Inspector's Report ABP-322689-25

Question	Whether the current use of the site for the purposes of providing temporary protection to displaced persons does not require planning permission and proposed change of use of Mearescourt House to use as accommodation for protected persons is or is not development or is or is not exempt.
Location	Mearescourt House, Rowlandstown, Rathconrath, Co. Westmeath

Declaration

Planning Authority	Westmeath County Council
Planning Authority Reg. Ref.	S5-23-25
Applicant for Declaration	Rathconrath Property Ltd.
Planning Authority Decision	No declaration

Referral

Referred by	Rathconrath Property Ltd.
Owner/ Occupier	None

Observer(s)	None
Date of Site Inspection	2nd April 2026

Contents

1.0 Site Location and Description 5

2.0 The Question 5

3.0 Planning Authority Declaration 6

3.2. Planning Authority Reports 6

4.0 Planning History 6

5.0 Policy Context 7

5.1. Westmeath County Development Plan, 2021 – 2027 7

5.2. Natural Heritage Designations 7

6.0 The Referral 8

6.2. Planning Authority Response 13

6.3. Referrer's Response 13

7.0 Relevant Referrals 14

8.0 Statutory Provisions 16

8.1. Planning and Development Act, 2000, as amended. 16

8.2. Planning and Development Regulations, 2001, as amended. 17

9.0 Assessment 21

9.1. Introduction 21

9.2. Is or is not development 21

9.3. Is or is not exempted development 24

9.4. Restrictions on exempted development 29

10.0 EIA Screening 29

11.0 Appropriate Assessment 29

12.0 Recommendation 30

Appendix 1 – Form 1: EIA Pre-Screening

1.0 Site Location and Description

1.1. The referral property, Mearescourt House, a protected structure, is located in a rural area, approximately 6km northwest of Rathconrath, Co. Westmeath.

1.2. The house is set back from the public road in extensive parkland demesne grounds with a complex of outbuildings/stable block to west and a walled garden to the rear.

1.3. The Record of Protected Structures (RPS) describes Mearscourt House as follows;

> *Detached five-bay three-storey over basement Palladian country house, built c.1760, possibly incorporating the remains of earlier buildings, including a Medieval tower house. Now in use as a guesthouse*.

1.4. The house itself, over three floors, includes 11 no. bedrooms and entrance lobby, dining room and sitting room at upper ground floor level.

1.5. The stables and outbuildings are protected structures, and not part of the referral application. The RPS describes the stables and outbuilding as follows

> *Stable block on U-shaped plan, built c.1840, comprising two-storey ranges to east and west with a three-bay two-storey advanced pedimented three-bay two-storey section to centre of north range with cupola over. Located to west side of Meares Court*.

1.6. Mearescourt House is currently used to provide accommodation for international protection applicants.

2.0 The Question

2.1. The question for consideration is as follows.

> *Whether the current use of the site for the purposes of providing temporary protection to displaced persons does not require planning permission and proposed change of use of Mearescourt House to use as accommodation for protected persons is or is not development and is or is not exempted development*.

3.0 Planning Authority Declaration

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

3.2. Planning Authority Reports

3.2.1. Planning Reports

- None

3.2.2. Other Technical Reports

- None

4.0 Planning History

4.1.1. Section 5

- PA Ref. S5-02-25 – The Council declared on the 14th of February 2025 that to 'change the current hotel and asylum seeker centre to accommodate multi-family occupancy under SI 376. No structural alterations are required as the hotel which comprises of a large Georgian House and accompanying courtyard is occupied by 70 people with capacity of 85 people. The hotel which has run for several years has held over 30 weddings including numerous events and festivals such as Music at Mears – sponsored by Westmeath County Council' is not exempted development within the meaning of S.I. 376.
- PA Ref. S5-49-24 – The Council declared on the 13th of December 2024 that 'a property upgrade to include conversion of existing house/B&B, which is a protected structure, into accommodation for use under SI No. 376/2023 for multifamily occupancy' is not exempted development within the meaning of S.I. No. 376/2023.

4.1.2. Planning Applications

- PA Ref. 96/1045 – Permission granted, on the 12th of March 1997, subject to 3 no. conditions, for the installation of septic tank and percolation area.

5.0 Policy Context

5.1. Westmeath County Development Plan, 2021 – 2027

5.1.1. The referral site is located in a rural area and is not zoned.

5.1.2. Volume 8 of the CDP lists the Record of Protected Structures, and the referral property is a protected structure (RPS No. 017-009) Meares Court and demesne. The rating for the protected structure is national. The RPS appraisal states the following;

> *An interesting house employing the classic Irish Palladian formula of a central tripartite doorcase with a Venetian window over to the first floor and a Diocletian window above to the second floor*.

