



An
Bord
Pleanála

Inspector's Report ABP 309565-21

Question	Whether the change of use of house to registered Children's Residential Home is or is not development and is or is not exempted development.
Location	Knockadreet, Roundwood, Co. Wicklow.
Declaration	
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	03/2021
Applicant for Declaration	Elaine Currie
Planning Authority Decision	Is development is not exempted development
Referral	
Referred by	Elaine Currie
Owner/ Occupier	Thomas Cahill
Observers	None
Date of Site Inspection	2/7/2021

Inspector

Siobhan Carroll

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1.0 Site Location and Description

- 1.1. The site is located in the townland of Knockadreet, Co. Wicklow. It is situated circa 4.8km to the south-east of the village of Roundwood. The Vartry Reservoir is located circa 1.18km to the west. The area is rural and the site lies to the eastern side of Knockadreet Lane the L-50721. Knockadreet Lane is accessed off the Regional Road the R764.
- 1.2. The site contains a detached single storey dwelling. It is accessed from the L-50721 the north-west and is served by a gated entrance. There are a number of outbuildings to the east of the dwelling which are located within a separate property. The dwelling is located on an elevated site with wide views out to the west towards Vartry Reservoir and the Wicklow uplands.
- 1.3. The subject dwelling contains three bedrooms, two of which have en-suite bathrooms. The kitchen/living dining room is located to the western end of the property.

2.0 The Question

- 2.1. Whether the change of use of house to registered Children's Residential Home is or is not development and is or is not exempted development.

3.0 Planning Authority Declaration

3.1. Declaration

Wicklow County Council issued a declaration under Section 5 of the Planning and Development Act 2000, on the 5th day of February, 2021 stating that the Planning Authority considers that the change of use of house to registered Children's Residential Home is development but is not exempted development.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The Planning Authority determined that the change of use of house to registered Children’s Residential Home, is development having regard to the definition of development under Section 3 of the Planning and Development Act 2000 (as Amended).
- The Planning Authority determined that the given the location of the dwelling on Knockadreet Lane, which is seriously substandard in width, alignment and junctions that the proposed development would represent a serious traffic hazard. Therefore, the provisions of Article 9(i) (a) (iii) applies and the proposed development would not be exempted development.

3.2.2. Other Technical Reports

- None

4.0 Planning History

4.1. On site

- 4.1.1. PA Reg. Ref 17/857 – Permission was granted for single storey extensions to sides, rear and front of existing dwelling and all associated site works and services.
- 4.1.2. PA Reg. Ref 04/1800 – Permission was granted for bungalow and effluent treatment system in accordance with EPA standards 2000.

4.2. Adjacent site

- 4.2.1. PA Reg. Ref 18/250 – Permission was refused for the demolition of existing stone building to facilitate the construction of a new semi-detached building consisting of an administration building and a staff accommodation building to complement existing equestrian yard and livery, bored well, wastewater treatment system to current EPA standards and all associated ancillary site works and services. Permission was refused for seven reasons.

(1) It is considered that the existing dwelling on site is sufficient in size to accommodate any office / staff accommodation needs associated with the equestrian activity on the site, the size and scale of the proposed development is completely disproportionate to the size and scale of the equestrian activity on the site, the proposed development would be contrary to the rural employment

objectives of the County Development Plan and to the proper planning and sustainable development of the area.

(2) Having regard to the nature and scale of the proposed administration building and staff accommodation and the separation of the structure from the existing dwelling it is considered that the proposal represents two additional separate habitable units on the site, and therefore would represent sporadic development in the rural area contrary to the settlement strategy as outlined in the Development Plan.

(3) Having regard to the size and scale of the proposed development, the existing site character and its location in a rural area it is considered that this development would distort the mass and scale of development on site, would alter the landscape character of the area as it would add to the suburbanisation of this rural area and would therefore be seriously injurious to the visual amenities of the area and its proper planning and sustainable development.

