



An
Coimisiún
Pleanála

Inspector's Report ACP-322967-25

Question

Whether the use of Hayden's Hotel to provide accommodation for displaced persons or individuals seeking international protection, constitutes exempted development or does not constitute exempt development

Location

Dunlo Street, Townparks, Ballinasloe, Co.Galway

Declaration

Planning Authority

Galway County Council

Planning Authority Reg. Ref.

ED25/31

Applicant for Declaration

Claddagh Ventures Limited.

Planning Authority Decision

Is not exempted development

Referral

Referred by

Claddagh Ventures Limited.

Owner/ Occupier

None

Observer(s)

None

Date of Site Inspection

26th February 2026

Contents

1.0 Site Location and Description	4
2.0 The Question	4
3.0 Planning Authority Declaration	4
3.2. Planning Authority Reports.....	5
4.0 Planning History.....	6
5.0 Policy Context	6
5.1. Galway County Development Plan, 2022 – 2028.	6
5.3. Natural Heritage Designations	7
6.0 The Referral	7
6.2. Planning Authority Response	10
7.0 Statutory Provisions.....	11
7.1. Planning and Development Act, 2000, as amended.	11
7.2. Planning and Development Regulations, 2001, as amended.....	11
8.0 Referral Precedents.....	15
9.0 Assessment	16
9.1. Is or is not development	16
9.2. Is or is not exempted development	17
9.3. Restrictions on exempted development.....	22
10.0 EIA Screening.....	23
11.0 Appropriate Assessment.....	23
12.0 Water Framework Directive	24
13.0 Recommendation	25
Appendix 1 – Form 1: EIA Pre-Screening	
Appendix 2 – Form 2 - EIA Preliminary Examination	

1.0 Site Location and Description

- 1.1. The referral property, Hayden's Hotel, is located in the centre of Balinasloe, Co. Galway. The Hotel is a corner property and primarily faces onto Dunlo Street. The side elevation of the hotel faces onto Hymany Street.
- 1.2. The height of the hotel ranges from 4-storeys including Mansard roof, onto Dunlo Street to single storey along Hymany Street. The rear of the hotel property faces onto Jubilee Street and is primarily single storey in height.
- 1.3. The hotel is currently vacant and has not been in use for some time.

2.0 The Question

- 2.1. The question for consideration is as follows.

Whether the use of Hayden's Hotel to provide accommodation for displaced persons or individuals seeking international protection at Dunloe Street, Townparks, Ballinasloe, Co. Galway, is or is not development and is or is not exempted development.

- 2.2. Having regard to the content of the PA's Planner's Report, the PA's Section 5 Declaration, and the Referrer's submission I would recommend to the Commissioners that the question above is reformatted slightly, as follows:

*Whether the use of Hayden's Hotel to provide accommodation for displaced persons or individuals seeking international protection at Dunloe Street, Townparks, Ballinasloe, Co. Galway, **and associated internal and external works** is or is not development and is or is not exempted development.*

3.0 Planning Authority Declaration

- 3.1.1. On the 7th of March 2025 a request for a Declaration in accordance with Section 5(1) of the Planning and Development Act, 2000, as amended, was received by Galway County Council from Claddagh Ventures Limited.
- 3.1.2. The Planning Authority issued a declaration on the 17th of June 2025, to the effect that the change of use of Hayden's Hotel to provide accommodation for displaced

persons or individuals seeking international protection at Dunloe Street, Townparks, Ballinasloe, Co. Galway is development and not exempted development.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

3.2.2. The Planner's Report can be summarised as follows:

- Given the location of the building within the Ballinasloe ACA, any proposed new windows, such as the ones shown on the submitted Southwest Elevation, will require the benefit of planning permission.
- It is considered that works proposed under Section 4(1)(h) of the Act to bring the hotel to an acceptable standard of living accommodation may require the benefit of planning permission.

3.2.3. The Planning Officer's report recommended that the following be addressed by way of further information.

- Existing floor plans showing the internal layout, i.e. bedrooms etc.
- Updated proposed floor plans with dimensions showing the internal layout, i.e. bedrooms etc.
- An internal photographic survey of the hotel.

