



## Hughes Planning & Development Consultants

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

9<sup>th</sup> February 2022

**Re: Section 5 Declaration Referral against the decision of Meath County Council under Reg. Ref. TAS52162 for the devaluation and vandalism of Properties at Lodge no's 435, 432, 416, 426, 427 & 424 at The Johnstown House Estate, Enfield, Co. Meath.**

<b>Meath County Council Reg. Ref:</b>	<b>TAS52162</b>
<b>Date of Planning Authority Decision:</b>	<b>13/01/2022</b>
<b>Final Date for Lodgement of Section 5 Declaration Referral:</b>	<b>09/02/2022</b>

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 deem the devaluation and vandalism of properties at lodges no's 435, 432, 416, 426, 427 and 424 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 13<sup>th</sup> 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 devaluation and vandalism to properties at lodges no's 435, 432, 416, 426, 427 and 424 as not being 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

<b>AN BORD PLEANÁLA</b>	
LDG-	<u>048945-22</u>
ABP-	
09 FEB 2022	
Fee: €	<u>220</u> Type: <u>cheque</u>
Time: <u>17.14</u>	By: <u>hand</u>

# Section 5 Declaration Referral

**Whether the graffiti and garish paint works at Lodges 435,432,416,426,427, & 424 are Development and are Exempted Development.**

**The Johnstown House Estate,  
Enfield,  
Co. Meath.**

**Meath County Council Reg. Ref. TAS5/2162**

**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 13<sup>th</sup> January 2022 under Reg. Ref. TAS52162, regarding the graffiti and garish paint works at Lodge No's 435, 432, 416, 426, 427 and 424 at The Johnstown House, Enfield, Co. Meath. These lodges are owned by third parties currently in a legal dispute with the applicant and the defacement and crude paint works to those lodges has been carried out by those third parties with a view to disrupting the operation of the Johnstown Estate.

We request that An Bord Pleanála review the Section 5 Declaration issued by Meath County Council and make a determination that the graffiti works and vandalism to those lodges at Johnstown House, Enfield, Co. Meath, is development and is not exempted development. In the interests of clarity, we ask the following question to An Bord Pleanála:

*"Do the graffiti writing and garish paint works at Lodges 435, 432, 426, 416, 427 and 424, Johnstown House Estate, constitute exempted development?"*

The prescribed fee of €220.00 is enclosed, along with a copy of declaration issued by Meath County Council. We request that An Bord Pleanála set aside the decision of Meath County Council and issue a declaration stating that the devaluing graffiti works and vandalism to lodges at the Johnstown House Estate, Enfield, Co. Meath does not constitute exempted development.

The subject lodge units which form the basis of this complaint were privately purchased by third parties and are separate from the Johnstown House Estate Hotel and Spa, the original portion of which (Johnstown House) has been entered on the Record of Protected Structures for County Meath. The applicant owns or controls 32 of the 40 lodges on the Estate. Eight lodges are owned by third parties, six of which are the subject of this referral.

It is submitted that the paint works carried out on the lodges constitute development, and cannot constitute exempted development. Section 3 of the Planning and Development Act defines development as:

*"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."*

Section 2 of the 2000 Act, in turn, defines "works" as follows:

*"2.- "works" includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, included any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or form the surfaces of the interior or exterior of a structure."*

As a very clear act of alteration and/or an act of renewal, it is submitted that the external paint works to the relevant lodges are obviously "development" for the purposes of the Planning and Development Act 2000 (as amended). As development, those works must have the benefit of planning permission unless they fall within the limited categories of exempted development.

It is our submission that, given their deliberately garish and obnoxious nature, the external murals and graffiti are excluded from the ambit of section 4(1)(h) of the Planning and Development Act 2000 (as amended) which states 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”.*

In circumstances where the bright colours and crudely daubed slogans on the external walls of the relevant lodges are, to put it mildly, inconsistent with the character of the structures and of the neighbouring structures, which include the 18th Century Johnstown House.