(4) The proposed development would endanger public safety by reason of serious traffic hazard because

i. The sight distances available at the entrance onto the L-50721 are considered inadequate

ii. The applicant has not clearly set out how sight distances onto the L – 50721 would comply with normal engineering standards

iii. The site is served by an inadequate road network in terms of its width / alignment / structural condition which is served by substandard junctions to the north and south, and given the number of existing dwellings served by this road network it is considered that the existing road network is only suitable to cater for traffic movements generated by existing permanent native residents who are local to this particular area who are served by the existing route i.e. L – 50721.

(5) The proposed development would be prejudicial to public health as the applicant has failed to demonstrate that the proposed system for effluent disposal is suitable to cater for the size and scale of the proposed development.

(6) Having regard to the proximity of two recorded monuments to the site, the buffer of one (SMRS: WI018-016 ENCL) which is located within the subject site area, to

allow the proposed development, in the absence of an archaeological assessment by a competent archaeologist, to demonstrate that the proposed development will not detract from the setting of the feature or seriously injure the value of the feature, would be contrary to the archaeology objectives as set out in the development plan and contrary to the proper planning and sustainable development.

(7) The proposed development would represent the consolidation of un-authorised development on this site having regard to

- the absence of a record by the planning authority of planning permission having been granted in respect of commercial stables and livery yard on the site.
- the absence of a record by the planning authority of planning permission having been granted for stables and a horse arena on the site.
- the absence of a record by the planning authority of planning permission for the entrance as constructed with regards to its geometry, walls, pillars and gates which is proposed to serve the proposed development.

the provision of such a form of development unduly impacts on the amenities of the area, the amenities of the adjoining properties, undermines the planning regulations and would be contrary to the proper planning and sustainable development of the area.

4.3. Relevant Referrals

4.3.1. There are a number of previous Board decisions which are relevant.

4.3.2. ABP Ref. RL09.308306 – Whether a development comprising the change of use from a house to use as residence by persons with an intellectual or physical disability or mental illness at Mylerstown, Naas, Co. Kildare, is or is not development and is or is not exempted development.

Decision: Is development and is exempted development. (2021)

4.3.3. ABP Reg. Ref. 09.RL.3554 – Whether the use of a residence by up to six persons with an intellectual or physical disability or mental illness together with up to two resident carers at Rathbane, Killeel, Co. Kildare, is not development and is or is not exempted.

Decision: Is not development. (2019)

- 4.3.4. ABP Reg. Ref. 15.RL.3463 – Whether the change of use of a house to use as a residence for persons with intellectual/physical disability or mental illness and persons providing care for such persons at Hampton Lodge, Tullydonnell, Dunleer, Co. Louth is or is not development or is or is not exempted development.

Decision: Is development and is exempted development. (2016)

- 4.3.5. RL25.RL3406: Whether the use of a house as a residence for persons with an intellectual or physical disability or mental illness and persons providing care for such persons at Multyfarnham, Co. Westmeath, is or is not exempted development or is or is not exempted development.

Decision: Is development and is exempted development. (2016)

- 4.3.6. ABP Reg. Ref. 25.RL.3060 – Whether the change of use from domestic dwelling to residential use as a residence for five persons with intellectual disabilities at Coralstown, Killucan, Co. Westmeath is or is not development and is or is not exempted development. There was also an issue in this referral relating to the partial repair of a defective section of the house.

Decision: Is development and is exempted development. (2013)

- 4.3.7. ABP Reg. Ref. 06D.RL.2616 – Whether the change of use of a single dwelling to a residential care unit for persons with intellectual, physical disability or mental illness and persons providing care at 59A Kerrymount Rise, Foxrock, Dublin is or is not development or is or is not exempted development.

Decision: Is development and is exempted development. (2009)

- 4.3.8. ABP Reg. Ref. 18.RL.2552 – Whether the change of use of a dwellinghouse to a childcare facility at Drumbenagh, Co. Monaghan is or is not development or is or is not exempted development.

