



An
Coimisiún
Pleanála

Inspector's Report ACP-323829-25

Questions

Whether the change of use of buildings for the purposes of accommodating protected persons and the use as an emergency reception and orientation centre for protected persons, is or is not development and is or is not exempted development.

Location

Dundrum House Hotel, Dundrum, Co. Tipperary

Declaration

Planning Authority

Tipperary County Council

Planning Authority Reg. Ref.

S5/25/127

Planning Authority Decision

No Decision / Is the Referrer.

Referral

Referred by

Tipperary County Council

Landowner

Brogan Capital Ventures

Occupier

Utmasta Limited.

Observers	Mattie McGrathTD Michael Hennessy Susan O'Donoghue Lucy Kelly Steph Rawlings
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Date of Site Inspection	2 nd March 2026
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1.0 Site Location and Description

- 1.1. The subject site is located at Dundrum House Hotel. The site is located to the southeast of the village of Dundrum and encompasses an extensive landholding.
- 1.2. Access to the site is via the Convent Cross junction with the R505, which is designated as a Strategic Road in the Tipperary County Development Plan 2022-2028, and through a tree lined avenue with the complex of buildings located to the southeast of the entrance.
- 1.3. An avenue leads up to the hotel where a walled garden was located to the west in addition to a golf course.
- 1.4. The site contains Dundrum House itself and ancillary buildings which are located to the northwest. Dundrum House, itself is not presently in use following a fire.
- 1.5. The Holm Oaks Block is the first structure that is visible upon entry with the house and ancillary buildings being to the southeast.
- 1.6. The areas in use as part of the subject referral include the Old Wing C Block and Square Block which is located to the northeast of the Dundrum House, the Coach House which is located to the northwest of Dundrum House and Holm Oaks Court is located to the northwest of the Coach House. There is a car park area to the northwest of Dundrum House and one to the immediate northeast of Dundrum House.
- 1.7. The River Multeen flows through the site in a south-westerly direction. The former hotel complex is located on the northern side of the river with the driving range, holiday cottages and wastewater treatment area located on the southern side of the river.

2.0 The Question

- 2.1. The question referred to the Board by Tipperary County Council, which was the one asked of the Planning Authority, in accordance with Section 5(4) of the Planning and Development Act 2000 (as amended), is as follows:

Whether the change of use of buildings for the purposes of accommodating protected persons and the use as an emergency reception and orientation centre for protected persons, is or is not development and is or is not exempted development.

3.0 Planning Authority Declaration

- 3.1. The Planning Authority did not make a Declaration on the question asked. The Planning Authority have referred the question to the Commission.

The report of the Planning Authority submitted to the Commission under Section 5.4 of the Planning and Development Act 2000, as amended, sets out the following;

- On the 6th of October 2025, a request for a Declaration in accordance with Section 5(1) of the Planning and Development Act 2000, as amended was received by Tipperary County Council from Utmasta Limited.
- Refers to PA Ref. Section 5 24/147 which relates to the subject site and it is arguable that for as long as the existing Section 5 remains in being, that it precludes the current application on the basis that the change of use as issue remains the same.
- The Planning Authority note the proposal to accommodate c. 301 persons in an area of the hotel which the Planning Authority understands would have accommodated c. 194 guests. The hotel and other ancillary buildings are discharging to a OWWTS which was constructed in c. 2023 without the benefit of planning permission and which is operating without a Section 4 Licence.
- The Council consider that any declaration will need to consider whether the number of IPAS residents to be accommodated on the site is a user which breaches a condition of any permission regulating the Dundrum Complex or is inconsistent with any use specified in a permission under the Act such as to engage Article 9(a)(i) of the Planning and Development Regulations 2001, as amended or if the use triggers a requirement for an appropriate assessment such as to engage Section 4(4) of the Planning and Development Act 2000, as amended.
- In accordance with Section 5(4) of the Planning and Development Act 2000, as amended, the Planning Authority referred the question raised in the referral sought by Utmasta Limited to An Coimisiun Pleanala.

4.0 Planning History

4.1. Subject site

Notwithstanding the extensive planning history associated with the overall lands, I have included the relevant histories;

Enforcement

TUD-25-023 – As per the report of the Planning Authority, this enforcement is current. A Warning Letter was issued on 23rd April 2025 in relation to the following alleged unauthorised development;

- i) Construction of a roofed structure on the foundation of the former ballroom to the northwest of the hotel.
- ii) Construction of a maintenance building in the car park.
- iii) Construction of new internal access roads to the south of the golf course and northwest of Kilmore Cottages.
- iv) Construction of a driving range, hard cored parking yard serving same, ball stop nets/posts and other ancillary infrastructure.
- v) Provision of a new wastewater treatment system and ancillary structure.
- vi) Replacement of ceiling in bedroom 317 in the C Block.

The report of the Planning Authority notes that Items (i) and (ii) have been regularised under PA Ref. 2560614 and PA Ref. 2560642.

At the time of preparation of the report by the Planning Authority, a decision had not yet been made under Section 153 of the Planning and Development Act 2000, as amended as to whether or not to issue an Enforcement Notice in relation to the outstanding unauthorised development.

Section 57 Declaration

PA Ref S57/18/14 – No details are available of this Section 57 Declaration.

Section 5

PA Ref Section 5 24/147 – The change of use of buildings referred to as Holm Oaks, The Square Block, The Coach House and the Ground Floor of the Old Wing /C Block within Dundrum House Hotel to use for

- (a) The purposes of accommodating displaced persons or persons seeking International Protection.
- (b) Use as an emergency reception and orientation centre for protected persons at Dundrum House Hotel, Dundrum, Co. Tipperary.

Decision quashed following judicial review to the High Court on 17th November 2025.

PA Ref. P37045 – Permission granted on 8th September 1980 to Andrew Augustine Crowe for the conversion of Dundrum House to a Grade A hotel and to erect function room and ancillary accommodation.

PA Ref. P310842 – Permission granted on 12th December 1986 to A. Crowe for the construction of an extension to the hotel. As per the report of the Planning Authority, this development concerned provision of a conservatory, games room and 16 no. bedrooms.

PA Ref. 95529 – Retention permission granted on 29th May 1996 to Motorway Inn Ltd. for conference centre, 4 no. hotel bedrooms and 2 no. entrance doors.

PA Ref. 99503 – Permission granted on 26th June 1999 to Austin Crowe for alterations and extensions to existing lofted coach house and to develop as 7 no. apartments.

PA Ref. 99504 – Permission granted on 26th June 1999 to Austin Crowe for the construction of a three-storey extension comprising 16 no. en-suite bedrooms, stairs and ancillary accommodation with associated external works.

PA Ref. 991161 – Permission granted on 10th December 1999 to Austin Crowe for alterations of previously approved bedroom extension to Dundrum House Hotel. The changes include increased floor area on the ground, first and second floors, the provision of a third (attic) floor and increase from 16-18 bedrooms/en-suites and ancillary accommodation.

PA Ref. 041238 – Permission granted on 20th April 2005 to Motorway Inn Ltd. for the demolition of an existing dutch barn and shed and to erect 16 two storey residential

hotel apartments and further to convert an existing shed into three hotel apartments with ancillary parking areas, roadways and site works.

