



COMHAIRLE CONTAE
C HEATHARLACH

CARLOW COUNTY COUNCIL

24th February 2025

Registered Post

An Bord Pleanála,
64 Marlborough Street,
Dublin 1
D01 V902

AN BORD PLEANÁLA
LDG- 078190-25
ABP- _____
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Time: 9:19 By: Reg Post

Oifigí an Chontae,
Bóthar Átha Í,
Ceatharlach, R93E7R7

County Buildings,
Athy Road,
Carlow, R93E7R7

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E: See carlow.ie/contact-us

W: carlow.ie

Ref: S5/24/64

RE: **Section 5(4) of Planning and Development Act 2000 (as amended)**
Referral by Carlow County Council for development at 32 Sandhills, Hacketstown Road,
Carlow R93V6K7.

A Chara,

In accordance with Section 5(4) of the Planning Development Act 2000 (as amended), the Planning Authority wishes to refer the attached Section 5 application accompanied by Planner's Report to An Bord Pleanála for your consideration of the following development:

'whether the use of 32 Sandhills, Hacketstown Road, Carlow R93 V6K7 as a residence for International Protection Applicants constitutes development and whether, if it does, it can be considered exempted development'.

It should also be noted that this is one of 8 concurrent Section 5 Declaration applications made for different properties for this use by the applicant. As set out in the Planner's report further information was sought from the applicant to clarify the nature and extent of the submitted uses of the dwelling house in order for the Planning Authority to comprehensively assess whether the uses alter the character of a typical private dwelling occupancy in a manner that is material in nature and gives rise to impacts on proper planning and sustainable development. Further information was received and assessed, and it is considered that there remains an absence of clarity and detail regarding the full nature and extent of the applicant's use of the dwelling houses and the applicant has not fully taken account of, or comprehensively addressed the issues raised by the Planning Authority in the further information request that issued.

Given the above context, the Planning Authority are referring this application to An Bord Pleanála for determination as to whether the proposal is or is not development, or is or is not exempted development.

Please find enclosed the application fee to the value of €110 and should you have any further queries in relation to this matter, please contact the Planning Department at (059) 9136229 or email planningdevman@carlowcoco.ie.

Yours sincerely,

Shirley O'Neill,
Administrative Officer.



CARLOW
COUNTY COUNCIL

COMHAIRLE CHONTAE CHEATHARLOCHIA

PHONE (059) 9170300 FAX (059) 9141503 email: creditors@carlow.coco.ie

REMITTANCE ADVICE / FAISNÉIS ÍOCAÍOCHTA

Cheque No.	109874
Supp ID / Uimh. Aitheantais	3971
Date / Dáta	24/02/2025
Page / Leathanach	1/1

AN BORD PLEANALA,
64, MARLBOROUGH STREET, DUBLIN 1
IRELAND
D01 V902

Your Ref/ Bhur dTagairt	Inv Date/ Dáta Sonraisc	Our Ref/ Ár dTagairt	AMOUNT/ SUIM EUR	Payable Iníoctha EUR
S5/24/64	24/02/2025	30468640	110.00	110.00
PAGE TOTAL / IOMLÁN AN LEATHANAIGH			110.00	110.00
GRAND TOTAL / MÓRIOMLÁN			110.00	110.00

WH = Withholding Tax CT = Subcontractors Tax RA = Non Resident Landlord
INT = Late Payment Interest, Rate = 10.5% CMP = Late Payment Compensation

**CARLOW COUNTY COUNCIL
PLANNING DEPARTMENT**



COMHAIRLE CONTAE
CHEATHARLACH
CARLOW COUNTY COUNCIL

Section 5 of the
Planning and Development Act 2000 (as amended)
Declaration and Referral on Development and Exempted Development

Re: Referral of Section 5 application to An Bord Pleanála pursuant to Section 5(4) of the Planning and Development Act 2000 (as amended). Section 5(4) states:

(5)(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.

For clarity, subsection (1) as noted in subsection (4) above states:

(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.

1) Introduction

This report relates to a total of 8 no. concurrent Section 5 applications received by the Planning Authority, the subject of file refs. S5.24/59, S5.24/64 S5.24/65 S5.24/66 S5.24/67 S5.24/68 S5.24/69 and S5.24/70. The referral question for each application asked whether the use of the respective premises (dwelling houses) as residences for International Protection Applicants constitutes development and whether, if it does, it can be considered exempted development.

As set out in the following sections of this report and in accordance with the recommendations made for the Section 5 applications, further information was sought from the applicant to clarify the nature and extent of the submitted uses of the dwelling houses, and in order for the Planning Authority to comprehensively assess whether the uses alter the character of a typical private dwelling occupancy in a manner that is material in nature and gives rise to impacts on proper planning and sustainable development. The further information requests issued on 13/12/24, 14/01/25 and 15/01/25.

2) Site Locations

The Section 5 applications referred to above relate to existing houses at the following locations in Carlow Town:

- S5.24/59: 1 Beech Road, Carlow, R93 X5W9
- S5.24/64: 32 Sandhills, Hacketstown Road, Carlow, R93 V6K7

- S5.24/65: 89 Friars Green, Tullow Road Carlow, R93 W1C0
- S5.24/66: 35 Green Road, Carlow, Co. Carlow, R93 D5Y2
- S5.24/67: 5 The Paddocks, Browneshill Road, Carlow, R93 N5W9
- S5.24/68: 57 Dolmen Gardens, Hacketstown Road, Carlow, R93 YV96
- S5.24/69: 104 Browneshill Road, Carlow, R93 N6K1
- S5.24/70: 5 Anglers Walk, Carlow, R93 NV65

Each of the applications is accompanied by a covering letter, site location map, existing house floor plans and elevation drawings, legal opinion on the planning status of the use of the dwelling house as residences for International Protection Applicants, architectural opinion on planning compliance, copy of recent Section 5 declaration issued by Laois County Council (S5/2024/26), and compliance reports in respect of building and fire regulations.

On the basis of the information for each of the Section 5 applications, the following key details regarding the applicant and the referral question have been collated and summarised as follows:

Applicant details

- The applicant has a portfolio of residential properties across the State, typically comprising 2, 3 and 4-bed dwellings, including one-off dwellings, houses within housing estates etc.
- The applicant currently provides residential accommodation for those awaiting political asylum and facilitates a visiting service or support where required.
- In some instances, the applicant provides supported living, day and community outreach services to both children and adults, as a household or family, or to individuals or groups with a range of support requirements otherwise known as 'direct services' to occupants of their properties.
- Accommodation is provided to international protection applicants on a 6-18 month basis through a contract with a Government Department.
- The applicant's staff provide direct services on an occasional basis (c. 3 hours per week on a visiting basis) which is social care services including arranging school places, sourcing doctors, arranging medical cards, International Protection Applications Service appointments, getting medical assessments, to the occupants of the houses.
- No staff are based in the applicant's dwelling houses, and the applicant's team liaise with the adults of the houses to assist with arranging direct services.
- The services are provided on a visiting basis and would be no different to care being delivered to a traditional domestic setting, for example, for elderly or infirm occupants of a dwelling house.
- The dwelling houses provided by the applicant accommodate between 3 to 8 persons and are not used for reception or administrative purposes.
- Various nationalities are accommodated in the applicant's dwelling houses, but no persons of Ukrainian nationality.

From the applicant's website at <https://www.didean.ie/international-protection-applicants-services>, the nature of the type of residential accommodation and direct services being provided is further clarified, and with reference to the provision of:

- Supported housing to those seeking international protection.
- Accommodation and social care support within normal community settings.
- Own door non congregated accommodation - *We provide suitable accommodation for family units or individuals based on their assessed needs. All accommodation is spread out across geographic areas to avoid cluster and to optimise integration. All properties are proximal to local public services such as schools, places of worship, shops and public transport. Properties are standardised throughout the organisation and are fitted out to meet the national standards. All facilities have a comprehensive service and maintenance programmes and are monitored to ensure they remain in good condition.*
- Needs assessment: - *Dídean residents are provided with a full needs assessment prior to moving into any of our homes. The needs assessment supports the development of an 'Individual Integration Plan' (IIP) which is used throughout their residency to support them become more independent, included and integrated into the community around them. We support our residents access employment, education, health and community services and to become more self-sufficient. Our residents at the end of their stay are in a much better position to contribute to Irish society than if they resided in a hotel / congregated setting.*
- Dedicated Key Worker: - *Every resident is supported throughout their stay by a dedicated trained key worker who supports them with their IIP. The key worker works with each resident to access state services effectively, maximising the likelihood of their long-term independence. Supports are intensified at point of admission and at discharge.*
- Self-Catering: - *Dídean's residents self-cater and manage their own food and household budgets through a household allowance structure. Family units or individuals are provided with a pre-paid card and are supported by their key worker in budgeting.*
- Translation Services: - *We have a comprehensive translation and accessibility service available to residents which covers over 150 languages. Translating services are available in person, over phone and by video conferencing. Sign language is also available in person or by video conferencing.*

3) Relevant Legislative/Regulatory Provisions Considered By the Planning Authority Planning and Development Act 2000 (as amended)

- Section 2(1) states that: -

"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, 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.

“house” means a building or part of a building which is being or has been occupied as a dwelling or was provided for use as a dwelling but has not been occupied, and where appropriate, includes a building which was designed for use as 2 or more dwellings or a flat, an apartment or other dwelling within such a building;

- **Section 3(1)** states that: -

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 3A(5)** states that: -

“short term letting” means the letting of a house or part of a house for any period not exceeding 14 days, and includes a licence that permits the licensee to enter and reside in the house or part thereof for any such period in consideration of the making by any person (whether or not the licensee) of a payment or payments to the licensor.

Section 4(2) of the Act provides that the Minister may, by regulations, provide for any class of development to be exempted development. The main regulations made under this provision are the Planning and Development Regulations 2001 (as amended).

Planning and Development Regulations 2001 (as amended)

Article 5(1) states that ‘care’ means personal care, including help with physical, intellectual, or social needs.

Article 5(1) states that ‘business premises’ means - ‘(a) any structure or other land (not being an excluded premises) which is normally used for the carrying on of any professional, commercial or industrial undertaking or any structure (not being an excluded premises) which is normally used for the provision therein of services to persons,

(b) a hotel, hostel (other than a hostel where care is provided) or public house, or

(c) any structure or other land used for the purposes of, or in connection with, the functions of a State authority.

Article 5(1) states that a “protected person” for the purposes of Schedule 2, means: - (a) a person who has made an application to the Minister for Justice and Equality under the Refugee Act of 1996 or the Subsidiary Protection Regulations 2013 (S.I. No. 426 of 2013), (b) a person who falls to be considered or has been considered under section 3 of the Immigration Act of 1999, or (c) a programme refugee within the meaning of section 24 of the Refugee Act of 1996;

Article 6(1) provides that ‘subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act,

provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1’.

Article 9(1) sets out a list of restrictions on exemptions to which Article 6 referred to in the previous paragraph relates.

Article 10 relates to certain changes of use being exempted development where they consist of a change of use within any one of the classes of use included in Part 4 of Schedule 2. Class 9 in Part 4 refers to: - *“Use for the provision of residential accommodation and care to people in need of care (but not the use of a house for that purpose”.*

Part 1 of Schedule 2 of the Regulations set out the classes of exempted development, including ‘Class 14’ allowing for ‘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,

(i) 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 (h) of the said premises or institution, or part thereof, to use as an emergency reception and orientation centre for protected persons’.

Class 20F of the same Part exempts the following:

Temporary use by or on behalf of the Minister for Children, Equality, Disability, Integration and Youth to accommodate or support persons seeking international protection of any structure or part of a structure used as a 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.

This is subject to the following conditions and limitations:

1. *The temporary use shall only be for the purposes of accommodating displaced persons or for the purposes of accommodating persons seeking international protection.*
2. *Subject to paragraph 4 of this class, the use for the purposes of accommodating displaced persons shall be discontinued when the temporary protection introduced by the Council Implementing Decision (EU) 2022/382 of 4 March 2022¹ comes to an end in accordance with Article 6 of the Council Directive 2001/55/EC of 20 July 2001².*
3. *The use for the purposes of accommodating persons seeking international protection shall be discontinued not later than 31 December 2028.*
4. *Where the obligation to provide temporary protection is discontinued in accordance with paragraph 2 of this class, on a date that is earlier than 31 December 2028, the temporary use of any structure which has been used for the accommodation of displaced persons shall continue for the purposes of accommodating persons seeking international protection in accordance with paragraph 3 of this class.*
5. *The relevant local authority must be notified of locations where change of use is taking place prior the commencement of development.*
6. *'displaced persons', for the purpose of this class, means persons to whom temporary protection applies in accordance with Article 2 of Council Implementing Decision (EU) 2022/382 of 4 March 2022.*
7. *'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).*
8. *'temporary protection', for the purpose of this class, has the meaning given to it in Article 2 of Council Directive 2001/55/EC of 20 July 2001*

Article 2 of Council Implementing Decision (EU) 2022/382 of 4 March 2022

This sets out that 'displaced persons' means people displaced from Ukraine as a result of the military invasion by Russia.

International Protection Act 2015 (No. 66 of 2015)

This sets out that 'International Protection' means status as a refugee, or status as a person eligible for subsidiary protection.

4) The Planning Authority's Assessment

Question of Development

In the assessments of the Section 5 applications, consideration was given to the following matters:

- In accordance with the definition provided in Section 3(1) of the Act, a change of use will only constitute development if it is material in nature. However, the Act does not define material change of use.
- To qualify as a material change of use and constitute development, case law has established that there are two conditions that must be satisfied. The first is that there must be an actual change in how land or property is being used, and the second is that this change must be material. The details that arose in *Cusack v. Minister for Local Government*, *McMahon v Dublin Corporation*, *Monaghan County Council v. Brogan*, and in *Galway County Council v. Lackagh Rock* are of particular relevance in this regard. Taking account of the foregoing, consideration must be given to:
 - (a) whether the character of the previous established use of the property at No. 32 Sandhills as a typical private dwelling house occupancy, has been altered by the applicant's use of same for the accommodation of international protection applicants; and,
 - (b) whether the quality of the applicant's use is of a material nature, such that it impacts on the proper planning and sustainable development of the area. In other words, would there be potential external material impacts in the area arising from the use and that would not have arisen with the previous and typical private dwelling house occupancy use.
- The applicant is a Limited Company (*Dídean Dóchas Eireann Teoranta Ltd.*) and is accommodating the international protection applicants and providing direct services to them at the dwelling houses in a commercial capacity through a contract with a Government Department. The dwelling houses form of part of the applicant's portfolio of residential properties acquired across the State being used for the provision of this type of accommodation and direct services.
- As per the details of the Department of Justice and Equality 'National Standards for accommodation offered to people in the protection process', the applicant is a 'service provider' contracted by the Reception and Integration Agency (RIA) for the operation and management of such accommodation and must comply with the standards set out in the document. The document defines the service provider as: - *The business, or part of it, that has the private contract with the Department of Justice and Equality to run the accommodation centre (also known as contractor). The service provider is responsible for meeting the terms of the contract which is agreed with the Department of Justice and Equality and for meeting the standards in this document. The service provider is accountable to the residents at the*

accommodation centre and the Department of Justice and Equality to ensure that the standards in this document are reached. In this document, the definition includes the workforce of the service provider (employees and contractors for services/sub-contractors). In line with good management practices, the service provider may delegate authority to take steps to ensure that standards are met, to an appropriately senior employee, for example the manager. In this context, and with regard to the content of the National Standards document, it would appear that the nature of the residential accommodation provided by the applicant at the dwelling houses is markedly different to a typical private dwelling house occupancy.

- The applicant's direct services are provided on a visiting basis to the dwelling houses and are typically being provided for up to 3 hours per week per individual.
- The people being accommodated in the dwelling houses require and are being provided with a type of social care and support that can encompass a large range of services and issues, including access to public services, medical/health services, language translation services, schooling, transport, community services etc. This is also reflected on the applicant's website at <https://www.didean.ie/international-protection-applicants-services>
- It is considered that the provision of the applicant's accommodation and what they term 'direct services' comes within the definition of "care" in Article 5(1) of the Regulations i.e. *means personal care, including help with physical, intellectual or social needs*. It is further considered that the nature and extent of the direct services provided to the family at the dwelling houses, including the targeted, structured and formal arrangements for same all overseen by the applicant's company specifically set up for such purposes, is more akin to a residential care type setting, and irrespective of whether carers or admin services are based in the dwelling houses. This differs from a typical private dwelling house type setting, where occupants would be self-sufficient in managing, negotiating or arranging their own needs or requirements on a more ad hoc basis as and when required, and independent of each other and independent of a landlord. So, while it can be accepted that the use of the dwelling houses will remain as residential, it is considered that the character of the accommodation is different to a typical dwelling house due the fact that structured "care" by a company specifically setup and leasing the dwelling houses for such purposes is being provided to occupants with specific social needs due to their status as international protection applicants.
- In *Simons on Planning Law*, David Browne notes that the existence of a class of exempted development in law might be taken as implicitly recognising that changes within a class may well constitute a material change of use. In this regard and to follow from the previous bullet point on the matter of the applicant's provision of residential accommodation and with direct services or 'care', Article 10 in the Regulations is noted as relating to certain classes of use being exempted

development where they consist of a change of use within any one of the classes of use included in Part 4 of Schedule 2 in the Regulations. Class 9 in Part 4 of Schedule 2 makes a clear distinction between a use comprising the provision of a residential accommodation and care to people in need of care and use as a house. Class 9 states: - Use - (a) for the provision of residential accommodation and care to people in need of care (but not the use of a house for that purpose). A dwelling house is therefore not the deemed to be the same category of use as residential accommodation where care is provided to the occupants.

- It is also relevant to note here that there is no exempt development provision in the Act or the Regulations for the change of use of a dwelling house to use as residential accommodation for international protection applicants. Exemptions are in place for the change of use of long list of building types for protected persons, including displaced persons or persons seeking international protection, in Class 14(h) and (i) and Class 20F in Part 1 of Schedule 2. A dwelling house is not listed in either of these said exemption Classes, which were introduced in the Planning and Development (Amendment) Regulations 2015 and the Planning and Development (Amendment) (No. 4) Regulations 2022. This points to the fact that while dwelling houses do provide residential accommodation, they are not the building use type that the exemption provisions envisioned or established as being suitable for the provision of such accommodation for i.e. Class 14(h) and (i) as relating to *hotel, motel, hostel, guesthouse, holiday accommodation, convent, monastery, Defence Forces barracks*, and Class 20F as relating to a structure used as a *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*. Exemptions for the change of use of a dwelling house, or part of a dwelling house, do exist in the Regulations for:
 - Guest accommodation – Article 10(4)
 - Childminding - Article 10(5)
 - Residence for care of people with disability or mental illness – Class 14(f) in Part 1 of Schedule 2
- It is considered that the provision of the direct services comprising 3 hours per week per individual would give rise to more than an average of 1 vehicle movement to/from the dwelling houses each day, and in a manner and frequency that would be different in nature and extent to a typical private dwelling house scenario for traffic movements.

- The accommodation of the international protection applicants at the dwelling houses is on a temporary 6-18 month basis while they are awaiting their applications for international protection in Ireland. While not constituting short term letting as defined in Section 3A(5) of the Act, the occupancy of the dwelling houses is temporary and more transient in nature, where the occupants can and/or will change and over the course of a year and every year. This is not comparable to a typical private dwelling house occupancy, which would be more permanent and long term i.e. there will be no permanent residents of the dwelling house.

- The decision of An Bord Pleanála for ABP-307077-20 is being used by the applicant to support their case that the use of the dwelling house to accommodate international protection applicants is not a material change of use and therefore is not development. However, this referral case is not fully comparable to the use of the subject dwelling house at 32 Sandhills in relation to one key issue. From the details of this case, it is apparent from the Inspector's report that the use of the apartments in question in Ballinamore County Leitrim did not include the provision of any care services for protected persons and were just being operated as residential accommodation i.e. apartments. Therefore, it is considered that the applicant cannot fully rely on the Board's decision for ABP-307077-20 as a precedent to support their use of the dwelling houses.

- The dwelling house is located on land zoned 'Existing/Infill Residential' in the Carlow-Graiguecullen Joint Urban Local Area Plan 2024-2030 (JULAP), the objective of which is: - *To protect and improve existing residential amenity; to provide for appropriate infill residential development; to provide for new and improved ancillary services.* The JULAP lists 'dwelling' and 'residential institution' as different uses in the 'permitted in principle' and 'open for consideration' uses for the land use zoning categories. The 'residential institution' use is only listed for the 'Community/Education' zoning and as 'open for consideration'. In this regard, 'residential institution' is understood to mean a type of residential accommodation where care is being provided for occupants. A planning application for development comprising residential accommodation where care is provided for occupants would give rise to different matters being taken into account than a planning application for a typical private dwelling house.

Question of Exempted Development?

There is no exempt development provision in the Act or the Regulations for the change of use of a dwelling house to use as residential accommodation for international protection applicants. Exemptions are in place for the change of use of long list of building types for protected persons, including displaced persons or persons seeking international protection, in Class 14(h) and (i) and Class 20F in Part 1 of Schedule 2. A dwelling house is not listed in either of these said exemption Classes, which were introduced in the Planning and Development (Amendment) Regulations 2015 and the Planning and Development (Amendment) (No. 4) Regulations 2022.

Class 14(h) and (i) as relates to *hotel, motel, hostel, guesthouse, holiday accommodation, convent, monastery, Defence Forces barracks.*

Class 20F relates to a structure used as a *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.*

5) Further Information Requested

In accordance with the recommendations made for the Section 5 applications, further information was sought from the applicant for each of the Section 5 applications to clarify the nature and extent of the submitted uses of the dwelling houses, and in order for the Planning Authority to comprehensively assess whether the uses alter the character of a typical private dwelling occupancy in a manner that is material in nature and gives rise to impacts on proper planning and sustainable development. The details included in the further information requests is set out below, and the applicant was required to comprehensively address same in their further information response:

- The applicant is a Limited Company (Dídean Dóchas Eireann Teoranta Ltd.) and is accommodating the international protection applicants and providing direct services to them at the dwelling house in a commercial capacity through a contract with a Government Department.
- As per the details of the Department of Justice and Equality 'National Standards for accommodation offered to people in the protection process', the applicant is a 'service provider' contracted by the Reception and Integration Agency (RIA) for the operation and management of such accommodation and must comply with the standards set out in the document.
- The direct services are provided on a visiting basis to the dwelling houses and are typically being provided for up to 3 hours per week per individual.
- Should the dwelling houses in question accommodate additional occupants who were not related, kitchen and room facilities would be shared.
- The applicant provides direct services to the occupants including visiting services and supports where required such as social care services, supported living, day and community outreach services to individuals or groups with a range of complex support requirements. The provision of these 'direct services' would appear to come within the definition of "care" in Article 5(1) of the Planning and Development

Regulations 2001 (as amended) i.e. means personal care, including help with physical, intellectual or social needs.

- Class 9 in Part 4 of Schedule 2 makes a clear distinction between a use comprising the provision of a residential accommodation and care to people in need of care and use as a house. Class 9 states: - Use - (a) for the provision of residential accommodation and care to people in need of care (but not the use of a house for that purpose).
- There is no exempt development provision in the Planning and Development Act 2000 (as amended) or the Planning and Development Regulations 2001 (as amended) for the change of use of a dwelling house to use as residential accommodation for international protection applicants. In this regard, the Planning Authority also note that a dwelling house is not included in the list of building types in Class in Class 14(h) and (i) and Class 20F in Part 1 of Schedule 2 of the said Regulations.
- The provision of the direct services comprising 3 hours per week per individual would likely give rise to more than an average of 1 vehicle movement to/from the dwelling house each day, and in a manner and frequency that would be different in nature and extent to a typical private dwelling house scenario for traffic movements.
- The accommodation of the international protection applicants at the dwelling house is on a temporary 6-18 month basis, while they are awaiting their applications for international protection in Ireland. This is not comparable to a typical private dwelling house occupancy, which would be more permanent and long term i.e. there will be no permanent residents of the dwelling house.
- The decision of An Bord Pleanála for ABP-307077-20 would not appear to be fully comparable to the use of the subject dwelling house at 32 Sandhills. For ABP-307077-20, the use of the apartments did not include the provision of any care services for protected persons.

6) Further Information Received

The applicant submitted further information response for each of the Section 5 applications, received on 28/01/25 for file ref. S5.24/59, and received on 10/01/25 for file refs. S5.24/64 S5.24/65 S5.24/66 S5.24/67 S5.24/68 S5.24/69 and S5.24/70.

Each of the further information responses is accompanied by a covering letter and legal opinion that takes account of relevant legislative provisions in the Planning and Development Act 2000 (as amended), including Section 2 and 3 and concerning the definitions for 'house', 'use', and 'development'. An extract from Class 20F in Part 2 of Schedule 2 of the Planning and Development Regulations 2001 (as amended) is also included. The response references the decision of other planning authorities in regard to the same use of dwelling houses, and the key points raised in the legal opinion are summarised hereunder:

- Nature of the applicant as a commercial enterprise does not, in and of itself, give rise to a material change of use.
- The use of the dwelling houses remains consistent with the description of a 'house' in the Act.
- No facilities such as reception areas and no staff provided on site by the applicant.
- No short-term letting arises and no medical care is provided.
- No evidence showing how or why the use of the dwelling houses by the applicant is distinct from the use of blocks of apartments on long term contractual basis by a commercial or institutional body or landlord.
- The dwelling houses are occupied by single families, were they to accommodate additional occupants, they would not be subdivided into two or more dwellings, and no additional cooking facilities or toilets would be provided.
- Provision of three-hours of care services per person per week would be akin to a visiting nurse providing in the community care and as such would not give rise to a change of use, and no material planning impacts would rise.
- Are instructed that there is just one vehicular movement in and one movement out per day associated with the provision of care services.
- An intensification of use of the dwelling in terms of off-site traffic impacts does not occur.
- The use of the dwelling houses does not result in any material change of use and, accordingly, is not 'development'. Therefore, it is not necessary to consider if the use is 'exempted development' pursuant to either Section 4(1) of the Act or in a class of exempted development in the Regulations.

