



An  
Coimisiún  
Pleanála

## Inspector's Report ACP-322978-25

### Question

Whether the change of use from a residential care home currently providing accommodation to temporary accommodation for displaced persons or persons seeking international protection under Class 20F, Part 1, Schedule 2 of the Planning and Development Regulations 2001 (as amended), is or is not development and is or is not exempted development.

### Location

Renvyle, Great Connell, Newbridge, Co. Kildare

### Declaration

First Party

Planning Authority

Kildare County Council

Planning Authority Reg. Ref.

ED/1226

Applicant for Declaration

SBLN Ltd. T/A Fairport Care Services

Planning Authority Decision

Is Development

Is not exempted Development

### Referral

<b>Referred by</b>	SBLN Ltd. T/A Fairport Care Services
<b>Owner/ Occupier</b>	SBLN Ltd. T/A Fairport Care Services
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	3 <sup>rd</sup> December 2025
<b>Inspector</b>	Aoife McCarthy

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[Appendix: EIA Pre-Screening Form 1](#)

## 1.1. **Site Location and Description**

- 1.2. The subject site is 'Renvyle' is located off Great Connell Road, Great Connell, Newbridge, Co. Kildare.
- 1.3. The site is located c.1.1 km to the east of Newbridge town centre.
- 1.4. The site comprises a single storey detached former dwelling with detached single storey garage to the rear, and gated access to Great Connell Road. The house is located to the rear of the property with grassed garden to the front.
- 1.5. The site is bound by similar single storey detached properties to the north and south, lands formerly in agricultural use to the east and a residential estate "Wellesley Manor" to the west of the Great Connell Road.

## 2.0 **The Question**

- 2.1. The query as set by the Referrer relates to the following;

Whether the change of use of a residential care home currently providing accommodation to Tusla – Child and Family Agency and the Department of Children, Equality, Disability, Integration and Youth to provide temporary residential accommodation for displaced persons or persons seeking international protection under Class 20F, Part 1, Schedule 2 of the Planning and Development Regulations 2001 (as amended), is or is not development and whether development constitutes exempted development or does not constitute exempted development.

## 3.0 **Declaration**

- 3.1. Following a request from SBLN Ltd. T/A Fairport Care Services, the Planning Authority issued a declaration on 10<sup>th</sup> Jun 2025 as follows:

The change of use from a residential care home currently providing accommodation to temporary accommodation for displaced persons or persons seeking international protection under Class 20F, Part 1, of the Regulations is development and is not exempted development.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports (9<sup>th</sup> June 2025)

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

- The report includes a description of the site and planning history relating to the site (24/60379 and 21/153 refer).
- With respect to development, the report notes that no works are proposed.
- The report considers that it is necessary to determine whether the development would constitute a material change of use. The change is material where the new use is different in character or impact having regard to standard planning considerations.
- The report has had regard to FI as submitted as part of planning application (24/60379) whereby the applicant indicated at the time that the facility intended to house a maximum of 14 occupants, including trained staff, young people of all ages up to the age of 21 years for a period of up to 3 years.
- The property as a residential care home usually involves:
  - a managed environment with trained staff;
  - residents with specific needs, long term occupancy;
  - a predictable and regulated pattern of use.
- The proposed use as temporary accommodation for displaced persons or persons seeking international protection, while still residential in nature, differs in several key aspects:
  - the occupancy profile is less predictable,
  - it may involve higher or fluctuating numbers of occupants,
  - the management model may be different (i.e., without on-site care staff),
  - it may place different demands on local infrastructure and services.
- Temporary accommodation or accommodation for those seeking international protection is not typically limited to those under the ages of 21 years old.

Class 20F does not place restrictions on the permitted number of residents, their maximum age, nor does it require permanent staff to reside on site. These differences are material in planning terms and can alter the character and functioning of the use of the building, and potentially result in different external impacts on the area.