5.1.3. The stables and outbuildings are also protected structures (RPS No. 017-010), and the rating is regional. The RPS appraisal states the following;

> *A very fine stable block complex associated with Meares Court, which retain its early form and character. This handsome complex is built in an imposing classical style, befitting the architectural quality of the main house itself*.

5.1.4. The referral property is located within the designated landscape type 'Western Lowlands' in the 'Landscape Character Assessment' of Volume 2 in the CDP.

5.2. Natural Heritage Designations

- Lough Iron SPA (site code 004046) – 8.5 km northeast
- Ballymore Fen SAC (site code 002313) – 6.3 km southwest
- Lough Sewdy pNHA (site code 000689) – 7 km southwest
- Royal Canal pNHA (site code 002103) – 5 km northeast

6.0 **The Referral**

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

Site Context

- The site comprises of Mearescourt House, a protected structure (RPS Ref. 017-009).
- There is a recorded archaeological monument (Reference WM017-103, Castle-unclassified) located to the rear of the house.
- A stable block complex (RPS Ref. 017-010) is located to the rear of the house.
- To the rear of the house is the walled garden (RPS Ref. 017-011).

Planning History

- It is noted that previous references to Mearescourt House as a hotel in Section 5 application PA Ref. S5-02-25 are incorrect, and the pre-existing use was a limited Guest House, which is enabled by the exemptions provided under Article 10 (4) of the Regulations.

Planning Opinion

On the matter of the current use

- The site is currently in use to provide temporary accommodation for displaced persons from Ukraine in accordance with S.I. No. 306/2022.
- A contract was signed between Rathconrath Property Limited and the Department of Children, Equality, Disability, Integration and Youth (DCEDIY) in August 2022. A subsequent contract was awarded in November 2024.
- The site has been identified as a property for which Beneficiaries of Temporary Protection Accommodation (BOTPs) are provided on behalf and supported by the DCEDIY.
- This use of the site has been recognised by the Westmeath County Childcare Committee Integration Team Stay and Play report.

- The EU (Planning and Development) (Displaced Persons from Ukraine Temporary Protection) (S.I. No. 306/2022) was enacted for the purpose of giving effect to Council Directive No. 2001/55 EC.
- The purpose of S.I. No. 306/2022 is to provide immediate protection in EU countries for persons displaced by the Russian invasion of Ukraine, including the provision of emergency accommodation.
- The EU Council Implementing Decision (EU) 2024/1836 of 25th June 2024, extends this temporary protection to 4th of March 2026.
- S.I. no. 306/2022 refers to the non-application of the Planning and Development Act, 2000.
- The existing use of the site has been undertaken in accordance with S.I. 306/2022.
- The submitted drawings illustrate the current use of the property.
- The provisions of the Planning and Development Act, 2000, as amended, do not apply and therefore disapplies Section 4, Section 5, Section 57 of the Act.
- The provision of residential accommodation for displaced persons currently do not require planning permission.

Precedents

- In ABP case 320219 the Inspectors Report acknowledges that the legislation provides for the non-application of the Act for certain classes of development.
- In this precedent case the residential accommodation provides for both displaced persons and persons seeking international protection and the proposed change of use of a former medical centre to temporary hostel use, to accommodate displaced persons is development and exempted development.
- Also, in this precedent case S.I. 306/2022 exempts work consisting of replacing window with two new windows, blocking up of a door, removal of a window and replacement with a new door.

- The temporary exemption extends to the 4th of March 2026, and having regard to the precedent, the current proposal is development and is exempted development.

Preamble to Questions 2 – 5

- The change of use on the subject site relates to the condition of the site prior to the commencement of the current temporary use to provide accommodation for displaced persons.
- These questions relate to the use of the site that would be reverted to at a time that a use as enabled under S.I. No. 306/2022 is discontinued.
- The proposed change of use relates to Mearescourt House only, and not the adjacent courtyard.
- Submitted drawings refer to the pre-existing use and the proposed use.
- The drawings illustrate residents will avail of the existing services and facilities of the house including kitchen, dining, laundry facilities, that have served the occupants of the bedrooms.