7) Assessment of Further Information Received

From a review of the further information received it is still considered that there remains an absence of detail and clarity regarding the submitted use of the dwelling houses. The following matters are noted:

- The full nature and extent of the direct services provided by the applicant for each dwelling house is in a commercial capacity. The applicant is a contracted service provider pursuant to the Department of Justice and Equality 'National Standards for accommodation offered to people in the protection process' and by the Reception and Integration Agency (RIA). In this regard, it is assumed the nature of direct services being provided to each dwelling house is not the same and would be tailored to meet each occupant's needs and requirements. Therefore, it would be likely that the provision of the direct services comprising more or other than 3 hours per week per individual may be required and this would potentially give rise to more than an average of 1 vehicle movement to/from a dwelling house each day. In this regard, the details provided by the applicant appear to be generic in content and not specific to each dwelling house, and do not appear to fully reflect the services set out on the applicant's website at <https://www.didean.ie/international-protection-applicants-services>
- It appears to be inferred in the legal opinion that the dwelling houses may accommodate additional occupants other than just single families i.e. it is noted in the legal opinion that the dwelling houses are occupied by single families, were they to accommodate

additional occupants, they would not be subdivided into two or more dwellings, and no additional cooking facilities or toilets would be provided. The occupation of a dwelling house by more than one family unit or by unrelated family units, would appear to represent a multi-occupancy use of the dwelling houses in a managed accommodation setting that includes the provision of care. It is considered that this may alter the character of a private dwelling occupancy use and in a manner that is material in nature and gives rise to impacts on proper planning and sustainable development.

- The further information received, including legal opinion, has not comprehensively addressed the nature of the direct services being provided, including visiting services and supports where required such as social care services, supported living, day and community outreach services to individuals or groups with a range of complex support requirements. The provision of these 'direct services' is considered to come within the definition of "care" in Article 5(1) of the Regulations i.e. *means personal care, including help with physical, intellectual or social needs*. The definition of 'care' has not been considered in the further information received.
- The further information received does not address Class 9 in Part 4 of Schedule 2 of the Regulations, which makes a clear distinction between a use comprising the provision of a residential accommodation and care to people in need of care and use as a house. Class 9 states: - *Use - (a) for the provision of residential accommodation and care to people in need of care (but not the use of a house for that purpose)*.
- The further information received does not address the use of the dwelling houses in terms of the accommodation being provided on a temporary 6-18 month basis, while the occupants are awaiting their applications for international protection in Ireland. This temporary type of occupancy is not comparable to a typical private dwelling house occupancy, which would be more permanent and long term i.e. there will be no permanent residents of the dwelling house.
- The further information received has not addressed the point raised regarding the decision of An Bord Pleanála for ABP-307077-20. This decision would not appear to be fully comparable to the use of the dwelling houses. For ABP-307077-20, the use of the apartments did not include the provision of any care services for protected persons.

8) Recommendation

It is considered that there remains an absence of clarity and detail regarding the full nature and extent of the applicant's use of the dwelling houses, and the applicant has not fully taken account of or comprehensively addressed the issues raised by the Planning Authority in the further information requests that issued.

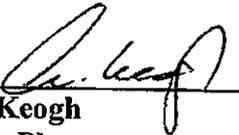
Having regard to the aforesaid, to the details outlined in the foregoing sections of this report, and to the content of the initial reports for each of the Section 5 applications referred to, it is recommended that:

- a) One of the Section 5 applications (i.e. S5.24/64) is now referred for the assessment and decision of An Bord Pleanála pursuant to Section 5(4) of the Planning and Development

Act 2000 (as amended). As noted at the beginning of this report, Section 5(4) provided that: - (5)(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 referral question to issue to An Bord Pleanála is as follows:

Whether the use of the subject premises at 32 Sandhills, Hacketstown Road, Carlow, R93 V6K7, as a residence for International Protection Applicants constitutes development and whether, if it does, it can be considered exempted development.

- b) A letter is issued to the applicant informing them of the Planning Authority's decision to refer Section 5 application file ref. S5.24/64 to An Bord Pleanála pursuant to Section 5(4) of the Planning and Development Act 2000 (as amended).

Signed: 

Wesley Keogh

A/Senior Planner

Date: 17/02/25

Sinead Kirwan

From: Damien Quigley <dquigley@lenztech.ie>
Sent: Monday 10 February 2025 18:21
To: PlanningDevMan
Cc: Fiona Delaney
Subject: PL Ref: S5.24.64 - Further Information Request - Section 5 Declaration - Exempted Development - 32 Sandhills, Hacketstown Road, Carlow, R93 V6K7
Attachments: Section 5 Application - Cover Letter - 32 Sandhills.pdf; Final FI Opinion - 32 Sandhills, Carlow.pdf

****Warning From Carlow County Council IT Department****

Be Cautious!! This email originated from outside of Carlow County Council. Do not click links or open attachments unless you recognize the sender and know the content is safe!

To Whom It Concerns,

Please find attached Further Information requested in relation to a **Section 5** application for a declaration as to whether use of the below mentioned premises as a residence for International Protection Applicants constitutes development and whether, if it does, it can be considered exempted development:

- 32 Sandhills, Hacketstown Road, Carlow, R93 V6K7

Regards,

Damien Quigley

Director, Lenztech Surveying & Engineering Ltd.

Mobile: 086 8882497 | Land Line: (057) 8510121

Email: dquigley@lenztech.ie

Web: www.lenztech.ie





Lenztech Surveying & Engineering Ltd.

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Blanchardstown Corporate Park,
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Portlaoise,
Co. Laois,
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+ 353 (0)57 8510121
E: info@lenztech.ie

YOUR REFERENCE:

**The Planning Department,
Carlow County Council,
County Buildings,
Athy Road,
Carlow.**

OUR REFERENCE: LT23010

DATE: 07TH FEBRUARY 2025

Re: Response to Request for Further Information (CCC Ref: S5.24.64) in respect of 32 Sandhills, Hacketstown Road, Carlow, R93 V6K7

Dear Sir/Madam,

We refer to the above Request for Further Information dated 13th January 2025.

Please see our response attached in the form of a Joint Counsels Opinion, from Eamon Galligan SC (Senior Council) and Conor Shehan BL (Barrister-at-Law), setting out those queries and responding accordingly.

We believe the response, accepted by other local planning authorities in regard to the same use of other similar properties in the control of our client, indicates clearly that neither the use of the said properties, the services offered by our client, nor our client's commercial status in any way changes our position expressed in the original opinion lodged with this application.

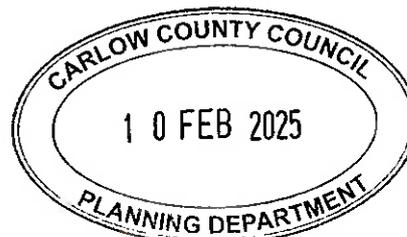
The exemption referred to (Class 20F) is simply not required, as no development is initiated, and in those circumstances no exemption is required.

We trust that the County Council has sufficient information to issue a Declaration favour of our client's position consistent with previous determinations in the same circumstances elsewhere.

Yours sincerely,

Damien Quigley

Damien Quigley,
Senior Engineer, MIEI
Director, Lenztech Surveying & Engineering



- OPINION -

QUERIST: *Dídean Dóchas Éireann Teoranta ('Didean')*

AGENT: *Lenztech Surveying & Engineering Ltd*

SUBJECT: *32 Sandhills, Hacketstown Road, Carlow, R93 V6K7*



I PURPOSE OF OPINION

1. Counsel have been asked to prepare this opinion/letter in response to a request for further information received by Agent on or about 13th January 2025 in connection with a section 5 application made to Carlow County Council by Agent on 11th December 2024.

II BACKGROUND

2. Agent submitted a section 5 application for a declaration from Carlow County Council in respect of 32 Sandhills, Carlow on 11th December 2025. In essence a declaration was sought on whether the use of 32 Sandhills, Carlow to house international protection applicants constituted development within the meaning of the Planning and Development Act, 2000, as amended ('the Act'). The application documentation comprised of:
 - A planning report/cover letter prepared by Lenztech Surveying & Engineering Ltd;
 - Drawings;
 - A Certificate/Opinion of/on Compliance with Planning Permission;
 - A Legal Opinion;
 - A copy of a s.5 Declaration from Laois County Council confirming that the use of no. 68 Barrowvale was not development; and
 - A Section 5 application form.
3. Following receipt of the application, Carlow County Council sought further information from the applicant by letter dated 13th January 2025. The letter requesting further information states, inter alia, that:

*"I refer to the above application received on the 11th December 2024...
From an assessment of the documentation submitted by the applicant, along with relevant legislative provisions, case law, and comparable Section 5 cases for other locations in the State, the Planning Authority note that:*

The applicant is a Limited Company (Dídean Dóchas Éireann Teoranta Ltd.) and is accommodating the international protection applicants and providing direct services to them at the dwelling house in a commercial capacity through a contract with a Government Department.

As per the details of the Department of Justice and Equality 'National Standards for accommodation offered to people in the protection process', the applicant is a 'service provider' contracted by the Reception and Integration Agency (RIA) for the operation and management of such accommodation and must comply with the standards set out in the document.

The direct services are provided on a visiting basis to the dwelling house and are typically being provided for up to 3 hours per week per individual.

The applicant provides direct services to occupants including visiting services and supports where required such as social care services, supported living, day and community outreach services to individuals or groups with a range of complex support requirements. The provision of these 'direct services' would appear to come within the definition of "care" in Article 5(1) of the Planning and Development Regulations 2001 (as amended) i.e. means personal care, including help with physical, intellectual or social needs.

Class 9 in Part 4 of Schedule 2 makes a clear distinction between a use comprising the provision of a residential accommodation and care to people in need of care and use as a house. Class 9 states: - Use - (a) for the provision of residential accommodation and care to people in need of care (but not the use of a house for that purpose).

There is no exempt development provision in the Planning and Development Act 2000 (as amended) or the Planning and Development Regulations 2001 (as amended) for the change of use of a dwelling house to use as residential accommodation for international protection applicants. In this regard, the Planning Authority also note that a dwelling house is not included in the list of building types in Class 14(h) and (i) and Class 20F in Part 1 of Schedule 2 of the said Regulations.

The provision of the direct services comprising 3 hours per week per individual would likely give rise to more than an average of 1 vehicle movement to/from the dwelling house each day, and in a manner and frequency that would be different in nature and extent to a typical private dwelling house scenario for traffic movements.

The accommodation of the international protection applicants at the dwelling house is on a temporary 6-18 month basis, while they are awaiting their applications for international protection in Ireland. This is not comparable to a typical private dwelling house occupancy, which would be more permanent and long term i.e. there will be no permanent residents of the dwelling house.

The decision of An Bord Pleanála for ABP-307077-20 would not appear to be fully comparable to the use of the subject dwelling house at 32 Sandhills. For ABP-307077-20, the use of the apartments did not include the provision of any care services for protected persons.

It would therefore appear to the Planning Authority that the nature and extent of the submitted use of the house, including direct services provided to occupants and the

commercial aspect to the provision of same, alters the character of a private dwelling occupancy use in a manner that is material in nature and gives rise to impacts on proper planning and sustainable development.

In order to enable the Planning Authority to issue a declaration on the question asked the applicant is requested to submit further information to comprehensively address the details outlined above."

4. Against this background counsel have been asked to provide their opinion as to:
 - A) Whether the ownership and/or operation of the property by Didean materially alters the character of its residential use;
 - B) Whether the provision of the services results in a change of use that is material by reason of its impacts in terms of proper planning and sustainable development; and
 - C) Whether Class 20(F) has a bearing on whether the use of the dwelling for the housing of protected persons is or is not development within the meaning of the Planning and Development Act.

III RELEVANT STATUTORY PROVISIONS

5. The relevant statutory provisions have already been outlined in the joint legal opinion which was already furnished to Carlow County Council as part of the application for a declaration and so only key statutory provisions for the purpose of this opinion are set out below:

Planning and Development Act 2000 (as amended)

6. There is no definition of “*material change of use*” or of a “*dwelling*” in the 2000 Act. Section 2 of the 2000 Act does however define a house and use as follows:

“house” means a building or part of a building which is being or has been occupied as a dwelling or was provided for use as a dwelling but has not been occupied, and where appropriate, includes a building which was designed for use as two or more dwellings or a flat, an apartment or other dwelling within such a building;”

“use”, in relation to land, does not include the use of the land by the carrying out of any works thereon;

7. ‘Development’ is defined in section 3 of the Planning and Development Act, 2000, in the following terms:

“In this Act, except where the context otherwise requires, “development” means—(a) the carrying out of any works in, on, over or under land, or the making of any material change in the use of any land or structures situated on land, or (b) development within the meaning of Part XXI (inserted by section 171 of the Maritime Area Planning Act 2021)...” [emphasis added]

8. Section 3(3) provides that the use of a house as two or more dwellings is a material change of use, and use of a dwelling for short term lettings is a material change of use in certain circumstances (section 3A).
9. Section 4(1) sets out various statutory categories of exempted development.
10. Section 4(2) of the 2000 Act further empowers the Minister to provide, by regulations, certain classes of exempted development in addition to the statutory exemptions set out under section 4(1).

Planning and Development Regulations, 2001-2023 (as amended)

11. Class 20F of Part 2 of Schedule 1 of the Regulations provides that the following is exempted development (subject to conditions and limitations):

“Temporary use by or on behalf of the Minister for Children, Equality, Disability, Integration and Youth to accommodate or support displaced persons or persons seeking international protection of any structure or part of a structure used as a 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.”

IV OPINION ON LEGAL ISSUES

12. By way of preliminary observation, having reviewed the application documentation it appears to counsel that detailed information has in fact already been submitted to the Council by Agent on the nature of the use including a recent precedent where a similar use was determined not to be development by Laois County Council. Further, whereas the Council has stated that:

“...it would appear to the Planning Authority that the nature and extent of the submitted use of the house, including services provided to occupants and the commercial aspect to the provision of same, alters the character of a private dwelling occupancy use in a manner that is material in nature and gives rise to impacts on proper planning and sustainable development.”

the Council’s letter does not refer to any evidence or reasoning pointing to how the use of the property actually alters the character of a private dwelling or what planning impacts arise. It does not refer to or address the Laois County Council precedent. The evidence before the Council is that the use is not ‘development’. This was recently accepted by Laois County Council. Without prejudice to the above counsel’s replies to Agent’s queries are set out below.

Does the ownership and/or operation of the property by Didean on a commercial basis give rise to a material change in use?

13. It is considered that the nature of Didean as a commercial enterprise does not, in and of itself, give rise to a material change of use in the property. Having reviewed Agent’s cover letter to the Council and the drawings submitted to the Council, the use of the house remains consistent with the description of a ‘house’ in the Act and no facilities such as reception areas

and no staff are provided on site by Didean. No short-term letting arises. No medical care is provided. There is no evidence showing how or if so why the use of the dwelling by Didean is distinct from the use and letting of blocks of apartments on long term contractual basis by commercial or institutional (including County Councils and/or the Peter McVerry Trust) body or a landlord where shared areas and/or fixtures are maintained by staff and where no change of use or character would arise. Whereas persons are being accommodated pursuant to a contract the facts in this case are distinguishable from that in case law such as *Panayi v Secretary of State for the Environment* (1985) 50 P&CR 109 (cited in the joint legal opinion already submitted to the Council and where the use of 4 apartments was deemed to constitute use as a hostel). The dwelling is not being operated as a hostel and there is no evidence that the use is materially different from the permitted residential use or that the use changes the property's residential character.

Whether the provision of the services results in a change of use that is material by reason of its impacts in terms of proper planning and sustainable development.

14. A material change of use can occur by operation of law: section 3 of the 2000 Act provides that the use of a house as two or more dwellings is a material change of use. Short-term letting of property in rent pressure zones can also represent a material change of use pursuant to section 3A of the 2000 Act. Agent has confirmed in its cover letter to the Council that the property is in occupation by one family as a single dwelling at present and, were it to accommodate additional occupants, that it would not be subdivided into two or more dwellings, and that no additional cooking facilities or toilets would be provided.
15. As set out in the joint legal opinion previously delivered to Carlow County Council the question of whether there has been a material change of use was addressed in the Supreme Court judgment in *Monaghan County Council v. Brogan* [1987] I.R. 333¹ where the Court confirmed that the term "*material*" in this context means material in planning terms; that is, whether the issues raised by the change of use would, for example, raise fresh planning considerations.
16. Therefore, the issue as to whether the maximum provision of three-hours of care services per person, per week, sometimes provided remotely, amounts to a change of use or a material change of use this depends on whether there are any materially different planning impacts that would not arise in the case of the ordinary use of a dwelling. On the basis of the description of the services provided, the level of provision of care would be akin to a visiting nurse providing 'in the community' care and as such would not give rise to a change of use. Moreover, unless there were any material planning impacts, e.g. in terms of traffic generated etc., it could not be regarded as a material change of use. It is within the scope of the normal use of dwellings in which an elderly person resides that carers will visit that persons home with regularity. This does not fall outside the ordinary use of the dwellinghouse as such.

¹ Referred to more recently in, inter alia, *Stanley v An Bord Pleanála* [2022] IEHC 177.

17. We are instructed that in terms of trip generation there will be just one vehicular movement in and one movement out per day associated with the provision of care services. The generation of this level of traffic could not be regarded as material in planning terms. Such a level of trip generation would be regarded as ordinarily incidental to the use of a typical dwelling. Whereas the Council in its letter of 13th January 2025 referred to impacts on proper planning, it has not pointed to any actual planning impacts of a material nature, for example, in terms of residential amenity or traffic safety.
18. The uncontroverted evidence is therefore that an intensification of use of the dwelling in terms of off-site traffic impacts does not occur as a result of the occupation by protected persons. Any services provided to the occupants by Querist are on an occasional basis, up to a maximum of 3 hours per week per person, on a visiting basis only, and there is no concentration of any similar use in the locality. Agent has confirmed to the Council in its cover letter that the planning permission for the house (Ref. PD3698, 99/104) did not limit the use of the house permitted pursuant to that permission to any specific category of persons. There is recent precedent from Laois County Council confirming that a similar use is not development. Counsel are therefore of the opinion that no material change of use/material change of character has occurred and that the use does not constitute 'development' within the meaning of the Act.

Whether Class 20(F) has a bearing on whether the use of the dwelling for the housing of protected persons is or is not development within the meaning of the Planning and Development Act?

19. The use of the property does not result in any material change of use and, accordingly, is not 'development'. It is, therefore, not necessary to consider if the use is 'exempted development' pursuant to either section 4(1) of the Act or in a class of exempted development (including Class 20F) in Regulations made by the Minister pursuant to section 4(2) of the Act. Class 20F does not alter the statutory meaning of 'development' as set out in the Act.

V CONCLUSION

20. Having regard to the foregoing considerations, and subject to any qualifications or assumptions expressed above, our principal conclusions are as follows:
 - It is considered that neither the operation of the dwelling by Didean nor the provision of the services by visiting care workers gives rise to a material change of use from its existing use as a dwelling.
 - There is no evidence of any material planning impacts arising from the current use of the dwelling and so the use does not give rise to a material change in use or material intensification of use by virtue of any material planning impacts.

- Class 20F of the Regulations is not relevant to the determination of whether the use of the property is 'development'.

21. Nothing further occurs at this time.

Conor Sheehan BL
Eamon Galligan SC

28 January 2025



COMHAIRLE CONTAE
CHEATHARLACH
CARLOW COUNTY COUNCIL

13th January 2025

Registered Post

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Ceatharlach, R93E7R7

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W: carlow.ie

**Dídean Dóchas Eireann Teoranta,
C/o Damien Quigley,
Lenztech Surveying & Engineering Ltd.,
Unit B12,
National Enterprise Park,
Portlaoise,
Co. Laois,
R32 RT73.**

**Re: S5.24.64: Declaration on Development & Exempted Development.
Site Address: 32 Sandhills, Hacketstown Road, Carlow, R93 V6K7.
Proposal: Whether the use of the subject premises as a residence for
International Protection Applicants constitutes development
and whether, if it does, it can be considered exempted
development.**

A Chara,

I refer to above application received on the 11th December 2024 for Declaration in accordance with Section 5 of the Planning and Development Act, 2000 (as amended).

Having considered the application, **further information** is requested in relation to the following:

From an assessment of the documentation submitted by the applicant, along with relevant legislative provisions, case law, and comparable Section 5 cases for other locations in the State, the Planning Authority note that:

- a) The applicant is a Limited Company (Dídean Dóchas Eireann Teoranta Ltd.) and is accommodating the international protection applicants and providing direct services to them at the dwelling house in a commercial capacity through a contract with a Government Department.
- b) As per the details of the Department of Justice and Equality 'National Standards for accommodation offered to people in the protection process', the applicant is a 'service provider' contracted by the Reception and Integration Agency (RIA) for the operation and management of such accommodation and must comply with the standards set out in the document.
- c) The direct services are provided on a visiting basis to the dwelling house and are typically being provided for up to 3 hours per week per individual.
- d) The applicant provides direct services to occupants including visiting services and supports where required such as social care services, supported living, day and community outreach services to individuals or groups with a range of complex

support requirements. The provision of these 'direct services' would appear to come within the definition of "care" in Article 5(1) of the Planning and Development Regulations 2001 (as amended) i.e. *means personal care, including help with physical, intellectual or social needs.*

- e) Class 9 in Part 4 of Schedule 2 makes a clear distinction between a use comprising the provision of a residential accommodation and care to people in need of care and use as a house. Class 9 states: - *Use - (a) for the provision of residential accommodation and care to people in need of care (but not the use of a house for that purpose).*
- f) There is no exempt development provision in the Planning and Development Act 2000 (as amended) or the Planning and Development Regulations 2001 (as amended) for the change of use of a dwelling house to use as residential accommodation for international protection applicants. In this regard, the Planning Authority also note that a dwelling house is not included in the list of building types in Class in Class 14(h) and (i) and Class 20F in Part 1 of Schedule 2 of the said Regulations.
- g) The provision of the direct services comprising 3 hours per week per individual would likely give rise to more than an average of 1 vehicle movement to/from the dwelling house each day, and in a manner and frequency that would be different in nature and extent to a typical private dwelling house scenario for traffic movements.
- h) The accommodation of the international protection applicants at the dwelling house is on a temporary 6-18 month basis, while they are awaiting their applications for international protection in Ireland. This is not comparable to a typical private dwelling house occupancy, which would be more permanent and long term i.e. there will be no permanent residents of the dwelling house.
- i) The decision of An Bord Pleanála for ABP-307077-20 would not appear to be fully comparable to the use of the subject dwelling house at 32 Sandhills. For ABP-307077-20, the use of the apartments did not include the provision of any care services for protected persons.

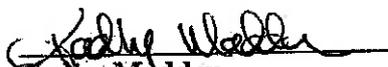
It would therefore appear to the Planning Authority that the nature and extent of the submitted use of the house, including direct services provided to occupants and the commercial aspect to the provision of same, alters the character of a private dwelling occupancy use in a manner that is material in nature and gives rise to impacts on proper planning and sustainable development.

In order to enable the Planning Authority to issue a declaration on the question asked, the applicant is requested to submit further information to comprehensively address the details outlined above in parts (a) to (i).

Receipt number 266875 refers – copy attached.

If you have any further queries in relation to this matter, please contact us at (059) 9136229 or planningdevman@carlowcoco.ie.

Yours sincerely,


Tadhg Madden,
A/Senior Executive Officer.

**CARLOW COUNTY COUNCIL
PLANNING DEPARTMENT**



SECTION 5 DECLARATION

Reg. Ref.	SEC5/24/59
Name of Applicant	Dídean
Address of Development	1 Beech Road, Carlow, R93 X5W9.
Development Description	Whether the use of the subject premises as a residence for International Protection Applicants constitutes development and whether, if it does, it can be considered exempted development.

1) Site Location/Context

The referral relates to an existing two storey semi-detached dwelling in a residential estate circa 730m southeast of Carlow town centre. The estate is served by a local road (L-4058). The site is zoned existing / infill residential.



Site location (site outlined in red)

2) Relevant Planning History

04/5438: Permission granted for development on site adjacent Éire Óg Football Club to consist of 134 houses and 1 No. creche. The development will consist of 1 No. creche, 2 No. 4 bedroom detached houses, 16 No. 4 bedroom semi-detached with balconies, 20 No. 3 bedroom semi-detached, 42 No. 3 bedroom townhouses, 22 No. 2 bedroom townhouses. (Townhouses to be in 10 No. blocks of 6 units and 1 No. block of 4 units). 16 No. duplex 3 bed apartments over 16 No. 1 bed apartments. (3 bed duplex and 1 bed apartments to be in 4 No. blocks).

3) Description of the Referral/Proposal

This proposal is a request for a declaration under Section 5 of the Planning and Development Act, 2000 (as amended) to determine whether the use of the subject premises as a residence for International Protection Applicants constitutes development and whether, if it does, it can be considered exempted development. It is noted that no physical works are proposed on site internally or externally.

It is submitted that the dwelling could accommodate between three and eight persons. The premises will be used for residential purposes and will not be used for reception or administration purposes. Dídéan's staff provide direct services, on an occasional basis (circa 3 hours per week on a visiting basis) which is for social care services including arranging school places, appointments, sources doctors, getting medical assessments etc for occupants of the house. It is stated that services are no different to care being delivered to a traditional domestic setting.

4) Relevant Legislative/Regulatory Provisions

The proposal will be assessed within the provisions of:

- Sections 3 and 4 of the Planning & Development Acts 2000 (as amended).
- Articles 6, 9, and 10 of the Planning and Development Regulations 2001 (as amended).

