



An
Bord
Pleanála

Inspector's Report ABP-317397-23

Question

Whether works carried out to provide a care facility for IPAS refugees is or is not development or is or is not exempted development.

Location

Lismore House Hotel. 1-2 Main Street, Lismore, Co. Waterford.

Declaration

Planning Authority

Waterford City and County Council

Planning Authority Reg. Ref.

D52023/10

Applicant for Declaration

Patrick Gibney

Planning Authority Decision

Is exempted development

Referral

Referred by

Patrick Gibney

Owner/ Occupier

McHt Limited

Observer(s)

None

Date of Site Inspection

16th of February 2024

Inspector

Angela Brereton

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1.0 Site Location and Description

- 1.1. The Referral site is located at Lismore House Hotel, nos. 1-2 Main Street, Lismore, Co. Waterford. It is within the town centre and has frontage to Main Street (reception faces) and the side elevation is to Castle Street. Lismore House Hotel and the adjoining premises facing Main Street are Protected Structures.
- 1.2. The hotel has recently been refurbished and has previously been extended to the side and rear and the scaffolding shown on the frontage has now been removed. It does not appear externally that there are any significant changes to the front and side elevations of the hotel building.
- 1.3. The building is in use for IPAS and I called into reception on the day of the site visit. While I did not see any works being carried out internally or externally on the day of the site visit, I did not view the rooms internally as I did not have plans of the original to see if there are any changes to that now existing. Also, there were international protection persons, and their families present, in the hotel lobby.
- 1.4. There is a large parking area at the rear of the premises, with two separate vehicular accesses. The side of the hotel is opposite the castle carpark and playground. The Blackwater River is further to the north.

2.0 The Question

- 2.1. A question has arisen as to whether works carried out (ongoing) to Lismore House Hotel, a Protected Structure, and within its curtilage since January 2022? [sic]. These works have been carried out to provide a care facility for IPAS refugees at Lismore House Hotel, 1-2 Main Street, Lismore, Co. Waterford PSI A30C.

3.0 Request to the Planning Authority

- 3.1. A Request under Section 5 of the Planning and Development Act 2000, as amended was made to the Planning Authority by Patrick Gibney of Lismore Waterford on the 8th of March, 2022 and is summarised under the following headings:

3.2. Background

The Referrer lives in the Architectural Conservation Area of Lismore and is concerned that unauthorised development has been carried out to the site of Lismore House Hotel since the 24th of January 2022.

They note that the owner of the property is McHt Limited and provide the company address based in Killarney Co. Kerry.

The Referrer believes that planning permission is required for the works carried out from January 2022 and that continue to be carried out to the site of Lismore House Hotel and its curtilage a Protected Structure. That such works require planning permission as it is unpermitted development and is not exempt development. They provide details in Appendix A.

3.3. Appendix A

They provide supporting information. This includes reference to the Waterford City and County Development Plan 2022-2028 which has replaced the Waterford County Development Plan 2011-2017 (as extended).

3.4. Protected Structures

They note that the Site Area is made up of numbers 1 and 2 Main Street Lismore, Waterford which are listed in the NIAH i.e.

- Reg. No. 22809001 – Lismore Arms Hotel, 1 Main Street, Lismore.
- Reg. No. 22809002 – 2 Main Street, Lismore

They note that the site area consists of two protected structures in the Waterford City and County Development Plan, Appendix 9 of the Record of Protected Structures as detailed in Table 1 below:

| RPS No | Name | Address | Type of Structure | NIAH No |
|----------|--------------------|---------------------|-------------------|----------|
| WA750415 | Lismore Arms Hotel | Main Street Lismore | Not Stated | 22809001 |
| WA750462 | Cloisters (The) | Main Street Lismore | House | 22809002 |

3.5. Architectural Conservation Area

The Site is within the ACA of Lismore as listed in Appendix 10 of the Development Plan. They note that for Boundary Walls the following is stated in Appendix 10: *Historic rubblestone boundary walls are evident on the approaches into the town and add to the special character of Lismore. Their removal would be detrimental to the character and therefore is discouraged. Planning permission will be required for their removal and /or alteration of same.* They provide that Figure 2 (included in Appendix A) shows how the boundary walls have been affected and how the scenic approach into the town has been affected.

3.6. Planning History

They note that Planning number 211175, was submitted to WCC on the 17th of December 2021 for construction of an extension, alterations to fenestration, change of use of nightclub to café/retail space is Lismore House Hotel (a protected structure) and all associated site works. The red line application was for the entire site (Lismore House Hotel which includes numbers 1 and 2 Lismore Main Street, carpark and boundary walls). They provide that MCHT unlimited contractors started this work in January 2022 and on the 24/01/2022 the AF2 (as shown on Figure 1) was erected on site, even though no planning permission had been granted by WCC. The gate, hoarding and the AF2, were still in place (14/04/2023). The AFT stated 52 weeks to complete, but the works were continuing on the 14/04/2023. Figure 3 shows painting works happening in August 2022 and figure 3 shows painting works happening in August 2022 and figure 4 shows render stripped from the front façade, in 2022. They note that WCC issued an RFI on the 17/02/2022 to the Developer. WCC withdrew planning application 211175 on the 18/01/2023 as the RFI had not been replied to. The Developer switched from MCHT Unlimited to MCHT Limited in 2022.

3.7. Change of Use

They provide that on the 02/02/2023 a change of use commenced with the P.S now being used as a care centre for International Protection Applicants (Non-Ukrainian). Numbers stated in the media was that the care centre would accommodate 117 applicants in 44 rooms. The Site under planning permission 03328 has permission for 28 rooms as a hotel. To create the 44 rooms; parts of the inside of the protected structure have been demolished. The bar, residents lounge, foyer, tea rooms, 2

restaurants and function room have been demolished and removed (figure 5). Works continue to the outside of the building as shown on figures 6, 7, 8 and 9. They described a description of each.

3.8. Part IV of the Planning and Development Act 2000 (as amended)

They refer to Part IV noting that it details specific statutory provisions or additional statutory protections related to Protected Structures given their significance, whether architectural, historical, or cultural significance. That Section 57 (1) of the Act seeks to limit the application of the general exempted development provisions that apply under the Act and they refer to Section 4(1) (a), (h), (i), (ia), (j), (k) or (l) and any regulations made under Section 4(2) relative to exemptions to the carrying out of works to a Protected Structure.

