

PLANNING Report

AN COIMISIÚN PLEANÁLA
LDG- 080932-25
ACP- 322840-25
18 JUN 2025
Fee: € 20.00 Type: CO
Time: 17:11 By: AAW



SECTION 5 REFERRAL – DECLARATION OF EXEMPTED DEVELOPMENT

Donegal County Council Reg. Ref. S524/101

Atlantic Way B&B, Main Street, Laghey, Co. Donegal,
F94 XA37

JUNE 2025

SUBMITTED ON BEHALF OF:
Carduff Developments Limited,
39 Monfort House,
Monaghan, Co. Monaghan

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

HUGHES
PLANNING
& DEVELOPMENT CONSULTANTS

1.0 Introduction

This referral to An Coimisiún Pleanála, pursuant to Section 5(3)(a) of the Planning and Development Act 2000 (as amended), has been prepared by Hughes Planning and Development Consultants, 85 Merrion Square, Dublin 2, on behalf of Carduff Developments Limited, 39 Monfort House, Monaghan, Co. Monaghan, and relates to a Section 5 Declaration made by Donegal County Council on 22nd May 2025 under Reg. Ref. S524/101, regarding the use of Atlantic Way B&B, Main Street, Laghey, Co. Donegal, F94 XA37, to accommodate persons seeking international protection. It is important to note from the outset that no works are being sought as part of this declaration and this section 5 application relates to the use of the building only.

The property management and staff provision will solely be the responsibility of our client, the property owner. Staff will visit the site to carry out maintenance and cleaning works only. No element of care, be it social, physical or emotional, will be provided to residents at this property, nor will any non-governmental organisation or approved housing body be involved in the day-to-day operation of the property.

We request that An Coimisiún Pleanála review the Section 5 Declaration issued by Donegal County Council and make a determination that providing long-term residential accommodation to protected persons at Atlantic Way B&B, Main Street, Laghey, Co. Donegal, F94 XA37, is deemed not development. In the interests of clarity, we would ask the following question to An Coimisiún Pleanála:

“Whether the use of a bed and breakfast at the Atlantic Way B&B, Main Street, Laghey, Co. Donegal, to provide accommodation for persons seeking international protection, constitutes exempted development or does not constitute exempt development?”

The prescribed fee of **€220.00** is enclosed, along with a copy of the declaration issued by Donegal County Council. We request that An Coimisiún Pleanála set aside the decision of Donegal County Council and issue a declaration stating that the use of the property to accommodate protected persons does not constitute development.

1.1 Section 5 Declaration of Donegal County Council

On the 22nd May 2025, Donegal County Council refused a declaration of exemption for the use of Atlantic Way B&B to provide residential accommodation persons seeking international protection, under Reg. Ref. S524/101 (See Appendix A). The Planning Authority determined that it does not come within the scope of Class 14 (h) of Part 1 of Schedule 2 of the Planning & Development Regulations, 2001 (as amended) and it has not been demonstrated that the proposed temporary use is on behalf of the Minister for Children, Equality, Disability, Integration and Youth.

It is submitted that the planning authority has erred in its assessment of the application. It would appear that the Planning Authority considers that in order for the Atlantic Way B&B to operate as a B&B that there has to be a residential component to operate same and accordingly only the B&B aspect of the premises is subject to the exemption and the residential use is not. It is submitted to the Commission that this assessment is incorrect and that if this was the case, then all B&Bs should be applying for permission for residential use and B&B use separately and not just B&B use.

The entirety of the building was permitted and used as a B&B and can be considered holiday accommodation or indeed other premises providing overnight accommodation, both specified uses under Class 14(h) of the Planning and Development Regulations 2001 – 2024 Schedule 2, Article 6, Part 1. The entirety of the building known as Atlantic Way B&B falls within the aforementioned classes and thus the proposal seeking to change the use of the B&B guesthouse use to use as accommodation for refugees and asylum seekers should be considered exempted development. We respectfully request An Coimisiún Pleanála to issue a declaration stating that the use of the property to accommodate protected persons does not constitute development.

1.2 Summary of Grounds

The applicant's grounds for referral can be summarised by the following points:

- The planning authority has erred in its assessment of the application. Having reviewed the report of the planning officer, it is quite apparent that the planning authority did not consider that Atlantic Way B&B provides holiday accommodation, guesthouse accommodation or indeed other premises providing overnight accommodation in its entirety. Instead, the Planning Authority has segregated the use of the premises considering that there is a residential element and a B&B element within the premises and accordingly the exemption does not apply. We strongly refute this assessment. There is no requirement for a B&B or guesthouse accommodation to have a separate residential use and there is no requirement for the owner or operator of the accommodation to reside in the premises.
- Notwithstanding the above, it is submitted that a residential unit can be used to house individuals or families who may also be international protection applicants. There will be no discernible change to the nature of the building other than the socio-economic class associated with the inhabitants occupying the building, which should never be taken into consideration when having regard to whether a change of use has occurred.
- The proposed use of the guesthouse accommodation comprising 15 no. rooms will not add strain to existing services, nor will it increase traffic volumes, noise or waste at the site. Therefore, there will not be an intensification of use on the site.
- There are numerous precedents whereby the use of B&B/guesthouse accommodation to provide accommodation for persons seeking international protection has been considered exempted development including:
 - **19 & 21 Coleman Road, Drumnavanagh, Cavan** – A declaration under Section V of the Planning and Development Act on whether the use of guesthouse accommodation to provide accommodation for persons seeking international protection was deemed exempt by Cavan County Council on 30th January 2025 under Ref. 393 (see appendix B).
 - **The Bridge Restaurant and Guesthouse, Coleman Road, Cavan** - A declaration under Section V of the Planning and Development Act on whether the use of guesthouse accommodation to provide accommodation for persons seeking international protection was deemed exempt by Cavan County Council on 18th November 2025 (see appendix B).
 - **The Forge Guesthouse, Mill Road, Saggart, Co. Dublin** – A declaration under Section V of the Planning and Development Act on whether the use of guesthouse accommodation to provide accommodation for persons seeking international protection was deemed exempt by South Dublin County Council on 20th November 2024 Under Ref. ED24/0057 (see appendix B).
 - **Setanta Guesthouse, 7 Castle Street, Townparks, Ardee, Co. Louth** - A declaration under Section V of the Planning and Development Act on whether the use of guesthouse accommodation to provide accommodation for persons seeking international protection was deemed exempt by Louth County Council on 1st November 2024 Under Ref. S5 2024/62 (see appendix B).

The existing use of the subject site is a B&B (i.e. providing holiday accommodation or other premises providing overnight accommodation), the proposed use is for accommodation for persons seeking international protection. Both the existing and proposed use are consistent with those contained within Class 14(h).

It is considered that the proposed development will not result in any amendments to the existing development on site which would not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the subject site, adjacent properties, and the wider surrounding streetscape. It is therefore submitted that the proposed works are considered exempted development in accordance with the provisions of Class 14(h) of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 (as amended).

2.0 Site Description

The subject property is located on the southern edge of Laghey village, approximately 6 kilometres south of Donegal town, Co. Donegal. The site extends to approximately 0.38 hectares and consists of a single storey building with no. 9 guest rooms. To the west of the property, there is a 0.12-hectare rear garden, which serves as an amenity space and is bordered by the N15 National Road.

The property has direct frontage onto the R232 local road, which provides the primary access into the village. This local road connects to the N15, located approximately 500 metres to the west. To the south of the property, there is a service station, a two-storey supermarket (Eurospar), along with associated restaurant and office spaces, as well as a garden centre and garage buildings.



Figure 1.0 Street view image showing the entrance to the subject site.

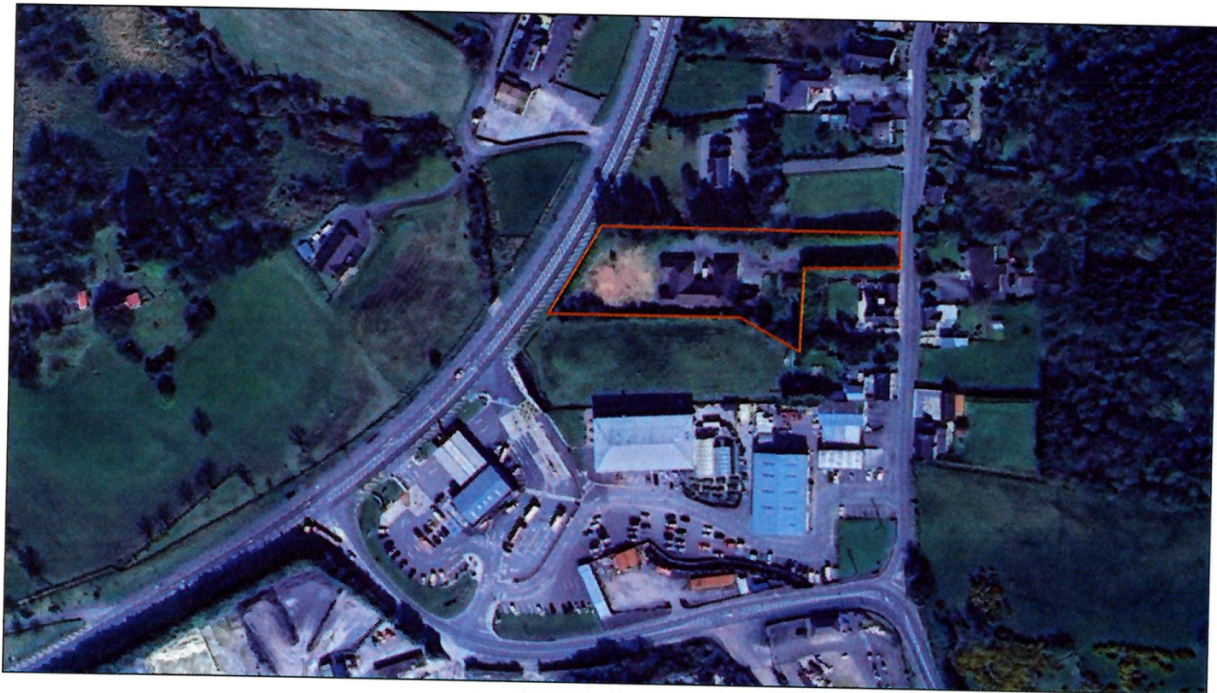


Figure 2.0 Aerial image showing the subject site, Atlantic Way B&B guesthouse (outlined in red).