3.2.4. The Planning Officer's report assessed the further information received as follows:

- The proposed works would not be exempted development under Class 20F of the Regulations.
- The addition of 9 no. bedrooms and 5 no. windows on the ground floor along with the extensive refurbishment works necessary to make the hotel habitable, will require planning permission.
- The change of use therefore cannot be considered exempted development.
- In its current state the hotel would not be suitable to accommodate or support displaced persons seeking international protection.

3.2.5. Other Technical Reports

- None

4.0 Planning History

4.1.1. The following planning history relates to the referral site.

- L.A. Ref. 07/9041 – Planning permission **granted**, on the 8th of July 2008, subject to conditions, for (a) the demolition of existing buildings on the site (excluding facade of Hayden's Hotel onto Dunlo Street) including Hotel, Bar, Nightclub, Restaurant and Car Garage (2) The construction of a new building consisting of (i) new 22 bedroom Boutique Hotel area totalling 898m.sq (ii) 245m.sq ground floor bar (iii) 335m.sq first floor Restaurant (iv) 3,155m.sq of 10 no. ground & first floor retail units (v) 315m.sq of Office space (vi) 7 no. 1 bed apartments, 37 no. 2 bed apartments & 6 no. 3 bed apartments all over (vii) 2 levels of basement carparking with 215 parking spaces (3) Modifications and alterations to existing facade of Hayden's Hotel fronting onto Dunlo Street and (4) all ancillary site works and services.

5.0 Policy Context

5.1. Galway County Development Plan, 2022 – 2028.

5.1.1. Ballinasloe is a designated 'Key Town' which is the second settlement tier in the County's Settlement Hierarchy (Table 2.12 Settlement Hierarchy). The description for a Key Town is '*Towns that are regionally strategic employment centres of significant scale that can act as regional drivers that complement and support the higher order areas within the settlement hierarchy (Galway MASP)*'.

5.1.2. The referral site lies within the Ballinasloe Architectural Conservation Area.

5.2. Ballinasloe Local Area Plan, 2022 – 2028.

5.2.1. The referral site is zoned 'Town Centre' in accordance with the 'Land Use Zoning Map' of the LAP and is also a designated Opportunity/Regeneration Site (OPT BKT 1). The objective for the 'Town Centre' zoning objective is stated as follows.

To develop and consolidate the existing town centre to improve its vibrancy and vitality with the densification of appropriate commercial and residential developments ensuring a mix of commercial, recreation and civic uses.

5.2.2. The following is the Development Strategy for this Opportunity/Regeneration Site.

This is a brownfield, rectangular shaped site in the centre of Ballinasloe. The former Haydens Hotel building, and adjoining buildings occupy a prominent site on the south-east side of Dunlo Street. This site also abuts Dunlo Hill to the south and Jubilee street to the southeast. An opportunity presents itself here for a mixed-use development that could contribute positively to this part of Ballinasloe town. The re-development of this prominent site could encourage additional commercial activity to this part of town. This redevelopment of this site could create much needed additional employment within the town centre which would be welcomed. Given the town centre location of this site, it may facilitate a higher density of development given the established scale of development in the surrounding area and the proximity of the site to local services and social infrastructure.

5.3. Natural Heritage Designations

- River Suck Callows SPA (site code 004097) – 250 metres east
- Suck River Callows NHA (site 000222) – 250 metres east
- Ballinasloe Esker pNHA (site code 001779) – 700 metres west

6.0 The Referral

6.1. The following is an outline of the referrer's case.

6.1.1. Summary of case

- The proposal for the provision of 5 no. windows was removed at the further information stage.
- The refurbishment works and internal alterations are considered exempt in accordance with Section 4(1)(h) of the Act.
 - The internal works include minor internal reconfigurations to provide 9 no. bedrooms.

- The proposal will not materially intensify the existing use. Applying the criteria set out in *Cork County Council v Slattery Pre-Cast Concrete (2008)*, there will be no significant increases in vehicular traffic, infrastructure demand, visual impact, or impacts on residential amenity.

6.1.2. Grounds for Referral

- Two principal issues are raised for consideration. (1) Whether the proposed internal refurbishment and reconfiguration works constitute development, and (2) whether the addition of 9 no. bedrooms constitutes an intensification of use at the site.