Planning and Development Act 2000 (as amended)

- Section 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, 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.

- Section 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 4(1)

4(1) The following shall be exempted development for the purposes of this Act –

(h) Development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which effect 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”

Planning and Development Regulations 2001 (as amended)

- Article 6(1)

Subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1.

- Article 9(1)

Development to which article 6 relates shall not be exempted development for the purposes of the Act—

(a) if the carrying out of such development would—

(i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,

(ii) consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 meters in width,

(iii) endanger public safety by reason of a traffic hazard or obstruction of road users.

- Article 10 (1)

Development which consists of a change of use within any one of the classes of use specified in Part 4 of Schedule 2, shall be exempted development for the purposes of the Act, provided that the development, if carried out would not—

a) involve the carrying out of any works other than works which are exempted development,

b) contravene a condition attached to a permission under the Act,

c) be inconsistent with any use specified or included in such a permission, or

d) be a development where the existing use is an unauthorised use, save where such change of use consists of the resumption of a use which is not unauthorised, and which has not been abandoned.

- Class 20(f) in Part 1 of Schedule 2 (Exempted Development - General)

"Temporary use by or on behalf of the Minister for Children, Equality, Disability, Integration and Youth to accommodate or support displaced persons or persons seeking international protection of any structure or part of a structure used as a 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".

5) Assessment

In addition to an application form, the accompanying documentation includes a location map, floor plans, and elevation drawings of the dwelling. Other supporting documents included reference to other similar section 5 declarations, a certificate of compliance regarding the original development (04/5438), a report demonstrating compliance with Building and Fire Regulations, and a legal opinion from a Senior Counsel.

It is noted from the documentation submitted that:

- the house in question is currently occupied by a family of international protection applicants.
- should the house in question accommodate additional occupants who were not related, kitchen and room facilities would be shared.
- the houses provided by the applicant are 3-4 bed units that accommodate between 3 to 8 persons.
- along with the residential accommodation, the applicant also provides direct services to occupants including visiting services and supports where required such as social care services, supported living, day and community outreach services to individuals or groups with a range of complex support requirements; and,

In addition to the foregoing, it is noted that the applicant is providing the residential accommodation and associated services in a commercial capacity, and from the applicant's website at www.didean.ie the submitted use of the house requires dedicated social care workers and they appear to visit houses regularly to support individuals access to education, employment, health and community.

Notwithstanding the details submitted with the application, it would appear that the nature and extent of the submitted use of the house, including services provided to occupants and the commercial aspect to the provision of same, alters the character of a private dwelling occupancy use in a manner that is material in nature and gives rise to impacts on proper planning and sustainable development.

In addition to the above, having regard to Class 20(F) in Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended), which is a specific exemption provision for the accommodation of international protection applicants in a temporary use capacity and for several structure/building types. It is clear that this exemption expressly excludes the use of a dwelling house for the accommodation of international protection applicants. The applicant

should be requested to submit further information to comprehensively address the details outlined above.

Does the proposal constitute development?

Section 3(1) of the Planning and Development Act 2000 (as amended) defines development as *“the carrying out of works on, in, over or under land or the making of any material change in the use of any structures or other land”*.

It is stated that no physical works or alterations will be undertaken to the dwelling internally or externally. However, the Planning Authority considers that the applicant has not satisfactorily demonstrated that the proposed use is not a material change in the use of the structure.

Does the proposal constitute exempted development?

Article 6 (1) of the Regulations state that subject to Article 9, development of a class specified in Part 1 of Schedule 2 of the Regulations shall be exempted development provided that such development complies with the conditions and limitations specified.

- Class 20(f) in Part 1 of Schedule 2 (Exempted Development - General)

“Temporary use by or on behalf of the Minister for Children, Equality, Disability, Integration and Youth to accommodate or support displaced persons or persons seeking international protection of any structure or part of a structure used as a 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”.

It is noted that the exemptions set out in Class 20(f) expressly exclude the use of a dwelling house for the accommodation of international protection applicants.

6) Conclusion

The applicant has not satisfactorily demonstrated to the Planning Authority that the proposal does not constitute works or development and has not demonstrated that the proposal falls for consideration under the exempted development provisions set out in the Planning & Development Regulations (2001) as amended. Further information should be requested to enable the Planning Authority to consider the matter further.

7) Recommendation

To enable the Planning Authority to issue a declaration on the question asked the applicant is requested to submit **further information** to comprehensively address the details outlined below:

- the house in question is currently occupied by a family of international protection applicants.
- should the house in question accommodate additional occupants who were not related, kitchen and room facilities would be shared.
- the houses provided by the applicant are 3-4 bed units that accommodate between 3 to 8 persons.
- along with the residential accommodation, the applicant also provides direct services to occupants including visiting services and supports where required such as social care services, supported living, day and community outreach services to individuals or groups with a range of complex support requirements; and,

In addition to the foregoing, the Planning Authority also note that the applicant is providing the residential accommodation and associated services in a commercial capacity, and from the applicant's website at www.didean.ie the submitted use of the house requires dedicated social care workers and they appear to visit houses regularly to support individuals access to education, employment, health and community.

Notwithstanding the details submitted with the application, it would appear to the Planning Authority that the nature and extent of the submitted use of the house, including services provided to occupants and the commercial aspect to the provision of same, alters the character of a private dwelling occupancy use in a manner that is material in nature and gives rise to impacts on proper planning and sustainable development.

The Planning Authority would refer also Class 20(F) in Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended), which is a specific exemption provision for the accommodation of international protection applicants in a temporary use capacity and in a number of structure/building types. Class 20(F) was introduced under the Planning and Development (Amendment) (No. 4) Regulations 2022 and does not provide for the use of an existing dwelling house for the accommodation of international protection applicants.



Edwin O'Meara
Executive Planner

Date: 11/12/24


Wesley Keogh
Senior Executive Planner

Date: 11/12/24

APPENDIX I

APPROPRIATE ASSESSMENT SCREENING REPORT

Planning Application Reg. Ref: SEC5/24/59

A. DESCRIPTION OF PROJECT AND LOCAL SITE

Site Location:	1 Beech Road, Carlow. R93 X5 W9.
Total Site Area:	Not stated
Floor Area of Proposed Development:	107.4m2
Identification of Natura 2000 site(s):	River Barrow and River Nore SAC
Is the application accompanied by an EIS?	No.

B. IDENTIFICATION OF RELVANT NATURA 2000 SITE(S):

The reasons for the designation of the Natura 2000 site:(A site synopsis can be obtained from www.npws.ie)The conservation objectives/qualifying interests of the site and the factors that contributes to the conservation value of the site:

C. NPWS ADVICE:

Summary of advice received in written form:	None Received.
Advice received over the over phone:	None Received.

D. ASSESSMENT OF LIKELY SIGNIFICANT EFFECTS

(Purpose of this is to identify if the effect(s) identified could be significant – if uncertain assume the effect(s) are significant). If answer yes to any of the questions, below then the effect is significant.

1.1	Would there be any impact on an Annex 1 habitat? (Annex 1 habitats are listed in Appendix 1 of AA Guidance)	No.
1.2	Would there be a reduction in habitat area on a Natura 2000 site?	No.
1.3	Would there be direct/indirect damage to the physical quality of the environment (e.g. water quality and supply, soil compaction) in the Natura 2000 site?	No.
1.4	Would there be serious/ongoing disturbance to species/habitats for which the Natura 2000 site is selected (e.g. because of increased noise, illumination and human activity)?	No.
1.5	Would there be direct/indirect damage to the size, characteristics or reproductive ability of populations on the Natura 2000 site?	No.
1.6	Would the project interfere with mitigation measures put in place for other plans/projects? (Look at in-combination effects with completed, approved but not completed, and proposed plans/projects. Look at projects/plans within and adjacent to Natura 2000 sites and identify/)	No.

E. SCREENING CONCLUSION

At its closest point, the River Barrow and River Nore SAC is c. 1.3km east of the application site. The closest watercourse (River Burren) is located c. 155m south of the application site and is hydrologically linked to the River Barrow and River Nore SAC.

The development as proposed has been assessed having regard to the requirements of the EU Habitats Directive. Given the proximity of the nearest European Site and the nature and extent of the development on the site in a built up urban area and the intervening land uses located in the area, it is considered reasonable to conclude on the basis of the information available, that the development on its own or in combination with other plans or projects, would not be likely to result in any potential significant effects on the European Site. Therefore, a Stage 2 Appropriate Assessment is not required.

Signed:	<i>Edr. O'Meara</i>		
Position:	Executive Planner	Date:	<i>11/12/24</i>

APPENDIX II

Site Inspection Photos: 02/12/2024



Sinead Kirwan

From: PlanningDevMan
Sent: Thursday 12 December 2024 09:31
To: Sinead Kirwan
Subject: FW: Section 5 Declaration - Exempted Development - 32 Sandhills, Hacketstown Road, Carlow, R93 V6K7
Attachments: LT23010 Section 5 Application - 32 Sandhills, Carlow.pdf

From: Damien Quigley <dquigley@lenztech.ie>
Sent: Wednesday, December 11, 2024 4:16 PM
To: PlanningDevMan <planningdevman@carlowcoco.ie>
Cc: Fiona Delaney <fiona.delaney@didean.ie>
Subject: Section 5 Declaration - Exempted Development - 32 Sandhills, Hacketstown Road, Carlow, R93 V6K7

****Warning From Carlow County Council IT Department****

Be Cautious! This email originated from outside of Carlow County Council. Do not click links or open attachments unless you recognize the sender and know the content is safe!

To Whom It Concerns,
Please find attached **Section 5** application for a declaration as to whether use of the below mentioned premises as a residence for International Protection Applicants constitutes development and whether, if it does, it can be considered exempted development:

- 32 Sandhills, Hacketstown Road, Carlow, R93 V6K7

Please contact the undersigned for payment of the relevant fee.

Regards,

Damien Quigley

Director, Lenztech Surveying & Engineering Ltd.

Mobile: 086 8882497 | Land Line: (057) 8510121

Email: dquigley@lenztech.ie

Web: www.lenztech.ie





Lenztech Surveying & Engineering Ltd.

Office 115,
Block 1,
Blanchardstown Corporate Park,
Ballycoolin Road,
Blanchardstown, Dublin 15
D15 AKK1

Unit B12
National Enterprise Park,
Portlaoise,
Co. Laois,
R32 RT73

T: + 353 (0)1 835 9729
+ 353 (0)57 8510121
E: info@lenztech.ie

YOUR REFERENCE:

**The Planning Department,
Carlow County Council,
County Buildings,
Athy Road,
Carlow.**

OUR REFERENCE: LT23010

DATE: 22ND NOVEMBER 2024

Re: Section 5 application for a declaration as to whether use of the subject premises as a residence for International Protection Applicants constitutes development and whether, if it does, it can be considered exempted development.

Premises at 32 Sandhills, Hacketstown Road, Carlow, R93 V6K7

Dear Sir/Madam,

I refer to the above and enclose this application for a declaration of the above under Section 5 of the Planning and Development Act 2000, as amended which seeks clarity on:

Whether use of the subject premises as a residence for International Protection Applicants constitutes development and whether, if it does, it can be considered exempted development.

This application is made by Lenztech Surveying & Engineering Ltd of Unit B12, National Enterprise Park, Portlaoise, Co. Laois, R32 RT73 on behalf of Dídean Dóchas Eireann Teoranta with an address in the county at Unit 3 Bloom HQ, Patrick's Street, Mountrath, Co. Laois, R32 DC58.

This cover letter sets out our client's application under the following headings:

- The content of this application;
- The applicant;
- The subject premises;
- The subject proposal;
- Planning history;
- Planning context;
- Our client's case; and
- Conclusions

The Content of this Application:



This application contains the following documents:

- This cover letter;
- The completed Section 5 application form;
- Site Location Plan;
- Site Layout Plan;
- Existing floor plan and existing elevations which also constitute the proposed floorplan and elevations as there are no changes to either the internal layout or the exterior of the subject dwelling;
- Legal Opinion from Eamon Galligan SC and Conor Sheehan BL;
- Architectural Opinion on Planning Compliance;
- Laois County Council's recent Section 5 Declaration Reg. Ref. S5/2024/26;
- Compliance report with Building and & Fire Regulations; and
- Planning application fee of €80.

The Applicant:

The applicant in this case is Dídean Dóchas Eireann Teoranta ('Dídean'), which has its main office in County Laois. Dídean have a portfolio of residential properties across the State. Typically, these comprise 2, 3 and 4 bed dwellings in typical residential communities in a variety of locations throughout the State (including one off housing, houses within a housing estate, etc.). In all instances Dídean currently provide and wish to continue to provide residential accommodation for those awaiting political asylum. Dídean facilitate a visiting service or support where required.

In some instances, Dídean also provides supported living, day and community outreach services to both children and adults, as a household or family, or to individuals or groups with a range of support requirements otherwise known as 'direct services' to the occupants of their properties. (Their properties are not used as health care facilities or as 'asylum centres')

Accommodation is provided to international protection applicants on a 6-18 month basis through a contract with a Government Department and Dídean's staff provide direct services, on an occasional basis (c. 3 hours per week on a visiting basis), which is social care services including arranging school places, sourcing doctors, arranging medical cards, IPAS (International Protection Applications Service) appointments, getting medical assessments etc to occupants of the houses.

No staff are based in Dídean's homes. Dídean's team liaise with the adults of the house to assist with arranging the above while integrating into the community.

The services are provided on a visiting basis and would be no different to care being delivered to a traditional domestic setting, for example, for elderly or infirm occupants of a dwelling.

The dwellings provided by Dídean accommodate between three and eight persons. Overcrowding does not occur. The premises are used, and will be used, for residential purposes and are not used and will not be used for reception or administrative purposes.

Various nationalities are accommodated in Dídean's properties (but no persons of Ukrainian nationality). The above are important considerations in determining whether the use of the properties constitutes development and/or if there has been a material change of use (i.e. a use amounting to development). The advice obtained from Senior Counsel (assisted by Junior Counsel) is that the use is not development.

The Subject Premises:

The premises is occupied by a family of international protection applicants at present. No internal or external modifications were undertaken to the dwelling to facilitate the use of the premises by international protection applicants.

The Subject Proposal:

Dídean wishes to continue to provide residential accommodation and direct services for people seeking asylum (protected persons) including the provision of visiting services and/or support where required. These services comprise of supported living, day and community outreach services to individuals or groups with a range of complex support requirements known as 'direct services'. The services, as mentioned above, are typically provided for up to 3 hours per week, per individual. It is confirmed that there is on average one vehicle movement to the subject site, and one vehicle movement from the site each day (the occupants do not own or having use of a car). This level of car usage is considered at, or less than, the norm for such a dwelling.

We confirm, on behalf of the applicant, that no physical modifications to facilitate the current use were undertaken. We further confirm that the subject premises do not contain any reception and/or lobby areas, or administrative component, which otherwise might lead to it being categorised as a reception centre. The subject premises will continue to function as a single residential unit or dwelling and has not been, nor will it be, subdivided.

Planning History:

There are no physical works, inside or out, to the subject dwelling, the focus of this application is on the use and whether the use for which the dwelling is currently used, and for which it is intended to be used, constitutes either an intensification of that existing permitted use, or constitutes a material change of use.

Planning permission was originally granted for the subject premises as part of a wider housing scheme under planning applications reg. ref. PD3698, 99/104. A number of relatively standard planning conditions were attached to the overall development. It should be noted that no conditions were attached to the final grant of planning permission restricting the subject premises to single families or excluding any group, non-nationals, political grouping etc.

Planning Context:

There are several aspects to the planning context which are material considerations in this instance.

The material factors to be considered are the planning history of the subject dwelling which establishes the scope of the permitted residential use and the provisions of the Planning and Development Act 2000 as amended and the Planning and Development Regulations 2001, as amended.

In terms of planning impacts, in respect of the Development Plan zoning maps, we noted that the subject site is zoned Residential and that its existing use is a residential use.

Relevant legislative provisions are set out in the attached Joint Opinion of Counsel to which the Council is referred. In essence, it is considered that there is no material change of use and as there have also been no works undertaken to the property and where the property is not unauthorised, the continued use of the property is its lawful use and as such its use for housing international protection applicants is not Development within the meaning of the Planning and Development Act, 2000.

The matter of change of use is addressed in the attached legal opinion. In considering that no works have been undertaken to the originally permitted dwelling the opinion addresses whether any change in the use of the subject premises is material in planning terms having regard to *Monaghan County Council v. Brogan* [1987] I.R. 333 where it was found that issues raised by a change of use would be normally considered by a planning authority as if it were dealing with an application for planning permission and in so doing would consider

'residential amenity, traffic safety or policy issues related to the statutory plan'. It was found also that a continuation of the same use does not, in general, amount to development. It is also clear that practical effects of the use, including off-site impacts must be considered. Potential off-site impacts are considered in the legal opinion.

We also add that no other impact would occur including noise impact, visual impact, such as to impair existing residential amenity.

It is also clear from the attached legal opinion attached that the use of the subject premises is not as a hostel requiring a change of use.

The possibility of material intensification is considered in the attached legal opinion and it is concluded that there is no evidence of intensification in this instance, nor is there a concentration of other similar accommodation in the immediate locality.

The provision of direct services is not sufficient to alter the character of the use of the premises as residential.

The Ballinamore Section 5 Declaration made by An Bord Pleanála referred to in Counsels opinion would indicate that where no reception or administrative function is provided, as in this case, and in the absence of any additional material off-site impacts, there is no material change of use from a dwelling.

None of the other questions posed are sufficient to alter that fundamental opinion contained within the legal opinion.

As indicated in the opinion the decision of the County Council should conclude that there is no change of use, no intensification, no development and no requirement to obtain planning permission.

Please see attached a recent Section 5 Declaration from Laois County Council regarding the use for international protected persons in similar circumstances where the County Council concluded clearly that the same use is not development in the first place and no issue of exemption thereafter applies.

Our Client's Case:

Our client's case for a positive determination of this Section 5 application in their favour, namely that the subject development does not constitute development is set out in the joining legal opinion of Eamon Galligan SC and Conor Sheehan BL.

Their joint opinion concludes that:

- It is considered that the use the subject premises for the accommodation of protected persons does not give rise to a material change of use from its use as a dwelling and, therefore, does not constitute development requiring planning permission.
 - There are no conditions or limitations imposed by the planning permission for the subject dwelling which would prevent it being used for the purposes of accommodating applicants for international protection.
 - No physical works or changes to the building have been undertaken, or are required to be undertaken, to accommodate persons applying for international protection.
 - There is one kitchen and one living/sitting room serving all residents within the context of a single dwelling. The bathroom is also shared.
-

- There is currently one family living in the subject premises. Where additional occupants to be accommodated, who were not related, but shared the kitchen and living room facilities in a similar manner, this would not of itself give rise to any material change of use, unless it was accompanied by a material increase in site impacts, which does not appear likely. The position might be different if there was significant car ownership among protected persons, leading to increased traffic or car parking demand, but this would not normally be expected.
- The subject dwelling is being used solely for residential purposes and there is no intention to provide a reception or administrative centre for those seeking international protection at this location that would give rise to a change of use.
- The issue of intensification does not arise. Moreover, it is only where an intensification of use gives rise to material planning impacts that a material change of use by reason of intensification could be taken to have occurred. In the absence of any material vehicular or other off-site impacts in the present case, Counsel conclude that there is no material change of use in this respect.
- The Board's decision and Inspector's Report on the Ballinamore referral referenced in the Counsels opinion supports the view that the use of residential accommodation by protected persons does not constitute development.

Conclusions:

The attached legal opinion and the planning case presented in the within submission, shows that the use of the subject premises, does not constitute 'development' through a material change of use, or alternatively through any intensification, that would result in any planning or environmental impact such as would warrant the requirement for obtaining planning permission.

This view is also strongly supported by a Section 5 Referral precedent Declaration made by the Board under Ref. ABP-397077-20 and the precedent established by Laois County Council's recent Section 5 Declaration (their Reg. Ref. S5/2024/26) that use as a dwelling for international protection applicants does not constitute development for any existing residential premises, upon which the applicant relies in the present case.

We trust that this application and supporting documentation is sufficiently comprehensive and robust to enable a positive determination for our client demonstrating that the subject use does not constitute development, and that planning permission is not required in this instance.

If you have any queries please contact the undersigned at the address given below.

Yours sincerely,

Damien Quigley

Damien Quigley,
Senior Engineer, MIEI
Director, Lenztech Surveying & Engineering

COMPLETED SECTION 5 APPLICATION FORM





COMHAIRLE CONTAE
CHEATHARLACH
CARLOW COUNTY COUNCIL

Oifigí an Chontae
Bóthar Átha Í
Ceatharlach, R93E7R7

County Buildings
Athy Road
Carlow R93E7R7

T: 059-9170346
E: See Carlow.ie/contact-us
W: carlow.ie

APPLICATION FORM FOR SECTION 5 DECLARATION ON DEVELOPMENT & EXEMPTED DEVELOPMENT

1.	Name of applicant:	Dídean Dóchas Eireann Teoranta
		<i>Contact details to be provided in section 10 at the end of this application form</i>
2.	Name of person/agent acting on behalf of applicant (if any):	Lenztech Surveying & Engineering Ltd Damien Quigley
		<i>Contact details to be provided in section 11 at the end of this application form</i>
3.	Location of site in question (postal address or townland):	32 Sandhills, Hacketstown Road, Carlow, R93 V6K7
		Tailte Éireann Map Ref. No. (and the Grid Reference where available):
4.	Please state the applicant's interest in the site:	Leased



5. Section 5 of the Planning and Development Act 2000 (as amended) provides that: - *If any question arises as to what, in any particular case, is or is not development and 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 Planning Authority a declaration on that question.* In accordance with this provision, please set out below a clear description of the question for which you seek the Section 5 Declaration. *(Additional details may be provided in supporting documentation)*

A determination of the above under Section 5 of the Planning and Development Act 2000, as amended. This Section 5 is for the use of the subject property and there are no physical building works proposed.

Please refer to attached cover letter for details.

6. To enable the Planning Authority to issue a declaration on the question asked in section 5 of this application form and within the prescribed period, please include the information referred to in parts (a) to (c) below:

(a) A comprehensive description of the existing or proposed works, development, or site/building use (as applicable) upon which your application and question is based *(Additional details may be provided in supporting documentation)*

Please refer to attached cover letter for details.

(b) Details of the relevant exempt development provision under which your declaration is being sought (e.g. relevant section in the Planning and Development Act 2000 (as amended) or relevant article/exempt development class in the Planning and Development Regulations 2001 (as amended).

Please refer to attached cover letter for details.

(c) Parts (a) and (b) should be supported by plans and particulars including:

- i** A site location map (Scale 1:2500 for rural area and 1:1000 for an urban area), with the site/land in question clearly outlined in red).
- ii** A site layout plan (Scale 1:500) prepared in accordance with Article 23 of the Planning and Development Regulations 2001 (as amended), with dimensions in metric scale and clearly detailing the existing or proposed works, development, or site/building use (as applicable) upon which your application and question is based.
- iii** Floor plan and elevation drawings as applicable (Scale 1:200), prepared in accordance with Article 23 of the Planning and Development Regulations 2001 (as amended), with dimensions in metric scale and clearly detailing the existing or proposed works, development, or site/building use (as applicable) upon which your application and question is based.

7.	Do the proposed works, development, structure, or site/building use (as applicable) relate to a Protected Structure and/or its curtilage?
	No
8.	List any previous planning application(s) relating to the site:
	PD3698, 99/104
9.	Are you aware of aware of any enforcement proceedings relating to the site:
	No

Signed: Damien Quigley Date: 03/12/2024
(Signature of Applicant or Agent as appropriate)

ADVICE NOTES TO APPLICANT

Under Section 5 of the Planning and Development Act 2000 as amended any person may request in writing from the Planning Authority a declaration as to what, in any particular case, is or is not development or is or is not exempted development within the meaning of the Planning and Development Act 2000 (as amended).

The Planning Authority is required to make a decision within 4 weeks of receipt of an application under Section 5 of the Act. However, where insufficient information has been provided, the Planning Authority may require the submission of further information in order to enable the Authority to issue the declaration on the question asked. In this regard and in order to avoid any delay in the processing of your application please ensure a fully completed application form is submitted, along with all information, plans and particulars in response to Section 5 and parts (a) to (c) in section 6 of the application form.

If the existing or proposed works, development, or site/building use relate to a protected structure you are advised to liaise with the Planning Authority to establish whether the works will require submission of an Architectural Heritage Impact Assessment, to assess the impact of any proposed works on the character, setting and fabric of the protected structure. Where required, this report must be prepared by a suitably qualified Conservation Architect/Specialist.

