PLANNING REPORT

AN COIMISIÚN PLEANÁLA
LDG- 083876-25
ACP-
03 NOV 2025
Fee: € 220 Type: Cheque
Time: 17:01 By: hand

Section 5 Referral – Declaration of Exempted Development

The accommodation for persons seeking international protection at **Athlumney Cottage, Boyne Road, Navan, Co. Meath**

MEATH COUNTY COUNCIL

Planning Reference Number: NS525107

3rd November 2025

Submitted On Behalf Of:
Streamland Limited,
Carrickmaclim,
Carrickmacross,
Monaghan,
Ireland

85 Merrion Square, Dublin 2, D02 FX60
+353 (0)1 539 0710 info@hpdc.ie www.hpdc.ie

HUGHES PLANNING
& DEVELOPMENT CONSULTANTS

1.0 Introduction

This referral to An Coimisiún Pleanála, pursuant to **Section 5(3)(a)** of the Planning and Development Act 2000 (as amended), has been prepared by Hughes Planning and Development Consultants, 85 Merrion Square, Dublin 2, on behalf of **Streamland Limited**, and relates to a Section 5 Declaration made by Meath County Council on **6th October 2025** under **Planning Reference Number NS525107**, in relation to the subject property known as Athlumney Cottage*, Boyne Road, Navan, Co. Meath.

The Section 5 application, as submitted to Meath County Council on 10th September 2025, relates to the temporary use of the subject property to accommodate persons seeking international protection.

The property management and staff provision will solely be the responsibility of our client, the property owner. Staff will be present in the property to carry out maintenance and cleaning works only. No element of care, be it social, physical or emotional, will be provided to residents at this property, nor will any non-governmental organisation or approved housing body be involved.

We request that An Coimisiún Pleanála review the Section 5 Declaration issued by Meath County Council and make a determination that providing long-term accommodation to persons seeking international protection, at Athlumney Cottage, Boyne Road, Navan, Co. Meath, is deemed **not development**. In the interests of clarity, we ask the following question to An Coimisiún Pleanála:

> *"Whether the use of the residential dwelling at Athlumney House, Boyne Road, Navan, Co. Meath, to provide accommodation for persons seeking international protection, constitutes exempted development or does not constitute exempt development?"*

The prescribed fee of **€220.00** is enclosed, along with a copy of the declaration issued by Meath County Council. We request that An Coimisiún Pleanála set aside the decision of Meath County Council and issue a declaration stating that the temporary use of a residential property to provide long-term accommodation to protected persons **does not constitute development.**

**It is noted that in the Section 5 Application, the subject site was incorrectly named as 'Athlumney House', however the Section 5 declaration was sought in relation to 'Athlumney Cottage'.*

1.1 Section 5 Declaration of Meath County Council

On 6th October 2025, Meath County Council refused a declaration of exemption for the use of Athlumney Cottage to provide accommodation to persons seeking international protection, under Planning Reference Number NS525107 (See Appendix A). The Planning Authority determined that,

> *'...a private residential dwellinghouse does not fall within the categories of premises specified in either Class 14(h)(i)(j) or Class 20F of the Planning and Development Regulations 2001-2025, therefore the use of the subject site for IPAS accommodation is considered to represent a material change of use that would require planning permission.'*

It is submitted that the planning authority has erred in its assessment of the application. Having reviewed the report of the planning officer, it is apparent that the planning authority has misinterpreted what **'premises providing residential or overnight accommodation'** entails, and therefore incorrectly assessed the use of the property.

This report will assess the proposed use in the context of the Planning and Development Act 2000 (as amended) and relevant case law.

1.2 Summary of Grounds for Referral

The applicant's grounds for referral can be summarised by the following points:

- The planning authority has erred in determining that a private dwelling cannot fall within Class 14 or Class 20F. The regulations do not expressly exclude dwelling houses, and the test should be whether the use is of the *type* envisaged (accommodation for persons seeking international

protection), not whether the building matches an indicative list. The authority applied an unduly **restrictive interpretation without a statutory basis.**

- The existing use of the property is residential, and the proposed use remains residential. The subject property will be used to house individuals who seek international protection. Therefore, the occupant's profiles are the only element that will change in the use of the property. There will be no discernible change of the use of the building other than the socio-economic class associated with the inhabitants occupying the building, which **does not of itself constitute a material change of use.**

- It is submitted that the Planning Authority has incorrectly characterised the proposed use as 'institutional' accommodation. However, submitted information confirms residential occupation only, with **no institutional characteristics** such as provision of care being provided.

