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Adam McAuley



Observations in relation to ABP-320031-24 Knockmount, Dublin Road, Drogheda Co Louth by Adam McAuley, Gerry Fitzgerald, Donal Lucey, Rory Callaghan, Jim Gargan, Darren Heffernan, Seamus Milne and Thomas McGettigan

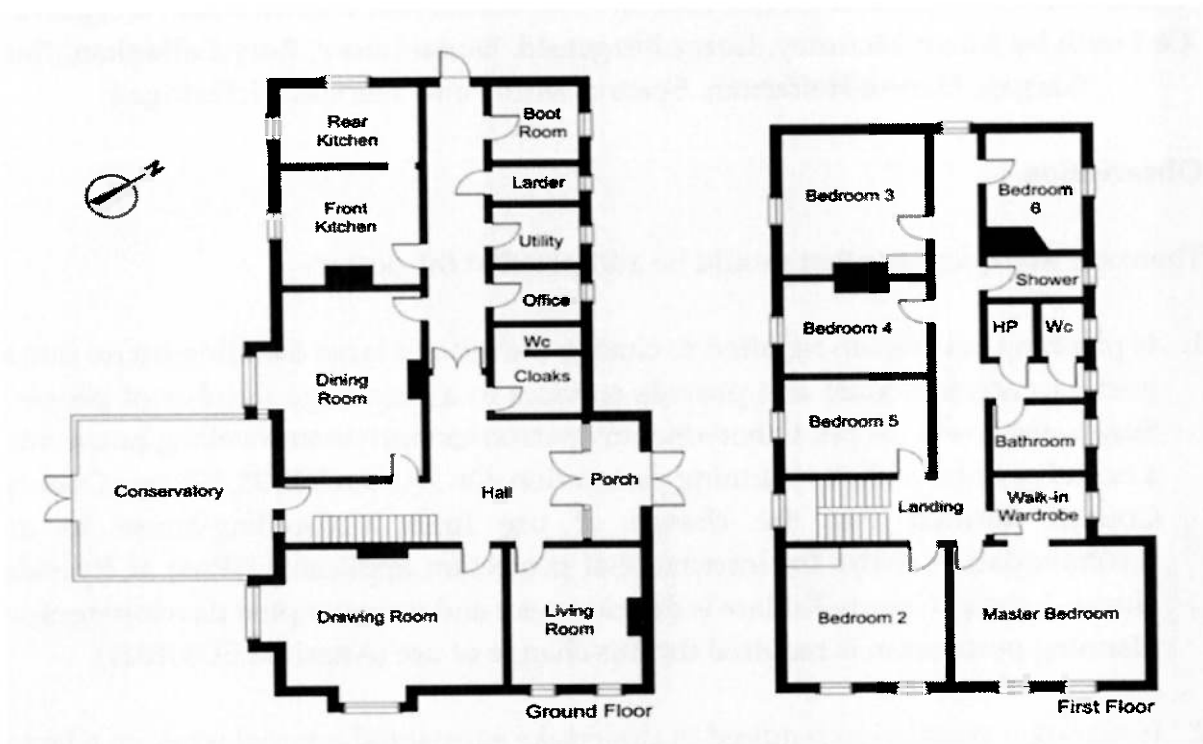
Observation 1

There are two questions that should be addressed at the outset.

1. Is planning permission required to change the use of a large dwelling-house into a hostel to accommodate and provide services to a very large number of people? Surely, the answer is yes. Otherwise, any person can turn their dwelling house into a hostel or hotel without planning permission. On 7th March 2023, Kildare County Council decided that the change of use from a dwelling-house to an accommodation centre for international protection applicants (IPAs) at Ryevale House, Leixlip, County Kildare is development and not exempted development so planning permission is required for this change of use (Attached ED/01021).
2. Is planning permission required to undertake substantial internal work on a large dwelling-house so that it can accommodate and provide services to a very large number of people? Surely, the answer is yes because permission is required where internal work alters the domestic use of the house.

In June 2023, Kildare County Council referred these questions to An Bord Pleanála whether the use of Ryevale and its coach house as long-term private residential accommodation for IPAs is or is not development and whether internal works to Ryevale to provide accommodation to IPAs is or is not development or exempted development (Bord Pleanála Case reference: RL09.317271: <https://www.pleanala.ie/en-ie/case/317271>).