Figure 3.0 Street view image of the subject site.



Figure 4.0 Image showing the outdoor amenity area within the subject site's grounds.



Figure 5.0 Immediate locational context of the subject site showing its road connectivity and surrounding amenities.

3.0 Planning History

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

Reg. Ref. 03/1007 Permission was granted by Donegal County Council on 23rd April 2004 for the erection of a single-storey extension to an existing dwelling house for Bed and Breakfast purposes and the installation of a new septic tank and treatment works.

There is a long-standing guesthouse use on the subject site as evidenced by the above application made to Donegal County Council. As such, it is a permitted use on the site.

4.0 Planning Context

4.1 Donegal County Development Plan 2024-2030

The subject lands are within the administrative area of Donegal County Council and are therefore regulated by the policies and objectives set out in the Donegal County Development Plan 2024–2030. The site is located within the settlement boundary of Laghey, categorised under Rural Settlements as per the Core Strategy and Settlement Strategy.

The Donegal County Development Plan outlines key policies and objectives for each settlement area, recognising the importance of sustaining rural communities, ensuring housing needs are met while balancing environmental and technical constraints. Section 3.3.4 of the Development Plan states:

“The Core Strategy/Settlement Strategy therefore allocates an appropriate housing target to the smaller rural settlements and open countryside to ensure that rural communities are supported and maintained.”

Objective CS-O-3 aims to:

“To support vibrant ‘Rural Settlements’ and ‘Open Countryside’ by providing for an additional population of approximately 7000 persons by 2030.”

These objectives align with the proposed use of the subject site, as the accommodation of *protected persons* contributes to the population growth and vibrancy of the rural settlement while fulfilling immediate housing needs.

Additionally, Policy RH-P-4 provides for opportunities to deliver necessary housing around rural settlements, outlining the following:

It is a policy of the council to consider opportunities to deliver necessary social and affordable housing at locations around (i) rural schools and; (ii) rural settlements; subject to wastewater services being appropriately delivered and maintained by Donegal County Council as part of a social housing scheme and subject to all other relevant objectives and policies of the plan, including environmental considerations and compliance with the Habitats Directive.

While this policy specifically mentions social and affordable housing, its principles are applicable to the proposal, as the reuse of the B&B for accommodation of *protected persons* addresses urgent housing needs in a manner consistent with the objective of providing sustainable rural housing solutions.

