An Coimisiún Pleanála

Inspector's Report ACP-324408-26

Question	Whether the use of the guesthouse permitted under Reg. Ref. PL. 14167 at Eagle Heights B&B, Muckduff, Enniscrone, Co. Sligo F26V020 to provide accommodation for international protection applicants, is or is not development and whether development constitutes exempt development or does not constitute exempt development?
Location	Eagle Heights B&B, Muckduff, Enniscrone, Co. Sligo F26V020
Declaration	
Planning Authority	Sligo County Council
Planning Authority Reg. Ref.	ED652
Applicant for Declaration	Rupopado Limited.
Planning Authority Decision	Is development
Referral	
Referred by	Rupopado Limited
Owner/ Occupier	Rupopado Limited
Observer(s)	None

Date of Site Inspection	13/8/26

1.0 Site Location and Description

1.1. The referral site is located c.0.31km to the south of Main Street, Enniscrone, Co. Sligo.

1.2. The referral property has access onto the R297 and currently accommodates a two storey, gabled ended building which is currently used to accommodate persons seeking international protection.

1.3. The rear of the property includes a storage shed, a number of tables and a planted area / small garden.

1.4. The site also includes parking areas to the front and rear of the property.

2.0 The Question

2.1. The applicant has referred the following question to An Coimisiún Pleanála:

- Whether the use of the guesthouse permitted under Reg. Ref. PL. 14167 at Eagle Heights B&B, Muckduff, Enniscrone, Co. Sligo F26V020 to provide accommodation for international protection applicants, is or is not development and whether development constitutes exempt development or does not constitute exempt development?

3.0 Planning Authority Declaration

3.1. Declaration

3.1.1 By order dated 2/6/26 the Planning Authority declared that the use of the guesthouse permitted underPL14167 at Eagle Heights B & B to provide accommodation for persons seeking international protection applicants", at Muckduff, Enniscrone, Co. Sligo located as shown on the Site Location Map submitted to the Planning Authority on 15th of May 2026, is development and is NOT exempted development.

3.1.2 It is stated that the primary use of the structure on site is as a dwelling and that the guest accommodation is ancillary to the use as a dwelling. Class 14(h) lists the uses that can be changed to accommodate or support displaced persons or persons seeking international protection. This list does not include residential or dwelling. No

other provisions would exempt the use of a dwelling on a temporary or permanent basis for persons seeking international protection.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

3.2.2. There is one planning report on file dated 2/6/26 which details that a Section 5 declaration request was received which requested an answer to the question '*Whether the use of the guesthouse permitted under PL14167 at Eagle Heights B & B to provide accommodation for persons seeking international protection applicants, is or is not development and whether development constitutes exempted development or does not constitute exempted development.*

3.2.3. The area planner report notes it is evident from the planning history of the site that the property included "associated guest accommodation." However, the area planner notes that the plans submitted under PL14167 included a total of 9 bedrooms. Of that total, 5 bedrooms (3 at ground floor and 2 at first floor) included en-suites which made them suitable for guest accommodation. The area planner therefore concludes that the residential element of the scheme was at first floor of the development and therefore the structure on site is not a 'guesthouse' as implied by the applicant and that the primary use on site is residential.

3.2.4. On this basis the area planner states that the proposed change of use is a material change of use and therefore falls under the definition of development under Section 3(1)(a) of the Act.

3.2.5. Given that the development description permitted under PL14167 which stated, "associated guest accommodation" and given the small scale of the guest accommodation provided, the area planner considered that the primary use of the structure on site is residential and that the guest accommodation is ancillary to the main residential use.

3.2.6. The area planner states that a house, or residential generally, is not listed in Class 14(h), that it is the intent of the legislation that a house, or residential generally, cannot avail of the exemption under Class 14(h).

3.3 Other Technical Reports

3.3.1 There are no other technical reports on file.

4.0 Planning History

Reg. Ref. PL14167: Application for the erection of a dwelling house with associated guests' accommodation. Permission granted, subject to conditions.

Reg. Ref. ED638: A declaration was sought that 'the change of use of Eagle Heights B & B to provide accommodation for persons seeking international protection. The Planning Authority declared that this constituted development and was not exempted development.