- This is a material change of use and would constitute development in accordance with s.3 of the Act.
- The planning permission relating to a change of use from residential care home (24/60379), has been implemented.
- Condition 2 of this permission limits the use of the site to a residential care home only; and that no change of use shall occur on site without first obtaining the necessary planning permission.
- Having regard to the planning history on the site, and in particular Condition 2 (24/60379), the proposed change of use to a temporary accommodation for displaced persons, or persons seeking international protection, would constitute development within the meaning of s.3 of the Act.
- It would contravene a condition of a planning permission, and as a result is not exempted development under Class 20F of Schedule 2 (Part 1) of the Regulations.
- The development was screened out for the purposes of AA and EIA.

### 3.3. Other Technical Reports

3.3.1. None received.

## 4.0 Planning History

### 4.1. Subject Site

- 4.1.1. **P.A. Reg. Ref.: 24/60379:** Permission granted in November 2024 for replacement of existing roof to accommodate a first floor extension along with remodelling of existing ground floor layout and front façade, removal of existing septic tank and connection to the mains sewer. Retention of change of use of existing detached

bungalow for use as a residential care home, retention of single storey detached garage and all associated site works.

4.1.2. Condition 2 states the following:

The structure shall be used as a residential care home only. Notwithstanding the provisions of the Planning and Development Regulations 2001 (as amended) no change of use shall occur without a prior specific grant of planning permission.

Reason: In the interest of clarity.

4.1.3. **P. A. Reg Ref.: 21/1543:** Permission granted in December 2021 for the replacement of existing roof to accommodate a first floor extension along with remodeling of existing ground floor layout and front façade to include a canopy and bay windows along with removal of existing septic tank and connection to the mains sewer and all associated site works.

## 5.0 Policy Context

### 5.1. Kildare County Development Plan 2023-2029

5.1.1. Kildare County Council has commenced the process of preparing a Newbridge Local Area Plan 2025-2031. In the interim, development will be guided by the Newbridge LAP 2013-2019.

### 5.2. Newbridge Local Area Plan 2013-2019

5.2.1. The site is subject to Existing Residential/Infill 'B' zoning objective, the objective of which is "To protect and improve existing residential amenity, to provide for appropriate infill residential development and to provide for new and improved ancillary services."

5.2.2. 'Dwelling', medical consultant/health centre and Nursing Home uses are Permissible in Principle under this zoning objective.

### 5.3. Natural Heritage Designations

5.3.1. There are no European sites within the subject site.

5.3.2. The closest European site to the subject site is the Mouds Bog SAC (Site Code: 002331), located c.3km to the south-east of the site.

5.3.3. The closest Natural Heritage Area is the Grand Canal pNHA (Site Code: 002104), located 2.5km to the east of the site.

## **6.0 The Referral**

### **6.1 Referrer's Case**

6.1.1. The case of the Referrer may be summarised as follows:

- The temporary use of the property for accommodation for persons seeking international protection falls within the scope of Class 20F of the Regulations which permits the temporary use of structures as social care accommodation for such persons.
- The current use falls within the category of social care accommodation and the nature of care provided, both currently and under the proposed use includes supports that are consistent with the definition of 'care' in planning terms, i.e., assistance with physical, intellectual and social needs.
- The proposed use continues this function with the only substantive difference being a change in the demographic being accommodated, from young persons as referenced by Tusla, to persons seeking international protection, without any physical works or intensification of use.
- No material change of use arises as the essential character and function of the use remain consistent.
- The condition restricting the use to residential care home only does not preclude the proposed use, as a residential care home accommodating persons under international protection continues to fall under the ambit of social care provision.
- The use qualifies as exempted development under Class 20F, and as such, the condition cannot override this statutory exemption.