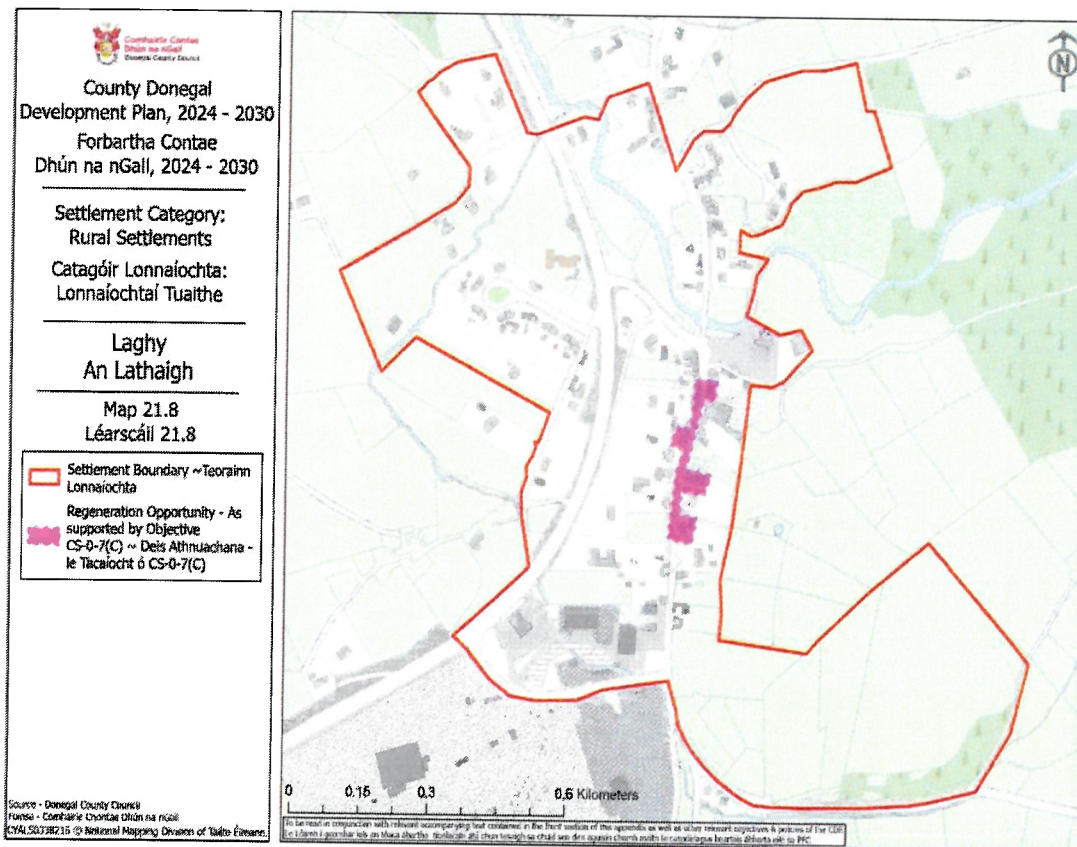


Figure 6.0 The subject site is identified as a ‘Rural Settlement’ under the Donegal County Development Plan 2024-2030.

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

5.0 Grounds for Referral

A Section 5 application was submitted to Donegal County Council to determine whether the use of Atlantic Way B&B as temporary accommodation for displaced persons seeking international protection constitutes development, or if it qualifies as exempted development.

On the 22nd May 2025, Donegal County Council refused a declaration of exemption for the use of Atlantic Way B&B to provide residential accommodation to protected persons under Reg. Ref. S524/101 (See Appendix A). The Planning Authority determined that *'in the response to the FI request, the applicant failed to detail a residential part of the existing dwelling that would be essential for use as a B&B. Failure to comply with the exemption in this regard therefore de-exempts use of the building for IPAS accommodation'*.

It is submitted that the planning authority has erred in its assessment of the application. There is no requirement for a B&B to be assessed as two separate uses i.e., as a residential dwelling and as a B&B. Atlantic Way B&B operated providing holiday accommodation and did not require a resident to reside within the B&B in order to operate as same. It is submitted that in its existing form, the development provides for 15 no. bedrooms, with 11 no. on the ground floor and 4 no. on the first floor, each with their own ensuite. In its current form, all 15 no. bedrooms could be provided for overnight accommodation in one night (i.e. all rooms within the B&B could be occupied for holiday accommodation).

The Planning Authority have determined that a residential use would be essential for use as a B&B. However, we would contend that the entirety of the building should be considered as B&B/guesthouse that provides holiday accommodation.

The existing use of the subject site is a B&B (i.e. providing holiday accommodation or other premises providing overnight accommodation), the proposed use is for accommodation for persons seeking international protection. Both the existing and proposed use are consistent with those contained within Class 14(h). It is considered that the proposed development will not result in any amendments to the existing development on site which would not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the subject site, adjacent properties, and the wider surrounding streetscape. It is therefore submitted that the proposed works are considered exempted development in accordance with the provisions of Class 14(h) of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 (as amended).

With regards to the current proposal, should the Commission determine the proposal to be exempt, the subject site will accommodate 51 no. persons, distributed between the rooms. In addition, there are various communal living areas including a common room, communal kitchen and laundry facilities, and various stores which are available for access by those accommodated at Atlantic Way B&B.

It is contended that, similar to the existing use as a B&B, it is intended that a small portion of the existing building is allocated as a staff office, and the remaining areas will be subject to the change of use to accommodate persons seeking international protection, see Figure 7.0 below. It is important to clarify that no personal care services will be provided to residents. All occupants are independent individuals, and management's role is strictly administrative and operational, ensuring the smooth running of the facility. The provision of shared amenities and on-site management does not constitute a care facility but rather supports the effective operation of a communal residential development.

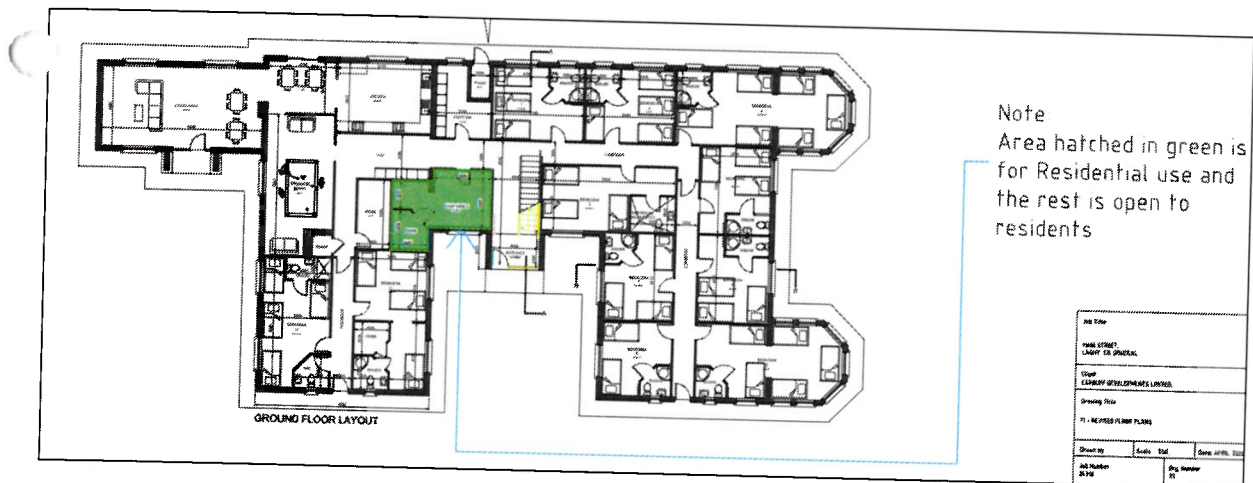


Figure 7.0 Ground floor plan of Atlantic Way B&B displaying the area allocated for a staff office (highlighted in green).

