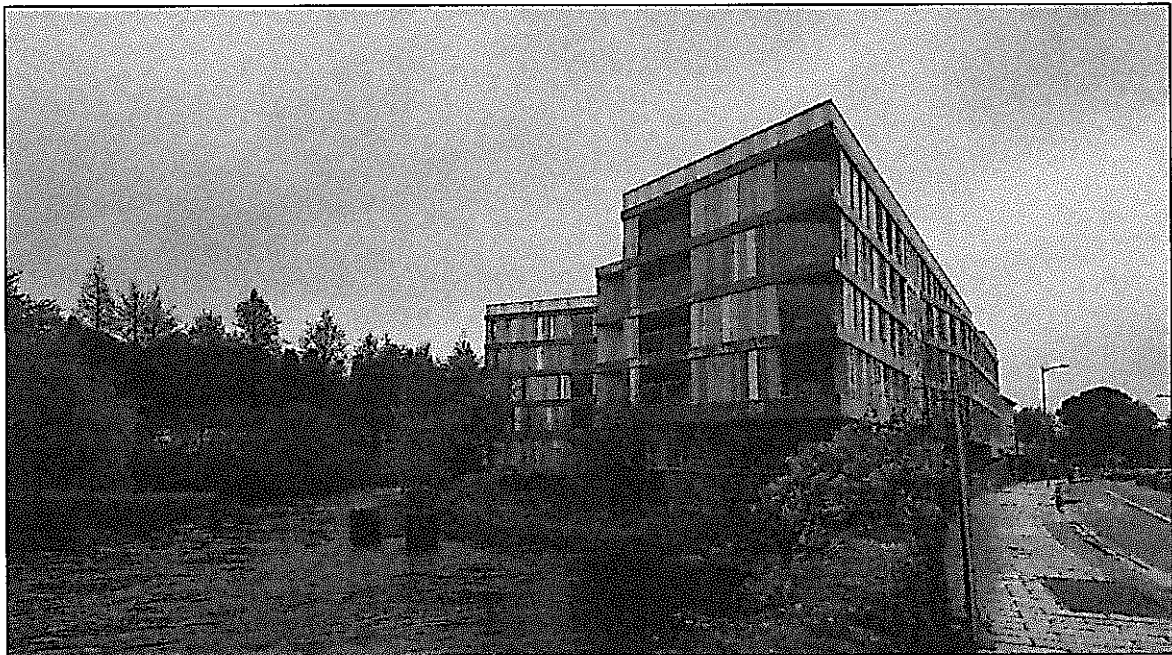


Plate 7. Amnis House backing onto the River Lee

2.2 Planning Policy

The operative plan for the area is the Cork City Council Development Plan 2015, subject to which the site is identified within the central Suburbs, Map 3, and is zoned ZO4 Residential, Local Services and Institutional Uses. The objective is to protect and provide for residential uses, local services, institutional uses and civic uses having regard to employment policies outlined in Chapter 3.

We would also like to highlight objective 6.5 as it relates specifically to the use and operation of student accommodation in the city.

Objective 6.5 Student Accommodation

Any change of use from student accommodation to any other type of accommodation shall require permission. Generally such applications shall be restricted unless it can be adequately demonstrated that an overprovision of student accommodation exists in the city.

2.3 Planning History

The following planning history relates to the site:

PL28.247182 & TP 16/36931: GRANT Grant of permission for the development of 30 student apartment units at Amnis House, Western Road, Cork. The development was initially recommended for refusal by the inspector citing issues of overdevelopment, visual obstruction and concerns for the management of anti-social behaviour. However, this recommendation was overturned by the Board and granted subject to conditions.

TP 14/35980: REFUSED Permission initially granted by Cork County Council for the redevelopment of the former Muskerry Service Station for new forecourt building with retail shop and off-licence. This decision was subsequently refused on appeal to An Bord Pleanála, reasons for refusal included the following:

The site is prominently located on one of the main exit routes from Cork city centre in an inner suburban location. It is considered that the proposed development by reason of the design and layout would fail to contribute positively to the streetscape at this location and would fail to create a development of appropriate quality and character. It is considered that the proposed development would adversely and seriously affect the character of the area and would seriously injure the amenities or depreciate the value of property in the vicinity. Furthermore having regard to the planning history of the site it is considered that the proposed development would constitute under-utilisation of a prominent serviced urban brownfield site. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

TP 07/32460: GRANTED Permission was granted by An Bord Pleanála for an amendment to TP 06/30874 resulting in a scheme of 50 apartments in two blocks each 5 storeys in height. An extension of duration was granted in 2013 on this application until 26/02/2016.