The situation in Knockmount is virtually identical. On 28th June 2023, Knockmount was sold as a private dwelling-house. The estate agent's floor plans show 6-bedrooms, two kitchens, two toilets, one bathroom and one shower room (www.myhome.ie/residential/brochure/knockmount-dublin-road-drogheda-co-louth/4548766).



On 20th July 2023, a 7 day building works notice for Knockmount was submitted (SN0008807LH see <http://nbco.localgov.ie/en/bcms/notice/knockmount-dublin-road-drogheda>). A notice is required where a person must apply for planning permission. The notice states the building works related to 'the change of use and material alteration of the existing residential dwelling-house into residential accommodation'. Thus, the building notice states that there is a change of use and significant building and plumbing work was undertaken to convert a single contained unit to a multi-occupied unit that accommodates up to 56 IPAs providing shared ensuite bedrooms and shared kitchen facilities. It is submitted there is a change of use that requires planning permission.

Knockmount Properties Ltd (KPL)'s appeal downplays any change of use suggesting residents will be self-sufficient and does not refer to the Government's briefing document which provides a clearer picture of an accommodation centre (dated 15/1/2024 and attached). The briefing document states on pages 4 and 5 that

- *There will be a full board catering provided on this site. Residents will be provided with three meals per day with a varying menu. Residents will have tea, coffee, cutlery and crockery replenished daily. Fruit and nuts will be provided as a healthy snack.*
- *The property is within walking distance to schools, shops, doctors, bus and train services.*
- *Each resident will have toiletries replenished weekly and other essentials such as toilet paper replenished as needed.*
- *The washing of clothes and bed linen will be done by a local laundrette company.*
- *The facility will have high speed fibre Wi-Fi.*
- *Fire alarms, fire-fighting equipment and security cameras fitted throughout the common walking areas.*

'The facility will be staffed 24/7. There will be staff on site to include a duty manager who is Garda vetted and certified with Tusla; two support staff to help with social welfare applications, schools, and enrolment of adults for general courses; two security guards on rotating 12 hour shifts; two cleaners; a chef and a kitchen porter; and a gardener / maintenance staff'.

Observation 2

The Planning and Development Regulations 2001 provide for one exempted development for a change of use of a dwelling-house, namely, from use as a house to use a residence for a maximum of 6 persons with disabilities or mental illness and a maximum of 2 residential carers (See Class 14(e) SI No 600 of 2001). Regulations have increased exempted development for change of use to provide temporary accommodation for IPAs (See: SI 605 of 2022 and SI 376 of 2023 Planning and Development (Exempted Development) (No 4) Regulations). These regulations list the following types of property as exempted development for this purpose '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'. The maxim of statutory interpretation 'Expressio Unius Est Exclusio Alterius' (To express one thing is to exclude another) applies and dwelling-house does not appear on this list of exempted development. Thus, a change of use from a dwelling-house to accommodation for IPAs is development and not exempted development.

Observation 3

KPL and the Department of Children, Equality, Disability, Integration and Youth intend to sign or have signed a commercial contract to use Knockmount House to provide temporary emergency accommodation for IPAs. Thus, there is a material

change of use from residential use to commercial use which is not an exempted development and requires planning permission. Cleaning staff, security staff, a chef, a duty manager and others indicate the commercial use of Knockmount House.

Observation 4

KPL claims that it does not intend to carry out works to Knockmount House. However, significant internal work was carried out under the 7 day building works notice. Planning permission should have been sought for works that have altered the domestic use of the dwelling-house with significant subdivision of the house that saw a 150% increase in the number of bedrooms from 6 to 14. Louth County Council and An Bord Pleanála previously granted permission to build 31 apartments at the Knockmount site including the renovation and conversion of the dwelling-house to four apartments with 6 bedrooms in total (2 one-bedroom apartments and 2 two-bedroom apartments) (ABP-311050-21). There was a requirement that works converting the dwelling-house into apartments had to comply with the specification set out in the Architectural Impact Assessment prepared by McKeivitt King Architects, submitted with the application and in accordance with the Architectural Heritage Protection Guidelines for Planning Authorities published by the Department of Arts, Heritage and Gaeltacht (2011). Surely, the significant internal work undertaken at Knockmount House must also have to comply with the principles underpinning that Architectural Impact Assessment or be subject to a similar assessment?