Proposed Works

- The works on the site include minor internal configurations to provide an additional 9 no. bedrooms and refurbishment works, exempted under Section 4(1)(h) of the Act.
- Photographs in the submission to the PA, taken 1st April 2025, indicate that the physical condition of the hotel is described as good, and the layout is consistent with that of its permitted use.
- No substantial works have been carried out, as noted in the submitted photographs. The works are minimal.
- The decision by Galway County Council refers to 5 no. windows at ground floor level. Although it is considered that the 5 no. windows would not materially affect the external appearance of the building and should therefore be exempted under Section 4(1)(h) of the Act. The 5-no. additional windows at application stage are now removed.
- There are no proposed ground floor windows as such the decision by the Council has been based on an inaccurate interpretation of the subject proposal.

No Material Intensification of Use

- The proposal will not materially intensify the existing residential use. Having regard to *Cork County Council v Slattery Pre-Cast Concrete (2008)*, there will

be no significant increases in vehicular traffic, infrastructure demand, visual impact, or impacts on residential amenity.

- The court case concluded that relevant planning considerations include significant changes in vehicular traffic, noise, visual impact, or impacts on residential amenity.
- The floor plans illustrate that 9 no. additional bedrooms, in addition to the existing 53 no. bedrooms, represents a 17% increase in bedrooms at the site. This is not considered an intensification of use.
- The proposed use to accommodate displaced persons or persons seeking international protection, where no care is provided, does not constitute a material change of use.
- This conclusion is comparable with recent planning authority determinations.
- In *Molloy v Minister for Justice* (2004) the High Court confirmed that a significant intensification of use constitutes development requiring planning permission.
- The court determined whether such intensification occurred was a factual question to be determined based on practical impacts. The court emphasised that any concerns about future intensification would only become material if and when actual impacts arose.
- The use of the hotel for international protection applicants will not result in a material intensification of use for the following reasons.
 1. The level of vehicular traffic associated with the proposed use will be limited. Residents are unlikely to own cars and the level of trips generated will be comparable to or lower than typical residential occupancy patterns.
 2. The proposed occupancy, including the additional 9 no. bedrooms, will not put any additional strain on infrastructure.
 3. The visual appearance of the building will remain consistent with its existing character, as no alterations are proposed.

- As such the proposed use will not give rise to any material intensification of use. The proposed operational impacts will remain within the scope of the normal hotel use.

Planning Precedents

- In respect of Class 20F the decision by South Dublin County Council in Reg. Ref. ED25/0020 is relevant. The Council determined that the use of a hotel at Citywest, Dublin 22, to provide accommodation for displaced persons or persons seeking international protection is exempted development. The Council note that no internal works are proposed.
- In respect of Class 20F the decision by Limerick City and County in Reg. Ref. EC/184/24 is relevant. The Council determined that the use of Pery's Hotel, Glentworth Street, Limerick, to provide accommodation for displaced persons or persons seeking international protection is exempted development.
- In respect of Class 14(h) the decision by An Bord Pleanala in Reg. Ref. ABP-321373-24 is relevant. In this case ABP determined that the change of use from guesthouse at Dun a Ri House Hotel, Kingscourt, Co. Cavan, to use to provide accommodation for displaced persons or persons seeking international protection is exempted development.
- The intended use at Hayden's Hotel is similar in scale, configuration to the precedent cases referred to above.
- In conclusion it is submitted that the proposed refurbishment works at Hayden's Hotel is exempted development under Section 4(1)(h) of the Act or Class 20F.

6.2. Planning Authority Response

- None

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(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.

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

7.1.5. 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.

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

7.2.1. 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'.

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
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,	<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.

<p>social centre, community centre, non-residential club, art gallery, museum, library, reading room, sports club or stadium, gymnasium, hotel, convention centre, conference centre, shop, office, Defence Forces barracks, light industrial building, airport operational building, wholesale warehouse or repository, local authority administrative office, play centre, medical and other health and social care accommodation, event and exhibition space or any structure or part of structure normally used for public worship or religious instruction</p>	<p>3. The use for the purposes of accommodating persons seeking international protection shall be discontinued not later than 31 December 2028.</p> <p>4. Where the obligation to provide temporary protection is discontinued in accordance with paragraph 2 of this class, on a date that is earlier than 31 December 2028, the temporary use of any structure which has been used for the accommodation of displaced persons shall continue for the purposes of accommodating persons seeking international protection in accordance with paragraph 3 of this class.</p> <p>5. The relevant local authority must be notified of locations where change of use is taking place prior the commencement of development.</p> <p>6. ‘displaced persons’, for the purpose of this class, means persons to whom temporary protection applies in accordance with Article 2 of Council Implementing Decision (EU) 2022/382 of 4 March 2022.</p> <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>
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7.2.4. Article 5 of the Regulations sets out certain definitions, the following of which are relevant to the referral question:-

7.2.5. 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.

