



An  
Coimisiún  
Pleanála

## Inspector's Report ACP-323023-25

### Question

PROTECTED STRUCTURE: Whether the use of the existing East End Hotel to facilitate the temporary accommodation of International Protection Applicants (Protected Persons) is or is not development or is or is not exempted development.

### Location

East End Hotel, Main Street, Portarlinton, Co. Laois, R32 K58R

### Declaration

Planning Authority

Laois County Council

Planning Authority Reg. Ref.

S5/2025/50

Applicant for Declaration

Laois County Council

Planning Authority Decision

No declaration

### Referral

Referred by

Laois County Council

Owner/ Occupier

Nera Investments Limited.

Observer(s)

Nera Investments Limited

**Date of Site Inspection**

25/6/26.

## 1.0 Site Location and Description

- 1.1. The subject site comprises of an existing hotel building known as the East End Hotel, which is located on Main Street, Portarlinton, Co. Laois.
- 1.2. The overall landholding to which this referral relates as outlined in red on the accompanying land registry map currently contains an existing six bay three storey building which includes single-storey end bays and a three storey return to the rear.
- 1.3. The building is listed as a Protected Structure under the *Laois County Development Plan 2021-2027* (RPS No. 137).

## 2.0 The Question

- 2.1. Laois County Council has referred the following questions to An Coimisiún Pleanála:
  - *If the use of the East End Hotel, Portarlinton, Laois to facilitate temporary accommodation of International Protection Applicants (Protected persons) is or is not exempted development.*
- 2.2. In addition to this, Laois County Council have referred the following supplementary questions to An Coimisiún Pleanála:
  1. Is the East End Hotel, Portarlinton currently being used as a hotel?
  2. Is the development completed to the East End Hotel, Portarlinton which is a protected structure exempted development?
  3. Is an Architectural Heritage Impact Assessment required before a determination can be made on the development completed to date?
  4. Is the question being put to the Planning Authority too narrow?
  5. Can the matter of use be treated separately to development to the protected structure via the Section 5 and Section 57 processed respectively or can it be treated as a whole via the Section 5 process?

### 3.0 Planning Authority Declaration

- 3.1 The Planning Authority did not issue a declaration, and the question was referred directly by the Planning Authority to the Board for a decision under the provisions of Section 5 (4) of the Planning and Development Act 2000, as amended.

#### 3.1. Planning Authority Reports

##### 3.1.1. Planning Reports

- 3.1.2. There is one planning report on file dated 7/7/25 details that a Section 5 declaration request was received which requested an answer to the question *whether the use of the existing East End Hotel to facilitate the temporary accommodation of International Protection Applicants (Protected Persons) is or is not exempted development?*
- 3.1.3. The area planners report notes that the applicant states that no works are proposed to the building which is consistent with a separate Section 57 Declaration submitted by the same applicant. The area planner states that, having visited the site that they are happy that development has been carried out externally which materially affects the external appearance of the structure.
- 3.1.4. It is also noted that the property has been the subject of a number of internal alterations including the following:

##### *Ground floor level*

- 2 new bedrooms adjacent to the reception / lobby area which were previously a dining room
- 4 new bedrooms in the former bar / ballroom area
- 60 minute compartment wall / floor.
- 30 minute fire restraint wall.

##### *First floor level*

- Meeting room replaced with a new bedroom.

- 3.1.5 The area planner states that the matters referenced above cannot be considered 'works' for a protected structure and therefore are 'development.' It is also noted that these works were not referenced in the initial Section 57 Declaration.

3.1.6 The area planner notes that the applicant has not submitted an Architectural Heritage Impact Assessment (completed by a competent person) for the works completed to date. The area planner concludes that without a submission of an assessment.

### 3.2 Other Technical Reports

3.2.1 There are no other technical reports on file.

## 4.0 Planning History

**Reg. Ref. 23/60054 (ABP-318577-23).** Application for 10 no. hotel room units within three no. single storey buildings comprising: a. Building 1 – 4 no. units (177 sq.m Gross Floor Area), b. Building 2 – 4 no. units (177.2 sq.m Gross Floor Area), c. Building 3 – 2 no. units (88.6 sq.m Gross Floor Area). ii) The provision of external hard and soft landscaping, iii) The removal of 12 no. existing trees on site, iv) The provision of a doorway & ramped pedestrian access to the rear garden, v) The provision of cycle parking and alterations to the existing car parking layout, vi) Provision of all other associated and ancillary site and development works. A Natura Impact Statement (NIS) has been included with this application. Permission granted, subject to conditions. This decision was subject to a third-party appeal to An Bord Pleanála who overturned the decision of the Planning Authority and refused planning permission.