Observation 5

KPL claims that it is seeking clarification on the continued use of Knockmount House as a residential building that provides accommodation to IPAs. Knockmount House is vacant with no IPAs currently accommodated in the House.

Observation 6

KPL refers to superior court judgments cases about intensification of use. Most of these cases involve the court considering if an existing planning permission applied to an intensification of use or if another planning application was required because the intensification of use gave rise to a material change of use. KPL has not sought nor been granted planning permission for the change of use.

The significant increase in the number of people that KPL and the Department intend to accommodate at Knockmount House is an intensification of use that results in a material change of use.

Traffic Volumes

There will be a noticeable increase in traffic volume with the staff working at Knockmount House and service provision for residents according to the Government's briefing document. In addition, IPAs can purchase vehicles for their own use.

Water Services

KPL claims that the dwelling-house's sewage system was upgraded in recent years but provided no evidence to substantiate this claim. However, if such an upgrade was completed it would have been when the dwelling-house had two kitchens, two toilets, one bathroom and one shower room. It is suggested that any such upgrade works would never have envisaged the occupancy of the dwelling-house exceeding 56 people (when on site staff are included).

Waste Collection

A weekly collection of refuse from the site will be insufficient. The amount of waste for a property accommodating 56 residents must be much more than the average family home. The waste produced by 56 residents must be around 10 times that of a typical household. The standard collection services offered by the bin collection companies is for one general waste bin collected on a fortnightly basis, one recyclable bin collected on a fortnightly basis and one compost bin, also collected on a fortnightly basis. KPL does not state how many bins will be used and how the collection schedule will manage the waste.

Road Safety

Louth County Council and An Bord Pleanála granted permission to build 31 apartments at Knockmount site subject to three conditions around road safety (ABP-311050-21). If one assumes that each apartment would home 2 individuals then that would account for 62 persons in total, which is only slightly higher than the 56 proposed in this development. When one includes cleaning, maintenance, catering, security and administrative staff, the development is clearly on a similar scale to that proposed in the planning application. The road safety conditions are: -

1. There was to be partial section of existing front boundary wall to be set back for new vehicular, pedestrian and cycle entrance to the site from Dublin Road (R132) to provide vehicular sightlines,
2. The preservation of existing vehicular entrance for use as pedestrian entrance, and,
3. The construction of a pedestrian crossing on the extremely busy Dublin Road

These conditions should apply particularly since international protection applicants, including children, will be entering and leaving Knockmount House on foot (initially). Therefore, planning permission for the change of use is required under law.

Observation Summary

Like Kildare County Council, Louth County Council considered if the development at Knockmount House is an exempt development under the planning legislation. There is no specific exemption under planning law for the change of use proposed for this dwelling-house. It is noted that political representatives have often commented on such changes of use and specified that dwelling-houses cannot be converted into accommodation for international protection applicants without examination under the planning legislation. In this regard, any decision by An Bord Pleanála to allow the development in this case, would set a significant precedent.

Comhairle Contae Chill Dara
Kildare County Council

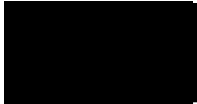


07/03/2023

Our Ref ED/01021

REGISTERED POST

Ryevale Lawns Residents Association
c/o John Deignan



RE: Application for a Declaration of Exempted Development under Section 5.
Address: Ryevale House, Leixlip, Co. Kildare.

Dear Sir/Madam,

I refer to your correspondence received 16 February 2023 in connection with the above.

Please find attached declaration made under Section 5 of Planning and Development Acts 2000 as amended in this regard.

Yours faithfully,

Senior Executive Officer,
Planning Department



**Declaration of Development & Exempted Development
under Section 5 of
the Planning and Development Act 2000 (as amended)**

WHEREAS a question has arisen as to whether the change of use from a dwelling house to a centre of accommodation for people seeking international protection is or is not Development and is or is not Exempted Development.

AS INDICATED on the plans and particulars received by the Planning Authority on 16/02/2023 and 17/02/2023.

