



Hughes Planning & Development Consultants

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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. TAS52161 for the use of sea containers for storage at The Johnstown House Estate, Enfield, Co. Meath.

Meath County Council Reg. Ref:	TAS52161
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 Meath County Council to declare the use of sea containers as exempted development at The Johnstown House Estate, Enfield, Co. Meath under Reg. Ref. TAS52162.

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 the sea containers 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

AN BORD PLEANÁLA	
LDG-	048944 -22
ABP-	
09 FEB 2022	
Fee: €	220
Type:	cheque
Time:	17.14
By:	hand

Referral of Section 5 Declaration

Declaration of Exempted Development for the Temporary Use of Sea Containers for Storage Purposes.

The Johnstown House Estate,
Enfield,
Co. Meath.

Meath County Council Reg. Ref. TAS5/2161

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. TAS52161, regarding the temporary use of sea containers on site (for exempted development for the maintenance, repair and renewal works to lodges on the 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 the sea containers on Johnstown House Estate at The Johnstown House, Enfield, Co. Meath, constitutes exempted development. In the interests of clarity, we have asked the following question of the Board:

"Whether the temporary use of sea containers at Johnstown House Estate for the storage 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 the Declaration issued by Meath County Council. We request that An Bord Pleanála set aside the decision of Meath County Council and issue a Declaration that the proposed use of the sea containers for storage purposes at the Johnstown House Estate, Johnstown House, Enfield, Co. Meath constitutes exempted development.

It is submitted that the temporary use of the 26 sea containers constitutes exempted development, as the containers are temporary structures being used in support of, and ancillary to, refurbishments to 32 out of 40 guest lodges on the Estate. These refurbishments, uncontroversially, 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".*

The containers are being used for the storage of materials required for the exempted works to the guest lodges and storage of furniture and appliances for the lodges (which obviously cannot be kept in the properties during the duration of the works). These pieces of furniture consist of high – quality pieces, soft furnishings, and pieces that are easily damaged. These pieces of furniture require careful storage with adequate space to ensure no damage is caused pending their return to the lodges upon the 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 containers 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 containers constitute structures "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 a Section 5 Declaration in respect of the within application in the following terms:

*"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, it is submitted 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 sea containers for the storage of good and materials, during a period of refurbishment and renovation works is exempted development pursuant to 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 sea containers as not constituting exempted development for the following reason:

"The use of Sea Containers throughout the overall site is 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 Sea Containers, in this instance, is not exempted development."

The foregoing finding with regard to the supposed impact of the containers on the character of the protected structure (Johnstown House), is, it is submitted, misconceived. The use of the sea containers 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 owned and controlled by third parties. The local authority has deemed those crudely daubed murals not to "*materially affect the character of the protected structure*" as the local authority has been deemed the graffiti and murals to be exempted development. The applicant submits, conversely, that the temporary use of sea containers (of 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.

