

<b>AN BORD PLEANÁLA</b>	
LDG-	<u>080177-25</u>
ABP-	_____
<b>12 MAY 2025</b>	
Fee: €	<u>220</u> Type: <u>Chq</u>
Time: <u>14.28</u>	By: <u>Cairner</u>

The Secretary  
An Bord Pleanála  
64 Marlborough Street  
Dublin 1  
D01 V902

9 May 2025

**Re: Kerry County Council Reference EX1349.  
Request for Declaration under Section 5 of the Planning and Development Act 2000 on whether the temporary change of use of a repository/storage building ancillary to the Sea Lodge Hotel, Waterville, Co. Kerry, to residential accommodation for International Protection Applicants is or is not exempted development.**

**HW Planning**  
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**Directors:**  
Harold Walsh  
Conor Frehill

**Company Reg. No.**  
486211

**Accreditations**  
ISO 9001:2015  
ISO 14001:2015  
ISO 45001:2018

Dear Sir/Madam,

We act on behalf of Kieran O'Neill, Sea Lodge Hotel, Waterville, Co. Kerry, in respect of the above Section 5 Request, and wish to refer the declaration issued by Kerry County Council to An Bord Pleanála in accordance with Section 5(3)(a) of the Planning and Development Act 2000 (as amended). We enclose the appropriate fee of €220.

### 01 Referral Context

In a Declaration dated the 14th of April 2025 (Reference EX1349), Kerry County Council determined that the temporary change of use of a repository/storage building ancillary to the Sea Lodge Hotel, Waterville, Co. Kerry, to residential accommodation for International Protection Applicants, would constitute development that would not come within the scope of exemptions provided for by Class 20F of the Planning and Development Regulations 2001 (as amended)<sup>1</sup>.

We disagree with the Planning Authority's assessment and determination of this matter and consider that the nature of the development comes within the scope of the exemption provided by Class 20F as set out in Schedule 2, Part 1 of the Planning and Development Regulations 2001(as amended).

Kerry County Councils EX1349 Declaration dated the 14th of April 2025 concludes that.

- (a) *'The proposed change of use would constitute development that would come within the scope of Section 3(1) of the Planning & Development Act 2000 (as amended).*

<sup>1</sup> Kerry County Councils EX1349 declaration dated the 14th of April 2025 is included as Enclosure 1 of this referral.

Class 20F of S.I. 376/2023 of the Planning and Development Regulations 2001 specifies that the following development for the accommodation of international protection applicants is exempted development.

- Hotels.
- Repositories.

Article 5 of the Planning and Development Regulations, 2001 (As Amended) defines a 'repository' as.

*'means a structure (excluding any land occupied therewith) where storage is the principal use and where no business is transacted other than business incidental to such storage.'*

As the subject building use served as a storage building/repository ancillary to the adjacent Sea Lodge Hotel, the temporary change of use of the subject repository building to residential accommodation for dedicated International Protection Applicants on behalf of the MCEDIY, is development and is exempted development in accordance with Class 20F as set out in Schedule 2, Part 1 of the Planning and Development Regulations 2001.

## 02 Grounds of this Referral

### Background Context

International Protection Applicants are individuals who have come to Ireland to escape persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion, and cannot seek protection in their own country. Once International Protection Applicants arrive in Ireland they must be allowed to stay in Ireland while the International Protection Office (IPO) assesses their application for International Protection. Under EU and International Law, Ireland is obliged to examine the claim of any person who arrives into the country and claims International Protection.

The International Protection Accommodation Service (IPAS) is a division of the Department of Children, Equality, Disability, Integration and Youth who are responsible for the provision of accommodation and related services to people in the International Protection process. Properties identified as being suitable for the accommodation of International Protection Applicants enter into tenancy agreements with the MCEDIY to specifically accommodate International Protection Applicants while their applications are being processed. An individual's residence at an identified IPAS accommodation property is completely voluntary and residents may leave at any time and source their own accommodation.

As stated previously, the subject building most recently served as a repository/storage building ancillary to the adjacent Waterville Sea Lodge Hotel. As confirmed in the accompanying correspondence from the MCEDIY, dated 22nd April 2025, the Sea Lodge Hotel is being currently utilised by the Department for the accommodation of International Protection Applicants.