TP 07/32051: GRANTED Permission granted for the excavation and removal of c. 650 cubic meters of soil from the site.

TP 06/30874: GRANTED Permission granted for the demolition of the existing petrol filling station and canopy and removal of all associated underground tanks and plant, the construction of 48 no. apartments organised in 2 building volumes (one 5 storeys the other 4 storeys) all over a basement level with 54 no. car parking spaces and refuse storage accessed from Western Road.

2.3.1 Planning History Analysis

The key permission in this instance is Reg. Ref: TP16/36931 (Appeal Case Ref: PL28.247182). It governs the present use and function of the site.

It is noted that the applicant included an Operational Management Plan in appendix 2 of the application planning report, which stated that the student accommodation was to be made available over July and August to students who wish to stay on over the summer and those on summer courses.

Permission was granted for Student Accommodation at the site and restricted by two conditions, no. 2 and no. 13, to be used solely as student accommodation only, no permission is granted for any other type of accommodation, as follows:

Condition 2. This permission is for student accommodation (and ancillary uses, as permitted) only. No permission is granted for any other type of use and no change of use shall take place – including change of use to other types of residential accommodation – without a prior grant of permission from the planning authority of An Bord Pleanála.

Condition 13. The development hereby permitted shall only be occupied as student accommodation, and for no other purpose, without a prior grant of planning permission for change of use. Such application for permission shall make provision for change of use. Such application for permission shall make provision for such additional car parking/communal open space as may be specified by the planning authority.

In relation to condition 2, ancillary uses include the reception, concierge area with bag storage area, management offices, student facilities including offices facilities and a leisure common room and laundry facilities.

3.0 LEGISLATIVE CONTEXT

The relevant legislation pertaining to the development is as follows:

- The Planning and Development Act, 2000 (as amended)
- The Planning and Development Regulations, 2001 (as amended)

3.1 Planning and Development Act 2000, as amended

Section 3(1) of the Act states the following: 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 in the use of any structures or other land.

3.2 Planning and Development Regulations

Article 9 further qualifies whether exempted status can be applied to a development setting out restrictions where the exemptions of Schedule 2 **will not apply**.

Development to which Article 6 relates shall not be exempted development for the purposes of the Act –

(a) If the carrying out of such development would:

(i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act".

3.3 Other

Circular Letter PL 12/2016: In a circular letter by the Department of Housing, Planning and Local Government, in relation to a determination by An Bord Pleanála that use of a residential apartment for short term holiday lettings is considered to be development under the Planning and Development Act 2000. The implications of the decision would constitute;

'the continued operation of an apartment or residential unit without planning permission for such a material change of use should be considered unauthorised development and subject to enforcement proceedings by the relevant Planning Authority.'

Circular Letter PL 10/2017: A further circular letter was released by the Department of Housing Planning and Local Government providing guidance in relation to planning applications relating to short term lettings and changes of use and the relevant housing policy. The circular refers to article 10(4) of the Planning and Development Regulations 2001, to clarify the limitations and restrictions for use of a house for overnight accommodation.

This exemption is typically or traditionally relied on in the context of the provision of B&B type accommodation. It is important to note that, for the purposes of article 10(4), "house" does not 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. In other words, apartments do not benefit from this exemption.

Furthermore, additional factors to be considered for individual cases applying for short term letting include material factors of the locational context and whether there is proliferation of short term lettings in the area.

4.0 PLANNING REFERRALS

An Bord Pleanála Ref No. PL29S.RL3490: On whether the use of a residential apartment for short term holiday lettings is or is not development, the Board held that change of use is considered development and is not exempted development.

An Bord Pleanála Ref No. PL29/8/279: Whether the change of use of town houses at Lansdowne Village, Sandymount Village, Dublin, to holiday homes is a material change of use: The Board declared that this is development that is not exempted development.

An Bord Pleanála Ref No. 06D.RL2317: Whether the change of use of six of the eight apartments within an apartment block situated at the Merrion Grove apartment complex, Stillorgan Road, Stillorgan, Co. Dublin to student accommodation is a material change of use: The Board declared that this is development that is not exempted development.

An Bord Pleanála Ref No. PL29S.300996: 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. The Board upheld that is development and is not exempted development.