The development to which we refer consists of the painting of the external facades of the subject properties in garish colours, with accompanying inflammatory murals and graffiti regarding the owners of the Johnstown House Estate. The works carried out on these buildings not only devalue the surrounding properties but have had an actively detrimental effect on the commercial operation of the Johnstown House Estate as a premier leisure and hospitality destination.

The use of bright pink paint and large graffiti mural writing on Lodges 426, 432, 416, 427, 424 and 435, clearly affects the external appearance of the lodges and is manifestly inconsistent with the neutral tones of the finish to the facades of all neighbouring structures. It is clear that these works cannot therefore come within the ambit of section 4(1)(h) of the Act. No other category of exempted development provided for by the Act could reasonably be said to apply to the relevant works.

The applicant asks the Board to note that, unlike typical vandalism to a property which can be swiftly rectified by its owner, the vandalism at issue in this referral has been carried out to properties owned by third parties, by those third parties themselves, and thus cannot be rectified by the applicant. As noted above, the vandalism is having a negative impact on the commercial operation of the Estate.

### 1.1 Section 5 Declaration Issued by Meath County Council

On 13<sup>th</sup> January 2022, Meath County Council issued the following notice with regards to the Section 5 declaration sought for the devaluation and vandalism of properties lodges no's 435, 432, 416, 426, 427 and 424 at The Johnstown House, Enfield, Co. Meath.

*“In pursuance of its functions under the Planning & Development Acts 2000-2021, Meath County Council has by order dated 13<sup>th</sup> January 2022 decided to declare the proposed development is **DEVELOPMENT** and is **EXEMPTED DEVELOPMENT**, in accordance with the documents submitted”*

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

### 1.2 Summary of Grounds for Referral

The graffiti and garish paint works to the façades of lodge no's 426, 432, 416, 427, 424 and 435 at the Johnstown House Estate, Enfield, Co. Meath is development and cannot constitute exempted development under section 4(1)(h) and Section 5 of the Planning and Development Act 2000 (as amended).

The Declaration made by Meath County Council on foot of the within application directly contradicts the contents of its own Planner's Report in respect of the graffiti works on the Lodges. At section 5.1.2 of the Planner's Report, Meath County Council's planner states the following:

#### “5.1.2 Assessment

##### *Development*

*The devaluation and vandalism of Properties at Lodge no's 435, 432, 416, 426, 427 & 424 **is not considered to constitute development** as described in Section 3 (1) of the Planning Development Act, 2000 to 2021.*

##### *Exempted Development*

- N/A. “



The decision letter containing the Section 5 Declaration issued on the 13<sup>th</sup> January completely contradicts the contents of the Planner's Report in that the Declaration declares that graffiti on the lodges **"is DEVELOPMENT and is EXEMPTED DEVELOPMENT"**. It is clear, therefore, that Meath County Council's Declaration was based on a clear error. The applicant agrees with the first finding of in the Declaration that the garish graffiti on the Lodges constitutes development, but disputes that it can come within any recognised category of exempted development. Meath County Council, neither in its decision letter or in its Planner's Report has identified a category of exempted development into which the graffiti on the Lodges falls. This alone constitutes a failure on the part of the local authority to give reasons for its Declaration that the graffiti on the Lodges constitutes exempted development.

Moreover, the Planners' Reports for the concurrent section 5 applications submitted by the applicant to Meath County Council (Reg. Ref. TAS52160 and TAS52161) state the following:

*"the works are located within the curtilage of a protected structure, are considered to materially affect the character of the protected structure and therefore do not represent exempted development"*.

Meath County Council has apparently, therefore, deemed the temporary use of storage containers and hoarding as non-exempted development as they **"materially affect the character of the protected structure"** whilst simultaneously deeming the use of crudely daubed graffiti and slapdash and garish bright pink paint as exempted development, presumably because it does not (apparently) affect the character of the adjacent protected structure. It need hardly be said that this is, with respect, unreasonable and at odds with reality.

