

Lita Clarke

lit/1102

From: Bord
Sent: Wednesday 8 January 2025 15:50
To: Appeals2
Subject: FW: ABP Ref. No. 321373-24/ Reg. Ref. 384 - Response to Section 5 Referral by Cavan County Council Pertaining to the Use of the Dún na Rí House Hotel, Kingscourt, Co. Cavan
Attachments: FINAL Response to Section 5 Referral Dun na Ri 08012025.pdf; Dun a Ri House Hotel, Copy of Referral_ABP_041224.pdf

From: Christopher Browne <christopher.browne@hpd.ie>
Sent: Wednesday, January 8, 2025 3:27 PM
To: Bord <bord@pleanala.ie>
Subject: ABP Ref. No. 321373-24/ Reg. Ref. 384 - Response to Section 5 Referral by Cavan County Council Pertaining to the Use of the Dún na Rí House Hotel, Kingscourt, Co. Cavan

Caution: This is an **External Email** and may have malicious content. Please take care when clicking links or opening attachments. When in doubt, contact the ICT Helpdesk.

Good afternoon,

I would like to submit the attached response to a Section 5 referral by Cavan County Council pertaining to the Use of the Dún na Rí House Hotel, Kingscourt, Co. Cavan (ABP Ref. No. 321373-24/ Reg. Ref. 384).

Please see the attached letter for further details.

Kind regards,

Christopher Browne
Senior Planner

Hughes Planning & Development Consultants

85 Merrion Square,

Dublin 2
D02 FX60

T 00 353 (0)1 539 0710
E christopher.browne@hpd.ie
W www.hpd.ie

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

8th January 2025

Re: ABP Ref. No. 321373-24/ Reg. Ref. 384 - Response to Section 5 Referral by Cavan County Council Pertaining to the Use of the Dún na Rí House Hotel, Kingscourt, Co. Cavan

Applicant: Brimwood Unlimited Company

The question before the planning authority is:

"Whether the use of a Guesthouse at Dún a Rí House Hotel, Kingscourt, Co. Cavan A82 ND30, to provide accommodation for persons seeking international protection, constitutes exempted development or does not constitute exempt development?"

Dear Sir/Madam,

In accordance with Section 129 of the Planning and Development Act 2000 (as amended), Hughes Planning and Development Consultants, 85 Merrion Square, Dublin 2, have prepared a response to the Section 5 reference by Cavan County Council pertaining to the Use of the Dún na Rí House Hotel, Kingscourt, Co. Cavan. The proposed use, which is the subject of this Section 5 application is the temporary use of the property on behalf of the Minister for Children, Equality, Disability, Integration and Youth to accommodate persons seeking international protection. It is important to note from the outset that no works are being sought as part of this declaration and this section 5 application relates to the use of the building only.

The question before the planning authority is:

"Whether the use of a Guesthouse at Dun na Rí House Hotel, Kingscourt, Co. Cavan A82 ND30, to provide accommodation for persons seeking international protection, constitutes exempted development or does not constitute exempt development?"

As per the correspondence received from Cavan County Council, they are seeking clarity as to whether the Section 5 request should be determined under Class 14(h) or Class 20F of the Planning and Development Regulations 2001-2024.

It is acknowledged that the original question posed to the planning authority referenced the use of a guesthouse rather than a hotel as should have been the case.

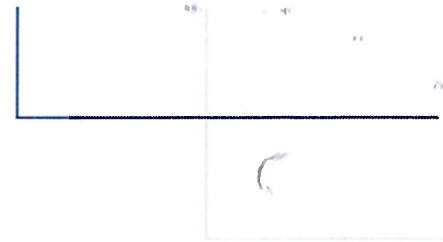
The planning history of the property presents several planning applications which refer to a hotel. Furthermore, it is noted that the property was constructed as a hotel in c 1880, prior to 1963 (i.e. prior to the commencement of the Local Government (Planning and Development) Act, 1963 on 1st October 1964). In accordance with the Planning and Development Act 2000 (as amended), development which took place before 1st October 1964, is exempted development, whereby an applicant is exempt from the obligation to obtain planning permission. Section 39(4) of the Planning and Development Act, 2000 as amended, outlines the following in relation to pre-1963 development:

'(4) Notwithstanding anything in this Part, permission shall not be required under this Part, in the case of land which, on 1 October 1964, was normally used for one purpose and was also

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+353 (0)1 539 0710 info@hpd.c.ie www.hpd.c.ie

H.P.D.C Limited Company Number 517203



used on occasions, whether at regular intervals or not, for any other purpose, for the use of the land for that other purpose on similar occasions after 1 October 1964.'

It is therefore submitted that the proposed use of the hotel to provide accommodation to protected persons can be considered exempted development under both Class 14(h) or Class 20F of the Planning and Development Regulations 2001-2024. However, Class 14(h) provides a wider scope.

We note that Class 14(h) is contained within S.I. No. 582 of 2015 of the Planning And Development (Amendment) (No. 4) Regulations 2015. We refer to the provisions of exempted development Class 14(h) which states that;

'Development consisting of a change of use:

*(h) from use as a **hotel**, motel, hostel, guesthouse, holiday accommodation, convent, monastery, Defence Forces barracks or other premises or residential institution providing overnight accommodation, or part thereof, or from the change of use specified in paragraph (i) of the said premises or institution, or part thereof, to use as accommodation for protected persons'*

Class 14(h) is inserted by Article 4 of S.I. No. 582/2015 Planning and Development (Amendment)(No. 4) Regulations 2015.

Article 4 of these Regulations inserts 4 new classes of exempted development into the Planning and Development Regulations 2001 ("the Principal Regulations"), which has the effect that the changes of use specified in the new classes are exempted from the requirement to obtain planning permission. The new classes of exempted development are as follows:

*'Class 14(h): Change of use of **various forms of premises providing residential or overnight accommodation to specific use as accommodation for refugees and asylum seekers**, as defined in legislation. This class of exempted development will assist in implementing the Government's Irish Refugee Protection Programme (IRPP), which was established on 10 September 2015 in response to the migration crisis in central and southern Europe.'*

As per Class 14(h) as noted above, a variety of premises providing residential or overnight accommodation can be used for the purpose of accommodating refugees and asylum seekers, we confirm that the property to which this Section 5 application relates is a guesthouse. It is considered the definition of a 'guesthouse' falls under the umbrella of '*premises providing residential or overnight accommodation*'. On this basis, it is submitted that the subject site can avail of the exemption afforded under Class 14(h).

It is considered that Class 14(h) provides enough scope to allow the Board to determine whether the use of the Dún a Rí House Hotel to provide accommodation for persons seeking international protection, constitutes exempted development or does not constitute exempt development.

Should you have any queries or require any further information, please do not hesitate to contact the undersigned.

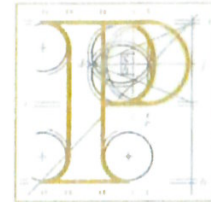
Yours sincerely,

Kevin Hughes MIPI MRTPI
Director For HPDC

Our Case Number: ABP-321373-24

Planning Authority Reference Number: 384

Your Reference: Brimwood Unlimited Company



An
Bord
Pleanála

Hughes Planning & Development
85 Merrion Square
Dublin 2
D02 FX60

Date: 04 December 2024

Re: Whether the change of use of a guesthouse to provide accommodation for persons seeking international protection is or is not development or is or is not exempted development.
Dun a Rí House Hotel, Kingscourt, Co. Cavan, A82 ND30.

Dear Sir / Madam,

Enclosed is a copy of a referral under the Planning and Development Act, 2000, (as amended).

In accordance with section 129 of the Planning and Development Act, 2000, (as amended), you may make submissions or observations in writing to the Board in relation to the referral within a period of 4 weeks beginning on the date of this letter.

Please note that in accordance with section 251 of the Planning and Development Act, 2000, (as amended), the period beginning on 24th December and ending on 1st January, both dates inclusive, should be disregarded for the purposes of calculating the last date for lodgement of submissions or observations.