Change in Tenure

- Two questions arise in respect of tenure;
    1. Whether the change of use as accommodation for protected persons represents a change in tenure only.
    2. Whether a change in tenure is or is not development and is or is not exempted development.
- ABP case reference 307077 is referenced as a precedent. The Inspectors Report in this case concluded that the change of use from apartments to accommodation providing for protected persons is not development.
- The original use on the site, being the use established before 1st October 1964, was a residential use of the house. A house is defined in Section 2(1) of the Act.
- The occupancy of the dwelling can be understood in terms of (a) the quantity of the bedrooms and (b) the service and facilities of the house,

including kitchen, dining and laundry facilities, that serve the occupants of those bedrooms. These bedrooms do not comprise of additional dwellings, a flat, or an apartment.

- It is not proposed to sub-divide the house into multiple residential units.
- The proposed change of use is change in tenure only.
- No additional works or changes to the house or bedrooms within the house are required to facilitate this use, and no additional facilities beyond those that normally form part of the house are proposed.
- No permission or exemption is being sought for any non-residential use.
- The proposal is a change in tenure only and therefore is not development.

Proposed Change of Use from premises providing overnight accommodation

- Should the PA conclude that the change of use is a material change of use, it is considered such a change of use would fall under the exemptions.
- ABP case reference 307077 is a relevant precedent in this case. The Inspectors Report concluded that the exempted development provisions under Class 14(h) and (i) of the Part 1, Schedule 2 of the Regulations would apply to apartments.
- It is considered that a ‘other premises’, as referred to in Class 14(h), is a house.
- Attention is drawn to the definition of ‘excluded premises’ as presented in Article 5(1) of the Regulations. The restrictions in the definition of 'excluded premises' as defined in Article 5 (1) of the Regulations would not apply to the subject site.
- Mearescourt House is a ‘premises’ and can be considered under the term ‘other premises’ providing overnight accommodation. Therefore, it can be considered that the use of the house as accommodation for protected persons comes within the scope of the exempted development provided under Class 14 (h).
- The proposed change of use is therefore exempted development.

Proposed Change of Use as a Guesthouse

- Should the arguments above in respect of change of tenure and 'other premises' for overnight accommodation not be accepted then the development is exempted development given that the prior use was a guesthouse.
- The property has existed as a guesthouse as far back as the 1970's. This is confirmed in the NIAH survey in 2004.
- The guesthouse use was exempted development having regard to Article 10(4) of the Regulations.
- The submitted pre-existing first floor drawing MHM-203 illustrates the guesthouse use consistent with both Article 10(4) of the Regulations and the definition of guesthouse in Article 5(1) of the Regulations.
- It is contended that there is no distinction between '*as overnight guest accommodation*' as contained in Article 10(4) of the Regulations and the meaning of guesthouse. Further Article 5(1) of the Regulations defines '*excluded premises*' as a guesthouse providing overnight accommodation and not being a hotel or hostel.
- Previous references to the use of the site as hotel are mistaken.
- In a previous section 5 application (S5-02-25) the occupancy was referred to as '*70 people with a capacity of 85 people*'. These figures were provided on the basis of the current use of the site for displaced persons, not as a potential occupancy for international protected persons following the change of use.
- Having regard to the above change of use from guesthouse to use as accommodation for protected persons the proposal is exempted development.

Conditions, limitations and potential restrictions on exemptions

- The development is exempted development having regard to Class 14 (h) of the Regulations.

- There are applicable restrictions in Article 9(1) that would de-exempt the development
    - The development would not contravene a condition (Art. 9 (1)(a)(i)).
    - The development would not interfere with the character of an area (Art. 9 (1)(a)(vi)).
    - The development would not involve excavation or interfere with archaeological monuments (Art. 9 (1)(a)(vii) and (Art. 9 (1)(a)(viiA).
    - The change of use does not relate to a site that is an unauthorized use (Art. 9 (1)(a)(viii)).
    - Section 57(1) would not apply in this instance. There is a subsequent S. 57 declaration request to determine whether the works herein would materially affect the protected structure.
- The following precedents are relevant.
    - ABP Ref. RL26.318709 – Relates to the change of use of a former hotel to IPAS accommodation.
    - ABP Ref. RL3406 – Relates to a question whether the use of a house as a residence, which is a protected structure, for persons with an intellectual or physical disability is or is not development or is or is not exempted development. No works undertaken to the property as such Section 57(1) is not a relevant consideration.
- No relevant conditions, limitations and potential restrictions apply in this instance.

6.2. **Planning Authority Response**

- None

6.3. **Referrer's Response**

- The applicant acknowledges that Westmeath County Council have referred their Section 5 application to ACP for a decision.

7.0 **Relevant Referrals**

7.1.1. 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 Class 20F of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 (as amended) is the relevant exemption. The Board also determined 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.

