



Hughes Planning & Development Consultants

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

An Bord Pleanála,
64 Marlborough Street,
Rotunda,
Dublin 1

9th February 2022

Re: Section 5 Declaration Referral against the decision of Meath County Council under Reg. Ref. TAS52160 for the use of hoarding at The Johnstown House Estate, Enfield, Co. Meath.

| | |
|--|-------------------|
| Meath County Council Reg. Ref: | TAS52160 |
| Date of Planning Authority Decision: | 13/01/2022 |
| Final Date for Lodgement of Section 5 Declaration Referral: | 09/02/2022 |

Dear Sir/Madam,

Hughes Planning and Development Consultants, 85 Merrion Square, Dublin 2, have been instructed by our client Lefgem Limited, Unit 7, Turnpike Lane, Dublin 22 to submit an appeal against the decision of the of Meath County Council to refuse the use of hoarding as exempted development at The Johnstown House Estate, Enfield, Co. Meath under Reg. Ref. TAS52160.

To support this appeal, please find enclosed:

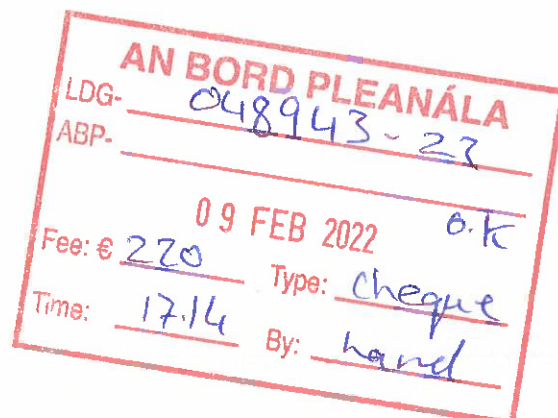
- 1 no. cheque for the appropriate fee of €220.
- 1 no. copy of Appeal Report prepared by Hughes Planning and Development Consultants.
- 1 no. copy of the declaration issued by Meath County Council on 13th January 2022.

The enclosed report sets out the grounds of appeal in greater detail. As such, we request that An Bord Pleanála overturn the decision of Meath County Council and declare the use of temporary hoarding as exempted development. This appeal is accompanied by the statutory fee of €220 and is being submitted within the appropriate timeframe.

Should you have any questions, please do not hesitate to contact the undersigned.

Yours Sincerely,

Kevin Hughes MIPI MRTPI
Director
For HPDC



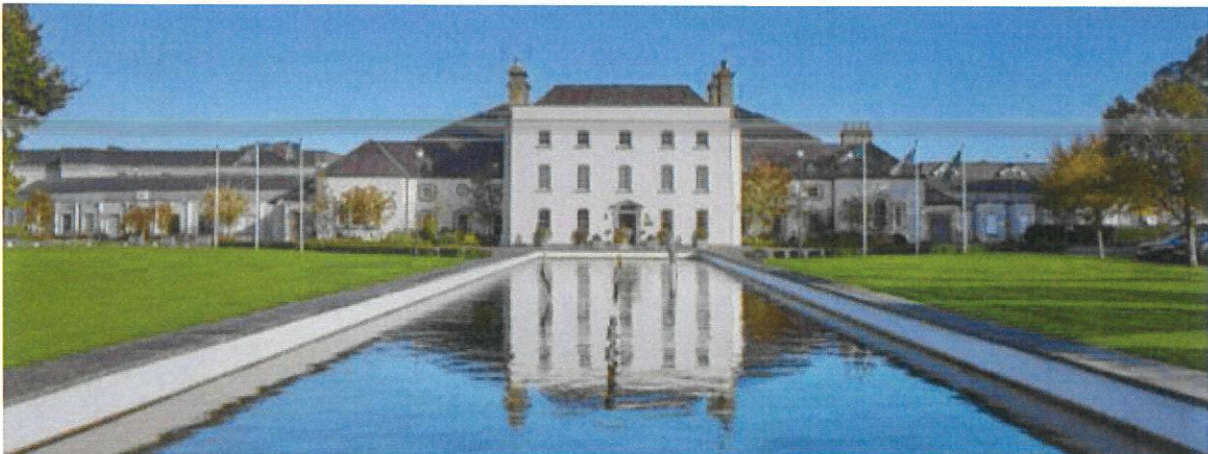
Referral of Section 5 Declaration

Declaration of Exempted Development for the Temporary Use of Hoarding.

The Johnstown House Estate,
Enfield,
Co. Meath.