7.2.6. 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.

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

7.3.1. 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.

7.3.2. 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.

7.3.3. 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.

8.0 Referral Precedents

- 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. The Board determined that the change of use from guesthouse to provide accommodation for persons seeking international protection constitutes a material change of use and therefore development, having regard to Class 6 of Part Four of Schedule 2 of the Planning and Development Act, 2001 (as amended) which does not include the provision of accommodation for international protection applicants as a use in that Class. Further the Board noted that the change of use from guesthouse to the provision of accommodation for International Protection Applicants has been specifically provided for as a class of exempted development in the legislation.
- 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. 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.

- 8.1.4. 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.
- 8.1.5. 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.
- 8.1.6. 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.

9.0 **Assessment**

9.1. **Is or is not development**

- 9.1.1. Section 2(1) of the Act, 2000, as amended, defines “works” as including any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal.....’.
- 9.1.2. 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.
- 9.1.3. The change of use from hotel to the provision of accommodation for International Protection Applicants has been specifically provided for as a class of exempted

development in legislation, in Class 14(h) of Part 1, Schedule 2 of the Regulations, the proposed change of use is material and therefore constitutes development.

9.1.4. In addition, I would note from the PA's Planner's Report, the Referrer's submission to ACP, and the submitted plans, that alterations to the interior of the structure are proposed to facilitate the proposed change of use. I have noted below in para 9.2.12 the extent of these alterations, which include the removal / demolition of existing internal walls, blocking up of existing internal opes, removal of existing internal staircase, installation of new staircase, refurbishment of existing toilet blocks, alterations to floor plans to provide for 9 no. additional bedrooms, alterations to internal floor plans to provide for amenity areas / dining area / playrooms / kitchen-dining area, installation of shower blocks, installation of additional toilet block and landscaping of external courtyard. The proposal also involves an alteration to the external elevation by replacing an existing door opening with a window on the rear elevation of the hotel facing onto Jubilee Street.

9.1.5. The alterations involve the operation of construction, demolition, and alteration, which constitute 'works' and as such falls under the definition of development under Section 3(1)(a) of the Act.

9.2. Is or is not exempted development

9.2.1. Development can be exempt from the requirement for planning permission by either Section 4 of the Planning and Development Act, 2000, as amended, (hereafter referred to as the Act) or by Article 6 of the Planning and Development Regulations, 2001, as amended (hereafter referred to as the Regulations). Section 4(1) of the Act has primacy over the exempted development provisions of the Regulations.

9.2.2. Change of Use

I would consider that Class 14(h) of Part 1, Schedule 2 of the Regulations would be the relevant exemption for consideration for the proposed change of use. Class 14(h) provides an exemption for a change of use from hotel to use as accommodation for protected persons. 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,

9.2.3. I note that the Class 14(h) exemption refers to one condition and limitation, as follows,

The number of persons with an intellectual or physical disability or a mental illness living in any such residence shall not exceed 6 and the number of resident carers shall not exceed 2

9.2.4. I do not consider, based on the information available on the file, that this condition and limitation would restrict the available exemption in this instance.

9.2.5. Therefore, I would be satisfied that the proposed change of use from hotel to residential accommodation to provide for international protection applicants is exempted development.

9.2.6. Class 20F of Part 1, Schedule 2 of the Regulations also provides an exemption for a temporary change of use from hotel to accommodate persons seeking international protection, however this temporary exemption is 'by or on behalf of the Minister of Children, Equality, Disability, Integration and Youth', which has not been demonstrated by the applicant, and as such the proposed change of use would not qualify for the Class 20F exemption.

9.2.7. Intensification of Use

A further relevant consideration in this case is whether an intensification of the use would occur, particularly having regard to the introduction of 9 no. additional bedrooms at ground floor level, and whether any such intensification would constitute a material change of use. The proposed additional 9 no. bedrooms would increase the number of bedrooms from 53 no. bedrooms to 62 bedrooms.