**Reg. Ref. 00/1297:** Application to retain alterations to the East End Hotel. Retention planning permission granted, subject to conditions.

### Section 57

This request sought a declaration from Laois County Council as to use of the East End Hotel to provide for the temporary accommodation of protected persons is exempt development as (i) No works are proposed to the building (internally or externally) and (ii) as there are no works proposed the proposal would not materially affect the character of the building.

The Planning Authority decided that a Section 57 Declaration could not be issued for the use of the East End Hotel because this does not fall within the definition of 'works' as defined in the Planning and Development Act 2000 (as amended).

## **Enforcement**

**Ref 25/028:** Relates to alleged unauthorised development comprising of the change of use of a hotel, The East End Hotel, Portarlinton. This case was closed.

## **5.0 Policy Context**

### **5.1 Development Plan**

Portarlinton Joint Local Area Plan 2025-2031

5.1.1 The subject site is zoned Town Centre (Primary/ Core Retail Area). It is the objective *‘To protect and enhance the special physical and social character of the existing town centre and to provide for and improve retailing and commercial activities.’*

5.1.2 Built Heritage Strategic Aim: To protect, conserve and manage the built heritage of Portarlinton, and to promote the appropriate development and use of Heritage assets to ensure that they contribute to the sustainable development and heritage-led regeneration of the town for future generations.

**Policy 14.1:** Protect, conserve, and enhance the character, setting and special interest of the built heritage of Portarlinton, including all Protected Structures and their curtilage, Recorded Monuments and Places in accordance with best conservation practice.

*Laois County Development Plan 2021-2027*

DM PS 1 DEVELOPMENT WITHIN THE CURTILAGE OF A PROTECTED STRUCTURE

### **5.2 Natural Heritage Designations**

5.2.1 The closest European Site, part of the Natura 2000 Network, is the River Barrow and River Nore SAC (Site Code: 002162) which is located approximately 302 metres to the north of the site.

## **6. The Referral**

### **6.1 Referrer's Case-Application for Section 5(1) declaration to Laois County Council**

6.1.1 The development as presented in the Section 5 to the Council was submitted by Genises Planning Consultants on the 18<sup>th</sup> June 2025 on behalf of Nera Investments which can be summarised as follows:

*'Whether the use of the existing East End Hotel to facilitate the temporary accommodation for Internal Protection Applicants (Protected Persons) is or is not exempted development.'*

6.1.2 There is one planning report on file dated 7<sup>th</sup> July 2025. This report

### **6.2 Owner/ occupier's response**

6.2.1 A response has been received from Genisis Planning Consultants on behalf of the applicant, Nera Investments Limited. The response can be summarised as follows:

- The proposal constitutes development under Section 3 of the Planning and Development Act 2000.
- No works are proposed to the building either internally or externally and the only matter for consideration is the use of the Hotel.
- The existing Hotel falls within the definition of a business premises having reviewed the provisions of Article 3(1) of SI 582.
- The Hotel does not fall within the definition of excluded premises under SI 582 of 2015.
- The Hotel is a pre-1963 use with no use restrictions. The use of the Hotel cannot be abandoned.
- There is no unauthorised use of the hotel.
- This referral does not include any works and relates to the question put in the first place to the Council. No reference is made to works within the Section 5 application. The preceding Section 57 to the Council asked the same questions and was explicit in clarifying that no works are proposed to the building.

- An Architectural Heritage Impact Assessment is not required where only use of a building is proposed.
- There is no scope or need for the question to be amended, it is a straightforward question incorporated as the main heading into the Section 5 referral.

## **6.3 Further Responses**

6.3.1 There are no further responses on file.

## **7. Statutory Provisions**

### **7.1 Planning and Development Act, 2000**

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

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

Section 3(1) states that:

- In this Act, ‘development’ means, except where the context otherwise requires, the carrying out of works on, in, over or under land or the making of any material change in the use of any structures or over land.’

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

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

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

Section 4(2) of the Act notes that the Minister may, by regulations, provide for any class of development to be exempted development. The main regulations made under this provision are the Planning and Development Regulations 2001, as amended. Section 4(4) Notwithstanding paragraphs (a), (i), (ia) and (l) of subsection (1) and any regulations under subsection (2), development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required.