- The Referrer highlights that the Class 20F identifies the use of “medical or other health and social care accommodation” structures. The property currently provides existing social care accommodation.
- Whilst not defined in the Act or the Regulations, the Referrer makes the case that in practice social care accommodation generally refers to housing that provides care or support services to individuals in need, including the children and youth currently residing at Renvyle.
- The subject use operates as a private residential resource for Tusla, assisting young people in transitioning from care to independent living. Services offered include on-site social workers who provide 24 hour support, ensuring residents needs are met in a structured and nurturing environment, aligning with the operational model of residential care homes. The range of services aligns with the definition of care under the Regulations.
- The Referrer states that the proposed use would include the provision of social care accommodation within a resident focussed operational framework, designed to safety, well being, personal development and integration into the wider community, through a range of physical, intellectual and social care provisions (Table 1.0 of the Referral refers).
- As the existing use aligns with the regulatory definition of care, the use of the property as a residential care home falls within the definition of social care accommodation. Consequently, no material change of use occurs.
- Instead, the only proposed change is a transition from one form of social care accommodation to another, that is, temporary accommodation for protected persons.
- Condition 2 of development permitted under Reg. Ref. 24/60379, should be interpreted in the context of preventing unauthorised or unrelated uses, not minor or comparable changes within the same use class.
- The referral includes a response to the limitations (1-8) applicable under Class 20F of the Regulations, noting that the applicant is aware of these limitations.

- As a result, the Referrer considers that the use qualifies as exempted development under Class 20F being a type of social care accommodation and as such this condition cannot override this statutory objective.
- Where a proposed development qualifies as exempted development under the Regulations, that exemption remains valid regardless of any condition to the contrary, provided that the use does not result in a material change.
- The proposed change of use is not material as the essential character and function of the use remains consistent and continues to fall within the scope of social care accommodation.
- Residential use is permitted in principle under the LAP.
- Residential care home is not referenced as a use in the LAP. Nursing Home use, as referenced in the previous permission by the PA is permissible under the site's zoning objective Reg. Ref. 24/60379.
- The temporary nature of the exemption ensures that the site can be reverted to its original use upon expiry of the exemption period, thereby ensuring the long term integrity of the B zoning objective.
- The proposed development is exempt from the requirement to obtain planning permission, does not materially alter the character of the existing permitted use and remains fully consistent with the terms and intent of the original permission (Reg. Ref. 24/60379).

## **6.2. Planning Authority Response**

6.2.1. None received.

## **6.3. Further Responses**

6.3.1. None received.

## 7.0 Statutory Provisions

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

“**use**”, in relation to land, does not include the use of the land by the carrying out of any works thereon.

“**works**” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

“**structure**” means any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined, and—  
where the context so admits, includes the land on, in or under which the structure is situate,

‘**Development**’; has the meaning assigned to it under section 3.

- 7.1.1. **Section 3(1)** states that ‘except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land’.
- 7.1.2. **Section 4(1)** sets out the various forms and circumstances in which development is exempted development for the purposes of the Act.
- 7.1.3. **Section 4(1)(h)** ‘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 it inconsistent with the character of the structure or of neighbouring structures’ is exempted development.’
- 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. The main regulations made under this provision are the Planning and Development Regulations 2001 (as amended).

7.1.5. **Section 181** of the Act was updated in 2022 to include specified class or classes of exempted development for temporary accommodation for displaced persons from Ukraine, carried out on or behalf of a State Authority under section 181 of the Act.

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

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

7.2.1. (1) In these Regulations –

“**Act of 2000**” means the Planning and Development Act 2000 (No. 30 of 2000).

“**Council Directive**” means Council Directive 2001/55/EC of 20th July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof.

“**Council Implementing Decision**” means Council Implementing Decision (EU) 2022/382 of 4 March 2022 establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC and having the effect of introducing temporary protection.

“**development**” has the same meaning as it has in the Act of 2000.

“**Displaced persons**” means persons to whom temporary protection applies in accordance with Article 2 of the Council Implementing Decision.

“**Relevant period**” means the period commencing on the making of these Regulations and ending when the temporary protection introduced by the Council Implementing Decision comes to an end in accordance with Article 6 of the Council Directive.

**“State Authority”** means – a Minister of the Government, or The Commissioners of Public Works in Ireland.

**“Temporary protection”** has the same meaning as it has in the Council Directive.

7.2.2. 3(1) 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.

7.2.3. 3(2) 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.

### **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.

### 7.3. **Planning and Development Regulations, 2001 (as amended)**

#### 7.3.1. **Article 5 (1)** In this Part –

**“care”** means personal care, including help with physical, intellectual or social needs,

**“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;

7.3.2. **Article 6 (1)** 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”.

