



An
Coimisiún
Pleanála

Inspector's Report ACP-323524-25

Question

Whether the conversion of a vacant pub into 8 apartments is or is not development or is or is not exempted development.

Location

St. Patrick's Street, Castlerea, Co. Roscommon, F45 T672.

Declaration

Planning Authority

Roscommon County Council.

Planning Authority Reg. Ref.

DED 916.

Applicant for Declaration

Marcos Silveira.

Planning Authority Decision

Refer declaration application to ACP.

Referral

Referred by

Roscommon County Council.

Owner/ Occupier

Marcos Silveira.

Observer(s)

None.

Date of Site Inspection

25th November 2025.

Inspector

C. Daly.

1.0 Site Location and Description

- 1.1. The subject site consists of a part two storey and part three storey pitched roof building which directly fronts onto St Patrick's Street close to the corner junction with Main Street within the town of Castlerea and within Castlerea Architectural Conservation Area (ACA). The ground floor was previously a pub. The previous use of the upper floors is not clear.

2.0 The Question

- 2.1. Whether (a) the conversion of a vacant pub into eight apartments is exempted development and whether (b) a proposed development that proposes no parking on a town centre site could constitute a traffic hazard or obstruction under Article 9(1)(a)(iii) under the Planning and Development Regulations 2018.

3.0 Planning Authority Declaration

3.1. Declaration

Roscommon County Council did not issue a declaration on this matter and referred it to the Commission on 26th August 2025.

3.2. The Applicant's Case

I have summarised the following points made by the applicant in their submission to the planning authority:

- Requests that the application be considered by reference to S.I. 75 of 2022 which aligns with the Housing For All action no. 22.
- The exemption applies to commercial type buildings which may be vacant and which are suitable for housing. Under Part 4 of Schedule 2, Class 12 use a public house is the applicable exemption.
- The building contains a former pub at ground level and storage/living accommodation on the upper floors.

- The objective of the *Bringing Back Homes* guidance is to increase the number of viable residential properties.
- Development Plan policy is supportive of compact growth targeting at least 30% of new residential development within the existing built-up footprint of towns and villages with an emphasis on utilising sites and brownfield opportunities.
- The site is zoned Town Core in the CDP with various policy objectives supportive of the development and renewal of vacant sites in the town centre, intensification, the residential use of vacant upper floors of commercial buildings and the regeneration of derelict buildings and mixed uses.
- Under the Castlereagh Settlement Plan, the site is within lands identified as 'Regeneration and Residential'.
- A legend is presented to show that the floor areas of the apartments comply with the minimum required floor areas.
- An Architectural Heritage Impact Assessment demonstrates that the proposed changes are not material and will have a neutral impact on the ACA.
- No car parking is being provided on the site such that it cannot present a traffic hazard.
- The works within the development will be managed on site by a professional construction team as would be commonplace with any town centre development.
- Parking can be accommodated within the town centre car parks with four existing public car parks highlighted at a short walking distance.
- Unauthorised parking is a matter for the Gardaí.
- The two ABP precedents cited provide a basis for the change of use including that traffic hazard is not listed as one of the restrictions under Article 10(6).
- A case study in Athlone of a change of use from public house to seven apartments is provided.

3.3. Planning Authority Reports

3.3.1. Planning Reports

The Planner's Report noted the previous two Section 5 Referral determinations in relation the conversion of a vacant pub into eight apartments and found this to be development and not exempted development.

In light of the planning history and the P.A.'s identification of serious concerns in relation to traffic safety under a previous application for planning permission and the previous Section referrals and noting that Article 10(6) of the Regulations does not reference Article 9(1)(iii) considerations, it recommended that the Section 5 application be referred to the Commission for determination.

3.3.2. Other Technical Reports

- Castlerea Area Engineer: Concerns in relation to access, car parking and absence of recreational outdoor space.

4.0 Planning History

Subject Site

24/60459: Planning permission refused by the P.A. for change of use of an existing derelict pub building into nine apartments. The four reasons for refusal related to endangerment of public safety by reason of a traffic hazard given access and parking arrangements, overdevelopment that would not meet the standard for urban placemaking or provide a high quality residential environment and would impact unduly on residential amenity of existing and future residents; failure to respect the context of the Castlerea ACA and contribute positively to it in terms of design, scale, setting and finishes; and increased overlooking of nearby properties.

DED 678: Section 5 application as to whether to convert a vacant pub into eight apartments is development and is exempted development. The P.A. decided in July 2024 it to be development and not exempted development.

DED 644: Section 5 application as to whether the conversion of a vacant pub into eight apartments is development and is exempted development. The P.A. decided in February 2024 it to be development and not exempted development.