- This application must be accompanied by the statutory fee of €80
- The application should be submitted to:

By Post: Planning Department
 Carlow County Council
 Athy Road
 Carlow
 R93 E7R7

By Email: planningdevman@carlowcoco.ie

OFFICE USE ONLY

Date Received:

Decision Due Date:

Date of Decision:

Recommendation:

ADDITIONAL CONTACT DETAILS – NOT TO BE PUBLISHED

Please note:

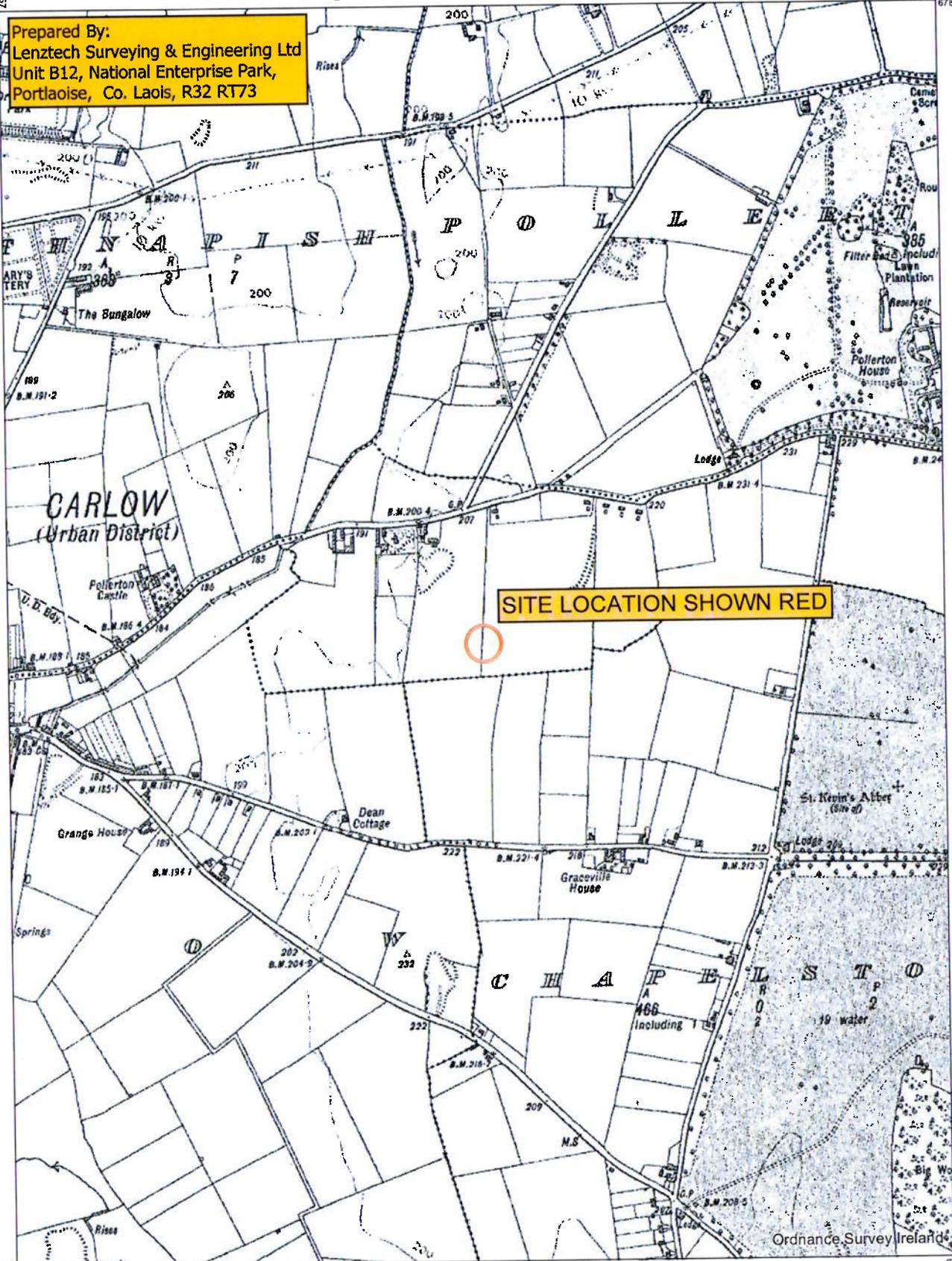
- The applicant's address and telephone number must be included on this page.
- These details must be submitted on this separate page as they will not form part of the public file.

10. Address of applicant: <i>(person seeking the declaration and not an agent on their behalf)</i>	Dídean Dóchas Eireann Teoranta Unit 3 Bloom HQ, Patrick's Street, Mountrath, Co. Laois, R32 DC58
	Tel. No: 0578600688
	E-mail: info@didean.ie
11. Address of person/agent acting on behalf of applicant (if any):	Lenztech Surveying & Engineering Ltd Unit B12, National Enterprise Park, Portlaoise, Co. Laois, R32 RT73 <u>C/O: Damien Quigley</u>
	Tel. No: 0578510121
	E-mail: dqigley@lenztech.ie
12. Should all correspondence be sent to the agent's address where included in section 11 above? (Please tick appropriate box) Yes [<input checked="" type="checkbox"/>] No [<input type="checkbox"/>] <i>(Please note that if the answer is 'No', all correspondence will be sent to the applicant's address provided in section 10).</i>	

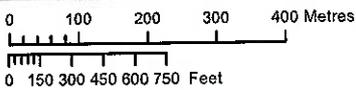
SITE LOCATION PLAN

Site Location Map

Prepared By:
 Lenztech Surveying & Engineering Ltd
 Unit B12, National Enterprise Park,
 Portlaoise, Co. Laois, R32 RT73



SITE LOCATION SHOWN RED



OUTPUT SCALE: 1:10,560



CENTRE COORDINATES:
 ITM 673866,676845

PUBLISHED: 03/12/2024
MAP SERIES: 6 Inch Raster
ORDER NO.: 50437501_2
MAP SHEETS: CW007
 LS032
 6 Inch Raster
 LS037

CAPTURE RESOLUTION:
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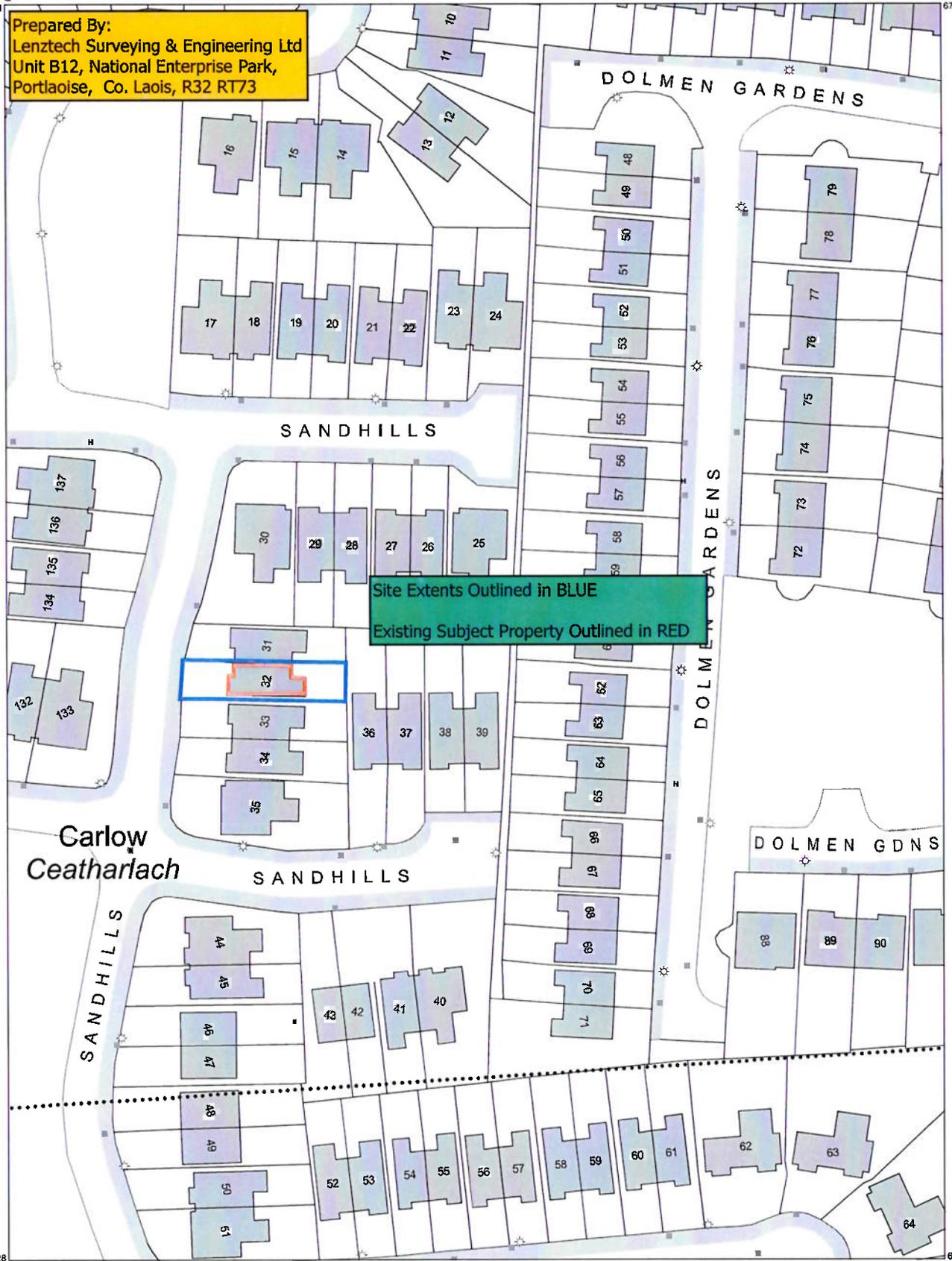


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SITE LAYOUT PLAN

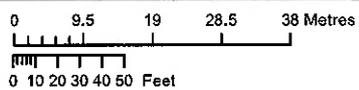
Planning Pack Map

Prepared By:
 Lenztech Surveying & Engineering Ltd
 Unit B12, National Enterprise Park,
 Portlaoise, Co. Laois, R32 RT73



Site Extents Outlined in BLUE
 Existing Subject Property Outlined in RED

Carlow
 Ceatharlach



OUTPUT SCALE: 1:1,000



CENTRE COORDINATES:
 ITM 673866,676845

PUBLISHED: 03/12/2024
 ORDER NO.: 50437501_2
 MAP SERIES: 1:1,000
 MAP SHEETS: 4357-08, 4357-13

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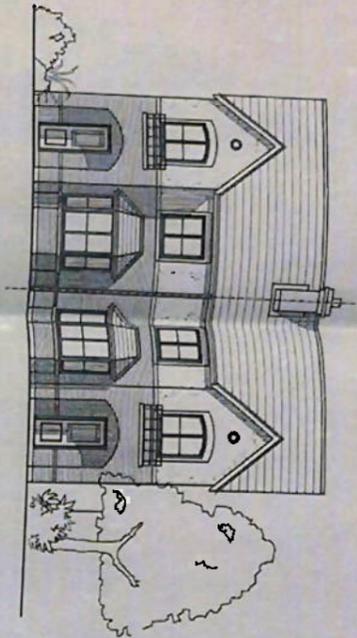
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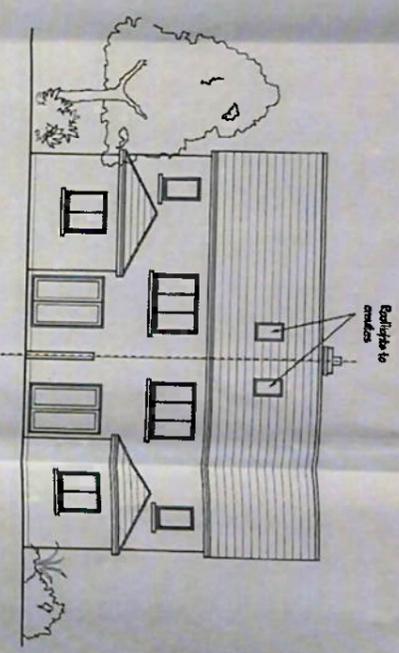
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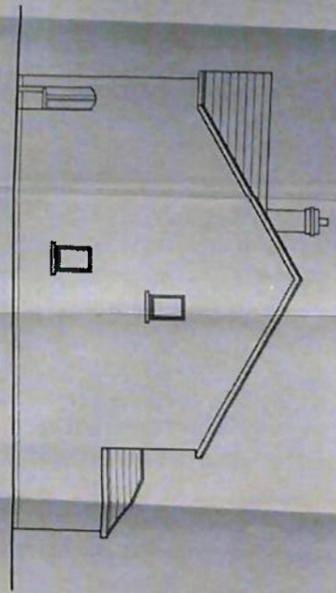
**EXISTING FLOOR PLAN AND EXISTING ELEVATIONS WHICH ALSO CONSTITUTE THE
PROPOSED FLOOR PLAN AND ELEVATIONS AS THERE ARE NO CHANGES TO EITHER THE
INTERNAL LAYOUT OR THE EXTERIOR OF THE SUBJECT DWELLING**



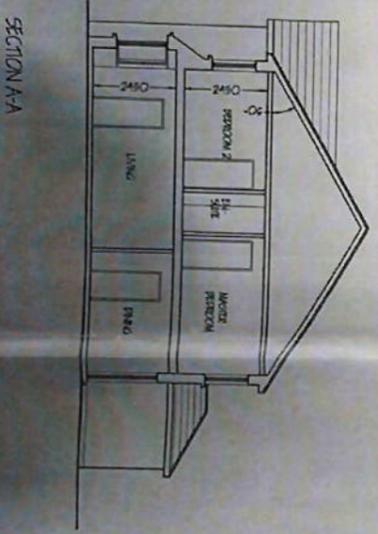
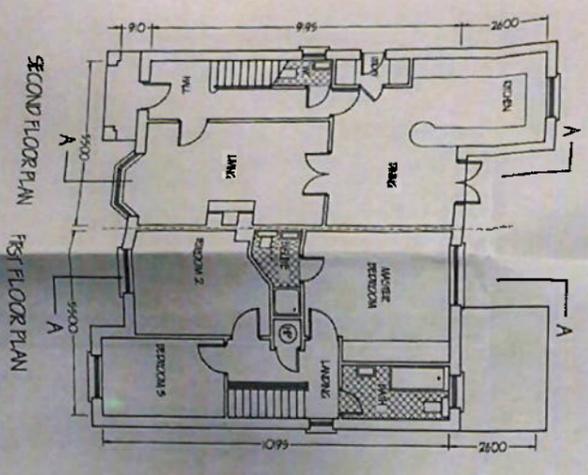
ELEVATION



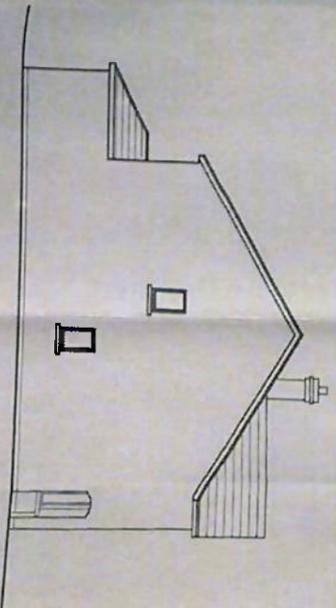
REAR ELEVATION



SIDE ELEVATION



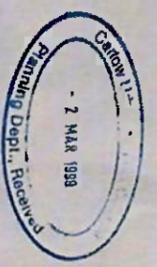
SECTION A-A



SIDE ELEVATION

VISION/PURPOSE
 007
 WALLS
 LOBBY
 SECTIONING
 SPEC WORK
 DRAWINGS
 0005

To be finished in dark brickwork, generally with white panels in selected color.
 Other areas indicated are to be rendered with wooden finished finish and painted or finished in selected dry dust finish.
 All windows, doors etc. to be finished in the color indicated for painted/stained.
 All balconies, stairs etc. to be galvanized mild steel for protection.
 To be in "A/C" or "Human" for protection.



NO.	REV.	DATE	DESCRIPTION
01			ISSUED FOR DEVELOPMENT
02			REVISION/DRAWING/TITLE B/S

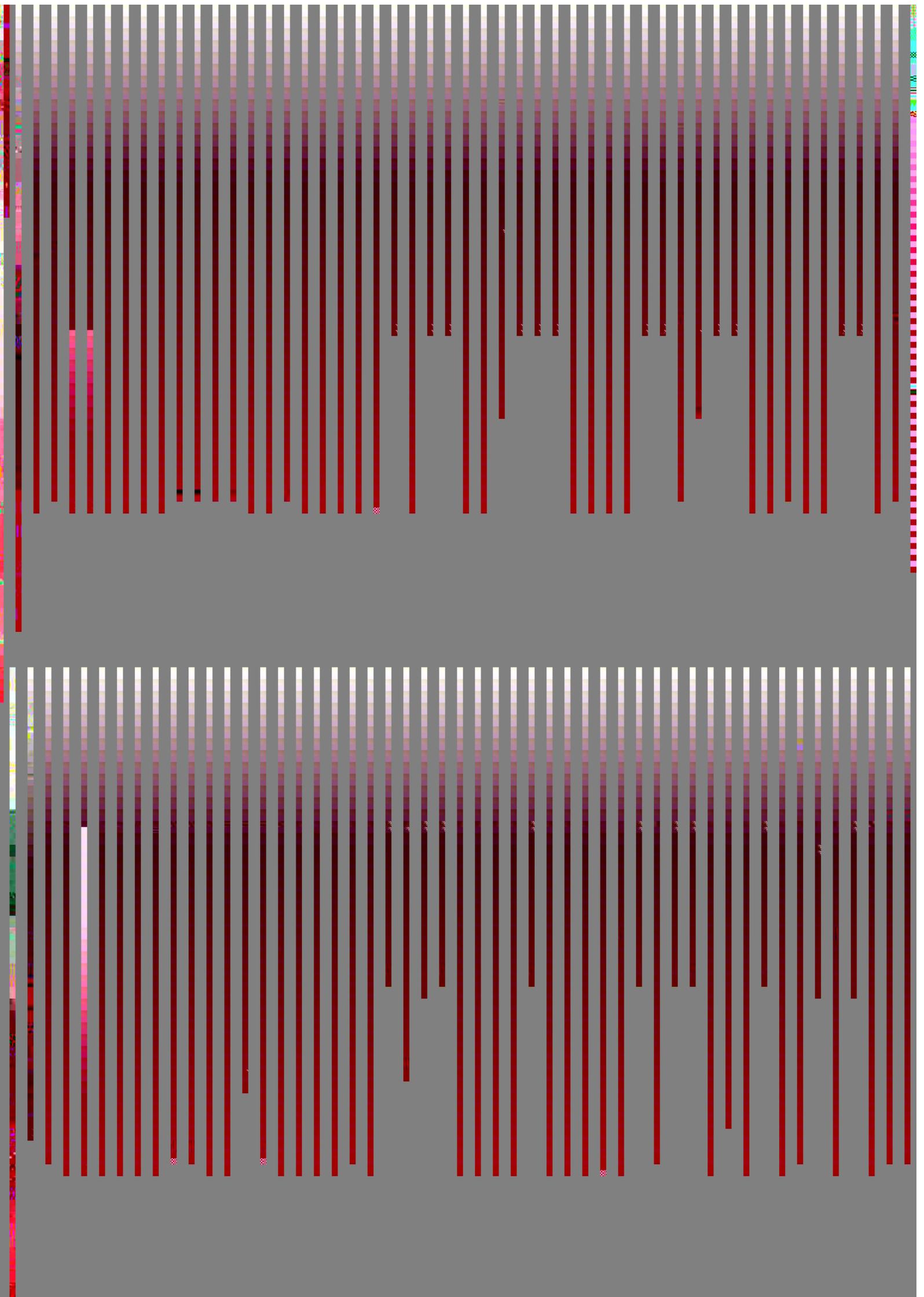
SCALE: 1/8" = 1'-0"

PROJECT NO: 100

DATE: 17-03-98

BY: [Signature]

PROJECT: MCCROSSAN OROURKE ARCHITECTS



LEGAL OPINION

- OPINION -

QUERIST: *Didean Dóchas Éireann Teoranta*

AGENT: *Cumann Straton Reynolds Ltd*

SUBJECT: *68 Barrowvale, Graiguecullen, Carlow, Co Laois*

I NATURE OF OPINION

1. Counsel have been requested by Agent to jointly advise on whether the use of a dwelling at the above address (No. 68 Barrowvale) by 'protected persons' constitutes development. Counsel have also been asked to advise on other associated matters. These matters are considered below.

II BACKGROUND

2. Querist owns no. 68 Barrowvale which is a dwelling that is in use for the provision of accommodation for protected persons. The dwelling was permitted as part of a wider scheme as a residential house under Laois County Council Ref. 01/582. Counsel have not inspected the plans and particulars associated with that planning application but note that no conditions were attached to the Final Grant of planning permission restricting the use of the dwelling to single families. Condition 34 restricts its use to residential purposes. It provides:

“34. Use of the proposed dwellings shall be restricted to residential purposes only. No business, trade or other non-residential use shall take place within the proposed residential premises.”

3. The reason given for the imposition of this condition is “*in the interests of proper planning and residential amenities*”. The permission was amended under Ref. 04/54. The local planning authority has surveyed the premises and no. 68 is not subject to any enforcement action save for the enforcement Warning Letter from Laois County Council under their reg. ref. no. UD240106, dated 22nd March 2024.
4. No. 68 forms part of a property portfolio of second-hand residential dwellings owned by Querist. These comprise of 2, 3 and 4 bed dwellings in typical residential communities, dispersed across a wide geographical area; they are not concentrated in any particular housing estate of any village/town/city. The property at no. 68 Barrowvale is a three bedroom semi-detached dwelling intended for accommodating 6-8 persons who may or not be from the same family (the 6-8 occupants would include infants of the occupants). Querist provides, and wishes to continue to provide,

residential accommodation for people seeking asylum ('protected persons') and the facilitation of visiting services or support where required. These services comprise supported living, day and community outreach services to individuals or groups with a range of complex support requirements. The services are typically provided for 3 hours per week. It is confirmed by Querist that there is on average one vehicle movement going to No. 28, and one vehicle movement coming from it, each day. This equates to a typical number of vehicle movements that one would associate with use as a residential dwelling.

5. Protected persons are typically housed for 6-18 months at a time until such time as their applications for international protection are processed. No accommodation is provided to Ukrainians (who benefit from temporary protection pursuant to the Temporary Protection Directive 2001/55 EC, activated by EU Council Decision EU 2022/382). The services are provided through a contract with a Government Department rather than to families, individuals or groups themselves.
6. No physical modifications were or are required to no. 68 to facilitate the current use of the subject property. Agent has confirmed that the property does not contain any reception and/or lobby areas or administrative component that might alter the character and/or nature of Querist's property. A schedule of accommodation is as follows:
 - Hallway;
 - Sitting Room;
 - Dining Room/Kitchen;
 - Utility Room;
 - Downstairs WC;
 - 3 no. Bedrooms including 1 no. Ensuite Toilet/Shower;
 - First Floor Bathroom/Toilet; and
 - Hot Press.
7. It appears that Laois County Council considers that use of dwellings for emergency accommodation for persons of protected status is a change of use, constitutes development, is not considered exempted development and would consequently require planning permission.
8. A Warning Letter dated 22nd March 2024 has issued from the Council in connection with no. 68 Barrowvale alleging "... *unauthorised development comprising of, but not limited to, a change of use...* "
9. Against this background the following questions are being posed to Counsel (and are later addressed in the Opinion):

“use”, in relation to land, does not include the use of the land by the carrying out of any works thereon;

“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, 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.”

11. ‘Development’ is defined in section 3 of the Planning and Development Act, 2000, as amended (“the 2000 Act”) in the following terms:

“In this Act, except where the context otherwise requires, “development” means—(a) the carrying out of any works in, on, over or under land, or the making of any material change in the use of any land or structures situated on land, or (b) development within the meaning of Part XXI (inserted by section 171 of the Maritime Area Planning Act 2021).” [emphasis added]

12. Section 3(3) provides that the use of a house as two or more dwellings is a material change of use, and use of a dwelling for short term lettings is a material change of use in certain circumstances (section 3A):

“(3) For the avoidance of doubt, it is hereby declared that, for the purposes of this section, the use as two or more dwellings of any house previously used as a single dwelling involves a material change in the use of the structure and of each part thereof which is so used.” [section 3(3)]

“(1) The use of a house or part of a house situated in a rent pressure zone for short term letting purposes is a material change in use of the house or part thereof, as the case may be.” [section 3A]

13. It is clear that the intended use of no. 68 is not a “short term letting”, as this is defined in the 2000 Act as meaning:

“the letting of a house or part of a house for any period not exceeding 14 days, and includes a licence that permits the licensee to enter and reside in the house or part thereof for any such period in consideration of the making by any person (whether or not the licensee) of a payment or payments to the licensor.”

14. Section 4(1) sets out various statutory categories of exempted development. Section 4(1)(j) of the 2000 Act refers to the following type of development as being exempted development:

(ii) consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,

(iii) endanger public safety by reason of traffic hazard or obstruction of road users,

(iiia) endanger public safety by reason of hazardous glint and/or glare for the operation of airports, aerodromes or aircraft

(iv) except in the case of a porch to which class 7 specified in column 1 of Part 1 of Schedule 2 applies and which complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1, comprise the construction, erection, extension or renewal of a building on any street so as to bring forward the building, or any part of the building, beyond the front wall of the building on either side thereof or beyond a line determined as the building line in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,

(v) consist of or comprise the carrying out under a public road of works other than a connection to a wired broadcast relay service, sewer, water main, gas main or electricity supply line or cable, or any works to which class 25, 26 or 31 (a) specified in column 1 of Part 1 of Schedule 2 applies,

(vi) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,

(vii) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,

(viiA) consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places,

“(1) Development which consists of a change of use within any one of the classes of use specified in Part 4 of Schedule 2, shall be exempted development for the purposes of the Act, provided that the development, if carried out would not—

(a) involve the carrying out of any works other than works which are exempted development,

(b) contravene a condition attached to a permission under the Act,

(c) be inconsistent with any use specified or included in such a permission, or

(d) be a development where the existing use is an unauthorised use, save where such change of use consists of the resumption of a use which is not unauthorised and which has not been abandoned.