Condition No. 26

The proposed development shall be used for tourist / holiday letting purposes only and shall not be used as permanent principal residences.

Reason: To clarify the nature of the proposed development authorised by this grant of permission, and to ensure the proposed development is integrated into the existing hotel and leisure facilities of Dundrum House Hotel.

Commencement Notice, PA Ref. 06/446 and commencement date of 9th August 2006 for 19 no. units.

The following planning histories are located on lands to the south of the River Multeen.

PA Ref. 041239 – Permission granted on 4th July 2005 to Motorway Inn Ltd for the decommissioning of an existing wastewater treatment plant and erect a forward feed pumping station, a peat bio filter wastewater treatment facility and a sand polishing filter in accordance with the EPA Guidelines.

Commencement Notice PA REF 06/443 refers and a commencement dated of 9th August 2006.

PA Ref. 041389 – Permission granted on 8th July 2005 to Motorway Inn Ltd for the construction of a three storey 44-bedroom hotel and conference centre and single storey health and spa buildings development with ancillary parking areas, roadway and site works within the curtilage of Dundrum House Hotel. This permission was not implemented.

PA Ref. 041562 – Permission granted on 30th June 2005 to Motorway Inn Ltd for an access road incorporating a road bridge and two pedestrian bridges over the Multeen River to serve new holiday developments on the grounds.

Commencement Notice, PA Ref 06/444, commenced on 9th August 2008.

PA Ref. 10317 – A ten-year permission was granted on 22nd August 2011 to Hasado Limited for the construction of an integrated tourism development which would consist of forty-four-bedroom hotel and conference centre, spa building, playing fields and driving range and the change of use of 12 no. existing dwellings from residential

holiday home to residential use. As part of the request for Further Information, a Habitats Assessment was requested. The permission excludes the 13 individual sites at the south end of the development site. Vehicular access from Local Road (LS-5219) is limited to agricultural vehicles only. This permission was not implemented.

Condition No. 6

- (a) Within 3 months the applicant is required to resubmit a revised habitats assessment (NIA) to include for the full assessment of the impact that the proposed development will have on the Lower River Suir SAC. Details of assimilative capacity shall also be addressed and shall include mitigating measures in the event of wastewater treatment plant failure etc.
- (b) Within 3 months the applicant shall enter into an operation and maintenance agreement with the manufacturer of the Wastewater Treatment Plant or approved maintenance company/personnel, documentary proof of same shall be submitted by the Planning Authority.

Reason: In the interests of clarity, public health and orderly development.

PA Ref. 18601273 - Permission was granted on 25th July 2019 to Steelworks Investments Ltd for an integrated tourism development which included for a whiskey distillery with borehole in lieu of the previously approved (PA Ref 10/317) three storeys 44-bedroom hotel and conference centre. Construction of a golf course maintenance building, bottling plant, construction of a replacement function room, new hotel entrance, alterations to the protected structure and landscaped gardens. Upgrade works to the existing wastewater treatment plant. Retention permission was sought for the revised layout of the golf driving range. The permission sought to connect to the existing wastewater treatment facility constructed under PA Ref 04/1239. This permission was not implemented.

Condition No. 8.

Prior to the extended hotel or distillery coming into use or operation;

- (a) The required rehabilitation works to the on-site wastewater treatment system, as set out under the BMS report received on the 3rd April 2019 shall be carried out and the system tested, and written certification of compliance with this

requirement by a suitably qualified and chartered engineer shall be submitted by the developer to the planning authority.

- (b) Documentary evidence shall be forwarded to the planning authority detailing a minimum five-year maintenance contract between the developer and the suppliers of the treatment system, and thereafter evidence of a new five year maintenance contract shall be submitted to the planning authority within one month of the expiry of previous contract.

4.2. Relevant Referral History

ABP-317397-23 – Is development and is not exempted development. Lismore House Hotel, 1-2 Main Street, Lismore, Co. Waterford.

Whether the works carried out (ongoing) to Lismore House Hotel, a Protected Structure and within its curtilage to provide a care facility for IPAS refugees is or is not development or is or is not exempted development.

The Commission concluded that works to the hotel would constitute development, the temporary change of use would fall within the scope of Class 14 and Class 20F of, the works carried out do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure and would fall within the scope of Section 4(1)(h) of the Planning and Development Act 2000, as amended.

The Commission concluded however that it had not been satisfactorily demonstrated by the owner/occupier, that the carrying out of the works to facilitate the temporary accommodation does not materially affect the character of the Protected Structure or any element of the structure which contributes to their special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest and was therefore not considered to be exempt development under Section 57 of the Planning and Development Act, 2000, as amended.

ABP-318709-23 – Is development and is not exempted development.

Former Great Southern Hotel, Rosslare Harbour, County Wexford.

Whether the proposed use of the premises for the purposes of accommodating persons seeking international protection is or is not development or is or is not exempted development.

The Commission concluded that permission had been granted for the change of use of the hotel to nursing home. The commencement of the works placed the future use of the buildings solely within the parameters of the nursing home. The completion of the works for any use other than a nursing home would be inconsistent with the use as permitted and would therefore contravene condition no. 1 associated with that permission. The completion of the works would be inconsistent with a use specified in a permission under the Act and would therefore be de-exempted under Article 9(1)(a)(i) of the Planning and Development Act 2000, as amended. Pending the completion of the works in the context of the application documents, there are no other exemptions available.

ABP-320031-24 – Is development and is not exempted development.

Knockmount, Dublin Road, Drogheda, Co. Louth.

Whether the use of a dwelling house, where care is not provided, as long-standing private residential accommodation for protection persons comprising families, women and children, is or is not development or is or is not exempted development. The Commission concluded that the change of use constitutes a change of use, which raises planning considerations that are materially different to planning considerations relating to the established use and that the change of use constitutes a material change in the use of the structure.

ACP-322857-25 – Is development and is not exempted development.

The Convent of Mercy, Templeshannon, Enniscorthy, Co. Wexford.

Whether a change of use of rooms in a residential convent to a centre for accommodation of Ukrainian refugees and international protection applicants is or is not development or is exempted development.

The Commission concluded that the change of use of existing rooms is development and is exempted development as it comes within the scope of Class 14, Part 1 of. Notwithstanding the wording of the question set out by the referrer, the documentation submitted voluntarily clearly references works undertaken at the building and proposed to be undertaken to the garden area. The assessment of the Inspector also referred to works which were contended to have been undertaken within the Protected Structure. The Commission concluded that the change of use would avail of the benefit of these works and it has not been satisfactorily demonstrated in the level of the 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 the special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest and the works cannot therefore be determined as not being exempt development under Section 57 of the Planning and Development Act 2000, as amended.

The Commission determined that the works could not be decoupled from the overall question asked by the referrer, as the referrer actually introduced the detail confirming works had been/ would be undertaken. A conclusion on the extent of these works could only be reached with further specific detail as to all elements of works at the protected structure along with a clear definitive description of the change undertaken at this elements from the original /earlier fabric. Works were proposed in the garden and it was noted that the gardens form an integral part of the overall protected structure curtilage.

5.0 Policy Context

5.1 Tipperary County Development Plan 2022-2028

The Tipperary County Development Plan is the operative plan for the area. The Plan came into effect on 22nd August 2022.