9.2.8. In considering whether an intensification has occurred I would have regard to relevant case law. I would note that in *Simons on Planning Law (2021)*, Browne refers to the case law *Dublin City Council v Carty Builders and Co. Ltd*, which relates to a caravan park, and deems that the fact that a business is operating more extensively and successfully would not constitute a material change of use.

9.2.9. Further in *Simons on Planning Law (2021)*, Browne notes that where the planning permission does not contain an express limitation on the scale of the business, it

may be necessary to infer the scale of the business for which permission has been granted will follow a natural expansion envisaged in the planning permission. Separately I note that the referrer's submission refers to case law, *Cork County Council v Slattery Pre-Cast Concrete*, and this relates to the intensification of a development and practical effects relevant to planning considerations, and that the proposed referral application before the Commission will have no significant increases in vehicular traffic, infrastructure demand, visual impact, or impacts on residential amenity.

9.2.10. Further I note that Browne in *Simons on Planning Law (2021)*, refers to the judgement in *Galway County Council v Lackagh Rock Ltd.* and infers that the intensification per se cannot be a material change in use, and that it must also be established that the intensification has affected the proper planning and development of the area.

9.2.11. I do not consider that the additional 9 no. bedrooms would have additional affects on the proper planning and development of the area in relation to traffic generation, waste collection, noise or impacts on adjacent amenities generally, given the overall scale of increase relative to the established number of bedrooms, and would not be materially different to the permitted use on the referral site. Therefore, I would conclude that the intensity of the use, and in turn the planning considerations for the provision of accommodation of persons seeking international protection is no different to that of the established use.

9.2.12. External Alterations to the Structure

Section 4(1)(h) of the Act provides an exemption for,

'development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures'.

9.2.13. I note that the PA's Section 5 Declaration states that the addition of 9 no. bedrooms and 5 no. windows on the ground floor along with the extensive refurbishment works, which are required to make the hotel habitable, will require the benefit of planning permission.

- 9.2.14. I would note that these 5 no. windows are included on the submitted elevations drawing (drawing no. 2024.159.S5.300) received by the PA on the 7th of March 2025. However, the subsequent elevation drawings, received by the PA on the 4th of June 2025 in response to an additional information request, illustrate that these same 5 no. windows are omitted from the proposal.
- 9.2.15. The single proposed alteration to the external elevation is the replacement of a door opening with a window on the rear elevation facing onto Jubilee Street.
- 9.2.16. Having regard to section 4(1)(h) of the Act, a key consideration in this referral is whether the external work to the rear elevation would '*materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure*'.
- 9.2.17. In *Simons on Planning Law (2021)*, Browne refers to the case law, *Cairnduff v O'Connell*, as it relates to the interpretation of Section 4(1)(h) of the Act. The judgement in this court case relates to works which were carried out to a terraced house that includes a side window, the replacement of a window with a door and the construction of a balcony and staircase.
- 9.2.18. Browne refers that the Supreme Court (Finlay C. J.) considered that the works did materially affect the external appearance of the structure, but this did not render the appearance inconsistent with the character of the structure or neighbouring structures. The development was therefore, considered to be exempt. Additionally, I note that Browne infers that the findings of the Chief Justice concluded that the character would be more dominantly affected by its street appearance rather than its rear appearance. Browne also notes, the judgement concluded that character must relate in general, to the shape, colour, design, ornamental features and layout of the structure concerned.
- 9.2.19. I would also have regard to referral precedent case ABP-320219-24, in interpreting Section 4(1)(h) of the Act. I have referred to this case above in section 8.0 of this report, in which instance the Board concluded that certain elevational changes were exempted development having regard to Section 4(1)(h) of the Act. The elevation changes in the case ABP-320219-24 relate to 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. These minor external works were considered exempted development, by

the Board, having regard to Section 4(1)(h), and the proposed elevational alteration in this current referral application would be smaller in scale than the external alterations in ABP-320219-24.

9.2.20. In the current case before the Commission, the single elevation change relates to the replacement of a rear door with a window. I note, in accordance with the submitted plans, the dimensions of the ope for which the alteration is proposed, are unchanged in terms of width and height, and that the proposed change is a direct replacement of existing door with window. In addition, the existing ope is recessed by approximately 1.3 metres from the main elevation wall, which in my view would mitigate the visual impact of any proposed alteration. Furthermore, the proposed elevation change relates to the rear elevation of the hotel, facing onto Jubilee Street.

