

# ROBERT KENNY

ARCHITECTURAL & ENGINEERING SERVICES

TOWNLEY HALL, DROGHEDA, CO LOUTH  
A92 F990

TELEPHONE: 041-983 6027

Email : info@robertkenny.ie

An Bord Pleanála  
64 Marlborough Street,  
Dublin D01 V902

2<sup>nd</sup> January 2025

**Declaration of 'Exempted Development' Part 1, Section 5 Planning and Development Act, 2000 (as amended as to whether the change of use of a public house to three residential units is development and is or is not exempt development within the meaning of the Planning and Development Act, 2000 (as amended))**

12 Thomas Street, Drogheda, Co Louth

Mr Robbie Gogan

Reference No S5 2024/64

AN BORD PLEANALA  
LDG- 077084-25  
ABP-  
06 JAN 2025  
Fee: € 220 Type: Chg  
Time: 8.40 By: Posk

Dear Sirs

On behalf of Mr Robbie Gogan, Hilltown House, Bellewstown, Co Meath we wish to appeal against the determination by Louth County Council that the development is development and is not exempt development.

The development, consisting of the conversion of a vacant public house to three residential units, was carried out in 2022. The works were carried out under SI No 75/2022- Planning and Development Act (Exempted Development) Regulations 2022, which permit this type of development without applying for planning permission. As required under the legislation, Louth County Council were notified of the commencement of the works and confirmation was received on 3<sup>rd</sup> May 2022 that the Exempted Development Register had been updated accordingly. The development completed in 2022 and the houses have been occupied since.

Notwithstanding the previous correspondence, Louth County Council subsequently issued a Waring Letter on 11<sup>th</sup> March 2024 stating that there was an alleged unauthorised change of use from a public house to three residential units without the benefit of Planning Permission. The Warning letter did not state why the Local Authority considered the development to be no longer exempt not could any of the officers elaborate. An application for the Section 5 Declaration was therefore made.

SI No 75/2022 sets out a number of conditions for the conversion of a public house to residential units. Compliance with the same was clearly demonstrated in referral and the conclusions of the Local Authority are incorrect.

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The proposed development consisted of the conversion of a vacant public house (Class 12) to three residential units. The facts that the building was built before 2018, that it was a public house and that it had been vacant for at least two years are not disputed. The development was completed within the 'relevant period' and the residential units are fully occupied.

We confirm:

- The works were confined to the existing building and did not involve the construction of an extension.
- The works were carried out during the relevant period being between 8<sup>th</sup> February 2018 and 31<sup>st</sup> December 2025
- The building was constructed in the nineteenth century and thus was completed prior to the making of the Planning and Development (Amendment)(No2) Regulations 2018
- The structure was previously used as a public house, being a Class 12 use.
- The structure was vacant for at least two years prior to the works being carried out.
- The works affected primarily the interior of the structure
- The works retained in excess of 50% of the existing external fabric of the building
- The works did not materially affect the external appearance of the structure as to render its appearance inconsistent with the character of the structure or neighbouring structures.
- The works consisting of the alteration of the ground floor shop front is consistent with the fenestration details and architectural and streetscape character of the neighbouring structures (housing)
- The works do not conflict with the objectives of the Local Authority Development Plan.
- The works consisted of the provision of three residential units which is less than permitted nine residential units
- The dwelling floor areas and storage spaces comply with the minimum floor area requirements and minimum storage space requirements of the 'Sustainable Urban Housing: design Standards for new Apartments – Guidelines for Planning Authorities 2022'
- All habitable rooms have adequate natural lighting.
- The building is not a protected structure.
- The works do not contravene any condition attached to a planning permission.
- The structure is not located in an area to which a special amenity area order relates, an area of special planning control or within the relevant perimeter distance area, as set out in Table 2 of Schedule 8, of any type of establishment to which the Major Accident Regulations apply.
- The works do not relate to matters in respect of which any of the restrictions set out in sub-paragraph (iv), (vii), (viiB), (viiC), (viii) of article 9(1)(a), or paragraph (c) or (d) of article (9)(1), would apply.
- The works do not include the provision of an on-site waste water treatment unit.