Meath County Council Reg. Ref. TAS5/2160

February 2022



Submitted on behalf of:

Lefgem Limited,
Unit 7,
Turnpike Lane,
Dublin 22.



Hughes Planning & Development Consultants

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1.0 Introduction

This referral to An Bord 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 our client, Lefgem Limited, Unit 7, Turnpike Lane, Dublin 22, and relates to a Section 5 Declaration made by Meath County Council on 13th January 2022 under Reg. Ref. TAS52160, regarding the use of hoarding and advertising of Johnstown House Estate at The Johnstown House, Enfield, Co. Meath.

We request that An Bord Pleanála review the Section 5 Declaration issued by Meath County Council and make a determination that the use of hoarding and advertising of Johnstown House Estate at The Johnstown House, Enfield, Co. Meath, is exempted development. In the interests of clarity, we ask the following question to An Bord Pleanála:

“Whether the use of hoarding at Johnstown House Estate for the protection and privacy of goods and materials during a period of renovation and refurbishment works, constitutes exempted development.”

The prescribed fee of €220.00 is enclosed, along with a copy of declaration issued by Dublin City Council.

It is submitted that the temporary use of the hoarding constitutes exempted development as the hoarding is a temporary structure which is in place during the carrying out of refurbishment of works currently being undertaken in respect of 32 of the 40 guest lodges on the Estate (all of which are owner or controlled by the applicant). Those refurbishment works are uncontroversial and constitute exempted development pursuant to section 4(1)(h) of the Planning and Development Act 2000 (as amended), which provides as follows:

4.-(1) the following shall be exempted development for the purpose of this Act

- (h) development consisting of the carrying out of works for the maintenance, improvement or other alterations of any structure, being works which affect only the interior of the structure which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure if or of neighbouring structures”.*

Containers, the subject of a concurrent referral (TAS5/2161), are also being used for the protection of the lodge properties and furniture due to previous vandalism and theft at lodges during the carrying out of refurbishment works. The pieces of furniture which the containers and hoarding are seeking to secure consist of high-quality pieces, soft furnishings and pieces that are easily damaged and highly expensive. These pieces of furniture require careful and secure storage with adequate space to ensure no damage is caused pending their return to the lodges upon completion of the exempted refurbishment works.

Class 16 of the Planning and Development Regulations 2001-2021 outlines the following class of exempted development, which we contend clearly applies to the temporary use of hoarding at the Johnstown House:

“The erection, construction or placing on land on, in, over or under which, or on land adjoining which, development consisting of works (other than mining) is being or is about to be, carried out pursuant to a permission under Act or as exempted development, of structures, worked, plant or machinery needed temporarily in connection with that development during the period in which it is being carried out”.

In simple terms, we submit that the hoarding constitutes a structure *“needed temporarily in connection with”* exempted development to 32 of the guest lodges, solely for the period during which that development is being carried out.

1.1 Section 5 Declaration Issued by Meath County Council

On 13th January 2022, Meath County Council issued the following Section 5 Declaration on foot of the within application:

*"In pursuance of its functions under the Planning & Development Acts 2000-2021, Meath County Council has by order dated 13th January 2022 decided to declare the proposed development is **DEVELOPMENT** and is **NOT EXEMPTED DEVELOPMENT**, in accordance with the documents submitted"*

In light of this decision, we submit that the local authority's assessment has not duly considered a number of key items.

1.2 Summary of Grounds for Referral

The proposed use of temporary hoarding and advertisements constitutes exempted development by operation of section 4(1)(h) of the Planning and Development Act 2000 (as amended) and Class 16 of Schedule 2 of the Planning Regulations.

Meath County Council deemed the temporary use of hoarding as not being exempted development for the following reason:

"The use of hoarding and advertising of Johnstown House Estate throughout the overall site not considered to constitute exempted development as described in Schedule 2 Part 1 – (Exempted Development General), Class 16 of the Planning and Development Regulations, 2001 to 2021.

As per the provisions of Section 57(1) of the Planning and Development Act, 2000 to 2021, the works are located within the curtilage of a protected structure, are considered to materially affect the character of the protected structure therefore do not represent exempted development.

*Therefore, it is considered that the use of hoarding and advertising of Johnstown House Estate in this instance, it **not exempted development.**"*

The foregoing finding with regard to the supposed impact of the hoarding on the character of the protected structure (Johnstown House), is, it is submitted, misconceived. The use of the hoarding is expressly stated as being on temporary basis and therefore cannot materially affect the character of protected structure given their removal upon the completion of the refurbishment works.