Upon review of the Planning Officer's report, it is evident that the Planning Authority did not adequately address the question posed. Critically, the authority failed to properly consider relevant national precedent including the following case examples whereby a change of use from B&B/guesthouse accommodation to accommodation for persons seeking international protection was deemed exempted development:

19 & 21 Coleman Road, Drumnavanagh, Cavan

A declaration under Section V of the Planning and Development Act on whether the use of guesthouse accommodation to provide accommodation for persons seeking international protection was deemed exempt by Cavan County Council on 30th January 2025 under Ref. 393 (see Appendix B).

The Bridge Restaurant and Guesthouse, Coleman Road, Cavan

A declaration under Section V of the Planning and Development Act on whether the use of guesthouse accommodation to provide accommodation for persons seeking international protection was deemed exempt by Cavan County Council on 18th November 2025 (see Appendix B).

The Forge Guesthouse, Mill Road, Saggart, Co. Dublin

A declaration under Section V of the Planning and Development Act on whether the use of guesthouse accommodation to provide accommodation for persons seeking international protection was deemed exempt by South Dublin County Council on 20th November 2024 Under Ref. ED24/0057 (see Appendix B).

Setanta Guesthouse, 7 Castle Street, Townparks, Ardee, Co. Louth

A declaration under Section V of the Planning and Development Act on whether the use of guesthouse accommodation to provide accommodation for persons seeking international protection was deemed exempt by Louth County Council on 1st November 2024 Under Ref. S5 2024/62 (see Appendix B).

The above precedents clearly demonstrate that the use of the entirety of Atlantic Way B&B to accommodate persons seeking international protection can constitute exempted development under planning legislation.

Furthermore, we also note that the change of use from residential to residential accommodation for persons seeking international protection can also be considered exempted development. Under Ref. **ABP Ref. 307077-20 –at The Rock Centre, Ballinamore, Co. Leitrim**, An Bord Pleanála determined that the use of previously incomplete apartments for residential accommodation, including for persons seeking international protection, **did not constitute a material change of use** and, therefore, **did not constitute development**.

Donegal County Council have determined that as there is a residential component to a B&B, the residential aspect de-exempts Atlantic Way B&B from the exemption criteria. However as per the precedents above, there are numerous section 5 declarations that confirm the change of use from B&B/guesthouse/holiday accommodation/ or other premises providing overnight accommodation to use as overnight accommodation for protected persons is exempted development. Furthermore, we note that there is precedent whereby residential use to residential accommodation for persons seeking international protection was considered exempted development.

It is submitted to the Commission that the entirety of the B&B is considered in accordance with the requirements of Class 14(h).

Furthermore, it is noted that under Section 2(1) of the Planning and Development Act 2000 (as amended), 'development' is assigned the meaning set out under Section 3(1) as follows: -

In this Act, 'development' means, except where the context otherwise requires, 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.

The Applicant does not intend to carry out works to the property, therefore, this declaration seeks clarification on the continued use of Atlantic Way B&B as a residential building that provides accommodation to protected persons but does not provide care. From the outset, it is contended that this **does not constitute development** as no change of use has occurred.

It is noted that legislation does not define the phrase '*material change of use*' as used in Section 2(1) of the Act. To determine the materiality of the change, the practical impacts and effects of the proposed change of use and whether it would have led to materially different planning considerations by the Planning Authority are considered in this determination.

The jurisprudence on this topic illustrates that the focus of the planning authority must be on the practical effects of the examined use, when determining whether it is materially different from the prior use. In *Esat Digifone v South Dublin County Council* [2002] 3 I.R. 585, the High Court made the following remarks:

"The consideration to be taken into account in determining materiality must at least be relevant to "proper planning and development and the preservation of amenities" which are the twin 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."

In a similar vein the court quoted Barron J. in *Galway County Council v. Lackagh Rock* [1985] I.R.120 at 127:

'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'.

A further decision in support of that view is that of Budd J. in *Westmeath County Council v. Quirke & Sons* [Unreported, High Court, 23rd May 1996] where 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 in use is a question of fact as is explained in Monaghan County Council v Brogan [1987] IR 339. Consideration of the materiality of a change in use means assessing not only the use itself but also its effects'.

Atlantic Way B&B has been in use as residential accommodation providing holiday accommodation since 2004, with the approval of Donegal County Council. The proposed use of the property continues the established residential use, with the only alteration to have occurred being an increase in the number of residents accommodated upon the site.