7.2. 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.

In this case works on a permitted use on site, i.e. nursing home, had commenced but was not completed in its entirety as permitted. The Board determined that the completion of such works to the building/properties/structures on site for any use other than a nursing home would, therefore, (i) contravene a condition attached to a permission under the Planning and Development Act, 2000, as amended, and (ii) be inconsistent with a use specified in a permission under that Act, and be de-exempted under Article 9(1)(a)(i) of the Planning and Development Regulations, 2001, as amended, and pending the completion of these works, there are no other exemptions available.

7.3. 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. The Board concluded that a change of use from a dwelling house to provide accommodation, for protected persons is material change of use.

7.4. 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. The Board determined that the permitted use of the apartments was not abandoned and the current use of the premises as apartments, 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.

7.5. ACP-322857-25: The Commission determined on the 18th of March 2026 that the change of use of the existing rooms and spaces within a building which comprises the Convent of Mercy, Templeshannon, Enniscorthy, County Wexford from a residential convent to a centre for the accommodation of Ukrainian refugees and international protection, which includes works, is development and is not exempted development. The Commission concluded that it has not been satisfactorily demonstrated in the level of detail provided by the referrer that the carrying out of the said works does not materially affect the character of the Protected Structure, or any element of the structure which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest and these works cannot therefore, be determined as being not exempt development under Section 57 of the Planning and Development Act 2000 (as amended).

7.6. ABP-322371-25: The Commission determined on the 20th of April 2026 that the temporary change of use of the basement, ground, first, second and third floors of The Cube Building, Monahan Road, Ballintemple, Cork, is development and is not exempted development. The Commission determined that there is no evidence that the temporary change of use from office use to accommodate persons or persons seeking international protection is by or on behalf of the Minister for Children, Equality, Disability, Integration and Youth, and that the temporary change of use and associated works do not come within the scope of Class 20F of Schedule 2 Part 1 of the Planning and Development Regulations 2001, as amended.

7.6.1. RL3598: The Board determined on the 15th of May 2018 that the physical works to the interior of No 41 Belvedere Place, Dublin 1, a protected structure, would come within the scope of section 4(1)(h) of the Act, however the development constitutes works that would materially affect the character of this protected structure and of elements of the protected structure which contribute to its special architectural interest (including works affecting the interior and the exterior), and, therefore, the restriction on exemption provided for under Section 57 of the Planning and Development Act, 2000, as amended, applies in this instance, and the subject works are, therefore, not exempted development.

8.0 Statutory Provisions

8.1. Planning and Development Act, 2000, as amended.

8.1.1. Section 2(1) of the Act states the following:

- ‘development’ has the meaning assigned to it by Section 3;
- “house” means a building or part of a building which is being or has been occupied as a dwelling or was provided for use as a dwelling but has not been occupied, and where appropriate, includes a building which was designed for use as 2 or more dwellings or a flat, an apartment or other dwelling within such a building,
- ‘works’ includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal ….’

8.1.2. 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’.

8.1.3. Section 4(1) of the Act sets out various forms and circumstances in which development is exempted development for the purposes of the Act, including Section 4(1)(h) which provides for the carrying out of works for the maintenance, improvement or alteration of any structure that 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 neighbouring structures.

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

8.1.5. 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.

8.1.6. Section 57.—(1) Notwithstanding section 4(1)(a), (h), (i), (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.

8.2. **Planning and Development Regulations, 2001, as amended.**

8.2.1. Article 6(1) of the Planning and Development Regulations 2001, as amended, 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'.

8.2.2. 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'.

8.2.3. 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

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	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 2022[1] 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 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. 5. The relevant local authority must be notified of locations where change of use is taking place prior the commencement of development. 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.

structure normally used for public worship or religious instruction	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). 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.

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

8.2.5. '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'

8.2.6. '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 1st October, 1964 or is so used with permission under the Act.

8.2.7. 'care' means personal care, including help with physical, intellectual or social need

8.2.8. 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.

8.2.9. 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.

8.3. The European Union (Planning and Development) (Displaced Persons from Ukraine Temporary Protection) Regulations 2022 (S.I. No. 306/2022)

8.3.1. Section 3(1) provides that the Act of 2000 (other than sections 181A to 181C) shall not apply to the classes of development specified in the Schedule carried out by, or on behalf of, a State authority during the relevant period for the purposes of providing temporary protection to displaced persons.

8.3.2. Section 3(2) provides a reference to "proposed development" in sections 181A to 181C of the Act of 2000 shall include a reference to development of a class specified in the Schedule to which section 181A(1) of the Act of 2000 would apply if it was development of a class specified in regulations made under section 181(1)(a) of the Act of 2000.