Section 3 of the 1963 Act stipulates that "development" includes the carrying out of any works on, in or under land or the making of any material change in the use of any structures or other land. Section 2 of the same act defines "works" as including any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal. It is manifestly clear that the painting of the exterior of the Lodges in the manner described herein clearly constitutes a somewhat drastic alteration of the exterior of those buildings.

Section 4(1)(h) of the Planning Development Act 2000 (as amended) creates the following category of exempted development:

*"... 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 cannot be in doubt that the appearance of the Lodges has been completely altered by the use of bright pink paint and offensive graffiti, which can be seen on the images in section 4.0 of this report. It is the applicant's position that these drastic changes should require the benefit of planning permission.

It is clear that Meath County Council have set an undesirable precedent by deeming the vandalism, including graffitied protest messages to the exterior of the Lodges, to be exempted development. The possibility of crudely daubed slogans, slanders, and protest messages being availed of in the context of neighbour disputes, planning disputes and boundary disputes, is clearly something that is not conducive to proper planning. The applicant submits, therefore, that in order to eliminate this unwelcome precedent the decision of Meath County Council should be reversed, and the graffiti works be declared as development, and not to be exempted development.

## 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 4<sup>th</sup> 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.

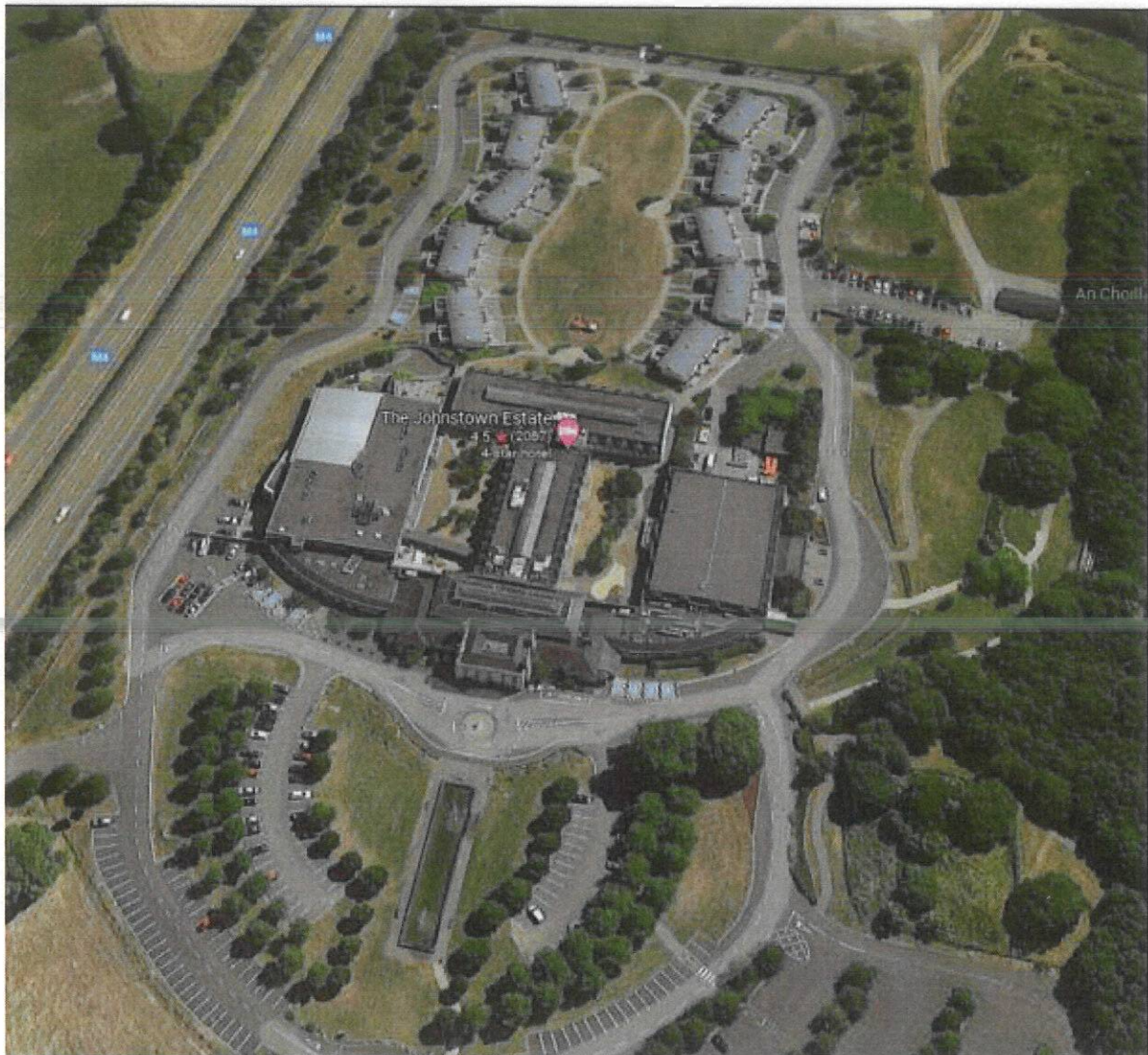


Figure 1.0 Bird's eye image indicating the subject site.



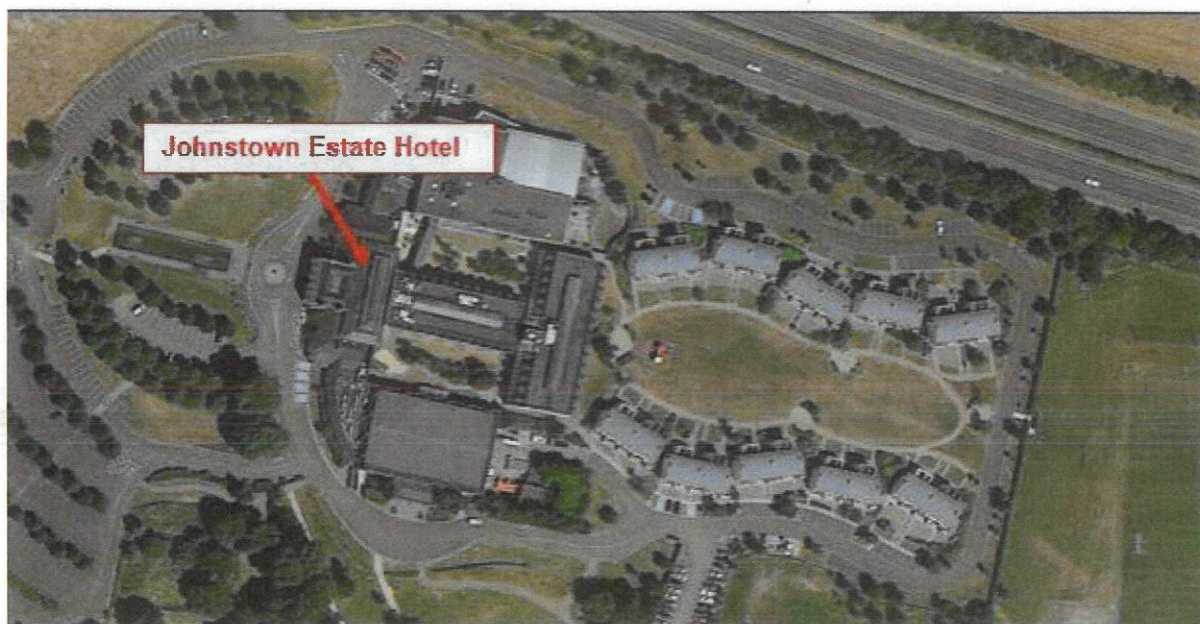


Figure 2.0 Indicating the subject site.