It is also inconsistent with the finding of Meath County Council in respect of the concurrent section 5 application regarding as the use of bright pink paint works and distasteful graffiti slogans (TAS5/2162) on 6 of the 40 Lodges, which are owned and controlled by third parties. The local authority has found that those crudely daubed murals do not "*materially affect the character of the protected structure*" as the local authority has deemed the graffiti and murals to be exempted development. The applicant submits, conversely, that the temporary use of hoarding (painted in a subdued green colour) during the course of refurbishment works has no material impact on the character of Johnstown House, whereas the permanent and offensive paint works to the 6 referenced lodges clearly does negatively impact on the character of that protected structure.

2.0 Site Description

The subject site is located in Enfield, Co. Meath, which is located off the M4 Motorway. The Johnstown Estate is a luxurious hotel with 40 guest houses (32 of which are controlled by the applicant). The Estate provides extensive services, employment, and revenue to the local community Meath County Council. The Estate has become one of Ireland's premier leisure and hospitality destinations, recently having been ranked 4th in the Irish Independent Reader Travel Awards for Ireland's best spa's in 2022. The Estate also received the Fit Out Project of the Year Award in respect of the fit-out of its spa from the Fit Out Awarding Body in 2021.

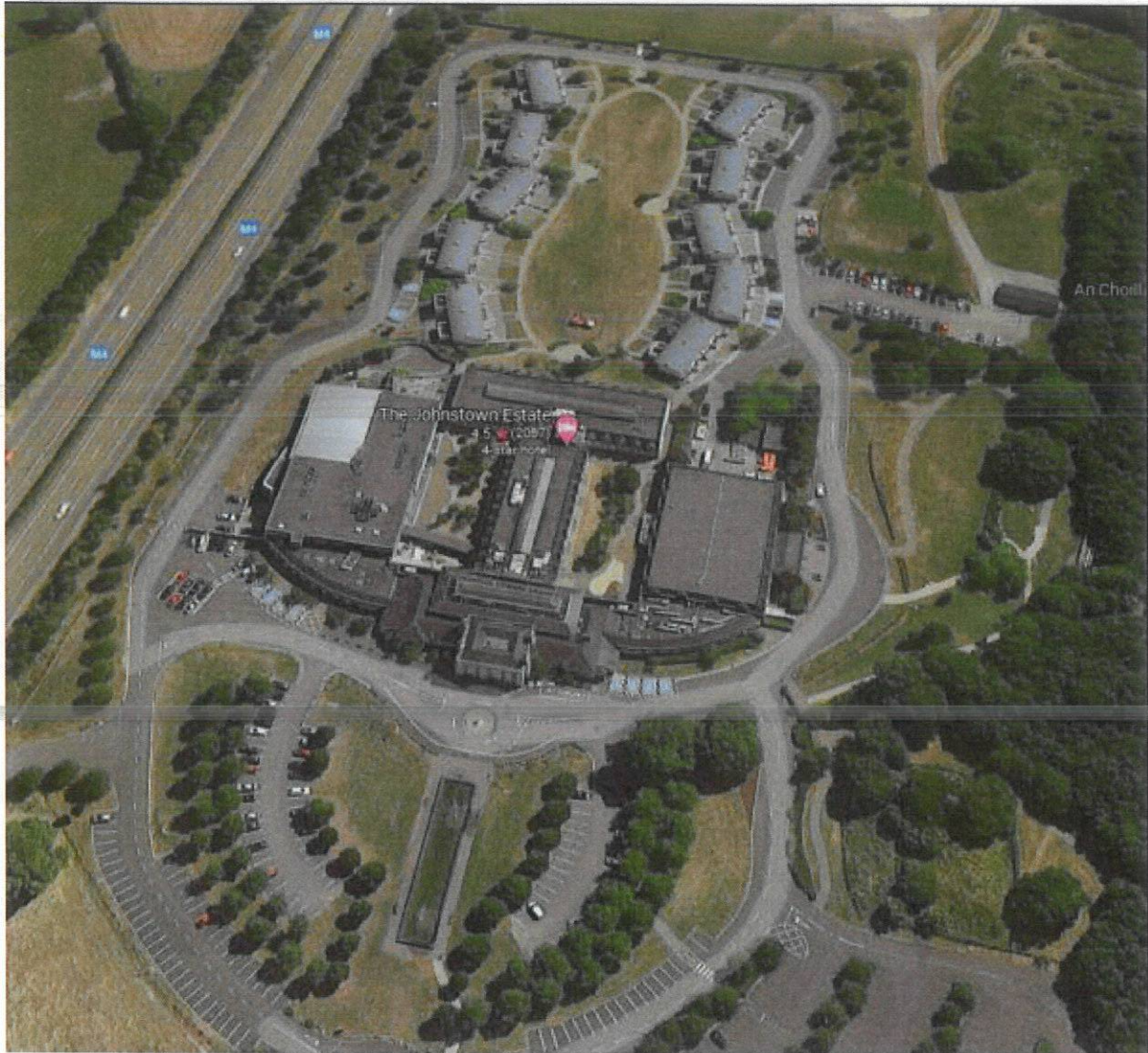


Figure 1.0 Bird's eye image indicating the subject site.