The subject site is unzoned but is located within an area designated as being 'Open Countryside'.

The site is not subject to any specific designated scenic routes, views or and prospects.

RPS Ref. TRPS1039, described as 'Dundrum House'.

SMR Zone Ref. R179973 (Bridge) located to the northeast

SMR Zone Ref. R183598 located to the southwest.

National Inventory

Ref. 22102009 - Dundrum House – gates/ railings/walls.

Ref. 22102010 – Dundrum House – country house.

Ref. 22102011 – Dundrum House – stables.

Ref. TS052-049 – Bridge (located to the northeast of the main complex of buildings).

Ref. TS052-075 – Designed landscape – tree ring (located to the southeast of the main complex of buildings, on the southeast side of the River Multeen).

5.2 Natural Heritage Designations

The proposed development is not located within or immediately adjacent to any Natural Heritage Site.

The Special Area of Conservation for the Lower River Suir (002137) traverses the site in a south-westerly manner.

The referral site is located c. 1.3km to the southeast of Dundrum Sanctuary (000950) pNHA, c. 2.2km to the south of Dundrum (002096)pNHA, c.2.9km to the southeast of Annacarty Wetlands (000639) pNHA, c. 4.9km to the south of Aughnaglanny Valley (000848) pNHA, c. 6.7km to the northeast of Ballydonagh Marsh (001844) pNHA, c. 7.2km to the northeast of Doonoor Marsh (001845) pNHA, and c. 7.5km to the southwest of Ardmayle Pond (000945) pNHA.

The referral site is located c. 13.3km to the southeast of the Special Protected Area Slievefelim to Silvermines Mountains (004165).

6.0 The Referral

- 6.1. This is a referral by Tipperary County Council to the Commission on foot of a request received from Utmasta Limited on the 6th of October 2026.
- 6.2. The development as presented in the Section 5 to the Council has been submitted by Utmasta Limited and can be summarised as follows;
- Sets out description of the development.
 - Refers to previous notification to Tipperary County Council under Schedule 2, Class 20F sub paragraph 5 submitted under Brogan Capital Ventures Limited.
 - This application for change of use relates to Class 14 (h) and Class 14 (i).
 - The areas which are subject to the change of use are stated to be known as Holm Oaks, The Square Block, The Coach House and The Old Wing / C Block.
 - No physical changes to any elevation are proposed and therefore no elevations are provided.

The submission is accompanied by:

- Application form lodged with Tipperary County Council on 6th October 2025.
- Planning Statement prepared by Barry Reynolds (Acting as the Agent for Utmasta Limit, the Applicants).
- The Planning Statement includes
 - photographs of the relevant premises which are within Appendix A.
 - A copy of a letter dated 19th June 2025 from Brogan Capital Ventures Limited to Utmasta which discusses issues around the legal challenge but also grants Utmasta Limited permission to lodge their own Section 5 application in respect of works required at Dundrum House Hotel.
- The following plans;
 - Site Plan (Drawing No. DUN-BR-XX-PL-DR-0005)
 - Site Location Map and Site Block Plan (Drawing No. DUN-BR-XX-PL-0007)
 - Site Location Maps (Drawing No. DUN-BR-XX-PL-DR-0008)

- Old Wing and Square Block Existing Ground Floor Plan (Drawing No. DUN-BR-XX-PL-DR-0020)
- Old Wing and Square Block Existing First Floor Plan (Drawing No. DUN-BR-XX-PL-DR-0020)
- Old Wing and Square Block Existing Second Floor Plan (Drawing No. DUN-BR-XX-PL-DR-0022)
- Old Wing and Square Block Existing Third Floor Plan (Drawing No. DUN-BR-XX-PL-DR-0023)
- Coach House Existing Ground and First Floor Plan (Drawing No. DUN-BR-XX-PL-DR-0024)
- Holm Oaks Existing Ground and First Floor Plan (Drawing No. DUN-BR-XX-PL-DR-0025).

I note the following in respect of the applicant's submission to the Planning Authority;

- The plans demonstrating the ground and first floor levels of the Old Wing and Square Block are both numbered DUN-BR-XX-PL-DR-0020. I note that the General Notes contained within Drawing No. DUN-BR-XX-PL-DR-0020 refers to Drawing No. DUN-BR-XX-PL-DR-0021. There is no plan with this drawing number, and I would submit the numbering of the plans appears to be a drafting error.
- Within Appendix A, it is stated that the works pertain to the ground floor level, bedrooms 1-4. The corresponding floor plans indicate an occupancy for 12 no. bedrooms and indicate the ground and first floor levels.

I also note that Appendix A refers to Appendix C, however there was no such appendix with the submission. The report of the Planning Authority does not reference the inclusion of an Appendix C.

6.3. Referrers Case

The referrer in this case is Tipperary County Council. The Council are seeking the Commissions view on a Section 5 submission (PA Ref S5/25/127). The report received from Tipperary County Council can be summarised as follows;

- The report notes that Tipperary County Council is referring the matter to An Coimisiun Pleanála for a decision in accordance with Section 5(4) of the Planning and Development Act 2000, as amended. The report has been prepared in accordance with Section 127 (d) of the Planning and Development Act 2000, as amended and sets out the grounds of the referral and the reasons, considerations and arguments on which they are based.
- The report sets out the description of the site location, planning history, the background to the referral and the statutory provisions.
- At time of preparation of this report, the S.5 declaration of PA Ref. 24/147 which was determined on the 10th of January 2025 was subject to a judicial review to the High Court. The Planning Officer sets out that the assessment of the aforementioned Section 5 was based on the understanding that the hotel facility was discharging to the permitted and licenced OSWWTS (PA Ref. 041239).
- During a subsequent site visit on the 5th of March 2025 in relation to Enforcement PA Ref. TUD-25-023 it was observed that a new OSWWTS had been installed without the benefit of planning permission. A Section 12 Notice had been issued to the owner of the property on 5th August 2020 under the Local Government (Water Pollution) Act 1977.
- It is contended that the true position of the OSWWTS was not known by the Planning Authority when carrying out the assessment of the Section 5 application in January 2025. On this basis the Planning Authority proceeded with inaccurate information. The Planning Authority considered therefore that the Appropriate Assessment Screening Report that accompanied the Section 5 assessment was flawed.
- The Planning Authority conceded the relief sought by the applicants to quash the Section 5 Declaration, but solely on the ground that the AA screening carried out by the planning department was flawed.

- Brogan Capital Ventures Limited are continuing to defend the Section 5 Declaration.
- The report sets out the issues concerning PA Ref TUD-25-023 and states that the construction of a roofed structure on the foundation of the former ballroom to the northwest of the hotel and the construction of a maintenance building in the car park have been regularised. A decision has not yet been made under Section 153 of the Planning and Development Act, 2000 as amended to issue an Enforcement Notice in relation to the outstanding unauthorised development.
- The report sets out the background to the issuing of the Section 12 Notice. It is set out that Brogan Capital Ventures constructed a new OSWWTS in response to the 2020 Section 12 Notice and contends that the Section 12 notice obviated the need to obtain planning permission for the new system and a Section 4 Licence under the Act of 1977 (Local Government (Water Pollution))

Grounds of Referral

- Reference to the existing Section 5, this precludes the current application on the basis that the change of user at issue remains the same.
- The user which is the subject of the current Section 5 application is significantly different in scale/intensity to that under PA Ref. 24/147.
- The application now includes for the first and second floors of the C Block which represents a 25% increase in floor area. C. 7,759.9sqm compared to c. 6,121.3sqm).
- The submitted floor plans indicate that the area would accommodate approximately 301 persons.
- The number of people to be accommodated was not specified under PA Ref. 24/147.
- The information submitted under PA Ref. 18601273 indicates that the area subject to the Section 5 application accommodated approximately 194 persons when in use as a hotel.