### 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 18<sup>th</sup> 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 30<sup>th</sup> 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 20<sup>th</sup> 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 8<sup>th</sup> 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 28<sup>th</sup> February 2001 with planning later granted on 13<sup>th</sup> 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 12<sup>th</sup> November 1999.

**4.0 Graffiti and Garish Paint Works to Properties at Lodge Nos. (435, 432, 416, 426, 427 & 424)**

The works carried out on the lodges are crude, distasteful, and clearly designed to be inflammatory. It is evident from the images presented within this submission that the external works that have been undertaken not only materially affect the external appearance of the structures, but have an extremely adverse impact on the visual amenity and desirability of the Estate and create an aggressive and hostile environment for guests. Moreover, the graffiti and murals serve to render the appearance of the offending properties inconsistent with the character of the structures and of neighbouring structures. This visual intrusion is extremely pertinent given the properties are located within the curtilage of one of County Meath's most architecturally significant protected structures (Johnstown House). For the foregoing reasons, the garish paint, murals and graffiti, cannot reasonably be considered to come within the ambit of section 4(1)(h) of the 2000 Act (as amended).

The decision made by Meath County Council, highlights a range of inconsistencies, as already identified above. The decision they have made with regards to the vandalism of the lodges also clearly sets an unwelcome precedent that could have a widespread negative effect if relied upon by persons willing to utilise the exterior of their properties as billboards for aggressive and inflammatory messages to their neighbours.

The Declaration also purports to deem a clear breach of condition 5 to the original planning permission under Reg. Ref. TA40538 to be exempted development. Planning permission was originally granted by Meath County Council on 8 July 2005, for the subject lodges under Planning Reg. No. TA40538. The



description of development as per the statutory planning notices available on the Meath County Council Planning Registry is as follows:

*'Executive stay hotel suites, comprising of 40 units in 10 blocks, consisting of 24 two bedroom suites and 16 one bedroom suites. The breakdown is as follows: Type A, 4 no. 2 storey blocks with 2 no. 2 bedroom suites and 2 no. 1 bedroom suites per block. Type A-1, 4 no. 2 storey blocks with 2 no. 2 bedroom suites and 2 no. 1 bedroom suites per block. Type B, 1 no. 4 storey block with 4 no. 2 bedroom suites per block. Type B-1, 1 no. 4 storey block with 4 no. 2 bedroom suites per block. 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.'*

Upon review of the conditions attached by Meath County Council to the grant of permission under Planning Reg. No. TA40538, we note that Condition No. 5 (a) and (b) are of particular relevance in this instance:

*5 (a) Prior to the commencement of development a sample panel of all the external materials, such as windows, balconies, **colours and finishes**, including roof materials to be used, shall be submitted by the applicant/developer for the written agreement of the Planning Authority. Windows shall be timber and PVC shall not be used for the fascia, in the soffit's boards or rainwater goods.*

*(b) All signage and all external lighting detail, shall be submitted for the written agreement of the Planning Authority, prior to the commencement of this development.*

***Reason:** In the interests of visual amenity and proper planning and development." (Emphasis added)*

It is clear from the below images of the pink painting of the lodges, that they are not keeping within the same "**colours and finishes**" referred to in condition 5. As noted above, the Planners' Reports for concurrent section 5 applications made by the applicant (Reg. Ref. TAS52161 and TAS52160) which relating to the temporary use containers and hoarding, found that those works cannot be exempted development because:

*"the works are located within the curtilage of a protected structure, are considered to materially affect the character of the protected structure and therefore do not represent exempted development".*

If the temporary use of storage sea containers and hoarding cannot be exempted development as they materially engage with the character of the protected structure, clearly the bright pink painting and use of distasteful graffiti on the lodges would most definitely also "**materially affect the character of the protected structure**".