Any submissions or observations received by the Board outside of that period shall not be considered and where none have been validly received, the Board may determine the referral without further notice to you.

Please quote the above referral number in any further correspondence.

Yours faithfully,



Lisa Quinn
Executive Officer
Direct Line: 01-8737158

BPRL05 - Xmas

| | | |
|---------------------------|----------------|--|
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| Glao Áitiúil | LoCall | 1800 275 175 |
| Facs | Fax | (01) 872 2684 |
| Láithreán Gréasáin | Website | www.pleanala.ie |
| Ríomhphost | Email | bord@pleanala.ie |

| | |
|----------------------|-----------------------|
| 64 Sráid Maoilbhríde | 64 Marlborough Street |
| Baile Átha Cliath 1 | Dublin 1 |
| D01 V902 | D01 V902 |



Cavan

Comhairle Contae an Chabháin
Cavan County Council

Cavan County Council
Johnston Central Library
Farnham Street
Cavan H12 V3W4

T: 049 437 8300 Comhairle Contae an Chabháin
E: info@cavancoco.ie E: eolas@cavancoco.ie
W: www.cavancoco.ie

An Bord Pleanála
64 Marlborough Street
Dublin 1

28 November 2024

Ref: 384

Re: Declaration under Section V of the Planning and Development Act 2000 (as amended) whether the use of a guesthouse at Dun a Ri hotel to provide accommodation for persons seeking international protection at Dun na Ri House Hotel Kingscourt Co Cavan A82ND30 constitutes exempted development.

A Chara,

I enclose herewith copy of Section V Application received from Brimwood Unlimited Co which we refer to you for decision in accordance with Section 5(4) of the Planning and Development Act 2000 (as amended).

Statement of grounds for referral and fee of €110 is enclosed.

Mise le meas,

Cathal Boylan

Senior Staff Officer

| | |
|-------------------------|------------------------------|
| AN BORD PLEANÁLA | |
| LDG- | <u>076489-24</u> |
| ABP- | |
| 29 NOV 2024 | |
| Fee: € | <u>110-</u> Type: <u>Chg</u> |
| Time: <u>9:31</u> | By: <u>Ray Post</u> |



Cavan County Council

Cavan Co. Council
RECEIVED

01 NOV 2024

Planning Section

**APPLICATION FOR DECLARATION UNDER SECTION V of the
PLANNING AND DEVELOPMENT ACT 2000 (as amended)**

Name of Applicant Brimwood Unlimited Company

Address of Applicant Corvalley, Carrickmacross, Monaghan

Phone Number 015390710

Name of Agent Hughes Planning & Development Consultants

Address of Agent 85 Merrion Square, Dublin 2

Location of proposed Development: Dún na Rí Hotel, Main Street, Kingscourt, Cavan

Is this a Protected Structure or within the curtilage of a Protected Structure?

☐ Yes

☒ No

7. Description of Proposed Development _____

"Whether the use of a Guesthouse at Dun a Rí House Hotel, Kingscourt, Co. Cavan A82 ND30, to provide accommodation for persons seeking international protection, constitutes exempted development or does not constitute exempt development?"

8. Applicant's interest in site: Owner

Signed: 

Date: 29/10/2024

Please submit the following details with your application form:

1. Site location Map
2. Site layout plan
3. Details of gross floor space of development (if applicable)
4. Dimensions of proposed development
5. Details of previous extensions
6. Fee €80

Please note that your application cannot be fully processed until the attached form and appropriate documentation have been submitted to the Planning Department.

