



Question

Whether the use of residential apartments at Coleman Court Apartments, Coleman Road, Cavan, Co. Cavan to provide accommodation for persons seeking international protection is or is not development or is or is not exempt.

Location

Coleman Court Apartments, Coleman Road, Cavan, Co. Cavan

Declaration

Planning Authority

Cavan County Council

Planning Authority Reg. Ref.

396

Applicant for Declaration

Ross Blue Management Limited.

Planning Authority Decision

No declaration/Is the Referrer

Referral

Referred by

Cavan County Council

Owner/ Occupier

Ross Blue Management Limited

Observer(s)

None

Date of Site Inspection

6th June 2025

Inspector

Kenneth Moloney

Contents

1.0 Site Location and Description	4
2.0 The Question	4
3.0 Planning Authority Declaration.....	4
3.2. Planning Authority Reports	4
4.0 Planning History.....	5
5.0 Policy Context.....	6
5.2. Natural Heritage Designations	6
6.0 The Referral.....	6
6.2. Planning Authority Response.....	8
6.3. Further Responses	8
7.0 Statutory Provisions.....	11
7.1. Planning and Development Act, 2000.....	11
7.2. Planning and Development Regulations, 2001	11
8.0 Relevant Referrals	14
9.0 Assessment.....	15
10.0 EIA Screening.....	20
11.0 Appropriate Assessment	20
12.0 Water Framework Directive	21
13.0 Recommendation	21

1.0 Site Location and Description

- 1.1. The referral site is located in Cavan town centre and fronts onto Railway Road (R198) and is situated on the opposite side of the road from the Cavan Bus Station.
- 1.2. The existing buildings on the site comprise of 2 no. two-storey buildings and are located between an existing filling station, to the immediate west of the subject site, and an apartment development located to the immediate east of the subject site.
- 1.3. The existing referral site has vehicular access onto Railway Road and includes car parking spaces located to the side and rear of the existing buildings.

2.0 The Question

Whether the use of residential apartments at Coleman Court Apartments, Cavan, Co. Cavan, to provide accommodation for persons seeking international protection, is or is not development and/or is or is / not exempt development.

3.0 Planning Authority Declaration

- 3.1. No declaration made by the Planning Authority. The Planning Authority on the 11th of March 2025, in accordance with Section 5(4) of the Planning and Development Act, 2000 (as amended), referred a referral to the Commission for determination.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner's Report, dated 11th March 2025, can be summarised as follows:

- The referral question is whether the use of residential apartments to provide accommodation for persons seeking international protection is or is not exempted development.
- Relevant statutory provisions include Class 14 (h) and Class 20 (f) of the Planning and Development Regulations, 2001, as amended.

- Article 9(1), (2) and (3) of the Planning and Development Regulations, 2001, as amended, include restrictions placed on exemptions and this relates to restrictive planning conditions on site, access onto a road and traffic hazard, heritage archaeological and landscape protections, obstructing a right of way. Further exemption relates to a development that requires AA because it would be likely to have a significant effect on the integrity of a European site.
- The above question is referred to ACP under section 5(4) of the Planning and Development Act.

3.2.2. Other Technical Reports

- None

4.0 Planning History

The following relates to the referral site.

- L.A. Ref. 18/517 – Permission **refused**, on the 30th of January 2019, to replace existing advertising sign on gable of existing building known as 'Coleman Court' with upgraded digital sign, for the following reasons: (1) will give rise to a traffic hazard by way of providing a distraction to motorists and endanger traffic safety, and (2) would intrude upon the character and visual amenity of an area.
- L.A. Ref. 01/991562 – Permission **granted**, on the 25th of September 2001, subject to conditions, to erect new advertising sign to gable of existing building known as 'Coleman Court'.
- L.A. Ref. 99/991470 – Permission **granted**, on the 14th of December 1999, subject to conditions, for the demolition of existing two-storey flats & erect new building with 8 No. self-contained apartments.
- L.A. Ref. 96/991298 – Permission **granted**, on the 9th of July 1997, subject to conditions, for 6 No. flat units.
- L.A. Ref. 90/991057 – Permission **granted**, on the 17th of May 1990, subject to conditions, to convert first floor premises to gymnasium, changing rooms and toilet.