*“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*

**‘Planning and Development (Exempted Development) (No. 4) Regulations 2022’ (S.I. No. 605/2022)**

On 29th November 2022 Minister Darragh O’Brien signed into effect the ‘Planning and Development (Exempted Development) (No. 4) Regulations 2022’ (S.I. No. 605/2022) in response to the ongoing unprecedented demand for the accommodation of those seeking international protection. These Regulations amended Part 1 of Schedule 2, entitled ‘Exempted Development - General’, to the Planning and Development Regulations 2001, as amended, to insert a new Class 20F exemption. This new Class 20F permitted the change of use of certain specified structures for the purpose of providing the necessary facilities and accommodation for International Protection Applicants. Those provisions were a temporary time-limited measure and were due to expire on 31st December 2024, with the use of the specified structures ceasing to apply on that date.

**‘Planning and Development (Exempted Development) (No. 4) Regulations 2023’ (S.I. 376/2023)**

The ‘Planning and Development (Exempted Development) (No. 4) Regulations 2023’ (S.I. 376/2023) further amends the exemption provided by S.I. 605 of 2022, from 31st December 2024 to 31st December 2028 to allow the MCEDIY greater flexibility in agreeing leases with potential accommodation providers for International Protection Applicants.

Class 20F of S.I. 376/2023 of the Planning and Development Regulations 2001 specifies that the following development for the accommodation of international protection applicants is exempted development.

As confirmed in Circular Letter PL 09/2023 dated 4<sup>th</sup> August 2023 regarding S.I. 376/2023.

*'There is no change to the structures listed from that which was provided by SI 605 of 2022.'*

Class 20F of S.I. 376/2023 of the Planning and Development Regulations 2001 specifies that the following development for the accommodation of international protection applicants is exempted development.

- Hotels.
- Repositories.

As referenced previously and acknowledged by the Planning Authority in their assessment of EX1302, the subject buildings previous use is as a storage building serving the Sea Lodge Hotel. As stated previously, Article 5 of the Planning and Development Regulations 2001, defines a 'repository' as.

*'means a structure (excluding any land occupied therewith) where storage is the principal use and where no business is transacted other than business incidental to such storage.'*

As a repository is categorised in Class 20F of S.I. 376/2023, accordingly the use of the premises for the accommodation of International Protection Applicants is exempted development.

#### 04 Conclusion

In summary, the subject premises has been identified as being suitable for the temporary accommodation of International Protection Applicants on behalf of the MCEDIY. The subject building was most recently in the use as a storage/repository building ancillary to the Sea Lodge Hotel which is in accordance with the 'repository', use as categorised in Class 20F of S.I. 376/2023.

Accordingly having regard to:

- Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended), and.
- Articles 5, 6 and 9 and Class 20F as set out in Schedule 2, Part 1 of the Planning and Development Regulations 2001.

we consider that the change of use of the repository/storage building ancillary to the Sea Lodge Hotel, Waterville, Co. Kerry, to temporary residential accommodation for International Protection Applicants is development and is exempted development.

An Roinn Pleanála

Comhairle Contae Chiarraí,  
Áras an Chontae,  
Trá Lí, Co. Chiarraí.



Planning Department

Kerry County Council,  
County Buildings,  
Tralee, Co. Kerry.

COMHAIRLE CONTAE CHIARRAÍ  
KERRY COUNTY COUNCIL

Guthán | Tel 066 7183582 Rphost | Email [plan@kerrycoco.ie](mailto:plan@kerrycoco.ie) Suíomh | Web [www.kerrycoco.ie](http://www.kerrycoco.ie)

Application No: EX1349

Decision Date: 14<sup>th</sup> April 2025

Registration Date: 18<sup>th</sup> March, 2025

Applicant: Kieran O Neill, Sea Lodge Hotel, Waterville, Co Kerry.

Agent: Harry Walsh, HW Planning, 5 Joyce House, Barrack Sq., Ballincollig, Cork

Development Location: Lower Main St., Waterville, Co Kerry.

Development Description: The temporary change of use of a repository/storage building ancillary to the Sea Lodge Hotel to residential accommodation for International Protection Applicants.

