

Comhairle Cathrach Chorcaí Cork City Council

Halla na Cathrach, Corcaigh - City Hall, Cork - T12 T997

The Secretary,
An Bord Pleanála,
64 Marlborough Street,
Dublin 1,
D01V902

20/02/2026

RE: Section 5 Declaration: R1019/26. The Cube Building, Monahan Road, Ballintemple, Cork. T12 H1XY

Dear Sir/Madam,

Please find enclosed a referral under Section 5 (4) of the Development & Planning Act 2000 with a cheque for the referral fee of €110.00.

Question Referred

(1) Is the change of use at ground floor, second floor and third floor of the Cube Building from office use to use to temporarily accommodate or support displaced persons or persons seeking international protection exempted development as per the provisions of Class 20F of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended)?

The associated works to facilitate the proposed use will only affect the interior of the building and therefore comes within the exempted development provisions of Section 4(1) (h) of the Planning and Development Act, 2000.

Applicant Details

Cherryinn Limited,
Thomas House,
McCurtain Street,
Cork,
T23PD3C.

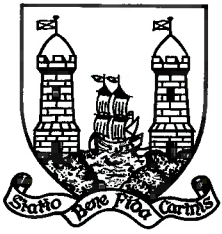
Person/Agent acting on behalf of the Applicant

Ciaran Dineen,
McCutcheon Halley,
6 Joyce House,
Barrack Square,
Ballincollig,
Cork.
P31 YX97

AN COIMISIÚN PLEANÁLA	
LDG-	086754-26
ACP-	
24 FEB 2026	
Fee: €	110 Type: Bank draft
Time: 9:15	By: Reg post



We are Cork.



Comhairle Cathrach Chorcaí **Cork City Council**

Halla na Cathrach, Corcaigh - City Hall, Cork - T12 T997

Copies of the following documents are included in the appendices of this referral:

- Referral under Section 5(4) of the Planning and Development Act 2000
- Section 5 Declaration application, R1019/26.
- Section 5 Declaration detailed submission.

Should additional information be required, please contact me directly on 021 492 4584.

Yours sincerely,

Anthony Angelini

Anthony Angelini,
Assistant Staff Officer
Planning and Integrated Development
Cork City Council



We are Cork.

The Secretary
An Comisiún Pleanála
64 Marlborough Street
Dublin 1
D01 V902

4/02/2026

Referral under Section 5(4) of the Planning and Development Act 2000

Cube Building, Monahan Road, Ballintemple, Cork

This referral is made under section 5(4) of the Planning and Development Act 2000 (as amended).

The referral is structured as follows:

1. Introduction
 2. Background
 3. Grounds of Referral
 4. Screening for EIA and Appropriate Assessment
 5. Conclusion
- Appendices 1 – 2

1. Introduction

1.1 Relevant Legislative Provision

All relevant legislative provisions of the Planning and Development Act, 2000 (as amended) and the Planning and Development Regulations, 2001 (as amended) are included as **Appendix 1** to this referral. In this referral, 'the Act' means the Planning and Development Act 2000, as amended, and 'the Regulations' means the Planning and Development Regulations 2001, as amended.

1.2 Particulars of Referral

Various particulars required under Section 127 of the Act are provided with this referral. The subject matter and grounds of the referral and the reasons, considerations and arguments on which they are based are included below in the body of this referral. Also enclosed is the fee of €110.

The referral is made by:

Development Management,
Planning and Integrated Development Directorate,
Cork City Council, City Hall, Cork
Telephone: 021-492-4584
Email: anthony_angelini@corkcity.ie

1.3 The Question Referred

As per the application received from Cherryinn Limited, owners of the property, the question referred to here, as set out by the applicant is:

- 1) Whether the change of use at ground floor, second floor and third floor of the Cube Building from office use to use to temporarily accommodate or support displaced persons or persons seeking international protection is exempted development as per the provisions of Class**

20F of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended)?

The associated works to facilitate the proposed use will only affect the interior of the building and therefore comes within the exempted development provisions of Section 4(1)(h) of the Planning and Development Act, 2000

1.4 The Referral Site

For ease of reference, the lands which are the subject of this referral are referred to as 'the referral site'.

The referral site is located on Monahans Road, a predominantly commercial/industrial area to the South of the River Lee in the South Docklands area of Cork City. It consists of a four-storey, over basement business and technology office building.

The referral site is zoned, in the *Cork City Development Plan 2022-2028 (CCDP)* as **ZO 4 - Mixed Use Development zoning** where it is an objective: *To provide and promote a mix of residential and other uses to ensure the creation of a vibrant and sustainable urban area.*

2. Background

2.1 General Background

The subject referral to the Board is subsequent to a request for a Planning Authority declaration on the question as set out in Section 1.3 above. The request for a declaration is recorded under Cork City Council Ref: R1019/25. It should be noted that the referral is a 1st Party referral.