5.0 Policy Context

5.1. Cavan County Development Plan, 2022 – 2028, incorporating a Local Area Plan for Cavan Town, 2022 – 2028.

- 5.1.1. The subject site is zoned 'Town Centre'. The stated objective of such lands is: *'Protect and enhance the special physical and social character of the town and village core while providing and/or improving town/village centre facilities'*.

5.2. Natural Heritage Designations

- Lough Oughter and Associated Loughs SAC (site code 000007) – 3.1 km northwest
- Lough Oughter SPA (site code 004049) – 3.1 km northwest
- Lough Oughter And Associated Loughs pNHA (site code 000007) – 3.1 km northwest
- Drumkeen House Woodland pNHA (site code 000980) – 2.3 km north

6.0 The Referral

- 6.1. The following is a summary of the applicant's case, submitted to the Planning Authority.

Planning Precedent

- Reference to ABP decision in respect of Reg. Ref. 307077-20.
- ABP declared that the use of apartments for protected persons and works to the apartments is not development.
- The Inspector's Report concludes that the subject block of apartments can be considered under the term '*other premises*' for the purpose of Class 14, providing residential or overnight accommodation.

- Further the Inspector's Report concluded that the use of the apartments comes within the scope of Class 14(h) and (i) of Part 1 of Schedule 2 of the Regulations.
- The Coleman Court Apartments complex is currently operating on a similar basis with no care facilities provided. The decision by ABP sets a clear and strong precedent for the use of apartments to accommodate persons seeking international protection.

Zoning

- The subject site is zoned Town Core, and the exempted use (to provide accommodation for refugees and asylum seekers) is consistent with the zoning objective, and the proposed use is appropriate for the subject site.

Development

- No works are to be carried out to the property.
- Clarification is sought on the continued use of the Coleman Court Apartments as a residential building that provides accommodation to protected persons comprising families, women and children but does not provide care.
- Accordingly, this is not development as a change of use has not occurred.
- Determination of a material change of use relates to practical impacts and effects of the proposed change of use and whether it would lead to materially different planning considerations by the PA.
- There will be no discernible change to the use of the building other than the socio-economic class associated with the inhabitants occupying the building.
- However, the socio-economic class difference shall not be taken into account in consideration of whether a material change of use has occurred as evidenced by the Supreme Court Dublin Corporation v Moore (1984).
- Submitted that if this were a planning application for a residential building, the PA would not include conditions prohibiting accommodation to people of particular socioeconomic backgrounds.
- The subject residential development was constructed in 1996 and has been in continuous use as a residential property.

- The residents of the building have their own apartments and there are no communal facilities.
- Residents are free to enter / exit the building complex throughout the day similar to any tenant renting from a private landlord.
- A management company maintains the building as is common with most apartment complexes.
- The building provides long term accommodation with residents living there for a minimum of 12 months.
- The continued use of the property to provide residential accommodation is not development as no material change of use has occurred.
- Accordingly, the use of Coleman Court Apartments as a long-term residential apartment to house protected persons, which does not provide care, does not constitute development in accordance with the Act.
- The residential apartments as temporary accommodation for displaced persons seeking international protection does not constitute development.

6.2. **Planning Authority Response**

- None

6.3. **Further Responses**

- 6.3.1. The following is a summary of an observation by the applicant to the referral to ACP by the Planning Authority.

Planning Precedent

- ABP Ref. 307077 refers to a case which the Board determined the change of use of incomplete apartments and to residential accommodation, including persons seeking international protection, and not as a facility for the protection and care of protected persons, does not constitute a change of use.
- The Inspector confirmed that the use of standard residential apartments for protected persons, absent of institutional care or communal services, remains within the bounds of residential use.

