An Coimisiún Pleanála

Inspector's Report ACP-324159-26

Question	Whether a temporary change of use of The Eyre Powell Hotel for accommodation for displaced persons seeking international protection is or is not development or is or is not exempted development
Location	Eyre Powell Hotel, Main Street, Newbridge, Co. Kildare W12 X2R9

Declaration

Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	ED/1303
Applicant for Declaration	Joseph Germaine
Planning Authority Decision	Is not exempted development

Referral

Referred by	Joseph Germaine
Owner/ Occupier	Peachport Ltd
Observer(s)	None
Date of Site Inspection	8 October 2026

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1.0 Site Location and Description

1.1. The site in question is a three-storey late-twentieth-century building, the Eyre Powell Hotel, on the Main Street of Newbridge, Co. Kildare.

2.0 The Question

2.1. Whether a temporary change of use of the Eyre Powell Hotel for accommodation for displaced persons seeking International Protection is considered exempted development under Class 20F or Class 14H.

3.0 Planning Authority Declaration

3.1. Declaration

3.2. Is development and is not exempted development.

3.3. Planning Authority Reports

3.3.1. Planning Reports

One report, summarised as follows:

- No works proposed. Material change of use constitutes development. The development is not exempt under Class 20F, as one of the conditions of this class is informing the relevant local authority prior to the commencement of development, and this was not done.
- An exemption under Class 14H was not considered in detail, as, unlike the exemption under Class 20F, that is not an exemption for a temporary change of use, and the referrer specifies that this change of use is temporary.

3.3.2. Other Technical Reports

Appropriate Assessment Screening Report, concluding no potential significant effects/AA is not required.

4.0 Planning History

4.1.1. The council report cites numerous previous planning applications on the site, including various alterations to elevations and revised layouts. The following is of particular relevance:

- 97/218 – permission granted for Phase 2 of apartment/hotel complex as part of Newbridge Urban Renewal (phase 1 ref 1571/96) comprising 32-bedroom hotel with ancillary services.

5.0 Policy Context

5.1. Kildare County Development Plan 2023-2029 (as varied)

5.1.1. Newbridge Settlement Plan was adopted as Variation No 2 of the Kildare County Development Plan 2023-2029 (as varied 23 February 2026).

5.1.2. The site is zoned A, Town Centre on the Land Use Zoning map. It lies just outside the Core Retail Area.

The building is not a protected structure, nor is it in an Architectural Conservation Area. There are no objectives for preservation of views, or objectives for the preservation of any sites or features of archaeological, geological, historical, scientific or ecological interest on the site. There are no Tree Preservation Orders on the site.

5.2. Natural Heritage Designations

Pollardstown Fen SAC 000396 – 2.2 km west of the site.

6.0 The Referral

6.1. Referrer's Case

The referrer sets out the following:

- Both a change of use under Class 14(h) and under Class 20F are temporary, and Kildare County Council should have considered whether an exemption was available under either use class.
- Because the request for a Section 5 Declaration had the word temporary in the description, they declined to assess the exemption under Class 14(h), which they deemed to be a permanent change of use. Kildare County Council consider the use classes to be mutually exclusive. An assessment of whether the development is exempt under Class 14(h) should have been undertaken.
- The Local Authority has determined that they were not notified of the change of use prior to its implementation, and as such the development is not exempt under class 20F (which was created by statutory instrument 605/2022 in December 2022); however, the Eyre Powell was an accommodation centre for protected persons prior to this legislation, and no such notification was required. A memorandum of agreement for the period 2019-2020 is appended, along with additional supporting documents.
- The hotel was first used as an emergency accommodation centre in 2000, has secured rolling contracts since, and continues to provide accommodation to protected persons seeking international protection.
- The Section 5 determination should have been Exempted Development.

Appendices include copies of cover pages for a memorandum of agreement from 2017-18 and for one from 2019-2020; for RIA (Reception and Integration Agency) Inspection Reports on dates between 2011 and 2017; and a copy of a one-page letter regarding Fire Safety Certification from 2018.

6.2. Planning Authority Response

None received.

6.3. Owner/ occupier's response

The referral was circulated to Peachport Ltd, the owner of the premises. No response was received.

6.4. Further Responses

None received.

7.0 Statutory Provisions

7.1. Planning and Development Act, 2000

7.1.1. Section 2(1) of the Act states the following:

- ‘development’ has the meaning assigned to it by Section 3;
- ‘works’ includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal 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.