They refer to Figures 10 and 11 which show the colour of the Hotel and Cloisters Bar previously compared to how they now look in Figure 7 (Cloisters is black and hotel is white). Also, that one can see the 3 dormer windows on the roof in Figure 10 which have been removed in Figure 6. They note that works which alter the appearance of a P.S require planning permission.

They also have regard to case law and note that the obligation to preserve a P.S applies to all parts of the structure. That this includes the interior, all of the land around it, and any other structures on that land and their interiors. That the decision maker must first identify all potential impacts on the P.S and then critically examine each of them to see whether they are the minimum necessary in order to achieve any overall benefit to the PS by reason of retaining its use.

They note that before any planning judgments, one must first comply with all the legal requirements. These include compliance with the statutory system of protection of 'protected structures', particularly section 57(10) of the 2000 Act. They also make reference to Article 23(1)(e) and (f), Article 23(2) and 22(5) of the Planning and Development Regulations 2001. They note that the transforming of the inside of the hotel from permitted 28 rooms to 44 is significant works which have been carried out for the last 15 months and still continue.

3.9. Appendix C – Change of Use

They refer to Guidelines issues to Planning Authorities for the Class 20F amendment, having regard to the issue of the impact on Protected Structures. They note that Class 20F was amended on the 29/11/2022 and that works on site began on or before the 24/01/2022. They consider that the works have been undertaken materially affect the P.S. and that this Circular clearly states that planning permission is required.

Also, that the Planning Authority must be notified in writing of the details of the development prior to the commencement of the proposed change of use. The new use for the provision of residential accommodation and 'care' (as defined in Article 5 of the Regulations) is defined under Class 9(a) of Part 4 of Schedule 2 of the Regulations and is a material change of use by reason of providing a different service to a different user group. They have regard to the meaning of material change of use under the Building Regulations. They note that the hotel was not used as such in recent years and the change of use to a care centre is a material change of use. That a Commencement Certificate was not issued by the Development to the BCMS website.

3.10. Cumulative effects

That the cumulative effects of new developments in Lismore and the intensity of use of the Site have not been considered by WCC. The Developers concerned are required either to obtain all relevant information on species that maybe affected by the development by conducting or obtaining adequate scientific information to exclude doubt as to whether the project will have significant effects on the environment i.e. bats, swifts, and lichen.

The existing sewage pipes have not been assessed to see if they can cope with the intensity of use and to see if they meet current Irish Water Guidelines.

Taking a precautionary approach, they ask that their concerns be taken into consideration prior to a decision being reached.

4.0 Planning Authority Declaration

4.1. Declaration

On the 25th of May 2023, Waterford County Council, concluded that the works carried out (ongoing) to Lismore House Hotel, a Protected Structure, and within its curtilage since January 2022?[sic]. These works have been carried out to provide a care facility for IPAS refugees at Lismore House Hotel 1-2 Main Street, Lismore and is development and is exempted development.

4.2. Planning Authority Reports

The Planner noted the Section 5 Referral made to the Council and the Question asked including relevant to the change of use and works carried out (as noted in the Question above). Their response included the following:

4.3. General Observations

- The hotel property comprises of 2no. buildings, which are included in the Record of Protected Structures as set out in Appendix 9 of the Waterford City and County Development Plan 2022-2028 and a modern extension. They provide details of these from the Record of Protected Structures and a Description and Appraisal from the NIAH, noting that the buildings are of Regional Importance and Architectural, Historical, Social Interest.

4.4. Specific Works

- They note that while the Section 5 Declaration Request generally relates to the works ongoing at Lismore House Hotel since January 2022 and its use as accommodation for IPAS refugees (stated) specific works are also cited in the attached appendices provided by the Referrer. These are summarised as follows:
 - Alterations to site boundaries on northern approach to Lismore Town Centre,
 - Erection of hoarding on site,
 - Removal of render from front façade,

- Painting of the hotel,
- Parts of the interior of the hotel have been demolished – the bar, residents lounge, foyer, tea rooms, 2 restaurants and function room have all been removed,
- Dormer windows from front elevation removed,
- Windows and doors removed from north elevation,
- Excavation and building works in car park.

4.5. Planning Authority response

- They refer to the Legal Cases cited relative to the obligation to preserve a Protected Structure and all parts of the structure.
- They note that the Referrer then cites the requirements RE drawings and documentation to be included with a Planning Application. That it is stated that the ongoing works breach these requirements.
- They note that the Referrer cites in Appendix C, Guidelines issued to Planning Authorities for Class 20F amendment. Noting that this has regard to where a proposed change of use would materially affect a P.S. that the exemption is removed.
- That Class 20F was amended on the 29th of November 2022, works on the site began on or before the 24th of January 2022.
- That the Referrer notes the new use from the provision of residential accommodation and 'care' (as defined in Article 5 of the Regulations) is defined under Class 9(a) of Part 4 of Schedule 2 of the Regulations and is a material change of use by reason of providing a different service to a different user group.
- They refer to material change of use under the Building Regulations, noting that the Referrer provides that a Commencement Certificate was not issued by the Developer to the BCMS website.
- They also refer to the other issues raised by the Referrer and provide that their concerns are considered as item by item and also cumulatively in the Planning Authority Assessment.

This Assessment provide the following:

- No alterations have been made to site boundaries save the erection of temporary hoarding to facilitate ongoing works and health and safety requirements – same does not alter the character of the 2no. Protected Structures on site.
- Works to render appear to have been repair works and are now complete – same does not alter the character of the 2no. Protected Structures on site.
- The interior of the hotel has been investigated and there is no evidence of any internal works negatively impacting on the character of the 2no. Protected Structures on site.
- On the dates of the inspection the 3no. dormer windows on the southern façade were in place – same does not alter the character of the 2no. Protected Structures on site.
- Temporary alterations to windows and doors on the northern façade to facilitate building works to modern extension now reversed/complete – same does not alter the character of the 2no. Protected Structures on site.
- There was no evidence of building works or excavation in the rear car park – same does not alter the character of the 2no. Protected Structures on site.