- Coleman Court currently accommodates own-door apartments, which operate under the following principles.
 - No care or communal living facilities other than shared laundry / bin storage area.
 - Each apartment is self-contained.
 - Landlord maintains common areas and essential services.
 - Residents responsible for day-to-day upkeep.
- The continued use of Coleman Court as a residential building does not constitute development in accordance with s. 2(1) of the Planning and Development Act, 2000 (as amended).
- In respect of material change of use the test is whether it is materially different from the prior use.
- In *Esat Digifone v South Dublin County Council*, the High Court referred that the determination of materiality must be relevant to the proper planning and development and the preservation of amenities.
- In *Galway County Council v Lackagh Rock* the High Court referred to the test of materiality are the matters that the PA would take into account in the event of a planning application.
- Coleman Court has been used as residential apartments since 1986.
- In the case of *Cork County Council v Slattery Pre-Cast Concrete*, the High Court referred that the assessment of whether an intensification of an existing use at a property constitutes a material change of use is one to be assessed in light of practical effects relevant to planning considerations. Such as increased vehicular traffic, noise, waste collection and impact on the amenity of surrounding residents.

Traffic Volumes

- Given the nature of residents, asylum seekers, and that children are likely to reside at the property, it is reasonable to assume that car ownership and usage at the property will be low.

- The property is located in the town centre within walking distance of amenities of many services, thus negating the need for private car.
- The property is located opposite Cavan Bus Station, which serves local and regional routes. A frequent bus service operates in Cavan town and serves the site.
- Car parking is available at the apartment building.
- The number of staff is minimal, comprising mainly of maintenance and management.
- There will be no noticeable increase in traffic volumes at the site.

Waste Collection

- No change is proposed to the current waste collection system.
- A central waste collection system is provided at the site.
- No impacts on the adjoining footpath or road.
- It is not anticipated that the increase in residents at the site will result in additional waste. The existing waste can be dealt with by the current waste collection set up.

Noise

- Noise impacts arising from the proposed development will not be detrimental to established residential amenities.
- The property is located in the town centre where noise levels are slightly elevated regardless of the property's use.
- There is a lack of any additional practical effects associated with the new use in line with the HC judgement *Cork County Council v Slattery Pre-Cast Concrete*, meaning that no material change of use will occur at the subject site.
- As no material change of use has taken place, no development has occurred in accordance with the Planning and Development Act.

7.0 Statutory Provisions

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

7.1.1. Section 2(1) of the 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'

7.1.2. Section 3(1) 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'.

7.1.3. Section 4(2) of the Act provides that the Minister may, by regulations, provide for any class of development to be exempted development.

7.1.4. Section 4(4) provides that development shall not be exempted development if an Environmental Impact Assessment (EIA) or an Appropriate Assessment (AA) of the development is required.

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

7.2.1. Article 6(1) of the Planning and Development Regulations 2001, as amended, (hereinafter referred to as 'the Regulations') provide that '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. Schedule 2 of Part 1 to the Regulations set out the classes of exempted development, including 'Class 14' allowing for 'development consisting of a change of use': - '

'(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,

(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’.

- 7.2.3. Statutory Instrument 376 of 2023 titled Planning and Development (Exempted Development) (No. 4) Regulations 2023 is an amendment to the 2001 Regulations which inserted a new Class 20F to Part 1 of Schedule 2 of the 2001 Regulations. Class 20F is set out as follows:

Class 20F	Conditions and Limitations
<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,</p>	<ol style="list-style-type: none"> 1. The temporary use shall only be for the purposes of accommodating displaced persons or for the purposes of accommodating persons seeking international protection. 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 2001. 3. The use for the purposes of accommodating persons seeking international protection shall be discontinued not later than 31 December 2028. 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 December 2028, the temporary use of any

<p>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>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> <p>7. 'international protection', for the purpose of this class, has the meaning given to it in section 2 (1) of the International Protection Act 2015 (No. 66 of 2015).</p> <p>8. 'temporary protection', for the purpose of this class, has the meaning given to it in Article 2 of Council Directive 2001/55/EC of 20 July 2001.</p>
--	---

7.2.4. As provided for in Article 9(1)(a), the development to which article 6 relates, shall not be exempted development, under certain circumstances and the restrictions and limitations are outlined in this Article.