Section 57.—(1) Notwithstanding section 4(1)(a), (h), (i), (ia) (j), (k), or (l) and any regulations made under section 4(2), the carrying out of works to a protected structure, or a proposed protected structure, shall be exempted development only if those works would not materially affect the character of— (a) the structure, or (b) any element of the structure which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest.

## **7.2 Planning and Development Regulations, 2001**

### Article 6 (1) –Exempted Development

‘Subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1.’

### Article 9 (1) – Restrictions on Exemption

Development to which article 6 relates shall not be exempted development for the purposes of the Act under certain circumstances and the restrictions and limitations are outlined in this Article.

(a) if the carrying out of such development would:

(i) Contravene a condition.

- (ii) Consist of or comprise the formation, layout out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width.
- (iii) Endanger public safety by reason of traffic hazard or obstruction of road users.
- (iiia) Endanger public safety by reason of hazardous glint and/or glare for the operation of airports, aerodromes, or aircraft.
- (iv) Interfere with the character of a landscape, or a view or prospect of special amenity value or special interest.
- (v) Comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment, and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,
- (vi) Consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000.
- (vii) Consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use.

#### Article 10 (1) Changes of Use

- (1) Development which consists of a change of use within any one of the classes of use specified in Part 4 of Schedule 2, shall be exempted to development for the purposes of the Act, provided that the development, if carried out would not –
  - (a) involve the carrying out of any works other than works which are exempted development,
  - (b) contravene a condition attached to a permission under the act,
  - (c) be inconsistent with any use specified or included in such a permission, or
  - (d) be a development where the existing use is an unauthorised use, save where such change of use consists of the resumption of a use which is not unauthorised and which has not been abandoned.
- (6) (viii) No development shall consist of or comprise the carrying out of works to a protected structure, as defined in section 2 of the Act, save where the relevant planning authority has issued a declaration under section 57 of the Act to the effect that the

proposed works would not materially affect the character of the structure or any element, referred to in section 57(1)(b) of the Act, of the structure.

#### Class 14 – Part 1 of Schedule 2 – ‘Exempted Development - General’

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)

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 20 F – Part 1 of Schedule 2 – ‘Exempted Development - General’

The Planning and Development (Amendment) (No. 4) Regulations 2022 (S.I 605 of 2022) amend Part 1 of Schedule 2, entitled ‘Exempted Development - General’ to insert a new Class 20F exemption to allow the temporary use of a certain class/use of building to accommodate persons seeking international protection.

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 Structures and Uses

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.

#### Conditions and Limitations

- 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 4th 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.

## **8. Referral Precedents**

**ACP-322857-25.** The Coimisiún determined on 18<sup>th</sup> of March 2026 that change of use of the existing rooms and spaces within a building which comprises the Convent of Mercy, Templeshannon, Enniscorthy, County Wexford from a residential convent to a centre for the accommodation of Ukrainian refugees and international protection applicants as fully described in the totality of the documentation submitted with the referral which includes reference to works, is development and is not exempted development.

In coming to this determination, the Coimisiún noted both the specific reference in documentation submitted by the referrer to works undertaken (such as blocking up of opening from the convent to the church, extension of ground floor room etc.) and works to be undertaken (garden area) at the subject premises and reference to works which the Inspector states in his report that as a result of his site visit are seen to have been undertaken, such as floor coverings, electric / wiring fitted to internal walls concealed with external plastic casing, lighting, security cameras, replacement of internal doors with new fire doors, installation of toilet / shower facilities, installation kitchen facilities and installation of utilities for laundry room. On the basis of the information on file the Commission determined therefore that the works that have been undertaken and are proposed to be undertaken cannot be decoupled from the overall question as asked

by the referrer on this specific case, noting that the referrer actually introduced detail confirming works had been undertaken/would be undertaken. In this regard the Commission agreed with the Inspector, to the effect that consideration of the works would therefore be relevant in reaching a determination of this case, notwithstanding the narrow wording of the question.

**ABP317397-23:** The Board determined on 23<sup>rd</sup> of January 2025 that it has not been satisfactorily demonstrated by the owner / occupier that the carrying out of works to facilitate this temporary accommodation for international protection applicants does not materially affect the character of the Protected Structures, or any element of the structures which contribute to their special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest and is, therefore, not exempted under Section 57 of the Planning and Development Act 2000 (as amended).