Notification under Article 10(6): The application states that a formal notification was submitted to the P.A. under Article 10(6) but a response letter from the Council stated this notification was not accepted on the basis of a traffic hazard or obstruction of road users.

Cited Referrals

ABP-314440-22 (SDCC ref. ED22/0023): In relation to whether the partial conversion of existing derelict pub lounge to contain two apartments at Brittas, Co Dublin, is development and exempted development or not, it was decided that it constituted development and exempted development.

ABP-315056-22 (Galway Co. Co. ref. ED22/49): In relation to whether the proposed change of use from shop to apartments at Gort, Co Galway, is development and exempted development or not, it was decided that it constituted development and exempted development.

5.0 Policy Context

5.1. Roscommon County Development Plan 2022-2028 (the CDP)

Volume 1

Chapter 9 – Built Heritage

Per Map 9.3 the site is located within Castlerea Architectural Conservation Area (ACA). The subject property is not a protected structure.

Volume 2

Section 2: Settlement Plans

Section 2.2. Castlerea

5.2. National Policy and Guidance

Relevant national guidance and policy includes the following:

- *Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (2022).*

- *Bringing Back Homes – Manual for the reuse of existing buildings* (2nd Edition, 2024).

5.3. Natural Heritage Designations

In relation to designated sites, the subject site is located:

- c.3.1km west of the Cloonchambers Bog Special Area of Conservation (SAC) and Proposed Natural Heritage Area (PNHA) (site code 000600).
- c.4.2km north-east of Corliskea/Trien/Cloonfelliv Bog SAC and PNHA (site code 002110).
- c.4.7km south-east of Drumalough Bog SAC (site code 002338).
- c.4.6km south-west of Bellanagare Bog SAC and PNHA (site code 000592).
- c.4.6km south-west of Bellanagare Bog Special Protection Area (SPA) (site code 004105).
- c.4.7km south-east of Drumalough Bog PNHA (site code 001632).
- c.5.7km south-west of Moorfield Bog/Farm Cottage NHA (site code 000221).
- c.7.4km south-east of Lough Glinn PNHA (site code 001644).
- c.7.6km north-east of Bracklagh Bog NHA (site code 000235).
- c.7.9km north-east of Lough Namucka Bog NHA (site code 000220).
- c.8.7km east of Lough O' Flynn PNHA (site code 001645).
- c.9.3km north-west of Castleplunket Turlough PNHA (site code 000598).
- c.9.7km south-east of Carrowbehy/Caher Bog SAC and PNHA (site code 000597).

6.0 The Referral

6.1 Referrer's Case

The P.A. have outlined that their decision to refer the Section 5 application relates to the planning history and the P.A.'s identification of serious concerns in relation to

traffic safety under a previous application for planning permission and the previous Section referrals and noting that Article 10(6) of the Regulations does not reference Article 9(1)(iii) considerations.

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

The applicant did not respond to the P.A. referral to the Commission

7.0 **Statutory Provisions**

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

Section 2(1) of the Act states that,

“structure” means inter alia “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— (a) where the context so admits, includes the land on, in or under which the structure is situate....

““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”.

Section 3(1) states that *““development” means—*

- (a) the carrying out of any works in, on, over or under land, or the making of any material change in the use of any land or structures situated on land, or*
- (b) development within the meaning of Part XXI....”.*

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

Article 10(6) is relevant which states,

(a)

In this sub-article—

'habitable room' means a room used for living or sleeping purposes but does not include a kitchen that has a floor area of less than 6.5 square metres;

'relevant period' means the period from 8 February 2018 until 31 December 2025.

This sub-article relates to a proposed development, during the relevant period, that consists of a change of use to residential use from Class 1, 2, 3, 6 or 12 of Part 4 to Schedule 2.

Notwithstanding sub-article (1), where in respect of a proposed development referred to in paragraph (b)—

the structure concerned was completed prior to the making of the Planning and Development (Amendment) (No. 2) Regulations 2018,

the structure concerned has at some time been used for the purpose of its current use class, being Class 1, 2, 3, 6 or 12, and

the structure concerned, or so much of it that is the subject of the proposed development, has been vacant for a period of 2 years or more immediately prior to the commencement of the proposed development,

then the proposed development for residential use, and any related works, shall be exempted development for the purposes of the Act, subject to the conditions and limitations set out in paragraph (d).

(i) The development is commenced and completed during the relevant period.

(ii) Subject to sub-paragraph (iii), any related works, including works as may be required to comply with sub-paragraph (vii), shall – primarily affect the interior of the structure, retain 50 per cent or more of the existing external fabric of the building, and not materially affect the external appearance of the structure so as to render its appearance inconsistent with the character of the structure or of neighbouring structures.