The owners of the six privately owned lodges are in clear breach of Condition No. 5 to original grant of permission. All external materials including colours and finishes were agreed with Meath County Council prior to the commencement of development at the subject site, in the interests of visual amenity and proper planning and development. As demonstrated in the figures below, the selected finishing materials of the approved lodges, comprise a pale coloured plastered render, which is consistent throughout the scheme, in order to maintain the visual amenity of the lands, which are within the curtilage of Johnstown House.

The below images clearly demonstrate that the paint colour which has been applied to one of the subjects' units referred to above (Lodge No. 432) is completely out of keeping with the structure and with neighbouring structures and in our view is wholly unacceptable in the context of the curtilage of a significant 18th Century protected structure such as Johnstown House.

An Bord Pleanála found in Case Ref. RL04.303471, 19<sup>th</sup> June 2019, *inter alia*, that lettering applied to the exterior of a property (in that case for the purpose of advertising) constituted development, pursuant to section 3 of the 2000 Act, and did not constitute exempted development.

Furthermore in the context of another section 5 referral Case Ref. RL06D.304774, 4<sup>th</sup> November 2019, the Board found that the painting of the exterior of the Royal Irish Yacht Club premises constituted development, and did not constitute exempted development. The Inspector's Report included the following salient points:

*"Development is defined under Section 3(1) of the Planning and Development Act, 2000 (as amended) '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.'. Works is defined under Section 2(1) of the Act "...includes any or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure."*

*Therefore, having regard to Sections 2(1) and 3(1) of the Planning and Development Act 2000 (as amended) it is considered that the painting of all walls within the entrance portico a blue-grey colour would constitute development under the above provisions of the Act."*

The applicant asks the Board to make a finding consistent with that in Case Ref. RL06D.304774 in this referral. If the painting of a structure in a muted pale blue tone constitutes development in that case, the crude daubing of bright pink paint and inflammatory murals must surely constitute development in this case.



Figure 3.0 Image demonstrating the crude and garish external paint colour which has been applied to the external wall of one of the subject units (Lodge No. 432) within the Johnstown Estate.