4.6. Regard to Statutory Provisions

- They refer to Section 57 of the Planning and Development Act 2000, as amended, regarding works to a Protected Structure only being exempt development if those works would not materially affect the character.
- They refer to Section 4(1)(h) of the Planning and Development Act 2000 having regard to exempted development and to works that do not materially affect the character of a structure.
- They provide that having inspected the property and particularly the P.S elements, they are satisfied that the works carried out to date do not materially affect the character of the P.S or any element of the structure which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest.

- They note that while there has been some alteration to internal partitions, spaces, opes and removal of modern plant to the rear section these works relate to the modern extension of the P.S's and comply with Section 4(1)(h) such as they affect the interior of the structure or where they affect the external appearance of the structure and they do not render the appearance inconsistent with the character of the structure or of neighbouring structures.
- Regarding the works carried out to date they consider that same did not/do not require planning permission as they constitute exempted development in accordance with Sections 57 and 4(1)(h) of the Planning and Development Act, 2000 as amended.
- Referring to the potential use of the site as a 'refugee care centre/facility' as cited in the Section 5 Declaration Request the owner of the property on the 30th of January 2023 notified the Council of their intension to avail of Class 20F of Part 1, Schedule 2, of the Planning and Development Regulations 2001, as amended.
- They have regard to and quote the exemption provided by Class 20F, to the conditions and limitations and to other statutory provisions.
- They provide that in this instance the notification was received on the 30th of January 2023 and the first persons to avail of the service were to arrive on or after the 1st of February 2023.
- They note that the Section 5 Declaration states that the persons accommodated on site are not Ukranian.
- They refer to the exemptions provided by Class 14 (j) of Part 1, Schedule 2 of the Planning and Development Regulations 2001, as amended, relative to development consisting of a change of use. This includes reference to Class 14(h) or (i) or both.
- They submit that should the site operator be availing of the above exemption instead of Class 20F cited, there is no requirement for notification to the Planning Authority.
- Article 9 of the Planning and Development Regulations 2001 (as amended) relates to restrictions on exemptions. Article 9 has been considered and there

are no provisions within same that restrict the availability of the above exemption regarding the use of the subject property.

- The Planning Authority provide that having reviewed the Section 5 Declaration Request and the content of same which largely relates to ongoing development works and use of the subject property, they are satisfied that the works and use carried out to date do not require a grant of planning permission owing to the provisions of Section 57 and 4(1)(h) of the Planning and Development Act 2001, as amended.
- Based on the information submitted with the application, the Council has considered the nature, size and location of the development in the context of the criteria set out in Schedule 7 of the 2001 Regulations and is satisfied that EIA is not required.
- The Planning Authority includes an AA Screening Report and provides that an AA is not required.

4.7. Conclusion

They have regard to the Question asked and their conclusion includes the following:

- Having considered all the details and documentation on file with regard the question asked, the Planning Authority is satisfied that the works carried out at Lismore House Hotel involved 'works' and 'development' within the meaning of Section 3 of the Act.
- They consider that the works do come within the criteria as set out in Sections 4 and 57 of the Planning and Development Act 2000, as amended, and Part 2 of the Planning and Development Regulations 2001, as amended, which in turn relate to Exempted Development.
- They conclude that the works carried out at Lismore House Hotel is development and is exempted development under the provisions set out in Sections 4 and 57 of the Planning and Development Act 2000, as amended.

4.8. **Other Technical Reports**

None noted on file.

5.0 Planning History

The Planning Authority Report and the Referral make reference to the following history cases:

5.1. Subject site

- Reg.Ref. 21/1175 - MCHT Unlimited Company sought permission for construction of an extension, alterations to fenestration, change of use of nightclub to café/retail space to Lismore House Hotel (a protected structure) and all associated site works.

Further information was sought, and the applicant did not respond to same, the application was subsequently deemed withdrawn.

- Reg.Ref.06/2011 – Permission was granted by the Council to The Lismore Partnership for the construction of a one tonne underground gas tank and ground works along with an ESB sub-station and switch room, total area 21.7sq.m in the car park of the Lismore Arms Hotel, Lismore.
- Reg.Ref.03/328 – Permission granted by the Council subject to conditions to refurbish the existing structure and to construct a three-storey extension to The Lismore Arms Hotel. The extension then permitted was to provide the following accommodation: guest bedrooms, a function/dining room, a nightclub and associated utility areas including an external walled storage area.

This permission appears to have been enacted and the three-storey extension has been constructed.

Copies of these permissions are included in the History Appendix in this Report.

6.0 Policy Context

6.1. Architectural Heritage Protection Guidelines 2011

These are Section 28 Guidelines the Planning Authority and An Bord Pleanala are obliged to have regard to this document which sets out national guidelines inter alia for assessing proposals relating to protected structure and architectural conservation

areas. Section 1.1 on 'Why Protect our Architectural Heritage?' includes:

Sympathetic maintenance, adaptation and re-use can allow the architectural heritage to yield aesthetic, environmental and economic benefits even where the original use may no longer be viable. The creative challenge is to find appropriate ways to satisfy the requirements of a structure to be safe, durable and useful on the one hand, and to retain its character and special interest on the other.

6.2. **Waterford City and County Development Plan 2022-2028**

This is the pertinent Plan. Volume 1: Written Statement

Chapter 11: Heritage

Strategic Objectives include: *To seek the protection, sustainable management and enhancement of Waterford's built heritage; to promote the appropriate regeneration and reuse of our historic structures which strengthen a sense of place; to promote awareness and enjoyment of our built heritage for the present and future generations.*

Section 11.1 Built Heritage:

In the Development Plan built heritage is protected by designation under

- The Record of Protected Structures (RPS)
- Architectural Conservation Areas (ACAs)

Section 11.2: Protected Structures

A Protected Structure is a building or structure which has an identified special architectural, historic, archaeological, artistic, cultural, scientific, social, or technical interest.

A Protected Structure, unless otherwise stated in the RPS, includes:

- the interior of the structure.
- the land lying within its curtilage.
- any other structures within the curtilage, and their interiors, and:
- all fixtures and features which form part of the interior or exterior of any of these structures.

Built Heritage Policies BH01- BH04 refer promote the protection and sustainable reuse of protected structures.

Section 11.3 Architectural Conservation Areas

Table 11.1 lists the ACAs and includes Lismore.

Building Heritage Policy Objectives for ACAs BH05 – BH06 refer.