Decision: Is not development. (2009)

- 4.3.9. ABP Reg. Ref. 29S.RL.2426 – Whether proposed change of use from parochial house to care home for children, at St Annes, 666 South Circular Road, Dublin 8, is or is not development or is or is not exempted development.

Decision: Is development and is exempted development. (2008)

4.3.10. ABP Reg. Ref. PL25M.RL2059: Whether the use of a dwelling house at Ories, Fardrum, Athlone, Co. Westmeath to provide residential care is or is not development or exempted development.

Decision: Is not development. (2003)

5.0 Policy Context

5.1. Development Plan

The operative development plan is the Wicklow County Development Plan 2016 – 2022.

- The site is located in a rural area outside of any identified settlement.

5.2. Natural Heritage Designations

There are a number of European designated sites within 10km of the site:

- Wicklow Mountains SAC (site code 002122) c. 5km to the west of the site.
- Wicklow Mountains SPA (site code 004040) c. 7.4km to the west of the site.
- Vale of Clara/Rathdrum Wood SAC (site code 000733) c. 8.6km south of the site.
- Carriggower Bog SAC (site code 000716) c. 5.9km north of the site
- The Murrough SPA (site code 004186) c. 8km east of the site
- The Murrough Wetlands SAC (site code 002249) c. 8km east of the site

6.0 The Referral

6.1. Referrer's Case

- The referrer is seeking a declaration under Section 5 of the Planning and Development Act 2000 (as amended) in relation to a change of use of an existing dwelling to a registered children's home.

- The referrer is seeking to register the house with Tusla Child and Family Agency as a home where one or more young people will reside with the support of professionally qualified social care workers on duty 24 hours a day seven days a week. It is stated that the team of professionals will be supported by a Deputy House Manager and a House Manager.
- Under Tusla registration the house would be maintained to a high domestic standard, while adhering to Fire and Safety Regulations set out in the code of practice for community dwelling 2016.
- The house and the provision of services within the house would be subject to regular inspection by Tusla to ensure it complies with HIQA National Standards for Children’s Residential Care Centres in Ireland 2018. A prerequisite of this is that the house is not identifiable as anything other than a domestic home which provides care to a young person in the statutory care of the state.
- The Planning Authority determined that the subject change of use was not exempted development on the basis that *“given the location of the dwelling on Knockadreet Lane, which is seriously substandard in width, alignment and junctions, it is considered that the proposed change of use would represent a serious traffic hazard. Therefore, the provisions of Article 9(i)(a)(iii) applies and therefore development would not be exempted development.”*
- The Planning Authority did not provide any other reason, therefore it can be reasonably assumed the Planning Authority accepts that the proposed development otherwise constitutes exempted development.
- The existing dwelling was granted permission under Reg. Ref. 04/1800 the development granted was described as bungalow and effluent treatment system in accordance with EPA Standards 2000. The Planning Authority in their assessment of the application sought further information on a number of matters it is noted that traffic hazard was not raised as a issue. The report of the Wicklow Area Engineer dated 23rd of December 2004 stated that the entrance is existing so if no significant increase in traffic I have no objection.
- The permission was subject to 19 no. conditions. The commencement notice was served on the 31st of January 2006. Condition no. 6 of the permission

required that entrance gates be recessed 5m from the public road carriageway, and the wing walls not exceed 0.8m high. It is submitted that condition no. 6 was substantially complied with. Condition no. 7 required sightlines of 40m in each direction set back 3m from the edge of the public road carriageway with the revised boundary finished between 200-300mm above the carriageway. It is submitted that condition no. 7 was substantially complied with.