7.2.5. Article 5 of the Regulations sets out certain definitions, the following of which are relevant to the referral question:-

- 'business premises' means –
 - ‘(a) any structure or other land (not being an excluded premises) which is normally used for the carrying on of any professional, commercial or industrial undertaking or any structure (not being an excluded premises) which is normally used for the provision therein of services to persons,
 - (b) a hotel, hostel (other than a hostel where care is provided) or public house,

or

(c) any structure or other land used for the purposes of, or in connection with, the functions of a State authority'

- 'excluded premises' means –

(a) any premises used for purposes of a religious, educational, cultural, recreational or medical character,

(b) any guest house or other premises (not being a hotel or a hostel) providing overnight guest accommodation, block of flats or apartments, club, or boarding house, or

(c) any structure which was designed for use as one or more dwellings, except such a structure which was used as business premises immediately before 1 October, 1964 or is so used with permission under the Act.

- 'care' means personal care, including help with physical, intellectual or social needs.

7.2.6. For the purposes of Schedule 2, the Regulations provide the following definition of a 'protected person' –

(a) a person who has made an application to the Minister for Justice and Equality under the Refugee Act of 1996 or the Subsidiary Protection Regulations 2013 (S.I. No. 426 of 2013),

(b) a person who falls to be considered or has been considered under section 3 of the Immigration Act of 1999, or

(c) a programme refugee within the meaning of section 24 of the Refugee Act of 1996.

8.0 Relevant Referrals

8.1.1. ABP-321373-24: The Board determined on the 14th of April 2025 that the use of a guesthouse at Dun a Ri House Hotel, Kingscourt, County Cavan, to provide accommodation for persons seeking international protection, is development and is exempted development.

- 8.1.2. ABP-318709-23: The Board determined on the 17th of February 2025 that the use of the buildings/properties/structures located at the Former Great Southern Hotel, for the purposes of accommodating persons seeking international protection is development and is not exempted development.
- 8.1.3. ABP-320219-24: The Board determined on the 20th of November 2024 that the proposed change of use of former medical centre to temporary hostel use, to accommodate displaced persons or persons seeking international protection is development and is exempted development and that works consisting of the replacement of a window with two new windows, blocking up of a door, removal of a window and its replacement with a new door is development and is exempted development.
- 8.1.4. ABP-320031-24: The Board determined on the 19th of November 2024 that the change of use of a dwelling house to accommodation, where care is not provided, for protected persons is development and is not exempted development.
- 8.1.5. ABP-307077-20: The Board determined in December 2020 that the use of the premises at Cannaboe Street, Ballinamore, County Leitrim as apartments, including residential accommodation for protected persons, is not development.

9.0 Assessment

9.1 Introduction

- 9.1.1. It should be stated at the outset that the purpose of this referral is not to determine the acceptability or otherwise of the accommodation use 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.

9.2 Is or is not development

- 9.2.1. Section 3(1)(a) of the Act defines development as the carrying out of any works in, on, over or under land, or the making of any material change in the use of any land or structures situated on land and in effect relates to both works and the material change in the use of land or structures.