**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.

**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.

**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.

## **9. Assessment**

### **Introduction**

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

### *Nature of the request*

- 9.4 Laois County Council is seeking An Coimisiún Pleanála to determine if the use of the East End Hotel in Portarlinton, Co. Laois to facilitate temporary accommodation of

International Protection Applicants (Protected Persons) is or is not exempted development.

9.5 In addition to this, the Planning Authority has referred 5 No. additional questions to An Coimisiún Pleanála. Question 1 relates to the whether or not the East End Hotel is currently being used as hotel. However supplementary questions 2 to 5 relate to works to the Protected Structure and whether or not the matter of use can be treated separately to development to the protected structure via the Section 5 and Section 57 processes respectively or can it be treated as a whole via the Section 5 process.

9.6 I make the Coimisiún aware that the landowner has stated that no works have been undertaken either internally or externally to the building to facilitate the use. However, it is clear from drawings submitted that internal works have been undertaken.

9.7 In this regard, I note that plans submitted with the Declaration. The drawings submitted are not contemporary and have a mixture of dates (2008, 2017, 2020 and 2022). I have compared the submitted drawings against the drawings for most recently approved application on the subject land (Reg. Ref. 00/1297) and I note that the following alterations can be observed:

*Ground floor level*

- 2 new bedrooms adjacent to the reception / lobby area which were previously a dining room.
- 4 new bedrooms in the former bar / ballroom area.
- 60 minute compartment wall / floor.
- 30 minute fire restraint wall.

*First floor level*

- Meeting room replaced with a new bedroom.

9.8 It was evident from my site assessment and having regard to the information on the file that alterations to the interior of the structure have been undertaken to facilitate the use of the building to provide accommodation.

9.9 In this case, Laois County Council broadly query whether or not works to the Protected Structure should be considered with the proposed use of the building to facilitate temporary accommodation of International Protection Applicants (Protected Persons). In this regard, I have considered precedent cases (as outlined above), and I note that works to a Protected Structure have been considered as part of the use of buildings to facilitate the temporary accommodation of International Protection Applicants (Protected Persons). I refer specifically to the order relating to case No. ACP-322857-25 which states that the works that have been undertaken cannot be decoupled from the overall question as asked by the referrer on this specific case. This is the case (whether or not for the works are for the specific purpose of the change of use at the Protected Structure). I have also had regard to Case No. ABP317397-23: in which the Board determined that it has not been satisfactorily demonstrated by the owner / occupier that the carrying out of works to facilitate this temporary accommodation for international protection applicants does not materially affect the character of the Protected Structures.

9.10 I have considered all of the information before me and I am of the opinion that the works to the protected structure constitute works and as such falls under the definition of development under Section 3(1)(a) of the Act and cannot be decoupled from the overall question as asked by the referrer in this case.

9.11 I intend to respond individually to each of the additional questions (1-5) before considering the main question for which a determination is requested. I intend to address questions 5 first and will then consider questions 1-4 before answering the substantive question. My responses are set out below.

*Question 5 Can the matter of use be treated separately to development to the protected structure via the Section 5 and Section 57 processes respectively, or can it be treated as a whole via the Section 5 process?*

9.12 The planners report states that the building has been the subject of a number of internal changes and that these works cannot be considered 'works for a protected

structure. The area planner is therefore of the opinion that this constitutes development.

9.13 I note that the landowner's response states that no works are proposed to the building either internally or externally and that the only matter for consideration is the use of the Hotel. I further note that the landowner made an application for a Section 57 Declaration on 10th March 2025. However, this Section 57 related to use of the building and the Planning Authority found that a Section 57 Declaration could not be issued by the Planning Authority for the use of the East End Hotel to provide for the temporary accommodation of protected persons because this does not fall within the definition of 'works' defined in the Planning and Development Act 2000.

9.14 Notwithstanding this, I have compared the submitted drawings against the drawings for most recently approved application on the subject land (Reg. Ref. 00/1297) and I note that the following alterations can be observed:

*Ground floor level*

- 2 new bedrooms adjacent to the reception / lobby area which were previously a dining room
- 4 new bedrooms in the former bar / ballroom area.
- 60 minute compartment wall / floor.
- 30 minute fire restraint wall.

*First floor level*

- Meeting room replaced with a new bedroom.