The application and cover letter, submitted to Cork City Council on 15th January 2026, by McCutcheon Halley Planning Consultants are attached hereto as **Appendix 2**.

2.2 Previous Referral to ABP as yet undecided R918/25 – RL28.322371

The Planning Authority notes that a similar referral question on an identical site was made to ABP by Cork City Council in April 2025 under Section 5(4) of the Planning and Development Act 2000. This Referral Question is as yet undecided by ACP.

See referral question below:

- 1) Whether the temporary change of use of the basement, ground, first, second, and third floors of the Cube building from office use to residential accommodation for International Protection Applicants as per the provisions of class 20F of Part 1 of schedule 2 of the Planning and Development Regulations 2001 (as amended) is development and, if so, is it exempted development?.**

2.2 Site Planning History

TP 20/39182 Permission GRANTED for the alteration of south elevation by the inclusion of new windows at first floor level, and associated works at Cube, Monahan Road, Cork.

TP 16/37179 Permission GRANTED for the alteration of west elevation by the inclusion of new windows, door and associated works at Cube, Monahan Road, Cork.

- TP 08/33194 Permission GRANTED for construction of ESB Substation and Switch Room to service Business and Technology building granted under Reg. No. 06/30815 at Business & Technology Building, Monahan Road, Cork.
- TP 06/30815 Permission GRANTED to demolish existing warehouses and construction of business and technology building comprising of a single level basement carpark, 5 storey building for office use with central courtyard, 2 no. vehicle access points, drop off layby and associated site works at Monahan Road, Cork.

2.3 Development Plan Objectives

Cork City Development Plan 2022-2028

The Cork City Development Plan 2022-2028 (CCDP) was made by the elected members of Cork City Council on 10 June 2022 and came into effect on 8 August 2022.

Zoning Objective ZO-04 - Mixed Use Development zoning where it is an objective: *To provide and promote a mix of residential and other uses to ensure the creation of a vibrant and sustainable urban area.*

3. Grounds of Referral

Given that the question being referred in the subject application is on an identical site and almost identical to that posed previously under **R918/25 – RL28.322371 (as yet undecided by ACP)**, the Planning Authority requests that An Comisiún determine whether the change of use proposed, is exempted development. It is considered that the key question is:

- 1) **Whether the change of use at ground floor, second floor and third floor of the Cube Building from office use to use to temporarily accommodate or support displaced persons or persons seeking international protection is exempted development as per the provisions of Class 20F of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended)?**

The associated works to facilitate the proposed use will only affect the interior of the building and therefore comes within the exempted development provisions of Section 4(1)(h) of the Planning and Development Act, 2000

4. Environmental Assessment

Screening for Environmental Impact Assessment

Having regard to the contents of Article 103 (as amended by Article 14 of the Planning and Development (Amendment) (No 3) Regulations 2011) and Schedule 7 of the Planning and Development Regulations 2001 (as amended) it is considered that the proposed development by reason of its nature, scale and location would not be likely to have significant effects on the environment. Accordingly, it is considered that an environmental impact statement is not required to be submitted.

Screening for Appropriate Assessment

Section 177U (9) of the Act requires planning authorities to screen applications for a section 5 declaration for appropriate assessment. The provisions of the *Habitats Directive*, the *Appropriate Assessment Guidelines for Planning Authorities 2009* (revised 2010) and the Act are noted. The relevant European sites are the Cork Harbour SPA (site code 004030) and the Great Island Channel

cSAC (site code 001058). Having regard to the location of the proposed development site relative to these European sites and related watercourses and to the nature and scale of the proposed development it is considered that the proposed development would not affect the integrity of the European sites referred to above. Accordingly, it is considered that appropriate assessment is not required.

5. Conclusion

The planning authority looks forward to the Board's consideration and determination of this referral.

Please do not hesitate to contact this office should any further information be required.

encl.

Appendix 1 – Legislative Provisions

Appendix 2 – Section 5 Application, cover letter and supporting documents submitted by the applicant

Fee – €110

Appendix 1 – Legislative Provisions

Planning and Development Act, 2000 (As Amended)

Section 3(1) Development

3.—(1) In this Act, “development” means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land.

4.— Section 4(1a), Exempted Development

(1) The following shall be exempted developments for the purposes of this Act—

(a) development consisting of the use of any land for the purpose of agriculture and development consisting of the use for that purpose of any building occupied together with land so used;

Section 4(2),

(2) (a) The Minister may by regulations provide for any class of development to be exempted development for the purposes of this Act where he or she is of the opinion that—

(i) by reason of the size, nature or limited effect on its surroundings, of development belonging to that class, the carrying out of such development would not offend against principles of proper planning and sustainable development, or

(ii) the development is authorised, or is required to be authorised, by or under any enactment (whether the authorisation takes the form of the grant of a licence, consent, approval or any other type of authorisation) where the enactment concerned requires there to be consultation (howsoever described) with members of the public in relation to the proposed development prior to the granting of the authorisation (howsoever described).