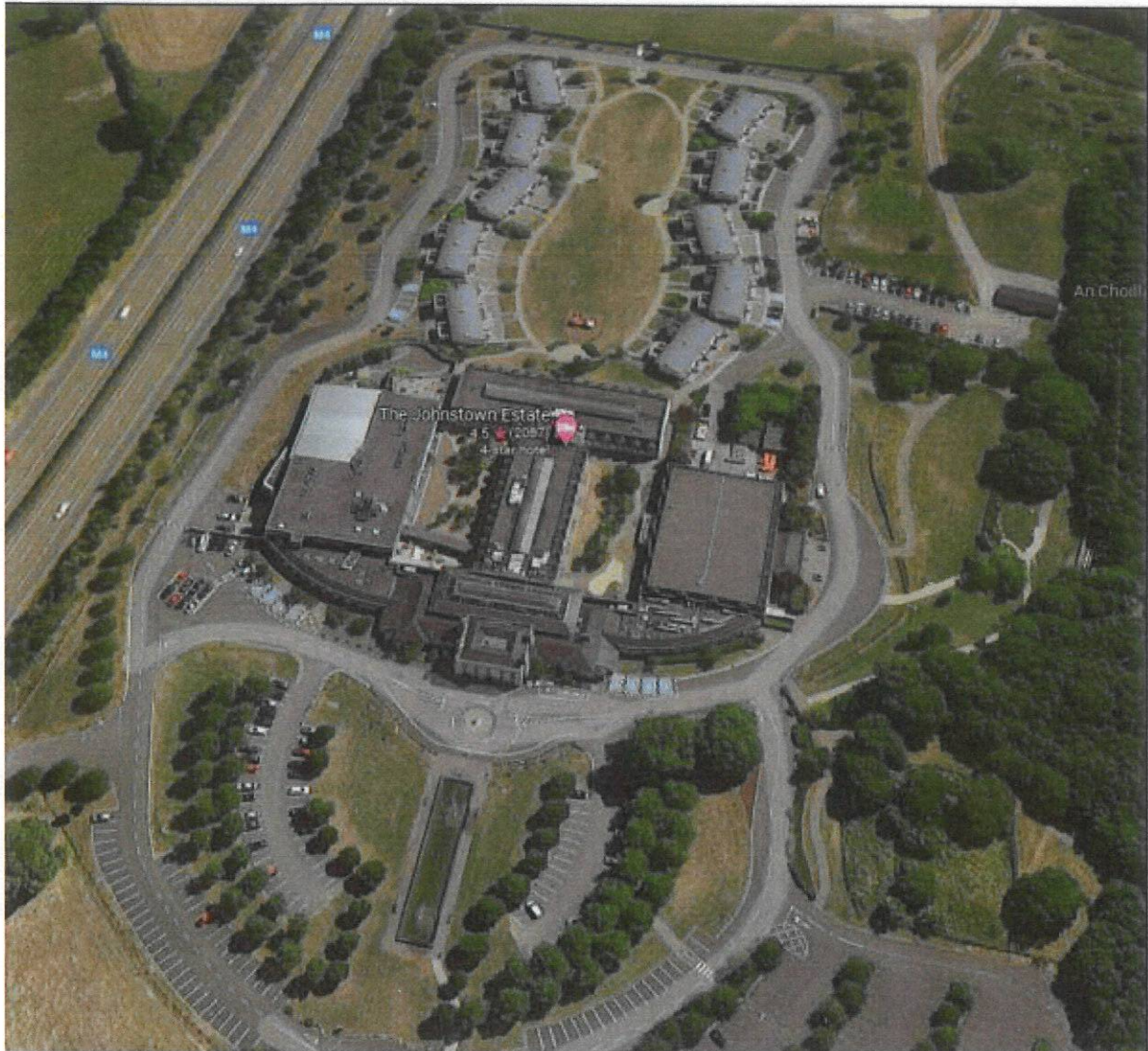


Figure 1.0 Bird's eye image indicating the subject site.