**Return completed form to: Planning Section
Cavan County Council, Johnston Central Library, Farrham Street, Cavan
T. (049) 4378300 E: plan@cavancoco.ie**

MEMORANDUM

| | | | |
|------|---|----|-----------------------------------|
| From | Michelle Fitzpatrick Assistant Planner | To | Nicholas O'Kane Senior Planner |
|------|---|----|-----------------------------------|

Date 28th November 2024

RE: Application for Declaration under Section 5 of the Planning & Development Act 2000 as amended

Applicant: Brimwood Unlimited Company

Location: Dun Na Ri House Hotel, Kingscourt, Co. Cavan

Declaration is sought under Section V of the Planning and Development Act 2000, for whether the change of use of a guesthouse at Dun a Ri House Hotel Kingscourt, Cavan A82 ND30 to provide accommodation for persons seeking international protection constitutes exempted development or does not constitute exempted development

Description:

Site Location & Description

The subject site is located at Dun na Ri House Hotel, Kingscourt, Co. Cavan. The site comprises a terraced 6 bay 2 storey hotel. The subject site is zoned as Town Core in the Cavan County Development Plan incorporating a Local Area Plan for Cavan Town, 2022-2028. Access to the site is off the R-165-0.

Planning History

10173- to (1) change use of existing retail ground floor area known as " Macs Corner Shop" to extension of existing bar area contained in Dun a Ri House Hotel (2) to construct alterations and amendments to existing ground floor plan (3) additional signage and new shop front to proposed new bar area Station Road/Carrickmacross Road frontage (4) to connect to existing services (5) to complete ancillary site works- approved 2010

8918158- erect satellite dish- approved 1989

8716918- renovate existing garage and store into shop on ground floor and flats on first floor- approved 1987

8515304- retain existing basement store, dininghall, kitchen, toilets and boiler house- approved 1985

8314318- erect extension incorporating kitchen, dining, 9 bedrooms, change existing front entrance- approved 1983

643325- erect bedrooms and toilet over Dunaree House Hotel- approved 1970

94531- retain extension to Dunaree House Hotel- approved 1994

Legislative Context

PART 1, Section 5 of the Planning and Development Act (No. 30 of 2000, as amended)
: Declaration and referral on development and exempted development:

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

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

The applicant has submitted a Section 5 declaration seeking whether;

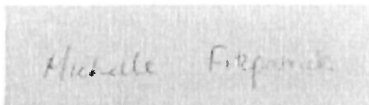
the change of use of a guesthouse at Dun a Ri House Hotel Kingscourt, Cavan A82 ND30 to provide accommodation for persons seeking international protection is exempt development.

Matters of relevance:

In determining this referral to An Bord Pleanála the planning authority have concerns with regard to the existing use. It is unclear whether the premises is either a hotel or a guesthouse. The planning history depicts the use as a hotel. The latter also raises concerns as to whether this determination falls under Class 14 (h) or 20 (f) of the Planning and Development Regulations 2001-2024.

The above question is referred to An Bord Pleanála, under Section 5(4) of the Planning and Development Act, as amended, seeking a determination whether the change of use is or is not exempt development.

PLANNER SIGNATURE

A rectangular box containing a handwritten signature in cursive script, which appears to read "Michelle Fitzgerald".

DATE

28/11/2024

PLANNING REPORT

Section 5 Application – Declaration of Exempted Development



The accommodation of refugees and asylum seekers at Dun a Rí House Hotel, Kingscourt, Co. Cavan A82 ND30.

Cavan County Council

October 2024

SUBMITTED ON BEHALF OF:
Brimwood Unlimited Company
Corvalley, Carrickmacross,
Co. Monaghan, Ireland

85 Merrion Square, Dublin 2, D02 FX60
+353 (0)1 539 0710 info@hpdcc.ie www.hpdcc.ie



1.0 Introduction

Hughes Planning and Development Consultants, 85 Merrion Square, Dublin 2, have prepared this report to accompany an application for a Section 5 Declaration of Exempted Development, on behalf of Brimwood Unlimited in respect of the use of guest accommodation at Dun a Ri House Hotel, Kingscourt, Co. Cavan A82 ND30. The proposed use, which is the subject of this Section 5 application is the temporary use of the property on behalf of the Minister for Children, Equality, Disability, Integration and Youth to accommodate persons seeking international protection. It is important to note from the outset that no works are being sought as part of this declaration and this section 5 application relates to the use of the building only.