9.2.21. I would consider on the basis of the above that the alteration to the rear elevation would not, in my view, materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure. The proposed alteration is not creating a new ope, simply replacing a door with a window.

9.2.22. I therefore consider that the extent of the external works proposed on this site are such that they fall within the scope of Section 4(1)(h) of the Planning and Development Act, 2000, as amended. I therefore consider that the said works are exempted development.

9.2.23. Internal Alterations to the Structure

9.2.24. The development proposal, the subject of the referral, also includes internal alterations, and the referrer contends that such alterations are exempted development having regard to Section 4(1)(h) of the Act. I note, from the submitted plans, that the extent of internal works includes the following.

9.2.25. Ground Floor Level

- Removal / demolition of existing internal walls
- Blocking up of existing internal opes
- Removal of existing internal staircase
- Installation of new staircase
- Refurbishment of existing toilet blocks

- Alterations to internal floor plans to provide 9 no. additional bedrooms
- Alterations to internal floor plans to provide for amenity areas / dining area / playrooms / kitchen-dining area
- Installation of shower blocks
- Installation of additional toilet block
- Landscaping of external courtyard

9.2.26. The extent of alterations at first, second and third floor include the removal and demolition of existing internal walls.

9.2.27. In addition to the above the internal alterations would also include repairs to roof, rewiring, plumbing, lighting and replacement of ceilings and floorings, and the removal of existing structures and fittings, such as bar counters and seating.

9.2.28. As I have noted above in para. 9.2.2, Section 4(1)(h) of the Act relates to development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure.

9.2.29. The internal works described above do not impact on the external appearance of the structure, in terms of providing new windows and/or doors, and the works are for maintenance, improvement and other alterations, that relate solely to the interior of the structure, and as such would therefore, in my view, be exempted development having regard to Section 4(1)(h) of the Act.

9.3. **Restrictions on exempted development**

9.3.1. I have noted above that the available exemption in Class 14(h), Part 1, Schedule 2 of the Regulations is applicable 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.

9.3.2. In this regard I have assessed the development for the change of use from a hotel to residential accommodation for international protection applicants in relation to the relevant Article 9 restrictions.

9.3.3. I am of the view that the restrictions on exempted development under article 9 would not apply in respect of the change of use or associated internal works. I note in particular the provisions below.

(viiB) would not require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,

(xii) does not involve the carrying out of works to the exterior of the structure, which is located within an Architectural Conservation Area, that would materially affect the character of the area,

9.3.4. Accordingly, the Class 14(h) exemption, which in my opinion, is available in respect of the referral before the Commission, would not be de-exempt by Article 9 of the Regulations.

10.0 **EIA Screening**

10.1. The proposed development has been subject to preliminary examination for environmental impact assessment (refer to Form 1 and Form 2 in Appendices of this report). Having regard to the characteristics and location of the proposed development and the types and characteristics of potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The proposed development, therefore, does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.

11.0 **Appropriate Assessment**

11.1. I have considered case ABP-322967-25 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 River Suck Callows SPA (site code 004097) which is located approximately 250 metres to the east of the subject 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 scale of the development.
- The location of the site on developed serviced lands.
- 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 **Water Framework Directive**

12.1.1. I have individually assessed the subject development 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.

The reason for this conclusion is as follows.

- The scale of the development.
- The location of the site on developed serviced lands.
- The absence of any hydrological connections.

12.1.2. I conclude that on the basis of objective information, that the subject development 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 Hayden's Hotel to provide accommodation for displaced persons or individuals seeking international protection at Dunloe Street, Townparks, Ballinasloe, Co. Galway, and associated internal and external works is or is not development and is or is not exempted development:

AND WHEREAS Claddagh Ventures Limited requested a declaration on this question from Galway County Council and the Council issued a declaration on the 17th day of June 2025 stating that the matter was development and was not exempted development:

AND WHEREAS Claddagh Ventures Limited referred this declaration for review to An Coimisiún Pleanála on the 7th day of July 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(1)(h) of the Planning and Development Act, 2000, as amended,
- (d) Section 4(2) of the Planning and Development Act, 2000, as amended,
- (e) Section 4(4) of the Planning and Development Act, 2000, as amended,
- (f) article 6(1) and article 9(1) of the Planning and Development Regulations, 2001, as amended,
- (g) Part 1 Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (h) Relevant case law
- (i) The documentation on the file, including the submission on behalf of the requestor Claddagh Ventures Limited,
- (j) the pattern of development in the area
- (k) the report and recommendation of the Inspector:

AND WHEREAS An Coimisiún Pleanála has concluded that:

- (a) the works constitute development within the meaning of Section 3 of the Planning and Development Act 2000, as amended,
- (b) the internal works would come within the scope of Section 4 (1)(h) of the Planning and Development Act, 2000, as amended,
- (c) the development constitutes works that involves the replacement of an existing external door with a window ope to the rear elevation facing onto Jubilee Street, and the said development would not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures,

(d) the change of use of a hotel at Dunloe Street, Townparks, Ballinasloe, Co. Galway, to provide accommodation for persons seeking international protection is exempted development as it comes within the scope of Class 14 – Part 1 of Schedule 2 – 'Exempted Development - General' inserted by The Planning and Development (Amendment) (Number 4) Regulations 2015 (S.I No 582/2015).

NOW THEREFORE An Coimisiún Pleanála, in exercise of the powers conferred on it by section 5 (4) of the 2000 Act, hereby decides that the change of use of a hotel at Dunloe Street, Townparks, Ballinasloe, Co. Galway, to provide accommodation for persons seeking international protection and associated internal and external works is development and is exempted development.

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

Senior Planning Inspector

19th March 2026

Form 1 - EIA Pre-Screening

Case Reference	ABP-322967-25
Proposed Development Summary	Whether the use of Hayden's Hotel to provide accommodation for displaced persons or individuals seeking international protection and associated internal and external works, constitutes exempted development or does not constitute exempt development.
Development Address	Dunlo Street, Townparks, Ballinasloe, Co. Galway.
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 checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2.
	<input 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.	
<input checked="" 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,	

<p>Schedule 5 or a prescribed 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 checked="" 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>Class 10(b)(i) of Part 2: threshold 500 dwelling units.</p> <p>Class 10(b)(iv) of Part 2: threshold 2 ha.</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)?	
Yes <input type="checkbox"/>	Screening Determination required (Complete Form 3)
No <input checked="" type="checkbox"/>	Pre-screening determination conclusion remains as above (Q1 to Q3)

Inspector: _____ **Date:** _____

Form 2 - EIA Preliminary Examination

Case Reference	ABP-322967-25
Proposed Development Summary	Whether the use of Hayden's Hotel to provide accommodation for displaced persons or individuals seeking international protection and associated internal and external works, constitutes exempted development or does not constitute exempt development.
Development Address	Dunlo Street, Townparks, Ballinasloe, Co. Galway.
This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
<p>Characteristics of proposed development</p> <p>(In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).</p>	<p>The development involves internal alterations to an existing hotel, and a change of use to provide accommodation for persons seeking international protection. The development also involves the alteration to the rear elevation, by replacing an existing door with a window.</p> <p>The alteration works would generate waste. However, given the moderate size of the development, I do not consider that the level of waste generated would be significant in the local, regional or national context. No significant waste, emissions or pollutants would arise during the construction or operational phase due to the nature of the use. Any potential contamination arising from the existing use would be limited in scale, having regard to the modest scale of the use and would have a localised impact. The development, by virtue of its residential type, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change.</p>
<p>Location of development</p> <p>(The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).</p>	<p>The subject site is not located within or adjoins any environmentally sensitive sites or protected sites of ecological importance, or any sites known for cultural or historical significance.</p> <p>The nearest designated European Sites to the referral site is the River Suck Callows SPA (site code 004097) located approximately 250 metres to the east of the subject site.</p> <p>Given that there are no hydrological connections I have concluded in my AA Screening that the development would not likely have a significant effect on any European site.</p>

	I consider that there is no real likelihood of significant cumulative impacts having regard to other existing and/or permitted projects in the adjoining area.
Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	Having regard to the scale and nature of development in question, its location removed from any sensitive habitats / features, the likely limited magnitude and spatial extent of effects, and the absence of in combination effects, there is no potential for significant effects on the environment.
Conclusion	
Likelihood of Significant Effects	Conclusion in respect of EIA
There is no real likelihood of significant effects on the environment.	EIA is not required.
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	N/A
There is a real likelihood of significant effects on the environment.	N/A

Inspector: _____ Date: _____

DP/ADP: _____ Date: _____

(only where Schedule 7A information o