AND WHEREAS Ryevale Lawns Residents Association requested a declaration on the said question from Kildare County Council.

AND WHEREAS Kildare County Council as the Planning Authority, in considering this application for a declaration under Section 5 of the Planning and Development Act 2000 (as amended), had regard to;

- (a) Planning and Development Act 2000 (as amended); and
- (b) Planning and Development Regulations 2001 (as amended);

AND WHEREAS Kildare County Council has concluded that the proposal comprises of development to which the provision of the following applies:

- a) Sections 2, 3, 4, of the Planning and Development Act 2000 (as amended);
- b) Articles 6, 9, 10, of the Planning and Development Regulations 2001 (as amended);
- c) The details received in the declaration request.

NOW THEREFORE Kildare County Council, in exercise of the powers conferred on it by Section 5(2)(a) of the Planning and Development Act 2000 (as amended), hereby decides that -

Comhairle Contae Chill Dara
Kildare County Council

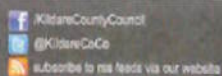


The change of use from a dwelling house to an accommodation centre for people seeking international protection, at Ryevale House, Leixlip, Co. Kildare, **IS development and IS NOT EXEMPTED development** pursuant to Sections 2, 3, 4 and 5 of the Planning and Development Act 2000 (as amended) and Articles 6, 9 and 10 of the Planning and Development Regulations 2001 (as amended)

Please note that any person issued with a declaration under Section 5 of the Planning and Development Act 2000 (as amended) may on payment to the Board of the prescribed fee, refer a declaration to An Bord Pleanála within 4 weeks of the issuing of the decision.

Signed:


Senior Executive Officer,
Planning Department



KildareCountyCouncil

@KildareCoCo

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Update on Temporary Emergency Accommodation for International Protection Applicants

Briefing Note: 15th January 2024

**Knockmount House,
Dublin Road,
Drogheda,
Co Louth,
A92 TF66**

This briefing note is being provided to you by the Department of Children, Equality, Disability, Integration and Youth to ensure you are informed of developments in your area in relation to emergency accommodation for international applicants.

Update in relation to Knockmount House, Dublin Road, Drogheda, Co Louth:

From 17th January 2024 onwards 56 beds will be provided for people seeking refuge in Ireland who are International Protection Applicants in Knockmount House, Dublin Road, Drogheda.

- All statutory requirements relating to the establishment and management of emergency accommodation are being met by the service provider, including health and safety, fire, building regulations and other requirements.
- The Department of Children, Equality, Disability, Integration and Youth will manage the arrival of people into this centre.
- The contract with this centre has been signed for a period of one year.
- See the Q&A section at the end of this note for answers to a wide range of questions.

A - Context and Overview of Current Accommodation Pressures

Legislation:

Under the *Recast Reception Conditions Directive (SI 230 of 2018)*, the Government, through the Department of Children, Equality, Disability, Integration and Youth (DCEDIY), is legally

required to provide accommodation to international protection applicants who seek it, while their claim for international protection is being determined by the Department of Justice.

When people seeking International Protection arrive in Ireland, they make themselves known to relevant authorities to formally seek this status. They are then transferred to a number of designated accommodation centres as their application is processed.

Context:

- In the last few years there has been an increase in people seeking asylum in Ireland from other countries. In addition, since the Russian invasion of Ukraine, Ireland has seen an unprecedented number of people arrive here fleeing the Russian aggression.
- We are currently providing 26,279 people seeking International Protection with state-sourced accommodation and support services.
- In addition to that, since February 2022, we are also providing accommodation to 75,026 people who have fled the war in Ukraine, resulting in over 101,300 people in state-provided or pledged accommodation in Ireland, and that number continues to increase.
- In the last six months there has been an average of 560 people seeking accommodation every week.
- Our communities and neighbourhoods have responded with a generosity of spirit, in keeping with both our international reputation and our obligations, that recognises the human plight and trauma that people are experiencing, and their right to seek protection and help from the international community.
- The provision of accommodation, health, education, income and other supports as appropriate, to both International Protection applicants and those fleeing the war in Ukraine, is a whole-of-government emergency response.
- A range of departments, agencies, service providers, and local authorities are involved in the accommodation, resettlement, and integration process.
- Given the scale and urgency of the operation to source accommodation for new arrivals, manage and process them appropriately, and transfer and settle them into their new homes and communities, there has been a requirement to act at pace, with developments often happening at very short notice.
- We are working to improve how new accommodation is sourced, and how these developments are communicated to local communities. Our aim is to enhance communications and engagement and give communities more access to information and updates on what is happening in their community.