5.0 Policy Context

5.1. Development Plan

5.1.1 The operative plan is the *Sligo County Development Plan 2024-2030.*

5.1.2 The subject site is zoned 'e RES- Existing Residential' which has the following objective '*To Protect and enhance the residential amenity of established residential areas and their communal or public open space and allow for small-scale infill development which is appropriate to the character and pattern of development in the immediate area. The introduction of other compatible or ancillary uses, redevelopment and regeneration may also be considered in these areas, as long as the dominant use remains residential.'*

5.1.3 The following policies and procedures are pertinent:

P-SHOU-1 Promote social inclusion by ensuring that social housing is well distributed throughout all residential areas rather than concentrated in a few locations.

P-SHOU-2 Ensure that development in areas subject to an agreement under Part V of the Planning and Development Act 2000 (as amended) is integrated into the housing scheme in a manner which avoids undue physical and social segregation.

P-SHOU-3 Ensure that the supply of housing units under the Housing Strategy reflects the current and anticipated demographic characteristics and household sizes.

P-SHOU-4 Encourage linkages between social housing developments and any adjoining residential areas through the provision of shared facilities, services, and pedestrian, cycle, and vehicular connections, as appropriate.

P-DN-HOU-1 Continue to meet the housing needs of persons with special needs both by direct provision of accommodation and by facilitating the provision of housing by the voluntary sector.

P-DN-HOU-2 Facilitate access to an appropriate range of housing and related services to support independent living for people with a disability, in line with the County Sligo Strategic Plan for Housing People with a Disability 2021-2025.

P-DN-HOU-3 Support the implementation of the North-West Regional Homelessness Action Plan 2023–2028 and successor documents and prioritise the provision of suitable accommodation for the homeless and for those in need of emergency accommodation.

P-DN-HOU-4 Ensure that housing developments accommodating people with special mobility needs and the households least likely to own cars have easy and convenient access to local facilities and to public transport.

P-DN-HOU-5 Support proposals for the provision of sheltered housing and emergency accommodation, and work with the various bodies / organisations responsible for provision of this type of specialised accommodation.

5.2. Natural Heritage Designations

5.2.1 The appeal site is not located within or adjoining any designated site. The nearest European Sites in close proximity to the appeal site are as follows:

- Killala Bay/Moy Estuary SAC (Site Code: 000458) which is located c. 367m to the north of the site.
- Killala Bay/Moy Estuary SPA (Site Code: 004036) which is located c. 367m to the north of the site.

5.4.2 The nearest Natural Heritage Areas in close proximity to the appeal site are as follows:

- Killala Bay/Moy Estuary pNHA (site code: 000458) which is c.280m to the north-west of the site.

6.0 The Referral

6.1. Referrer's Case

6.1.1 A referral has been received from Hughes Planning and Development Consultants on behalf of the landowner. The referral submits the following:

- Planning permission was granted on 24th April 1986 for the use as a guesthouse and the entirety of the property can avail of that use. Sligo County Council state that the permitted use on the site is 'dwelling and associated guesthouse accommodation.'
- The site has been authorised guesthouse for the past 40 years and therefore can avail of Class 14(h) contained within the Planning and Development Regulations 2001-2024 Schedule 2, Article 6, Part 1 for a change of use from guesthouse to accommodation for persons seeking international protection.
- The current Section 5 for which this referral relates raises a distinct planning question arising from the factual context of the subject development where the subject property is in fact a permitted guesthouse.
- This Section 5 Referral negates the opinion of the Planning Authority that the site is solely a residential dwelling and cannot avail of Class 14(h) as the building is an authorised guesthouse and has been for the past 40 years.
- Article 4 of the S.I No. 582/2015 Planning and Development (Amendment) (No.4) Regulations 2015 inserts 4 classes of exempted development into the Planning and Development Regulations which has the effect that the changes of use specified in the new classes are exempted from the requirement to obtain planning permission.
- As per 14(h) a variety of premises a variety of premises providing residential or overnight accommodation can be used for the purpose of accommodating refugees and asylum seekers. Guesthouse is clearly listed as a use that can avail of the Class 14(h) and under the umbrella of 'other premises providing residential or overnight accommodation'.
- On this basis it is submitted that the subject site can avail of the exemption afforded under Class 14(h). The generalisation of Sligo County Council of the

use of the site is misleading and that at least a portion of the building, designated as guesthouse use can avail of the exemption afforded under Class 14(h).