An Bord Pleanála Ref No. PL29N.302862: Whether the proposed use of an apartment for short stay accommodation lettings is or is not development or is or is not exempted development at Apartment No. 7 Chancery Hall, Blackhall Place, Dublin 7. The Board's decision it is development and is not exempted development.

5.0 CURRENT USE OF AMNIS HOUSE FOR SHORT-TERM LETTING

In addition to its use as student accommodation, Amnis House is also currently advertising short-term lets on booking.com. A double room with private bathroom; 4no. double-bed apartments with balconies; and 6no. double-bed deluxe apartments area currently listed as being available, with access to a shared kitchen and living rooms, as well as a games room equipped with pool table and tennis table, X-Boxes, a cinema room and a large south facing terrace.

Booking.com lists Amnis House as one of its best sellers in Cork, and has been welcoming Booking.com guests since 1 Feb 2019, as illustrated in Plates 8 and 9 below.

Amnis House is also available for short term rental on an annual basis from 31st May to 26th August on Expedia, where the property is described as an Aparthotel, as illustrated in Plates 10 and 11 below.

Booking | [Home](#) | [Search](#) | [Monitor](#) | [Compare Cork](#) | [Cork hotels](#) | [Hotels in Cork](#) | [Amnis House \(30 guest accommodation\) Cork \(Ireland\) deals](#)

Booking | [Accommodation](#) | [Flights](#) | [Car rentals](#) | [Airport taxis](#) | [List your property](#) | [Register](#) | [Sign in](#)

Amnis House | [Info & prices](#) | [Facilities](#) | [House rules](#) | [Guest reviews \(1\)](#)

Amnis House | [Amnis House Western Road, Cork, Ireland](#) | [Show map](#) | [We Price Match](#)

Search
 Don't forget to check the location
 Cork
 Check in:
 Check out:
 2 adults
 Room type:
 I'm traveling for work

Amnis House
 Overlooking Cork's River Lee, Amnis House is located only 800 m from the city center and 200 m from University College Cork. It features free WiFi throughout the building and 24-hour on-site staff.

Rooms at Amnis House are modern, fresh and bright with large windows to let in light during the day and enjoy the views in the evening. They all feature a full size double bed and plenty of storage space, including a wardrobe. The contemporary en-suite bathrooms feature large showers with rainfall shower heads.

Every room has access to a kitchen shared with a small number of other rooms. These kitchens feature fridge/freezers, hob, ovens, microwave, kettles and toasters. Kitchens are all equipped with basic utensils and crockery. Guests also have shared access to living rooms with flat screen TVs and balconies.

Amnis House also provides a number of shared amenities, including a games room equipped with pool table and tennis table, 30 Bowls, a cinema room and a large south facing terrace that catches the sun all day.

St Finian's Cathedral is a 10-minute walk away and the Cork Opera House, live at the Marquee and Irish Independent Park are all easily accessible on foot or by bus or car.

We speak your language!

Amnis House has been welcoming Booking.com guests since 1 Feb 2013.
 (Including your hotel/property)? Yes No

Most popular facilities
 Free WiFi, Free parking, 24-hour front desk, Pet friendly, TV, Garden, Balcony, etc.

Guests love...

How to get to Amnis House from Cork Airport
 Taxi | 25 minutes

Show similar properties

Plate 8. Amnis House listing on Booking.com

Most popular facilities

Free WiFi Non-smoking rooms 24-hour front desk

Lock in a great price for your upcoming stay
Get instant confirmation with FREE cancellation on most rooms!

Availability

We Price Match

When would you like to stay at Amnis House?

Check in date: Check out date:

Rooms: Adults: Children:

Group	Room type	
1	<p>Double Room with Private Bathroom</p> <p>1 double bed </p>	<input type="button" value="Show prices"/>
1	<p>Apartment with Balcony</p> <p>Bedroom 1: 1 double bed </p> <p>Bedroom 2: 1 double bed </p> <p>Bedroom 3: 1 double bed </p> <p>Bedroom 4: 1 double bed </p>	<input type="button" value="Show prices"/>
1	<p>Deluxe Apartment</p> <p>Bedroom 1: 1 double bed </p> <p>Bedroom 2: 1 double bed </p> <p>Bedroom 3: 1 double bed </p> <p>Bedroom 4: 1 double bed </p> <p>Bedroom 5: 1 double bed </p> <p>Bedroom 6: 1 double bed </p>	<input type="button" value="Show prices"/>


4 properties in Cork like Amnis House were booked in the last 12 hours on our site.

