

An  
Coimisiún  
Pleanála

Commission Order  
ACP-322840-25

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**Planning and Development Act 2000, as amended**

**Planning Authority: Donegal County Council**

**Planning Authority Reference Number: S524/101**

**WHEREAS** a question has arisen as to whether the use of Atlantic Way Bed and Breakfast to provide accommodation for persons seeking international protection at Main Street, Laghey, County Donegal is or is not development or is or is not exempted development,

**AND WHEREAS** Carduff Developments Limited requested a declaration on this question from Donegal County Council and the Council issued a declaration on the 22<sup>nd</sup> day of May, 2025 stating that the matter is development and is not exempted development,

**AND WHEREAS** Carduff Developments Limited referred this declaration for review to An Coimisiún Pleanála on the 18<sup>th</sup> day of June, 2025,

**AND WHEREAS**, in considering the referral the Commission had regard to:

- (a) Sections 2(1), 3(1), 4(2) and 4(4) of the Planning and Development Act 2000, as amended,
- (b) Article 6(1) and Article 9(1) of the Planning and Development Regulations 2001, as amended,
- (c) Part 1 and Part 4 of Schedule 2 of the Planning and Development Regulations 2001, as amended,
- (d) relevant case law,
- (e) previous referrals to the Commission, including ABP-322072-25 and ABP-321373-24,
- (f) the planning history of the site,
- (g) the documentation on the file, including the submission on behalf of the requester Carduff Developments Limited,
- (h) the pattern of development in the area, and
- (i) the report and recommendation of the Inspector,



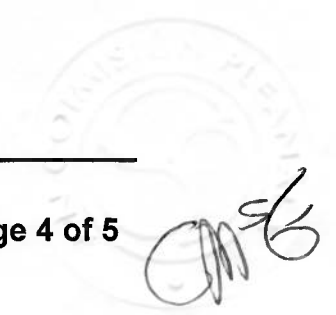
**AND WHEREAS** An Coimisiún Pleanála in arriving at its decision had regard particularly to:

- (a) the change of use of the premises to provide accommodation for persons seeking international protection constitutes a material change and, therefore, is development as defined under Section 3(1)(a) of the Planning and Development Act 2000, as amended,
- (b) the specific facts of the case, a review of the planning history of the site, including permission under planning register reference number 25/60113 as granted by the planning authority, and on the basis that all aspects of the premises are otherwise developed in accordance with any and all relevant planning permissions (noting no reference on file or by the planning authority that this is not the case), to the totality of evidence presented on file, it is considered that the subject premises is in the manner of, and displays the characteristics of, a guesthouse in terms of scale, form and layout, and
- (c) the change of use of the subject premises, which is considered to operate in the manner of, and to display the characteristics of, a guesthouse to provide accommodation for persons seeking international protection would come within the scope of Class 14 of Part 1 of Schedule 2 (Exempted Development -General) as inserted by the Planning and Development (Amendment) (Number 4) Regulations 2015 (S.I. No 582/2015).

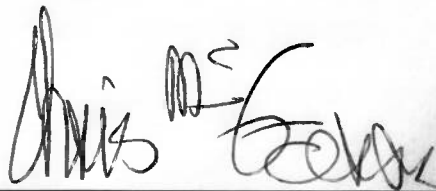


**NOW THEREFORE** An Coimisiún Pleanála, in exercise of the powers conferred on it by section 5(3)(a) of the Planning and Development Act 2000, as amended, hereby decides that the use of Atlantic Way Bed and Breakfast to provide accommodation for persons seeking international protection at Main Street, Laghey, County Donegal is development and is exempted development.

In deciding not to accept the recommendation of the Inspector, the Commission considered the totality of the documentation on file and noted that the sole reason for recommending a determination of 'development which is not exempted development', as articulated by the Inspector, related to his judgment on the difference between bed and breakfast as against guesthouse. The Commission further noted and acknowledged the commentary of the Inspector that, should the Commission take the view that the subject referral building can be classified as a guesthouse, then the change of use would be exempted development (paragraph 9.3.10 of the Inspector's report refers).

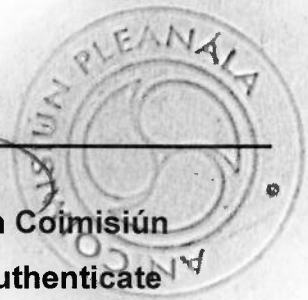


The Commission noted that there is no legislative definition of bed and breakfast or guesthouse within the Planning and Development Acts and Regulations, as amended, which would allow for a clear, indisputable distinction which could be readily applied across all cases, and that the terms may be somewhat interchangeable, though matters of scale and the presence and/or extent of associated residential living by the operator, may be relevant considerations on a case-by-case basis. In this specific case, the documentation as submitted includes 'Revised Floor Plans Drawing No. 1' April 2025, which denotes a study and office area only as 'for residential use'. This drawing is also referenced in condition no.1 of permission 25/60113 which relates to retention of first floor development consisting of additional guest accommodation at the subject premises. From this planning history, which was subject to full scrutiny and ultimately a favourable decision from the planning authority (noting that the planning authority did not raise any issue of the status of the premises in the final written decision on case number 25/60113), it is considered that it is reasonable to conclude that the current premises are of a scale, form and layout that is in the manner of and which displays the characteristics of a guesthouse. Guesthouse falls within the scope of Class 14(h) and the Commission determined the case on this basis.



**Chris McGarry**

**Planning Commissioner of An Coimisiún  
Pleanála duly authorised to authenticate  
the seal of the Commission.**



Dated this 29<sup>th</sup> day of April 2026.