6.2. Planning Authority Response

6.2.1 There is no response form the Planning Authority on file.

6.3. Further Responses

6.4.1 There are no further responses on file.

7.0 Statutory Provisions

7.1. Planning and Development Act, 2000

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

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

Section 3(1) states that:

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

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

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

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

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

Planning and Development Regulations, 2001

Article 6 (1) –Exempted Development

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

Article 9 (1) – Restrictions on Exemption

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

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

(i) Contravene a condition.

(ii) Consist of or comprise the formation, layout out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width.

(iii) Endanger public safety by reason of traffic hazard or obstruction of road users.

(iiia) Endanger public safety by reason of hazardous glint and/or glare for the operation of airports, aerodromes, or aircraft.

(iv) Interfere with the character of a landscape, or a view or prospect of special amenity value or special interest.

(v) Comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment, and the

development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,

(vi) Consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000.

(vii) Consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use.

Article 10 (1) Changes of Use

(1) Development which consists of a change of use within any one of the classes of use specified in Part 4 of Schedule 2, shall be exempted to development for the purposes of the Act, provided that the development, if carried out would not –

(a) involve the carrying out of any works other than works which are exempted development,

(b) contravene a condition attached to a permission under the act,

(c) be inconsistent with any use specified or included in such a permission, or

(d) be a development where the existing use is an unauthorised use, save where such change of use consists of the resumption of a use which is not unauthorised and which has not been abandoned.

Class 14 – Part 1 of Schedule 2 – 'Exempted Development - General'

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

Class 14 – Development consisting of a change of use—

(h) from use as a hotel, motel, hostel, guesthouse, holiday accommodation, convent, monastery, Defence Forces barracks or other premises or residential institution providing overnight accommodation, or part thereof, or from the change of use specified in paragraph (i) of the said premises or institution, or part thereof, to use as accommodation for protected persons,

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

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

Conditions and Limitations

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

Class 20 F – Part 1 of Schedule 2 – 'Exempted Development - General'

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

Class 20F was updated by the Planning and Development (Exempted Development) (No. 4) Regulations 2023 (SI No. 376/2023) to include "displaced persons" as being those persons displaced due to the Ukraine war and to extend the exemption from 31st of December 2024 to 31st of December 2028 as detailed below.

Class 20F – Temporary Structures and Uses

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

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

Conditions and Limitations

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

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

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

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

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

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

7) “International protection,” for the purpose of this class, has the meaning given to it in Section 2(1) of the International Protection Act 2015 (No. 66 of 2015).

8) “Temporary protection,” for the purpose of this class, has the meaning given to it in Article 2 of Council Directive 2001/55/EC of 20 July 2001.

7.2. **Other**

7.2.1 None

8.0 **Relevant Referrals**

ACP-322840-25: The Coimisiún determined on the 24th April 2026 that the change of use of the subject premises, which is considered to operate in the manner of, and to display the characteristics of, a guesthouse to provide accommodation for persons seeking international protection would come within the scope of Class 14 of Part 1 of Scheule 2 (Exempted Development -General) as inserted by the Planning and Development (Amendment) (Number 4) Regulations 2015 (S.I. No 582/20150).

ABP-322072-25 The Coimisiún determined on 6 March 2026 that the change of use of a Farmhouse Bed and Breakfast to provide accommodation for persons seeking international protection is not exempted development as it does not come within the scope of Class 14– Part 1 of Schedule 2 – 'Exempted Development - General' inserted by The Planning and Development (Amendment) (Number 4) Regulations 2015 (S.I No 582/2015).

ABP-321373-24: The Board determined on the 14th of April 2025 that the use of a guesthouse at Dun a Ri House Hotel, Kingscourt, County Cavan, to provide accommodation for persons seeking international protection, is development and is exempted development. The Board determined that the change of use from guesthouse to provide accommodation for persons seeking international protection constitutes a material change of use and therefore development, having regard to Class 6 of Part Four of Schedule 2 of the Planning and Development Act, 2001 (as amended) which does not include the provision of accommodation for international protection applicants as a use in that Class. Further the Board noted that the change of use from guesthouse to the provision of accommodation for International Protection Applicants has been specifically provided for as a class of exempted development in the legislation.