(b) Regulations under *paragraph (a)* may be subject to conditions and be of general application or apply to such area or place as may be specified in the regulations.

(c) Regulations under this subsection may, in particular and without prejudice to the generality of *paragraph (a)*, provide, in the case of structures or other land used for a purpose of any specified class, for the use thereof for any other purpose being exempted development for the purposes of this Act.

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.

Section 5(1)

5.—(1) If any question arises as to what, in any particular case, is or is not development or is or is not exempted development within the meaning of this Act, any person may, on payment of the prescribed fee, request in writing from the relevant planning authority a declaration on that question, and that person shall provide to the planning authority any information necessary to enable the authority to make its decision on the matter.

Section 5(4),

(1) Notwithstanding *subsection (1)*, a planning authority may, on payment to the Board of such fee as may be prescribed, refer any question as to what, in any particular case, is or is not development or is or is not exempted development to be decided by the Board.

Planning and Development Regulations 2001 (As Amended)

Article 6 (1)

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.

Schedule 2 – Part 1 – Exempted Development – General

Column 1 Description of Development	Column 2 Conditions and Limitations
CLASS 20F 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.	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 <u>section 2 (1) of the International Protection Act 2015</u> (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."
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Article 9 (1)

Development to which article 6 relates shall not be exempted development for the purposes of the Act –

- (a) (i) if the carrying out of such development would... contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,
- (a) (viii) 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,

Appendix 2 – Section 5 Application, cover letter and supporting documents submitted by the applicant

COMHAIRLE CATHRACH CHORCAÍ CORK CITY COUNCIL

Community, Culture & Placemaking Directorate,
Cork City Council, City Hall, Anglesea Street, Cork.

R-Phost/E-Mail planning@corkcity.ie

Fón/Tel: 021-4924029

Líonra/Web: www.corkcity.ie

SECTION 5 DECLARATION APPLICATION FORM under Section 5 of the Planning & Development Acts 2000 (as amended)

1. NAME OF PERSON MAKING THE REQUEST

Cherryinn Limited

2. POSTAL ADDRESS OF LAND OR STRUCTURE FOR WHICH DECLARATION IS SOUGHT

The Cube Building, Monahan Rd, Ballintemple, Cork, T12 H1XY

3. QUESTION/ DECLARATION DETAILS

PLEASE STATE THE SPECIFIC QUESTION FOR WHICH A DECLARATION IS SOUGHT:

Sample Question: *Is the construction of a shed at No 1 Wall St, Cork development and if so, is it exempted development?*

Note: only works listed and described under this section will be assessed under the section 5 declaration.

1: Is the change of use at ground floor, second floor and third floor of the Cube Building from office use to use to temporarily accommodate or support displaced persons or persons seeking international protection exempted development as per the provisions of Class 20F of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended)?

The associated works to facilitate the proposed use will only effect the interior of the building and therefore comes within the exempted development provisions of Section 4(1)(h) of the Planning and Development Act, 2000

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:

(Use additional sheets if required).

Please refer to Covering Letter by McCutcheon Halley Planning Consultations enclosed with this declaration

4. Are you aware of any enforcement proceedings connected to this site?

If so please supply details:

NO

5. Is this a Protected Structure or within the curtilage of a Protected Structure? ☐ NO

If yes, has a Declaration under Section 57 of the Planning & Development Act 2000 been requested or issued for the property by the Planning Authority? ☐

6. Was there previous relevant planning application/s on this site? ☒

If so please supply details:

Please refer to Covering Letter

7. APPLICATION DETAILS

Answer the following if applicable. Note: Floor areas are measured from the inside of the external walls and should be indicated in square meters (sq. M)

(a) Floor area of existing/proposed structure/s	Proposed: Ground Floor - 2455sqm Second Floor - 2552sqm. Third Floor - 2552sqm
(b) If a domestic extension, have any previous extensions/structures been erected at this location after 1 st October, 1964, (including those for which planning permission has been obtained)?	Yes ☐ No ☐ If yes, please provide floor areas. (sq m)
(c) If concerning a change of use of land and / or building(s), please state the following:	
<u>Existing</u> /previous use (please circle) Office use	<u>Proposed</u> existing use (please circle) Use to accommodate or support displaced persons or persons seeking international protection

7. LEGAL INTEREST

Please tick appropriate box to show applicant's legal interest in the land or structure	A. Owner X	B. Other
Where legal interest is 'Other', please state your interest in the land/structure in question		
If you are not the legal owner, please state the name of the owner if available		

8. I / We confirm that the information contained in the application is true and accurate:

Signature: 

Date: January 15th 2026

CONFIDENTIAL CONTACT DETAILS

These details will not be made available to the public.