7.3.3. **Article 9** states the following:

(1) Development to which article 6 relates shall not be exempted development for the purposes of the Act –

(a) If the carrying out of such development would –

(i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,

7.3.4. **Article 10** of the Planning and Development Regulations sets out circumstances in which a change of use is exempted development.

7.3.5. **Part 4 of Schedule 2** sets outs exempted development classes of use to which Article 10 refers:

#### **Class 9**

Use-

(a) for the provision of residential accommodation and care to people in need of care (but not the use of a house for that purpose),

(b) as a hospital or nursing home,

(c) as a residential school, residential college or residential training centre.

**Article 10(2)** states that ‘A use which is ordinarily incidental to any use specified in Part 4 of Schedule 2 is not excluded from that use as an incident thereto merely by reason of its being specified in the said Part of the said Schedule as a separate use.’

Part 1, Schedule 2, sets out the classes of use which are exempt for the purposes of planning. Class 14, (h), (i) and (j) and Class 20F specifically relate to accommodation for protected persons.

The Planning and Development (Amendment) (No.4) Regulations 2015 (S.I No 582/2015) amend Part 1 of Schedule 2, entitled 'Exempted Development - General' to insert a new section in Class 14 (h), (i) and (j) exemption to allow a change of use of certain class/use of building for protected persons (i.e. an applicant for international protection) and include the following:

### **Class 14**

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, and

(j) from the change of use specified in paragraph (h) or (i) or both, to the permitted use of the premises immediately prior to the change of use specified in the said paragraph (h) or (i) or both.

### **Conditions and Limitations**

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

**Class 20F** was updated by the Planning and Development (Exempted Development) (No. 4) Regulations 2023 (SI No. 376/2023) to include “displaced persons” as being those persons displaced due to the Ukraine war and to extend the

exemption from 31st of December 2024 to 31st of December 2028 as detailed below.

**Class 20F**

**Temporary use** by or on behalf of the Minister for Children, Equality, Disability, Integration and Youth to accommodate or support displaced persons or persons seeking international protection of any structure or part of a structure used as a school, college, university, training centre, social centre, community centre, non-residential club, art gallery, museum, library, reading room, sports club or stadium, gymnasium, hotel, convention centre, conference centre, shop, office, Defence Forces barracks, light industrial building, airport operational building, wholesale warehouse or repository, local authority administrative office, play centre, medical and other health and social care accommodation, event and exhibition space or any structure or part of structure normally used for public worship or religious instruction.

**Restriction/Criteria:**

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<sup>th</sup> March 2022 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 protection 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.
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.

For the purposes of Schedule 2, the Regulations provide the following definition of a “protected person”: -

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).

A person who falls to be considered or has been considered under section 3 of the Immigration Act of 1999, or a programme refugee within the meaning of s.24 of the refugee Act of 1996.

#### **7.4. Article 2 of Council Implementing Decision (EU) 2022/382 of 4 March 2022**

- 7.4.1. This sets out that ‘displaced persons’ means people displaced from Ukraine as a result of the military invasion by Russia.

#### **7.5. International Protection Act 2015 (No. 66 of 2015)**

- 7.5.1. This sets out that ‘International Protection’ means status in the State either—
  - (a) as a refugee, on the basis of a refugee declaration, or
  - (b) as a person eligible for subsidiary protection, on the basis of a subsidiary protection declaration;“person eligible for subsidiary protection” means a person—
  - a) who is not a national of a Member State of the European Union,
  - b) who does not qualify as a refugee,
  - c) in respect of whom substantial grounds have been shown for believing that he or she, if returned to his or her country of origin, would face a real risk of suffering

serious harm and who is unable or, owing to such risk, unwilling to avail himself or herself of the protection of that country, and

d) who is not excluded under section 12 from being eligible for subsidiary protection;

## **7.6. Article 2 of Council Directive 2001/55/EC of 20 July 2001**

7.6.1. This sets out that 'temporary protection' means a procedure of exceptional character to provide immediate and temporary protection to displaced persons in the event of a mass influx of such persons.