- 9.2.2. The referral submission to Cavan County Council (CCC) confirms that it is not intended to carry out any works to the property, and that the declaration seeks clarification on the continued use of the existing building as a residential building that provides accommodation to protected persons, comprising of families, women and children but does not provide care.
- 9.2.3. I noted from my site assessment that the existing structures on the referral site comprises of 2 no. two-storey buildings. The two-storey building to the front of the referral site, facing onto Railway Road, includes a return onto the site. The second two-storey building is situated to the rear of the site, and apart from a small separation distance between both buildings, the second building reads as an extension to the building to the front of the site.
- 9.2.4. I note from the planning history (L.A. Ref. 96/991298 and L.A. Ref. 99/991470) that apartments have been previously granted permission on the referral site. In relation to L.A. Ref. 96/991298 I acknowledge that 6 no. apartments were granted permission, and in accordance with the accompanying plans, available on CCC's website, www.cavancoco.ie, these 6-no. apartments relate to the block situated to the rear of the referral site. The subsequent permission on the referral site, L.A. Ref. 99/991470, relates to the two-storey building situated to the front of the site, and 8 no. apartments were granted permission. Therefore, a total of 14 no. residential apartments has been permitted on the referral site. Furthermore, and having regard to the planning history on the subject site, there was no subsequent planning permissions altering the residential apartment use on the site.
- 9.2.5. I am therefore satisfied, based on a visual inspection of the site and the drawings associated with the planning history pertaining to the site, that the established buildings on the site are those permitted as residential apartments.
- 9.2.6. I would therefore consider that the key question for the Commission to determine in this referral case is whether the use of the existing buildings on the site for accommodation for protected persons represents a change of use, and if that is the case whether a material change of use has occurred. I will firstly consider whether a change of use has occurred.
- 9.2.7. I noted from my site assessment that the existing apartment buildings on site are currently in use as residential accommodation for persons seeking international

protection. I also noted that there is no reception orientation or care facilities on site for those seeking international protection. As such the existing use on site is not operating as an emergency reception for the care of protected persons, it is being operated solely as residential accommodation.

- 9.2.8. The existing residential accommodation on the site comprises of own-door independent living units and there are no communal facilities on site. Further I note from the referrer's submission, and I accept based on my site assessment, that residents are free to enter and exit the residential use, in a similar manner to other apartment developments. The existing residential development is maintained by an on-site manager and there is a storeroom located between the 2 no. two-storey buildings, which again is common amongst established apartment developments. The residential accommodation has a limited number of car parking spaces on site.
- 9.2.9. I would also acknowledge that the layout of the existing residential buildings on the site is no different to that permitted on the site, having regard to the planning history, and I did not observe any additional works or structures on the site from that of the permitted development. The referrer's submission also submits that no works are to be carried out to the property. Separately I note that the referrer's submission refers to case law, *Cork County Council v Slattery Pre-Cast Concrete*, in respect of the intensification of a development and practical effects relevant to planning considerations. However, in the current case no intensification has occurred on site and the question before the Commission does not encompass any intensification, in terms of additional structures or residential accommodation. The fact that no intensification has occurred on the site would mean that the intensity of the use, and in turn the planning considerations for the continued use of residential accommodation for protected persons, is no different to that of the permitted residential use.
- 9.2.10. Furthermore, and noting in the referrer's submission that the residential accommodation will accommodate families, women and children, I would not consider that household composition is a material planning issue in respect of an apartment use or residential use generally.
- 9.2.11. In my considerations in whether a change of use has occurred on the referral site I have had regard to previous Board decision at ABP-307077-20, in which case the

Board determined that the use of a premises as apartments, including residential accommodation for protected persons, is not development.