Section 11.4 refers to Retaining Character/Uniqueness

Section 11.5 to Regeneration and Reuse. Objective BH08 refers to Reusing our Heritage Buildings and BH09 to Ecological Impact Assessment.

Volume 2 provides Development Management Standards

Section 10 and Table 10.1 refer to Architectural Conservation Areas. Table 10.2 to Minor works within ACAs.

Volume 3 Appendices which include:

Appendix 9 Record of Protected Structures. This includes the buildings the subject of this Referral as P.S.

Appendix 10 Architectural Conservation Areas, which includes Lismore.

A description of the historical background and a summary of the special character of Lismore is given. A copy of this is included in the Appendix.

6.3. Natural Heritage Designations

There are no natural heritage designations either within or immediately abutting the referral site. The site is c. 230m from the Blackwater River (Cork/Waterford) SAC and c.595m from the Blackwater Callows SPA.

7.0 The Referral to the Board

7.1. Referrer's Case

The Referrer, Pat Gibney made a referral for a formal declaration to the Board under Section 5 (3)(a) of the Planning and Development Act 2000 (as amended) and the Planning and Development Regulations 2001 (as amended). This included the following:

- The Referrer does not agree with the decision WCC have made and believes that the works carried out from January 2022 and continue to be carried out to the site of the Lismore House Hotel and its curtilage a protected structure require planning permission as it is unpermitted development and is not exempt development.
- Reference is had to the response received from WCC in Appendix A and the Referrer considers that WCC are wrong in their Declaration.

7.2. Referrer's concerns

Their concerns (listed 1–15) in summary include the following:

1. Reference is had to Appendix C. The Approved Form - AF2 was erected on the 24/01/2022 and is still erected on the unpermitted gate, the gate was erected prior to this.
2. Appendix D: response received from WCC Chief Fire Officer that the Fire Safety Certificate application was received on the 17/11/2022. This would mean that the internal alterations and demolition were completed by this date to the area applied for.
3. 17/11/2022 is prior to the amended changes in planning law that WCC mention in their decision.
4. They refer to the Guidelines issued to Planning Authorities for Class 20F amendment and consider that the change of use would materially affect a protected structure and planning permission is required in accordance with Section 57 of the Planning and Development Act 2000, as amended. Class

20F was amended on the 29/11/24, works on site began or commenced on or before the 24/01/22.

5. There is no planning report issued with the WCC decision, they have not identified all potential impacts on the proposed P.S and have not critically examined them.
6. WCC has not put details of the Declaration online for members of the public to view.
7. Section 57(1) (which refers to works to a P.S) of the Planning and Development Act, as amended, seeks to limit the application of the general exempted development provisions that apply under the Act and they refer to Section 4(1) (a),(h), (i), (ia), (j), (k) or (l) and any regulations made under Section 4(2).
8. Transforming the hotel from the permitted 28 rooms to 44 is significant works which have been carried out over the last 17 months. This is an intensification of use.
9. No Architectural Heritage Impact Assessment carried out by WCC or the Developer.
10. No assessment for bats carried out prior to the works commencing on site.
11. WCC have not justified why they haven't carried out an 'AA' for the project. They refer to proximity to designated sites and potential for impact from increased loading on water quality.
12. A Water Framework Directive (WFD) Compliance Assessment has not been carried out.
13. An Enforcement Notice was issued previously by WCC in relation to the ramp access to the hotel.
14. Unauthorised developments are not entitled to benefit from the exempted development provisions of the Planning and Development Regulations (articles 9 and 10).

15. Where an unauthorised use is being carried out, it is not permitted to change use to an otherwise exempted use under part 4 of schedule 2 of the regulations.

The Referrer concludes that taking a precautionary approach, and all the points they have raised, they submit that WCC are wrong in the decision they made and the development which has and continues to be carried out is not exempt development. They request that their concerns be taken into consideration prior to a decision being reached.

7.3. Planning Authority Response

There is no response from the Planning Authority to the Referral to the Board on file.

7.4. Owner/ occupier's response

A response to the Referral has been received from Griffin Project Management on behalf of the owner Mr Michael Sheehan of McHt Limited, Killarney. This includes the following:

Schedule of Works

- They submit that the Referral appears to be concerned with 3 particular matters i.e.:
 1. The sequence and schedule of the works in relation to the various statutory consents required.
 2. Whether exempted works are or are not development or whether said works are or are not exempted development.
 3. Whether said exempted development regulations can be applied to a premises which is to be utilised for the accommodation of protected persons.

Their response includes the following:

- They submit that the control of the sequence and schedule of works in relation to the various statutory requirements is only something, with respect to Bord

Pleanala, which could be monitored and controlled by the Council, Building Control and Enforcement Depts. That the development applied for and was granted both a Fire Safety Certificate and a Disability Access Certificate.

- They refer to Section 57 of the Planning and Development Act 2000 as amended relative to works to a P.S. They submit that the files pertaining to the premises clearly demonstrate that the developer consulted with the Heritage Officer and the Planning Dept of Waterford County Council prior to any works commencing.
- They have regard to 'The Planning and Development (Exempted Development)(No.4) Regulations', 2022 and refer to the amendment provided by the insertion of Class 20F exemption.
- They note that the Regulations provide that the provisions of the Planning and Development Act 2000 (other than the environmental considerations in Sections 181A to 181C) will not apply to certain classes of development by or on behalf of a State Authority for the purpose of providing temporary protection to displaced persons as specified in the Regulations.
- That it should be noted that neither the granting of planning permission, nor the provision of an exemption from the requirements to obtain planning permission, removes the requirement to comply with any other statutory code, particularly in relation to the Building Regulations, including fire safety. Also, the developer currently has both Fire Certs and DAC Certs in place for the works.

7.5. Further Responses

The Referrer Pat Gibney has submitted a response to the Statement from Griffin Project Management made on behalf of the owner McHt (referred to as the GPM Statement in their response) and this includes the following:

The Griffin response divides their Referral into 3 particular matters, however their Referral, listed 15 points and Appendices A, B, C. Their response to the matters raised is summarised below.