- The proposed use of a large dwelling will not add strain to existing services nor will it increase traffic volumes, noise or waste at the site. Therefore, there is **no demonstration of an intensification of use or functional change.**

- **Precedents of referral decisions** cited within the Section 5 application have been incorrectly dismissed.

2.0 Site Description

The subject site comprises a period two-storey house set on large grounds on Boyne Road, east of Navan town centre. The house contains 14-bedrooms, a kitchen, a sitting room and a dining room. The subject site is a 20-minute walk from the town centre and is located between the Boyne River to the northwest and low-density housing to the east.

The subject site is not listed on the Record of Protected Structures, nor is it located in an Architectural Conservation Area.



Figure 1.0 Aerial image showing the immediate locational context of the subject site (red outline).



Figure 2.0 Aerial image showing the wider locational context of the subject site (red pinpoint).



Figure 3.0 Front façade of the building.



Figure 4.0 Subject property *(Source: MCC Planner's report)*.

3.0 Planning History

3.1 Subject Site

Reg. Ref. 97/1725 Further Information sought for retention of existing two storey extension comprising c.74 sq.m. & retention of existing septic tank & percolation area.

3.2 Planning Precedent

The Rock Centre, Ballinamore, Co. Leitrim

Reg. Ref. 307077-20 Following a referral to An Coimisiún Pleanála, it was declared that the use of apartments for protected persons and works to the apartments is not development.

The Inspector's Report noted:

> *'I am satisfied that the subject block of apartments can therefore be considered under the term 'other premises' for the purposes of Class 14, providing residential or overnight accommodation. Accordingly, I consider that the use of the apartments for the reception and care of protected persons or as accommodation for protected persons comes within the scope of the exempted development provided for under Classes 14(h) and (i) of Part 1 of Schedule 2 to the Regulations.'*

The Inspector further noted that:

> *'Having visited the referral site, it is clear that the residential accommodation is being operated in a manner similar to other apartment developments, with gated access and servicing by a management and security suite. Facilities beyond those that would normally form part of an apartment complex were not in evidence, and the facility does not feature any particular additional reception, orientation or care services.*
>
> *The facility is not operating as an emergency reception for the care of protected persons; it is being operated as residential accommodation, as per the permitted use, and the status or personal circumstances of the apartment residents are not a material planning issue.*
>
> *I am satisfied that the current use of the apartments is not as a facility for the reception and care of protected persons and does not constitute a change of use from the permitted use and, therefore, does not constitute development.'*

McClure's House, High Road, Letterkenny, County Donegal

Reg. Ref. 322210-25 Following a referral to An Coimisiún Pleanála, it was declared that the use of a residential dwelling where care is not provided as a long-term residential accommodation for protected persons, is not development.

The Inspector's Report noted:

> *'There is no evidence of institutional care or communal services at either site. Although there may be a caretaker/security personnel / CCTV, this would not be unusual for apartment schemes. Furthermore, it does not fall within the definition of care as per Article 5 (1) of the Planning and Development Regulations, 2001 (as amended), which defines care as "personal care, including help with physical, intellectual, or social needs".'*

Additionally, the Inspector stated:

> *'...given the absence of institutional care or communal services, other than what would normally be provided in a residential apartment scheme, I am satisfied that a material change of use in terms of the provision of "care" has not occurred, as per Article 5 (1) of*

the Planning and Development Regulations, 2001 (as amended) which defines care as "personal care, including help with physical, intellectual, or social needs".'

Both cases noted above held that using apartments as accommodation for protected persons does not constitute development. While it is accepted that the subject property is a dwelling house, rather than an apartment, the principal question remains the same, regarding the use of residential units. In this case, the subject property is in a similar manner to that of the cited precedents, providing residential accommodation without institutional care or communal services, and therefore it does not constitute a material change of use.

Given that there is no legal definition of "material change of use", several items of case law support these conclusions.

4.0 Planning Context

The Meath County Development Plan 2021-2027 is the relevant statutory development plan for the subject site. The following section is a brief zoning review and land use objective for the site.