- 9.2.12. Having regard to the above considerations I am of the view that the use of the existing buildings on the site for residential accommodation for protected persons does not represent a change of use from the permitted use and, therefore, does not constitute development.
- 9.2.13. Although I have concluded above that a change of use has not occurred, however for completeness and should the Commissioners conclude otherwise, I will consider the factors in respect of a material change of use relevant to the question before the Commission.
- 9.2.14. There is no definition of 'material change of use' in the Act, or any other statute. However, the question as to whether a change of use is a material one was addressed by Keane J. in the case of *Monaghan County Council v Brogan* [1987] IR 333. He stated that the of relevance to this question are: "...*the matters which the planning authority would take into account in the event of a planning application being made for the use. If these matters are materially different (from the original use), then the nature of the use must equally be materially different*".
- 9.2.15. I would also acknowledge that the referrer's response submission also submits that the determination on whether it is materially different from the prior use is based on the practical impacts and effects of the proposed change of use. In support of this position the referral quotes relevant case law such as, *Esat Digifone v South Dublin County Council* (2002) and *Galway County Council v Lackagh Rock* (1985) which both confirm that the test of materiality are the matters that the PA would take into account in the event of a planning application.
- 9.2.16. I do not consider that the nature and the characteristics of the residential accommodation for persons seeking protection, would have different planning considerations in relation to traffic generation, waste collection, noise or impacts on adjacent amenities generally, relative to the occupation of 14 no. apartments, either on a rented or owner occupier basis, as permitted on the referral site. As such the use of the buildings for protected persons would not be materially different to the permitted use on the referral site.

9.2.17. I am satisfied that development has not occurred, however should the Commission consider otherwise I have set out considerations in relation to exempted development.

9.3. **Is or is not exempted development**

9.3.1. As noted above in para. 7.0 (statutory provisions) exemptions exist for change of use from various premises to use for accommodation for protected persons under the Regulations under Class 14(h) and Class 14(i) of Part 1 of Schedule 2.

9.3.2. Class 14(h) and Class 14(i) refers to a list, as follows, *'hotel, motel, hostel, guesthouse, holiday accommodation, convent, monastery, Defence Forces barracks or other premises or residential accommodation, or part thereof'*. I would consider that the provision *'or other premises'* is part of the larger provision *'or other premises or residential institutions providing overnight accommodation'* and must be considered in the context of the list as a whole. Notwithstanding the fact that apartments provide overnight accommodation, they are not the kind of residential institution envisaged in this exemption. Notwithstanding the exemptions noted above, it is my view, and similar to the Board's determination in referral case ABP-320031-24, which I have summarised in para. 8.1.4 above, that the exemptions do not apply to apartments.

9.3.3. Similarly, in Class 20F, there is a long list of types of buildings, but apartments are not listed. As such, there is no exemption under the Act or under the Regulations that can be availed of.

9.4. **Restrictions on exempted development**

9.4.1. I have noted above that there are no relevant exempted development provisions in respect of the referral before the Commission. Notwithstanding, and should the Commission consider otherwise, I would acknowledge that Article 9 of the Planning and Development Regulations 2001 (as amended) refers to restrictions on exempted development.

9.4.2. In this regard I have assessed the use to provide accommodation for persons seeking international protection having regard to the relevant Article 9 restrictions,

and I would conclude that should Classes 14(h), 14(i) and/or 20(F) apply in this instance that Article 9 would not de-exempt the said exemptions.

10.0 EIA Screening

10.1.1. The proposed development does not come within the definition of a 'project' for the purposes of EIA, that is, it does not comprise construction works, demolition or intervention in the natural surroundings. (Refer to Form 1 in Appendix 1 of report).

11.0 Appropriate Assessment

11.1. I have considered case ABP-322061-25 in light of the requirements S177U of the Planning and Development Act 2000 as amended.

11.2. The closest European Site, part of the Natura 2000 Network, is the Lough Oughter and Associated Loughs SAC (Site Code 000007) and Lough Oughter SPA (site code 004049) both 3.1 km northwest of the referral site.

11.3. Having considered the nature, scale and location of continued use, I am satisfied that it can be eliminated from further assessment because it could not have any effect on a European Site.

11.4. The reason for this conclusion is as follows:

- The absence of any development works.
- The nature of the use and its urban location on a fully serviced site.
- No changes to the established on-site existing surface regime.