Statement no.1

- They do not agree with the GPM Statement raised in point 1. There is a wide range of legislation that applies to this form of development and it is the responsibility of the Building Owner to satisfy themselves in terms of compliance. That the control of the sequence and schedule of works in relation to various statutory requirements would be the responsibility of McHt Limited.
- They note that planning permission 211175 was not granted (withdrawn) and that 03/328 and 06/2011 are the current permissions that apply to the site.
- That WCC fire department would not issue the Referrer with a copy of the Fire Safety Certificate and Disability Access Certificate and that they cannot comment on them further than the information already submitted. The GPM response has also not provided them with a copy of these certificates.
- These could be Certs for the works carried out originally under 03/328 and have nothing to do with recent works as a commencement cert was not issued by McHt to the BCMs website.

Statement no.2

- They do not agree with the GPM Statement raised in point 2. They refer to details of the Section 5 Referral they have submitted to the Council and subsequently to the Board.
- They do not agree that works carried out from 24/01/2022 on a P.S and its curtilage did not require planning permission.
- They submit that WCC did not answer the question in relation to works carried out to a P.S prior to the 29/11/2022 and just put a (?) in their response.
- Works to the P.S inside and outside its curtilage which continue still on 16/08/2023 from 29/11/2022 require planning as per the Guidelines issued to Planning Authorities for Class 20 F amendment as they materially affect a P.S.

- Class 20F was amended on the 29/11/2022, works on the site began on or before the 24/01/2022. The GPM statement does not deny anything the Referrer stated about when works commenced or ongoing.
- The GPM statement has not provided a copy of a section 57 declaration from WCC. No evidence is provided that the developer consulted with the Heritage Officer and the Planning Department prior to any works commencing or that a Commencement Notice was provided. They note that application 211175 was withdrawn.
- They listed several factors in their section 5 declaration how the character and elements of the structure have been materially altered and affected. They note GPM have not commented or denied any of these.
- They attach in Appendix C: an email from Michael Walsh, County Manager for WCC. This states that WCC were not notified prior to the 20/01/2023 of the planned use for the hotel.

Statement no.3

- They do not agree with this GPM statement. The protected structure is not used for displaced persons from Ukraine. They refer to Appendix D 'Guidelines issued to Planning Authorities for Class 20F amendment, taking into consideration where a proposed change of use would materially affect a protected structure and having reference to S.57 of the Planning and Development Act 2000, as amended.
- McHt have not commented on the environmental considerations even though they mention them. They consider that a project of this scale and in this location should be the subject to screening for the purposes of the Habitats Directive and the EIA Directive.
- They note that GPM has now opened the car park for public use (August 2023) and a carpark sign has been erected by WCC (Appendix E). This is another change of use and is in contradiction to the argument for planning exemption McHt referred to. No AA has been carried out for this public car park and the carpark is in the curtilage of a P.S.

- Taking a precautionary approach, and all the points they have raised above WCC and McHt are wrong in the decision they made and the development which has and continues to be carried out is not exempt development. They ask that their concerns be taken into consideration prior to a decision being reached.

8.0 Statutory Provisions

8.1. Planning and Development Act, 2000

Section 2(1) of the 2000 Act states the following:

- ‘development’ has the meaning assigned to it by Section 3;
- ‘works’ includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal’
- “protected structure” means—
 - (a) a structure, or
 - (b) a specified part of a structure,
 which is included in a record of protected structures, and, where that record so indicates, includes any specified feature which is within the attendant grounds of the structure and which would not otherwise be included in this definition;

Section 3(1) states that:

- 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 over land’.

Section 4(1) of the Act sets out various forms and circumstances in which development is exempted development for the purposes of the Act. Of note this includes:

Section 4(1)(h) i.e:

- Development consisting of the carrying out of works for the maintenance, improvement or alteration of any structure, being works which only affect the

interior of the structure or which do not materially affect the external appearance so as to render it inconsistent with the character of the structure or neighbouring structures.

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

Section 4(4) Notwithstanding paragraphs (a), (i), (ia) and (l) 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.

Section 5

This section provides the details of the process of a declaration and referral on development and exempted development and facilitates a review by An Bord Pleanála on the determination.

Section 5(1) provides in summary that any person may seek a declaration on a referral from the planning authority.

Section 5(3)(a) Where a declaration is issued under this section, any person issued with a declaration under subsection (2)(a) may, on payment to the Board of such fee as may be prescribed, refer a declaration for review by the Board within 4 weeks of the date of the issuing of the declaration.

Part IV - Section 57

This Section refers to 'Works affecting character of protected structures or proposed protected structures'. This includes:

57 (1) F479[Notwithstanding section 4(1)(a), (h), (i), F480[(ia)] (j), (k), or (l) and any regulations made under section 4(2),] the carrying out of works to a protected structure, or a proposed protected structure, shall be exempted development only if those works would not materially affect the character of—

(a) the structure, or

(b) any element of the structure which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest.

(2) An owner or occupier of a protected structure may make a written request to the planning authority, within whose functional area that structure is situated, to issue a declaration as to the type of works which it considers would or would not materially affect the character of the structure or of any element, referred to in *subsection (1)(b)*, of that structure.

(3) Within 12 weeks after receiving a request under subsection (2), or within such other period as may be prescribed, a planning authority shall issue a declaration under this section to the person who made the request.

(10) (a) For the avoidance of doubt, it is hereby declared that a planning authority or the Board on appeal—

(i) in considering any application for permission in relation to a protected structure, shall have regard to the protected status of the structure, or

(ii) in considering any application for permission in relation to a proposed protected structure, shall have regard to the fact that it is proposed to add the structure to a record of protected structures.

(b) A planning authority, or the Board on appeal, shall not grant permission for the demolition of a protected structure or proposed protected structure, save in exceptional circumstances.

Part XAB – Appropriate Assessment

Section 177U refers to Screening for AA by the competent authority.

— (1) A screening for appropriate F930[assessment of a draft Land use plan or application for consent for proposed development] shall be carried out by the competent authority to assess, in view of best scientific knowledge, if that Land use plan or proposed development, individually or in combination with another plan or project is likely to have a significant effect on the European site.

Other Sections of the Planning and Development Act 2000 (as amended)

The Referrer also refers to:

Section 181 - Development by State Authorities

Section 181(1)(a) - The Minister may, by regulations, provide that, except for this section F973[and sections 181A to 181C], the provisions of this Act shall not apply to any specified class or classes of development by or on behalf of a State authority where the development is, in the opinion of the Minister, in connection with or for the purposes of public safety or order, the administration of justice or national security or defence and, for so long as the regulations are in force, the provisions of this Act shall not apply to the specified class or classes of development.