- Under Reg. Ref. 17/857 permission was granted for a single storey extension to the sides, rear and front of the existing dwelling. The Planning Authority in their assessment of the application sought further information in relation to wastewater treatment and landscaping. It is noted that no issues were raised in relation to the entrance onto the public road or intensification of vehicle movements from the property. It is noted that no condition was attached to the permission in relation to the entrance and access onto the public road. It is therefore assumed that the Area Engineer and the Planning Authority were satisfied that the entrance complied with the parent permission. The extension granted creates a large house with four double bedrooms.
- The proposed facility would accommodate one child, two staff/house or deputy house manager. It is stated that vehicular arrivals and departures would be controlled and to regular specific times of the day. Staff change over takes place over after an eight hour shift. This would generate one to three vehicle movements per shift, with a total of 6 to 8 movements per day.
- It is stated that the vehicular movements associated with the proposed childcare facility would be strictly controlled and would represent a significant reduction on the random vehicle movements associated with a dwelling which could accommodate up to 8 persons. It is stated that the subject change of use will not cause any new or greater traffic hazard.
- The vehicular entrance which serves the dwelling comprises gates which are recessed a considerable distance off the road. This provides an area for several vehicles to queue within the curtilage of the site while waiting for access and therefore this would not cause any obstruction of the public road.

- It is noted that the width of the public road at the subject entrance is 2.75m. It is noted that the width of the current entrance and depth of the gate at the public road were not comment upon in the report of the Planning Officer. Article 9(1)(a)(ii) permits the widening of the entrance to the subject property because the public road is less than 4m wide.
- This exemption is not subject to any other criteria and therefore is not considered to be a traffic hazard as there are no limitations associated with it.
- The subject dwelling is located over 250m from the public road and is not directly visible from the public road. This is in line with the HIQA National Standards for Children's Residential Care Centres in Ireland 2018.
- The Planning and Development Regulations 2001 as amended, recognises the need for care in the community. It is submitted that the provisions of Class 14(f) in Schedule 2, Part 1 would provide an exemption for the subject change of use. It states, *"from use as a house, to use as residence for persons with an intellectual or physical disability or mental illness and persons providing car for such persons"* This is subject to *"The number of persons with an intellectual or physical disability or a mental illness living in any such residence shall not exceed 6 and the number of resident carers shall not exceed 2"*.
- It is discussed that while intellectual and physical disability are identifiable conditions, mental illness is more intangible. It is highlighted that the stress caused to a child in an abusive or threatening relationship, being removed from that environment, or being separated from parents who are unable to care for them will cause mental stress which may be described as mental illness at certain times.
- The proposed centre will be operated by a registered provider. They are charged with delivering child centred, safe and effective care and support including the mental health of the child in care. It is highlighted that for the protection of a vulnerable child in a community setting it is important that the dwelling remains discrete and anonymous and that it cannot be readily identifiable particularly by those who pose a threat to the child.

- It is noted that having regard to the particular sensitivities of the subject use that the avoidance of a planning application requiring public notices is essential. It is submitted that the provisions of Class 14(f) were established to address such sensitive cases.
- It is stated that as the planning application process is readily searchable by the public that it is not possible to disguise the use of the dwelling. It is considered inappropriate that the proposal would be subject to the planning application process because it could result in danger for a vulnerable child.
- Section 4(1)(h) of the Planning and Development Act 2000 (As amended) states ‘development consisting of the carrying out of works for the maintenance, improvement or other alteration of any such 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.
- It is stated that the subject child care facility requires no alterations apart from fire compliant internal alterations.
- Section 4(3)(b) of the Act refers to development which, having regard to any regulations under subsection (2) is exempted development for the purposes of this Act. It is submitted that the proposed child care facility falls under Class 14 (f) of the Planning and Development Regulations 2001 (as amended).
- Section 4(4) of the Act states, notwithstanding paragraph (a), (i), (ia) and (1) of subsection (1) and any regulations under subsection (2) development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required.
- It is stated that the proposed childcare facility does not require Environmental Impact Assessment or Appropriate Assessment.
- Section 4(4A) states, notwithstanding subsection (4), the Minister may make regulations prescribing development or any class of development that is – (a) authorised, or required to be authorised by or under any statute (other than this Act) whether by means of a licence of consent; approval or otherwise and

(b) as respects which an environmental impact assessment or an appropriate assessment is required, to be exempted development.