The question before the planning authority is:

"Whether the use of a Guesthouse at Dun a Ri House Hotel, Kingscourt, Co. Cavan A82 ND30, to provide accommodation for persons seeking international protection, constitutes exempted development or does not constitute exempt development?"

We note the term 'Displaced Persons' under Article 2 of Council Implementing Decision (EU) 2022/382 of 4th March 2022 means the following categories of persons displaced from Ukraine on or after 24th February 2022, as a result of the military invasion by Russian armed forces that began on that date:

- (a) Ukrainian nationals residing in Ukraine before 24 February 2022;
- (b) Stateless persons, and nationals of third countries other than Ukraine, who benefited from international protection or equivalent national protection in Ukraine before 24 February 2022; and,
- (c) Family members of the persons referred to in points (a) and (b).

It is further noted that for the purposes of paragraph 1, point (c), the following persons shall be considered to be part of a family, in so far as the family was already present and residing in Ukraine before 24 February 2022:

- (i) The spouse of a person referred to above, point (a) or (b), or the unmarried partner in a stable relationship, where the legislation or practice of the Member State concerned treats unmarried couples in a way comparable to married couples under its national law relating to aliens;
- (ii) the minor unmarried children of a person referred to above, point (a) or (b), or of his or her spouse, without distinction as to whether they were born in or out wedlock or adopted;
- (iii) Other close relatives who lived together as part of the family unit at the time of the circumstances surrounding the mass influx of displaced persons, and who were wholly or mainly dependent on a person referred to in paragraph 1, point (a) or (b) at the time.

Thereafter, for the purposes of this exemption, 'Displaced Persons' shall be defined based on the above.

We note that the definition of 'international protection' is as follows:

1. 'International protection', for the purpose of this class, has the meaning given to it in section 2(1) of the International Protection Act 2015 (No. 66 of 2015).

Consequently, 'International Protection' is defined under the 2015 Act as:

- a) as a refugee, on the basis of a refugee declaration, or
- b) as a person eligible for subsidiary protection, on the basis of a subsidiary protection declaration;

Thereafter, for the purposes of this exemption, people under international protection shall be defined based on the above.

01 NOV 2024

The subject site is located at Dun a Rí House Hotel, Kingscourt, Co. Cavan A82 ND30. The site comprises a terraced Victorian six-bay two-storey hotel, built c.1880. The building is distinguished by its gables and the asymmetrical arrangement of its windows, providing a picturesque contrast to the prevailing classically influenced buildings in the town.