- The intensification of user is recognised as a change in planning circumstances that may warrant fresh consideration under this Section 5.
- An Coimisiun Pleanála will need to be satisfied that the consideration of the current Section 5 application would not constitute a collateral challenge on the declaration issued under PA Ref. 24/147.
- The proposal appears to be a material change of use and is development.
- With respect to the restrictions on exemptions set out under Section 4(4) of the Planning and Development Act 2000, as amended and Article 9 of the Planning and Development Regulations 2001, as amended, it is noted that the proposal to accommodate 301 persons in an area of the hotel which the Council understands would have accommodated 194 guests.
- The hotel and other ancillary buildings are discharging to a OSWWTS which was constructed in 2023 without the benefit of planning permission and is operating without a Section 4 Licence.
- Any declaration will need to consider whether the number of IPAS residents to be accommodated under the Section 5 proposal is;
 - A user which breaches a condition of any permission regulating the Dundrum Complex or is inconsistent with any use specified in a permission under the Act, such as to engage Article 9(a)(i) of the Planning and Development Regulations 2001, as amended or
 - If the user triggers a requirement for an appropriate assessment such as to engage Section 4(4) of the Planning and Development Act 2000, as amended.
- Appendix 1 of the Planning Report includes a comprehensive planning history.
- Appendix 2 Includes a copy of the Discharge Licence PA Ref - DW023-02 (November 2007).

6.4. Applicants Response

The documentation was referred by An Coimisiun Pleanala, separately, to Brogan Capital Ventures Limited on 19th November 2025 and Brogan Capital Ventures Limited and Utmasta Limited (separately) care of Barry Reynolds 5th November 2025.

No response from the applicants was received by An Coimisiun Pleanala.

6.5. Planning Authority Response

By letter dated 17th November 2025 Tipperary County Council advised An Coimisiun Pleanala that the Declaration issued by Tipperary County Council under PA Ref Section 5 24/147 on the 10th of January 2025 was quashed by order of the High Court on 17th November 2025.

7.0 Observations

Observations were made by Mattie McGrath TD, Michael Hennessy, Susan O'Donoghue, Lucy Kelly and Steph Rawlings and they can be grouped into a number of recurring themes;

Material change of use

- The development would be a material change of use.
- The intended occupancy of c. 301 people would be higher than the estimated 194 guests.
- 25% increase over the previous Section 5 Referral, made to Tipperary County Council in 2024.
- Dundrum House accommodated 150 guests, mainly on the weekend.

Wastewater Infrastructure, pollution and environmental effects

- The most consistent area of concern related to the onsite wastewater treatment system.
- It is contended that the system has been altered without planning permission and/or a discharge licence.
- Concerns regarding pollution of the Multeen River which is part of a Natura 2000 Special Area of Conservation.

- The development would potentially require an Appropriate Assessment and should this be the case, this would remove the exemption under Section 4(4) of the Act.
- The intensification of use along with the unauthorised OSWWTS would warrant the need for a full planning application along with the required Environmental Impact Assessment and Natura Impact Assessment.
- The Observation by Lucy Kelly intimated that the operator has linked all three systems with the hopes of remedying the pollution notified to the company in the Section 12 notice. I refer to the copy of 'Dundrum House Hotel Sample Test Results -Multeen', included with the submission by Lucy Kelly, however the image is not legible.
- All three systems are adjacent to the River Multeen.
- One observation raised a separate issue regarding the absence of a water abstraction licence and associated concerns in relation to the Water Framework Directive and Appropriate Assessment.

Planning Conditions, Article 9 Restrictions and Unauthorised Development.

- An issue consistently raised contended that the exemption provisions being relied upon were not available as the development allegedly depends upon unauthorised works.
- Reference to the requirements of Condition No. 26 associated with PA Ref. 041238. This condition restricts the use to tourist or holiday letting only.
- Michael Hennessy submitted that the changes to the layout in the Holm Oaks block was contrary to the permitted layout.
- Reference to the active enforcement history and other outstanding unauthorised works as part of the reason why the development should not be exempt development.

Protected Structure and Heritage Concerns

- The scale and nature of the use may impact the character and setting of this heritage asset.
- Unless the applicant can demonstrate that there would be no material change to the character of the structure a declaration under Section 57 in respect of the works is required in order to affect the material change of use.

- The neglected nature of the manor house amounted to accelerated decay and constitutes a clear breach of the owners statutory duty of care under Section 58 of the Planning and Development Act 2000, as amended.

The earlier Section 5

- Several observations referred to the previous Section 5 Declaration, PA Ref. 24/147 which had been quashed following judicial review and argued that the current application remained materially the same, save for a larger floor area.
- An Observation by Lucy Kelly relied upon the Narconon Trust judgement and argued that the material facts had not changed. The Commission should not determine the matter and should instead dismiss the application.
- An Observation by Steph Rawlings contended that the new Section 5 cannot rely on, supplement or correct an Appropriate Assessment screening that was acknowledged to be flawed.

Validity

- The Observation made by Lucy Kelly raised concerns regarding the validity of the application itself including the date of the letter of consent from Brogan Capital Ventures Limited and the fact that the petition for liquidation was made on the same day that the application was lodged.
- It was also contended that there was no evidence of consent from the liquidator, no lease in place between Brogan Capital Ventures and Utmasta and evidence from the High Court contends that Utmasta are trespassing.
- The public participation process had not been handled properly which violated rights under the Aarhus Convention.

Community, Tourism and local amenity

- The loss of the hotel use has serious consequences for the local community in terms of economic and tourism infrastructure, including the loss of 48 jobs and the amenity value of the restaurant, bar, gym and golf course.
- The scale of the development relative to Dundrum itself is highlighted, referring to a village population of 216 people in 2016 and that the capacity of the subject facility would effectively double the population of the village.

- The development would be contrary to objectives of the Development Plan which seek to support tourism, local services and the conservation of protected structures.

Fire Safety and Public Health

- Fire safety
- Public health concerns with allegations that the wastewater pollution could make its way into the local water supply.

8.0 Statutory Provisions

8.1. Planning and Development Act, 2000, as amended

Section 2(1): Interpretation

“works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal...

“alteration” includes—

- (a) plastering or painting or the removal of plaster or stucco, or
- (b) the replacement of a door, window or roof,

that materially alters the external appearance of a structure so as to render the appearance inconsistent with the character of the structure or neighbouring structures.

“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 –

- (a) where the context so admits, includes the land on, in or under which the structure is situate...