Plate 9. Amnis House listing on Booking.com

New in Spain: **Amnis House** ★★

Amnis House, Cork, 020 3504 5165

Photos Rooms Amenities Reviews Policies



Expected reviews

View all verified reviews

WiFi Laundry Smoke Free Pet Free

Amnis House features a terrace, washing machine and laundry facilities. Public

See more

110 photos image

Choose your room




Room type	Options	Roomy	Adults	Children	Update	Rightly price
 <p>Double Room 1 Large Single Bed Room sleeps 2 guests (up to 1 child)</p> <p>More details</p>	Free internet	1	2	0	UPDATE	Select dates to see price Select dates
 <p>Deluxe Apartment, 6 Bedrooms 2 Large Single Beds Room sleeps 12 guests</p> <p>More details</p>	Free internet					Select dates to see price Select dates
 <p>Deluxe Apartment, 6 Bedrooms 2 Large Single Beds Room sleeps 12 guests</p> <p>More details</p>	Free internet					Select dates to see price Select dates

Plate 10. Amnis House listing on Expedia

Don't miss out on a lower price on this hotel

Get price alert!

3-star apartment, walk to University College Cork

Popular property highlights

- Free WiFi
- Laundry facilities
- Smoke-free property
- 24-hour front desk

Location

Located in Cork, this apartment is within a 10-minute walk of University College Cork, Fitzgerald Park and Saint Finian's Cathedral. Cork City Hall and Cork City Gaol are also within 10 minutes. Cork Airport is 20 minutes by taxi.

Property features

Apart with a balcony in a common area, this smoke-free apartment has a fridge in a common area and laundry facilities. WiFi in public areas is free. Additionally, a 24-hour front desk, a TV in a common area and a vending machine are on-site.

Apartment amenities

Each apartment provides a living room and a dining area, plus free WiFi and a flat-screen TV. Other amenities that guests will find include a refrigerator and a full kitchen. Housekeeping is available.

Languages spoken

- English

Show all languages

Plate 11. Amnis House listing on Expedia

6.0 ASSESSMENT

The question arises to whether the use of Student Accommodation at Amnis House for year-round short term letting is exempt from a requirement to secure planning permission.

As noted in section 2.3.1 above, the key permission in this instance is Reg. Ref: TP16/36931 (Appeal Case Ref: PL28.247182), under which permission was granted for Student Accommodation at the site and restricted by two conditions, no. 2 and no. 13, to be used solely as student accommodation only, no permission is granted for any other type of accommodation, as follows:

Condition 2. This permission is for student accommodation (and ancillary uses, as permitted) only. No permission is granted for any other type of use and no change of use shall take place – including change of use to other types of residential accommodation – without a prior grant of permission from the planning authority of An Bord Pleanála.

Condition 13. The development hereby permitted shall only be occupied as student accommodation, and for no other purpose, without a prior grant of planning permission for change of use. Such application for permission shall make provision for change of use. Such application for permission shall make provision for such additional car parking/communal open space as may be specified by the planning authority.

As also noted in section 2.3.1 above, the ancillary uses permitted by condition no. 2 include the reception, concierge area with bag storage area, management offices, student facilities including offices facilities and a leisure common room and laundry facilities.

It is also noted in section 2.3.1 above that the applicant's Operational Management Plan states that the student accommodation was to be made available over July and August to students who wish to stay on over the summer and those on summer courses.

However, this is distinctly different to the current practice at Amnis House of the short-term letting of rooms to non-students. In fact, there are currently 11no. rooms, permitted as student accommodation, now advertised as being available for short-term letting on Booking.com and Expedia.

In fact, Amnis House is listed as an aparthotel on Expedia.

Having regard to the plans and particulars as submitted under PL28.247182 (Reg. Ref: TP16/36931), which specified the use of Amnis House as student accommodation, to the provisions of Circular Letters PL12/2016 and PL 10/2017, and to the referral cases cited in section 4.0 above, the permitted student accommodation does not include use as short-term letting. Therefore, a change of use from student accommodation to short-term letting has occurred.

Having regard to the Planning and Development Regulations, 2001, as amended, this change of use would give rise to significant increased commercial activity which is likely to impact the proper planning and sustainable development of the area, particularly in relation to traffic generation and movement, and potential impacts on residential amenity in terms of noise and opening hours, and as such constitutes a material change of use which is development.