9. Applicant:

Name(s)	Cherryinn Limited
Address	Thomas House, McCurtain Street, Cork, T23PD3C

10. Person/Agent acting on behalf of the Applicant (if any):

Name(s):	Ciaran Dineen - McCutcheon Halley Planning Consultants		
Address:	6 Joyce House Barrack Square Ballincollig Cork		
Telephone:	021-4208710		
E-mail address:	cdineen@mhplanning.ie		
Should all correspondence be sent to the above address? (Please note that if the answer is 'No', all correspondence will be sent to the Applicant's address)		Yes ☒	No ☐

11. Owner Details (if the applicant above is not the legal owner):

Name(s)	N/A
Address	N/A

12. ADDITIONAL CONTACT DETAILS

The provision of additional contact information such as email addresses or phone numbers is voluntary and will only be used by the Planning Authority to contact you should it be deemed necessary for the purposes of administering the application.

Tel. No. _____

Mobile No. _____

Email Address: _____

ADVISORY NOTES:

The application must be accompanied by the required fee of €80. Payment may be made at the Cork City Council cash desk, by cheque, by telephone with a credit/debit card, or by electronic fund transfer.

The application should be accompanied by a site location map which is based on the Ordnance Survey map for the area, is a scale not less than 1:1000 and it shall clearly identify the site in question.

Sufficient information should be submitted to enable the Planning Authority to make a decision. If applicable, any plans submitted should be to scale and based on an accurate survey of the lands/structure in question.

The application should be sent to the following address:

**The Development Management Section, Community, Culture & Placemaking
Directorate, Cork City Council, City Hall, Anglesea Street, Cork.**

Please email planning@corkcity.ie with any queries.

- The Planning Authority may request other person(s) other than the applicant to submit information on the question which has arisen and on which the declaration is sought.
- Any person issued with a declaration may on payment to An Bord Pleanála refer a declaration for review by the Board within 4 weeks of the date of the issuing of the declaration.
- In the event that no declaration is issued by the Planning Authority, any person who made a request may on payment to the Board of such a fee as may be prescribed, refer the question for decision to the Board within 4 weeks of the date that a declaration was due to be issued by the Planning Authority.

The application form and advisory notes are non-statutory documents prepared by Cork City Council for the purpose of advising as to the type information is normally required to enable the Planning Authority to issue a declaration under Section 5. This document does not purport to be a legal interpretation of the statutory legislation nor does it state to be a legal requirement under the Planning and Development Act 2000 as amended, or Planning and Development Regulations 2001 as amended.

DATA PROTECTION

"Cork City Council is committed to fulfilling its obligations imposed by the Data Protection Acts 1988 to 2018 and the GDPR. Our privacy statement and data protection policy is available at <https://www.corkcity.ie/en/council-services/public-info/gdpr/>

We request that you read these as they contain important information about how we process personal data.

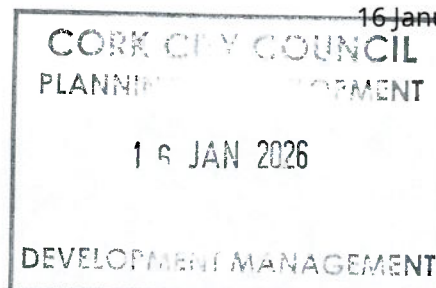
1. Plan, drawings and maps accompanying an application for a Section 5 Declaration on exempted development shall all be in metric scale and comply with the following requirements:-

* NOTE 2 COPIES OF PLANS AND PARTICULARS ARE REQUIRED

- (a) site or layout plans shall be drawn to a scale of not less than 1:500 (which shall be indicated thereon), the site boundary shall be clearly delineated in red, and buildings, roads, boundaries, septic tanks and percolation areas, bored wells, significant tree stands and other features on, adjoining or in the vicinity of the land or structure to which the application relates shall be shown, land which adjoins, abuts or is adjacent to the land to be developed and which is under the control of the applicant or the person who owns the land, which is subject of the application, shall be outlined in blue and wayleaves shall be shown in yellow,
 - (b) other plans, elevations and sections shall be drawn to a scale of not less than 1:200 (which shall be indicated thereon), or such scale as may be agreed with the Planning Authority prior to the submission of the application in any particular case,
 - (c) the site layout plan and other plans shall show the level or contours, where applicable, of any land and the proposed structures relative to Ordnance survey datum or a temporary local benchmark,
 - (d) drawings of elevations of any proposed structure shall show the main features of any buildings which would be contiguous to the proposed structure if it were erected, whether on the application site or in the vicinity at a scale of not less than 1:200, as may be appropriate,
 - (e) plans relating to works comprising reconstruction, alteration or extension of a structure shall be so marked or coloured as to distinguish between the existing structure and the works proposed,
 - (f) plans and drawings of floor plans, elevations and sections shall indicate in figures the principal dimensions (including overall height) of any proposed structure and the site, and site layout plans shall indicate the distances of any such structure from the boundaries of the site,
 - (g) any map or plan which is based on an Ordnance Survey map shall indicate the relevant Ordnance survey sheet number,
 - (h) the north point shall be indicated on all maps and plans other than drawings of elevations and sections,
 - (i) plans and drawings shall indicate the name and address of the person by whom they were prepared.
2. An application for development consisting of or comprising the carrying out of works to a protected structure, or proposed protected structure or to the exterior of a structure which is located within an architectural conservation area in a draft of a proposed development plan or a proposed variation of a development plan, shall, in addition to meeting the requirements above, be accompanied by such photographs, plans and other particulars as are necessary to show how the development would affect the character of the structure.
 3. A planning authority may, by notice in writing, require an applicant to provide additional copies of any plan, drawing, map, photograph or other particular, which accompanies the application.