8.3.3. Schedule – Classes of Development - Article 3

1. Reception and integration facilities.
2. Residential accommodation, including ancillary recreational and sporting facilities.
3. Medical and other health and social care accommodation.

4. Education and childcare facilities, including ancillary recreational and sporting facilities.
5. Emergency management coordination facilities.
6. Structures or facilities ancillary to development referred to in paragraphs 1 to 5, including administration and storage facilities.
7. Infrastructure and other works ancillary to development referred to in paragraphs 1 to 6.

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 subject building 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. I would note that the information on the file, including the section 5 application submitted to the Council, indicates that no works have been undertaken at the property, as such development has not occurred due to works. Therefore, the relevant consideration is to establish the lawful use of Mearscourt House, the subject property, and whether the change of use from the lawful use to a use to accommodate international protection applicants is a material change of use, and therefore development.

9.2.3. I would note from the planning history, specifically the Section 5 applications associated with the property, that the Council have determined that the established

use is a house, and therefore a residential use. In this regard the PA's Planner's Report in Section 5 application S5-49-24 confirms that there is no planning history to support the use of the referral property as a Bed and Breakfast, however the Planner's Report acknowledges that there is an exemption, i.e. Article 10(4) of the Planning and Development Regulations, 2001, as amended, for a Bed and Breakfast of not more than 4 bedrooms. Furthermore, in a subsequent Section 5 application to the Council (S5-02-25) on the subject site the Planner's Report also confirmed that the established use of the property is that of a house and the house does not have the benefit of planning permission for a hotel.

9.2.4. The current Section 5 application, and referral before the Commission, confirms that the use of the referral property is that of a house, and this is illustrated in the submitted pre-existing drawings that accompanied in the Section 5 application. I am therefore satisfied, having regard to the Section 5 application history on the subject site and the evidence contained in the Section 5 application, that the established lawful use of the referral property is a residential house.

9.2.5. In considering whether a material change of use has occurred and therefore development, I would have regard to the established use relative to that of the proposed use. There is no definition of 'material change of use' in the Act, or any other statute, however case law has addressed the tests of materiality. I would note that in Simons on Planning Law (2021), Browne refers to Galway County Council v Lackagh Rock, and Browne refers that Barron J. stated, in relation to material change of use, as follows,

> '*to test whether or not the uses are materially different, it seems to me, that what should be looked at are the matters which the planning authority would take into account in the event of a planning application being made either for the use on the appointed day or for the present use. If these matters are materially different, then the nature of the use must equally be materially different*'.

9.2.6. I note from the submitted plans and from my site assessment that the proposed accommodation includes a large number of residents, mainly families, occupying 11 no. bedrooms and the occupants share communal facilities. The proposed use has one communal kitchen/dining area at lower ground floor, a separate communal

dining room and sitting room on the upper ground floor. The submitted plans also indicate shared facilities such as a laundry room and kitchen storage at lower ground floor. The development includes an on-site manager.

9.2.7. I would consider it reasonable to conclude that there is an intensification of the use, based on the occupancy of the residents, having regard to the number of bedrooms, and this occupancy is much larger than that could be expected by a single household, and therefore giving rise to a different set of impacts. The character and function of this occupation is therefore different to that of a single household or family living in one individual dwelling unit. The house in this current case before the Commission is operating in a congregated setting with a large number of occupants sharing communal facilities, and the planning authority would take different matters into account in the event of a planning application being made for this current use, or for the use of a dwelling house. The proposed use, for residential accommodation for persons seeking international protection is therefore a material change of use from an individual dwelling house.

9.2.8. I would consider on the basis of the above that the matters that the Planning Authority would take into account in the event of a planning application being made either for the present use or the permitted use would be materially different.

9.2.9. I have also given consideration to previous Board decision ABP-307077-20, which the referrer has cited in their submission. In this case the Board determined that the use of a premises as apartments, including residential accommodation for protected persons, is not development. In this particular case the Planning Inspector reported that the residential accommodation is being operated in a manner similar to other apartment developments, with gated access and servicing by a management and security suite, and that there are no facilities beyond those that would normally be expected of an apartment complex. The Planning Inspector's report concluded that the facility is operating as residential accommodation, as per the permitted use and the status or personal circumstances of the apartment residents is not a material planning issue.