Having regard to the condition nos. 2 and 13 of the Board's decision under PL28.247182 (Reg. Ref: TP16/36931), and having regard to Article 9 of the Planning and Development Regulations, 2001, as amended, a change of use in this circumstance would constitute development and require planning permission.

Therefore, it is our opinion that the use of Amnis House, Western Road, Cork for year-round short term letting constitutes a material change of use that does require planning permission.

We would, therefore, respectfully request Cork City Council to share our view that the use of Amnis House, Western Road, Cork, which is permitted as student accommodation, for year-round short term letting, is development which is not exempted development.

We would respectfully request Cork City Council to follow due process and instruct the owners of Amnis House to refrain from using Amnis House for year-round short term letting with immediate effect as it constitutes unauthorised development.

Having regard to Objective 6.5 of the Cork City Development Plan 2015, we do not consider that there is an overprovision of student accommodation in Cork City. This is evidenced in the Q2 2018 progress report on the National Student Accommodation Strategy, which reveals that, assuming all extant permissions were to be constructed by 2024, there will still be a demand for 815 bed spaces in Cork.

Therefore, there is no basis for Cork City Council to support any potential future planning application for a change of use to Amnis House that would result in a reduction in the number of student bedspaces in Cork City.

7.0 CONCLUSION

In conclusion, given the nature of the proposed change of use and the conditions attached to the grant of permission, it is considered that material planning impacts would arise.

On this basis, and having regard particularly to:

- Section 3(1) of the Planning and Development Act, 2000, as amended
- Article 9 of the Planning and Development Regulations, 2001, as amended
- Department guidance in relation to short term letting,
- Condition nos. 2 and 13 of the Board's decision under PL28.247182 (Reg. Ref: TP16/36931), and
- Relevant planning precedence,

we conclude that the use of Amnis House, Western Road, Cork, which is permitted as student accommodation, for year-round short term letting constitutes development that is not exempted development.

The use of Amnis House for year-round short-term letting constitutes unauthorised development.

Furthermore, there is no basis for Cork City Council to support any potential future planning application for a change of use to Amnis House that would result in a reduction in the number of student bedspaces in Cork City.

Paul Hartnett

From: Deirdre Kiernan [Deirdre@coakleyoneill.ie]
Sent: 17 June 2019 14:38
To: Paul Hartnett
Subject: RE: Section 5
Attachments: Amnis House Application Form.pdf

Hi Paul,

Please find attached. The matter has also been referred onto the Board for a decision as nothing decision was reached within the statutory period.

Kind regards,

Deirdre

Coakley O'Neill Town Planning Ltd

NSC Campus
Mahon
Cork
T12 XY2N



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From: Paul Hartnett <paul_hartnett@corkcity.ie>
Sent: Monday 17 June 2019 13:01
To: Deirdre Kiernan <Deirdre@coakleyoneill.ie>
Subject: RE: Section 5

Apologies. Attached now.

From: Deirdre Kiernan [<mailto:Deirdre@coakleyoneill.ie>]
Sent: 17 June 2019 11:59
To: Paul Hartnett
Subject: RE: Section 5

Hi Paul,

No form was attached to the last email.

Kind regards,

Deirdre

Coakley O'Neill Town Planning Ltd

NSC Campus

Mahon

Cork

T12 XY2N

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From: Paul Hartnett <paul_hartnett@corkcity.ie>

Sent: Monday 17 June 2019 11:57

To: Deirdre Kiernan <Deirdre@coakleyoneill.ie>

Subject: RE: Section 5

Deidre,

We have written to the owner of the building asking for clarification of the existing use.

I have been asked by the area planner that you also fill out the attached form as we require this for all section 5 requests going forward.

Kind Regards

Paul

From: Paul Hartnett

Sent: 12 June 2019 11:32

To: 'Deirdre Kiernan'

Subject: RE: Section 5

Deidre,

Reference is R515/19 but its not available online at the moment. We will scan it once there is a decision.

Regards

Paul Hartnett

From: Deirdre Kiernan [Deirdre@coakleyoneill.ie]
Sent: 08 May 2019 12:27
To: Paul Hartnett
Subject: RE: Section 5 Submission
Attachments: Final Section 5 declaration request_2342019.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Paul,

I've attached the document herein.

Thank you for investigating this further.