The Secretary
Planning Department
Cork City Council
City Hall
Cork

16 January 2026



Re: Request for a section 5 Declaration seeking confirmation that the change of use at ground floor, second floor and third floor of the Cube Building from office use to use to temporarily accommodate or support displaced persons or persons seeking international protection is exempted development as per the provisions of Class 20F of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (As amended).

Dear Sir/Madam,

We act on behalf of our client, Cherryinn Limited in relation to The Cube Building, Monahan Road, Ballintemple, Cork. Our client is requesting a declaration in accordance with Section 5 of the Planning and Development Act 2000 (as amended), seeking confirmation that the proposed development is exempted development on the basis that:

- The change of use of the ground, second and third floors of the Cube building from office use to use to temporarily accommodate or support displaced persons or persons seeking international protection is exempted development as per the provisions of Class 20F of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended).
- The associated works to facilitate the proposed use will affect only the **interior** of the structure and therefore come within the exempted development provisions of Section 4(1)(h) of the Planning and Development Act, 2000.

In accordance with the Council's requirements for a Section 5 declaration, this cover letter is accompanied by:

- Section 5 Application Form
- Ordnance Survey Map (identifying site location);
- Drawings of existing floors of the building
- Drawings for the proposed use at ground, second and third floor levels;
- Letter of interest from the Department of Children, Equality, Disability Integration and Youth
- Copy of consultation with the Health and Safety Authority
- The appropriate referral fee of €80.00.

Site Context

The Cube Building is located on Monahan Road in Ballintemple, on the eastern edge of Cork city centre. The building is positioned on the south side of the road and sits adjacent to the roadside between two industrial sites, one of which has a road level car park. The site is 1.4 kilometres from the city centre.



Figure 1 – site marked in red

The building itself is a five-storey office building with internal parking provision at basement level.

There are no protected structures on the site and it is not located within an Architectural Conservation Area.

Planning History

Parent Planning Permission

Ref. No. 06/30815

Monahan Road Development Ltd sought permission to, 'Demolish existing warehouses and construction of business and technology building comprising of a single level basement carpark, 5 storey building for office use with central courtyard, 2 no. vehicle access points, drop off layby and associated site work.'

Cork City Council granted permission on January 30th, 2007.

Modifications to the Parent Permission

Ref. No. 08/33194

Monahan Road Development Ltd. applied for permission 'For construction of ESB Substation and Switch Room to service Business and Technology building granted under Reg. No. 06/30815.'

A grant of permission was issued by Cork City Council on 9/9/2008

Ref. No. 16/37179

Monahan Road Development Ltd lodged an application for 'Alteration of west elevation by the inclusion of new windows, door and associated works.'

Cork City Council granted permission on 3/3/2017.

Ref. No. 19/38678

Monahan Road Development Ltd lodged an application for *'Permission for the provision of solar panels on the roof, the provision of illuminated signage to West Elevation and associated site works.'*

Cork City Council granted permission on 12/12/2019.

Ref. No. 20/39182

Monahan Road Development Ltd sought *'Permission for the alteration of south elevation by the inclusion of new windows at first floor level, and associated works.'*

A grant of permission was issued by Cork City Council on 4/8/2020

Cork City Council Ref No. R91825 and An Coimisiún Pleanála Ref No. 322371-25

On February 20th 2025, Cherryinn Limited submitted a Section 5 declaration to Cork City Council regarding a temporary change of use at basement, ground, first, second and third floors of the Cube Building, to accommodate or support displaced persons or persons seeking international protection.

In April 2025, Cork City Council referred the Section 5 Declaration directly to An Coimisiún Pleanála to determine the outcome. No decision has been forthcoming to date.

Planning Legislation/Regulations

In order to assess whether or not the proposal is or is not development and is or is not exempted development, regard must be had to the 2000 Planning and Development Act (as amended) and the 2001 Planning and Development Regulations (as amended). The principal provisions of both the Act and the Regulations are outlined below.