8.2. Planning and Development Regulations, 2001 (as amended)

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.

Article 9 Restrictions on exemption.

(1) Development to which article 6 relates shall not be exempted development for the purposes of the Act. The Restrictions on Exemption are listed and these include:

- (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 or a structure the use of which is an unauthorised use.

Schedule 2 Part 1 *Exempted Development – General*

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| <i>Change of use</i> Class 14 (note Sections 14 (g), (h), (i) and (j) as quoted below are relevant) | |
| Development consisting of a change of use— | |

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| <p>(g) from use as a hotel, to use as a hostel (other than a hostel where care is provided),</p> <p>(h) from use as a hotel, motel, hostel, guesthouse, holiday accommodation, convent, monastery, Defence Forces barracks or other premises or residential institution providing overnight accommodation, or part thereof, or from the change of use specified in paragraph (i) of the said premises or institution, or part thereof, to use as accommodation for protected persons,</p> <p>(i) from use as a hotel, motel, hostel, guesthouse, holiday accommodation, convent, monastery, Defence Forces barracks or other premises or residential institution providing overnight accommodation, or part thereof, or from the change of use specified in paragraph (h) of the said premises or institution, or part thereof, to use as an emergency reception and orientation centre for protected persons, and</p> <p>(j) from the change of use specified in paragraph (h) or (i) or both, to the permitted use of the premises immediately prior to the change of use</p> | <p>Class 14(j) shall not apply after a period of 3 years from the date of the commencement of the change of use</p> |
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| specified in the said paragraph (h) or (i) or both. | specified in Class 14(h) or (i) or both, whichever date is the earliest. |
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| <p>CLASS 20F</p> <p>Temporary use by or on behalf of the Minister for Children, Equality, Disability, Integration and Youth to accommodate or support displaced persons or persons seeking international protection of any structure or part of a structure used as a school, college, university, training centre, social centre, community centre, non-residential club, art gallery, museum, library, reading room, sports club or stadium, gymnasium, hotel, convention centre, conference centre, shop, office, Defence Forces barracks, light industrial building, airport operational building, wholesale warehouse or repository, local authority administrative office, play centre, medical and other health and social care accommodation, event and exhibition space or any structure or part of structure normally used for public worship or religious instruction.</p> | <p>1. The temporary use shall only be for the purposes of accommodating displaced persons or for the purposes of accommodating persons seeking international protection.</p> <p>2. Subject to paragraph 4 of this class, the use for the purposes of accommodating displaced persons shall be discontinued when the temporary protection introduced by the Council Implementing Decision (EU) 2022/382 of 4 March 2022¹ comes to an end in accordance with Article 6 of the Council Directive 2001/55/EC of 20 July 2001².</p> <p>3. The use for the purposes of accommodating persons seeking international protection shall be discontinued not later than 31 December 2028.</p> <p>4. Where the obligation to provide temporary protection is discontinued in accordance with paragraph 2 of this class, on a date that is earlier than 31</p> |
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| | <p>December 2028, the temporary use of any structure which has been used for the accommodation of displaced persons shall continue for the purposes of accommodating persons seeking international protection in accordance with paragraph 3 of this class.</p> <p>5. The relevant local authority must be notified of locations where change of use is taking place prior the commencement of development.</p> <p>6. 'displaced persons', for the purpose of this class, means persons to whom temporary protection applies in accordance with Article 2 of Council Implementing Decision (EU) 2022/382 of 4 March 2022</p> |
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The following notes are included with Class 20F - *Commented [i787]: Class 20F is inserted by article 2 of S.I. No. 605 Planning and Development (Amendment)(No. 4) Regulations 2022*

Commented [i788]: Class 20F is substituted by article 2 of S.I. No. 376/2023 Planning and Development (Exempted Development) (No. 4) Regulations 2023

Note: Footnote No. 1 in condition no. 2 of Class 20F is referenced in article 2 of S.I. 376/2023 as OJ No. L 71, 04.03.2022, p. 1. Footnote No. 2 in condition no. 2 in Class 20F is referenced in article 2 of S.I. 376/2023 as OJ No. L 212, 07.08.2001, p. 12

Other Sections of the Planning and Development Regulations 2001 (as amended)

Part 4 – Exempted development – Classes of Use

Class 6 – Use as a residential club, guest house or a hostel (other than a hostel where care is provided).

Class 9(a) - Use for the provision of residential accommodation and care to people in need of care (but not the use of a house for that purpose).

Articles 22 and 23

Note: The Referrer also refers to the following Articles, which are relevant to the submission of a Planning Application rather than a Referral:

Article 22 – Content of planning applications generally.

(5) Notwithstanding paragraph (a) of sub-article (4), drawings of floor plans are not required to be submitted in respect of a structure, other than a protected structure or a proposed protected structure that is proposed to be demolished.

Article 23 – Requirements for particulars to accompany an application under article 22.

The Referrer refers to Article 23 (1)(e)&(f) i.e.

(e) plans relating to works comprising reconstruction, alteration or extension of a structure shall be so marked or coloured as to distinguish between the existing structure and the works proposed,

(f) plans and drawings of floor plans, elevations and sections shall indicate in figures the principal dimensions (including overall height) of any proposed structure and the site, and site or layout plans shall indicate the distances of any such structure from the boundaries of the site.

Article 23(2) A planning application for development consisting of or comprising the carrying out of works to a protected structure, or proposed protected structure or to the exterior of a structure which is located within an architectural conservation area, shall, in addition to meeting the requirements of sub-article (1), be accompanied by such photographs, plans and other particulars as are necessary to show how the development would affect the character of the structure

8.3. Case Law

The Referrer makes reference to a number of legal cases, which they consider to be of relevance. In summary these are noted as follows:

Cairnduff v O Connell (1986) IR 73: Supreme Court 1984 No.212 (Finlay CJ, Walsh and Griffin JJ) 5 February 1986

The Question raised was relative to a dwelling house – *Whether appearance considered inconsistent with neighbouring structures – External staircase and balcony erected at rear of terraced house – Whether planning permission required – Local Government (Planning and Development) Act 1963 (No. 28) ss.2(1), 4(1)(g) – Local Government (Planning and Development Act 1976 (No.20),s.27.*

In this case the Supreme Court held a number of issues in dismissing the appeal including (2) *the works did not render such appearance inconsistent with the character of the structure of the neighbouring structures within s.4; and ‘character’ as used in s.4(1)(g) relates, not to the use of the structure, but to its shape, colour, design, ornamental features and layout; in determining whether works alter the character of a terraced house, prime regard must be had to the street appearance , and not to the rear.*

Sherwin v An Bord Pleanala (2023) IEHC 26 (High Court J. R) Humpreys J, 27 Jan 2023.