*Robert Kenny MACEngMIEI MIStructE*

- The Local Authority was notified of the change of use not less than fourteen days prior to the commencement of the works. The notification contained the requisite information: the location of the structure, the number of residential units involved, including the unit sizes and number of bedrooms in each unit and the Eircode of the property. The Local Authority confirmed receipt of the notification and confirmed that the change of use was entered on the record maintained for this purpose.

The Local Authority in their Declaration give a number of reasons why they consider the development is not an exempted development.

- (a) We agree that the change of use of a public house to three residential units is development as defined in Section 3 of the Planning and Development Act 2000 (as amended).
- (b) We submit that the development is exempt as defined in SI No 75/2022 as demonstrated in the plans and other documentation submitted.
- (c) We submit that the development does not materially affect the external appearance of the structure as to render its appearance inconsistent with the character of the structure or of neighbouring structures. It is unclear why the Local Authority would think otherwise.
- (d) We submit that the floor areas and storage requirements comply with 'Sustainable Urban Housing: Design Standards for New Apartment 2022 – Guidelines for Apartments' as demonstrated on the drawings. It would appear unreasonable to apply more recent guidelines which were published after the development was completed.

SI No 75/2022 is silent on the provision of amenity spaces and, while desirable, there is no requirement to provide any as stated by the Local Authority.

- (e) The provision of windows, dormer or not, is a requirement of SI No 75/2022 which adequate light should be provided to habitable rooms. SI No 75/2022 also provides that up to 50% of the external structure can be altered, provided that the works do not materially affect the external appearance of the structure as to render its appearance inconsistent with the character of the structure or of neighbouring structures which is the case here.
- (f) The door to house No 3 was existing prior to the development and is not a new door as stated. The modification of a gate or gateway is an exempted development.

The emergency legislation was introduced to speed up the provision of accommodation and bring vacant properties back into use as in this case. It appears that the legislation and the spirit of the legislation is being opposed by planning authorities. The conclusion of the Local Authority and the decision of the referral should be overturned.

Yours faithfully

Robert Kenny

*Robert Kenny MAC'EngMIEI MIStructE*



Comhairle Contae Lú  
Louth County Council

**REGISTERED POST**

Mr. Robbie Gogan  
c/o Robert Kenny  
Townley Hall  
Drogheda  
Co. Louth  
A92 F990

2<sup>nd</sup> December 2024

**Re: Ref. S5 2024/64**

**Application for Declaration of "Exempted Development" Part 1,  
Section 5 Planning & Development Act, 2000 (as amended) as to  
whether the change of use of a public house to three residential units  
at 12 Thomas Street, Drogheda, Co. Louth is development and is or is  
not exempt development within the meaning of the Planning and  
Development Act, 2000 (as amended).**

Dear Sir/ Madam,

I wish to acknowledge receipt of your application received on 7<sup>th</sup> November 2024 in relation to the above. Having assessed all information and enclosures revised with the application, the Planning Authority wishes to advise as follows:

**WHEREAS** the question has arisen as to whether the change of use of a public house to three residential units at 12 Thomas Street, Drogheda is development and whether it is exempted development

**AND WHEREAS** the said question was referred to Louth County Council by the applicant Robbie Gogan

**AND WHEREAS** Louth County Council, in considering this reference, had particular regard to:

Comhairle Contae Lú  
Halla an Bhaile  
Sráid Crowe  
Dún Dealgan  
Contae Lú  
A91 W20C

Louth County Council  
Town Hall  
Crowe Street  
Dundalk  
County Louth  
A91 W20C

T + 353 42 9335457  
E [info@louthcoco.ie](mailto:info@louthcoco.ie)  
W [www.louthcoco.ie](http://www.louthcoco.ie)