(iii) Any related works for the alteration of existing ground floor shop fronts shall be consistent with the fenestration details and architectural and streetscape character of the remainder of the structure or of neighbouring structures.

(iv) No development shall consist of or comprise the carrying out of works to the ground floor area of any structure which conflicts with any objective of the relevant

local authority development plan or local area plan, pursuant to the (i) the exception of any works the purpose of which is to solely provide on street access to the upper floors of the structure concerned,

(v) No development shall consist of or comprise the carrying out of works which exceeds the provision of more than 9 residential units in any structure,

(vi) Dwelling floor areas and storage spaces shall comply with the minimum floor area requirements and minimum storage space requirements of the “Sustainable Urban Housing: Design Standards for New Apartments –Guidelines for Planning Authorities” issued under section 28 of the Act or any subsequent updated or replacement guidelines and

(vii) Rooms for use, or intended for use, as habitable rooms shall have adequate natural lighting.

(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.

(ix) No development shall contravene a condition attached to a permission under the Act or be inconsistent with any use specified or included in such a permission.

(x) No development shall relate to any structure in any of the following areas:

i an area to which a special amenity area order relates;

ii an area of special planning control;

iii within the relevant perimeter distance area, as set out in Table 2 of Schedule 8, of any type of establishment to which the Major Accident Regulations apply.

(xi) No development shall relate to matters in respect of which any of the restrictions set out in sub-paragraph (iv), (vii), (viiA), (viiB), (viiC), (viii) or (ix) of article 9(1)(a), or paragraph (c) or (d) of article (9)(1), would apply.

(xii) No development shall consist of or comprise the carrying out of works for the provision of an onsite wastewater treatment and disposal system to which the code of practice made by the Environmental Protection Agency pursuant to section 76 of

the Environmental Protection Agency Act 1992 relates and entitled Code of Practice –Wastewater Treatment and Disposal Systems Serving Single Houses together with any amendment to that Code or any replacement for it.

Part 4, Schedule 2 is relevant which provides for the following exempted development classes of use,

CLASS 12 Use as a Public House, meaning a premises which has been licensed for the sale and consumption of intoxicating liquor on the premises under the Licensing Acts 1833 to 2018.

8.0 Assessment

8.1. Is or is not development

8.1.1. The application proposes the conversion of a vacant pub into eight apartments. I consider that this constitutes a material change of use of the site and constitutes “development” as defined per Section 3(1) of the 2000 Act. There is no dispute between the parties that the proposed change of use constitutes development.

8.2. Is or is not exempted development

8.2.1. Under Article 10(6)(a) of the 2001 Regulations as amended, there is provision for exempted development for a “*a change of use to residential use from Class 1, 2, 3, 6 or 12 of Part 4 to Schedule 2.*” I note Class 12 is relevant to this referral as it relates to the use for a public house. I note the referrer’s case that the building contains a former pub at ground level and storage/living accommodation on the upper floors. This is supported by my observations on Google Street View from August 2011.

8.2.2. Therefore, I consider this to be “*a premises which has been licensed for the sale and consumption of intoxicating liquor on the premises under the Licensing Acts 1833 to 2018*”, i.e. it was previously a licensed premises as required notwithstanding that this use was vacated at some stage in the interim, with no evidence of any intervening use. Based on these considerations, in my opinion the subject premises accords with Article 10(6)(a) subject to compliance with the relevant conditions and limitations.

- 8.2.3. I note the external design changes are mainly limited to changes to doors and windows including the replacement of two side doors with windows, the blockings of four windows at second floor level and the addition of four velux windows above these and five other velux windows to be provided in the roofscape which in my view would not significantly alter the external appearance or character of the building.
- 8.2.4. I note the following in relation to each of the criteria.
- 8.2.5. Criterion (i) In relation to Section 6.2 of the applicant's assessment under Article 10(6)(a) it is stated that "all works will be completed by 31st December 2025". However, I note no evidence has been presented to support this and from my site visit on 25th November 2025 I was unable to confirm that the proposed works had commenced or had been completed and I note the Planner's Report includes no commentary on this matter.
- 8.2.6. Criterion (ii): In relation to this, having visited the site and reviewed the submitted drawings I am satisfied that the proposed works, as required, would primarily affect the interior of the structure given the lesser quantity of works proposed to the exterior mainly including door and windows replacements/changes. In my opinion it would retain 50% or more of the existing external building fabric and would not materially affect the external appearance of the building so as to render it to appear inconsistent with the character of the structure or of neighbouring structures.
- 8.2.7. Criterion (iii): I consider that related works for the alteration of the ground floor frontage, i.e limited changes to the door and new upvc windows, would be consistent with the architectural and streetscape character of the structure and neighbouring structure and that the works to the ground floor would not conflict with any development plan or local area plan objective.
- 8.2.8. Criterion (iv): I note no conflict with an objective of the Development Plan.
- 8.2.9. Criterion (v): There will be a total of 8 residential apartment units in the building below the threshold.
- 8.2.10. Criterion (vii): I note all habitable rooms would have adequate natural lighting.
- 8.2.11. Criterion (viii): The building is not designated as a protected structure.
- 8.2.12. Criterion (ix): I note the development would not contravene a condition attached to a permission related to the subject site.