## **8.0 Assessment**

### **8.1. Is or is not development**

#### **Introduction**

8.1.1. This First Party Referral relates to the proposed change of the use of a detached former dwelling from use as a residential care home, working with families, children and young people that are referred through Tusla – the Child and Family Agency on behalf of the Department of Children, Equality, Disability, Integration and Youth (DCEDIY) to its use as accommodation for displaced persons seeking international protection under Class 20F, Part 1, Schedule 2 of the Regulations.

8.1.2. The applicant contends that the change of use of the property as accommodation for internationally protected persons is exempted development under Class 20F of the Regulations.

8.1.3. The query relates to whether the change of use of a residential care home currently providing accommodation to Tusla – Child and Family Agency on behalf of the Department of Children, Equality, Disability, Integration and Youth (DCEDIY) and to provide temporary residential accommodation for displaced persons or persons seeking international protection under Class 20F, Part 1, Schedule 2 of the Regulations is or is not development and is or is not exempted development.

8.1.4. From a review of the file and site inspection, I consider that the wording of this query accurately reflects the subject proposal and provides for an assessment of the issues raised.

- 8.1.5. The purpose of this referral is not to determine the acceptability or otherwise of the use of a residential care home currently providing accommodation to Tusla on behalf of the DCEDIY to provide temporary residential accommodation for displaced persons or persons seeking international, 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.
- 8.1.6. Section 3(1) of the Act defines development as “except where otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land.” Under s.2 of the Act “works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal.

### **Works**

- 8.1.7. The Referral makes the case that no works are proposed as part of the use of the property as accommodation for displaced persons seeking international protection under Class 20F of the Regulations.
- 8.1.8. This permission relates to retention of the change of use of the structure as a residential care home, and an extension at first floor level, providing an additional 3 no. bedrooms.
- 8.1.9. From site inspection, the property comprises 4 no. bedrooms, 1 no. bathroom, a kitchen / living room and garage, reflecting the residential use within the property. A break had been made to the ceiling; however no other works had taken place with respect to the extension at first floor level.
- 8.1.10. The Referral states that the property has been operating on behalf of Tusla, as permitted by the Council under 24/60379.
- 8.1.11. As such, I consider that it is the intention of the Referrer to implement this permission.
- 8.1.12. No works are completed as part of this Referral.
- 8.1.13. Construction works may otherwise be undertaken under s.4(1)(h) of the Act, 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 it inconsistent with the character of the structure or of neighbouring structures’ is exempted development.

- 8.1.14. In this context, the judgement in case law *Horne v Freaney* is relevant. This judgement concluded that development seeking exemption rights under Section 4(1)(h) must first have been completed in full accordance with its permission.
- 8.1.15. As stated above, the subject proposal does not, include any works, as referenced in the definition of development within s. 3 of the Act.

### **Material Change of Use**

- 8.1.16. With regard to a material change in use, the change must be material in order to constitute development as defined in s.3 of the Act.
- 8.1.17. There is no definition of 'material change of use' in the Act, the Regulations or any other statute, and assessment is reliant on case law.
- 8.1.18. I note the test proffered by Barron, J. in *The County of Galway v Lackagh Rock Ltd.* [1984 21 MCA] for the determining of whether or not a material change of use has occurred.' In this case, Barron, J considered that 'in determining whether or not a present use was materially different from a use being made on the appointed day one must look at matters which the planning authority would take into consideration if a planning application were made on both dates and if these matters were materially different from the present use, the use must be equally materially different.'
- 8.1.19. In short, if the matters that a planning authority in considering a planning application for the temporary use of the property to accommodate persons seeking international protection to the matters taken into consideration relating to an application for the use as a residential care home, then the uses must be materially different and a change from one use to the other would occur.
- 8.1.20. The Referrer makes the case that the temporary use of the property as accommodation for persons seeking international protection are both consistent with the definition of 'care' in planning terms, i.e., "care" personal care, including help with physical, intellectual or social needs", and the only substantive difference being a change in the demographic being accommodated. No material change of use arises as the essential character and function of the use remain consistent.
- 8.1.21. The PA considers that the residential care home use operated on the basis of a managed environment with trained staff, residents with specific needs, long term occupancy and a predictable and regulated pattern of use; whereas the proposed

use would have a less predictable occupancy; potentially a higher number of occupants, no maximum age limit; without on-site care staff. The PA concluded that these characteristics would alter the character and functioning of the use of the building, resulting in differing potential impacts on the external environment, thus constituting development.