This concerned the former Dublin Diocesan Seminary at Clonliffe Road, Dublin.

Reg.Ref. 3270/21 – Ref. PL29N.311748 - Planning permission was sought for the removal of artefacts of a Liturgical and Religions nature from Holy Cross Church, (a Protected Structure RPS no.1901) to facilitate their re-instatement in appropriate locations (subject to separate statutory consents where required).

This includes reference to compliance with s.57(10) of the Planning and Development Act 2000 (as amended) i.e: ‘Works affecting character of protected structures or proposed protected structures’.

Of note par 197 refers to compliance with Section 57(10) of the Act and sub-section (v) of the J.R provides: *In considering any impacts on a protected structure, whether*

demolition or otherwise, the decision-maker must have regard to the need to protect the structure, which normally means that any detriments to the structure are the minimum necessary to achieve the benefit to the structure of its continued re-fashioned use.

9.0 Assessment

9.1. Introduction

- 9.1.1. The purpose of a referral is not to determine the acceptability or otherwise of the subject matter in respect of the proper planning and sustainable development of the area, but rather whether or not the matter in question constitutes development, and if so falls within the scope of exempted development, within the meaning of the relevant legislation. The onus of proof is on the party seeking to prove the exemption, and the development in question must fall clearly and unambiguously within the terms of the exemption claimed.
- 9.1.2. It should be stated at the outset, that this is not a planning application under consideration. The planning merits as to whether or not the development should take place is not the basis on which to determine the referral.
- 9.1.3. In addition, the control of the sequence and schedule of works in relation to various statutory requirements would be the responsibility of the developer and within the remit of the Council. Likewise, planning enforcement is a matter for the planning authority, and does not fall within the jurisdiction of the Board.

9.2. Is or is not development

- 9.2.1. Section 3 (1) of the Planning and Development Act, 2000 (as amended) states that 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 over land”. In the case of the items that are the subject of this referral, and as has been noted in the documentation submitted, it is evident that they have involved the carrying out of works and a material change of use on these

lands has occurred hence they constitute development as defined for the purposes of the Act.

- 9.2.2. The hotel is now in use to provide accommodation and facilities for international protection applicants. Having regard to Part 4 of the Planning and Development Regulations 2001 (as amended) and as noted in the Statutory Provisions Section above, this involves a change in use from Class 6 to Class 9(a). Having regard to the details contained in the Referral and to the Planner's Report, it is clear that the works that have taken place, would constitute a material change of use and development as defined, and as such is development within the meaning of the Act.

9.3. Is or is not exempted development

- 9.3.1. Article 9(1)(a)(i) of the Regulations states that development to which Article 6 relates shall not be exempted development for the purposes of the Act if the carrying out of the development would contravene a condition attached to a permission issued under the Act or if it would be inconsistent with any use specified in a permission under the Act.
- 9.3.2. In this case as has been noted in the Planning History Section above, the most recent planning permission relative to the refurbishment and three storey extension to the hotel is Reg.Ref.03/328. That also included a function/dining room and a night club. A subsequent more recent application Reg.Ref. 21/1175 was withdrawn. As noted on site the streetscape element of the hotel addressing Main Street comprises of 2no. Protected Structures and the rear of the hotel is a modern structure and adjoining car park.
- 9.3.3. On site I noted that the 3 storey rear extension has been constructed, which has planning permission Reg.Ref.03/328 refers. It is noted that there are no recent extensions to the hotel. The Referrer provides that the number of bedrooms in the hotel has been increased from 28 to 48. I would note from the Planners Report (attached to Reg.Ref.03/328) that they refer to 10 bedrooms being in the 3 storey extension, the number of bedrooms in the main part of the hotel is not specified and nor is it referred to by condition. There are no conditions on the planning permission relative to the total number of bedrooms in the hotel building as a whole. From the details provided in the Planner's Report it would appear that the internal changes to

the accommodation that have occurred are mainly located in the three storey modern extension. However, in the absence of recent drawings showing the permitted and current floor plans it is difficult to ascertain as to what is the current no. of bedrooms or as to whether an intensification in use has occurred.

- 9.3.4. Article 9 has been considered and there are no provisions within same that restrict the availability of the above exemption regarding the use of the subject property.

9.4. Restrictions on exempted development

- 9.4.1. Regard is had to the Statutory Provisions Section above, which lists the relevant legislation and the Exemptions provided. Having regard to the issues raised, those relevant to the Referral are considered further below:

Exempted Development

- 9.4.2. The exemption provided under Section 4(1)(h) of the Planning and Development Act 2000 (as amended) allows for internal works, but not for external works that would materially affect the external appearance of the structure. Having viewed the buildings externally onsite and the documentation submitted, including having regard to the Referral and the Planning Authority Report and Declaration, I would not consider that the works that have been carried out would 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.”*

Protected Structures

- 9.4.3. It is noted that the Referrer refers to Section 57(1) of the Planning and Development Act 2000 as amended, ‘Works affecting the character of protected structures or proposed protected structures’, and that this section seeks to limit the application of the general exempted development provisions that apply under the said Act relative to Section 4(1)(a),(h),(i),(ia),(j),(k) or (l) and any regulations made under Section 4(2) as they refer to a protected structure.
- 9.4.4. As stated in Section 57(1) *the carrying out of works to a P.S or a proposed P.S, shall be exempted development only if those works would not materially affect the character of (a) the structure or (b) any element of the structure which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or*

technical interest. Therefore, in this case it needs to be established as to whether the works that have been carried out would materially affect these attributes including the character of the P.S. I would also note that Section 57(10) refers to the consideration of planning applications and appeals to the Board and not to Referrals.