9.2.10. I would consider that the case in ABP-307077-20, which relates to apartments, is different to that of the current case before the Commission, which relates to a single house, as the apartments in that case where operating independently and occupied

by individual households, as opposed to the occupants, in the current case, sharing facilities in one individual dwelling unit.

9.2.11. I would also have regard to a previous decision by the Commissioners, in case reference ABP-320031-24, which I have referred to in para 7.3 above. In this case the Board determined that the change of use of a dwelling house to accommodation, where care is not provided, for protected persons is a material change of use and is development.

9.2.12. On the basis of the above intensification of use, I would conclude that the proposed change of use is a material change of use and therefore falls under the definition of development under Section 3(1)(a) of the Act.

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

9.3.1. Development can be exempt from the requirement for planning permission by either Section 4 of the Planning and Development Act, 2000, as amended, or by Article 6 of the Planning and Development Regulations, 2001, as amended. Section 4(1) of the Act has primacy over the exempted development provisions of the Regulations. I would note that the applicant has claimed an exempted development on a number of grounds, which I will assess with individually below.

9.3.2. Exempted development by 'other premises' in Class 14 (h)

The established use of the referral property is residential, and the applicant claims that although the exemption in Class 14(h) of Part 1, Schedule 2 of the Regulations does not specifically refer to residential accommodation, that the exemption does refer to 'other premises' and this is relevant in the current case. For clarity, Class 14(h) of the Regulations states the following

> *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*,

9.3.3. In making this argument the applicant references a precedent case in ABP.307077 in which case the Inspectors' Report concludes that a block of apartments can be

considered under the term ‘other premises’ within the exemption Class 14(h), and the logic in the applicant’s case is that this would therefore apply to a residential house. However, I would note that in the case ABP.307077 the Board’s Order determined that the change of use from apartments to accommodation to provide for international protection residents was not development, and the issue of exempted development was not determined in this case. I therefore would not draw the conclusion from the case ABP.307077, that the term ‘other premises’ in Class 14(h) can be applied as an exemption for apartments, or residential generally.

9.3.4. It is my view the term ‘other premises’ must be read in the context of the Class 14(h) list as a whole: ‘*hotel, motel, hostel, guesthouse, holiday accommodation, convent, monastery, Defence Forces barracks or other premises or residential accommodation, or part thereof*’, which in my view are more residential institution, as envisaged in the exemption, rather than a dwelling house, Notwithstanding the fact that a house provides overnight accommodation, I would consider that a house is not the kind of residential institution envisaged in this exemption. It is my view, and similar to the Board’s determination in referral case ABP-320031-24, which I have summarised in para. 7.3 above, that the exemptions in Class 14 (h) would not apply to this dwelling house.

9.3.5. Similarly, in Class 20F, there is a long list of building types, but houses or residential are not listed.

9.3.6. <u>Exempted Development as use as ‘Guesthouse’ as per Class 14 (h)</u>

A second argument submitted by the referrer, in claiming that the proposed change of use is exempted development, is on the basis that the referral property has operated as a guesthouse and would therefore avail of the exemption in Class 14(h).

9.3.7. I would acknowledge that the referrer submits that a guesthouse has existed as far back as the 1970’s and that this use of the property is reflected in the NIAH survey in 2004. Further the referrer submits that the guesthouse operated in good faith in the understanding that such use was exempted development having regard to Article 10(4) of the Regulations.

9.3.8. I noted above that the established lawful use of the referral property is as a residential house. Notwithstanding I would acknowledge that Article 10(4) of the Regulations refers to guest accommodation in the context of an exemption. In this

regard Art. 10(4) provides an exemption for development consisting of the use of not more than 4 bedrooms in a house, where each bedroom is used for accommodation of not more than 4 persons as overnight guest accommodation. Art. 10(4) therefore affords an exemption to any house to provide guest accommodation of up to 4 bedrooms. Having regard to the nature of the exemption (maximum 4 bedrooms) envisaged in Art. 10(4) the scale of this guest accommodation would be small, and more typically aligned, in my view, with a Bed and Breakfast establishment.

9.3.9. It is important to note that Bed and Breakfast is not listed above under the Class 14(h) exemption and therefore an issue for consideration is whether a property that operates as a Bed and Breakfast can avail of the available exemption for a Guesthouse in Class 14(h).

9.3.10. In considering this I note that neither guest house or bed and breakfast are defined in the planning legislation. Article 10(1) of the Regulations, in accordance with Part Four (Exempted Development – Classes of Use) of Schedule 2, allows exemptions for change of use within any one of the classes of use specified in Part 4 of Schedule 2. The specific use category in Class 6 of Part Four, Schedule 2 is

> '*Use as a residential club,* ***a guest house*** *or a hostel (other than a hostel where care is provided)*'.