ABP-320031-24: The Board determined on the 19th of November 2024 that the change of use of a dwelling house to accommodation, where care is not provided, for protected persons is development and is not exempted development. The Board

concluded that a change of use from a dwelling house to provide accommodation, for protected persons is material change of use.

ABP-307077-20: The Board determined in December 2020 that the use of the premises at Cannaboe Street, Ballinamore, County Leitrim as apartments, including residential accommodation for protected persons, is not development. The Board determined that the permitted use of the apartments was not abandoned and the current use of the premises as apartments, and not as a facility for the reception and care of protected persons, does not constitute a change of use from the permitted use and, therefore, does not constitute development.

9.0 Assessment

9.1 Background- The Coimisiún's Jurisdiction to Determine this Referral

9.1.1 At the outset in considering the subject matter of the referral, I refer to the planning and referral history pertaining to the site as summarised in Section 4. The decision issued by Sligo County Council under Reg. Ref. ED638 is of particular relevance wherein the planning authority issued a declaration stating ''the change of use of Eagle Heights B & B to provide accommodation for persons seeking international protection' is development and is not exempted development'.

9.1.2 Having reviewed the documentation submitted in support of the referral and also the site's referral history, it is my view that a key issue to be addressed at the outset is the Coimisiún's jurisdiction to make a decision on this referral, with reference to the Narconon Trust v An Bord Pleanála judgement, where An Bord Pleanála made a determination on a similarly worded Section 5 Referral under PA Ref: 307077-20 in January 2021.

9.1.3 In Narconon Trust v An Board Pleanála (2021, IECA 307), the Court of Appeal granted an order of Certiorari, quashing two decisions made by the Board under Section 5 of the Act, whereby the Board decided that a change of use from a nursing home

development to a residential drug rehabilitation facility is development and is not exempted development. In its conclusion, the Court stated as follows: -

"The Board was precluded from determining a section 5 referral in circumstances where a planning authority has previously determined the same, or substantially the same, question in respect of the same land where there is no evidence that there has been a change in the planning facts and circumstances since the planning authority's determination. It had jurisdiction to receive the referral and to commence its determination. Once it became apparent that the question referred was the same, or substantially the same, and in respect of the same land, and that there was no evidence of any change in the planning facts or circumstances, it ought to have concluded that: the referral by the notice parties amounted to an impermissible attack on the 2016 declaration, which, in substance, amounted to questioning the validity of the section 5 declaration other than by way of s. 50; that such a challenge is prohibited by s. 50(2); and that for the Board to proceed further to determine the referral on the merits amounted to facilitating a breach of s. 50(2) and was, accordingly, ultra vires."

9.1.4 The Narconon judgement is important to the subject referral as it requires two issues to be addressed by the Coimisiún prior to a determination being made: (1) Is the question referred the same, or substantially the same, and in respect of the same land and (2) Has there been any change in the planning facts or circumstances since the previous determination was made. I consider the points raised in turn as follows:

(1) Is the question referred the same, or substantially the same, and in respect of the same land:

9.1.5 The referral relates to the same landholding as Reg. Ref. ED638, Eagle Heights B and B as the previously determined Section 5. I note that this declaration related to *'whether the change of use of Eagle Heights B and B to provide accommodation for persons seeking international protection constitutes exempted development or does not constitute exempted development.'*

9.1.6 The subject referral relates to the following *'Whether the use of the guesthouse permitted under Reg. Ref. PL.14167 at Eagle Heights B and B, Muckduff, Enniscrone,*

Co. Sligo F26V020 to provide accommodation for international protection applicants, is or is not development and whether development constitutes exempt development or does not constitute exempt development'.

9.1.7 I consider that the questions posed under Reg. Ref. ED638 and within the current referral are sufficiently different in that the use of the current declaration relates to the land being permitted for a guesthouse and this raises a distinct planning question arising from the factual context of the subject development being a guesthouse and not a B and B. This question was not previously assessed.