Planning and Development Acts, 2000 (as amended)

Section 2 of the 2000 Planning and Development Act, as amended (PDA), includes the following definitions which are of relevance to this assessment:

***“Structure”** means any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined, and—*

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

(b) in relation to a protected structure or proposed protected structure, includes—

a. the interior of the structure,

b. the land lying within the curtilage of the structure,

c. any other structures lying within that curtilage and their interiors, and

d. all fixtures and features which form part of the interior or exterior of any structure or structures referred to in subparagraph (i) or (iii);

Section 3(1) of the PDA defines “Development” as, ‘except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land’.

Section 4 of the PDA relates to ‘Exempted Development’ and subsection (1) sets out categories of development that shall be exempted development, including subsection 4(1)(h) which includes:

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

Section 4 (1)(h) of the Act states that works which affect only the **interior of the structure** or which do not materially affect the external appearance of the structure will be considered exempted development.

Section 4(2)(a) states that the Minister may by regulations provide for any class of development to be exempted development where he or she is of the opinion that the carrying out of such development by virtue of its size, nature or limited effect on its surroundings, would not offend against the principles of proper planning and sustainable development.

Section 4(2)(b) of the Act states that regulations under paragraph (a) may be made subject to conditions and be of general application or apply to such area or place as may be specified in the regulations.

Planning and Development Regulations, 2001 (as amended)

Under the provisions of the Planning and Development Regulations 2001 (as amended), Article 6 provides 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."

It is submitted that the proposed development falls within Class 20F, which relates to the temporary use to accommodate or support displaced persons or persons seeking international protection.

Table 1 – Provisions associated with Class 20F of the Planning and Development Regulations 2001 and associated conditions and limitations.

Column 1 Description of Development	Column 2 Conditions and Limitations
CLASS 20F 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	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 2022¹ comes to an end in accordance with Article 6 of the Council Directive 2001/55/EC of 20 July 2001². 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.

public worship or religious instruction.	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.
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Article 10(1) of Part 2 provides that development which consists of a change of use within any of the classes of use specified in Part 4 of Schedule 2 shall be exempted development provided that it would not involve the carrying out of any works (other than exempted development works), contravene a condition of any permission, be inconsistent with any use specified in such a permission, or relate to unauthorised development.

HSA Guidance on Technical Land Use Planning Advice

The Technical Land Use Planning advice (TLUP) report is a Guidance document published by the Health and Safety Authority (HSA). The document outlines how the HSA will go about developing the required technical advice which it must provide planning authorities with respect to planning applications. The document categorises 'zones' in terms of a site's proximity to a Seveso Site and identifies a hierarchy of 'Levels' of development which can be deemed either suitable or unsuitable in the context of the 'zone' that it is identified within.

For sites located in the 'Outer Zone' of a Seveso site, uses identified in the TLUP report ranging from Levels 1, 2 and 3 are suitable.

	Inner Zone (Zone 1)	Middle Zone (Zone 2)	Outer Zone (Zone 3)
Level 1	✓	✓	✓
Level 2	✗	✓	✓
Level 3	✗	✗	✓
Level 4	✗	✗	✗

Figure 2 – Nature of TLUP advice provided for each zone as per the HSA TLUP report.

Appendix 3 of the TLUP provides a sample, but not limited, list of uses which would be considered permissible in Outer Zone defined areas. This includes 'Accommodation of more than 100 beds or 33 caravans/tent pitches.' Examples of which include 'Larger hotels, motels, hostels, youth hostels, holiday camps, holiday homes, halls of residence, dormitories, holiday caravan sites, camping sites.'

Outer zone (individual risk less than 10 ⁻⁶ and greater than or equal to 10 ⁻⁷ per year):				
Zone	DEVELOPMENT DETAIL AND SIZE	EXAMPLES	DEVELOPMENT TYPE	REF
3	Larger developments for more than 30 dwelling units	Larger housing developments.	Housing	2.1.2
3	Any developments (for more than two dwelling units) at a density of more than 40 dwelling units per hectare.	Developments at high density.	Housing	2.1.3
3	Accommodation of more than 100 beds or 33 caravans/tent pitches.	Larger – hotels, motels, hostels, youth hostels, holiday camps, holiday homes, halls of residence, dormitories, holiday caravan sites, camping sites.	Hotel/Hostel/Holiday accommodation	2.2.2
3	Development with more than 5000 m ² total floor space.		Indoor use by the public	2.4.2
3	Predominantly open-air developments likely to attract the general public in numbers greater than 100 people, but up to 1,000 people at any one time.	Outdoor markets, car boot sales, funfairs. Picnic area, park and ride facilities, viewing stands, marquees.	Outdoor use by the public	2.5.1
3	Workplaces (predominantly non-retail) specifically for people with disabilities.	Rehabilitation and training services for people with disabilities.	Workplaces	1.1.2
3	Institutional, educational and special accommodation for vulnerable people, or that provides a protective environment.	Hospitals, convalescent homes, nursing homes. Housing for elderly with warden on-site or 'on call', sheltered housing. Nurseries, crèches. Schools and academies for children up to school-leaving age.	Institutional accommodation and education	3.1
3	Secure accommodation for those sentenced by court, or awaiting trial.	Prisons, detention facilities, remand centres.	Places of detention	3.2