9.3.11. I would consider it relevant to note that Bed and Breakfast is not a use category in Class 6 of Part Four, Schedule 2 of the Regulations, and a strict interpretation of Part 4, in my view, would imply that a change of use from guesthouse to Bed and Breakfast is not exempted development and would therefore require planning permission.

9.3.12. It is also worth noting that the Land Use Zoning Matrix for the Westmeath County Development Plan, 2021-2027, lists 'Guesthouse' as a distinct use, however Bed and Breakfast is not listed as a use Land Use Zoning Matrix. I would consider this relevant in the context of this referral application as the Plan interprets Guesthouse as a standalone use in the Land Use Zoning Matrix, and Bed and Breakfast is not listed as a use or a use with Guesthouse, therefore, in my view, the uses cannot be considered as one within the Development Plan.

9.3.13. In addition to the above, I would consider that the intention of the Art. 10(4) exemption is that the principal use of the property remains as a dwelling house, and

that the guest accommodation is ancillary, and this in my view is evident from the fact that exemption is limited to 4 no. bedrooms. Whereas a guest house which is listed as a use category in Class 6, of Part 4, Schedule 2 of the Regulations, as referred to above, can typically be larger in scale, and more commercial in nature, than that envisaged in Art. 10(4), and I note from a standard dictionary definition that Guest House is defined as '*kind of small hotel*'.

9.3.14. Further to the above considerations, I am of the opinion that should a Bed and Breakfast be considered an applicable use for Class 14(h), then the implication of the exemption in Art. 10(4) would effectively mean that any house could in theory avail of the Class14(h) exemption on the basis that it has availed of the Art. 10(4). I would be of the view based on the above considerations that there is a distinction in planning legislation in relation to a Bed and Breakfast establishment, which can be smaller in scale and more residential in character, compared with a Guesthouse, and that Class 14(h), Part 1, Schedule 2 of the Regulations is clear in terms of the available exemptions and Bed and Breakfast is not listed as an exempted use. Similarly, in Class 20F, there is a long list of types of building, but Bed and Breakfast is not listed.

9.3.15. I would also acknowledge that the referrer submits that the definition of '*excluded premises*' as contained in Article 5(1) of the Regulations refers to '*any guest house…… providing overnight accommodation,…….',* and that Art. 10(4) refers to '*overnight guest accommodation*' and therefore the definition of an excluded premises, in the regulations which refers to a guest house has the same meaning as Art. 10(4). I would accept that both guesthouse and Bed and Breakfast provide overnight accommodation to guests however I would not consider that the definition of 'excluded premises' in Article 5(1) of the Regulations is strictly related to Art. 10(4).

9.3.16. I would conclude that given that a house, or residential generally, is not listed in Class 14(h), that it is the intent of the legislation that a house, or residential generally, cannot avail of the exemption under Class 14(h).

9.3.17. Notwithstanding the above conclusions, and should the Commission reach a different conclusion and take the view that the subject referral building can be classified as a Guesthouse, or that a Bed and Breakfast establishment is an

applicable use in Class 14(h) then the change of use at the referral property to residential accommodation providing for persons seeking international protection would be exempted development in accordance with Class 14(h), Part 1, Schedule 2 of the Regulations.

9.3.18. Exempted Development in accordance with S.I. 306 of 2022

I would note that the referrer also submits that S.I. 306 of 2022 – the European Union (Planning and Development) (Displaced Persons from Ukraine Temporary Protection) Regulations, 2022, provides an exemption for the proposed development. The S.I. 306 of 2022 exemption applies to residential accommodation carried out by, or on behalf of State Authority. I would acknowledge that there is no correspondence on the file between a State Authority and the applicant regarding the property.

9.3.19. The referrer's submission states that the property has been contracted with DCEDIY to accommodate Beneficiary of Temporary Protection (BOTP). I also noted from my site assessment that the property was occupied by persons seeking international protection.

9.3.20. Notwithstanding the above I would have particular regard to a recent decision by the Commission in respect of ABP-322371-25, in which case there was no documentation provided in relation to the requirement that the change of use was being carried out by or on behalf of the Minister of Children, Equality, Disability, Integration and Youth. On this basis the Commission determined that on the grounds of the information contained on file, there is no evidence that the temporary change of use from office use to accommodate persons or persons seeking international protection is by or on behalf of the Minister for Children, Equality, Disability, Integration and Youth, and that the temporary change of use and associated works do not come within the relevant exemption.