(2) Has there been any change in the planning facts or circumstances since the previous determination was made.

9.1.8 Having reviewed the contents of the file submitted it is my view that there has been no change in information submitted to the Coimisiún. There have been no changes to the planning facts or circumstances in the interim period since the previous planning authority determination was made.

9.1.9. On the basis of the above, it is my view that the question posed in the current referral is sufficiently different to that posed under Reg. Ref. ED638.

9.2 Is or is not development

9.2.1 The purpose of this referral is not to determine the acceptability or otherwise of the matters raised in respect of the proper planning and sustainable development of the area, but rather whether or not the matters in question constitute development, and if so, fall within the scope of exempted development within the meaning of the relevant legislation.

9.2.2 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 the use of any land or structures situated on land and in effect relates to both works and the material change in the use of land or structures. The applicant has not raised a question regarding any works to the building (stating 'no works are proposed') and as such, I am limiting my assessment here to the referral regarding the use of the building.

9.2.3 I make the Coimisiún aware that the premises is current being used for the purposes of providing accommodation for International Protection Applicants. The capacity of the premises is 42 persons. This has been the case since at least 2024. In this regard I refer the Coimisiún to https://www.gov.ie/en/international-protection-accommodation-services-ipas/collections/inspections-of-direct-provision-and-eroc-centres-in-county-sligo-2024/

9.2.4 The initial matter to establish is the nature of the established use of the premises. In this regard, I note that there is a divergence of opinion between the parties. The referrer states that Planning permission was granted on 24th April 1986 for the use as a guesthouse and the entirety of the property can avail of that use.

9.2.5 However, the area planner states that given the small scale of the guest accommodation provided, it is considered that the primary use of the structure on site is residential and that the guest accommodation is ancillary to the main residential use.

9.2.6 I make the Coimisiún aware that Planning permission was granted on site for development with the following description (under Reg. Ref. PL14167) *'Erection of a dwelling house with associated guest accommodation'.* The plans submitted with this application (PL14167) show the following:

- Ground floor comprises of a Kitchen / Living room, Lounge Room, Dining room, Utility room, Laundry, Bathroom, 2 No. En-suite Bedrooms and 1 No. bedroom.
- First Floor comprises of an Ensuite Master bedroom, 1 No. En-suite bedroom, 4 bedrooms, a bathroom and a hot-press.

9.2.7 The area planner noted that the 3 no. bedrooms on the ground floor included en-suite bathrooms and that this made them suitable for guest accommodation. However, only 2 no. bedrooms on the first floor contained an en-suite bathroom. On this basis, the area planner considered that the first floor was the residential element of the development. In addition to this, it was noted that the development description permitted under PL14167 stated "dwelling and associated guest accommodation" and therefore it the structure on site is not a guesthouse and that primary use on site is residential in character with guest accommodation ancillary to the main use.

9.2.8 Having considered the description of the development permitted under PL 14167, I am satisfied that some form of guest accommodation is authorised on the referral site.

However, the extent and precise nature of that accommodation are not clearly established by the development description or the plans submitted with the application. I note the Area Planner's observations regarding the arrangement of bedrooms and en-suite facilities on the ground and first floors.

9.2.9 In my view, however, the presence or absence of en-suite facilities is not, in itself, a reliable or definitive basis for distinguishing guest accommodation from bedrooms forming part of the residential use of a dwelling.

9.2.10 Furthermore, the description of the development as a dwelling house with "associated guest accommodation" does not, without further consideration of the permission as a whole, conclusively establish the extent to which the guest accommodation is ancillary to the primary residential use or whether the development has the character of a guesthouse or bed and breakfast.

9.2.11 I note that the referral question requires consideration of two forms of guest accommodation, namely a "Guesthouse" and "B and B." The distinction between these forms of accommodation is relevant to determining whether the use of the premises constitutes a material change of use and, consequently, whether development has occurred. In this regard, it is necessary to consider the nature and character of the accommodation provided, having regard to the relevant planning legislation, the terms of the existing planning permission and the circumstances of the use on the referral site.