**DECLARATION ISSUED UNDER AND IN ACCORDANCE WITH SECTION 5 OF THE  
PLANNING AND DEVELOPMENT ACTS, 2000 – (as amended)**

In pursuance of its functions under the Planning & Development Acts 2000 (as amended), Kerry County Council, being the Planning Authority for the County Health District of the County of Kerry, has by order dated 14<sup>th</sup> April 2025 authorised the issue of a declaration under the provisions of Section 5 of the Planning & Development Acts, 2000 (as amended) in accordance with plans and particulars submitted on 18<sup>th</sup> March, 2025 I hereby certify that, the Planning Authority considers that the works, the subject of the referral under the said Section 5 namely the temporary change of use of a repository/storage building ancillary to the Sea Lodge Hotel to residential accommodation for International Protection Applicants at Lower Main St., Waterville, Co Kerry **DOES NOT** constitute exempted development under the Planning & Development Acts 2000 (as amended) having regard to the considerations inserted hereunder:-

**Schedule 1**

- a) The proposed change of use would constitute development that would come within the scope of Section 3(1) of the Planning and Development Act 2000 (as amended),
- b) The nature of the proposed change of use would not come within the scope of exemption provided at Class 20F, Part 1, Schedule 2 of the Planning and Development Regulations 2001(as amended) as,
  - (i) it has not been demonstrated that the proposed change of use is by or on behalf of the Minister for Children, Equality, Disability, Integration and Youth and
  - (ii) The hotel storage building subject of the referral does not fall within the list of structures to which Class 20F exemption applies

**Therefore, the works would constitute development which is not exempted development.**

An Appeal against the decision of the Planning Authority under Section 5 of the Planning & Development Act 2000 may be made to An Bord Pleanála within four weeks beginning on the date of the issuing of the declaration by the Planning Authority. An Appeal should be addressed to: An Bord Pleanála, 64 Marlborough Street, Dublin and should be accompanied by the appropriate fee.

Signed on behalf of Kerry County Council

Date, 14<sup>th</sup> April 2025



Application No: EX1349  
Decision Date: 14<sup>th</sup> April 2025 Registration Date: 18<sup>th</sup> March, 2025  
Applicant: Kieran O Neill, Sea Lodge Hotel, Waterville, Co Kerry.  
Agent: Harry Walsh, HW Planning, 5 Joyce House, Barrack Sq., Ballincollig, Cork  
Development Location: Lower Main St., Waterville, Co Kerry.

**Development Description:** The temporary change of use of a repository/storage building ancillary to the Sea Lodge Hotel to residential accommodation for International Protection Applicants.

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***Schedule 1***

- a) The proposed change of use would constitute development that would come within the scope of Section 3(1) of the Planning and Development Act 2000 (as amended),
- b) The nature of the proposed change of use would not come within the scope of exemption provided at Class 20F, Part 1, Schedule 2 of the Planning and Development Regulations 2001(as amended) as,
  - (i) it has not been demonstrated that the proposed change of use is by or on behalf of the Minister for Children, Equality, Disability, Integration and Youth and
  - (ii) The hotel storage building subject of the referral does not fall within the list of structures to which Class 20F exemption applies

**Therefore, the works would constitute development which is not exempted development.**

An Appeal against the decision of the Planning Authority under Section 5 of the Planning & Development Act 2000 may be made to An Bord Pleanala within four weeks beginning on the date of the issuing of the declaration by the Planning Authority. An Appeal should be addressed to: An Bord Pleanala, 64 Marlborough Street, Dublin and should be accompanied by the appropriate fee.

Signed on behalf of Kerry County Council



Date 14<sup>th</sup> April 2025

To: AO Planning  
From: SEE Planning  
Date: 09/04/2025

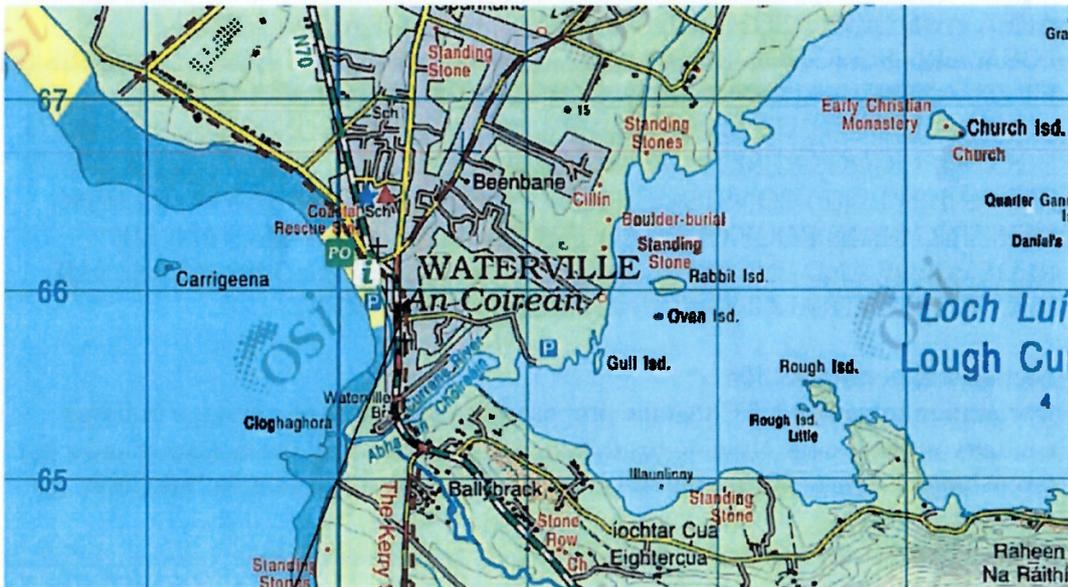
Re: Section 5 Reference EX1349 – Kieran O’ Neill, Sea Lodge Hotel, Waterville