(2) (a) A use which is ordinarily incidental to any use specified in Part 4 of Schedule 2 is not excluded from that use as an incident thereto merely by reason of its being specified in the said Part of the said Schedule as a separate use... ”

22. Class 9 of Part 4 of Schedule 2 (linked to Article 10) refers to:

“Use for the provision of residential accommodation and care to people in need of care (but not the use of a house for that purpose)”

23. Class 14 of Part 2 of Schedule 1 of the Regulations refers to changes of use of types of development that are exempted development (subject to conditions and limitations¹) including:

(f) from use as a house, to use as a residence for persons with an intellectual or physical disability or mental illness and persons providing care for such persons;

(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,²

(i) 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 (h) of the said premises or institution, or

¹ Limitations in column 2 include that the *“The number of persons with an intellectual or physical disability or a mental illness living in any such residence shall not exceed 6 and the number of resident carers shall not exceed 2.”*

² Emphasis added.

that no additional cooking facilities or toilets would be provided. At present, there is one kitchen, one living room and one upstairs bathroom which is shared as per the schedule of accommodation for no. 68, as set out above in para. 6.

29. A material change of use occurs, first, where there is a change in use and, second, where that change is material. The act of development relates to the change rather than the use itself.
30. The question of whether there has been a material change of use addressed in the Supreme Court judgment in *Monaghan County Council v. Brogan* [1987] I.R. 333³ where the court confirmed that the term “material” in this context means material in planning terms; that is, whether the issues raised by the change of use would raise matters that would normally be considered by a planning authority if it were dealing with an application for planning permission, such as “residential amenity, traffic safety or policy issues in relation to statutory plans” The Court also held in that case that the continuation of a use does not, in general, amount to development.
31. Jurisprudence also illustrates that the focus of a planning authority must be on the practical effects of the use, including off-site impacts, in particular, when determining whether a use is materially different from the prior use. In *Esat Digifone v South Dublin County Council* [2002] 3 IR 585 the High Court stated:

“The consideration to be taken into account in determining materially must at least be relevant to “proper planning and development and the preservation of amenities” which are the two objectives of the preamble to the legislation. The question is whether there were sufficient planning considerations raised by the change in activity to justify its submission to development control”

32. In a similar vein Barron J in *Galway County Council v Lackagh Rock* [1985] IR 120 at 127 stated that:

“... To test whether or not the uses are materially different, it seems to me, that what should be looked at are the matters which the planning authority would take into account in the event of a planning application being made either for the use on the appointed day or for the present use. If these matters are materially different, then the nature of the use must equally be materially different. Since no evidence has been adduced to indicate that the applicant would have taken any different matters into consideration in determining an application for planning permission made now rather than on the appointed day, I accept the respondent's contention that there has been no material change of use.”

³ Referred to more recently in, inter alia, *Stanley v An Bord Pleanála* [2022] IEHC 177.

33. In *Westmeath County Council v Quirke* (unreported, High Court, 23rd May 1996) the Court noted that:

“Many alterations in the activities carried out on the land constitute a change of use, however, nor all alterations will be material. Whether such changes amount to a material change of use is a question of fact..... Consideration of the materiality of a change in use means assessing not only the use itself but also its effects.”

34. The fact that the use of a property is not welcomed by local residents is not determinative as to whether a material change of use has occurred. For example, in the Supreme Court judgment in *Dublin Corporation v Moore* [1984] ILRM 339 which concerned the question of whether the keeping of an ice-cream van in a driveway amounted to an unauthorised material change of use the court noted:

“I can well understand the objection voiced by Mr Heneghan in his affidavit, to which I have referred – the residents of a quiet suburb naturally resent the presence of what may well be out of keeping with what they conceive to be the standards appropriate to the neighbourhood. There cannot, however, be one law for Cabra and another for Clondalkin – yet other for Finglas and Foxrock. Considerations of this kind are not appropriate to planning law – if they were, they might well offend against rights of equality.”

[Emphasis added.]

35. We are not aware of any Irish case law specifically considering whether the use of a dwelling as accommodation for protected persons is a material change of use.
36. However, it is noted that in a section 5 referral (ABP-397077-20), the Board concluded that the use of 25 own door apartments in Ballinamore by protected persons did not constitute a material change of use or development. In our view, this declaration strongly supports the view that the use of dwellings by protected persons does not give rise to a material change of use of those dwellings. While this declaration would not be binding on a Court, the reasoning of the inspector appears, in our opinion, to be correct. At §8.2.7 of his report, the inspector stated:

*“Correspondence between representatives of the referrer and the Chief State Solicitor’s Office dated the 7th day of November, 2019, states that the Minister for Justice and Equality has not entered into any contract to establish an EROC in Ballinamore. Subsequent correspondence between these parties dated the 29th November, 2019, clarifies that 25 families would occupy the subject 25 apartments, which would be used on an ‘own-door independent living basis’, with no communal living facilities. Having visited the referral site, it is clear that **the residential***

39. We are advised by Agent that no traffic impacts arise from the use of the dwellings over and above what would normally be associated with visitors to a house. It follows that an intensification of use of the dwelling in terms of off-site traffic impacts does not occur as a result of the occupation by protected persons. Any services provided to the occupants by Querist are on an occasional basis, up to a maximum of,3 hours per week per person on a visiting basis only, and there is no concentration of any similar use in the locality. In this regard, we are instructed that no other dwelling in the residential estate in which the dwelling is situate is used to provide accommodation to protected persons). We are further advised that the intended occupancy level of no. 68 by 5-8 persons is consistent with its permitted use as a dwelling.
40. Based on a planning search dated 7th December 2023 No. 68 Barrowvale is zoned 'Residential 1. Established' and permission was granted for residential use and the conditions attached to the permission Carlow County Council Ref. 01/582 (as amended) did not limit the use of any house permitted pursuant to that permission to any specific category of persons. Residential use is consistent with the above zoning.
41. In this context, it is considered that, in principle, the use has not changed and that the dwelling continues to be used for the provision of residential accommodation where the use does not have material off-site planning impacts, including, in particular, traffic impacts associated with any occasional (non-business related) services provided on a visiting basis.

Material Intensification of Use

42. The remarks of Clarke J (as he then was) in *Cork County Council v Slattery Pre-Cast Concrete* [2008] IHC 291 are of relevance in determining whether an intensification of an established use is material:

"The assessment of whether an intensification of use amounts to a sufficient intensification to give rise to a material change in use must be assessed by reference to planning criteria. Are the changes such that they have an effect on the sort of matters which would properly be considered from a planning or environmental perspective? Significant changes in vehicle use (and in particular heavy vehicle use (that might not otherwise be expected in the area)) are one such example, changes in the visual amenity or noise are others."

43. For the reasons outlined above, and on the basis of the facts as furnished by Agent to Counsel, it is considered that the use of the dwelling by protected persons does not represent a material intensification of the permitted use such as to give rise to a material change of use.

Does the Use Constitute Development?

44. On the basis that no works have been or are required to be undertaken, and where it is not evident to Counsel, based on the fact presented by Agent, that a material change of use or a material intensification of use has occurred, it is considered that the use of No. 68 for the accommodation of 'protected persons' is not development within the meaning of the Act.

Can the planning system essentially make a distinction between residents or occupants of a different political status (i.e. those internationally protected and those not?).

45. Specific exemptions have been provided in legislation to allow the conversion of certain non-residential premises to house protected persons. The Irish planning system specifically enables distinctions to be drawn/conditions to be attached to planning permissions restricting the use of structures to persons of a particular class or description. However, in our opinion, this restriction can only be imposed where it serves a planning purpose. Section 38(2) of the 2000 Act provides:

"Where permission is granted under this Part for a structure, the grant of permission may specify the purposes for which the structure may or may not be used, and in case the grant specifies use as a dwelling as a purpose for which the structure may be used, the permission may also be granted subject to a condition specifying that the use as a dwelling shall be restricted to use by persons of a particular class or description and that provision to that effect shall be embodied in an agreement under section 47". [Emphasis added]

46. No condition restricting the use of No. 68 to a particular class or category of person is attached to the planning permission Carlow County Council Ref. 01/582 under which no. 68 was permitted. Planning does not generally focus on the class or type of persons carrying out a particular use, but focusses instead on the planning or environmental impacts. Planning permission enures for the benefit of the land under section 38(2) of the 2000 Act.

Would a single dwelling, occupied by non-related residents, who are internationally protected applicants, require planning permission?

47. The 2000 Act provides that use as two or more dwellings of any house previously used as a single dwelling involves a material change in the use (see also short-term letting under section 3A) which is development and, unless such use was exempted development, it would require planning permission irrespective of the political status of the residents. If there is occupancy by persons without family or other connections

where kitchen and other facilities are shared, this may operate no differently in planning terms to occupation by a family/ household with a lodger provided that the planning and environmental impacts are no different. The off-site impacts are often the same, as indicated above, although occupancy by unrelated persons/non-family units can sometimes generate a higher car parking requirement and , therefore, potentially higher off-sit impacts, such a consideration would not appear to arise in the context of occupation by ‘*protected persons*’, most of whom would not be expected to have cars. We are instructed that this issu does not arise in respect of no. 68.

48. Aside from where a material change of use occurs by operation of the 2000 Act, if the use of the dwelling gives rise to a material intensification of the existing use or a material change of use then it would require planning permission, irrespective of the political status of the residents.

Does the provision of remote, part time or occasional services envisaged attending a residence fall within Use Class 9 (a) if applied to international protection applicants?

49. Class 9 provides that a change between the following types of use are exempted development:

“Use—

(a) for the provision of residential accommodation and care to people in need of care (but not the use of a house for that purpose),

(b) as a hospital or nursing home,

(c) as a residential school, residential college or residential training centre.”

50. Class 9 does not apply as Querist’s property is in residential use and is a ‘house’ for the purposes of the 2001 Regulations.

Does the provision of the services, through visits to those under international protection, in an existing dwelling, in itself constitute a change of use?

51. The question of whether the provision of a three-hour provision of services per person per week amounts to a change of use or a material change of use is a question of fact and degree. On the basis of the services provided, it is considered that this level of provision of care would be akin to a visiting nurse providing ‘in the community’ care and as such would not automatically trigger a change of use.

52. In *Westmeath County Council v Quirke* (unreported, High Court, 23rd May 1996) the Court noted that:

“Many alterations in the activities carried out on the land constitute a change of use, however, not all alterations will be material. Whether such changes

amount to a material change of use is a question of fact..... Consideration of the materiality of a change in use means assessing not only the use itself but also its effects.”

53. If the provision of the services does not give rise to planning impacts of a material nature, then the introduction of such a use should not be regarded as material in planning terms, provided the provision of direct services does not extend significantly beyond occasional use or give rise to material off-site impacts which would not occur in the normal use of dwellings. On the basis of the low level of services supplied, we are of the opinion that no change of use has occurred in relation to the use of no. 68.

Please advise on whether you hold the view that the provision of services to persons in their own dwelling on an occasional basis would be regarded as ‘ordinarily incidental’ to the use of a dwelling under Section 4(1)(j) of the Act in that the use would be ‘incidental to the enjoyment of the house as such’.

54. Section 4(1)(j) provides the following development is exempted development:

“development consisting of the use of any structure or other land within the curtilage of a house for any purpose incidental to the enjoyment of the house as such”

55. Insofar as exemptions are to be strictly construed, on one reading section 4(1)(j) applies not to the house itself but to any structure or other land within the curtilage of a house. On this basis, the use of the house itself for the provision of care is not incidental to the use of other land within the curtilage of a house. If it does apply to the house itself, a care use would, in our opinion, be incidental to the enjoyment of the dwelling house as such. Occasional visits to the home by friends or family or by care professionals making house visits is part of the ordinary or normal use of a dwelling house provided that the visits are at a level which do not give rise to any disamenity and are subordinate in land use terms to the primary use as a dwelling. The position might change if there were significant off-site impacts associated with the secondary use. The test usually applied in UK case law is whether the use is reasonably or ordinarily incidental to the use of the dwelling house in this sense. In *Emin v Secretary of State for the Environment* [1989] JPL 909, Eyre QC (sitting as a deputy High Court judge) stated:

“The fact that such a building had to be required for a purpose associated with the enjoyment of a dwelling house could not rest solely on the unrestrained whim of him who dwelt there but connoted some sense of reasonableness in all the circumstances of the particular case. That was not to say that the arbiter could impose some hard objective test so as to frustrate the reasonable aspirations of a particular owner or occupier so long as they were sensibly related to his enjoyment of the dwelling. The word ‘incidental’ connoted an

element of subordination in land use terms in relation to the enjoyment of the dwelling house.” [Emphasis added]

56. If the correct interpretation is that the exemption does not apply to the main house itself, the analysis does not change much as the issue is as to whether the provision of occasional care visits in a domestic setting is ancillary to the primary use of the dwelling as a residence. To be ancillary, the applicable test is generally considered to be whether the use in question is ‘*ordinarily incidental*’ or, to put it another way, a use which is *normally* incidental to the primary use as a dwelling. In our opinion, weekly care visits are ordinarily incidental to the primary use as a dwelling. The position would be viewed differently if the residential care were being provided permanently on site.

57. The introduction of services in terms of the use of the dwelling under consideration should not be material if it does not give rise to any material off-site impacts. As indicated above, the number of vehicular trips likely to be generated by the provision of these direct services is no different to that expected for a house in occupation as a dwelling. There are no other houses in the control of Querist within the subject estate and no off-site impacts would increase as a consequence of the occupation of no. 68 by protected persons.

V CONCLUSION

58. Having regard to the foregoing considerations, and subject to any qualifications or assumptions expressed above, our principal conclusions are as follows:
- It is considered that the use of No. 68 for the accommodation of protected persons does not give rise to a material change of use from its use as a dwelling and, therefore, does not constitute development requiring planning permission.
 - There are no conditions or limitations imposed by the planning permission for the subject dwelling which would prevent it being used for the purposes of accommodating applicants for international protection.
 - No physical works or changes to the building have been undertaken, or are required to be undertaken, to accommodate persons applying for international protection.
 - There is one kitchen and one living/sitting room serving all residents within the context of a single dwelling. The bathroom is also shared. A full schedule of accommodation, very much the norm for such a sized property is set out in para. 6 above.
 - There is currently one family living in the subject premises. Were additional occupants to be accommodated, who were not related, but shared the kitchen and living room facilities in a similar manner, this would not of itself give rise to any material change of use, unless it was accompanied by a material increase in -site impacts, which does not appear likely. The position might be different if there was significant car ownership among protected persons, leading to increased traffic or car parking demand, but this would not normally be expected.
 - The subject dwelling is being used solely for residential purposes and it is understood that Querist does not intend to provide a reception or administrative centre for those seeking international protection at this location.
 - Based on our instructions and the information furnished in terms of the level of occupancy (6-8 persons), the issue of intensification does not appear to arise. Moreover, it is only where an intensification of use gives rise to material planning impacts that a material change of use by reason of intensification could be taken to have occurred. In the absence of any material vehicular or other off-site impacts in the present case, it is our opinion that there is no material change of use in this respect.
 - The Board's decision and Inspector's Report on the Ballinamore referral supports the view that the use of residential accommodation by protected persons does not constitute development.
59. This opinion is confined to a consideration of the particular circumstances of No. 68 Barrowvale.

60. Nothing further occurs at this time. We can advise further if required.

Conor Sheehan BL
Eamon Galligan SC

19 June 2024

ARCHITECTURAL OPINION ON PLANNING COMPLIANCE

JOSEPH M. O'REILLY
CONSULTING ENGINEERS LIMITED
UNIT 1 ST THERESE'S PLACE, FLOWERHILL, NAVAN, CO. MEATH.
Tel: 046-9077032 Mobile 087-2032044/087-2075286 Fax: 046-9077932

ENGINEER'S OPINION
ON COMPLIANCE WITH PLANNING PERMISSION

RELEVANT DEVELOPMENT: **No. 32 Sandhills, Hacketstown Road,
Carlow.**

THE APPLICANT: **J. McLoughlin
C/o McCrossan O'Rourke
Architects
12 Richmond Row,
Portobello Harbour
Dublin 8.**

1. Qualification

I have been a Civil/Structural Engineer for twelve years and am a Chartered Member of The Institute of Engineers of Ireland. My Engineering qualifications are stated below.

My firm are the Engineers retained by The Applicant for the Relevant Development to furnish an opinion on the compliance of the Relevant Development with Planning Permission and/or Exemption from Planning Control within the meaning of the Planning Acts.

This opinion is based on the Visual Inspection only of the Relevant Development carried out for the purpose of comparison of such with the Relevant Documents. It is issued solely for the purpose of providing evidence for title purposes of the compliance of the Relevant Development with Planning Permission and/or exemption from planning control within the meaning of the Planning Acts. Except insofar as it relates to such compliance/exemption it is not a report on the condition or structure of the Relevant Development nor a valuation report in connection with such.

- 2. I provided no Engineering/Architectural services in connection with the Relevant Development.**
- 3. On 22nd November 2004 I visited the office of the Planning Authority and there inspected the Relevant Documents at the offices of Carlow County Council (Planning Section) ("the relevant Planning Authority") for the purposes of comparison of the Relevant Development with the Relevant Documents.**

I confirm that the Planning Orders is Schedule A hereto (hereinafter called "the Planning Orders") are those registered in respect of and relating to the Relevant Development.

4. On 22nd November 2004 ("the Inspection Date") I carried out a Visual Inspection of the Relevant Development for the purposes of comparison of the Relevant Development with the Relevant Documents.
5. I am of the opinion that based on the services provided as described at 2 above and on a visual comparison of the Relevant Development with the Relevant Documents, the Relevant Development is in substantial compliance with the Planning Orders.
6. I am also of the opinion that the conditions of the Planning Orders relating to the Development have been substantially complied with in as far as is possible at this stage of the development.

DEFINITIONS

"Planning Acts" means the local Government (Planning and Development) Acts, 1963 to 1992 and any statutory modification or re-enactment thereof current at the Date of Issue of this Opinion, and all Regulations, Statutory Instruments and Orders made under or pursuant to the said Acts and for the time being in force.

"Substantial Compliance with the Planning Orders" means that:

- (a) In my opinion the Relevant Development is constructed in accordance with the Planning Orders saving and excepting such minor deviations which in my opinion do not constitute a contravention of the proper planning and development of the area as expressed through the said Planning Orders and the Development Plan, and
- (b) In my opinion such minor deviations do not warrant the issue of enforcement proceedings by the Relevant Planning Authority as provided for in the Planning Acts.

"Relevant Documents" means inter alia those drawings and documents, available on the date at 3 above for public inspection on the planning file, which were submitted to, and on foot of which, the relevant Planning Authority issued the Planning Orders.

"Visual Inspection" means an inspection of the Relevant Development as existed on the date at 4 above. No opening up was carried out. The inspection was superficial only and therefore took no account of works covered up or inaccessible.

This opinion does not in any way warrant, represent or take into account any of the following matters:

- (a) The accuracy of dimensions in general save where incorporated by virtue of the conditions of the Planning Orders.
- (b) The following conditions, compliance with which cannot be established.
- (c) Matters in respect of private rights or obligations.
- (d) Matters of financial contribution and bonds.
- (e) Development of the property, which may occur after the date of inspection.
- (f) Any other part of the development attached to, associated with or otherwise connected to the Relevant Development, save insofar as such other development may affect the Substantial Compliance with the Planning Orders or exemption from Planning Control within the meaning of the Planning Acts of the Relevant Development.

Take note that this Opinion is issued in the matter of licences and consents in respect of title and is not a report on condition of the premises and that it may not be relied upon as making any such representations.

Date of issue: 23rd November 2004

Signed:


JOSEPH M. O'REILLY, B.Sc.(Eng.), Dip.Eng., C.Eng., M.I.E.I.

SCHEDULE A

- | | | |
|----|-------------------------------------|---------------------------------------|
| 1. | Register Reference No: | P.D. 3698 |
| | Date of Grant of Permission: | 14th June 2000 |
| 2. | Register Reference No: | 99/104 |
| | Date of Grant of Permission: | 22nd September 2000 |

LAOIS COUNTY COUNCIL'S RECENT SECTION 5 DECLARATION REG. REF. S5/2024/26

**LAOIS COUNTY COUNCIL
PLANNING DEPARTMENT**

PLANNING REPORT



**SECTION 5 PLANNING
REPORT**

Planning Ref:	S5/2024/26
Applicant Name:	Didean
Development Description:	Declaration as to whether use of the subject premises as a residence for International Protection Applicants constitutes development and whether, if it does, it can be considered exempted development.
Development Address:	68 Barrowvale, Portlaoise Road, Carlow, Co. Laois, R93 C9P0
Decision Due Date:	6 th August 2024
Recommendation	Does not constitute development

Introduction

This is a request for a **DECLARATION** under Section 5(1) of the Planning and Development Act 2000 (as amended) as to whether use of the subject premises as a residence for International Protection Applicants constitutes development and whether, if it does, it can be considered exempted development.

Site Location

The subject site is located at no. 68 Barrowvale, Portlaoise Road, Carlow, Co. Laois, R93 C9P0 and comprises a 3 bedroom semi detached dwelling within the residential estate. There are areas of hardstanding to the front, and a garden area to the rear.

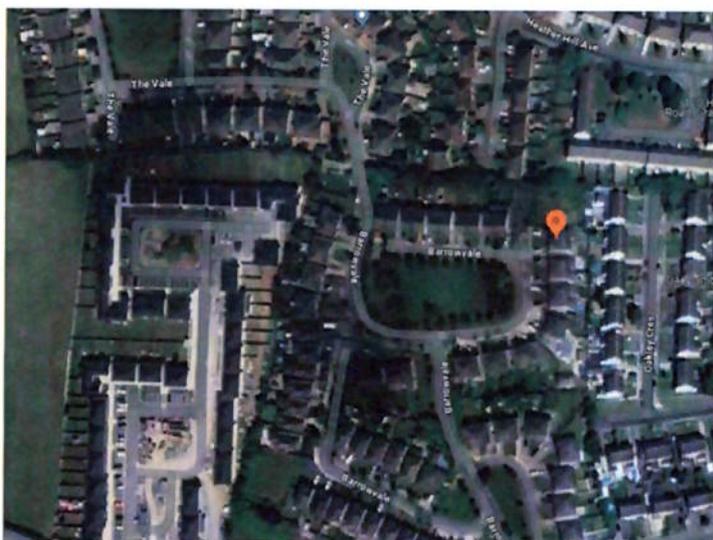


Figure. 1: Aerial View of subject site (Google maps)

Description of Proposed Development

The referral relates as to whether use of the subject premises as a residence for International Protection Applicants constitutes development and whether, if it does, it can be considered exempted development at 68 Barrowvale, Portlaoise Road, Carlow, Co. Laois, R93 C9P0

Relevant Planning History

The following are considered to be pertinent in the consideration of this Section 5 Declaration.

- 04/54 Dan Fitzpatrick granted permission to build extension to existing granted houses no. 65/66/67/68 at Barrowvale, Graiguecullen, Carlow, Co. Laois. Previous planning permission granted on this site: 01/582.
- 01/582 Valen Construction granted permission to construct 33 no. 2 storey detached, 104 no. 2 storey semi-detached and 16 terrace dwellings. 47no. conditions

Relevant Statutory & Regulatory Provisions

Planning and Development Act 2000 (as amended)

Section 2

"house" means a building or part of a building which is being or has been occupied as a dwelling or was provided for use as a dwelling but has not been occupied, and where appropriate, includes a building which was designed for use as two or more dwellings or a flat, an apartment or other dwelling within such a building;"

"structure" means any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined, and—

(a) where the context so admits, includes the land on, in or under which the structure is situate, and

(b) in relation to a protected structure or proposed protected structure, includes—

(i) the interior of the structure,

(ii) the land lying within the curtilage of the structure,

(iii) any other structures lying within that curtilage and their interiors, and

(iv) all fixtures and features which form part of the interior or exterior of any structure or structures referred to in subparagraph (i) or (iii);

"use", in relation to land, does not include the use of the land by the carrying out of any works thereon;

"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, 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.

- Section 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.

Planning and Development Regulations 2001 (as amended)

Exempted Development is legislated for under Section 4 of the Planning and Development Act 2000 (as amended) and further prescribed under Article 6 of the Planning and Development Regulations 2001 (as amended).

Assessment

I have taken into consideration the applicant's case. For the purposes of S.I. No. 582/2015 - Planning and Development (Amendment) (No. 4) Regulations 2015 this states:

(3) Article 5(1) of the Principal Regulations is amended by inserting after the definition of "painting" the following definition:

" 'protected person', for the purposes of Schedule 2, means—

(a) a person who has made an application to the Minister for Justice and Equality under the Refugee Act of 1996 or the Subsidiary Protection Regulations 2013 (S.I. No. 426 of 2013),

(b) a person who falls to be considered or has been considered under section 3 of the Immigration Act of 1999, or

(c) a programme refugee within the meaning of section 24 of the Refugee Act of 1996;".

It is considered that this Section 5 declaration is best assessed initially under the provisions of Section 3 (1) of the Planning and Development Act 2000.

I note that Class 14 and 20f would need be considered where there is "development consisting of a change of use".

However, the initial question is whether the premises being used by those seeking international protection constitutes development.

Development?

Section 3(1) states that *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.*

Planning permission was granted for this property under permission reference 01/582, subject to 47no. conditions. Condition 34 states:

“34. Use of the proposed dwellings shall be restricted to residential purposes only. No business, trade or other non-residential use shall take place within the proposed residential premises.”

I note that no physical works to the dwelling in question, namely 68 Barrowvale Portlaoise Road, Carlow, Co. Laois, R93 C9P0 is referred.

I also note that one family is currently living in the property, and that the applicant is not proposing to provide a reception or administrative centre for those seeking international protection at this location.

It is understood that the applicant would provide visiting services or support where required. These services comprise supported living, day and community outreach services to individuals or groups with a range of complex support requirements.

I have also considered the matter regarding whether the support services provided by the applicant, where there would be a visitation to the property for c 3 hours per week. In this instance it would not, and would not be regarded as a material change of use because given the low level (1 visit per week), this would not give rise to material off site impacts.

It is also noted that protected persons are housed for 6-18months or until such time as their application for international protection is processed.