7.1.2. Section 3(1) states that:

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

7.1.3. Section 4(2) of the Act provides that the Minister may, by regulations, provide for any class of development to be exempted development. The main regulations made under this provision are the Planning and Development Regulations 2001-2025.

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

7.2.1. Article 5 of the Regulations sets out certain definitions, the following of which are relevant to the referral question:

‘business premises’ means –

(a) any structure or other land (not being an excluded premises) which is normally used for the carrying on of any professional, commercial or industrial undertaking or any structure (not being an excluded premises) which is normally used for the provision therein of services to persons,

(b) a hotel, hostel (other than a hostel where care is provided) or public house, or

(c) any structure or other land used for the purposes of, or in connection with, the functions of a State authority

'excluded premises' means – (a) any premises used for purposes of a religious, educational, cultural, recreational or medical character,

(b) any guest house or other premises (not being a hotel or a hostel) providing overnight guest accommodation, block of flats or apartments, club, or boarding house, or

(c) any structure which was designed for use as one or more dwellings, except such a structure which was used as business premises immediately before 1 October, 1964 or is so used with permission under the Act.

'care' means personal care, including help with physical, intellectual or social needs.

"protected person", 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;

7.2.2. Article 6(1) of the Planning and Development Regulations 2001 (as amended) ('the Regulations') provide that 'subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1'.

7.2.3. Article 9 sets out a large number of restrictions and limitations on exemptions available under Article 6, including but not limited to developments that would contravene a condition attached to a permission, developments that would contravene specific Development Plan objectives, developments affecting national monuments, developments requiring Appropriate Assessment, and developments that would obstruct any public right of way or endanger public safety.

7.2.4. Part 1 of Schedule 2 of the Regulations set out the classes of exempted development, including 'Class 14' allowing for 'development consisting of a change of use': -

> '(h) from use as a hotel, motel, hostel, guesthouse, holiday accommodation, convent, monastery, Defence Forces barracks or other premises or residential institution providing overnight accommodation, or part thereof, or from the change of use specified in paragraph (i) of the said premises or institution, or part thereof, to use as accommodation for protected persons,
>
> (i) from use as a hotel, motel, hostel, guesthouse, holiday accommodation, convent, monastery, Defence Forces barracks or other premises or residential institution providing overnight accommodation, or part thereof, or from the change of use specified in paragraph (h) of the said premises or institution, or part thereof, to use as an emergency reception and orientation centre for protected persons'.
>
> (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.
>
> This class is subject to the following condition/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.

7.2.5. Class 20F of the same Part exempts the following:

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

event and exhibition space or any structure or part of structure normally used for public worship or religious instruction.

This latter class is subject to the following conditions and limitations

1. The temporary use shall only be for the purposes of accommodating displaced persons or for the purposes of accommodating persons seeking international protection.

2. Subject to paragraph 4 of this class, the use for the purposes of accommodating displaced persons shall be discontinued when the temporary protection introduced by the Council Implementing Decision (EU) 2022/382 of 4 March 2022[1] comes to an end in accordance with Article 6 of the Council Directive 2001/55/EC of 20 July 2001[2].

3. The use for the purposes of accommodating persons seeking international protection shall be discontinued not later than 31 December 2028.

4. Where the obligation to provide temporary protection is discontinued in accordance with paragraph 2 of this class, on a date that is earlier than 31 December 2028, the temporary use of any structure which has been used for the accommodation of displaced persons shall continue for the purposes of accommodating persons seeking international protection in accordance with paragraph 3 of this class.

5. The relevant local authority must be notified of locations where change of use is taking place prior the commencement of development.

6. ‘displaced persons’, for the purpose of this class, means persons to whom temporary protection applies in accordance with Article 2 of Council Implementing Decision (EU) 2022/382 of 4 March 2022.

7. ‘international protection’, for the purpose of this class, has the meaning given to it in section 2(1) of the International Protection Act 2015 (No. 66 of 2015).

8. ‘temporary protection’, for the purpose of this class, has the meaning given to it in Article 2 of Council Directive 2001/55/EC of 20 July 2001.

7.3. Other Legislation

7.3.1. Article 2 of Council Implementing Decision (EU) 2022/382 of 4 March 2022

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

7.3.2. International Protection Act 2015 (No. 66 of 2015)

This sets out that ‘International Protection’ means status as a refugee, or status as a person eligible for subsidiary protection.