- 8.1.22. With respect to Barron J, from a review of the Section 5, the intended (current) use of the property is as a residential care home for young adults, in transition from care to independent living. The services include on-site social workers, providing 24-hour services; provided within a residential care home setting.
- 8.1.23. The proposed use would provide social care accommodation supported by care practices for prospective residents. The Section 5 states that services include would relate to personal development, well-being and integration into the wider community.
- 8.1.24. As such, planning matters in my opinion, would, both relate to the following key planning matters: operational considerations (timing for services, staffing requirements, prospective occupancy); impact of adjoining properties (such as noise); traffic impacts arising from staff, residents, deliveries and visitors.
- 8.1.25. With relation to the PA, I do not consider that the change in age profile would constitute a material consideration in terms of impacts arising; as support services would change accordingly. Similarly, I do not consider that changes to the management systems between the two proposals to be significant, resulting in a material change.
- 8.1.26. Having regard to the above, I do not consider that differing planning considerations would arise for temporary use of the building as residential accommodation for displaced persons or persons seeking international protection, would differ from those relating to the use of the property as a residential care home. With respect to Barron J, I therefore consider that the change of use would not constitute a material change in the use of this structure.
- 8.1.27. The proposed use does not include any works and, in my opinion, the change of use is not material. I therefore consider that the proposal does not constitute development, as defined in s.3 of the Act.

## 8.2. Is or is not exempted development

### Change of Use

- 8.2.1. Class 14, Part 1 of Schedule 2 of the Regulations 2001 relating to Change of Use has been amended by The Planning and Development (Amendment) Regulations 2022 (No.4) to allow for change of use of certain class/use of building for protected persons (i.e. an applicant for international protection) and includes the insertion of Class 20F.
- 8.2.2. This provides for the 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, including used as 'medical and other health and social care accommodation'.
- 8.2.3. The Referrer makes the case that the current use falls within the category of social care accommodation and the nature of care provided are both consistent with the definition of 'care' in planning terms, i.e., assistance with physical, intellectual and social needs.
- 8.2.4. The Referrer argues that the proposed use continues this function with a change in persons from young persons as referenced by Tusla, to persons seeking international protection, without any physical works or intensification of use.
- 8.2.5. The Referrer considers that 'social care accommodation' would generally refer to the provision of housing including care and support services to individuals in need; as has been the case with the residential care home; and that the proposal would include the provision of social care accommodation, supported by care practices and a resident-focused operational framework; and that there is no material change, as the proposal is a transition from one form of social care accommodation to another.
- 8.2.6. From a review of the file, the current use of the property as a residential care home for Fairport, who work with families, children up to the age of 21. The services include an on-site social worker, provided within a residential setting.
- 8.2.7. Social care accommodation and Residential Care Home are not defined in the Act or the Regulations.

- 8.2.8. Notwithstanding, I consider that the term social care accommodation, could include the provision of care services within a residential care home setting.
- 8.2.9. The property currently includes private bedrooms, kitchen / communal dining facilities and external amenity space; with an on-site social care worker. As such, in my opinion, the current use of the building as a residential care home on behalf of Tusla, is consistent with the social care accommodation, as referenced within Class 20F of the Regulations.
- 8.2.10. From a review of this file, the proposed use of this facility is intended to provide temporary accommodation for protected persons in need of support and supervision. In this case, services would include kitchen facility /nutritional tools, study room, life skills to promote independence, self-sufficiency and long-term integration, access to confidential support services.
- 8.2.11. Having regard to the above, I consider that the temporary use, by or on behalf of the Minister for Children, Equality, Disability, Integration and Youth, under Class 20F of the Regulations to accommodate displaced persons or persons seeking international protection to apply to this property, subject to assessment with respect to Exemptions as addressed below.
- 8.2.12. Class 9 of the Regulations provides for a change of use from a residential care home to use as a hospital or nursing home, or as a residential school, residential college or residential training centre. This provision does not include use temporary accommodation for protected persons in need of support and supervision.
- 8.2.13. Class 14 (h) provides for a range of property to use to accommodate protected persons. These do not include use as a residential care home.
- 8.2.14. I have had regard to other considerations and in my opinion, there are no specific exemptions which allow the use to provide temporary accommodation for protected persons.