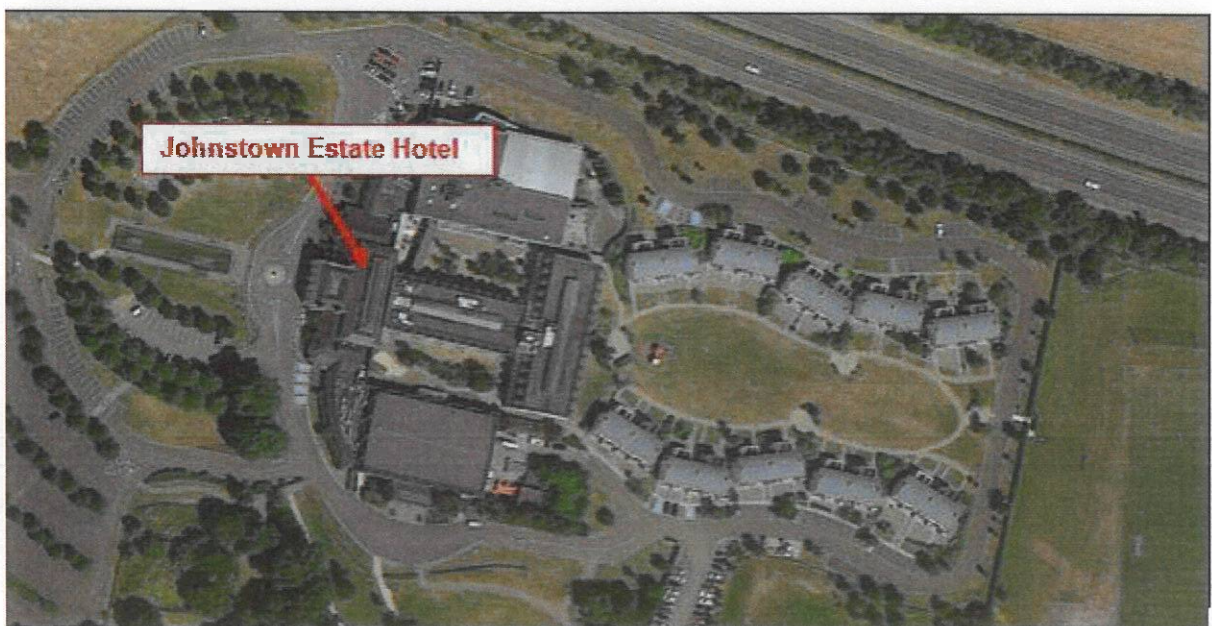


Figure 2.0 Indicating the subject site.

3.0 Planning History

Built in 1761, Johnstown House was the country residence of Colonel Francis Forde (a successful officer 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 Maintenance, Repair, Renewal Works and Use of Sea Containers

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.

The temporary use of the sea containers adjacent to the lodges is 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

All items listed above are currently being store within the sea containers.



Figure 3.0 Image from Ventura Design Interiors brochure of furniture used in the lodges and stored in the Sea Containers.



Figure 4.0 Image from Venture Design Interiors brochure of furniture used in the lodges and stored in the Sea Containers.

The Board will note from the images above (Figure 3.0 and Figure 4.0) that as well as the refurbishment materials, the furniture from the lodges which is being temporarily stored in the containers is of the highest quality and that extreme care must be taken to ensure that no damage occurs to the furniture during storage. The applicant has taken such care in ensuring that pieces of furniture are stowed in the containers with adequate space, and with a minimum of stacking, to minimise the risk of damage to these high-end pieces.

4.0 Legislative Context

It is submitted that the use of sea containers for the storage of goods and materials during the carrying out of renovation and refurbishment works constitutes 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 Planning and Development Regulations 2001 (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 submitted that, in circumstances where maintenance and refurbishment work at 32 of the existing guest houses will not materially affect the external appearance of the lodges at all, it is not in dispute that those works are exempted development by operation of section 4(1)(h).

Article 6(1) of the Planning and Development Regulations 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 exempted development is ongoing in respect of the refurbishment of the lodges, and the sea containers constitute structures *"needed temporarily in connection with that development during period in which it is being carried out,"* it is submitted that the containers must clearly come within the ambit of Class 16 and constitute exempted development.

5.0 Conclusion

The question before An Bord Pleanála is:

"Whether the temporary use of sea containers at Johnstown House Estate for the storage of goods and materials during a period of renovation and refurbishment works, constitutes exempted development."

It is submitted that the sea containers have been temporarily placed adjacent to the guest lodges at the Johnstown House Estate and are used for the temporary storage of goods, materials and furniture for the duration of refurbishment works being carried out to those lodges. The refurbishment works being carried out are limited to the interior of the lodges and will not affect in any way the external appearance of same. It is not in dispute that those works are exempted development pursuant to section 4(1)(h) of the Planning and Development Act 2000 (as amended).

As the sea containers are being temporarily used in connection with that exempted development, Class 16 of the Planning Regulation applies to the sea containers (for the storage of goods and materials as previously outlined for the duration of the works to the lodges) and renders them exempted development.

Accordingly, we request that An Bord Pleanála to sets aside the decision of Meath County Council and declares that the relevant 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 under Reg. Reg. TAS5/2161.

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:

TAS52161

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 Sea Containers on the site (for exempted development for the maintenance, repair and renewal works to Lodges on the Johnstown 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