Accommodation Shortage:

- The accommodation of international protection applicants is a demand-led process with new applicants arriving in the country and seeking accommodation every day.
- The pressure to accommodate over **101,300** new people in such a short period of time has led to significant shortages. The Department has been forced to avail of all offers of accommodation made, right across the country, in order to address the accommodation shortfall.
- The Department is working urgently across Government and with agencies, NGOs and local authorities to bring new accommodation on board to meet the State's humanitarian responsibilities.
- In light of the acute and growing pressures, Government has stepped up action to maximise the pace and scale of delivery on this accommodation strategy. The Cross-Government Accommodation Working Group, chaired by the Department of the Taoiseach, consists of the Department of Children, Equality, Disability, Integration and Youth; the Department of Housing, Local Government and Heritage; and the OPW.
- An expanded programme of work has been agreed by Government that will allow consideration of commercial properties and sites for development, refurbishment or purchase and the use of alternative modular buildings.
- This work is being progressed by all of the State bodies working together, as part of the Accommodation Working Group, and a National Coordination Unit, established in the Local Government Management Agency to ensure delivery on the expanded workstream at local level.

B – Overall Figures – as of 9th January 2024

Those seeking International Protection	
26,279*	The number of International Protection applicants (IPAs) who are currently being accommodated by the State.
12,802	The number of IP applicants who have arrived in Ireland seeking refuge in 2023 to date.
15,014	The total number of IP applicants who arrived in Ireland in 2022.
57	The most recent 7-day average number of IP arrivals into the State.

Those fleeing the war in Ukraine	
75,026	The number of people fleeing the war in Ukraine in Ireland, known as Beneficiaries of Temporary Protection (BOTPs) who are being provided with accommodation by the State or through pledges (not all seek state-provided accommodation).

*figure as at 31/12/2023

C – Questions and Responses

1. How many people are intended to be accommodated in Knockmount House, Dublin Road, Drogheda? What will the resident breakdown be at the building?
 - The capacity is for 56 people in 13 rooms.
 - The accommodation will be for families and adult female international protection applicants
2. How long can people expect to stay there?
 - It is not possible to say with certainty what the length of stay will be having regard to the number of IP applicants arriving in Ireland and the scarcity of alternative accommodation. A one-year contract has been signed with the provider.
3. What are the conditions at the site – what are the sleeping arrangements, toilets, showers, etc.? What are the catering arrangements for the building?
 - The property consists of a two-story building situated in the centre of Drogheda. The property is secure and private with electronic gates, high walls, and a wooded area with trees.
 - Accommodation consists of 13 en suite rooms varying in size.
 - There are sufficient numbers of bathrooms and showers for the number of residents.
 - There will be a full board catering provided on this site. Residents will be provided with three meals per day with a varying menu. Residents will have tea, coffee, cutlery and crockery replenished daily. Fruit and nuts will be provided as a healthy snack.
 - The property is within walking distance to schools, shops, doctors, bus and train services.
 - Each resident will have toiletries replenished weekly and other essentials such as toilet paper replenished as needed.
 - The washing of clothes and bed linen will be done by a local laundrette company.
 - The facility will have high speed fibre Wi-Fi.
 - Fire alarms, fire-fighting equipment and security cameras fitted throughout the common walking areas.