11.5. I conclude, on the basis of objective information, that the use would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

11.6. Likely significant effects are excluded and therefore Appropriate Assessment (under Section 177V of the Planning and Development Act 2000) is not required.

12.0 Water Framework Directive

12.1.1. I have individually assessed the subject residential use and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface and ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. Having considered the nature, scale and location of the subject use, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any surface and/or groundwater water bodies either qualitatively or quantitatively.

12.1.2. The reason for this conclusion is as follows.

- The absence of any development works.
- The absence of any hydrological connections.
- No changes to the established on-site existing surface regime.

12.1.3. I conclude that on the basis of objective information, that the subject use will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

13.0 Recommendation

13.1. I recommend that the Commission should decide this referral in accordance with the following draft order.

WHEREAS a question has arisen as to whether the use of residential apartments at Coleman Court Apartments, Cavan, Co. Cavan, to provide accommodation for persons seeking international protection is or is not development or is or is not exempted development:

AND WHEREAS Ross Blue Management Limited requested a declaration on this question from Cavan County Council and the Council did not make a declaration in this instance.

AND WHEREAS Cavan County Council referred this referral for review to An Coimisiún Pleanála on the 11th day of March 2025:

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

- (a) Section 2(1) of the Planning and Development Act, 2000, as amended,
- (b) Section 3(1) of the Planning and Development Act, 2000, as amended,
- (c) Section 4(2) of the Planning and Development Act, 2000, as amended,
- (d) Article 5 of the Planning and Development Regulations, 2001, as amended,
- (e) article 6(1) and article 9(1) of the Planning and Development Regulations, 2001, as amended,
- (f) Parts 1 and 4 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (g) Relevant case law,
- (h) Previous referrals to the Commission, including ABP-307077-20,
- (i) the planning history of the site,
- (j) The documentation on the file, including submissions on behalf of the referrer Cavan County Council, and the requestor Ross Blue Management Limited,
- (k) the pattern of development in the area,

AND WHEREAS An Coimisiún Pleanála has concluded that:

- (a) the permitted use of the apartments and the current use of the premises as residential accommodation for persons seeking international protection, and not as a facility for the reception and care of protected persons, does not constitute a change of use from the permitted use and, therefore, does not constitute development.
- (b) The use of the buildings as residential accommodation for persons seeking international protection, does not raise planning considerations that are materially different to planning considerations relating to the permitted use,

NOW THEREFORE An Coimisiún Pleanála, in exercise of the powers conferred on it by section 5 (4) of the 2000 Act, hereby decides that the use of residential apartments to provide accommodation for persons seeking international protection, is not 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.

Kenneth Moloney
Senior Planning Inspector

18th November 2025

Form 1 - EIA Pre-Screening

Case Reference	ABP-322061-25
Proposed Development Summary	Whether the use of residential apartments to provide accommodation for persons seeking international protection is or is not development or is or is not exempt.
Development Address	Coleman Court Apartments, Coleman Road, Cavan, Co. Cavan.
In all cases check box /or leave blank	
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<input type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2.
	<input checked="" type="checkbox"/> No, No further action required.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input type="checkbox"/> Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	State the Class here
<input type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
<input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed	

<p>type of proposed road development under Article 8 of the Roads Regulations, 1994.</p> <p>No Screening required.</p>	
<p><input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.</p> <p>EIA is Mandatory. No Screening Required</p>	
<p><input type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.</p> <p>Preliminary examination required. (Form 2)</p> <p>OR</p> <p>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</p>	

<p>4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?</p>	
<p>Yes <input type="checkbox"/></p>	<p>Screening Determination required (Complete Form 3)</p>
<p>No <input checked="" type="checkbox"/></p>	<p>Pre-screening determination conclusion remains as above (Q1 to Q3)</p>

Inspector: _____ Date: _____