It is submitted that there will be no discernible change to the use of the building other than the socio-economic class associated with the inhabitants occupying the building which should not be taken into consideration when having regard to whether a material change of use has occurred as evidenced by the Supreme Court Dublin Corporation v Moore [1984] ILRM 339 in which the judge stated:

"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 others 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."

The subject site is an existing B&B facility with 15 no. guest rooms. Each room has an ensuite, with access to the living area, communal room and communal laundry services are available on site. A central waste collection area is provided on site, and a contracted collection service is in place. Residents are free to enter and exit the property throughout the day like any tenant renting from a private landlord. Staff employed by our client are responsible for the maintenance and management of the property. This building will provide long-term accommodation, with residents living there for a minimum of 12 months.

It is submitted that the continued use of the property to provide residential accommodation does not constitute development, as no material change of use has occurred.

In considering the above, it is submitted that the use of Atlantic Way B&B as a long-term residential building to house protected persons, which does not provide care, does not constitute a change of use and therefore, does not constitute development in accordance with the Planning and Development Act 2000 (as amended).

With regard to the intensification of the use, it is submitted that the use of the property to provide accommodation to protected persons does not constitute an intensification of the use. The remarks of Clarke J. in *Cork County Council v. Slattery Pre-Cast Concrete* [2008] IEHC 291 are relevant in assisting the Board 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".

The question as to whether an intensification of an existing use at a property constitutes a material change of use is one to be assessed in light of the practical effects of that intensification on relevant planning considerations. These considerations include but are not limited to, increased vehicular traffic, noise, waste collection and impact on the amenity of surrounding residents.

The proposed use has been assessed in the context of the issues highlighted in the above case law:

Traffic Volumes:

As noted, the property would accommodate protected persons. Given the status of the residents as asylum seekers and the fact that children will likely reside at the property, it is reasonable to assume that car ownership and usage at the site would be extremely low. The property is located in Laghey and is within walking distance of amenities and services, thus negating the need for private cars.

It is noted that the building is located near Laghey Bus Stop, which is served by Bus Éireann's local and regional routes. We note that bus route 480 operates from Sligo to Derry via Donegal town, bus route 264 from Ballyshannon to Letterkenny, and bus route 292 from Ballyshannon to Donegal.

The number of staff will be minimal and mostly comprise maintenance and management staff. It is considered that there will not be a noticeable increase in traffic volumes at the site.

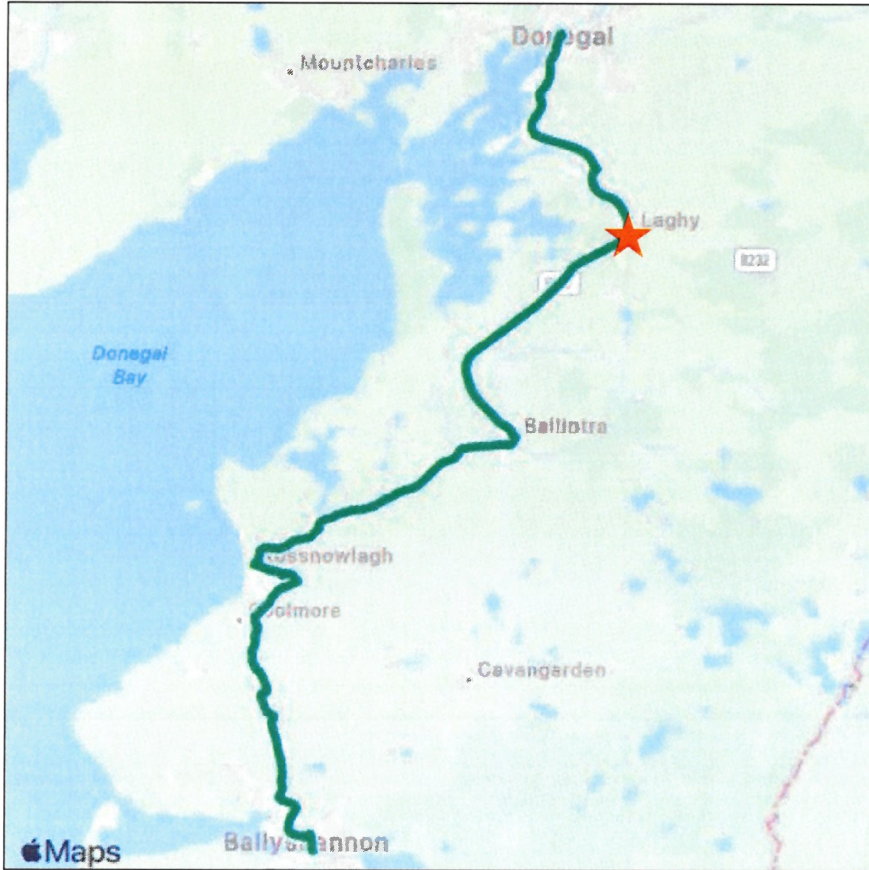


Figure 8.0 Proposed bus route 292 map from Ballyshannon to Donegal. The subject site (red star) is located along the route.



Figure 9.0 Proposed bus route 264 map from Ballyshannon to Letterkenny. The subject site (red star) is located along the route.