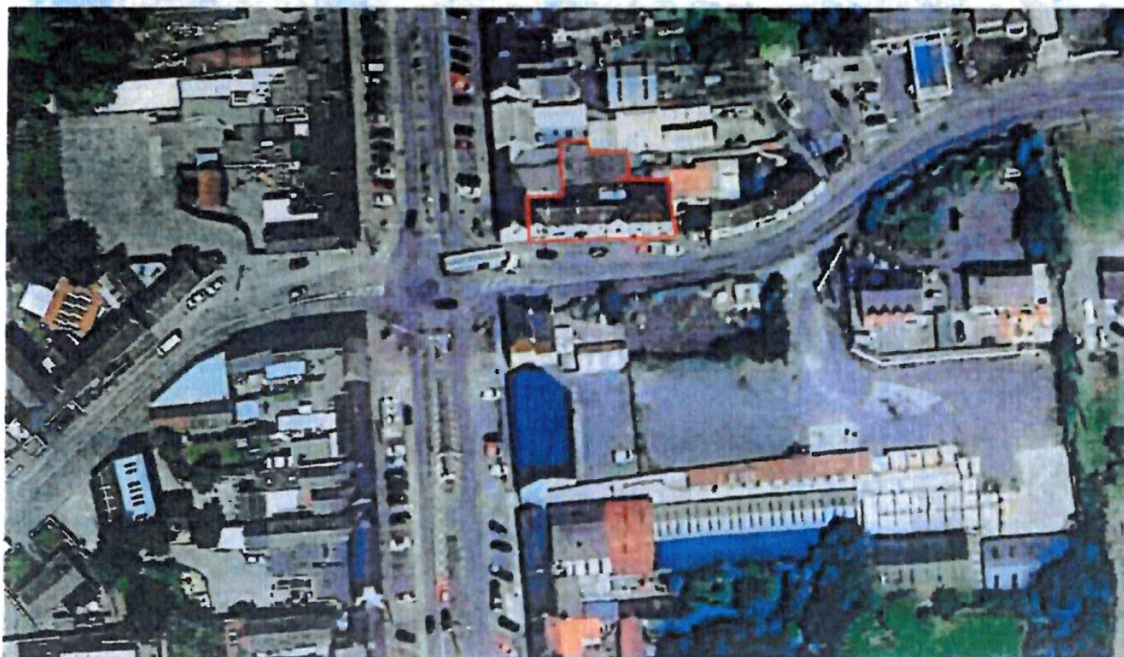


Figure 1.0 Aerial image showing The Dun a Rí House Hotel.



Figure 2.0 Aerial image of the subject site (red marker) in the context of Cavan.



Figure 3.0 Street view image of the subject site.

3.0 Planning History

A review of the Cavan County Council Planning register revealed the following planning history within the subject site:

| | |
|--------------------------|---|
| Reg. Ref. 643325 | Permission was granted by Cavan County Council on 2 nd December 1970 for the erection of bedrooms and toilet over Dunaree House Hotel. |
| Reg. Ref. 8314318 | Permission was granted by Cavan County Council on 17 th August 1983 for the erection of extension incorporating kitchen, dining, 9 bedrooms, change existing front entrance |
| Reg. Ref. 8515304 | Permission was granted by Cavan County Council on 19 th July 1985 for the retention of existing basement store, dining hall, kitchen, toilets and boiler house. |
| Reg. Ref. 8716918 | Permission granted on by Cavan County Council on 9 th August 1987 for the renovation of existing garage and store into A shop on ground floor and flats on first floor |
| Reg. Ref. 89 1858 | Permission was granted by Cavan County Council on 25 th October 1989 for the erection of a satellite dish |
| Reg. Ref. 10173 | Permission was granted by Cavan County Council on 8 th July 2010 for (1) the change of use of existing retail ground floor area known as "Macs Corner Shop" to extension of existing bar area contained in Dunaree House Hotel (2) to construct alterations and amendments to existing ground floor plan (3) additional signage and new shop front to proposed new bar area Station Road/Carrickmacross Road frontage (4) to connect to existing services (5) to complete ancillary site works |
| Reg. Ref. 94531 | Permission was granted by Cavan County Council on 9 th March 1995 for the retention of extension to Dunaree House Hotel. |

4.0 Proposed Use

The proposal seeks the change of use from guest house to use as accommodation for persons seeking international protection. We note that no works are being sought with regard to this declaration and the determination of the planning authority is only sought in respect of a change of use as set above under Class 14(h) of Planning and Development Regulations 2001 – 2024.

5.0 Legislative Provisions

In respect of the legislative provisions, we refer to Class 14(h) contained within the Planning and Development Regulations 2001 – 2024 Schedule 2, Article 6, Part 1. We note that Class 14(h) is contained within of S.I. No. 582 of 2015 of the Planning And Development (Amendment) (No. 4) Regulations 2015. We refer to the provisions of exempted development Class 14(h) which states that;

Development consisting of a change of use:

(h) from use as a hotel, motel, hostel, guesthouse, holiday accommodation, convent, monastery, Defence Forces barracks or other premises or residential institution providing overnight accommodation, or part thereof, or from the change of use specified in paragraph (i) of the said premises or institution, or part thereof, to use as accommodation for protected persons'

Class 14(h) is inserted by Article 4 of S.I. No. 582/2015 Planning and Development (Amendment)(No. 4) Regulations 2015.