Figure 2.0 Indicating the subject site.

3.0 Planning History

Built in 1761, Johnstown House was the country residence of Colonel Francis Forde (a successful office of the East India Company), his wife Margaret and their five daughters. Colonel Forde was the seventh son of Matthew Forde, MP, of Coolgraney, Seaforde, County Down and the family seat is still in existence in the village of Seaforde, County Down. Colonel Forde's son Robert, who inherited Johnstown House, later served as a Member of Parliament for Thomastown, County Kilkenny, between 1776 and 1783.

Johnstown House has been entered on the Record of Protected Structures for County Meath under ID MH058-103 and is described thusly:

" An 18th century house of 5-bays, 3 storeys with parapet and cornice rendered with pedimented door case and four chimneystacks"

A review of the Meath County Council Planning Register shows previous permissions submitted on the site.

The Johnstown House, Johnstown, Enfield, Co. Meath

Reg. Ref. 21592 *The development will consist of 8 no. car parking spaces, 8 no. Tesla parking sign posts, 2 No. Tesla supercharger cabinets, 1 no. ESB substation/switch room and for all associated site development works within the curtilage of a registers protected structure reference number MH048-103.*

Permission was granted by Meath County Council on 30th June 2021.

Johnstown (ED Infield), Enfield, Co. Meath

Reg. Ref. TA/60082 *Retention of minor amendments to previously granted planning permission ref. TA/40538 to include alterations of condition no. 5 to allow for metal faced timber windows in place of timber windows at a site adjacent to the existing Marriott Johnstown House Hotel.*

Permission was granted by Meath County Council on 20th July 2006.

Johnstown, ED Infield, Enfield, Co. Meath

Reg. Ref. TA/40538 *Executive stay hotel suits, comprising of 40 units in 10 blocks, consisting of 24 two-bedroom suites and 16 one-bedroom suites. Additional 91 surface car park spaces associated site development and landscape works including connection to existing private treatment works will be provided. The development is on the curtilage of the protected structure Johnstown House.*

Permission was granted by Meath County Council on 8th July 2005.

Johnstown House, Johnstown (E.D. Infield), Enfield, Co. Meath

Reg. Ref. 002243 *Alterations to previously approved plans (reg. ref. no. 99/833) to include retention of location approved banqueting centre to the south of the existing Johnstown House (list 1 Country Houses) & retention of location of approved leisure centre to north of existing Johnstown House, retention of revised elevation treatment to aforementioned banqueting & leisure centre. Retention of minor alterations to approved leisure centres to include health spa & indoor & outdoor treatment pool facilities, retention of extended basement plant & service facilities associated with banquet, conference & hotel facilities, retention of an additional floor bedrooms (48 no. rooms) within a modified roof profile over existing approved T-shaped bedroom block, including revised*

treatment to elevation to same, retention of alteration to height & internal mezzanine arrangements of approve glazed atrium.

Further information was requested by Meath County Council on 28th February 2001 with planning later granted on 13th July 2011

Johnstown House, Enfield, Co. Meath

Reg. Ref. 99/833 *Extension, refurbishment & change of use to include the following:
Refurbishment and change of use of main property from residential use to hotel use.*

Permission was granted by Meath County Council on 12th November 1999.

4.0 Hoarding and Advertisement

The applicant is carrying out diverse maintenance, repair and refurbishment works to the 32 guest lodges in its control, in order to provide an improved and upgraded standard of accommodation. This is in line with the high established standard of the Estate. The refurbishment works are being carried out to the highest specification, while Ventura Interior Design have provided a design brochure illustrating the high-end finishes and layout. The overall approach to the repair and refurbishments to the lodges is to carefully and sensitively maintain the existing appearance.