- 8.2.13. Criterion (x): The development would not be located within a special amenity area or an area of special planning control and is not affected by the Major Accidents Directive.
- 8.2.14. Criterion (xi): this criterion in relation to the specified restrictions under Article 9(1) is met. I note that this criterion does not refer to the restriction under Article 9(1)(a)(iii) such that this is not applicable and matters in relation to traffic safety do not apply under this criterion or the other criteria / restrictions on the exemption.
- 8.2.15. Criterion (xii): this criterion in relation to onsite wastewater treatment is met as no on-site wastewater treatment is proposed.
- 8.2.16. I conclude that the development would not satisfy the conditions and limitations attached to Article 10(6)(b) of the Regulations given the failure to demonstrate compliance with Criterion (i) above. In relation to traffic safety per criterion (xi) there is no reference to the restriction under Article 9(1)(a)(iii) such that matters in relation to traffic safety do not apply under this criterion or the other criteria / restrictions on the exemption.
- 8.2.17. I also note that, per the Narconon Trust judgement, that where there has been no material change in circumstances since the referral decisions made under DED 678 and DED 644, that the Commission is precluded from determining this Section 5 referral notwithstanding my above conclusion.

8.3. Appropriate Assessment

- 8.3.1. Article 10(6)(d)(i-xii) sets out conditions and limitations pertaining to the exemption.
- 8.3.2. The subject site is located c.3.1km west of the Cloonchambers Bog SAC. The site is located within the town centre of Castlerea. The proposed development comprises a change of use, works to convert the premises from a licensed premises to apartments and some minor external works.
- 8.3.3. Noting that the works would be minor in nature and the built up serviced urban location, I am satisfied that no significant issues arise in respect of Appropriate Assessment.

8.4. EIA Screening

8.4.1. The proposed development is a project but is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended (or Part V of the 1994 Roads Regulations). No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination. Refer to Form 1 in Appendix 1 of report.

9.0 Recommendation

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

WHEREAS a question has arisen as to whether (a) the conversion of a vacant pub into eight apartments is exempted development and whether (b) a proposed development that proposes no parking on a town centre site could constitute a traffic hazard or obstruction under Article 9(1)(a)(iii) under the Planning and Development Regulations 2018 is or is not development or is or is not exempted development:

AND WHEREAS Marcos Silveira has requested a declaration on this question from Roscommon County Council;

AND WHEREAS Roscommon County Council referred this declaration for review to An Coimisiún Pleanála on the 28th day of August 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,

- (c) Article 9(1) of the Planning and Development Regulations, 2001 – 2025,
- (d) Article 10(6) of the Planning and Development Regulations, 2001 – 2025,
- (e) the planning history of the site,
- (f) The pattern of development in the area:

AND WHEREAS An Coimisiún Pleanála has concluded that the Referral Question, is the same, or substantially the same, and in respect of the same land as the Referrals DED 678 and DED 644 issued by Roscommon County Council on the 22nd July 2024 and 12th February 2024 respectively, and there is no evidence of any change in the planning facts or circumstances underpinning the application.

In these circumstances, the Commission is precluded under Section 50(2) of the Planning and Development Act 2000 (as amended), from making a determination on the Question which seeks a declaration on whether (a) the conversion of a vacant pub into eight apartments is exempted development and whether (b) a proposed development that proposes no parking on a town centre site could constitute a traffic hazard or obstruction under Article 9(1)(a)(iii) under the Planning and Development Regulations 2018, is or is not development or is or is not exempted development is exempted development and whether it is or is not development.

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

Ciarán Daly
Planning Inspector

17th December 2025

Appendix 1

Form 1 - EIA Pre-Screening

Case Reference	ACP-323524-25
Proposed Development Summary	The conversion of a vacant pub into eight apartments.
Development Address	St. Patrick's Street, Castlerea, Co. Roscommon, F45 T672.
In all cases check box /or leave blank	
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2.
	<input type="checkbox"/> No, No further action required.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input type="checkbox"/> Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
<input checked="" type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road	

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

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

Inspector: _____ Date: _____