4.1 Zoning

The Meath County Development Plan 2021-2027 governs land use on the subject site. The subject site is zoned **'Existing Residential'** under the Meath County Development Plan 2021-2027, with the objective, *'To protect and enhance the amenity and character of existing residential communities'.* The following guidance is provided for lands zoned 'Existing Residential':

'Lands identified as 'Existing Residential' are established residential areas. Development proposals on these lands primarily consist of infill developments and the extension and refurbishment of existing properties. The principle of such proposals is normally acceptable subject to the amenities of surrounding properties being protected and the use, scale, character and design of any development respecting the character of the area.'



Figure 5.0 Extract from the Land Use Zoning Map of the Meath County Development Plan 2021-2027, with the subject site outlined in red.

The zoning matrix included in the Meath County Development Plan 2021-2027 indicates permissible and open-for-consideration uses for each zoning objective.

'Permitted in Principle' uses are generally acceptable subject to the normal planning process and compliance with the relevant policies and objectives, standards and requirements set out in the Plan. 'Open for Consideration' uses may be permitted where the Planning Authority is satisfied that the proposed development is compatible with the policies and objectives for the respective zone and would not be in conflict with the permitted, existing or adjoining land uses whilst conforming with the proper planning and sustainable development of the area.

Permitted Uses

> ***Residential**, Sheltered Housing, B & B / Guest House, Community Facility / Centre, Home Based Economic Activities, Utilities.*

Open for Consideration Uses

> *Bring Banks, Convenience Outlet, Childcare Facility, Halting Site, Healthcare Practitioner, Leisure /Recreation / Sports Facilities, Bar, Retirement Home / Residential Institution / Retirement Village, and Veterinary Surgery.*

The proposal seeks to continue the use of the building for **residential** purposes, specifically to provide accommodation for refugees and asylum seekers.

We would consider that the exempted use is consistent with the zoning objective, and it is therefore submitted that the proposed use is appropriate for the subject site.

5.0 Grounds for Referral

Under Section 2(1) of the Planning and Development Act 2000 (as amended), 'development' is assigned the meaning set out under Section 3(1) as follows: -

> *"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 other land."*

The Applicant does not intend to carry out works to the property; therefore, this declaration seeks clarification on the continued use of Athlumney Cottage as a residential building that provides accommodation to persons seeking international protection. From the outset, it is contended that this does not constitute development as no change of use has occurred.

It is noted that legislation does not define the phrase 'material change of use' as used in Section 2(1) of the Act. To determine the materiality of the change, the practical impacts and effects of the proposed change of use and whether it would have led to materially different planning considerations by the Planning Authority are considered in this determination.

The jurisprudence on this topic illustrates that the focus of the planning authority must be on the practical effects of the examined use when determining whether it is materially different from the prior use. In *Esat Digifone v South Dublin County Council* [2002] 3 I.R. 585, the High Court made the following remarks:

> *"The consideration to be taken into account in determining materiality must at least be relevant to "proper planning and development and the preservation of amenities" which are the twin objectives of the preamble to the legislation. The question is whether there were sufficient planning considerations raised by the change in activity to justify its submission to development control."*

In a similar vein the court quoted Barron J. in *Galway County Council v. Lackagh Rock* [1985] I.R.120 at 127:

> *"To test whether or not the uses are materially different, it seems to me, that what should be looked at are the matters which the planning authority would take into account in the*

event of a planning application being made either for the use on the appointed day or for the present use."

A further decision in support of that view is that of Budd J. in *Westmeath County Council v. Quirke & Sons* [Unreported, High Court, 23rd May 1996] where the court noted that:

"Many alterations in the activities carried out on the land constitute a change of use, however, not all alterations will be material. Whether such changes amount to a material change in use is a question of fact as is explained in Monaghan County Council v Brogan [1987] IR 339. Consideration of the materiality of a change in use means assessing not only the use itself but also its effects."

Athlumney Cottage was constructed pre-October 1964 and has always been in use as a residential accommodation. The proposed use of the property continues the long-established private residential use, with the only alteration to have occurred being an increase in the number of residents accommodated in the unit, which is a large 14-bedroom house.

It is submitted that there will be no discernible change to the use of the building other than the socio-economic class associated with the inhabitants occupying the building, which should not be taken into consideration when having regard to whether a material change of use has occurred, as evidenced by the Supreme Court Dublin Corporation v Moore [1984] ILRM 339, in which the judge stated:

"I can well understand the objection voiced by Mr Heneghan in his affidavit, to which I have referred - the residents of a quiet suburb naturally resent the presence of what may well be out of keeping with what they conceive to be the standards appropriate to the neighbourhood. There cannot, however, be one law for Cabra and another for Clondalkin - yet others for Finglas and Foxrock. Considerations of this kind are not appropriate to planning law - if they were, they might well offend against rights of equality."