**Proposed Works**

This referral relates to whether the temporary change of use of a repository/storage building ancillary to the Sea Lodge Hotel to residential accommodation for International Protection Applicants is or is not exempted development.

**Location**

The site is located in Waterville Village, facing on to the N70 Ring of Kerry Road. The storage building subject of this referral is located to the rear of the Sea Lodge Hotel.



Location of site



Sea Lodge Hotel  
Large scale map of site and environs

Storage Building subject of referral

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.

Firstly, there is no information provided to demonstrate that the proposed change of use is by or on behalf of the Minister for Children, Equality, Disability, Integration and Youth. Therefore, on the basis of the information provided, it is considered that the Class 20F exemption is not applicable.

Secondly, the structure subject of this referral is a storage building ancillary to the Sea Lodge Hotel. The submission argues that the Class 20F exemption applies as the building is a 'repository'. However, the Class 20F exemption applies to 'wholesale warehouse or repository'. The structure in question is not and has never been used as a 'wholesale warehouse or repository' and, consequently, the Class 20F exemption is not applicable.

**Recommendation:**

- (a) The proposed change of use would constitute development that comes within the scope of Section 3(1) of the said Act and
- (b) The nature of the proposed change of use would not come within the scope of exemption provided at Class 20F, Part 1, Schedule 2 of the Planning and Development Regulations, 2001 (as amended), as:
  - (i) It has not demonstrated that the proposed change of use is by or on behalf of the Minister for Children, Equality, Disability, Integration and Youth and
  - (ii) The hotel storage building subject of the referral does not fall within the list of structures to which the Class 20F exemption applies.

Therefore, the proposed change of use would constitute development which is not exempted development.

Signed: Michael J Lynch  
Michael J. Lynch SEE  
Date: 09/04/2025

noted  
D. H. [Signature]  
11/4/25

An Roinn Leanaí, Comhionannais,  
Míchumais, Lánpháirtíochta agus Óige  
Department of Children, Equality,  
Disability, Integration and Youth



**Waterville Lodge Company YG Limited**  
**Sea Lodge Hotel**  
**Main Street**  
**Waterville**  
**Co. Kerry**  
**V23C896**

**22 April 2025**

**RE: Provision of Accommodation for International Protection Applicants at The Sea Lodge Hotel, Main Street, Waterville, Co. Kerry, V23 C896.**

To whom it may concern,

The Department is utilising the above property for the accommodation of International Protection Applicants.

I can confirm that the Sea Lodge Hotel is operated by the Waterville Lodge Company YG Limited (CRO Number: 699687).

As part of the contract renewal process, the operator has been asked to complete any necessary engagement with the relevant Local Authority in relation to planning.

If you have any queries regarding the above, please contact me at [IPContracts@equality.gov.ie](mailto:IPContracts@equality.gov.ie)

Yours sincerely,

**International Protection Contracts Team**

*Seirbhísí an tSoláthair Chosaint Idimáisiúnta*  
*International Protection Procurement Services*

**An Roinn Leanaí, Comhionannais, Míchumais, Lánpháirtíochta agus Óige**  
Department of Children, Equality, Disability, Integration and Youth

Cúirt Montague, 7-11 Sráid Montague, Baile Átha Cliath 2, D02 FT96.  
Montague Court, 7-11 Montague Street, Dublin 2, D02 FT96.

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An Roinn Leanaí  
Comhionannais, Míchumais  
Lánpháirtíochta agus Óige  
Department of Children  
Equality, Disability, Integration  
and Youth

SEIRBHÍSÍ AN tSOLÁTHAIR COSAINT IDIRNÁISIÚNTA,  
INTERNATIONAL PROTECTION PROCUREMENT SERVICES,  
2<sup>nd</sup> Floor Montague Court, 7-11 Montague Street, Dublin 2