Waste Collection:

With regards to waste collection, no change is proposed to the current waste collection system at Atlantic Way B&B. It is noted that a central waste collection area is provided on site, and a collection service is in place. This will not affect the adjoining footpath or roadway. It is not anticipated that the increase in residents will result in excessive waste at the residential building that cannot be dealt with by the current waste collection setup.

Noise:

The proposed use will not affect noise levels in the area that may be detrimental to the amenity of adjoining dwellings. As noted, the B&B will be used to provide accommodation to protected persons. There will not be any increase in noise that would not be in keeping with the existing use. It is also noted that the property is located in the town centre, where noise levels are slightly elevated regardless of the property's use.

Having regard to the above, it is our opinion that the increase in residents at this property does not constitute an intensification of the use. It is our client's submission that the practical differences in the current use of Atlantic Way B&B as a residential accommodation for persons seeking international protection are, to all intents and purposes, almost indiscernible from its approved use.

Whilst it is clearly a matter for the Commission to determine, in accordance with the law set out above, it is our submission that the lack of practical effects of the new use, in line with the judgments of the High Court in *Slattery Pre-Cast Concrete* and *Molloy*, means that no material change of use will occur at Atlantic Way B&B. Given the lack of any material change in use, no development requiring planning permission pursuant to the terms of the Planning and Development Act, 2000, has taken place or is proposed to take place in this regard.

6.0 Conclusion

It is intended to use the subject site at Atlantic Way B&B to provide accommodation for protected persons. This property will not provide care to residents.

Therefore, the question before the Commission is:

"Whether the use of a bed and breakfast at the Atlantic Way B&B, Main Street, Laghey, Co. Donegal, to provide accommodation for persons seeking international protection, constitutes exempted development or does not constitute exempt development?"

Accordingly, we request An Coimisiún Pleanála to set aside the decision of Donegal County Council and decide that the proposed development does not constitute development.

We trust that the Commission will have regard to this submission and look forward to the decision in due course.

Kevin Hughes MIPI MRTPI
Director for HPDC

Appendix A Copy of the decision by Donegal County Council to refuse a section 5 declaration.



**Comhairle Contae
Dhún na nGall**
Donegal County Council

Áras an Chontae,
Leifear,
Contae Dhún na nGall, F93 Y622

County House,
Lifford,
County Donegal, F93 Y622

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W: www.ccdhunangall.ie

Planning Services
E: planning@donegalcoco.ie

Ref. No: S5 24/101

22nd May 2025

CARDUFF DEVELOPMENTS LIMITED
C/O HUGHES PLANNING & DEVELOPMENT CONSULTANTS
85 MERRION SQUARE
DUBLIN 2
D02 FX60

Re: Change of use of existing bed and breakfast to provide accommodation for persons seeking international protection at Atlantic Way B&B, Main Street, Laghey, Co. Donegal, F94 XA37

A Chara,

I refer to your request received on 11th December 2024 (FIC 2nd May 2025) under Section 5 of the Planning and Development Act, 2000 (as amended). Same has now been decided and I now issue to you herewith the Council's Declaration thereon. You are now advised that, in accordance with Section 5 (3) (a) of the Planning & Development Act, 2000 (as amended) where a Declaration is issued, any person issued with such a Declaration may, on payment to An Bord Pleanála of such fee as may be prescribed, refer a Declaration for review by the Board within 4 weeks of the date of issuing of the Declaration.

Mise, le meas,

**For Senior Ex. Planner
Planning Services**

/RMcC

Planning and Development Acts, 2000 (as amended)
(Declaration and Referral on Development and Exempted Development)

DECLARATION

Chief Executive's Order No: 2025PH1422

Reference No: S5 24/101

Name of Requester: Carduff Developments Limited
C/o Hughes Planning & Development Consultants,
85 Merrion Square,
Dublin 2,
D02 FX60

Summarised Description of development the subject matter of request:

Change of use of existing bed and breakfast to provide accommodation for persons seeking international protection

Location: Atlantic Way B&B, Main Street, Laghey, Co. Donegal, F94 XA37.

IT IS HEREBY DECLARED THAT THE SUBJECT MATTER OF THE REQUEST AS ABOVE

IS Development

IS Not Exempted Development

WITHIN THE MEANING OF THE ABOVE ACT

The Planning Authority in considering this referral, had regard particularly to:

- Sections 2, 3, 4 and 177U of the Planning and Development Act, 2000 (as amended)
- Articles 6(3), 9(1) 10(6) and Class 14 (h) of Part 1, Schedule 2 of the Planning and Development Regulations, 2001 (as amended).

The proposal **IS DEVELOPMENT** within the meaning of the Planning and Development Act, 2000 (as amended) and **IS NOT EXEMPTED DEVELOPMENT** as it does not come within the scope of Class 14 (h) of Part 1 of Schedule 2 of the Planning & Development Regulations, 2001 (as amended) and it has not been demonstrated that the proposed temporary use is on behalf of the Minister for Children, Equality, Disability, Integration and Youth.