9.3.21. Therefore, I would conclude, having regard to the above referral precedent (ABP-322371-25) that the proposed change of use to residential accommodation to provide for international protection applicants is not exempted development.

9.4. Restrictions on exempted development

9.4.1. I have noted above that the available exemption in Class 14(h), Part 1, Schedule 2 of the Regulations is not applicable in respect of the question 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 respect 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) and/or 20(F) apply in this instance that Article 9 would not de-exempt the said exemptions.

9.4.3. I have also noted above that no works are proposed to the property, which is a protected structure, and as such any exemption would not be restricted by S. 57(1) of the Act.

10.0 EIA Screening

10.1. 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-322689-25 in light of the requirements S177U of the Planning and Development Act 2000, as amended.

11.2. The closest European Sites, part of the Natura 2000 Network, is Lough Iron SPA (site code 004046) situated approximately 8.5 km to the northeast, and Ballymore Fen SAC (site code 002313) situated approximately 6.3 km to the southwest of the referral site.

11.3. Having considered the nature, scale and location of the project, 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 nature and scale of development.
- The location of the site.
- The absence of any ecological pathway from the development site to the nearest European Site.

11.5. I conclude, on the basis of objective information, that the development 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 Recommendation

12.1. 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 current use of the site for the purposes of providing temporary protection to displaced persons does not require planning permission and proposed change of use of Mearescourt House to use as accommodation for protected persons is or is not development and is or is not exempted development:

AND WHEREAS Rathconrath Property Ltd requested a declaration on this question from Westmeath County Council and the Council did not make a declaration in this instance:

AND WHEREAS Rathconrath Property Ltd referred this declaration for review to An Coimisiún Pleanála on the 5th day of June 2025:

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

(a) Section 2(1), 3(1), 4(2) and 4(4) of the Planning and Development Act, 2000, as amended,

(b) article 6(1) and article 9(1) of the Planning and Development Regulations, 2001, as amended,

(c) Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,

(d) Relevant case law,

(e) Previous referrals to the Commission, including ABP-307077-20 and ABP-322371-25

(f) The documentation on the file, including the submission on behalf of the requestor Rathconrath Property Ltd:

(g) the pattern of development in the area:

(h) the report and recommendation of the Inspector

AND WHEREAS An Coimisiún Pleanála has concluded that:

(a) the change of use of the current use as a residential dwelling to provide accommodation for persons seeking international protection constitutes a material change and therefore is development as defined under Section 3(1)(a) of the Planning and Development Act, 2000, (as amended),

(b) the change of use of a residential dwelling to provide accommodation for persons seeking international protection is not exempted development as it does not come within the scope of the European Union (Planning and Development) (Displaced Persons from Ukraine Temporary Protection) Regulations 2022 (S.I. No. 306 of 2022) or (any other exemption within the Planning and Development Act, 2000, as amended, or the Planning and Development Regulations, 2001, as amended.

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 current use of the site for the purposes of providing temporary protection to displaced persons at Mearescourt House, Rowlandstown, Rathconrath, Co. Westmeath is development and is not 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 me, directly or indirectly, following my professional assessment and recommendation set out in my report in an improper or inappropriate way.

Senior Planning Inspector

5th May 2026

Form 1 - EIA Pre-Screening

Case Reference	ACP-322689-25
Proposed Development Summary	Whether the current use of the site for the purposes of providing temporary protection to displaced persons under the European Union (Planning and Development) (Displaced Persons from Ukraine Temporary Protection) Regulations 2022 (S.I. No. 306/2022) is or is not development and is or is not exempted development.
Development Address	Mearescourt House, Rowlandstown, Rathconrath, Co. Westmeath.
	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)	☐ Yes, it is a 'Project'. Proceed to Q2. ☒ 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)?	
☐ Yes, it is a Class specified in Part 1. **EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.**	
☒ 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?	

☐ No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994. **No Screening required.**	
☐ Yes, the proposed development is of a Class and meets/exceeds the threshold. **EIA is Mandatory. No Screening Required**	
☒ Yes, the proposed development is of a Class but is sub-threshold. **Preliminary examination required. (Form 2)** **OR** **If Schedule 7A information submitted proceed to Q4. (Form 3 Required)**	Class 10(b)(i) of Part 2: threshold 500 dwelling units. Class 10(b)(iv) of Part 2: threshold 2 ha.

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)?	
Yes ☐	**Screening Determination required (Complete Form 3)**
No ☒	**Pre-screening determination conclusion remains as above (Q1 to Q3)**

Inspector: _____ Date: _____