7.3.3. Article 2 of Council Directive 2001/55/EC of 20 July 2001

This sets out that ‘temporary protection’ means a procedure of exceptional character to provide immediate and temporary protection to displaced persons in the event of a mass influx of such persons, without the need for individual applications. This directive was triggered for the first time in March 2022 in response to the war in Ukraine.

7.3.4. Refugee Act of 1996 or the Subsidiary Protection Regulations 2013

These are acts under which people apply for refugee status, asylum, or subsidiary protection.

7.3.5. Section 3 of the Immigration Act 1999

This Section deals with Deportation Orders.

7.3.6. Section 24 of the Refugee Act of 1996

This section sets out that a programme refugee means a person who has been given leave to enter and remain in the State for temporary protection or resettlement as part of a group of persons.

8.0 Assessment

8.1.1. It should be noted at the outset that the purpose of this referral is not to determine the acceptability or otherwise of the current use 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, whether it falls within the scope of exempted development.

8.2. The scope of the question

8.2.1. I note the question refers to a temporary change of use of the Eyre Powell Hotel to accommodation for displaced persons seeking International Protection. The referrer states that the building has been used as emergency accommodation since 2000. The Local Authority does not dispute this, and I note the property was mentioned as one of 84 such centres (then Direct Provision Centres) in a Dáil Debate on 24 May 2005, over twenty years ago. No date has been given in the referral for a reversion to hotel use. Given the length of duration of the current type of use, I do not consider the word 'temporary' to serve a meaningful purpose in the referral.

8.2.2. Additionally, I note for clarity that the legislation makes provisions for 'displaced persons' and for 'persons seeking international protection' as different categories of persons. The term 'protected person' corresponds to all intents and purposes to that of 'persons seeking international protection'. There is no category of 'displaced persons seeking international protection'. I note the Local Authority flagged the above ambiguity, and considered that the question referred to the accommodation of displaced persons only. However, having undertaken a site visit, having considered the material submitted as a referral to the Commission, and having considered the references in the original referral to 'exempted development under class 20F or class 14H' I consider that the correct wording should be:

> *"whether the ~~temporary~~ change of use of the Eyre Powell Hotel to accommodation for displaced persons **or persons** seeking international protection is considered exempted development under Class 20F or Class 14H".*

8.3. Is or is not development

8.3.1. As noted above, both 'works' and 'material change of use' constitute development. No works are proposed in the referral. For clarity and completeness, I note that internal alterations have been undertaken to provide self-catering facilities instead of

a restaurant kitchen. I consider these to be exempt under Section 4(1)(h) of the act, and do not intend to consider them further as part of this referral.

8.3.2. The permitted use of the building as hotel is not in dispute. The most recent and current use according to the first party is as 'accommodation for persons seeking international protection', and they state that the use for emergency accommodation started in 2000. The Local Authority does not dispute this, and I found no evidence to contradict this on my site visit.

8.3.3. The change from use as hotel (a predominantly tourist use) to use as accommodation for persons seeking international protection (a primarily residential use) is a material change of use of the building, and so constitutes development.

8.4. Is or is not exempted development

8.4.1. As noted above, there is an exemption under Class 14(h) of Part 1, Schedule 2, which exempts the change of use of a hotel to use as accommodation for protected persons. The Local Authority did not consider this to be applicable, as the applicant for the declaration specified that the change of use was temporary, and this use class (unlike Class 20F) makes no specific reference to being a temporary change of use.

8.4.2. I do not concur with this interpretation. Class 20F was introduced to the legislation in 2022 as part of an EU-wide response to the invasion of Ukraine. It allows for conversion from a much wider range of building types (including shops, offices, and libraries) to emergency accommodation, on a short-term basis, subject to a number of conditions and restrictions, including prior notification to the Local Authority. It does not alter or modify the pre-existing exemption available at Class 14(h).

8.4.3. Class 14(h) provides for a change of use from various types of overnight accommodation (including hotel) to use as accommodation for protected persons. The text makes no explicit reference to the duration of the change. Class 14(j) provides for the reversion of the change of use, from accommodation for protected persons to whatever the most recent permitted use was. This indicates that the exemption at 14(h) is applicable to both temporary and permanent changes of use. I consider that the exemption is relevant to the current proposal.