“unauthorised development” means, in relation to land, the carrying out of any unauthorised works (including the construction, erection or making of any unauthorised structure) or the making of any unauthorised use;

“unauthorised structure” means a structure other than—

- (a) a structure which was in existence on 1 October 1964, or

(b) a structure, the construction, erection or making of which was the subject of a permission for development granted under Part IV of the Act of 1963 or deemed to be such under section 92 of that Act (or under section 34 , 37G or 37N or 293 of this Act), being a permission which has not been revoked, or which exists as a result of the carrying out of exempted development (within the meaning of section 4 of the Act of 1963 or section 4 of this Act);

“unauthorised works” means any works on, in, over or under land commenced on or after 1 October 1964, being development other than—

(a) exempted development (within the meaning of section 4 of the Act of 1963 or section 4 of this Act), or

(b) development which is the subject of a permission granted under Part IV of the Act of 1963 F26 (or under section 34, 37G, 37N or 293 of this Act), being a permission which has not been revoked, and which is carried out in compliance with that permission or any condition to which that permission is subject;

Section 3(1): Development

this Act, “development” means, 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.

Section 4: Exempted development

(1) Sets out development which shall be exempted development for the purposes of the Planning and Development Act 2000, as amended.

(2) The Minister may by regulations provide for any class of development to be exempted development for the purposes of this Act. The primary regulations in this regard are the Planning and Development Regulations 2001, as amended.

(4) Notwithstanding paragraphs (a), (i), (ia) and (l) of subsections (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

Notwithstanding section 4(1)(a), (h), (i), (ia), (j), (k), or (l) and any regulations made under Section 4(2), the carrying out of works to a protected structure, or a proposed protected structure, shall be exempted development, only if those works would not materially affect the character of -

- (a) the structure , or
- (b) any element of the structure which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest.

8.2.Planning and Development Regulations 2001, as amended

Article 5: (1) Defines “Protected Persons” for the purposes of Schedule 2, means;

- (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.

Article 6: 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.’

Class 14 of Part 1, Schedule 2 of the Planning and Development Regulations 2001, as amended, states,

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.

(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

Limitation

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.

Article 9 (1): Restrictions on exemption:

(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,

(viiB) 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.

Article 10 (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 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 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.

A hotel is not listed as a specific use class set out under Part 4.

9.0 Assessment

9.1. Introduction

- 9.1.1. The purpose of this referral is not to determine the acceptability or otherwise of the works concerned 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.
- 9.1.2. I have examined all the documentation on the file, inspected the site and have had regard to the legislative provisions set out in both the Planning and Development Act, 2000, as amended and the Planning and Development Regulations, 2001, as amended.

On the basis of the information submitted to the Planning Authority, the scope of the question relates to the 'temporary change of use from hotel to Class 14 (h) and Class 14 (i) of the Planning and Development Regulations 2001, as amended'.

9.2. Is or is not development

- 9.2.1. Section 3(1) of the Planning and Development Act 2000, as amended states that development "means, except where the context otherwise requires, the carrying out of works on, in, over or under land or the making of any material change of use of any structures or over land".
- 9.2.2. No details have been provided in relation to the capacity of the hotel when it was last in use. Similarly, no details have been provided in relation to the maximum occupancy of the current use. I note the document entitled Engineering Services Design Report

submitted in response to the request for Further Information associated with PA Ref. 18601273 (which has not been implemented). Section 3 'Wastewater Design Analysis' refers to an accommodation occupancy to the north of the river as being 194. This also aligns with the contention of the Planning Authority.

- 9.2.3. The capacity of the use of the centre for accommodating protected persons and for the use of emergency reception and orientation for protected persons has not been quantified. Based on the plans accompanying the application, it would appear that the centre would have the potential to accommodate approximately 375 people.
- 9.2.4. Having regard to the nature of the subject use and the characteristics of the site, I acknowledge that traffic and car parking are unlikely to be an issue. Furthermore, having regard to the context of the site, undue impact to the amenity of surrounding residential properties is unlikely to arise.
- 9.2.5. The nature of the current use is constant in contrast to the hotel use which would likely be fully occupied at weekends or during holiday times. The site is served by an on-site wastewater treatment system and in this regard I would consider that the development by virtue of the increased occupancy would constitute a material change in use.
- 9.2.6. It is considered that the change of use constitutes a material change of use and is therefore development in accordance with the provisions of Section 3(1) of the Planning and Development Act, 2000 (as amended).
- 9.2.7. I note that the applicant has stated that no physical changes were undertaken to the elevations. No elevations have been included as a result. The applicant has not confirmed if any works have been undertaken internally to facilitate the development.
- 9.2.8. No floor plans of the existing layout when in use as a hotel accompany the application. I have compared the floor plans which accompany the subject referral with the existing floors plans submitted as part of PA Ref. 18601273, specifically the ground floor plan. I note that the subject use has included a 'dining area' which includes multiple cooking facilities in addition to the stated provision of washing and drying machines.
- 9.2.9. I also note that the certain rooms within the Old Wing and Square Block appear to have been subdivided, Rooms 221A and 221B, 203A and 203B, 304A and 304B, 326 and 326B. The Existing Third Floor level consists of six bedrooms and two bathrooms compared to two rooms with two bathrooms on the existing plans associated with PA Ref. 18601273.

- 9.2.10. No existing floor plans of the block known as Holm Oaks when in use as a hotel has been provided. I refer to the plans associated with PA Ref. 041238. It appears that works have been carried out to create additional bedrooms at the ground floor level of these units. I note this issue has also been raised by an Observer.
- 9.2.11. Section 2 of the Planning and Development Act 2000, as amended, defines works as ‘any act or operation or construction, excavation, demolition, extensions, alteration or renewal’.
- 9.2.12. Section 3(1)(a) of the Act, defines development as the carrying out of any works, in on over or under land or the making of any material change in use of any land or structures situated on land...’
- 9.2.13. In the absence of information to demonstrate otherwise, I consider that these works have been undertaken to facilitate the subject change of use. The act of undertaking works therefore constitutes development.

9.3. Is or is not exempted development

- 9.3.1. Section 4 of the Planning and Development Act, 2000, as amended sets out certain forms of development which shall be exempted development. Additionally, Schedule 2 of the Planning and Development, Regulations, 2001, as amended sets out forms of development which are exempted development within specific context.
- 9.3.2. Section 4(1)(h) of the Planning and Development Act 2000, as amended, allows for works to 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.
- 9.3.3. The applicant’s submission clearly states that there have been no physical changes undertaken to any elevation and in this regard no elevations have been provided. Save for two rooms, one of which was vacant and one was occupied, I did not view each of the rooms individually internally as I did not have plans of the original layout to highlight where specific changes have been made.
- 9.3.4. Based on the information provided and the comparison of the internal floor layouts with the relevant planning histories, I would submit that the works undertaken internally do not materially affect the external appearance of the structure ‘so as to render the

appearance inconsistent with the character of the structure or neighbouring structures’.

9.3.5. TUD-25-023 relates to enforcement in respect of the replacement of the ceiling in bedroom 317 in the C Block. I would submit that this does not form part of this assessment.

9.3.6. I would consider that Class 14(h) and (i) of Part 1, Schedule 2 of the Planning and Development Regulations would be the relevant exemption for consideration for the change of use from hotel to use as accommodation for protected persons and the use as an emergency reception and orientation centre for protected persons. For clarity, Class 14 of the Regulations states the following;

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,

There is no limitation specific to Class 14 (h) or (i).