The property in question is being used for the purpose it was intended for, namely a residential dwelling, and there are no conditions within 01/582 or 04/54, which limits who may use the property for its intended purpose.

Having reviewed the matter in detail, it is noted the dwelling has planning permission to be used for residential purposes. The occupants of the dwelling will still be using it for that purpose, and therefore consequently it would not result in a material change of use. There is no contravention of a condition, as per Article 9 .

Therefore as no material change of use has occurred, this does not constitute development and there is no need to consider it further under Class 14 and 20f of the Planning and Development Regulations, 2001 (as amended).

Section 5(7) EIA Screening

The proposed development is not specified in Part 2 of Schedule 5 of the Planning and Development Regulations 2001(as amended). In any event, it is considered, having regard to nature, size and location, the proposed development would not be likely to have significant effects on the environment. Therefore, EIA is not required.

AA Screening

A screening for Appropriate Assessment Report was prepared and is appended to this report. It concludes that no likely significant impacts are predicted due to the nature of the proposed development.

Conclusion and Recommendation

Having regard to:

- Section 2, and 3 of the Planning and Development Act 2000 (as amended);
- Article 6 and 9 of the Planning and Development Regulations 2001 (as amended); and
- The planning history of the site;

It is recommended that the applicant be informed that:

It is considered that the the subject premises (68 Barrowvale, Portlaoise Road, Carlow,Co. Laois, R93 C9P0) as a residence for International Protection Applicants **does not** constitute development under the Planning and Development Act 2000 (as amended).



Nathan Smith
Senior Executive Planner

26th July 2024

Date

**APPROPRIATE ASSESSMENT SCREENING REPORT
AND
DETERMINATION**

(A) Project Details

Planning File Ref	S5/2024/26
Applicant name	Didean
Development Location	68 Barrowvale, Portlaoise Road, Carlow, Co. Laois, R93 C9P0
Site size	N/A
Application accompanied by an EIAR (Yes/No)	No
Distance from Natura 2000 site in km	The site is c. 900m to the west of the River Barrow and Nore SAC
Description of the project/proposed development – Declaration as to whether use of the subject premises as a residence for International Protection Applicants constitutes development and whether, if it does, it can be considered exempted development.	

(B) Identification of Natura 2000 sites which may be impacted by the proposed development

			Yes/No
			If answer is yes, identify list name of Natura 2000 site likely to be impacted.
1	Impacts on sites designated for freshwater habitats or species. <u>Sites to consider:</u> River Barrow and Nore	<i>Is the development within a Special Area of Conservation whose qualifying interests include freshwater habitats and/or species, or in the catchment (upstream or downstream) of same?</i>	No
2	Impacts on sites designated for wetland habitats - bogs, fens, marshes and heath.	<i>Is the development within a Special Area of Conservation whose qualifying interests include wetland habitats</i>	No

	<u>Sites to consider:</u> River Barrow and Nore	<i>(bog, marsh, fen or heath)</i>	
3	Impacts on designated terrestrial habitats. <u>Sites to consider:</u> River Barrow and Nore	<i>Is the development within a Special Area of Conservation whose qualifying interests include woodlands, dunes or grasslands, or within 100m of same?</i>	No
4	Impacts on birds in SPAs <u>Sites to consider:</u> River Nore	<i>Is the development within a Special Protection Area?</i>	No

Conclusion:

If the answer to all of the above is **No**, significant impacts can be ruled out for habitats and bird species.

No further assessment in relation to habitats or birds is required.

If the answer is **Yes** refer to the relevant sections of **C**.

(G) SCREENING CONCLUSION STATEMENT		
<i>Selected relevant category for project assessed by ticking box.</i>		
1	AA is not required because the project is directly connected with/necessary to the conservation management of the site	
2	No potential significant affects/AA is not required	X
3	Significant effects are certain, likely or uncertain. Seek a Natura Impact Statement Reject proposal. (Reject if potentially damaging/inappropriate)	
Justify why it falls into relevant category above (based on information in above tables)		
Having regard to the proximity of the nearest SAC/SPA and given the nature and extent of the proposed development, with no direct connections to the hydrology of the SAC/SPA, it is not considered there would be potential for significant effects on the Natura 2000 network.		
Name:	Nathan Smith	
Position:	Senior Executive Planner	
Date:	26/07/2024	

COMPLIANCE REPORT WITH BUILDING AND & FIRE REGULATIONS

RFT PART 1.6.3 MANDATORY REQUIREMENTS COMPLIANCE WITH BUILDING & FIRE REGULATIONS

(Type 2 Accommodation- MR2)

**32 Sandhills,
Hacketstown Road,
Carlow,
R93 V6K7**

Prepared for:

Dídean
PARTNERSHIP | INTEGRATION | INCLUSION



Lenztech Ref: LT23010-R01
Version No:1
April 2023

Quality Control

Prepared by	Checked by	Approved by
 Kevin Staunton CEng BEng, MIEI Chartered Engineer	 Damien Quigley B.Eng (Hons), MIEI Director, Senior Engineer	 Kevin Staunton CEng BEng, MIEI Chartered Engineer

Revision History

Revision:	Revision Date:	Details:	Authorized:	Name:	Role:
R1	24 th April 2023	Initial Issue	Kevin Staunton	KS	Senior Engineer

Distribution List

# Hard Copies	PDF Issue:	Association Company Role:
	24 th April 2023	Client: Colleen Wall, Director of Operations, Dídean

BASIS OF REPORT/FOREWORD

This document has been prepared by Lenztech Surveying & Engineering Ltd. with reasonable skill, care and diligence, and taking account of the manpower, timescales and resources devoted to it by agreement with Didean (the Client) as part or all of the services it has been appointed by the Client to carry out. It is subject to the terms and conditions of that appointment.

Lenztech Surveying & Engineering Ltd., shall not be liable for the use of or reliance on any information, advice, recommendations and opinions in this document for any purpose by any person other than the Client.

Information reported herein may be based on the interpretation of public domain data collected by Lenztech, and/or information supplied by the Client and/or its other advisors and associates. These data have been accepted in good faith as being accurate and valid.

The copyright and intellectual property in all drawings, reports, specifications, bills of quantities, calculations and other information set out in this report remain vested in Lenztech Ltd. unless the terms of appointment state otherwise.

This document may contain information of a specialised and/or highly technical nature and the Client is advised to seek clarification on any elements which may be unclear to it.

Information, advice, recommendations and opinions in this document should only be relied upon in the context of the whole document and any documents referenced explicitly herein and should then only be used within the context of the appointment.

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1. INTRODUCTION

- 1.1 Lenztech Surveying & Engineering Ltd. were appointed to carry out the role of Independent Chartered Engineers to provide Evidence of Compliance with the Technical Guidance Documents and in turn the Building Regulations for the property at **32 Sandhills, Hacketstown Road, Carlow, R93 V6K7** on behalf of **Didean**.
- 1.2 The purpose of this report is to review and compile all documentation required as part of the "*RFT Part 1.6.3 Mandatory Requirements Compliance with Building and Fire Regulations for Type 2 Accommodations (MR2)*".

1.1 Outline of Compliance Assessment Requirements

Outline of Compliance Assessment Requirements

Date: 14/04/2023

Inspection Stage	THE WORKS			Site Visit Required	Comments
	TGD Ref.	Element	Element Detail		
		Building Control Acts 1990 and 2007		Yes	
		Building Regulations 1987 to 2015		Yes	
		Building Control Regulations 1997 to 2009		Yes	
		Housing Acts 1968 to 2021		Yes	
		Planning and Development Acts 2000 to 2020		Yes	
		Fire Services Acts 1981 and 2003		Yes	
		Any statutory modification or re-enactment of same		Yes	
Building and Fire Regulations	A	Structure (All sections and related publications)	Structure (2012) – A report (within 2 months) non-intrusive Survey report of the property including opinion on Pyrite/Mica	Yes	Refer to section 2.6 of Compliance report document
	B	Fire Safety- Single Dwellings	Single Dwellings. Compliance with TGD B.	Yes	Refer to section 2.2, 2.3, 2.4 & 2.5 of Compliance report document
		Fire Safety- Apartments	A copy of the current valid Fire Safety Certificate including all supporting inspection records of associated infrastructure where a stand-alone apartment offered forms part of an overall Apartment Block	Yes	Refer to section 2.4 of Compliance report document
	C	Site Preparation and Resistance to Moisture	Properties in areas of 3% - 12% https://www.epa.ie/environment-and-you/habitat/action-may/ must be tested for Radon.	Yes	Refer to section 2.7 of Compliance report document
	E	Sound	Compliance with TGD E	Yes	Refer to section 2.1 & 2.2 of Compliance report document
	F	Ventilation	All rooms must be in accordance with TGD F and in particular Table 1	Yes	
	G	Hygiene	Compliance with TGD G	Yes	
	H	Drainage and Wastewater Disposal	Compliance with TGD H in particular where a property is <u>not</u> connected to the public sewer	Yes	
	I	Heating Producing Appliances	Compliance with TGD I	Yes	Refer to section 2.1, 2.2, 2.3 & 2.8 of Compliance report document
	L	Conservation of Fuel and Energy	Providers of existing building shall show evidence how they comply with LE, where reasonably practicable as outlined below	Yes	Refer to section 2.8 of Compliance report document
M	Access and Use	Compliance with TGD M. In the case of a single Apartments within an Apartment Block a Disability Access Certificate must be provided for the Apartment Block common areas.	Yes	Not Applicable- Pre-date requirements. Refer to Section 2.5	
K	Stairways, Ladders, Ramps and Guards	Compliance with TGD K	Yes	Refer to section 2.1 & 2.2 of Compliance report document	
Safety Statement	Safety Statement	Within four (4) weeks of commencement of the Contract, a Safety Statement within the meaning of the Safety Health and Welfare Act 2005 for each Premise together with a detailed Fire / emergency Evacuation plan must be furnished to the Contracting Authority. Evidence Required at Tender stage: Relevant certificate evidencing above OR declaration that each premises has the capability of obtaining the certification within the timeframe of Tenderer's Service Mobilisation Plan.	Yes	Refer to section 3 of Compliance report document	
Evidence of Compliance	The form in which Evidence of Compliance with the Technical Guidance Documents and in turn the Building Regulations is by means of the following: Evidence Type: Independent Engineers Report submitted by Tenderer. (Independent engineer can be Chartered Architect, Chartered Engineer or Chartered Building Surveyor) Timing: Engineers Report required as part of the Pre-Mobilisation Site Visit. Please confirm that these requirements will be met within 1.6 weeks of the signing of any contract by choosing an answer in the drop down box.		Yes	Refer to section 2.5 of Compliance report document	

2. DOCUMENTATION FOR EVIDENCE ON COMPLIANCE

2.1 Compliance Review of Building & Fire Regulations TGD A to K



Lenztech Surveying & Engineering Ltd.

Unit 20B,
Ashbourne Business Centre,
Ballybin Road, Ashbourne,
Co. Meath,
A84 RH51

Unit B12
National Enterprise Park,
Portlaoise,
Co. Laois,
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T: + 353 (0)57 8510121
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YOUR REFERENCE:

OUR REFERENCE: LT23010-R01-05

DATE: 24TH APRIL 2023

COLLEEN WALL
DIRECTOR OF OPERATIONS
DÍDEAN
UNIT 3 BLOOM HQ
PATRICK'S STREET,
MOUNTRATH,
CO. LAOIS

Re: COMPLIANCE REVIEW OF BUILDING & FIRE REGULATIONS

Dear Colleen,

Further to the detailed review and inspection, I can confirm that the property at "**32 Sandhills, Hacketstown Road, Carlow, R93 V6K7**" remains in compliance with Building Regulations Technical Guidance Documents (TGD) relevant to the time Substantial Completion was achieved.

This includes compliance with:

- TGD A- Structure
- TGD B- Fire Safety-Dwellings
- TGD C- Site Preparation and Resistance to Moisture
- TGD D- Materials & Workmanship
- TGD E- Sound
- TGD F- Ventilation
- TGD G- Hygiene
- TGD H- Drainage & Wastewater Disposal
- TGD J – Heat Producing Appliances
- TGD L- Conservation of Fuel and Energy Dwellings
- TGD M – Access & Use
- TGD K – Stairways, Ladders, Ramps and Guards

Refer to section 2 of this report for supporting information.

Yours Sincerely,

A handwritten signature in black ink that reads "Kevin Staunton".

Kevin Staunton, Chartered Engineer, MIEI
For and on behalf
Lenztech Surveying & Engineering Ltd.

2.2 Architect/Engineers Opinion on Compliance with Building Regulation

JOSEPH M. O'REILLY
CONSULTING ENGINEERS LIMITED
UNIT 1 ST THERESE'S PLACE, FLOWERHILL, NAVAN, CO. MEATH.
Tel: 046-9077032 Mobile 087-2032044/087-2075286 Fax: 046-9077932

ENGINEER'S OPINION
ON COMPLIANCE WITH BUILDING REGULATIONS

RELEVANT BUILDING OR WORKS: No. 32 Sandhills, Hacketstown Road,
Carlow.

THE APPLICANT:

John McLoughlin
C/o McCrossan O'Rourke
Architects
12 Richmond Row,
Portobello Harbour
Dublin 8.

1. **Qualification**

I have been a Civil/Structural Engineer for twelve years and am a Chartered Member of The Institute of Engineers of Ireland. My Engineering qualifications are stated below.

My firm are the Engineers retained by **The Applicant** to furnish an opinion on compliance with Building Regulations of the Relevant Building or Works.

This opinion is issued solely for the purpose of providing evidence for title purposes of the compliance of the Relevant Building or Works with the requirements of the Building Control Act. Except insofar as it relates to such compliance it is not a report on the condition or structure of the Relevant Building or Works nor a valuation report in connection with such.

2. I provided no Engineering/Architectural services in connection with the Relevant Building or Works.

3. **DESIGN**

I am of the opinion that the Design of the Relevant Building or Works is in substantial compliance with the Building Regulations.

4. **FIRE SAFETY**

The Relevant Building or Works is exempt from any requirement for the making of an application for a Fire Safety Certificate by virtue of its being a building

which is proposed to be used as a dwelling (other than a flat), this being a class of Building or Works listed at Article 8 of S.I. 305 of 1991 as being exempted.

5. **COMMENCEMENT**

I am advised by the Employer that at Commencement Notice relating to the Relevant Building or Works was served as required under the terms of the Building Control Act.

6. On 22nd November 2004 I carried out a Visual Inspection of the Relevant Building or Works for the purposes of (a) comparing such with its Design, and (b) establishing its substantial compliance with the Building Regulations.

7. **CONSTRUCTION**

It is the responsibility of those concerned with the construction of the Relevant Building or Works to ensure the compliance of such with the Building Regulations.

In the absence of evidence of independent professional inspection of the Relevant Building or Works in the course of construction, I am unable to comment on methods of construction, materials used, and elements of the Relevant Building or Works, not evident by Visual Inspection.

I am of the opinion that such construction of the Relevant Building or Works as is evident by Visual Inspection is in substantial compliance with the Building Regulations.

DEFINITIONS

"Buildings and Works and Construction" have the meanings respectively assigned by the Building Control Act.

"Building Control Act" means the Building Control Act 1990 and any statutory modification or re-enactment thereof current at the date of the Commencement Notice aforesaid.

"Building Regulations" means regulations made under the Building Control Act 1990.

"Design" has the meaning assigned by the Building Control Act, but excepting such design as could, in my opinion, reasonably be outstanding pending the construction stage.

"Substantial Compliance" means that in my opinion the design of the Relevant Building or Works, and such construction as is evident by Visual Inspection, are

in accordance with the Building Regulations, saving and excepting such deviations as would not in my opinion warrant the issue of enforcement proceedings as provided for in the Building Control Act.

“Visual Inspection” means the inspection of the Relevant Building or Works as existed on the said date of inspection. No opening up was carried out, the inspection was therefore superficial only and took no account of works covered up, inaccessible or otherwise obscured from view.

THIS OPINION DOES NOT IN ANY WAY WARRANT REPRESENT OR TAKE INTO ACCOUNT:

- (a) Construction carried out or changes made to the Relevant Building or Works after the Inspection Date.

Date of issue: 23rd November 2004

Signed:


JOSEPH M. O'REILLY, B.Sc.(Eng.), Dip.Eng., C.Eng., M.I.E.I.

2.3 Architect/Engineers Opinion on Compliance with Planning :

JOSEPH M. O'REILLY
CONSULTING ENGINEERS LIMITED
UNIT 1 ST THERESE'S PLACE, FLOWERHILL, NAVAN, CO. MEATH.
Tel: 046-9077032 Mobile 087-2032044/087-2075286 Fax: 046-9077932

ENGINEER'S OPINION
ON COMPLIANCE WITH PLANNING PERMISSION

RELEVANT DEVELOPMENT: **No. 32 Sandhills, Hacketstown Road,
Carlow.**

THE APPLICANT: **J. McLoughlin
C/o McCrossan O'Rourke
Architects
12 Richmond Row,
Portobello Harbour
Dublin 8.**

1. Qualification

I have been a Civil/Structural Engineer for twelve years and am a Chartered Member of The Institute of Engineers of Ireland. My Engineering qualifications are stated below.

My firm are the Engineers retained by The Applicant for the Relevant Development to furnish an opinion on the compliance of the Relevant Development with Planning Permission and/or Exemption from Planning Control within the meaning of the Planning Acts.

This opinion is based on the Visual Inspection only of the Relevant Development carried out for the purpose of comparison of such with the Relevant Documents. It is issued solely for the purpose of providing evidence for title purposes of the compliance of the Relevant Development with Planning Permission and/or exemption from planning control within the meaning of the Planning Acts. Except insofar as it relates to such compliance/exemption it is not a report on the condition or structure of the Relevant Development nor a valuation report in connection with such.

2. I provided no Engineering/Architectural services in connection with the Relevant Development.
3. On 22nd November 2004 I visited the office of the Planning Authority and there inspected the Relevant Documents at the offices of Carlow County Council (Planning Section) ("the relevant Planning Authority") for the purposes of comparison of the Relevant Development with the Relevant Documents.

I confirm that the Planning Orders is Schedule A hereto (hereinafter called "the Planning Orders") are those registered in respect of and relating to the Relevant Development.

4. On 22nd November 2004 ("the Inspection Date") I carried out a Visual Inspection of the Relevant Development for the purposes of comparison of the Relevant Development with the Relevant Documents.
5. I am of the opinion that based on the services provided as described at 2 above and on a visual comparison of the Relevant Development with the Relevant Documents, the Relevant Development is in substantial compliance with the Planning Orders.
6. I am also of the opinion that the conditions of the Planning Orders relating to the Development have been substantially complied with in as far as is possible at this stage of the development.

DEFINITIONS

"Planning Acts" means the local Government (Planning and Development) Acts, 1963 to 1992 and any statutory modification or re-enactment thereof current at the Date of Issue of this Opinion, and all Regulations, Statutory Instruments and Orders made under or pursuant to the said Acts and for the time being in force.

"Substantial Compliance with the Planning Orders" means that:

- (a) In my opinion the Relevant Development is constructed in accordance with the Planning Orders saving and excepting such minor deviations which in my opinion do not constitute a contravention of the proper planning and development of the area as expressed through the said Planning Orders and the Development Plan, and
- (b) In my opinion such minor deviations do not warrant the issue of enforcement proceedings by the Relevant Planning Authority as provided for in the Planning Acts.

"Relevant Documents" means inter alia those drawings and documents, available on the date at 3 above for public inspection on the planning file, which were submitted to, and on foot of which, the relevant Planning Authority issued the Planning Orders.

"Visual Inspection" means an inspection of the Relevant Development as existed on the date at 4 above. No opening up was carried out. The inspection was superficial only and therefore took no account of works covered up or inaccessible.

This opinion does not in any way warrant, represent or take into account any of the following matters:

- (a) The accuracy of dimensions in general save where incorporated by virtue of the conditions of the Planning Orders.
- (b) The following conditions, compliance with which cannot be established.
- (c) Matters in respect of private rights or obligations.
- (d) Matters of financial contribution and bonds.
- (e) Development of the property, which may occur after the date of inspection.
- (f) Any other part of the development attached to, associated with or otherwise connected to the Relevant Development, save insofar as such other development may affect the Substantial Compliance with the Planning Orders or exemption from Planning Control within the meaning of the Planning Acts of the Relevant Development.

Take note that this Opinion is issued in the matter of licences and consents in respect of title and is not a report on condition of the premises and that it may not be relied upon as making any such representations.

Date of issue: 23rd November 2004

Signed:


JOSEPH M. O'REILLY, B.Sc.(Eng.), Dip.Eng., C.Eng., M.I.E.I.

SCHEDULE A

- | | | |
|----|------------------------------|---------------------------------|
| 1. | Register Reference No: | P.D. 3698 |
| | Date of Grant of Permission: | 14 th June 2000 |
| 2. | Register Reference No: | 99/104 |
| | Date of Grant of Permission: | 22 nd September 2000 |

2.4 Independent Engineers Review Report



Lenztech Surveying & Engineering Ltd.

Unit 20B,
Ashbourne Business Centre,
Ballybin Road, Ashbourne,
Co. Meath,
A84 RH51

Unit B12
National Enterprise Park,
Portlaoise,
Co. Laois,
R32 RT73

T: + 353 (0)57 8510121
E: info@lenztech.ie

YOUR REFERENCE:

OUR REFERENCE: LT23010-R01-01

DATE: 24TH APRIL 2023

COLLEEN WALL
DIRECTOR OF OPERATIONS
DÍDEAN
UNIT 3 BLOOM HQ
PATRICK'S STREET,
MOUNTRATH,
CO. LAOIS

Re: INDEPENDENT ENGINEERS REVIEW ON COMPLIANCE WITH RELEVANT STATUTORY REQUIREMENTS

Lenztech Surveying & Engineering Limited, Unit B12, National Enterprise Park, Portlaoise have been retained by Dídean, (hereinafter called the Employer) of Unit 3 Bloom HQ, Patrick's Street, Mountrath to review the compliance of the dwelling at 32 Sandhills, Hacketstown Road, Carlow, R93 V6K7, (hereinafter referred to as the "the Relevant Development") with the relevant statutory requirements for Building and Planning & Development regulations.

This review is based on the Visual Inspection only of the Relevant Development and the associated third party Opinion on Compliance prepared at the time of substantial construction completion insofar as the relevant statutory regulations and acts applicable at the time of construction commencement.

On the 8th Day of December 2022 I inspected the Relevant Documents furnished by the Employer to Lenztech Surveying & Engineering Ltd. for the purpose of comparison of the Relevant Development with the Relevant Documents.

On the 9th Day of December 2022 ("the Inspection Date") I carried out a Visual Inspection of the Relevant development for the purposes of comparison of the Relevant Development with the Relevant Documents. The relevant statutory requirements and regulations applicable at the time are those in effect based on the below dates:

Property Ref	Planning Reference	Date of Commencement	Date of Completion
32 Sandhills, Hacketstown Road, Carlow	Carlow County Council Ref: 99/104	Unknown	23 rd November 2004

I have received confirmation from the contractor listed at schedule "A" hereto, that the recent refurbishment works have been constructed in substantial compliance with current Technical Guidance Documents for Building Regulations.

To the extent that the visual inspection as referred to above and not taking into account works which were covered up, inaccessible or otherwise obscured from view, I am of the opinion that the Relevant Building or Works remain in substantial compliance with the statutory requirements applicable at the time of the Relevant Development Construction.

This review relies on the visual inspection, opinions on compliance with Building Regulations and on the confirmation referred to above.

Definitions:

"Building Control Act" means the Building Control Act 1990 and any statutory modification or re-enactment thereof current at the date of the Commencement Notice referred to herein.

"Building", "Works", "Construction" and "Design" have the meanings respectively assigned by the Building Control Act.

"Building Regulations" means regulations made under the Building Control Act

"Confirmations" means statements received from the persons detailed at Schedule "A", confirming substantial compliance of elements of the Relevant Building or Works with Building Regulations

"Substantial Compliance" when applied to Construction means that such construction of the Relevant Building or Works, as is evident by Visual Inspection, is in accordance with the Building Regulations, saving and excepting such deviations as would not in my opinion warrant the issue of enforcement proceedings as provided for in the Building Regulations Control Act.

"Visual Inspection" means an inspection of the Relevant Development as existed on the Inspection Date. No opening up was carried out. The inspection was superficial only and therefore took no account of works which were covered up, inaccessible or otherwise obscured from view.

Schedule A: Confirmations

Contractor: JB Facilities & Maintenance Ltd
Of: 4 Kilkenny Street, Castlecomer, Kilkenny
Element: Contractor

Dated This: 24th April 2023

Signed: Kevin Staunton
Kevin Staunton, Chartered Engineer, MIEI
For and on behalf
Lenztech Surveying & Engineering Ltd.

Schedule A- Confirmations and Certification

Confirmation & Certification on refurbishment and upgrade works with respect to TGD Part A to K

JB Facilities Maintenance Ltd

05th April 2023

Colleen Wall
Director of Operations
Dídean
Unit 3 Bloom HQ
Patricks Street
Mountrath
Co Laois

Building Works Carried Out at: 32 Sandhills, Carlow

Dear Colleen,

We confirm that it is the opinion of this Company that the building works carried out to the above mentioned address is in substantial compliance with Building Regulations made pursuant to the Building Control Act 1990.

Signed on behalf of JB Facilities Maintenance Ltd.

A handwritten signature in blue ink, appearing to read 'Jimmy Boland', is written over a light blue horizontal line.

Jimmy Boland
Director
JB Facilities Maintenance Ltd.

2.5 Non-Intrusive Survey Report With Opinion on Pyrite/Mica



Lenztech Surveying & Engineering Ltd.