Figure 3 – Suitable uses within the 'Outer Zone' as per the TLUP

The HSA have been consulted as part of this Declaration request and have confirmed that The Cube Building is located within the 'Outer Zone' in respect of Goulding's Chemicals. Evidence of the consultation with the HSA is enclosed with this Declaration and is appended to this covering letter.

Assessment

In accordance with Section 5 of the Planning and Development Act 2000, our client is seeking confirmation that the temporary change of use from office to accommodate or support displaced persons or persons seeking international protection at the Cube Building located on Monahan Road, Cork City, at ground, second and third floor levels is exempted development.

The parent permission for the Cube Building, ref. no. 06/30815, has been outlined above. This permission established the use of the building as 'a business technology building comprising of a single level basement

carpark, 5 storey building for **office use**'. Confirmation of the building use is stated in Condition No.5 attached to the permission which states the following:

The proposed commercial uses shall be restricted to Business and Technology uses as defined in paragraph 10.6 of the Cork City Development Plan 2004 and subject to agreement of the Planning Authority.'

Paragraph 10.6 of the 2004 Cork City Development Plan states that the objective of 'Business and Technology zoning is:

To provide for high technology related office-based industry.

*The purpose of this zoning objective is to encourage the provision of **office based industry**. These industries include software development, commercial research and development, publishing, information technology, telemarketing, data processing, media recording and media associated activities. Light industrial uses will also be permitted in this zone. Companies providing technical professional services to industry may be considered as an office based industry where they occupy space greater than 1000 sq. m.'*

The parent permission for the building confirms that the permitted use of the building is 'office'. Class 20F of the Planning and Development Regulations 2001 states that this exemption applies to 'any structure or part of a structure used as a....office'.

The proposed temporary change of use only relates to part of an existing office block, with proposed change of use at ground, second and third floors. No change of use is proposed for the basement level or first and fourth floors of the building. The change of use of 'part of a structure' is consistent with the provisions of Class 20F, which covers the proposal presented for The Cube Building.

In accordance with the conditions and limitations associated with Class 20F, as outlined in Table 1 above, the following will apply in respect of the proposal:

- The temporary use will only be for the purposes of accommodating or supporting displaced persons or persons seeking international protection;
- Subject to paragraph 4 class 20F, 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 comes to an end in accordance with Article 6 of the Council Directive 2001/55/EC of 20 July 2001.
- The use for the purposes of accommodating persons seeking international protection will be discontinued within the timeframe outlined in the Conditions and Limitations for Class 20F.
- Where the obligation to provide temporary protection is discontinued in accordance with paragraph 2 of Class 20F, on a date that is earlier than 31 December 2028, the temporary use will continue for the purposes of accommodating persons seeking international protection in accordance with paragraph 3 of class 20F.
- Cork City Council has been notified of the proposed change of use.

In addition to the above, the proposed change of use also complies with the provisions of Article 9(1)(a) of the Planning Regulations in that the proposed change of use:

- will not contravene a condition attached to a permission;

- will not consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway;
- will not endanger public safety by reason of traffic hazard or obstruction of road users;
- will not comprise the construction, erection, extension or renewal of a building on any street so as to bring forward the building, or any part of the building, beyond the front wall of the building;
- will not interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation;
- will not have any effect on the integrity of a European site or natural heritage area;
- will not consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure;
- will not preclude or restrict the continuance of the existing use;
- will not obstruct any public right of way;
- will not comprise the carrying out of works to the exterior of a structure within an architectural conservation area.

In addition to the above, the associated works to facilitate the proposed temporary use will affect only the **interior of the structure** and therefore comes within the exempted development provisions of Section 4(1)(h) of the Planning and Development Act, 2000 which states that *'development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures will be exempted development.'*

With regards to the Seveso consultation distance within which The Cube is located due to its proximity to Goulding's Chemicals, consultation has been undertaken with the HSA as part of the preparation of this Declaration.

Evidence of the consultation with the HSA is enclosed with this Declaration and is appended to this covering letter. The HSA have confirmed that The Cube Building is located within the **'Outer Zone'** of the contour mapping associated with Goulding's Chemicals.

As referenced above, a non-exhaustive list of suitable uses within outer zone areas is provided in Appendix 3 of the HSA TLUP document. According to this document, suitable uses in the outer zone include **'Accommodation of more than 100 beds or 33 caravans/tent pitches.'**

The proposed change of use at The Cube Building is consistent with such permissible uses identified by the TLUP report.