It is considered that if this were a planning application for a residential building, the planning authority would not include conditions prohibiting accommodation to people of particular socio-economic backgrounds.

The subject site is a large house constructed in c. 1800s and has been in continuous use as a residential property. The house contains 14 no. bedrooms, six of which are en-suite, with two bathrooms for the remaining residents. Residents of the building have the use of a shared kitchen, dining room, and living room. Ample outdoor amenity space is provided for use by residents as the house is set on large, mature grounds. Residents are free to enter and exit the house throughout the day like any tenant renting from a private landlord. Staff employed by our client will be responsible only for cleaning and maintenance of the property. This building will provide long-term accommodation with residents living there for a minimum of 12 months.

It is submitted that the continued use of the property to provide residential accommodation is not development as no material change of use has occurred. This is a large house with 14 no. bedrooms, and if a house of this size were granted planning permission today, the planning authority would not attach conditions determining the number of people that could reside in the house.

In considering the above, it is submitted that the use of Athlumney Cottage as a long-term residential building to house protected persons, which does not provide care, does not constitute a change of use and therefore, does not constitute development in accordance with the Planning and Development Act 2000 (as amended).

With regard to the intensification of the use, it is submitted that the increase in residents at the large property does not constitute an intensification of the use. The remarks of Clarke J. in *Cork County Council v. Slattery Pre-Cast Concrete* [2008] IEHC 291 are relevant in assisting the planning authority in determining whether an intensification of an established use is material:

"The assessment of whether an intensification of use amounts to a sufficient intensification to give rise to a material change in use must be assessed by reference to planning criteria. Are the changes such that they have an effect on the sort of matters which would properly

> *be considered from a planning or environmental perspective? Significant changes in vehicle use (and in particular heavy vehicle use that might not otherwise be expected in the area) are one such example, changes in the visual amenity or noise are others.*

The judgment of Gilligan J. in *Molloy v. Minister for Justice* [2004] IEHC 74 is also relevant. The case has a number of parallels with the concerns raised in the Section 5 refusal for the subject property. The applicants' arguments as they related to intensification were as follows:

> *"The proposed use would involve an intensification of use by reason of the dramatic increase in the number of persons accommodated at the said premises and in the numbers of staff and persons providing ancillary services which are necessary to support such a reception centre. The proposed use would have significant planning implications in terms of generating traffic and parking demand, with consequent off-site parking requirements. The proposed use is likely to give rise to traffic congestion, traffic hazard and as a consequence be injurious to the amenities of residents and businesses in the vicinity of the subject premises."*

In *Molloy,* the Court held that the question of whether or the developer's proposals would lead to intensification of use was premature in circumstances where the novitiate had not yet been converted to use as a hostel for asylum seekers:

> *"It is accepted by the respondent that an intensification of use can constitute a material change of use in circumstances which would amount to development under the Planning Acts and would accordingly require planning permission. In my view, the respondent can use Broc House as a residential hostel and any significant intensification may lead to a material change of use but that situation at the moment is hypothetical and is a matter for another day as appropriate."*

The differentiating factor between the proposals for Athlumney Cottage and the Molloy case is that it is not proposed to convert the subject property into a "hostel" with a reception centre and provide ancillary services. Our client submits that any 'assumed' intensification of the use of Athlumney Cottage is less significant, as the expected future residents will be accommodated in a large house.

The question as to whether an intensification of an existing use at a property constitutes a material change of use is one to be assessed in light of the practical effects of that intensification on relevant planning considerations. These considerations include but are not limited to, increased vehicular traffic, noise, pressure on infrastructure, visual impact, and impact on the amenity of surrounding residents.

The proposed use has been assessed in the context of the issues listed by Meath County Council and the above case law:

Traffic Volumes:

As noted, the house has 14 no. bedrooms. Given the status of the residents as asylum seekers, it is reasonable to assume that car ownership and usage at the house would be low. It is noted that the house is a 20-minute walk from Navan town centre with footpaths provided. The nearest bus stop is located 10 minutes from the subject site and is served by Route N1, which brings passengers into the town centre as well as employment centres in the town. Navan provides multiple bus connections to Dublin and neighbouring towns and villages.

The number of staff will be minimal and mostly comprise cleaning and security staff. It is considered that there will not be a noticeable increase in traffic volumes at the site.