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Ballybin Road, Ashbourne,
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E: info@lenztech.ie

YOUR REFERENCE:

OUR REFERENCE: LT23010-R01-02

DATE: 24TH APRIL 2023

COLLEEN WALL
DIRECTOR OF OPERATIONS
DÍDEAN
UNIT 3 BLOOM HQ
PATRICK'S STREET,
MOUNTRATH,
CO. LAOIS

Re: Non-Intrusive Inspection for Opinion on Pyrite/ Mica Mineral defects within Structure in accordance with NSAI I.S. 465:2015- TGD Part A & C

Lenztech Surveying & Engineering Limited, Unit B12, National Enterprise Park, Portlaoise have been retained by Dídean, (hereinafter called the Employer) of Unit 3 Bloom HQ, Patrick's Street, Mountrath to undertake a non-intrusive visual assessment on the structure including opinion on the presence of Pyrite/Mica **32 Sandhills, Hacketstown Road, Carlow, R93 V6K7** (hereinafter referred to as the "the Relevant Development").

I Kevin Staunton, Chartered Engineer, BEng, MIEI, have provided the following Engineering services for the Employer in connection with the Relevant Development:

- (i) Building Condition Assessment in accordance with Section 5 of I.S 465:2018 at the Relevant Development as defined herein for evidence of defects or deterioration typically encountered with the presence of Pyrite and Mica minerals.

The Building Condition Assessment comprised of a desktop study where the following was assessed;

- History of any known occurrences of similar damage in local area or estate
- Information on the design and construction of the dwelling including location of services
- Information on the geographical location including prevailing winds and rain exposure
- Review of initial planning and certification documentation by others
- Outline construction details of the building, form of construction and any associated typical defects that may present during a subsequent site inspection

- (ii) On the 9th Day of December 2022 ("the Inspection Date") I carried out a Visual Inspection of the Relevant development

The property is considered to be within building **Group 1- Undamaged** as per the classification outlined in Table 1-Building Grouping of I.S.465:2018 with no pattern cracking present or visual structural defects identified during the inspection.

The report findings are contained within the attached schedule.

This opinion is based on the Visual Inspection only of the Relevant Development carried out for the purposes of identification of visible structural defects attributed to potential Pyrite and Mica minerals found within granular material used within the products and materials during the construction of the property.

The assessment was undertaken with consideration to the associated third party Opinion on Compliance prepared at the time of substantial construction completion insofar as the relevant statutory regulations and acts applicable at the time of construction commencement.

It is not a report on the condition or structure of the Relevant Development.

This opinion does not in any way warrant, represent or take into account any of the following matters:-

- (a) Reactive pyrite in sub-floor hardcore or any hardcore material identifiable only through testing and categorisation protocol, as published by the National Standards Authority of Ireland
- (b) It is not an opinion of compliance with any consequential amendments of the Regulations or Acts on or after the date of substantial completion

Definitions:

“Visual Inspection” means an inspection of the Relevant Development as existed on the Inspection Date. No opening up was carried out. The inspection was superficial only and therefore took no account of works which were covered up, inaccessible or otherwise obscured from view.

Dated This: 24th April 2023

Signed: 
Kevin Staunton, BEng, CEng, MIEI
Chartered Engineer
For and on behalf of Lenztech Surveying & Engineering Ltd.

Schedule A-

Building Condition Assessment Report



LENZTECH
SURVEYING & ENGINEERING
consulting engineers & project management

Unit B12 National Enterprise Centre, Portlaoise Tel: 057 8510121 /
Unit 20B Ashbourne Business Centre, Co. Meath 01 8359729
www.lenztech.ie E-mail: info@lenztech.ie

Building Condition Assessment Report

(in accordance with NSAI I.S 465:2018)

Information on the building

Address:	32 Sandhills, Hacketstown Road, Carlow	Eircode:	R93 V6K7
Type of building:	Semi-Detached		
Description of site location e.g. in a residential estate or private site:	Residential Estate		
Orientation:	West Facing		
Year built:	2003/04		
Floor area (m ²):	—		
Year defects first appeared:	None		
Weather at time of assessment:	Dry		
Current owner:	—		
Other information e.g. brief history of development of damage:	—		

Site inspection of damage

Chartered Engineer carrying out the inspection:	Kevin Staunton		
Date:	1st March 2023	Qualifications:	B.Eng., C.Eng., MIEI

Circumstantial Evidence

Source of concrete block materials:	—	
Is there information that the blocks in the dwelling came from manufacturer(s) reported to have supplied blocks to other dwellings exhibiting damage likely to have arisen from deleterious material in concrete blocks?	Yes	<input checked="" type="radio"/> No
Was the dwelling constructed within the date range of constructions mentioned in the Report of the Expert Panel on Concrete Blocks [1], and in the geographic areas reported to be affected?	Yes	<input checked="" type="radio"/> No
Is there documented information (e.g. Chartered Engineer's Report) that other dwellings in the same estate or locale have exhibited signs of damage likely to have arisen from deleterious material in concrete blocks?	Yes	<input checked="" type="radio"/> No
Are other houses in the same estate exhibiting signs of damage likely to have arisen from deleterious material in concrete blocks?	Yes	<input checked="" type="radio"/> No

<p>Rear elevation</p> <p style="text-align: center;"><i>No Defects Noted</i></p>	<p>Notes:</p> <p>Web like cracking <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Pattern like cracking (combined horizontal and vertical) <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Disintegrated blocks leaving void in external leaf <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Outward bowing of external leaf <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Wide vertical crack, typically 200 mm from corner <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Displacement at window/door reveals <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Render blown or missing <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Horizontal cracks (possibly attributable to day joint in blockwork) <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>
<p>Side elevation</p> <p style="text-align: center;"><i>No Defects Noted</i></p>	<p>Notes:</p> <p>Web like cracking <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Pattern like cracking (combined horizontal and vertical) <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Disintegrated blocks leaving void in external leaf <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Outward bowing of external leaf <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Wide vertical crack, typically 200 mm from corner <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Displacement at window/door reveals <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Render blown or missing <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Horizontal cracks (possibly attributable to day joint in blockwork) <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>

Notes:

External sketches

Site plan

No Defects Noted

Notes:

→ Note general site features
i.e. level/sloping site,
orientation/local exposure conditions
→ Provide key (see example below)
Photograph Ref No.

↑
①

Front elevation

No Defects Noted

Notes:

Web like cracking	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Pattern like cracking (combined horizontal and vertical)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Disintegrated blocks leaving void in external leaf	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Outward bowing of external leaf	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Wide vertical crack, typically 200 mm from corner	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Displacement at window/door reveals	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Render blown or missing	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Horizontal cracks (possibly attributable to day joint in blockwork)	<input checked="" type="checkbox"/> Yes <input checked="" type="checkbox"/> No

<p>Side elevation</p> <p><i>No Defects Noted</i></p>	Notes:	
	Web like cracking	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	Pattern like cracking (combined horizontal and vertical)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	Disintegrated blocks leaving void in external leaf	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	Outward bowing of external leaf	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	Wide vertical crack, typically 200 mm from corner	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	Displacement at window/ door reveals	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	Render blown or missing	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	Horizontal cracks (possibly attributable to day joint in blockwork)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	Building Grouping per I.S. 465	
<input checked="" type="checkbox"/> Group 1 <input type="checkbox"/> Group 2		
<input type="checkbox"/> Group 3 <input type="checkbox"/> Group 4		
Location of sampling to be marked on the dwelling and/or on sketch elevations		
<p>e.g. Front Elevation Sketch</p> 		

2.6 Predicted Radon Levels



Lenztech Surveying & Engineering Ltd.

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YOUR REFERENCE:

OUR REFERENCE: LT23010-R01-03

DATE: 24TH APRIL 2023

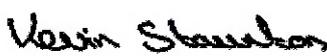
COLLEEN WALL
DIRECTOR OF OPERATIONS
DÍDEAN
UNIT 3 BLOOM HQ
PATRICK'S STREET,
MOUNTRATH,
CO. LAOIS

Re: TGD-Part A & C Structure, Site Preparation and Resistance to Moisture- Radon Levels

I Kevin Staunton, Chartered Engineer, BEng, MIEI, have completed a desktop study comprising of a review of EPA mapping sources (*Post May 22*) and consider the property at **32 Sandhills, Hacketstown Road, Carlow, R93 V6K7**, is within an area where it is predicted that 1 in 5 homes will exceed the reference level of 200 becquerels per cubic metre (Bq/m³). We recommend that a radon consultant should be engaged and radon testing carried out for the subject property.



Signed:


Kevin Staunton, BEng, CEng, MIEI
Chartered Engineer
For and on behalf Lenztech Surveying & Engineering Ltd

2.7 Conservation of Fuel and Energy (Part L)- Compliance



Lenztech Surveying & Engineering Ltd.

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National Enterprise Park,
Portlaoise,
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YOUR REFERENCE:

OUR REFERENCE: LT23010-R01-04

DATE: 24TH APRIL 2023

COLLEEN WALL
DIRECTOR OF OPERATIONS
DÍDEAN
UNIT 3 BLOOM HQ
PATRICK'S STREET,
MOUNTRATH,
CO. LAOIS

Re: TGD-Part L Conservation of Fuel and Energy – Dwellings
32 Sandhills, Hacketstown Road, Carlow, R93 V6K7

I **Kevin Staunton, Chartered Engineer, BEng, MIEI**, have inspected insulation upgrade works completed at the subject property. The water tank in the attic space has been covered and insulated and all water pipes in the attic space and hot-press have been lagged. The existing gas fired boiler has also been serviced within this property.

Thereby the upgrade together with insulation works currently provided within the property comply with TGD Part L2.

Signed:

A handwritten signature in black ink that reads "Kevin Staunton". The signature is written in a cursive, slightly slanted style.

Kevin Staunton, BEng, CEng, MIEI
Chartered Engineer
For and on behalf Lenztech Surveying & Engineering Ltd.

2.7.1 Conservation of Fuel and Energy (Part L)- BER Cert

Building Energy Rating (BER) BFR

BER for the building detailed below is: **C1**

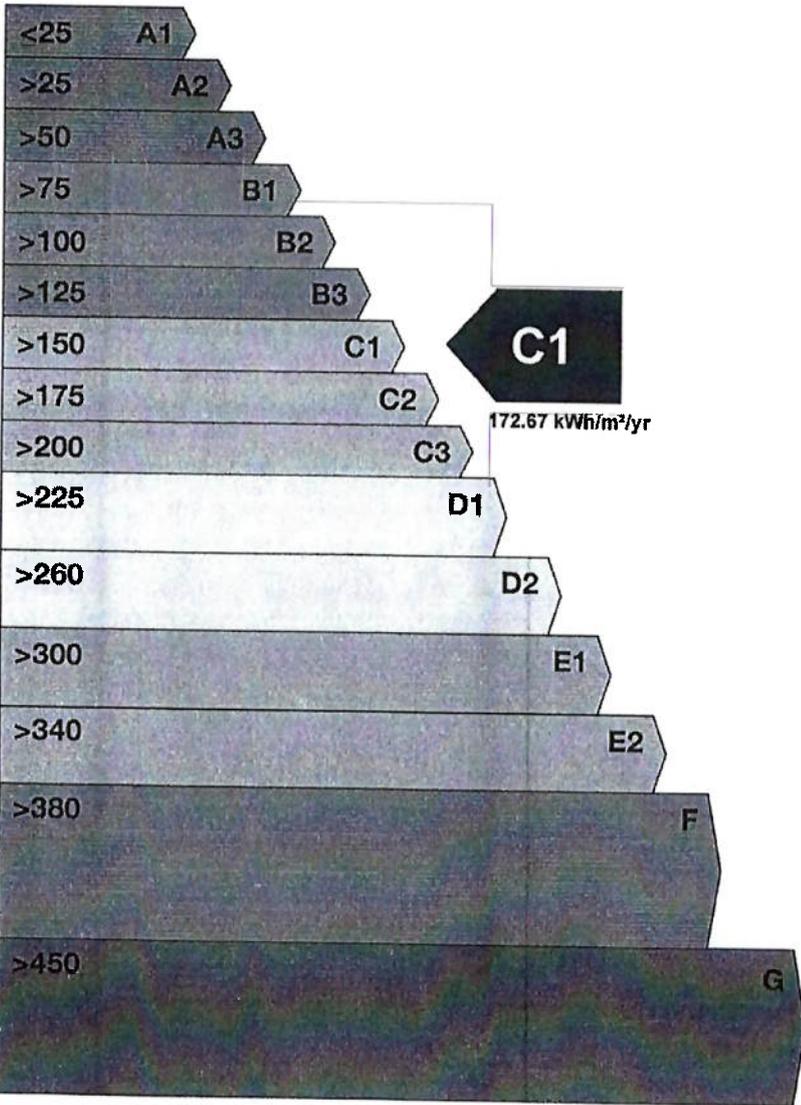
Address 32 SANDHILLS
 HACKETSTOWN ROAD
 CARLOW
 CO. CARLOW

Elrcode R93V6K7
BER Number 116049602
Date of Issue 01/12/2022
Valid Until 01/12/2032
Assessor Number 107194
Assessor Company No 105845

The Building Energy Rating (BER) is an indication of the energy performance of this dwelling. It covers energy use for space heating, water heating, ventilation and lighting, calculated on the basis of standard occupancy. It is expressed as primary energy use per unit floor area per year (kWh/m²/yr).

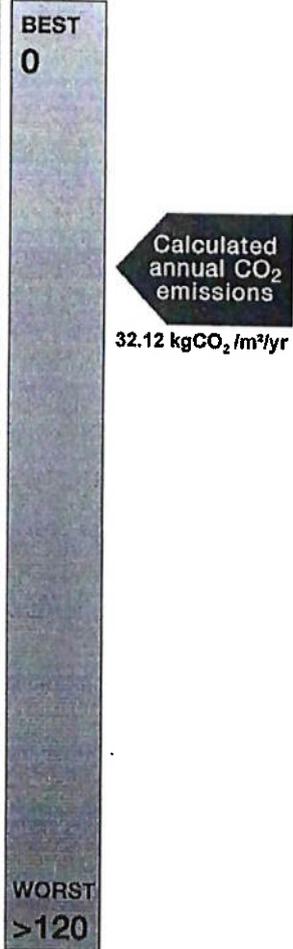
'A' rated properties are the most energy efficient and will tend to have the lowest energy bills.

Building Energy Rating kWh/m²/yr MOST EFFICIENT



LEAST EFFICIENT

Carbon Dioxide (CO₂) Emissions Indicator kgCO₂/m²/yr



The less CO₂ produced, the less the dwelling contributes to global warming.

IMPORTANT: This BER is calculated on the basis of data provided to and by the BER Assessor, and using the version of the assessment software quoted below. A future BER assigned to this dwelling may be different, as a result of changes to the dwelling or to the assessment software.

3. SAFETY STATEMENT





DÍDEAN

SAFETY STATEMENT

Supported by 
PENINSULA

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CONTENTS

GENERAL POLICY

A declaration of our intent to provide and maintain, so far as is reasonably practicable, a safe and healthy working environment and to enlist the support of its employees in achieving these goals.

ORGANISATION AND RESPONSIBILITIES

This section sets out the health and safety responsibilities of key personnel within the organisation.

SAFETY ARRANGEMENTS

This section explains the systems and procedures that will be used to form the basis of our health and safety regime.

SAFETY RECORDS (this section may be in a separate folder)

This section contains;

- An Annual Review of our Health and Safety System and Procedures.
- Periodic Checklists created specifically for individual roles and responsibilities.
- A comprehensive source of records relating to statutory examination periodic inspection and testing of the work equipment and installations used by our organisation. Records relating to Fire Safety Management will be found in your Safety Management System.
- A system for keeping health and safety training records.
- A section for accident and incident reporting, and investigation.

HEALTH AND SAFETY POLICY

GENERAL POLICY

This Health and Safety Policy contains a plan detailing how we manage our health and safety issues. The policy sets out our commitment to manage risks and provide good standards of health and safety and also to meet our legal duties. Health and safety is an integral part of how we do business as a responsible employer and we have put in place the necessary organisation and arrangements to achieve this. This policy has been initiated after carrying out a full appraisal of our health, safety and welfare requirements and will be reviewed periodically (at least annually).

Safety, Health and Welfare General Policy Statement

This is a declaration of our intent to provide and maintain, so far as is reasonably practicable, a safe and healthy working environment and to enlist the support of our employees towards achieving these goals. The General Policy statement is brought to the attention of all employees by publication in the main policy Manual and in the Employee Safety Handbook. It may also be included on notice boards in our premises.

Bullying Prevention & Resolution Policy

The aim of this Policy is to indicate what constitutes bullying and what action the company will take if it becomes necessary to deal with an offence of this nature.

Organisation

This part of the Policy details the health and safety responsibilities of key personnel within our organisation. These responsibilities are fulfilled by completion of various Safety Records, proformas and records in relation to ongoing maintenance activities, training, accident reporting, and investigation, and actions that have taken place.

Relevant legislation

This page sets out details of the main statutes and regulations affecting health and safety at work that are currently in force.

Safety Arrangements

This part of the Policy explains the systems and procedures in place for managing individual topics or subjects for which our business is responsible.

To assist us with our duty we have retained Peninsula Business Services Limited to provide information and guidance on how these provisions should be managed and recorded.

We accept that we cannot delegate our responsibility for managing health, safety and welfare within the workplace to others outside our employ. Use of the above documents will aid our success in fulfilling these responsibilities.

HEALTH AND SAFETY GENERAL POLICY STATEMENT

Dídean recognises that it has responsibilities under the Safety, Health and Welfare at Work Act 2005, the Safety, Health & Welfare at Work (General Applications) Regulations 2007 to 2021 (as amended) and current health and safety legislation for the health and safety of its workforce whilst at work and others who could be affected by its work activities. We will assess the hazards and risks faced by our workforce in the course of their work and take action to control those risks to an acceptable, tolerable level.

Our Managers and Supervisors are made aware of their responsibilities and required to take all reasonable precautions to ensure the safety, health and welfare of our workforce and anyone else likely to be affected by the operation of our business.

This business intends meeting its legal obligations by providing and maintaining a safe and healthy working environment so far as is reasonably practicable. This will be achieved through;

- the provision of health and safety leadership in identifying and controlling health and safety risks so identified;
- consultation with our employees on matters affecting their health and safety;
- the provision and maintenance safe plant and equipment;
- ensuring the safe handling and use of substances;
- the provision of necessary information, instruction and training for our workforce, taking account of any who do not have English as a first language;
- making sure that all workers are competent to do their work, and giving them appropriate training;
- the prevention of accidents and cases of work related ill health;
- the active management and supervision of health and safety at work issues;
- having access to competent advice;
- the provision of the necessary resource, financial and other, required to make this policy and our health and safety arrangements effective;
- aiming for a continuous improvement in our health and safety performance and management through a process of regular audit and review; and
- reviewing this policy and associated arrangements on a periodic basis using findings from the audit process, staff consultations and incident investigation to guide change.

We also recognise;

- our duty to co-operate and work with other employers when we work at premises or sites under their control to ensure the continued health and safety of all those at work; and
- our duty to co-operate and work with other employers and their workers, when their workers come onto our premises or sites to do work for us, to ensure the health and safety of everyone at work.

To help achieve our objectives and ensure our workforce recognise their duties under health and safety legislation whilst at work, we will also remind them of their duty to take reasonable care for themselves and for others who might be affected by their

activities. These duties are explained on first employment at induction and also set out in an Employee Safety Handbook, given to each worker, which sets out their duties and includes our specific health and safety rules. In support of this policy we have prepared a responsibility chart and specific arrangements.

Signature **Date**

Position

The policy is reviewed on a periodic basis.

BULLYING PREVENTION & RESOLUTION

A) PURPOSE

We are dedicated to ensuring an atmosphere of respect, collaboration, openness, safety and equality in the workplace. As part of our commitment to the fairness, dignity and respect of each employee, any form of bullying will not be tolerated by this Company. The aim of this Policy is to indicate what constitutes bullying and what action the Company will take if it becomes necessary to deal with an offence of this nature.

B) SCOPE

This Policy is applicable to all employees (temporary and permanent) irrespective of length of service and the protection extends to;

- bullying at work by management, fellow employees, subordinates, clients, customers and other business contacts; and
- beyond the place of work to off-site and to work-related social events.

C) POLICY

The Company acknowledges the right of all employees to a workplace and environment free from any form of bullying. Every member of staff has an obligation to be aware of the effects of their own behaviour on others. All complaints of bullying will be taken seriously and will be followed through to resolution and employees who make a complaint will not be penalised. Any complaints of bullying will be dealt with in an effective and efficient manner.

In cases where the behaviour is established on the balance of probabilities to be repeated and consistent, causing unnecessary stress and anxiety, this may be considered gross misconduct. The Company reserves the right to use the disciplinary procedure up to and including summary dismissal. Equally, if it is found that there are facts which evidence a vexatious complaint, this may also be dealt with through the disciplinary procedure.

As part of this Company's code of conduct, it is imperative that all staff and suppliers respect the dignity of every colleague. Please consider your colleagues regarding your code of conduct, with particular reference to remarks, dress code, posters, e-mails and anything which may cause offence.

D) DEFINITION

The Code of Practice for Employers and Employees on the Prevention and Resolution of Bullying at Work defines bullying as:

“Repeated inappropriate behaviour, direct or indirect, whether verbal, physical or otherwise, conducted by one or more persons against another or others, at the place of work and/or in the course of employment, which could reasonably be regarded as undermining the individual's right to dignity at work. An isolated

incident of the behaviour described in this definition may be an affront to dignity at work, but, as a once off incident, is not considered to be bullying".

The following are examples of the types of behaviour that may be considered as bullying and are prohibited by the Company:

- a) Exclusion with negative consequences.
- b) Verbal abuse/insults.
- c) Being treated less favourably than colleagues in similar roles.
- d) Belittling a person's opinion.
- e) Disseminating malicious rumours, gossip or innuendo.
- f) Socially excluding or isolating a person within the work sphere.
- g) Intrusion - pestering, spying or stalking.
- h) Intimidation/aggressive interactions.
- i) Excessive monitoring of work.
- j) Withholding information necessary for proper performance of a person's job.
- k) Repeatedly manipulating a person's job content and targets.
- l) Blaming a person for things beyond their control.
- m) Use of aggressive and obscene language.
- n) Other menacing behaviour.

The above list is not exhaustive and only serves as a guideline to employees. Each case will be taken in isolation and dealt with in the appropriate manner. For behaviour to be considered to be bullying, it must be behaviour which can be described as outrageous, unacceptable, and exceeding all bounds tolerated by decent society.

From time to time, disciplinary and corrective action may be taken against an employee and, where such action is taken in respect of an employee in good faith, this will not be considered to be bullying behaviour. Furthermore, where actions are taken which can be justified on the basis of protecting the safety, health and welfare of employees then such actions will not be considered to be bullying behaviour.

E) PROCEDURES FOR DEALING WITH BULLYING

1) Informal Procedure

An informal approach can often resolve difficult situations with the minimum of conflict and stress for the individuals involved and may effectively address the unwanted behaviour without recourse to any other action. This in no way diminishes the issue of the effects on the individual.

If you feel you have been subjected to behaviour that may be deemed bullying, you should attempt to explain to the alleged perpetrator(s) that their behaviour is unacceptable. If you find it difficult to approach the alleged perpetrator(s) alone then you may seek help and advice from an appropriate person (e.g. a fellow employee, a manager, etc.). Such a person may be able to assist you with raising the issue with the alleged perpetrator(s) in a confidential, non-confrontational discussion to try to resolve the matter in a low-key manner.

2) Secondary Informal Procedure

If the above informal procedure is unsuccessful or if it is deemed inappropriate for the seriousness of the issues, this extended, yet still informal procedure can be put in place. Complaints at this stage of the procedure may be verbal or written. However, if verbal, a written note of what is complained of will be taken by a nominated person and a copy given to you.

If the complaint concerns alleged bullying as defined above, and includes concrete examples of inappropriate behaviour, the person complained against will be presented with the complaint and their response established.

Thereafter, a method will be agreed to progress the issue to resolution so that both parties can return to a harmonious working environment without bullying being a factor.

3) Formal Procedure

It is good practice that all informal resolution avenues (as set out above) are contemplated and where appropriate, exhausted before a formal process is invoked.

A formal written complaint must be given to the Owner, Managing Director or the nominated person in our management structure. The complaint should contain precise details of actual incidents of bullying, including the dates, and names of witnesses, where possible.

A letter will be sent to the person complained against as notification that a formal complaint has been made against them. A copy of the complaint will be given, and the individual will be given the opportunity to respond to the allegations.

Statements from all parties, including witnesses, will be obtained and recorded in writing. All parties to the process have a responsibility to participate without undue delay in any investigation initiated in response to an allegation of bullying. Confidentiality of the process will be emphasised to all concerned.

An investigation will be carried out by a designated member of the Management team or, where there is a possible conflict of interest, an impartial third party. In

either case, the person nominated will have had appropriate training and be familiar with the procedures involved. The investigation will be conducted thoroughly, objectively, with sensitivity, utmost confidentiality, and with due respect for the rights of both the complainant and the person complained of.

The objective of an investigation is to ascertain whether the alleged behaviours come within the description of workplace bullying. The designated investigator will meet with the complainant, the person the allegations are against, and any witnesses or other relevant persons individually.

The person investigating the complaints will make every effort to carry out and complete the investigation as quickly as possible. The investigation will consider all material and evidence before it and a decision will be made on balance of probabilities, as to whether the complaint is valid.

If the investigator concludes that the accused employee has a case to answer on the balance of probability, then the investigator may recommend an appropriate course of action, to include whether or not the employer should invoke the disciplinary procedure. Management will inform the complainant and the alleged perpetrator, in writing, about the findings of the investigation.