Conclusion

The proposed temporary change of use of the ground, second and third floors of the Cube Building from office use to use to temporarily accommodate or support displaced persons or persons seeking international protection is exempted development as per the provisions of Class 20F of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (As amended) and complies with all of the criteria included in Article 9(1)(a) of the Planning Regulations. The internal works are exempted development under Section 4(1)(h) of the Planning and Development Act.

Accordingly, it is submitted that the change of use from Office building to accommodate international protection applicants (Class 20F) at the Cube Building located on Monahan Road, Ballintemple, Cork City, at ground, second and third floors levels- keeping floor one and four as office use, is exempted development on the basis that:

- The change of use complies with the provisions of Class 20F of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended).
- The associated works to facilitate the proposed use will affect only the interior of the structure and therefore come within the exempted development provisions of Section 4(1)(h) of the Planning and Development Act, 2000.

We would kindly ask the Planning Authority that in light of the material furnished as part of this declaration, alongside a clear, concise explanation of the proposed change of use, that a decision on this declaration within the appropriate statutory period is made.

Given the temporary nature of the Class 20F exemption, which only allows for a temporary change of use up until 31st December 2028, we ask the Planning Authority to come to their own determination on this matter.

Please do not hesitate to contact us should you require any further information.

Yours sincerely



Ciaran Dineen

McCutcheon Halley

Appendix 1 – Consultation with HSA



Claran Dineen

From: **Fergus O'Regan <Fergus.ORegan@hsa.ie>**
Sent: Monday 15 December 2025 14:45
To: **Claran Dineen**
Subject: RE: HSA:0246000000017

NOTE: This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi **Claran**

Currently, the TLUP contour maps are not publically available.

The 'Cube Building' as shown in your Figure below is in the outer zone.

The edge of the outer zone in this area extends to roughly just past the adjacent building to the east.

Please refer to Table 4 and Appendix 2 in the HSA TLUP Guidance to determine what development is permitted in the outer zone.

Kind Regards,

Fergus

Fergus O'Regan

Inspector, COMAH Chemical Production & Storage

Tel.: 01 614 7030

Email: **Fergus.ORegan@hsa.ie**

Web: www.hsa.ie

Health and Safety Authority
3rd Floor
1A South Mall
Cork
T12 P7DE

An tÚdarás Sláinte agus Sábháilteachta
An 3ú hUirlár
1A An Meal Theas
Corcaigh
T12 P7DE



An tÚdarás Sláinte agus Sábháilteachta
Health and Safety Authority

Ár bhFís: Saolta agus flontair shláintiúla, shábháilte agus tháirgiúla
Our Vision: Healthy, safe and productive lives and enterprises

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[HSA YouTube](#)

----- Original Message -----

From: **Claran Dineen <cdineen@mhplanning.ie>**
Received: Wed Dec 10 2025 11:17:53 GMT+0000 (Greenwich Mean Time)
To: **Ita Daly <ita_daly@hsa.ie>**
Subject: RE: HSA:0246000000017

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If suspicious, please contact the HSA IT Helpdesk (ITHelpDesk@hsa.ie) or call 01 614 7034..

Hi [REDACTED]

That's great thanks.

The building in question is The Cube on Monahan Road. We are looking to ascertain which zone the building falls under with regards to proximity to Gouldings. Ideally the 'Inner, Middle, Outer' map for Gouldings would be shared just so that we might be able to overlay it onto our own drawings. Failing that, some indication as to where 'middle' and 'outer' zones start and end would be helpful as I understand that this building is located close to both.



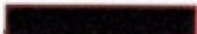
Appendix 2 – Letter of Interest from the Department



An Roinn Leanaí, Comhionannais,
Míchumais, Lánpháirtíocht agus Oige
Department of Children, Equality,
Disability, Integration and Youth



**RE: Provision of Accommodation for International Protection Applicants at The Cube,
Monahan Road, Co. Cork, T12H1XY.**

Dear Mr. 

I can confirm that the Department is interested utilising the above property for the accommodation of International Protection applicants subject to all planning, change of use, building control, Certificate of Compliance on Completion (CCC), fire and insurance certifications being in place and subject to contract/contract denied.



If you have any queries regarding the above, please contact me at



Yours sincerely,



An Roinn Leanaí
Comhionannais, Míchumais
Lánpháirtíocht agus Oige
Department of Children
Equality, Disability, Integration
and Youth

Bloc 1, Plaza Miesach, 50-58 Sráid Bhagóid Iochtarach, Baile Átha Cliath 2. D02 XW14
Block 1, Miesian Plaza, 50-58 Baggot Street Lower, Dublin 2. D02 XW14
T +353 1 647 3000 | contact@equality.gov.ie
www.equality.gov.ie