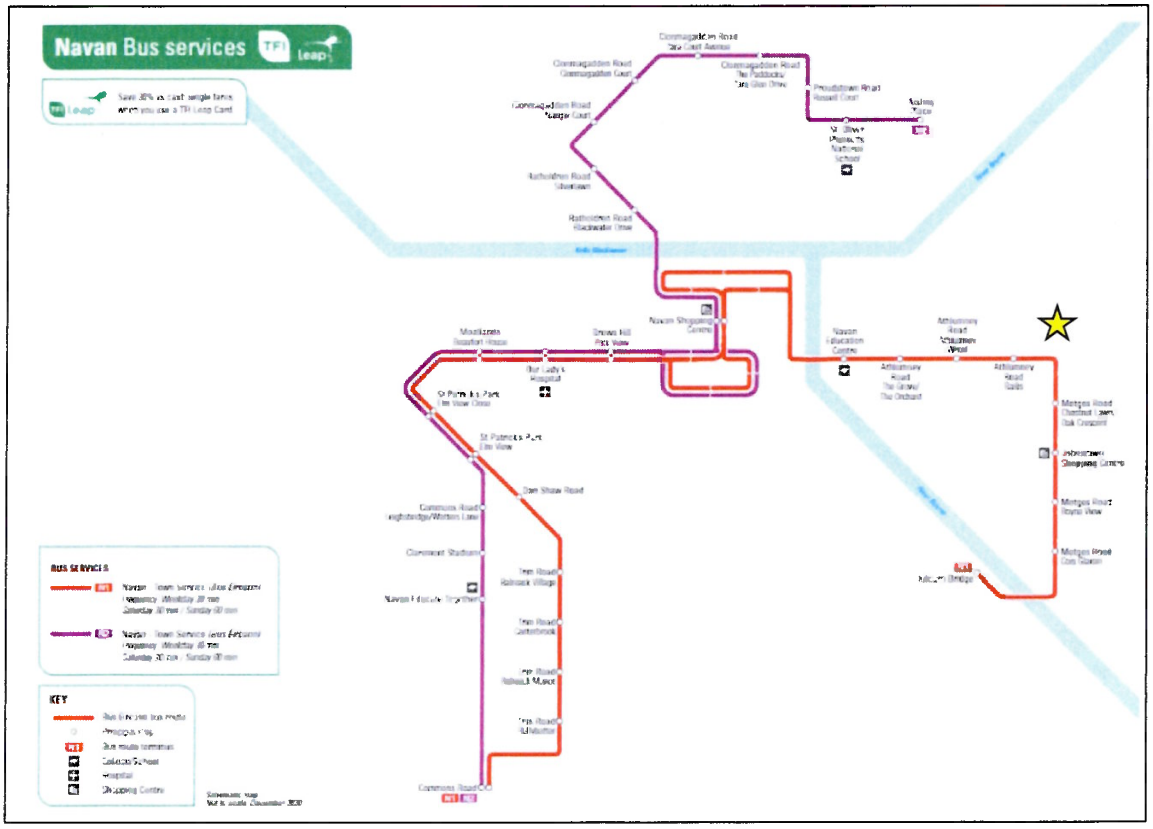


Figure 6.0 Bus route map for Navan. The subject site (yellow star) is located along route N1.

Water Services:

Regarding foul water, it is noted that upgrade works to the house's sewage system have been carried out in recent years. Further to this, Navan has an adequate public sewage network and treatment plant, which has the capacity for a population of over 100,000, therefore, we do not consider that additional people living in this dwelling will result in issues in the sewer network. In addition, Irish Water has recently carried out upgrade works to the Liscarton Water Treatment Plant, which will ensure the delivery of a safe and secure drinking water supply to a population of over 30,000 people.

Waste Collection:

With regard to waste collection, no change is proposed to the current waste collection system at Athlumney Cottage. It is noted that commercial-sized wheel bins, similar to those used in apartment blocks, will be used and will be collected from the adjoining public footpath weekly as per the current arrangements for the house. It is also noted that the entrance to the house comprises a splayed opening where bins can be stored prior to collection. This will not affect the adjoining footpath or roadway and even allow space for the bin lorry to pull in off the road. It is not anticipated that the increase in residents will result in excessive waste at the house that cannot be dealt with by the current waste collection set-up at the house.



Figure 7.0 Image showing the front entrance to the site via Boyne Road.