9.3.7. Therefore, I am satisfied that the change of use from hotel to accommodation for protected persons and the use as emergency reception and orientation centre for protected persons is exempted development.

9.3.8. I refer to the applicant’s submission to the Planning Authority dated 2nd October 2025 and received by Tipperary County Council on 6th October 2025. This refers to a previous notification dated 24th October 2024 under Schedule 2, Class 20F subparagraph (5) of the Planning and Development Regulations 2001, as amended which was submitted under Brogan Capital Ventures Limited (owner of the site).

It is stated that Utmasta Limited has commenced the Class 20F temporary use for the purposes of accommodating displaced persons or for the purposes of accommodating persons seeking international protection in accordance with the Planning and Development Regulations 2001, as amended.

- 9.3.9. The submission states that it was established that the current use of the premises described herein after are as existing use as a hotel and shall be temporarily used for the purposes of Class 20F until such date of discontinuation as prescribed within the regulations.
- 9.3.10. No further details have been provided in relation to the Class 20F use and this was not addressed in the report of the Planning Authority.
- 9.3.11. Notwithstanding the foregoing, the question set out by the applicant refers to the exempted development provisions as set out under Class 14(h) and Class 14 (i) of the Planning and Development Regulations 2001, as amended.

10.0 Restrictions on Exempted Development

- 10.1. The development must be considered in light of the statutory restrictions set out under Section 4(4) of the Planning and Development Act 2000, as amended and under Article 9(1)(a) of the Planning and Development Regulations 2001, as amended.
- 10.2. Article 9 (1)(a)(i) of the Planning and Development Regulations 2001, as amended states that development to which Article 6 relates shall not be exempted development for the purposes of the Act, if carrying out the development would contravene a condition attached to a permission issued under the Act or if it would be inconsistent with any use specified under the Act,
- 10.3. Condition no. 26 of PA ref. 04/1238

I refer to the concerns raised in relation to Condition No. 26 associated with PA Ref. 04/1238 (Holm Oaks). I acknowledge the concerns raised by the Planning Authority and the Observers in this regard. I note the requirements of Article 9(1)(a)(i) of the Planning and Development Regulations 2001, as amended. I submit that the wording of the condition restricts the use of the units to that of 'tourist / holiday letting purposes' and that such units cannot be used for the purposes of 'permanent principal residences'. I would consider that reasoning for this condition in this regard is to ensure

that the units remain associated with and ancillary to the primary use of the site, i.e. hotel rather than potential use as residential properties where the need to comply with the rural settlement policy may arise.

It is my consideration that the wording of the condition restricts the use to the same use as specifically identified in Class 14 of the Planning and Development Regulations 2001, as amended.

In this instance the change of use intended is temporary and not for permanent principal residences. I do not consider that the subject change of use would contravene Condition 26 of PA Ref 04/1238 and therefore does not engage Article 9(1)(a)(i) of the Planning and Development Regulations, 2001 as amended.

10.4. Condition no. 12 of PA ref. 04/1239

PA Ref 04/1239 permitted the decommissioning of the then existing wastewater treatment plant to be replaced with a new wastewater system. I refer to Condition No. 12 of PA Ref. 04/1239 which only permitted the discharge of wastewaters to surface or ground water in accordance with a Discharge Licence under Section 4 of the Local Government (Water Pollution) Acts 1977-1990. The condition set out that any modification to the development required on foot of the discharge licence must be agreed with the Planning Authority or An Bord Pleanala, now An Coimisiun Pleanala in default of an agreement or a grant of permission to be issued for a revised development. I also refer to the discharge licence, PA Ref. DW023-02 which applied to the pre-existing OSWWTS. Condition 1.2 states that 'Effluent discharges shall take place only as specified in the application received on 17th of September 2007 and as per the drawings submitted with the application as modified and/or controlled by this licence and subject to the requirements of law. No material change in the quality or quantity of the effluent being discharged to waters shall be made without the prior consent of the Licencing Authority' (my emphasis).

The referral report of the Planning Authority to An Coimisiun Pleanala also discusses the issuance of a Section 12 Notice under the Local Government (Water Pollution) Act 1977 on the 5th of August 2020. The report submits that the recipients of the Section 12 notice installed the new wastewater treatment system to address the issues raised. The recipients contend that addressing these issues obviated the requirement to seek planning permission.

The development which is the subject of this referral appears to be of a more intensive operation than that of the hotel. The plans which accompany the referral indicate a maximum occupancy of 375 people within the centre. Evidence from historic planning files indicates a capacity of c. 194 people within the existing hotel complex. There is a significant lack of clarity regarding the treatment of wastewater. No information has been provided regarding the disposal of wastewater and /or the status of the Discharge Licence in terms of compliance with the terms and conditions set out in 2007 or whether it is still applicable. As the subject site is not presently served by mains drainage, I would submit that information regarding wastewater disposal is important. I acknowledge that the permitted treatment system likely had a capacity to accommodate the then proposed development. This information has not been provided with the subject referral, for the purposes of clarity. It would be beneficial to have details in relation to the OSWWTS, the capacity of the structures when in use as a hotel together with the occupancy when in use for the purposes of the subject referral.

Having regard to the intensification of use / increased occupancy within the hotel complex, the concerns raised by both the Planning Authority, the Observers and the documented Section 12 Notice issued on the 5th August 2020, I am not satisfied that it has been adequately demonstrated that the development does not give rise to a material change to the quantity of effluent being discharged to the River Multeen or that adequate treatment capacity is available within facilities serving the development.

The development would therefore contravene Condition No. 12 associated with PA Ref. 04/1239.

I note that the owner/occupier has not taken the opportunity to address the matters raised.

10.5. Protected Structure

The Observations raise concerns regarding the impact of the change of use and associated works upon the character of Dundrum House, which is a Protected Structure, Ref. TRPS1039.

I note that the Planning Authority considered this was not relevant as the scope of the question relates to the change of use only.

As I have previously noted, the applicant states that there have been no physical changes to any elevation undertaken. I also note that the applicant has not set out the works which have been undertaken internally to facilitate the development nor highlighted where changes have been made.

In this regard, I have compared the plans which accompany the subject application with the plans submitted as part of the most recent permitted planning application, PA Ref. 18601273. I have identified where changes arise in respect of the internal floor layouts.

I would submit that it could be considered that the amendments to the internal floor layouts are not fundamentally necessary to facilitate the use but may be associated with the increase in occupancy.

Dundrum House itself does not form part of the area included within the designated change of use, the subject of this referral however it is acknowledged each of the buildings which are the subject this referral are within the curtilage of the Protected Structure

The current application does not include any Architectural Report. I refer to the Conservation Statement and Architectural Heritage Impact Assessment submitted as part of PA Ref 18601273 which was undertaken by Blackwood Associates. Section 4.3 of the report refers to 'Out Buildings' *'The out-buildings of Dundrum House, although originally fine examples of their type, have also undergone much alteration over the years, to the detriment of their significance and integrity. The addition of a third storey to the range closest to Dundrum House has completely altered the proportions of these buildings. Their remaining significance lies in what original fabric, and proportions, as survive in the external envelope (limestone details in particular) and in the form of buildings, enclosing three sides of a courtyard, adjacent to the main Dundrum House. The rear elevations and setting have been compromised by the extension from the 1980's...'*

Dundrum House does not form part of the subject change of use and therefore there is no direct impact arising to the character of this structure. I note that the Old Wing / C Block (originally the stables) and the Coach House, have been in hotel use for a substantial period of time.