Article 4 of these Regulations inserts 4 new classes of exempted development into the Planning and Development Regulations 2001 ("the Principal Regulations"), which has the effect that the changes of use specified in the new classes are exempted from the requirement to obtain planning permission. The new classes of exempted development are as follows:

'Class 14(h): Change of use of various forms of premises providing residential or overnight accommodation to specific use as accommodation for refugees and asylum seekers, as defined in legislation. This class of exempted development will assist in implementing the Government's Irish Refugee Protection Programme (IRPP), which was established on 10 September 2015 in response to the migration crisis in central and southern Europe.'

As per Class 14(h) as noted above, a variety of premises providing residential or overnight accommodation can be used for the purpose of accommodating refugees and asylum seekers, we confirm that the property to which this Section 5 application relates is a guesthouse. It is considered the definition of a 'guesthouse' falls under the umbrella of '*premises providing residential or overnight accommodation*'. On this basis, it is submitted that the subject site can avail of the exemption afforded under Class 14(h).

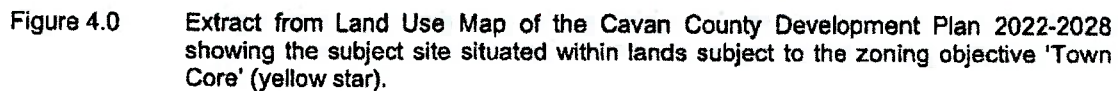
6.0 Planning Context

6.1 Cavan County Development Plan 2022-2028

The subject site is zoned Town Core, under the current development plan, with the objective 'Protect and enhance the special physical and social character of the town and village core while providing and/or improving town/village centre facilities.' The vision of the zoning objective is to:

'Maintain and build on accessibility, vitality and viability of the existing town and village centres in the County. Develop and consolidate these town/village cores with an appropriate mix of commercial, recreational, cultural, leisure and residential uses, and to enhance and develop their urban fabric in accordance with the principles of urban design, conservation and sustainable development. Refurbishment, renewal, reuse and regeneration of existing buildings and derelict sites will be encouraged. Retail provision will be in accordance with County Retail Strategy. All Town Core zoned lands within the plan is subject to the provisions of the Urban Regeneration and Housing Act 2015 with respect to the application of the Vacant Site Levy for regeneration and residential purposes where appropriate.'





Land uses which are classified as 'Permitted in Principle' will normally be permitted, subject to compliance with relevant policies, standards and requirements contained in the Plan. According to the Development Plan, uses which are 'Permitted in Principle' on land zoned 'Town Core' are as follows:

Not Permitted

The proposal seeks to use the building to provide accommodation for refugees and asylum seekers. We would consider that the exempted use is consistent with the zoning objective, and it is therefore submitted that the proposed use is appropriate for the subject site.

7.0 Conclusion

The subject site at Dun a Ri House Hotel is intended to provide accommodation for persons seeking international protection. This facility will not provide care to residents.

Therefore, the question before the planning authority is:

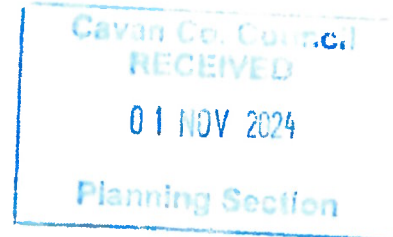
"Whether the use of a Guesthouse at Dun a Ri House Hotel, Kingscourt, Co. Cavan A82 ND30, to provide accommodation for persons seeking international protection, constitutes exempted development or does not constitute exempt development?"

As such, we would ask Cavan County Council to make a declaration as to whether the proposed use of the building as outlined in the body of this report is exempt development or does not constitute exempt development at Dun a Ri House Hotel, Kingscourt, Co. Cavan A82 ND30. It is noted that no works are being sought as part of this declaration.