Noise:

The proposed use will not affect noise levels in the area that may be detrimental to the amenity of adjoining dwellings. It is anticipated that any increase in noise would be in keeping with any residential development, with the noise of residents chatting in the garden likely to be the greatest source of noise. It is noted that the subject site is located in a low-density, edge-of-town settlement area, with large separation distances between the subject property and adjoining properties.

Therefore, it is submitted that the property is used, and will continue to be used, in the normal residential sense. The nature of the occupation of the property remains comparable to any residential tenancy. There is no institutional oversight, no shift-workers on-site, no large communal dining/hospitality, no significant increase in traffic, servicing, staffing or external impact.

6.0 Conclusion

Having regard to the above, it is our opinion that the increase in residents at this property does not constitute an intensification of the use, or a material change of use. It is the applicant's submission that the practical differences in the proposed use of Athlumney Cottage as a private accommodation for persons seeking international protection are, for all intents and purposes, almost indiscernible from its established use.

Whilst it is clearly a matter for the Commission to determine, in accordance with the law set out above, it is our submission that the lack of practical effects of the new use, in line with the judgments of the High Court in *Slattery Pre-Cast Concrete* and *Molloy*, means that no material change of use will occur at Athlumney Cottage. Given the lack of any material change in use, no development requiring planning permission pursuant to the terms of the Planning and Development Act, 2000, is proposed to take place in this regard.

It is intended to use the subject site at Athlumney Cottage, which is a large residential dwelling, to solely provide accommodation to persons seeking international protection. This property will not provide care to residents. The building has been in use as a residential building since its construction and the continued use of the building to provide residential accommodation does not constitute development as no change of use has occurred, nor have any works been carried out to the property. As shown above,

the proposed use will not result in an intensification of use at the site, and we submit that Meath County Council has erred in its assessment of the application for a declaration under Section 5 of the Act.

Therefore, the question before the Commission is:

> ***"Whether the use of the residential dwelling at Athlumney House, Boyne Road, Navan, Co. Meath, to provide accommodation for persons seeking international protection, constitutes exempted development or does not constitute exempt development?"***

Accordingly, we request An Coimisiún Pleanála to set aside the decision of Meath County Council and decide that the proposed development **does not constitute development.**

We trust that the Commission will have regard to this submission and look forward to the decision in due course.

Kevin Hughes MIPI MRTPI
Director for HPDC

Appendix A Copy of the decision by Meath County Council on 6th October 2025, to declare the proposed development as not exempt under Section 5.

comhairle chontae na mí
meath county council

Teach Buvinda, Bóthar Átha Cliath, An Uaimh, Contae na Mí. C15 Y291
Buvinda House, Dublin Rd., Navan, Co.Meath. C15 Y291

Planning & Development Act 2000-2023

DECLARATION

To: Streamland Limited
c/o Hughes Planning and Development Consultants
85 Merrion Square
Dublin 2

PLANNING REFERENCE NUMBER: NS525107

APPLICATION RECEIPT DATE: 10/09/2025

FURTHER INFORMATION DATE:

In pursuance of the powers conferred upon them by the Planning and Development Act 2000-2023, Meath County Council has by order dated 06/10/2025 decided to Declare the proposed development is **development and is NOT EXEMPTED DEVELOPMENT** therefore is **DEVELOPMENT REQUIRING PLANNING PERMISSION**, in accordance with the documents submitted namely: "Whether the use of the residential dwelling at Athlumney House, Boyne Road, Navan, Co. Meath, to provide accommodation for persons seeking international protection, constitutes exempted development or does not constitute exempt development?" at **Athlumney Cottage, Boyne Road, Navan, Co Meath**

Date: 06.10.25

On Behalf of Meath County Council

NOTE:

1. Any appeal against a Declaration of a Planning Authority under Section 5, sub-section 3(a) of the Planning and Development Act 2000-2023 may be made to An Bord Pleanala by the applicant WITHIN FOUR WEEKS beginning on the date of issue of the Declaration.

2. Appeals should be addressed to An Bord Pleanala, 64 Marlborough Street, Dublin 1. An appeal by the applicant should be accompanied by this form. The fee for an appeal against a Declaration of the Planning Authority is € 220.

For more information on Appeals you can contact An Bord Pleanala at:

Tel: 01 - 8588100 or LoCall: 1890 275 175
Fax: 01 - 8722684
E-mail: bord@pleanala.ie
Web: www.pleanala.ie