Based on the information available to me, I do not consider that the works undertaken in respect of the subject change of use would materially affect the character of the structure in terms of the Architectural, Historical, Social and Cultural and Artistic Significance as described in the Conservation Statement accompanying PA Ref. 18601273.

Dundrum House itself, does not form part of the subject change of use. Access to this house is restricted both internally and externally by way of metal fencing. While there may be an intensification of occupation within the ancillary buildings to Dundrum House as the house itself is not accessible, having regard to the former uses, including historic institutional uses, I am satisfied that the additional footfall will not give rise to undue impact to this character and setting of the structure.

I do not consider that the exemption would be restricted by S.57(1) of the Planning and Development Act 2000, as amended. The works which are the subject of this referral would therefore be exempted development under Section 4(1)(h) and Section 57 of the Planning and Development Act 2000, as amended.

10.6. Environmental

Section 4(4) de-exempts any development where Appropriate Assessment (AA) or Environmental Impact Assessment (EIA) is required. As similar de-exemption is provided for under Article 9(1)(a)(viiB) in respect of AA only. The following paragraphs set out my assessment of the relevant provisions under Section 4(4) of the Planning and Development Act 2000, as amended and Article 9(1)(a) of the Planning and Development Regulations 2001, as amended.

10.7. Environmental Impact Assessment

Development in respect of which an environmental impact assessment or appropriate assessment is required cannot be exempted development under Section 4(4) of the Planning and Development Act 2000, as amended.

The change of use is not a project or 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). The works are a project but 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.

10.8. Appropriate Assessment (AA) Screening

I have considered case ACP-323829-25 in light of the requirements S177U of the Planning and Development Act, 2000, as amended.

The appeal site is located c.14km to the southeast of the Special Protection Area for Slievefelim to Silvermines Mountains (004165).

The Special Area of Conservation for the Lower River Suir (002137) traverses the site by way of the River Multeen.

Dundrum House Hotel is served by an OSWWTS which was granted permission under PA Ref. 04/1239. The OSWWTS was permitted to discharge to the River Multeen and was subject to a Discharge Licence. I acknowledge the concerns raised by the Planning Authority and the Observations received in this regard. I also acknowledge that there is current Enforcement in relation to the provision of a new wastewater treatment system and ancillary structure.

As part of the applicant's current submission to Tipperary County Council, no details were provided in respect of wastewater disposal or the stated capacity of Dundrum House Hotel when operating as a hotel.

From my assessment, I note the document entitled Engineering Services Design Report submitted in response to the request for Further Information associated with PA Ref. 18601273 (which has not been implemented). Section 3 'Wastewater Design Analysis' refers to an accommodation occupancy to the north of the river as being 194.

The capacity of the use of the centre for accommodating protected persons and for the use of emergency reception and orientation for protected persons has not been quantified. Based on the plans accompanying the application, it would appear that the centre would have the potential to accommodate approximately 375 people.

I would consider this increase in occupancy to be a material increase. The applicants have not provided any supporting information to demonstrate that adequate capacity for the treatment of wastewater is available on the site. I am not satisfied that it has

been adequately demonstrated that the OSWWTS which discharges to the SAC, can cater for the development, and I note previous notices served under the Water Pollution Acts in this regard. In this regard I cannot be satisfied that the occupancy can be catered for without the likelihood of significant effect on the conservation objectives of the Lower River Suir SAC.

I consider that Article 9(1)(a)(viiB) de-exempts the development.

11.0 Other Issues

- 11.1. The Planning Authority and Observers contends that the principle of Res Judicata applies in this case. It is submitted by the Planning Authority that as long as the Section 5 (PA Ref Section 5 24/147) remains in place, it precludes the current application on the basis that the change of user at issue remains the same. The Observations refer to the Narconon Trust v An Bord Pleanala which determined that An Bord Pleanala, (now An Coimisiun Pleanala) is precluded from making decisions where there is no evidence of a change in planning facts.
- 11.2. I refer to the letter from Tipperary County Council received by An Coimisiun Pleanala on 17th November 2025. This letter states that the Declaration issued by the Council under PA Ref. Section 5 24/147 on the 10th of January 2025 was quashed by the High Court on 17th November 2025. In this regard, I am satisfied that there is now only one application on the subject lands and this would address the concerns raised.
- 11.3. The concerns raised regarding the validity of the applicants' consent to make the application are noted. I note that the applicant, in this instance, has been afforded an opportunity to rebut the submission and no response was received. I also note that no Observation has been received from the reputed owner to contend the making of the application by Utmasta Limited.
- 11.4. I am satisfied that the applicants have provided sufficient evidence of their legal interest to make an application. Any further legal dispute is considered a Civil matter and is outside the scope of the planning appeal. In any case, this is a matter to be resolved between the parties, having regard to the provisions of s.34(13) of the Planning and Development Act 2000, as amended.

- 11.5. I acknowledge the concerns raised in relation to the public participation of the Planning Authority, however, observers have had the opportunity to participate via submission to the PA and the matters raised have been considered above.
- 11.6. I also note the concerns raised in relation to unauthorized development at the subject site part of which relates to the issue of wastewater treatment. The matter of Enforcement is for the Planning Authority.
- 11.7. I also acknowledge the concerns of the Observers with respect to the tourism and employment of the area. As noted above, 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 Planning and Development Act, 2000 as amended and the Planning and Development Regulations, 2001 as amended.
- 11.8. The concerns raised in relation to fire safety are noted. I would submit that the issue of compliance with Building Regulations will be evaluated under a separate legal code and thus need not concern the Commission for the purposes of this appeal.

12.0 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 buildings for the purposes of accommodating protected persons and the use as emergency reception and orientation centre for protected persons, is or is not development, and is or is not exempted development.

AND WHEREAS: Utmasta Limited requested a declaration on this question from Tipperary County Council and the Council did not make a Declaration in this instance.

AND WHEREAS Tipperary County Council have referred the matter to An Comisiun Pleanála under section 5(4) of the Planning and Development Act 2000, as amended

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

- a) section 2(1), 3(1), 4(1),(4), 57(1) of the Planning and Development Act, 2000, as amended,
- b) article 6(1) and article 9(1) of the Planning and Development Regulations 2001, as amended including the relevant conditions and limitations,
- c) Part 1 of Schedule 2 Class 14 (h)-(i) of the Planning and Development Regulations 2001, as amended
- d) The documentation on file, including submissions on behalf of the referrer Tipperary County Council, and the requestor Utmasta Limited,
- e) The Observations received
- f) The planning and development history of the site,
- g) The report of the Planning Inspector:

AND WHEREAS An Coimisiún Pleanála has concluded that:

- (a) Having regard to the increase in occupancy of the subject use relative to the use as a hotel together with the characteristics of the site, the development raises planning considerations that are materially different to planning considerations relating to the established use. The development therefore constitutes a material change of use in accordance with Section 3(1) of the Planning and Development Act 2000, as amended and is development.