*Cuirfear fáilte roimh chomhfhreagras Gaeilge - Correspondence in Irish is welcome*  
Féach foláirimh faoi Lú ón gComhairle ag [www.mapalserter.ie/Louth](http://www.mapalserter.ie/Louth)  
View Council alerts for Louth at [www.mapalserter.ie/Louth](http://www.mapalserter.ie/Louth)

- (a) Section 2, 3, 4 of the Planning and Development Act, 2000 (as amended);
- (b) The definition of "development" in Section 3 of the Planning and Development Act 2000 (as amended);
- (c) Article 5, 6, 9 and 10 of the Planning and Development Regulations 2001 (as amended);
- (d) The conditions and limitations of S.I. No. 75 of the Planning and Development (Amendment) (No. 2) Regulations 2022.
- (e) Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (July 2023)
- (f) Provisions of the Louth County Development Plan 2021-2027 as varied.
- (g) The planning history of the subject site.
- (h) The submitted information.
- (i) The site and properties as currently laid out

**AND WHEREAS** Louth County Council has concluded that:

- (a) *the change of use of a public house to three residential units* at 12 Thomas Street, Drogheda is development as defined in Section 3 of the Planning and Development Act 2000 as amended.
- (b) The change of use of the entire building to 3 no. residential units together with new dormer windows and alterations to the external facades do not meet with the conditions and limitations set out in S.I. No. 75 of the Planning and Development (Amendment) (No. 2) Regulations 2022, as details submitted have not demonstrated
  - (d)(i) (III) that it does not materially affect the external appearance of the structure so as to render its appearance inconsistent with the character of the structure
  - (d) (i) (vi) dwelling floor areas, storage spaces and private amenity areas comply with the minimum floor area requirements, minimum storage space requirements and minimum private amenity areas of the "Sustainable urban Housing: Design Standards for New Apartments 2023 – Guidelines for Planning Authorities"
- (c) The construction of the dormer windows is development that is not exempted development
- (d) The widening of access and new entrance door to House no. 3 would conflict with Article 9 (ii) and (iii).

**NOW THEREFORE** Louth 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 *the change of use of a public house to three residential units* at 12 Thomas Street, Drogheda is development that is not exempted development.

**In Summary**

**A declaration of Exemption is hereby REFUSED for the proposed works as detailed on the plans and particulars submitted on 7<sup>th</sup> November 2024.**

**This decision may be referred by you to An Bord Pleanála for review within 4 weeks of the date of this letter subject to the payment of the appropriate fee.**

Yours faithfully



Niamh Lynch  
Planning Section



Comhairle Contae Lú  
Louth County Council

Mr. Robert Gogan  
c/o Robert Kenny,  
Architectural & Engineering Services,  
Townley Hall,  
Drogheda,  
Co. Louth

03<sup>rd</sup> May, 2022

Our Ref: A10-01-2022

**Re: Statutory Notification under Section 6(e) of the Planning and Development  
(Exempted Development) Regulations 2022  
Development at 12/13 Thomas Street, Drogheda, Co. Louth, A92 FN27**

Dear Sir/Madam,

The Planning Authority acknowledges receipt of your correspondence, dated 13<sup>th</sup> April 2022, in relation to the above and the proposed change of use from a public house to three houses at 12/13 Thomas Street, Drogheda, Co. Louth, A92 FN27, commencing on 02<sup>nd</sup> May, 2022.

The Exempted Development Register shall be updated accordingly.

Yours faithfully,

Niamh Lynch  
Planning Section.

Comhairle Contae Lú  
Halla an Bhaire  
Sráid Croicé  
Dún Deagán  
Contae Lú  
A91 W20C

Louth County Council  
Town Hall  
Croicé Street  
Dundak  
County Louth  
A91 W20C

+353 42 9335457  
+353 42 9335454  
info@louthcoco.ie  
www.louthcoco.ie

Cuirtear faoi bhráinn chomhfhreagrú Gaeilge - Correspondence in Irish is welcome  
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ON OUTSIDE OLD DOOR STILL AT BACK