9.15 In my opinion, these alterations constitute 'works' and as such falls under the definition of development under Section 3(1)(a) of the Act.

9.16 In my opinion, these works would facilitate the proposed change of use and as such cannot be decoupled from the overall question as asked by the referrer on this specific case. The works would therefore be relevant in reaching a determination of this case, notwithstanding the narrow wording of the question.

*Question 1-Is the East End Hotel, Portarlington currently being used as a Hotel?*

- 9.17 This question arises as the Planning Authority has concerns that the building cannot be considered to be a hotel having regard to the number of beds within each of the rooms. If the building is not a hotel, then there is an issue under Article 9 of the Planning and Development Act 2000 (as amended).
- 9.18 The landowner states that the building is a pre-1963 Hotel with no use restrictions and that the existing on site is authorised in terms of land use and buildings under the pre-1963 status which relates to the subject land. This position is supported by the High Court in the Molloy V Minister for Justice, Equality and Law Reform (2004).
- 9.19 The facts as I see them are as follows:
- The building has been used as a hotel since at least 1970, when the building was extended to support such use. I refer the Coimisiún to [www.buildingsofireland.ie/buildings-search/building/12900232/east-end-hotel-main-street-coolteedery-portarlington-laois](http://www.buildingsofireland.ie/buildings-search/building/12900232/east-end-hotel-main-street-coolteedery-portarlington-laois).
  - The building reopened as a hotel in June 2017 as a hotel and restaurant. I refer the Coimisiún to <https://www.leinsterexpress.ie/news/business/portarlingtons-east-end-hotel-set-to-re-open-with-12-new-jobs-8378998>
  - From May 2019 the building was used for the purposes of providing Emergency Accommodation to Refugees under the Temporary Protection Directive. The contract was terminated by the relevant Government Department in 2024.
  - The building was used to provide overnight accommodation to various construction workers in March 2025. In this regard, I refer the Coimisiún to Appendix 2 of the landowner's response.
- 9.20 I have been unable to find an exact date as to when this property began operations as a hotel. However, the building has been used as a hotel since at least 1970. While I am unable to verify the landowner's assertion that the building was in use as a hotel before 1963, I am satisfied that Hotel is an established use for this building, given that the building has been in use as a hotel since at least 1970.

9.21 I note that the building was used for the purposes of providing Emergency Accommodation to Refugees under the Temporary Protection Directive between approximately the years 2019 and 2024. However, I make the Coimisiún aware that, having regard to Class 14(h) of the Planning and Development (Amendment Act) (No.4) Regulations 2015 this change of use was exempted development. I am of the opinion that where a hotel has been used for International Protection Accommodation (IPAS) under the relevant statutory exemption, reverting the building back to hotel use would not require planning permission, because the exempted IPAS use is treated as temporary and does not alter the underlying lawful use of the property as a hotel.

9.22 The area planner has outlined concerns that a number of rooms include multiple beds and that this would not fit with the classification of the building as a 2 Star Hotel as prescribed under Section 39 of the Tourist Traffic Act. In my opinion, if the inclusion of multiple beds does not comply with said Act, these beds could be removed to ensure compliance with such. In any case, this would not be a matter for the Coimisiún to consider as this dealt with under separate legislation.

*Question 2- Is the development completed to the East End Hotel, Portarlinton which is a protected structure exempted development?*

9.23 As outlined in my answer to question 5 above, I am of the opinion that these alterations to the building constitute 'works' and as such falls under the definition of development under Section 3(1)(a) of the Act. In addition to this as these works would facilitate the proposed change of use and as such cannot be decoupled from the overall question as asked by the referrer on this specific case. The works would therefore be relevant in reaching a determination of this case, notwithstanding the narrow wording of the question.