- Section 177U (9) states, In deciding upon a declaration or a referral under Section 5 of this Act a planning authority or the Board, as the case may be, shall where appropriate, conduct a screening for Appropriate Assessment in accordance with the provisions of this section.
- It is submitted that as the dwelling and associate site works are already in place no environmental impact assessment or appropriate assessment is required.
- Article 6(1) of the Planning and Development Regulations 2001 (as amended) states, 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.
- Article 9(1)(a)(i) states, contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act.
- Article 9(1)(a)(ii) states, consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width.
- Article 9(1)(a)(iii) states, endanger public safety by reason of traffic hazard or obstruction or road users.
- Schedule 2, Part 1 of the regulations refers to Change of use. Class (f) – from use as a house, to use as a residence for persons with an intellectual or physical disability or mental illness and persons providing care for such persons. The number of persons with an intellectual or physical disability or a mental illness living in any such residence shall not exceed 6 and the number of resident carers shall not exceed 2.
- In relation to condition no. 2 of Reg. Ref. 04/1800 it is stated that it was not complied with however it is now beyond enforcement under Section 157(4) 9a (ii) of the Planning and Development Act 2000 (as amended).

- A number of section 5 referral cases decided by the Board are cited.
- RL2059 refers to a rural dwelling to be used to house 4 no. children and their carer's. In assessing the referral, the Inspector took the view that the Health Board did not identify the children as suffering from mental health conditions and therefore that it did not meet the criteria set out in Class 14(f). The Inspector concluded the change of use was material and that it was development and not exempted development. The Board did not agree with the Inspector's conclusion and considered that the change of use by reason of its nature and scale did not constitute a material change of use. The Board determined that the change of use of the house to provide residential care did not comprise development.
- RL2430 refers to a proposal to house 2 no. children with disabilities with carers in 24 hour attendance. The Inspector concluded that the change of use did not constitute a material change of use which would come within the scope of Section 3(1) of the Planning and Development Act 2000 and is not development. The Board agreed with the Inspector's recommendation.
- RL2426 refers to a proposal for change of use from parochial house to provide a care home for 6 no. children and two carers. The case also related to the extension of the existing building. The Inspector concluded that the works were development and was not exempted development. The Board disagreed with the Inspector and concluded that it was development and was exempted development.
- RL2552 refers to a proposal for the change of use from a dwelling to childcare facility for 11-17 year old children with a range of social, psychological, and emotional difficulties. The Inspector concluded that the change of use was not a material change of use and is not development. The Board agreed with the recommendation of the Inspector.
- A referral issued by Cork County Council R56/3/20 was cited. The referral related to a change of use from a dwelling to a registered children's residential home. The Council had regard to Section 4(4); 4(4A) and 177U(9) of the Planning and Development Act 2000(as amended) and determined that the change of use was not development.

- It is requested that the Board determine that the change of use does not cause a traffic hazard or obstruction of road users and is or is not development and is exempted development.

6.2. **Planning Authority Response**

6.2.1. None received.

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

6.3.1. None received.

6.4. **Further Responses**

6.4.1. None sought.

7.0 **Statutory Provisions**

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

7.1.1. Section 3(1)

'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'.

7.2. **Planning and Development Regulations, 2001**

7.2.1. Article 6(1)

'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'.

7.2.2. Article 9(1)

7.2.3. This article sets out restrictions on exemption to which article 6 relates e.g. if the carrying out of such development would contravene a condition attached to a

permission under the Act or be inconsistent with any use specified in a permission under the Act (subsection (a)(i)), endanger public safety by reason of traffic hazard or obstruction of road users (subsection (a)(iii)) or consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use (subsection (a)(viii)).