8.5. Restrictions on exempted development

8.5.1. There are no conditions or limitations on the exemption available at Class 14(h). I note the limitation on Class 14(j), which has the effect that a change back, from accommodation for protected persons to use as a hotel, will require planning permission (as the current use has lasted longer than 3 years). However, that does not affect the exemption available at Class 14(h).

8.5.2. As noted above, Article 9 of the Planning and Development Regulations, 2001 (as amended), refers to restrictions on exempted development. I have considered the proposal in light of these restrictions and limitations, and am satisfied that none of them apply in this instance.

8.6. Conclusion

8.6.1. I consider that the change of use of The Eyre Powell Hotel to accommodation for displaced persons, or persons seeking international protection, is development, and is exempted development, under Class 14(h) of Part 1 of Schedule 2 of the Planning and Development Regulations 2001.

9.0 EIA Screening

9.1. The proposed development does not come within the definition of a ‘project’ for the purposes of EIA, that is, it does not comprise construction works, demolition or intervention in the natural surroundings. Refer to Form 1 in Appendix 1 of report

10.0 Appropriate Assessment

10.1. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because it could not have any effect on a European Site. I conclude that the proposed development (alone) would not result in likely significant effects on any European site. The proposed development would have no likely significant effect in combination with other plans and projects on any European site(s). No further assessment is required for the project. No mitigation measures are required to come to these conclusions.

11.0 Water Framework Directive

11.1. An assessment of the proposed development has been undertaken with regard to the objectives set out in Article 4 of the EU Water Framework Directive.

11.2. Having considered the nature, scale, and location of the proposed development, it is concluded that the proposal will not result in any risk of deterioration in the status of any water body, including surface waters (rivers and lakes), groundwater, transitional waters, or coastal waters. This applies to both qualitative and quantitative status, and in respect of temporary and permanent effects.

11.3. In addition, the proposed development will not adversely affect the achievement of established environmental objectives, including the protection, maintenance, and improvement of water body status, as required under the Directive.

11.4. Accordingly, the proposed development is considered to be compliant with the requirements of Article 4.

12.0 Recommendation

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

WHEREAS a question has arisen as to whether the change of use of the Eyre Powell Hotel to accommodation for displaced persons or persons seeking international protection is or is not development or is or is not exempted development:

AND WHEREAS Joseph Germaine requested a declaration on this question from Kildare County Council and the Council issued a declaration on the 26th day of February, 2026 stating that the matter was development and was not exempted development:

AND WHEREAS Joseph Germaine referred this declaration for review to An Coimisiún Pleanála on the 25th day of March, 2026:

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) Section 4(2) of the Planning and Development Act, 2000, as amended,

(d) Articles 5, 6(1) and article 9(1) of the Planning and Development Regulations, 2001, as amended,

(e) Part 1 *Exempted Development - General* of Schedule 2 to the Planning and Development Regulations, 2001, as amended, including Class 14(h) and Class 20F, and the conditions and limitations thereof,

(f) the planning history of the site,

(g) the use of the site,

(h) the documentation on the file,

(i) the report and recommendation of the Inspector following a site visit;

AND WHEREAS An Coimisiún Pleanála has concluded that:

(a) The change of use of the Eyre Powell Hotel to accommodation for displaced persons or persons seeking international protection constitutes a material change of use, and hence constitutes development;

(b) The development is exempt under Class 14(h) of Part 1 of Schedule 2 of the Planning and Development Regulations (2001) as amended.

NOW THEREFORE An Coimisiún Pleanála, in exercise of the powers conferred on it by section 5 of the 2000 Act (as amended), hereby decides

that the change of use of The Eyre Powell Hotel to accommodation for displaced persons, or persons seeking international protection, is development, and is exempted development.

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

Planning Inspector

15 October 2026

Form 1 - EIA Pre-Screening

Case Reference	324159-26
Proposed Development Summary	temporary change of use of The Eyre Powell Hotel for accommodation for displaced persons seeking international protection
Development Address	Eyre Powell Hotel, Main Street, Newbridge, Co. Kildare
	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.**	
☐ Yes, the proposed development is of a Class and meets/exceeds the threshold. **EIA is Mandatory. No Screening Required**	**State the Class and state the relevant threshold**
☐ 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)**	**State the Class and state the relevant threshold**

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)** ***[Delete if not relevant]***
No ☒	**Pre-screening determination conclusion remains as above (Q1 to Q3)** ***[Delete if not relevant]***