9.2.12 In this regard, I note that Class 14(h), Part 1, Schedule 2 of the Regulations is clear in terms of the available exemptions. Bed and Breakfast is not listed as an exempted use. Similarly, in Class 20F, there is a long list of types of building, but bed and breakfast is not listed. However, 'Guesthouse' is included in both.

9.2.13 I note there is no clear definition of either Bed and Breakfast or Guesthouse within either the Planning and Development Act 2000 (as amended) or the Planning and Development Regulations 2001 (as amended). Given that there is no definitive information in this regard, I intend to consider precedent cases for similar declarations.

9.2.14 In this regard, I have considered the order relating to Case No. ACP-322840-25 which states *that there is no legislative definition of bed and breakfast or guesthouse within the Planning and Development Acts and Regulations, as amended, which would allow for a clear, indisputable distinction which could be readily applied across all cases,*

and that the terms may be somewhat interchangeable, though matters of scale and the presence and/or extent of associated residential living by the operator, may be relevant considerations on a case-by-case basis.

9.2.15 I have also considered the precedent as outlined in ABP-322072-25 which considered that that a Bed and Breakfast establishment can be smaller in scale and more residential in character, compared with a Guesthouse. In this case the inspector considered Article 10(4) of the Regulations refers to guest accommodation in the context of an exemption. In this regard Article 10(4) provides an exemption for development consisting of the use of not more than 4 bedrooms in a house, where each bedroom is used for accommodation of not more than 4 persons as overnight guest accommodation.

9.2.16 Having considered the precedents above, while I note that there is a lack of definition for either Bed and Breakfast or Guesthouse, it may be that a differentiation can be made between 'Bed and Breakfast' and 'Guesthouse' uses by way of considerations of scale and/or extent of associated residential living by the operator.

9.2.17 A small operation envisaged in Article 10 could be considered to be typically aligned with a Bed and Breakfast establishment in which the principle residential use of the property remains. Whereas a guest house can typically be larger in scale than that envisaged in Article 10(4).

9.2.18 I note that the planning authority is of the opinion that given the small scale of the guest accommodation provided on site, the primary use of the structure on site is as a dwelling and that the guest accommodation is ancillary to the use as a dwelling. However, in my opinion, there is not enough evidence to support this conclusion.

9.2.19 It is not apparent from the drawings submitted with the initial application (Reg. Ref. PL14167) which bedrooms are intended for guest accommodation, and which are designated for family use.

9.2.20 Taking a balanced view, given that the extent of the operators associated residential living is unclear, coupled with the buildings total number of bedrooms (9), its overall scale and layout, I consider it is reasonable to conclude that the premises is of a scale, form and layout which displays the characteristics of a guesthouse.

9.2.21 In ABP-321373-24, the Board determined that change of use from guesthouse to accommodation for persons seeking international protection constitutes a material change of use. In that case, the Board concluded a material change of use is apparent on the basis that Class 6 of Part Four of Schedule 2 of the Planning and Development Act, 2000 (as amended) provides for guest house and does not include the provision of accommodation for international protection applicants as a use in that Class. Further the Board noted that the change of use from guesthouse to the provision of accommodation for International Protection Applicants has been specifically provided for as a class of exempted development in the legislation.

9.2.22 Having considered the foregoing and Section 3(1)(a) of the Act, I am satisfied that the change of use of the premises from guesthouse to provide accommodation for persons seeking international protection constitutes a material change and, therefore, is development.

Is or is not exempted development

9.3.1 The second question to answer is whether the development is or is not exempt development. In this regard I refer the Coimisiún to Class 14(h) of Schedule 2, Article 6 of the Regulations which 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'

9.2.23 Having considered the foregoing, I am satisfied that the change of use of the subject premises, which is considered to operate in the manner of, and to display the characteristics of, a guesthouse to provide accommodation for persons seeking international protection would come within the scope of Class 14 of Part 1 of Schedule 2 – 'Exempted Development-General' inserted by the Planning and Development (Amendment) (Number 4) Regulations 2015 (S.I. No 582/20150):

9.3 Restrictions on exempted development

9.3.2 Article 9 of the Planning and Development Regulations 2001 (as amended) refers to restrictions on exempted development. I have assessed the development for the change of use from a hotel to residential accommodation for international protection applicants in relation to the relevant Article 9 restrictions.