The change of use of buildings which were in use as a hotel to use for the purposes of accommodating protected persons and the use as an emergency reception and orientation centre for protected persons would constitute exempt development and would fall within the scope of Class 14 of the Planning and Development Regulations 2001.

- (b) The works associated with/to facilitate the development identified through the comparison of the plans accompanying the application with plans associated with PA Ref. 041238 and PA Ref 18601273 indicate changes have been undertaken to the internal layouts, the development as proposed would constitute development. The works would not materially affect the character of the protected structure and would be exempt under Section 4(1)(h) and Section 57(1) of the Planning and Development Act 2000, as amended.
- (c) However, having regard to the occupancy arising from the proposed change of use, as indicated on the plans and drawings submitted to Tipperary County Council on 6th October 2025, the Commission is not satisfied that the wastewater treatment facilities serving the development which discharge to the Multeen River, designated as part of the lower River Suir Special Area of Conservation, have the adequate capacity to satisfactorily accommodate the wastewater arising from such use. The Commission is unable to conclude that the development would not have likely significant effects on the conservation objectives of the special area of conservation. The development is not exempt in accordance with Section 4(4) of the Planning and Development Act, 2000 as amended and Article 9(1)(a)(viiB) of the Planning and Development Regulations 2001, as amended. Furthermore, the Commission is not satisfied that the wastewater infrastructure serving the development can operate within the terms of the Discharge Licence and in the absence of any information to demonstrate otherwise the development would be contrary to Condition No. 12 associated with PA Ref. 041239 and is

therefore not exempt in accordance with Article 91(a)(i) of the Planning and Development Regulations 2001, as amended.

NOW THEREFORE: An Coimisiun 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 buildings at Dundrum House Hotel, Dundrum, Co. Tipperary for the purposes of accommodating protected persons and the use as an emergency reception and orientation centre for protected persons 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, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Inspectorate

3rd of July 2026

EIA Pre Screening

Case Reference	ACP-323829-25
Proposed Development Summary	Whether the change of use of buildings for the purposes of accommodating protected persons and the use as an emergency reception and orientation centre for protected persons, is or is not development and is or is not exempted development.
Development Address	Dundrum House Hotel, Dundrum, Co. Tipperary.
	In all cases check box /or leave blank
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	☒ Yes, it is a 'Project'. Proceed to Q2. ☐ No, No further action required.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
☐ Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	State the Class here
☒ No, it is not a Class specified in Part 1. Proceed to Q3	
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	

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

4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?	
Yes ☐	Screening Determination required (Complete Form 3)
No ☒	Pre-screening determination conclusion remains as above (Q1 to Q3)

Inspector: Inspectorate_____Date: _____

AA Screening Determination Template

Test for likely significant effects

Screening for Appropriate Assessment Test for likely significant effects	
Step 1: Description of the project and local site characteristics	
Brief description of project	Whether the change of use of buildings for the purposes of accommodating protected persons and the use as an emergency reception and orientation centre for protected persons, is or is not development and is or is not exempted development.
Brief description of development site characteristics and potential impact mechanisms	The established use of the site is hotel and leisure and consists of a substantial parcel of land. The lands are effectively split into two by the River Multeen which flows in a southwesterly direction through the site. The former hotel was served by an on-site waste water treatment system. This system is subject to a Discharge Licence to the River Multeen. The River Multeen is designated as a Special Area of Conservation for the Lower River Suir (002137). By virtue of the hydrological connection, creates a potential impact mechanism.
Screening report	No
Natura Impact Statement	None.

Relevant submissions		Yes. (Mattie McGrath TD, Michael Hennessy, Susan O'Donoghue, Lucy Kelly, Steph Rawling)		
Step 2. Identification of relevant European sites using the Source-pathway-receptor model				
European Site (code)	Qualifying interests ¹ Link to conservation objectives (NPWS, date)	Distance from proposed development (km)	Ecological connections ²	Consider further in screening ³ Y/N
Lower River Suir SAC (002137)	Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330] Water courses of plain to montane levels with the Ranunculon fluitantis and Callitricho-Batrachion vegetation [3260] Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels [6430]	The SAC traverses the lands in use by Dundrum House Hotel.	Direct hydrological connection via the discharge from the OSWWTS to the Multeen River (SAC).	Yes

	Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0] Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0] Taxus baccata woods of the British Isles [91J0] Margaritifera margaritifera (Freshwater Pearl Mussel) [1029] Austropotamobius pallipes (White-clawed Crayfish) [1092] Petromyzon marinus (Sea Lamprey) [1095] Lampetra planeri (Brook Lamprey) [1096] Lampetra fluviatilis (River Lamprey) [1099] Alosa fallax fallax (Twaiite Shad) [1103]			
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	Salmo salar (Salmon) [1106] Lutra lutra (Otter) [1355]			
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¹ Summary description / **cross reference to NPWS website** is acceptable at this stage in the report

² Based on source-pathway-receptor: Direct/ indirect/ tentative/ none, via surface water/ ground water/ air/ use of habitats by mobile species

³if no connections: N

Step 3. Describe the likely effects of the project (if any, alone or in combination) on European Sites

AA Screening matrix

Site name Qualifying interests	Possibility of significant effects (alone) in view of the conservation objectives of the site*	
	Impacts	Effects
Lower River Suir SAC (002137)	Direct: Foul water discharge from the OSWWTS.	The use for the purposes of accommodating protected persons and the use as an emergency reception and orientation centre for protected persons, supported by plans provided, indicates an increased occupancy.

		The permitted OSWWTS is subject to a Discharge Licence to the River Multeen. There is current enforcement regarding the provision of a new wastewater treatment system which has been installed on the lands serving Dundrum House Hotel. No documentation has been provided in relation to the operation of the system to demonstrate that the OSWWTS can cater for the anticipated need and the information available indicates that there are issues with the capacity and quality of wastewater treatment in the system. In the absence of information to demonstrate otherwise, the development cannot be screened out.
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	Likelihood of significant effects from proposed development (alone): Yes
	If No, is there likelihood of significant effects occurring in combination with other plans or projects?
Step 4 Conclude if the proposed development could result in likely significant effects on a European site	
In the absence of information to demonstrate otherwise, I cannot conclude that the development alone or in combination with other plans or projects would not result in likely significant effects on Lower River Suir SAC (002137).	

Screening Determination

Finding of likely significant effects

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I cannot conclude that the development individually or in combination with other plans or projects would not be likely to give rise to significant effects on the Lower River Suir SAC (002137) in view of the conservation objectives of these sites.

This determination is based on:

- The documentation accompanying the request for declaration, submitted to the planning authority, which indicate a material increase in occupancy at the development.

- The existing wastewater treatment system permitted under PA Ref 041239 is subject to a Discharge Licence (PA Ref DW023-02) for discharge into the River Multeen which is designated as a special area of conservation for the Lower River Suir (002137).
- The ambiguity and absence of information regarding the adequacy of and capacity facilities for the treatment of wastewater from the site to cater for the subject development.
- The subject site is hydrologically connected to the Lower River Suir SAC (002137)

It cannot be concluded that there is no likelihood of significant effects on the conservation objectives of the SAC.