F) APPEALS

If you either the complainant or the person complained against wish to appeal the outcome, you should apply, in writing, to a member of the Management team, within 5 days, or to a nominated person if deemed more appropriate. Should it be deemed necessary to engage an external person to hear an appeal, all such hearings carried out will be in accordance with Company procedures. You agree to permit us to share any relevant special categories of data where it is necessary for the purposes of that hearing.

The outcome of the appeal shall be final.

Signature **Date**

Position

The policy is reviewed on a periodic basis.

ORGANISATION

Health and Safety Management Structure

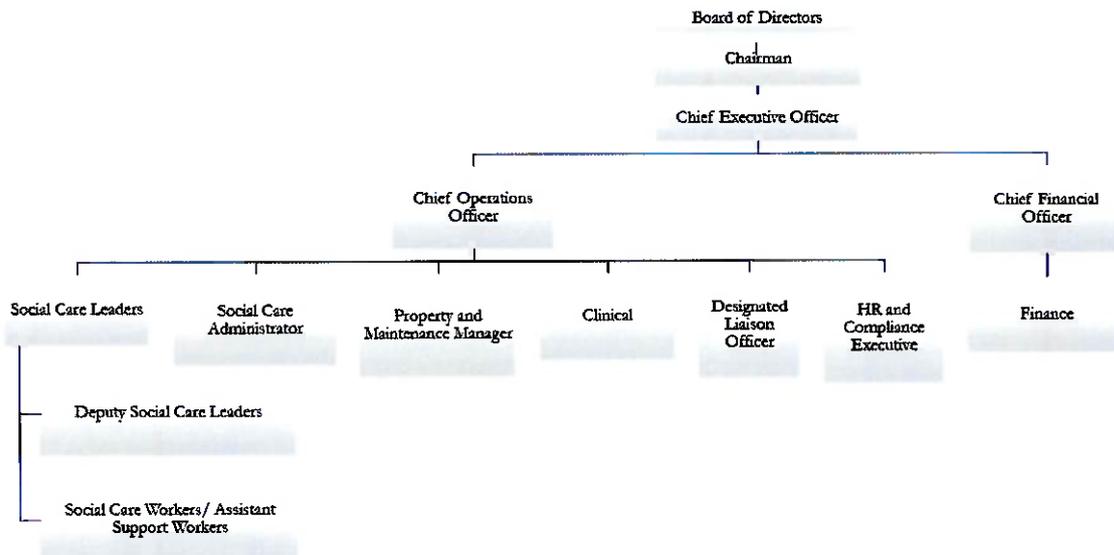
Introduction

The Board of Directors have overall responsibility for the implementation of this policy.

The policy is executed through key personnel who have been allocated specific responsibilities for managing health and safety.

Emphasis is placed on recognising potential hazards and taking steps to minimise their effect on employees and others.

The organisational structure set out below shows the key personnel with health and safety responsibilities.



HEALTH AND SAFETY MANAGEMENT RESPONSIBILITIES

The Board of Directors have overall responsibility for health and safety matters. We have identified a need for and taken action on the key issues below.

THE MANAGEMENT OF HEALTH AND SAFETY

General

- Provide and resource an effective health and safety management system.
- Provide a suitable means of consultation with employees on health and safety matters.
- Ensure that adequate Employers' Liability Insurance cover is arranged and maintained.
- Ensure that health and safety implications are considered when acquiring new equipment and machinery.
- Ensure that contractors (when employed) are competent and monitored during work.
- Ensure that a process is in place to identify and report hazards.
- Ensure that all employees are provided with appropriate health and safety training.
- Provide measures to protect the health and safety of employees working alone.
- Monitor the health and safety performance of the organisation.

Occupational Health

- Ensure that adequate procedures are in place to identify and address occupational health risks.
- Ensure that the measures required to reduce and control employees' exposure to occupational health risks are in place and used.
- Implement measures to reduce stress within the workplace.

Accidents, Incidents and First Aid

- Record accidents and incidents.
- Complete accident and incident investigations, identify causes and measures for prevention.
- Ensure that applicable injuries, diseases and dangerous occurrences are reported to the Enforcing Authority.
- Ensure that adequate first aid arrangements are in place.

Fire and Emergency Arrangements

Ensure that;

- Adequate arrangements are in place to deal with fire safety at our premises or at our client's premises.
- Employees are aware of the fire and evacuation arrangements and other emergency procedures.
- Emergency equipment is provided, tested and maintained appropriately.
- Adequate Fire Risk Assessments are completed.

Risk Assessment

Ensure that;

- Risk assessments are undertaken and Safe Systems of Work are produced for all activities that pose a significant risk of harm.
- Risk assessments are documented.
- The outcomes of risk assessments are communicated effectively to employees and others.

Premises

- Provide a suitable and safe working environment for employees with adequate welfare facilities.
- Ensure that the fixed electrical installation is adequately installed and maintained.
- Introduce and maintain measures to control and manage the risks posed by asbestos.
- Ensure good housekeeping standards are instigated and maintained.
- Provide suitable and sufficient maintenance of the facilities provided within the workplace.

Equipment

Ensure that;

- All equipment provided by the organisation is suitable and properly used.
- All work equipment is adequately maintained and safe.
- Portable electrical appliances are adequately maintained, inspected and tested.
- Appropriate hand tools are provided and maintained.
- Any Personal Protective Equipment (PPE) provided gives suitable protection, is used and that employees are given information, instruction and training on its use.

Substances

Ensure that;

- All substances are used safely.
- All substances are appropriately stored.

The Responsibility Table on the next page identifies the specific health and safety responsibilities and identifies the individuals they are allocated to. Employees with allocated responsibilities should refer to the associated Safety Arrangements which are available following the responsibility table within this document.

EMPLOYERS RESPONSIBILITIES INCLUDE

- A commitment to managing and conducting our work activities in order to protect your health and safety.
- Providing a safe place of work which is adequately designed and maintained.
- Providing safe means of access and egress to and from the place of work.

- Providing safe plant, equipment and machinery.
- Providing safe systems of work, e.g. operating procedures.
- Preventing improper conduct likely to put an employee's safety and health at risk.
- Preventing risk to health from any article or substance (including plant, tools, machinery, chemical substances and equipment) as applicable to the place of work.
- Providing appropriate information, instruction, training and supervision, taking account of the employee's capabilities, when an employee begins work or is transferred to new tasks, and when new technology is introduced.
- Providing suitable protective clothing and equipment where hazards cannot be eliminated.
- Preparing and revising emergency plans.
- Designating staff to take on emergency duties as necessary.
- Providing and maintaining welfare facilities for example toilets, changing rooms, canteen area etc.
- Providing, where necessary, a competent person to advise and assist us in securing the safety, health and welfare of all of our employees.

EMPLOYEES RESPONSIBILITIES INCLUDE

- Complying with relevant health and safety legislation.
- Ensuring that you are not under the influence of an intoxicant while working as this could endanger your safety, health and welfare or that of others.
- Ensuring that you do not engage in improper conduct or other behaviour that is likely to endanger your safety, health and welfare or that of others.
- Co-operating with your employer and any other person to help us and any other person to comply with their legal duties.
- Use in such a manner so as to provide the protection intended, any suitable appliance, protective clothing, convenience, equipment or other means provided (whether for your use alone or for use in common with others) for securing your safety, health and welfare while at work.
- To report to your employer or immediate supervisor, without unreasonable delay, any defects in plant, equipment, place of work or system of work that might endanger safety, health or welfare at work of any employee or that of any other person of which you become aware.
- No person(s) shall intentionally or recklessly interfere with or misuse any appliance, protective clothing, convenience, or equipment provided in pursuance of any of the relevant statutory provisions or otherwise, for securing the safety, health and welfare of persons arising out of work activities.
- Attend training as may be required or as may be prescribed relating to safety, health and welfare at work or relating to work carried out by you.

MONITORING

The operation of this policy and arrangements is actively monitored through the periodic review of our completed Safety Record Forms and also by using Periodic Workplace Checklists. The Board of Directors have overall responsibility for this, but some of the routine tasks may be delegated. We also undertake an annual health and safety management review to determine whether our existing health and safety procedures and arrangements are adequate. This is achieved by completing an Annual Health and Safety Review form.

The continual review of the completed Annual Health and Safety Review records and the Periodic Workplace Checklists, along with our comprehensive Safety Records, helps us to check the effectiveness of our Safety Management System.

LIST OF PERSONS TO WHOM HEALTH AND SAFETY RESPONSIBILITIES HAVE BEEN ALLOCATED

We are required to identify, by name, managers and supervisors who have responsibility for specific workplace functions. Listed here are the functions and named member of staff responsible for their management and implementation. This list will be updated whenever functions are reassigned or transferred to new personnel.

See next page.

Location: Barrow House, 32 Sandhills, Hacketstown Road, Carlow R93 V6K7	
Date Completed:	14.03.2023
FUNCTION	NAME
Responsibilities	
Directors	Ulric Kenny, Edward Dunne, Frank Byrne, Lye Ogunsanya, Eugene Banks
Chairman	Ulric Kenny
Chief Executive Officer	Edward Dunne
Chief Financial Officer	Frank Byrne
Chief Operations Officer	Colleen Wall
Social Care Leaders	Social Care Leaders
Property and Maintenance Manager	Paul Howard
HR & Compliance Executive	Fiona Lawless
Individual Responsibilities Directors	
Safety Statements	Ulric Kenny, Edward Dunne, Frank Byrne, Colleen Wall, Lye Ogunsanya, Eugene Banks, Fiona Lawless
Finance and Purchasing	Ulric Kenny, Edward Dunne, Frank Byrne, Colleen Wall, Lye Ogunsanya, Eugene Banks, Fiona Lawless
Management of Contractors	Ulric Kenny, Edward Dunne, Frank Byrne, Colleen Wall, Lye Ogunsanya, Eugene Banks, Paul Howard
Asbestos Duty Holder	Ulric Kenny, Edward Dunne, Frank Byrne, Colleen Wall, Lye Ogunsanya, Eugene Banks
Bullying Prevention & Resolution Policy Contact	Ulric Kenny, Edward Dunne, Frank Byrne, Colleen Wall, Lye Ogunsanya, Eugene Banks, Fiona Lawless
Management of Health and Safety	Ulric Kenny, Edward Dunne, Frank Byrne, Colleen Wall, Lye Ogunsanya, Eugene Banks, Paul Howard, Fiona Lawless
Operational Procedures (writing and preparation)	Ulric Kenny, Edward Dunne, Frank Byrne, Colleen Wall, Lye Ogunsanya, Eugene Banks

Appointed Competent Person(s) for Occupational Safety, Maintenance and Chemical Agents	Ulric Kenny, Edward Dunne, Frank Byrne, Colleen Wall, Lye Ogunsanya, Eugene Banks, Paul Howard
All Risk Assessments	Ulric Kenny, Edward Dunne, Frank Byrne, Colleen Wall, Lye Ogunsanya, Eugene Banks
Emergencies (fire, flood, first aid), plans and procedures	Ulric Kenny, Edward Dunne, Frank Byrne, Colleen Wall, Lye Ogunsanya, Eugene Banks, Paul Howard
Utilities (gas, electricity, water)	Ulric Kenny, Edward Dunne, Frank Byrne, Colleen Wall, Lye Ogunsanya, Eugene Banks, Paul Howard
Personal Protective Equipment	Ulric Kenny, Edward Dunne, Frank Byrne, Colleen Wall, Lye Ogunsanya, Eugene Banks, Fiona Lawless
Training	Ulric Kenny, Edward Dunne, Frank Byrne, Colleen Wall, Lye Ogunsanya, Eugene Banks, Fiona Lawless
Maintenance	Ulric Kenny, Edward Dunne, Frank Byrne, Colleen Wall, Lye Ogunsanya, Eugene Banks, Paul Howard
Equipment and machinery (guarding, maintenance and statutory tests)	Ulric Kenny, Edward Dunne, Frank Byrne, Colleen Wall, Lye Ogunsanya, Eugene Banks, Paul Howard
Welfare facilities	Ulric Kenny, Edward Dunne, Frank Byrne, Colleen Wall, Lye Ogunsanya, Eugene Banks, Fiona Lawless

RESPONSIBILITY TABLE

This Responsibility Table shows the allocation of individual health and safety responsibilities to the personnel and management position identified in the table..

Key

DRS – Directors

CM – Chairman

CEO – Chief Executive Officer

CFO – Chief Financial Officer

COO - Chief Operations Officer

SCLs - Social Care Leaders

PMM - Property and Maintenance Manager

HR - HR & Compliance Executive

Safety arrangements	DRS	CM	CEO	CFO	COO	SCLs	PMM	HR
Managing Safety & Health at Work	✓	✓	✓	✓	✓	✓	✓	✓
Accident, Incident, Ill Health Reporting and Investigation					✓	✓	✓	✓
Workplace H&S Consultation- Safety Reps					✓	✓		
Workplace H&S Consultation - One-to-one					✓	✓		
Risk Assessment and Hazard Reporting					✓	✓		
Occupational Health and Health Surveillance	✓	✓	✓	✓	✓			
Substance & Alcohol Abuse	✓	✓	✓	✓	✓	✓		
Purchasing	✓	✓	✓	✓	✓		✓	✓
New and Expectant Mothers					✓	✓		✓
Lone Working	✓	✓	✓	✓	✓	✓		✓
Health & Safety Training	✓	✓	✓	✓	✓	✓		✓
Health & Safety of Visitors					✓	✓	✓	✓
Personal Protective Equipment					✓	✓		✓
Home Working	✓	✓	✓	✓	✓			✓
Safe Systems of Work					✓	✓	✓	✓
Equality and Disability Discrimination Compliance	✓	✓	✓	✓	✓	✓		✓

Safety arrangements	DRS	CM	CEO	CFO	COO	SCLs	PMM	HR
H&S Information for Employees - ROI					✓	✓		✓
Fire Safety - Arrangements and Procedures					✓	✓	✓	✓
First Aid					✓	✓		✓
Welfare, Staff Amenities, Rest Rooms & the Working Environment	✓	✓	✓	✓	✓	✓		✓
Housekeeping and Cleaning					✓	✓	✓	✓
Building Services	✓	✓	✓	✓	✓	✓	✓	
The Control of Hazardous & Non Hazardous Waste					✓	✓	✓	
Access, Egress, Stairs & Floors					✓	✓	✓	✓
Workplace Signs					✓	✓	✓	✓
Water Temperature Control					✓	✓	✓	
Premises	✓	✓	✓	✓	✓	✓	✓	
Electrical Safety	✓	✓	✓	✓	✓	✓	✓	
Office Equipment	✓	✓	✓	✓	✓	✓	✓	✓
Control of Flammable Liquids					✓	✓	✓	
Slips, Trips & Falls					✓	✓	✓	✓
Occupational Road Safety	✓	✓	✓	✓	✓	✓	✓	
Infection Control	✓	✓	✓	✓	✓	✓	✓	✓
Manual Handling	✓	✓	✓	✓	✓	✓		✓
Display Screen Equipment & DSE User Eye Tests & Spectacles	✓	✓	✓	✓	✓	✓		✓
Legionella Control	✓	✓	✓	✓	✓	✓	✓	
Use of Chemical Agents & Substances	✓	✓	✓	✓	✓	✓	✓	
Stress in the Workplace	✓	✓	✓	✓	✓	✓		✓
Aggression & Violence in the Workplace	✓	✓	✓	✓	✓	✓		✓
Dermatitis	✓	✓	✓	✓	✓	✓		✓
Work with Children	✓	✓	✓	✓	✓	✓		
Project Safety for Travelling & Multi-Site Workers	✓	✓	✓	✓	✓	✓		
Contractor Control Management	✓	✓	✓	✓	✓		✓	

Note: Those persons who have been allocated responsibilities for health and safety issues should ensure that the required risk assessments and safety records are completed, either by them or by other persons and that the required control measures are implemented when work activities take place.

Where more than one person has been assigned responsibility to a particular subject, each should ensure that they have completed records for the areas under their control and together should ensure that the organisation has, collectively, covered all aspects of safety management for that subject.

EMERGENCY CONTACT DETAILS

Garda	999 or 112
Garda Station	Athy Rd, Graigue, Carlow, R93 W983 (059) 913 6620
Fire and Ambulance	999 or 112
Location of Fire Assembly Point	Across the road
& Location of First Aid Kits	In the kitchen
Nearest Hospital A&E	St. Luke's General Hospital Freshford Rd, Friarsinch, Kilkenny, R95 FY71 (056) 778 5000
Local Doctor	Carlow Medical, Centric Health, Shamrock Plaza, Green Ln, Carlow (059) 913 3292 Caredoc - Saint Dymphna's Hospital, Athy Rd, Strawhall, Carlow (0818) 300 365
ESB	For emergencies, supply failure or damage to networks - ESB Networks Ltd: 1850 372 999 (24 hour service)
Gas	National Gas Emergency number: 0800 111 999 or 1850 205 050
Health & Safety Authority	0818 289 389

Emergency Procedures

In the event of an emergency situation please follow the training and instruction you have been provided with.

Fire

For fire emergency raise the alarm, evacuate the area, only fight the fire if you are trained and competent to do so, close doors and windows to prevent the spread of fire, refer to your fire safety training and act accordingly.

Medical Emergencies

Raise the alarm, summon the first aider on duty and follow their instructions.

Theft, aggression or violence

Follow the guidance and advice of your line manager and the guidance in the safety statement; do not place yourself in a position of danger or high risk.

RELEVANT LEGISLATION

In most cases Health and Safety legislation requires common sense, reasonably practicable precautions to avoid the risk of injury or ill-health at work. Our Health and Safety Management System does not quote specific legal references; giving instead the information and detail of what is required in practice to secure compliance. If the guidance and requirements of our Health and Safety Management System are adopted compliance with the legal requirements will be achieved.

This page sets out, for the record, details of the main statutes and regulations affecting health and safety at work that were in force when this policy was prepared. The BusinessSafe Online Reference Library contains a similar list which will always be up to date. The document is titled 'Health and Safety Legislation (IRL).

Not every piece of the legislation will apply to our operation on a day to day basis, but we need to be aware of them should circumstances change.

Further detail and access to the specific wording of each of these legal requirements is available from the BusinessSafe 24 Hour Advice Service on 01 855 5050.

- Chemicals Acts 2008 and 2010
- Carriage of Dangerous Goods by Road Act, 1998
- Carriage of Dangerous Goods by Road Regulations 2007
- Chemicals Act (CLP Regulation) Regulations 2011.
- Dangerous Substances Act 1972
- Emergency Measures in the Public Interest (Covid-19) Act 2020
- Employment Equality Act 1998
- Display Screen Equipment Regulations 2007
- European Communities (Classification, Packaging and Labelling) (Revocation) Regulations 2015.
- Chemicals Act (Control of Major Accident Hazards Involving Dangerous Substances) Regulations 2015
- European Communities (Lifts) (Amendment) Regulations 2008
- European Communities (Export And Import Of Certain Dangerous Chemicals) (Pesticides) (Enforcement) Regulations 1995 as amended
- Factories Act 1955
- Fire Services Act 1981 & 2003
- Health Act 1947 (Covid-19) (Amendment) Regulations 2020

- Infectious Disease 2007 (Amendments) 2020
- European Union (Prevention Of Sharps Injuries In The Healthcare Sector) Regulations 2014
- Organisation of Working Time Act 1997
- Safety, Health and Welfare at Work (Chemical Agents) Regulations 2001 and 2015
- Safety, Health and Welfare at Work (Chemical Agents) (Amendment) Regulations 2021 (SI 231/2021)
- The Chemical Agents and Carcinogens Code of Practice 2021
- Safety, Health and Welfare at Work (Carcinogens) Regulations 2001 to 2019.
- Safety, Health and Welfare at Work (Confined Spaces) Regulations 2001
- Safety, Health and Welfare at Work Act 2005 (Commencement) Order 2005
- Safety, Health and Welfare at Work (Exposure to Asbestos) Regulations 2006 and 2010
- Safety, Health and Welfare at Work (General Application) Regulations 2007 to 2020
- Safety Health and Welfare at Work (General Application) (Amendment) Regulations 2010 – Optical Radiations
- Safety Health and Welfare at Work (General Application) (Amendment) Regulations 2012 – Optical Radiations and Pressure Systems
- Safety Health and Welfare at Work (Biological Agents) Regulations 2013.
- The Safety, Health and Welfare at Work (Biological Agents) (Amendment) Regulations 2020 (SI No. 539 of 2020)
- Safety, Health and Welfare at Work (Construction) Regulations 2013 to 2020.
- Safety Health and Welfare at Work (Electromagnetic Fields) Regulations 2016
- Safety, Health and Welfare at Work (General Application) (Amendment) Regulations 2021
- Safety, Health and Welfare at Work (General Application) (Amendment) (No 2) Regulations 2021
- Industrial Relations Act 1990 (Code of Practice for Employers and Employees on the Prevention and Resolution of Bullying at Work) Order 2020 (S.I. No. 674 of 2020)

Safety Arrangements Index

Ref. Number	Title	Publication Date
SA1-1	Managing Safety & Health at Work	v1
SA1-3	Accident, Incident, Ill Health Reporting and Investigation	v2
SA1-5	Workplace H&S Consultation- Safety Reps	v3
SA1-5	Workplace H&S Consultation - One-to-one	v1
SA1-6	Risk Assessment and Hazard Reporting	v2
SA1-7	Occupational Health and Health Surveillance	v2
SA1-8	Substance & Alcohol Abuse	v1
SA1-9	Purchasing	v1
SA1-11	New and Expectant Mothers	v2
SA1-13	Lone Working	v3
SA1-14	Health & Safety Training	v1
SA1-15	Health & Safety of Visitors	v1
SA1-17	Personal Protective Equipment	v1
SA1-18	Home Working	v2
SA1-20	Safe Systems of Work	v1
SA1-22	Equality and Disability Discrimination Compliance	v2
SA1-23ROI	H&S Information for Employees - ROI	v1
SA 2-1	Fire Safety - Arrangements and Procedures	v2
SA3-1	First Aid	v2
SA3-2	Welfare, Staff Amenities, Rest Rooms & the Working Environme	v2
SA3-3	Housekeeping and Cleaning	v2
SA3-5	Building Services	v3
SA3-6	The Control of Hazardous & Non Hazardous Waste	3
SA3-9	Access, Egress, Stairs & Floors	v2
SA3-11	Workplace Signs	v1
SA3-14	Water Temperature Control	v1
SA3-15	Premises	v2
SA4-1	Electrical Safety	v2
SA4-4	Office Equipment	v1
SA4-6	Control of Flammable Liquids	v1
SA4-8	Slips, Trips & Falls	v1
SA4-31	Occupational Road Safety	v2
SA5-4	Infection Control	v1
SA5-9	Manual Handling	v3
SA5-11	Display Screen Equipment & DSE User Eye Tests & Spectacles	v2
SA5-12	Legionella Control	v1
SA5-14	Use of Chemical Agents & Substances	v2
SA5-18	Stress in the Workplace	v1
SA5-19	Aggression & Violence in the Workplace	v1
SA5-26	Dermatitis	v1
SA6-14	Work with Children	v1
SA7-1	Project Safety for Travelling & Multi-Site Workers	v1
SA7-2	Contractor Control & Management	v1

EMPLOYEE CONFIRMATION OF RECEIPT AND CONTENT OF SAFETY STATEMENT

Please read the notes below, then sign and date this form

Part 1

Dídean has prepared a Safety Statement as required under Section 20 of the Safety, Health and Welfare at Work Act 2005 requires that an organisation produce a written programme to safeguard, the safety and health of employees while they work & the safety and health of other people who might be at the workplace.

The Safety Statement represents Dídean's commitment to their employees' health and safety. It states how we will ensure your health and safety and states the resources necessary to maintain and review health and safety laws and standards. Please read the Safety Statement carefully and ensure you take the time to understand it. If you are unsure of any part of this safety statement, please raise questions about the content with your manager. Once you are satisfied that you understand the safety statement in full, please then read the declaration at Part 2.

Part 2

I have read the Safety Statement. I understand, accept and will comply with the contents. I understand that compliance with the conditions set out forms part of my contract of employment. I will keep myself aware of its contents and any updates I am advised about.

Employee signature:

Date:

Name:

Department:

Note: By law employers have to make available to employees relevant information about their health and safety policies, procedures and safe working systems. The same legislation requires employees to follow safety rules, procedures and instructions set by their employer and should confirm that they understand these matters. In the event of refusal to sign this document, arrangements will be made to have the contents read to you and this will be recorded by your manager.

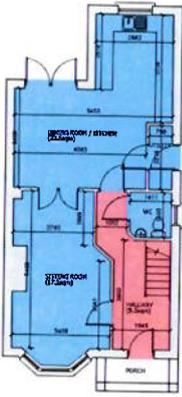
APPENDICES

Drawings - Floor Plan Layout

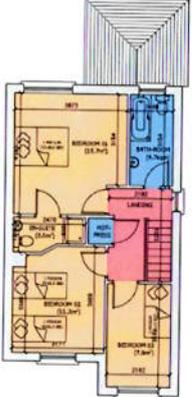
LEGEND

■ COMMUNAL SPACES	■ BEDROOMS
■ CIRCULATION AREA	

FLOOR AREAS:
 GROUND FLOOR 56.2sqm
 FIRST FLOOR 49.9sqm
 Total 106.2sqm



GROUND FLOOR PLAN (56.2sqm)
 Scale 1:125



FIRST FLOOR PLAN (49.9sqm)
 Scale 1:125



SITE LOCATION MAP

SCALE

Dídean
 PROPERTY SERVICES

NO.	DESCRIPTION	DATE

DÍDEAN

LENTON SURVEYING & ENGINEERING LTD

LENTON
 SURVEYING & ENGINEERING LTD
 100, BARNBY GATE, LONDON, E14 3JF
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10 BARNBY GATE, LONDON, E14 3JF
 CARLOW - FLOOR PLANS

REPORT ISSUE

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BY	
FOR	
PROJECT NO.	LT23010
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LENZTECH
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