4. Who are the owners and who are operating on site? What experience do they have?

- *The property operated by Secure Accommodation Management Limited, who have a lease agreement for three years on this property. There will be staff on-site 24 hours a day. The management company has extensive experience in the provision of accommodation centres for IPAS.*
- *In addition, the Centre Management team in IPAS have developed and rolled out (as a pilot initially) a training programme for all centre managers to take part in and this will be offered to the provider.*

5. How many staff are on site? Is there a presence there 24/7? What are the security arrangements for the building?

- *The facility will be staffed 24/7. There will be staff on site to include a duty manager who is Garda vetted and certified with Tusla; two support staff to help with social welfare applications, schools, and enrolment of adults for general courses; two security guards on rotating 12 hour shifts; two cleaners; a chef and a kitchen porter; and a gardener / maintenance staff.*
- *Security staff will be present 24/7. There is also CCTV in place.*

6. Is the building fire cert in place?

- *A valid fire cert is in place and has been provided to the Department.*

7. How will people be accommodated on site and retain a degree of privacy?

- *Each resident will have their own lockable bedroom and 24-hour access.*
- *Each shower and toilet is appropriately partitioned for privacy.*

8. How will IP applicants be provided with PPS numbers? Are some of them eligible to work?

PPSNs are provided through the Department of Social Protection (DSP). Applicants are eligible to work from 6 months after their arrival in Ireland. Most of the residents will be new arrivals. Many who have found work are making a positive contribution to the local and national economies, particularly in areas where there are skills shortages.

9. What health supports are available to IP Applicants?

The Department's International Protection Accommodation Service (IPAS) works closely with the HSE. IP applicants access health services through mainstream services: primary care, GP and emergency services. Any IP applicant residing in IPAS accommodation is entitled to a medical card. IPAS will advise their HSE liaison in advance of residents being accommodated.

10. What integration supports are available to provide linkages with the local community?

IPAS carry out resident clinics at all new and existing accommodation locations. IPAS also work with a number of NGOs who provide support to residents in the form of clinics, and in addition there is a DCEDIY funded confidential NGO run helpline to assist with any queries a resident may have.

11. What supports are available to provide day-to-day activities to the IP Applicants?

- IP applicants may avail of English language classes through their local Education and Training Board (ETB)
- An adult resident receives an allowance of €38.80 per week.
- Other assistance from the Department of Social Protection, such as bus fares to attend appointments, is available at the discretion of the local Community Welfare Officer.
- Adults are entitled to work in Ireland after six months.
- IPAS carries out resident clinics at all new and existing accommodation locations to communicate with residents.
- IPAS works closely with the HSE. International protection applicants are entitled to access mainstream health services.
- IPAS works with a number of Non-Governmental Organisations who provide support to residents in the form of clinics, and there is a Department of Children, Education, Disability, Integration and Youth (DCEDIY) funded confidential NGO-run helpline to assist with any queries that residents may have as well as an IPAS Helpdesk manned by Department officials.
- International protection applicant (IPAs) are not entitled to apply for or avail of social housing or the Housing Assistance Payment while their claim for asylum is being determined by the International Protection Office (IPO).
- If an international protection applicant (IPA) has somewhere else to live in Ireland such as with a friend, spouse or family member they may do so. If an IPA does not have somewhere to live and needs to be accommodated by the Irish State, for the duration of their application for asylum with the International Protection Office (IPO), they will be accommodated in an International Protection Accommodation Service (IPAS) centre.
- Intreo (the Public Employment Service) supports and services will be specifically geared towards encouraging a greater diversity of employment options for applicants. They will be entitled to access supports from Intreo to assist them in accessing employment. Once labour market access has been granted, it is already the case that applicants can attend further education and training courses to help in upskilling.
- Post Leaving Certificate (PLC) courses are also often focused on directly developing skills for employment and applicants are provided access will also be provided to employer networks to make applicants aware of available opportunities and to raise employer awareness of applicants' skills and qualifications.

12. Is any assessment provided to IP Applicants to ascertain their needs or vulnerabilities?

Yes. IPAS have a team working to provide vulnerability assessments. (It should be noted that this team remains under considerable pressure in the context of high numbers of arrivals and opening of a high number of new emergency locations).

13. Is Drogheda the only area considered for this type of accommodation, or have other areas in the city/country been examined? How many other centres like this are in operation?

Emergency centres have been opened in all parts of the country. There have been over 190 accommodation locations utilised since January 2022 across 26 counties. These options must be considered to prevent homelessness for the unprecedented numbers of people arriving seeking international protection.

14. Who should public representatives contact with follow-on queries or concerns?

The Community Engagement Team is working across Government to ensure a more co-ordinated approach. Queries on this specific location can be directed to community@equality.gov.ie