Schedule 2 Part 1 Class 14 (f)

Part 1

Exempted Development – General

Column 1 Description of Development	Column 2 Conditions and Limitations
<p><i>Change of use</i></p> <p>CLASS 14</p> <p>Development consisting of a change of use –</p> <p>(f) from use as a house, to use as a residence for persons with an intellectual or physical disability or mental illness and persons providing care for such persons.</p>	<p>The number of persons with an intellectual or physical disability or a mental illness living in any such residence shall not exceed 6 and the number of resident carers shall not exceed 2.</p>

8.0 Assessment

8.1. Is or is not development

8.1.1. The question relates to the change of use of a house to registered Children’s Residential Home. Firstly, it is necessary to establish if the subject change of use constitutes development. Section 3 (1) of the Planning and Development Act, 2000, as amended defines ‘development’ as follows:

- 8.1.2. “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.”
- 8.1.3. As detailed in the submission from the referrer, it is proposed to change the of use of the house to a registered Children’s Residential Home provide care for one child supported by professionally qualified social care workers on duty 24 hours a day seven days a week. Accordingly, the nature of this change involving the presence on site of care workers and the requirement for continual support for the resident child would fall outside the range of users who might occupy a dwelling. Having regard to the nature of services, pattern of care, attention and therapy which would be provided at the facility by professional care workers, I consider that the subject use would constitute an institutional type of use and while of limited scale would represent a material change of use of the subject property.
- 8.1.4. I note that this matter has been addressed previously in a number of similar Section 5 referral cases determined by the Board. These include, RL09.308306 (Mylerstown, Naas, Co. Kildare 2021), 15.RL.3463 (Dunleer, Co. Louth 2016), RL25.RL3406 (Multyfarnham, Co. Westmeath, 2016), 25.RL.3060 (Killucan, Co. Westmeath 2013) and 06D.RL.2616 (Foxrock, Co. Dublin 2009).
- 8.1.5. Accordingly, I consider that the proposed change of use constitutes ‘development’ as defined under Section 3 (1) of the Act and would be a material change of use of the property.

8.2. Is or is not exempted development

- 8.2.1. Schedule 2 part 1 Class 14(f) states that a change of use from use as a house, to use as a residence for persons with an intellectual or physical disability or mental illness and persons providing care for such persons is exempted development as provided for in article 6(1). The condition and limitation set out for Class 14(f) is that the number of persons with an intellectual or physical disability or a mental illness living in any such residence shall not exceed 6 and the number of resident carers shall not exceed 2.
- 8.2.2. The details submitted by the referrer set out the intended use. The referrer states that they intend to register the house with Tusla Child and Family Agency as a home

where one young person will reside with the support of professionally qualified social care workers on duty 24 hours a day seven days a week. It is stated that the proposed facility would accommodate one child, two staff/house or deputy house manager. Staff change over takes place over after an eight hour shift. In relation to the subject use as a registered Children's Residential Home, it is detailed in the submission from the referrer that the facility would provide child centred, safe and effective care support which includes the mental health of the child in care. It is highlighted that the subject facility would provide residential care for a vulnerable child in a community setting. It highlighted in the submitted documents that it is important that the dwelling remains discrete and anonymous and that it cannot be readily identifiable particularly by those who pose a threat to the child. Having regard to the nature of the proposed use as a residence to provide a care facility for a vulnerable child, I would note the case made by the referrer in relation to the matter of mental health issues where they highlighted that children availing of this type of care facility would in many cases have been subject to in an abusive or threatening relationship, being removed from that environment, or being separated from parents who are unable to care for them and that such circumstances would cause mental stress which may be described as mental illness. Therefore, I would consider the subject use would be covered under the provisions of Class 14(f).

8.2.3. It is clear from the submitted documentation that the number of resident carers to be accommodated at the facility would be a maximum of two and that they would operate on a rota basis. It is clear from the internal layout of the facility as I observed on inspection of the subject property that there are 3 no. bedrooms and therefore that only one, or a maximum of two rooms, would be available to facilitate carers in residence at the facility. Therefore, I would conclude that the facility could only accommodate two resident carers at any one time.