26 sea containers placed adjacent to the lodges are being used for the storage of the following materials and furniture:

- Paint
- Ladders
- Paint brushes
- Paint rollers
- Sand paper
- Varnish
- Painters' overalls
- Painter's drop cloths
- Kitchen tables
- Kitchen chairs
- High-end settees and sofas
- Media units
- Coffee tables
- Armchairs
- High-end console tables
- Large decorative mirrors
- Wardrobes
- Beds
- Mattresses
- Chest of drawers
- Dressing tables
- Crystal chandeliers
- White goods
- Bed Bases
- Carpet
- Shower doors
- Radiators
- Toilets
- Sinks
- Baths
- Plumbing Materials

- Tiles
- Grout
- Trims
- Kitchen Press's
- Cookers
- Fridges
- Kettles
- Microwaves

As a further security measure, to protect the lodges and the valuable fixtures from vandalism and theft, and to secure the building sites from third parties who could potentially suffer injury, the applicant has erected hoarding around the sea containers as illustrated in the images below.



Figure 3.0 Hoarding at Johnstown House.

The Board will note from the images above (Figure 3.0) that the hoarding is being used to ensure there is no entry to the site from any unauthorised third party. The furniture from the lodges that is being temporarily stored in the containers is of the highest quality and extreme care must be taken to ensure that no damage occurs to the furniture while it is in storage. The applicant has taken such care in ensuring that pieces of furniture are stored in the containers with adequate space, and with minimum stacking, to minimise the risk of damage to these high-end pieces. The sea containers are covered with temporary advertising for the hotel.

5.0 Legislative Context

It is submitted that the use of hoarding and advertisements during the carrying out of renovation and refurbishment works is exempted development. Section 5 of the Planning and Development Act 2000 (as amended) states the following:

"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 the 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 4(1)(h) of the 2000 Act (as amended) provides as follows:

"The following shall be exempted developments for the purposes of this Act....

.... development consisting of the carrying out of works for the maintenance, improvement or other alteration on 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."

It is not in dispute that the refurbishment works to the lodges are exempted development under section 4(1)(h).

Article 6(1) of the Planning and Development Regulations 2001 provides as follows:

"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 said Part 1 opposite the mention of that class in the said column 1"

In turn, class 16 of Schedule 2, to Part 1 of the Regulations provides for the following class of exempted development:

"The erection, construction or placing on land on, in, over or under which, or on land adjoining which, development consisting of works (other than mining) is being or is about to be carried out pursuant to a permission under the Act or as exempted development of structures, works, plant or machinery needed temporarily in connection with that development during the period in which it is being carried out"

In circumstances where the hoarding has been erected in order to secure the site of the exempted refurbishment works, and to secure the stored furniture related to those works, the hoarding constitutes a structure *"needed temporarily in connection with that development during the period in which it is being carried out."* Accordingly the applicant submits that the hoarding is exempted development under Class 16 of Schedule 2 to Part 1 of the Planning Regulations.

6.0 Conclusion

The question before An Bord Pleanála is as follows:

"Whether the use of temporary hoarding and advertising at Johnstown House Estate for protection and privacy of goods and materials during a period of renovation and refurbishment works, constitutes exempted development."

We submit that the temporary use of hoarding is exempted development. The hoarding is being used for the protection and security of the lodges under refurbishment and for the storage of furniture and fixtures during the refurbishment works. The refurbishment works are wholly limited to the interior of the lodges. It is not in dispute that the refurbishment works are exempted development pursuant to section 4(1)(h) of the 2000 Act.

As the hoarding is a structure needed temporarily during the aforementioned exempted development, Class 16 of Schedule 2 to Part 1 of the Planning Regulation 2001 applies to the hoarding renders it exempted development. Accordingly, we request An Bord Pleanála to set aside the decision of Meath County Council and decide that the development is exempted development.

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

Yours sincerely,



Kevin Hughes MIPI MRTPI
For HPDC Ltd.

Appendix A

Copy of Declaration issued by Meath County Council on 13th January 2022 under Reg. Reg. TAS5/2160.

MEATH COUNTY COUNCIL

Planning Department

Buvinda House

Dublin Road

Navan

Co Meath

046 - 9097500

Planning & Development Act 2000- 2021

DECLARATION

To: Lefgem Limited

C/o Hughes Planning and Development Consultants
85 Merrion Square
Dublin 2

**PLANNING REFERENCE
NUMBER:**

TAS52160

APPLICATION RECEIPT DATE: 09/12/2021

FURTHER INFORMATION DATE: N/A

In pursuance of the powers conferred upon them by the Planning and Development Act 2000-2021, Meath County Council has by order dated 13.01.22 decided to Declare the proposed development is **DEVELOPMENT** and is **NOT EXEMPTED DEVELOPMENT**, in accordance with the documents submitted namely:

use of hoarding and advertising of Johnstown House Estate at The Johnstown House, Enfield, Co. Meath

Date: 13.01.22



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 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