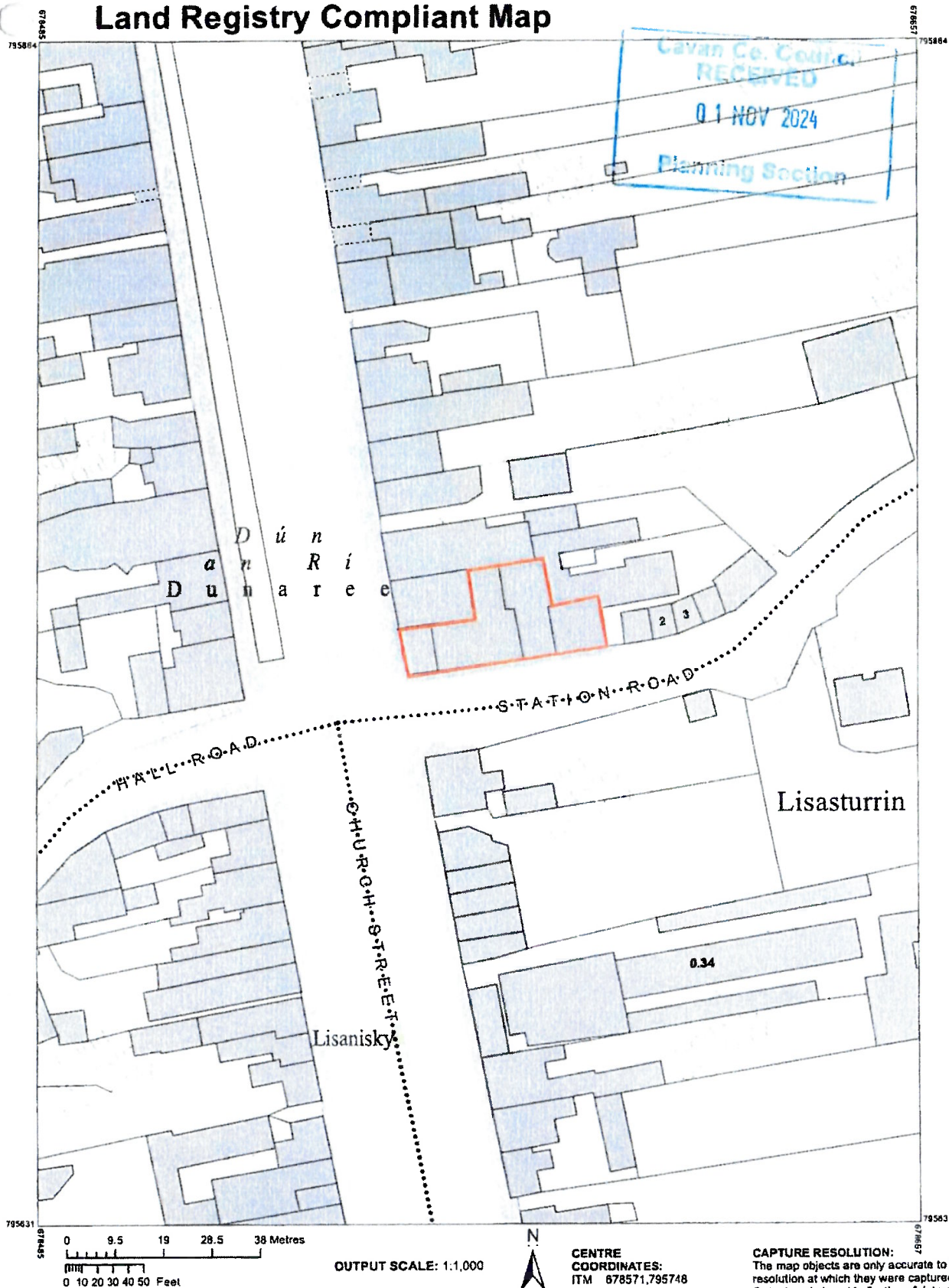
Accordingly, we request a declaration to this effect from Cavan County Council under Section 5 of the Planning and Development Act 2000 (as amended). Should you have any queries or require any further information including access to the building, please do not hesitate to contact the undersigned.



Kevin Hughes MIPI MRTPI
Director for HPDC



Land Registry Compliant Map



COMPILED AND PUBLISHED BY:

Tailte Éireann,
Phoenix Park,
Dublin 8,
reland.
J08F6E4

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