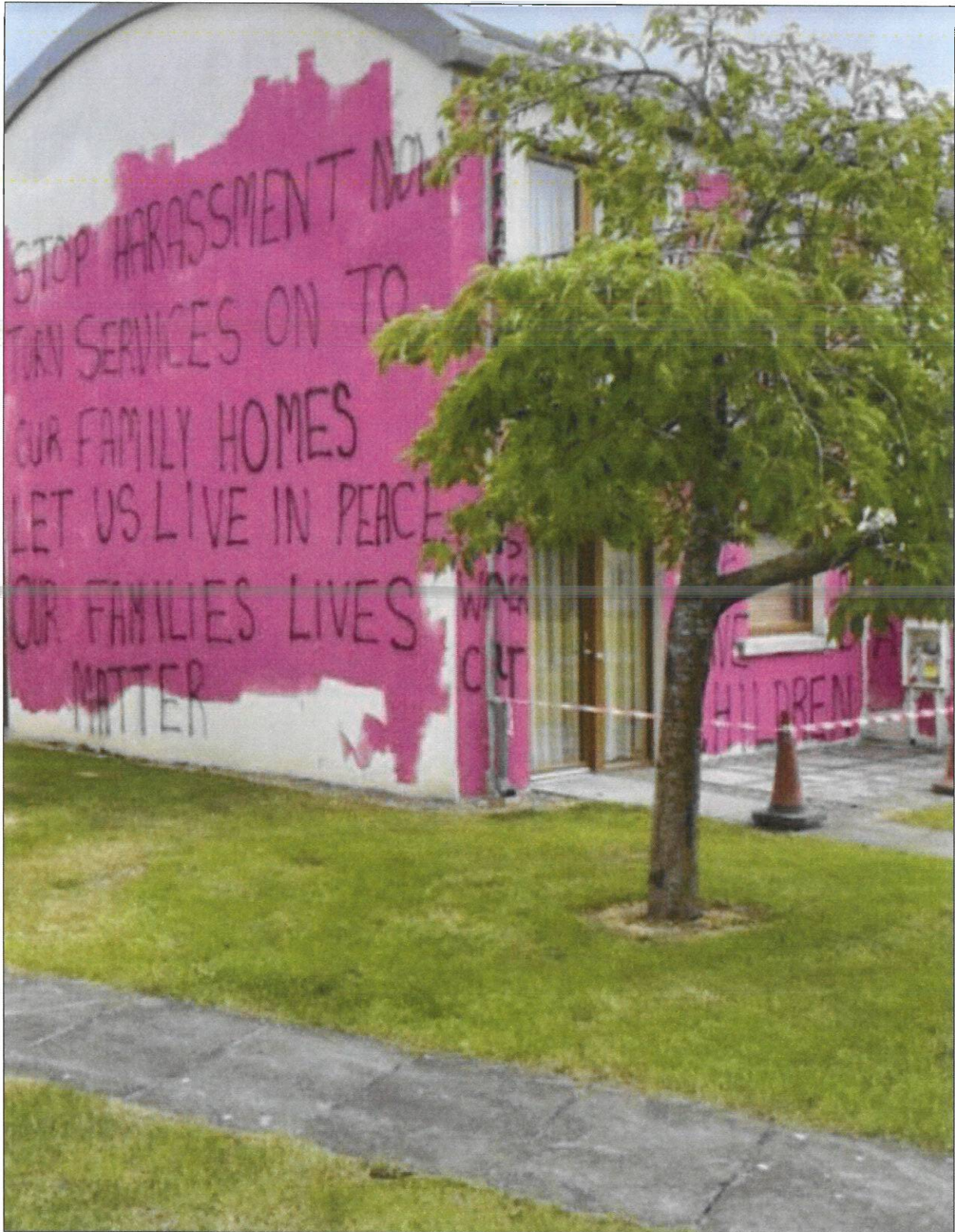


Figure 4.0 Image indicating the inflammatory graffiti which has been applied to external walls of one of the subject units (Lodge No. 432) within the Johnstown Estate.





Figure 5.0 Image indicating the garish external paint colour and crudely daubed graffiti which has been applied to the external walls one of the subject units (Lodge No. 432) within the Johnstown House.

The owners and operators of the Johnstown Estate Hotel and Spa work extensively to maintain the facility to an impeccably high standard in order to ensure that incoming guests have a comfortable and memorable stay at their facility and to attract return business. The open space area to the rear of the hotel is an imperative component of the service offering provided by our clients. This graffiti and the inflammatory murals on directly adjacent properties is causing significant damage to this offering and has adversely impacted upon our clients' business, by ruining views from the accommodation in Johnstown House with aggressive graffiti and garish external paint colours which are completely at odds with the surrounding buildings and the protected structure of Johnstown House. We respectfully request that An Bord Pleanála take account of the damage this unauthorised development is doing to our client's business and the hindrance it creates in seeking to develop Johnstown Estate as one of the premier destinations in Ireland.





Figure 6.0 Images taken from the existing open space area to the rear of the Johnstown Estate Hotel and Spa demonstrating the existing graffiti on the rear of the subject property (Lodge No. 435)



Figure 7.0 Image showing the existing crudely daubed graffiti to the rear of the existing property located within the Johnstown Estate (Lodge No. 416)





Figure 8.0 Image taken from the open space area to the rear of the existing Johnstown Estate Hotel and Spa indicating the bold external paint colour which has been applied to the external walls of the existing property (Lodge No. 432), which is completely inconsistent with the remainder of the abutting properties.