### **Restrictions on Exemptions**

- 8.2.15. Class 20F of the Regulations specifies 8 no. restrictions on this exemption. From a review of the file, the following parameters are noted:

- It is the intention of the Referrer to accommodate persons seeking international protection in collaboration with the International Protection Accommodation Services (IPAS).
- Potential discontinuation of temporary protection introduced by the Council Implementing Decision EU (2022/383) is understood by the Referrer.
- The discontinuation no later than 31 December 2028 is also acknowledged.
- The proposed use of the property would be to house displaced persons'; noting the definitions for 'displaced persons', 'international protection', 'Temporary Protection' are understood by the Referrer.
- Prior the commencement of development, Kildare County Council, would be notified in writing of the intention to change the use of the building.

8.2.16. Having regard to the above, I consider that the restrictions under Class 20F are met. I therefore consider that the temporary use change of use, by or on behalf of the Minister for Children, Equality, Disability, Integration and Youth to accommodate displaced persons or persons seeking international protection of this structure to be exempted development.

### **Condition 2**

8.2.17. Condition 2 of this permission states that,

'The structure shall be used as a residential care home only. Notwithstanding, provisions of Planning and Development Regulations 2001 (as amended) no change of use shall occur without a prior specific grant of permission.'

8.2.18. Article 9 of the Regulations relates and requires that exempted development would not contravene any condition attached to a permission.

8.2.19. The Referrer argues that a condition restricting the use as a residential care home does not preclude the proposed temporary change of use, provided it does not materially alter the character of the use, which it doesn't in this case.

8.2.20. The Referrer also considers that it is standard planning practice that a condition attached to permission cannot override or restrict rights granted under legislation.

- 8.2.21. There is no standard practice which restricts the imposition of a condition, which overrides an exemption available under the Act and Regulations, as argued by the Referrer.
- 8.2.22. From a review of this file, the current use as a residential care includes the provision of care services, with on-site social care service services within a residential setting, with kitchen, dining and communal rooms.
- 8.2.23. As set out above, it is intended to provide temporary accommodation for protected persons in collaboration with the International Protection Accommodation Services (IPAS) at this site.
- 8.2.24. The Referrer sets out that these services would include semi-private rooms with lockable storage facilities, kitchen with nutritional services, use of external amenity space, study rooms; shared communal areas, support services in accessing health care services, local libraries, community centres or learning hubs, educational opportunities, and access to confidential support services relating to personal care.
- 8.2.25. On this note, the proposal does not include any dedicated care/medical related uses, including accommodation for staff, typically associated with a residential care home.
- 8.2.26. Whilst residential care home is not defined in the Act, Regulations or the Development Plan, in my opinion, the proposed use to accommodate protected persons does not comply with the term residential care home use, as established within the parent permission P.A Reg. Ref.:24A/60379.
- 8.2.27. I therefore consider that the proposed use would not comply with Condition 2 as detailed above, and that restrictions on exempted development under Article 9 of the Regulations would apply.

## 9.0 **Appropriate Assessment**

- 9.1. I have considered the proposed change of use at Renvyle, Great Connell Road, Newbridge in light of the requirements S177U of the Planning and Development Act 2000 as amended.
- 9.2. The closest European Site is Mouds Bog SAC, located 3km to the south-east of the site.
- 9.3. 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.
- 9.4. The reason for this conclusion is as follows:
- Location-distance from nearest European site.
  - The nature and scale of the development and the location of the site on developed serviced lands.
  - The absence of any ecological pathway from the development site to the nearest European Site.
- 9.5. 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.
- 9.6. Likely significant effects are excluded and therefore Appropriate Assessment (under Section 177V of the Planning and Development Act 2000) is not required.