(i) Contravene a condition.

(ii) Consist of or comprise the formation, layout out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width.

(iii) Endanger public safety by reason of traffic hazard or obstruction of road users. (iiia) Endanger public safety by reason of hazardous glint and/or glare for the operation of airports, aerodromes, or aircraft.

(iv) Interfere with the character of a landscape, or a view or prospect of special amenity value or special interest.

(v) Comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment, and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site.

(vi) Consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000.

(vii) Consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use.

9.3.3 Having considered the above, I am satisfied that the Class 14(h) exemption, which in my opinion, is available in respect of the referral before the Commission, would not be de-exempt by Article 9 of the Regulations.

10 EIA Screening

10.1 The proposal has been subject to preliminary examination for environmental impact assessment. Having regard to the characteristics and location of the use and the types and characteristics of potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The use, therefore, does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.

11 Appropriate Assessment

11.1 I have considered this case in light of the requirements of S177U of the Planning and Development Act 2000 (as amended).

11.2 The closest European Site, part of the Natura 2000 Network are as follows:

- Killala Bay/Moy Estuary SAC (Site Code: 000458) which is located c. 367m to the north of the site.
- Killala Bay/Moy Estuary SPA (Site Code: 004036) which is located c. 367m to the north of the site.

11.3 The nearest Natural Heritage Areas in close proximity to the appeal site are as follows:

- Killala Bay/Moy Estuary pNHA (site code: 000458) which is c.280m to the north-west of the site.

11.4 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.

11.5 The reason for this conclusion is as follows:

- The scale of the use.
- The location of the site on developed serviced lands.
- The absence of any ecological pathway from the development site to the nearest European Site.

11.6 I conclude, on the basis of objective information, that the development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

11.7 Likely significant effects are excluded and therefore Appropriate Assessment (under Section 177V of the Planning and Development Act 2000) is not required.

12 Recommendation

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

WHEREAS a question has arisen as to whether the use of Eagle Heights B and B is or is not development or is or is not exempted development:

AND WHEREAS Rupopado Limited requested a declaration on this question from Sligo County Council and the Council issued a declaration on the 2nd day of June 2026 stating that the matter was development and was not exempted development:

AND WHEREAS Rupopado Limited referred this declaration for review to An Coimisiún Pleanála on the 26 day of June, 2026:

(a) Section 2(1), 3(1), 4(2) and 4(4) 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,

(c) Class 14 and Class 20F of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended.

(d) Part 1 and Part 4 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,

(e) Relevant case law,

(f) Previous referrals to the Commission, including ACP-322840-25 and ABP-322072-25

(g) the planning history of the site,

(h) The documentation on the file, including the submission on behalf of the requestor Rupopado Limited

(i) the pattern of development in the area:

(j) the report and recommendation of the Inspector:

AND WHEREAS An Coimisiún Pleanála has concluded that:

(a) the specific facts of the case, a review of the planning history of the site, including permission PL14167 as granted by the planning authority, and on the basis that all aspects of the premises are otherwise developed in accordance with any and all relevant planning permissions (noting no reference on file or by the planning authority that this is not the case), to the totality of evidence presented on file, it is considered that the subject premises is in the manner of, and displays the characteristics of, a guesthouse in terms of scale, form and layout.

(b) the change of use of the subject premises, which is considered to operate in the manner of, and to display the characteristics of, a guesthouse to provide accommodation for persons seeking international protection would come within the scope of Class 14 of Part 1 of Scheule 2 – 'Exempted Development-General' inserted by the Planning and Development (Amendment) (Number 4) Regulations 2015 (S.I. No 582/20150)

NOWTHEREFORE An Coimisiún Pleanála, in exercise of the powers conferred on it by section 5 (a) (4) of the 2000 Act, hereby decides that the use of the Eagle Heights Bed and Breakfast to provide accommodation for persons seeking international protection at Muckduff, Enniscrone, Co. Sligo 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 me, directly or indirectly, following my professional assessment and recommendation set out in my report in an improper or inappropriate way.

Planning Inspector

29 October 2026