If there is anything else I can send on let me know.

Kind regards,

Deirdre

Coakley O'Neill Town Planning Ltd

NSC Campus
Mahon
Cork
T12 XY2N

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Having regard to the General Data Protection Regulation ("GDPR"), which came into effect on 25 May 2018, and which governs the collection, storage and processing of personal data, we can advise that any data we have on our clients is securely stored and is not used for any purpose other than for the purpose of updating our clients on relevant planning matters. Should any client no longer wish to receive these communications, he or she can advise us accordingly.

From: Paul Hartnett <paul_hartnett@corkcity.ie>
Sent: Wednesday 8 May 2019 12:22
To: Deirdre Kiernan <Deirdre@coakleyoneill.ie>
Subject: RE: Section 5 Submission

Deidre,

Can you send me on the full submission again, email will do, and I will ask the planners to expedite.

Regards

Paul

From: Deirdre Kiernan [<mailto:Deirdre@coakleyoneill.ie>]

Sent: 08 May 2019 12:04

To: Paul Hartnett

Subject: RE: Section 5 Submission

Hi Paul,

That's no problem, please let me know as soon as you find out anything further.

Kind regards,

Deirdre

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From: Paul Hartnett <paul_hartnett@corkcity.ie>

Sent: Wednesday 8 May 2019 11:57

To: Deirdre Kiernan <Deirdre@coakleyoneill.ie>

Subject: RE: Section 5 Submission

Deidre,

I will follow up internally and get back to you. I was out on sick leave for a month so will need to make enquiries.

Thanks

Paul

From: Deirdre Kiernan [<mailto:Deirdre@coakleyoneill.ie>]
Sent: 08 May 2019 11:49
To: Paul Hartnett
Subject: RE: Section 5 Submission

Hi Paul,

I've attached our copy of the date stamped cover.
This was lodged by hard copy on 23rd April 2019.

Kind regards,

Deirdre

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From: Paul Hartnett <paul_hartnett@corkcity.ie>
Sent: Wednesday 8 May 2019 11:45
To: Deirdre Kiernan <Deirdre@coakleyoneill.ie>
Subject: RE: Section 5 Submission

Deirdre,

I've checked the register here and with my colleague and we don't have a section 5 declaration logged for this address. Is it possible it is a Part 5 Certificate you were requesting?

Regards

Paul

From: Deirdre Kiernan [<mailto:Deirdre@coakleyoneill.ie>]
Sent: 08 May 2019 11:36
To: Paul Hartnett
Subject: RE: Section 5 Submission

Hi Paul,

The address is:

Amnis House Student Accommodation,
Western Road,
Mardyke,
Cork.

Kind regards,

Deirdre

Coakley O'Neill Town Planning Ltd

NSC Campus
Mahon
Cork
T12 XY2N

The logo for Coakley O'Neill, featuring the company name in white capital letters on a dark, textured rectangular background.

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From: Paul Hartnett <paul_hartnett@corkcity.ie>

Sent: Wednesday 8 May 2019 11:31

To: Deirdre Kiernan <Deirdre@coakleyoneill.ie>

Subject: RE: Section 5 Submission

Deidre, what is the exact address on this so I can keep an eye out for it?

Regards

Paul

From: Deirdre Kiernan [<mailto:Deirdre@coakleyoneill.ie>]

Sent: 08 May 2019 11:30

To: Paul Hartnett

Subject: RE: Section 5 Submission

Hi Paul,

Thank you for getting back to me.

If there are any updates regarding Amnis House please let me know.

Kind regards,

Deirdre

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From: Paul Hartnett <paul_hartnett@corkcity.ie>

Sent: Wednesday 8 May 2019 11:27

To: Deirdre Kiernan <Deirdre@coakleyoneill.ie>

Subject: RE: Section 5 Submission

Deidre,

We generally aim to have a decision out 30 days after we receive the request but it can be longer at times of increased workload.

Kind Regards

Paul

From: Deirdre Kiernan [<mailto:Deirdre@coakleyoneill.ie>]

Sent: 08 May 2019 11:07

To: Paul Hartnett

Subject: Section 5 Submission

Hi Paul,

I was hoping to follow up with you regarding a section 5 declaration, submitted to the Council on 23rd of April 2019, and was wondering if you could clarify the timeline for a decision?

If you could let me know as soon as you have a chance that would be appreciated.

Kind regards,

Deirdre

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