## 10.0 **EIA Screening**

- 10.1. The subject referral relates to a temporary change of use of residential care home to accommodate and or support displaced persons seeking international protection.
- 10.2. The proposed temporary change of use does not constitute a 'project' for the purposes of EIA, that is, it does not comprise construction works, demolition or intervention in the natural surroundings.
- 10.3. Refer to Form 1 in the Appendix of this report.

## 11.0 Recommendation

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 change of use of a residential care home currently providing accommodation to Tusla – Child and Family Agency and the Department of Children, Equality, Disability, integration and youth to provide temporary residential accommodation for displaced persons or persons seeking international protection under Class 20F, Part 1, Schedule 2 of Regulations 2001 (as amended), is or is not development and is or is not exempted development:

**AND WHEREAS** SBLN Ltd. T/A Fairport Care Services requested a declaration on this question from Kildare County Council and the Council issued a declaration on the 10<sup>th</sup> day of June 2025 stating that the matter was development and was not exempted development:

**AND WHEREAS** SBLN Ltd. T/A Fairport Care Services referred this declaration for review to An Coimisiún Pleanála on the 7<sup>th</sup> day of July 2025:

**AND WHEREAS** An Coimisiún Pleanála, in considering this referral, had regard particularly to –  
Section 2(1) of the Planning and Development Act, 2000, as amended,  
Section 3(1) of the Planning and Development Act, 2000,  
Section 4(1)(a) of the Planning and Development Act, 2000, as amended,  
article 6(1) and article 9(1) of the Planning and Development Regulations, 2001, as amended,

Parts 1 and 3 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,  
the planning history of the site,  
the nature, extent and purpose of these works,:

**AND WHEREAS** An Coimisiún Pleanála has concluded that:

- a) The proposed use of the subject property is not a material change of use and is therefore not development.
- b) The current use comes within the term “medical and other health social care accommodation”, under Class 20F of the Regulations.
- c) The proposed use of the property as temporary residential accommodation for displaced persons or persons seeking international protection is provided under Class 20F of the Regulations.
- d) The proposed use is not consistent with residential care home use as referenced in Condition 2 of Permission (P.A. Reg. Ref. 24/60379). The Condition therefore limits the proposed use.

**NOW THEREFORE** An Coimisiún Pleanála, in exercise of the powers conferred on it by section 5 (4) of the 2000 Act, hereby decides that the change of use of a residential care home currently providing accommodation to Tusla – Child and Family Agency and the Department of Children, Equality, Disability, integration and youth to provide temporary residential accommodation for displaced persons or persons seeking international protection under Class 20F, Part 1, Schedule 2 of Regulations 2001 (as amended), is not 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.

---

Aoife McCarthy  
Planning Inspector

30th January 2026

### Form 1 - EIA Pre-Screening

<b>Case Reference</b>	322978-25
<b>Proposed Development Summary</b>	Whether the change of use from a residential care home currently providing accommodation to temporary accommodation for displaced persons or persons seeking international protection under Class 20F, Part 1, Schedule 2 of the Planning and Development Regulations 2001 (as amended), is or is not development and is or is not exempted development.
<b>Development Address</b>	Renvyle, Great Connell, Newbridge, Co. Kildare.
<b>In all cases check box /or leave blank</b>	
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b>  (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes,  - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<input type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2.
	<input checked="" type="checkbox"/> No, No further action required.
<b>2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?</b>	
<input type="checkbox"/> Yes, it is a Class specified in Part 1.  <b>EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.</b>	
<input type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
<b>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?</b>	

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

<b>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)?</b>	
<b>Yes</b> <input type="checkbox"/>	
<b>No</b> <input checked="" type="checkbox"/>	

**Inspector:** \_\_\_\_\_ **Date:** \_\_\_\_\_