8.2.4. I conclude based on the documentation provided on file that the proposed use of the house would be of a type which would be consistent with and allowed under Class 14(f). I would note that there are a number of other cases decided by the Board where similar proposals for a change of use from private residence to a residential care unit for persons with intellectual, physical disability or mental illness were deemed exempt under Class (f). These include, RL09.308306 (Mylerstown, Naas, Co. Kildare 2021), 15.RL.3463 (Dunleer, Co. Louth 2016), RL25.RL3406

(Multyfarnham, Co. Westmeath, 2016), 25.RL.3060 (Killucan, Co. Westmeath 2013) and 06D.RL.2616 (Foxrock, Co. Dublin 2009).

8.3. Restrictions on exempted development

- 8.3.1. The Planning Authority in their decision in respect of the Section 5 referral concluded that while the change of use came under the provisions of Class 14(f) of Part I of the Second Schedule of the Planning and Development Regulations, 2001 (as amended) and constituted exempted development that the provisions of Article 9(i)(a)(iii) applied as a restriction on the exemption. The declaration issued by the Planning Authority stated that *'given the location of the dwelling on Knockadreet Lane, which is seriously substandard in width, alignment and junctions, it is considered that the proposed change of use would represent a serious traffic hazard. Therefore, the provision of Article 9(i)(a)(iii) applies and therefore the proposed development would not be exempted development.'*
- 8.3.2. In relation to this matter, I note that the subject referral relates an existing dwelling served by an existing vehicular entrance. Accordingly, I do not concur with the assessment of the Planning Authority that the subject change of use would give rise to a traffic hazard and that the restrictions on exempted development provided under article 9(i) (a) (iii) would apply.

8.4. Conclusion

- 8.4.1. Having regard to the foregoing, I consider that the proposed development would comprise a material change in the use of the property. However, I consider the use is exempt as per Class 14(f) of Schedule 2 Part 1 of the Planning & Development Regulations, 2001 (as amended). I also do not consider there are any restrictions on this exemption. Therefore, I consider the proposal would comprise development and exempt development.

9.0 Appropriate Assessment

- 9.1. Having regard to the nature and scale of the development which is the subject of this referral and its location relative to Natura 2000 sites, no appropriate assessment issues arise and it is not considered that the development would be likely to have a

significant effect either individually or in combination with other plans or projects on a European site.

10.0 Recommendation

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

WHEREAS a question has arisen as to whether the change of use of house to registered Children's Residential Home at Knockadreet, Roundwood, Co. Wicklow is or is not development or is or is not exempted development:

AND WHEREAS Elaine Currie requested a declaration on this question from Wicklow County Council and the Council issued a declaration on the 5th day of February, 2021 stating that the matter was development and was not exempted development:

AND WHEREAS referred this declaration for review to An Bord Pleanála on the 1st day of March, 2021:

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

- (a) Section 3(1) of the Planning and Development Act, 2000,
- (b) article 6(1) and article 9(1) of the Planning and Development Regulations, 2001, as amended,
- (c) Schedule 2 Part 1 Class 14(f) the Planning and Development Regulations, 2001, as amended, and
- (d) the nature and scale of the proposed use as a registered Children's Residential Home,

AND WHEREAS An Bord Pleanála has concluded that:

- (a) The change of use of the existing dwelling from use as a private residence to use as a registered Children's Residential Home for the use of one child and two social carers constitutes a material change of use, and is therefore development, as defined in section 3 of the Planning and Development Act 2000, as amended.
- (b) This change of use comes within the scope of Class 14 (f) of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended, and would therefore, constitute exempted development, and,
- (c) None of the restrictions on exemption set out in article 9(1) of these Regulations apply in this instance.

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5 (3) (a) of the 2000 Act, hereby decides that the change of use of house to registered Children's Residential Home at Knockadreet, Roundwood, Co. Wicklow is development and is exempted development.

Siobhan Carroll
Planning Inspector

15th of July 2021