*Question 3- Is an Architectural Heritage Impact Assessment required before a determination can be made on the development completed to date*

- 9.24 I note that the applicant has not provided an Architectural Heritage Impact Assessment and in addition to this there is no report on file from the Heritage Officer of the Local Authority.
- 9.25 In my opinion an Architectural Heritage Impact Assessment would be required to allow for a full assessment of any works to the building. In the absence of any available information in this regard, the Coimisiún has not been provided with evidence that the alterations do not have a material effect on the character of the Protected Structure, or any element of the structure which contributes to its special architectural, historic, archaeological, artistic, cultural, scientific, social or technical interest.
- 9.26 Therefore, in my opinion, an Architectural Heritage Impact Assessment is required before a determination can be made on the development completed to date

*Question 4- Is the question being put to the Planning Authority too 'Narrow'*

- 9.27 The question asked in this case is whether the use of the East End Hotel, Portarlinton, Laois to facilitate the temporary accommodation of International Protection Applicants (Protected Persons) is or is not exempted development.
- 9.28 While I note that is an application for a Section 5 Declaration and Section 5 Declarations relate to the use of land, I am of the opinion that the identified works would facilitate the proposed change of use and as such cannot be decoupled from the overall question as asked by the referrer on this specific case. The works would therefore be relevant in reaching a determination of this case.
- 9.29 The question is, in my opinion too narrow and should include a consideration of the works to the Protected Structure.

*Whether the use of the East End Hotel in Portarlinton, Co. Laois to facilitate temporary accommodation of International Protection Applicants (Protected Persons) is or is not exempted development.*

- 9.30 I now turn my attention to the substantive question of this Section 5 referral which seeks to determine if the change of use from a hotel to a facility to provide temporary accommodation of International Protection Applicants (Protected Persons) is or is not exempted development.

*Is or is not development*

### Alterations to the Structure

- 9.31 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’.*
- 9.31 It is clear from the information on the file, including the area planners report that none of the alterations relate to the external appearance of the structure. However, it is clear that some level of alterations have taken place to the interior of the structure.
- 9.32 Notwithstanding that S. 4(1)(h) of the Act would afford an exemption for works to the interior of the structure, section 57(1) of the Act needs consideration in respect of whether an exemption would apply for internal works and alterations, as the referral building is a protected structure.
- 9.34 S. 57(1) of the Act states that the carrying out of works to a protected structure shall be exempted development only if those works would not materially affect the character of—
- (a) the structure, or
  - (b) any element of the structure which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social, or technical interest.
- 9.35 The question at issue is whether or not the development materially affects the character of the structure, or any element of the structure which contributes to its special interest.
- 9.36 In terms of assessing the impacts of the alterations as outlined in para. 9.13 above and whether these alterations materially affects the character of the structure, or the special architectural interest of the structure, I would note that the Coimisiún has not been provided with evidence that the alterations do not have a material effect on the character of the Protected Structure, or any element of the structure which contributes to its special architectural, historic, archaeological, artistic, cultural, scientific, social or technical interest.

- 9.37 In the absence of such information, I am not satisfied that the level of detail provided by the referrer that the carrying out of the internal works does not materially affect the character of the Protected Structure, or any element of the structure which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest and these works cannot therefore, be determined as being not exempt development under Section 57 of the Planning and Development Act 2000 (as amended).
- 9.38 In my considerations I have also had regard to a previous Coimisiún decision in respect of ACP-322857-25. This referral relates to a Convent and protected Structure at The Convent of Mercy, Templeshannon, Enniscorthy, Co. Wexford. In this case the Coimisiún found that the proposed change of use would benefit from internal works to a protected structure and that it had not been satisfactorily demonstrated in the level of detail provided by the referrer that the carrying out of the said works does not materially affect the character of the Protected Structure, or any element of the structure which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest and these works cannot therefore, be determined as being not exempt development under Section 57 of the Planning and Development Act 2000 (as amended).
- 9.39 In conclusion, I would consider that insufficient information has been provided to demonstrate that alterations to the structure would not materially affect the character of the Protected Structure, or any element of the structure which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest and these works cannot therefore, be determined as being not exempt development under Section 57 of the Planning and Development Act 2000 (as amended)

#### Change of Use

- 9.40 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.

9.41 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,*

9.42 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.*

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.

9.43 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.

9.44 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.

## **10 Restrictions on exempted development**

10.1 Article 9 of the Planning and Development Regulations 2001 (as amended) refers to restrictions on exempted development. 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.

10.2 The proposal does not:

- (i) Contravene a condition.
- (ii) Consist of or comprise the formation, layout out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width.
- (iii) Endanger public safety by reason of traffic hazard or obstruction of road users. (iiia) Endanger public safety by reason of hazardous glint and/or glare for the operation of airports, aerodromes, or aircraft.
- (iv) Interfere with the character of a landscape, or a view or prospect of special amenity value or special interest.
- (v) Comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment, and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site.
- (vi) Consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000.
- (vii) Consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use.