The development as granted under Reg. Ref. TA40538 was undertaken by the developer in accordance with the submitted drawings and particulars and subsequently agreed finishing materials. The recent aggressive murals represent an indisputable departure from the external treatments that were agreed with Meath County Council following a grant of permission and prior to the commencement of construction. The current external appearance of the lodges is thus in breach of the conditions of Planning Reg. No. TA40538 and constitutes an offence under Section 151 of the Planning and Development Act (2000) as amended which states that:

*'Any person who has carried out or is carrying out unauthorised development shall be guilty of an offence.'*

It is apparent that the alterations to the elevations of the lodges to include garish colours and crude graffiti messages of protest comprises an act of alteration to the facades of the lodges and are works which materially affect the external appearance of the structure and which renders the appearance of the lodges inconsistent with the characters of the structure and or neighbouring structures including the Protected Structure of Johnstown House. Therefore, it is submitted to the Board that the alterations to the facades to include graffiti/protest messages cannot be considered to be in accordance with the above and therefore is not exempted development.

## 5.0 Legislative Context

It is submitted that the proposed graffiti works and vandalism to the lodges is not deemed exempted development. This submission is based on the development being a declaration pursuant to Section 5 of the Planning and Development Act 2000 (as amended), that devaluation and distasteful graffiti on lodge no's 435, 432, 416, 426, 427 & 424 at the Johnstown House Estate is not exempted development as it is completely out of character and context of the colours used on the other lodges in the ownership of the applicant.

Section 3 of the Planning and Development Act defines development as:



**"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."*

Section 2 of the 2000 Act, in turn, defines "works" as follows:

**"2.-** *" works" includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, included any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or form the surfaces of the interior or exterior of a structure."*

As outlined above, the applicant submits that the crude and garish painting of the Lodges constitutes a very clear act of alteration and/or an act of renewal, and therefore that the external paint works to the relevant lodges constitute "development" for the purposes of the Planning and Development Act 2000 (as amended). As development, those works must have the benefit of planning permission unless they fall within the limited categories of exempted development.

Section 5(1) of the Act 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."*

The works carried out on the lodges are self-evidently inconsistent with the character of the neighbouring structures, in particular the protected structure of Johnstown House. For the detailed reasons set out above, the bright pink murals and associated graffiti cannot be classified as exempted development.

## 6.0 Conclusion

The question before An Bord Pleanála is as follows:

*"Do the graffiti writing and obscene paint works of Lodges 435, 432, 426, 416, 427 and 424, Johnstown House Estate, constitute exempted development?"*

The recent deliberate defacement of the six Johnstown Estate Lodges not only represents a clear breach of Conditions No. 5(a) and (b) attached to Planning Reg. TA40538, but also demonstrates a complete disregard for the visual amenity and character of the surrounding area which within the curtilage of a significant piece of early Georgian architecture entered on the Record of Protected Structures. The Johnstown Estate has become one of Ireland's premier leisure and hospitality destinations, and provides significant employment and revenue to the local area. These inflammatory murals are causing significant harm to that enterprise.

The garish paint colours and aggressive graffiti cannot come within the categories of exempted development created by section 4(1)(h) of the Planning and Development Act, nor Class 12 of the Schedule 2 to Part 1 of the Planning and Development Regulations, for the reasons set out above.

We contend that, as development (which is not exempted development) and which does not have the benefit of planning permission, the works constitute an offence under section 151 of the Planning and Development Act 2000 and that the Planning Authority should endeavour to resolve this matter by availing of its powers under sections 152-154 of the Planning and Development Act 2000 (as amended) to resolve these issues.

Accordingly, we request An Bord Pleanála to set aside the decision of Meath County Council and decide that the proposed development is development and is not 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 13<sup>th</sup> January under Reg. Reg. TAS52/2162.



**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:**

**TAS52162**

**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 **EXEMPTED DEVELOPMENT**, in accordance with the documents submitted namely:

the devaluation and vandalism of Properties at Lodge no's 435, 432, 416, 426, 427 & 424 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](mailto:bord@pleanala.ie) Web: [www.pleanala.ie](http://www.pleanala.ie)