9.4.5. It is of note that Appendix 9, Volume 3 of the Waterford City and County Development Plan 2022-2028, includes relative to the subject site on Main Street, Lismore:

- RPS ID – WA750416 - Lismore Arms Hotel
- RPS ID – WA750462 – The Cloisters

Appendix 10 Architectural Conservation Areas, which includes Lismore.

These buildings are also included in the National Inventory of Architectural Heritage (NIAH) and their descriptions are given in the Planners Report (and included in the Appendix).

9.4.6. While the Referrer notes a number of changes made to facilitate the development, the Planning Authority Report does not consider that they are material. I would note that drawings including elevations and floor plans, showing what has been permitted and what has changed to facilitate the works to accommodate international protection applicants on a temporary basis have not been submitted. Therefore, I would consider that it has not been established that the internal works, have materially affected the character of the structure. As noted above, I would not consider that externally the character of the building has been materially affected.

Change of Use

9.4.7. As has been noted in the Statutory Provisions Section above, Class 14 of Schedule 2, Part 1 of the Planning and Development Regulations 2001 (as amended) provides exemptions for development consisting of a change of use. Class 14(g),(h) and (i) refer to exemptions, including from ‘use as a hotel, motel, hostel, guesthouse, holiday accommodation etc.: *to use as an emergency reception and orientation centre for protected persons*. It is of note that the restriction of exemption provides:

Class 14(j) shall not apply after a period of 3 years from the date of the commencement of the change of use specified in Class 14(h) or (i) or both, whichever date is the earliest.

It is of note that Class 14 does not include a requirement for notification to the Planning Authority.

Class 20F

- 9.4.8. As has been quoted in the Statutory Provisions Section above, this is a new exemption inserted in Schedule 2 Part 1 of the Regulations. This relates to the insertion of a 'New Class of Exempted Development' Class 20 F. This refers to the temporary provision (dates are provided) for meeting Ireland's legal obligation to provide accommodation to international protection applicants. A hotel is among the list of buildings referenced to provide such accommodation. Clause 3 of the Restrictions on Exemption in Class 20F provides: *The use for the purposes of accommodating persons seeking international protection shall be discontinued not later than 31 December 2028.*
- 9.4.9. Regard is also had to Circular Letter PL10/2022 – Planning and Development (Exempted Development)(No. 4) Regulations 2022 (S.I.605/2022). This refers to the temporary measure and includes the clause: *'Where a proposed change of use would materially affect a protected structure, the exemption is removed and planning permission is required in accordance with Section 57 of the Planning and Development Act, 2000 as amended.* It is noted that this is not referenced as a restriction on exemption in Class 20F of the Regulations. The Circular also provides: *This provision is a temporary measure and will expire on 31 December 2024; the use of such structures shall cease on the expiry of the regulation.*
- 9.4.10. Therefore, it would appear that there is some disparity between the dates provided for the temporary use period in the Restriction of Exemption provided in Class C20F of the Regulations and that provided in the Circular.

Conclusion

- 9.4.11. As has been noted relative to Section 4(1)(h) or Section 57 of the Planning and Development Act, 2000 (as amended), it has not been established that the temporary use of the Lismore House Hotel for persons seeking international protection has materially affected the character of the Protected Structures.
- 9.4.12. I would consider that the change of use that has occurred for the provision of this temporary accommodation would fit into the scope of the exemptions provided in

Class 14 and Class 20F of the Planning and Development Regulations 2001 (as amended).

9.5. Restrictions on Exemption relative to EIA and AA

- 9.5.1. Section 4(4) of the Planning and Development Act 2000 (as amended) essentially de-exempts any development which attracts a requirement for Environmental Impact Assessment (EIA) or Appropriate Assessment (AA) i.e: *Notwithstanding paragraphs (a), (i), (ia) and (l) 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.*

EIA

- 9.5.2. In relation to EIA, the development, which does not involve extensions or external works and is for a temporary change of use, is not a prescribed class of development for the purposes of EIA. Therefore, an EIA is not required.

AA Screening

- 9.5.3. The Planning Authority have carried out a Habitats Directive Project Screening Assessment and have concluded that having regard to the location of the subject site and to the nature of the proposed development, and the intervening distance with the identified Natura 2000 Sites, they consider that no AA issues arise in this case. In their opinion the proposed development either individually or in combination with other plans or projects, would not be likely to have a significant effect on a Natura 2000 site.
- 9.5.4. I would concur with this and note that having regard to nature and scale of the development for the temporary use of a hotel for accommodation of international protection applicants on a serviced site and the nature of the receiving environment and the distance and lack of connections to the nearest European sites, no Appropriate Assessment issues arise and it is not considered that the development would be likely to have a significant effect 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 works carried out (ongoing) to Lismore House Hotel, a Protected Structure, and within its curtilage since? [sic] January 2022. These works have been carried out to provide a care facility for IPAS refugees at Lismore House Hotel, 1-2 Main Street, Lismore, Co. Waterford, is or is not development or is or is not exempted development:

AND WHEREAS Pat Gibney requested a declaration on this question from Waterford City and County Council and the Council issued a declaration on the 25th day of May, 2023 stating that the matter was development and was exempted development:

AND WHEREAS Pat Gibney referred this declaration for review to An Bord Pleanála on the 19th day of June, 2023:

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

- (a) Sections 2(1), 3(1), 4(1)(h) and 57 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) Class 14 and Class 20F of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (d) the planning history of the site,
- (e) the submissions on file

(f) the report of the Inspector:

AND WHEREAS An Bord Pleanála has concluded that:

- (a) The works carried out to Lismore House Hotel to facilitate the temporary accommodation facility for international protection applicants would constitute development under Section 3(1) of the Planning and Development Act 2000, as amended.
- (b) the works carried out 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 and would fall within the scope of the exemption provided by Section 4(1)(h) of the Planning and Development Act 2000, as amended,
- (c) The carrying out of the works to facilitate this temporary accommodation for international protection applicants does not materially affect the character of the Protected Structures and is exempt development and would fall within the scope of Section 57 of the Planning and Development Act 2000 (as amended).
- (d) The temporary change of use from hotel to accommodation for international protection applicants would constitute exempt development and would fall within the scope of Class 14 and Class 20F of Schedule 2 of Part 1 of the Planning and Development Regulations 2001 (as amended).

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 development at Lismore House Hotel, 1-2 Main Street Lismore is development and is exempted development.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Angela Brereton
Planning Inspector

26th of March 2024