10.3 Having considered the above, I am satisfied that 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.

## **11 EIA Screening**

11.1 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.

## **12 Appropriate Assessment**

- 12.1 I have considered this case in light of the requirements S177U of the Planning and Development Act 2000 (as amended).
- 12.2 The closest European Site, part of the Natura 2000 Network, is the River Barrow and River Nore SAC (Site Code: 002162) which is located approximately 302 metres to the north of the site.
- 12.3 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.
- 12.4 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.
- 12.5 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.
- 12.6 Likely significant effects are excluded and therefore Appropriate Assessment (under Section 177V of the Planning and Development Act 2000) is not required.

## **13 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 the East End Hotel, Portarlington, Laois to facilitate temporary accommodation of International Protection Applicants (Protected Persons) is or is not development or is or is not exempted development:

**AND WHEREAS** Nera Accommodation Limited requested a declaration on the question to Laois County Council and the Council did not issue a declaration.

**AND WHEREAS** Laois County Council referred this declaration to An Coimisiún Pleanála on the 14<sup>th</sup> 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)(a) of the Planning and Development Act, 2000, (as amended),
- (d) Section 4(2) the Planning and Development Act, 2000, (as amended),
- (e) Section 4(3) of the Planning and Development Act 2000 (as amended),
- (f) Section 57(1) of the Planning and Development Act 2000 (as amended)
- (g) article 5, article 6(1) and article 9(1) of the Planning and Development Regulations, 2001, (as amended),
- (h) Class 14 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, (as amended),
- (i) the planning history of the site,
- (j) Relevant case law,
- (k) The documentation on file from the Planning Authority and the referrer
- (l) The pattern of development in the area.

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

- (a) the change of use of the East End Hotel, Portarlinton, Co. Laois to provide temporary accommodation to International Protection Applicants (Protected Persons) does not constitute development as defined under Section 3(1)(a) of the Planning and Development Act 2000 (as amended).
- (b) the change of use of the East End Hotel, Portarlinton, Co. Laois to provide temporary accommodation to International Protection Applicants (Protected Persons) 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) (No.4) Regulations 2015 (S.I No 582/2015).
- (c) Notwithstanding the wording of the question as set out by the referrer, the documentation submitted voluntarily with the referral clearly show works undertaken at the building (whether or not for the specific purpose of the change of use) at the Protected Structure. These works constitute development within the meaning of Section 3 of the Planning and Development Act 2000, as amended,
- (d) The change of use will avail of the benefit of these works and it has not been satisfactorily demonstrated in the level of detail provided by the referrer that the carrying out of the said works does not materially affect the character of the Protected Structure, or any element of the structure which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest and these works cannot therefore, be determined as being not exempt development under Section 57 of the Planning and Development Act 2000 (as amended).

**NOW THEREFORE** An Coimisiún Pleanála, in exercise of the powers conferred on it by section 5 of the Planning and Development Act 2000 (as

amended), hereby decides that the change of use of use of the East End Hotel, Portarlinton, Co. Laois to provide temporary accommodation to International Protection Applicants (Protected Persons) as fully described in the totality of the documentation submitted with the referral which includes reference to works, is development and is not exempted development.

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

---

Planning Inspector

25 June 2026

### Form 1 - EIA pre-screening

|                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                   |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Case Reference</b>                                                                                                                                                                                                                                                                                                                                                                       | <b>ACP-323023-25</b>                                                                                                                                                                                              |
| <b>Proposed Development Summary</b>                                                                                                                                                                                                                                                                                                                                                         | Whether the use of the existing East End Hotel to facilitate the temporary accommodation of International Protection Applicants (Protected Persons) is or is not development or is or is not exempted development |
| <b>Development Address</b>                                                                                                                                                                                                                                                                                                                                                                  | East End Hotel, Portarlinton, Co. Laois                                                                                                                                                                           |
|                                                                                                                                                                                                                                                                                                                                                                                             | <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><br><br>(For the purposes of the Directive, "Project" means:<br>- The execution of construction works or of other installations or schemes,<br><br>- 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.<br><br><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.<br><br><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                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                   |

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

|                                                                                                                                                                 |                                                                           |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------|
| <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>Screening Determination required (Complete Form 3)</b>                 |
| <b>No</b> <input checked="" type="checkbox"/>                                                                                                                   | <b>Pre-screening determination conclusion remains as above (Q1 to Q3)</b> |

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