For Senior Ex. Planner
Planning Services

Dated this 22nd day of May 2025

Appendix B Precedent Decisions on Change of Use from B&B/Guesthouse Accommodation to Accommodation for Persons Seeking International Protection



Cavan

Comhairle Contae an Chabháin
Cavan County Council

Cavan County Council
Johnston Central Library
Farnham Street
Cavan H12 V3W4

T: 049 437 8300 Comhairle Contae an Chabháin
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Rossblue Management

c/o Hughes Planning and Development Consultants
85 Merrion Square
Dublin 2
D02 FX60

30 January 2025

Ref: 393

Re: Declaration under Section V of the Planning and Development Act 2000 (as amended) whether the use of the guesthouse accomodation to provide accomodation for persons seeking international protection at 19 & 21 Coleman Road, Drumnavanagh, Cavan is, or is not, exempted development.

A Chara,

I refer to your application for a Declaration under Section 5, received in the Planning Office on 21 January 2025.

Having regard to Class 14(h), Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 (as amended), the Planning Authority considers the proposed development to be Exempted Development.

NOTE: An appeal against the declaration may be made to An Bord Pleanála within four weeks beginning on the date of the declaration.

Appeal must be accompanied by the appropriate fee. Forms and full particulars are available from www.pleanala.ie/appeals.

Appeal should be addressed to An Bord Pleanála, 64 Marlborough Street, Dublin 1, D01V902

Mise le meas,

Senior Staff Officer



cavan

Comhairle Contae an Chabháin
Cavan County Council

Cavan County Council
Johnston Central Library
Farnham Street
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T: 049 437 8300 Comhairle Contae an Chabháin
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W: www.cavancoco.ie

Rosblue Management Limited
c/o Hughes Planning & Development Consultants
85 Merrion Square
Dublin 2

18 November 2024

A Chara,

I refer to your application for a Declaration under Section 5, received in the Planning Office on 22 October 2024.

Having regard to Schedule 2, Article 6, Part 1, Class 14(h) of the Planning and Development Regulations 2001 (as amended), the planning authority considers the proposed development to be Exempted Development.

NOTE: An appeal against the declaration may be made to An Bord Pleanála within four weeks beginning on the date of the declaration.

Appeal must be accompanied by the appropriate fee. Forms and full particulars are available from www.pleanala.ie/appeals.

Appeal should be addressed to An Bord Pleanála, 64 Marlborough Street, Dublin 1, D01V902

Mise le meas,

Cathal Boylan

Senior Staff Officer



Comhairle Contae Lú
Louth County Council

REGISTERED POST

Brimwood Unlimited Company
c/o Hughes Planning & Development Consultants
85 Merrion Square
Dublin 2

22nd November 2024

Re: **Ref. S5 2024/62**

Application for Declaration of "Exempted Development" Part 1, Section 5, Planning & Development Act 2000 (as amended) as to whether the use of a Guesthouse to provide accommodation for persons seeking international protection at No. 7 Castle Street, Ardee, Co. Louth is or is not development and is or is not exempt development within the meaning of the Planning and Development Act 2000 (as amended)

Dear Sir/Madam,

I wish to acknowledge receipt of your application received on 01st November 2024 in relation to the above. Having assessed all information and enclosures received with the application, the Planning Authority wishes to advise as follows: -

WHEREAS a question has arisen pursuant to Section 5 of the Planning and Development Act 2000 (as amended) as to 'Whether the use of a Guesthouse to provide accommodation for persons seeking international protection, constitutes exempted development or does not constitute exempted development' at no. 7 Castle Street, Ardee County Louth is or is not development and is or is not exempt development.

AND WHEREAS Louth County Council in consideration of this question has had regard particularly to:

- (a) The definition of "development" in **Section 3(1)** of the Planning & Development Act 2000 (as amended);
- (b) Specifically, the provisions under **Class 14(h) of Part 1, Schedule 2** of the Planning and Development Regulations, 2001 (as amended),
- (c) Articles 6 and 9 of the Planning & Development Regulations 2001 (as amended);
- (d) Planning history

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

Louth County Council
Town Hall
Crowe Street
Dundaik
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Cuirfear fáilte roimh chomhfhreagras Gaeilge - Correspondence in Irish is welcome

Féach foláirímh faoi Lú ón gComhairle ag www.mapalserter.ie/Louth

View Council alerts for Louth at www.mapalserter.ie/Louth

AND WHEREAS *Louth County Council has concluded: -*

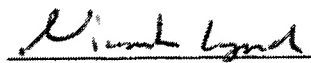
- (a) The “use of a Guesthouse to provide accommodation for persons seeking international protection” constitutes development under Section 3(1) of the Planning & Development Act, 2000 (as amended);
- (b) Planning history pertaining to the site whereby the use of the property has been permitted as a guest house; and
- (c) Having regard to **Class 14(h)** of Part 1, Schedule 2 of the Planning and Development Regulations, 2001 (as amended), it is considered that the said development is exempt development

NOW THEREFORE Louth County Council in exercise of the powers conferred on it by Section 5(2)(a) of the Planning and Development Act 2000 (as amended), hereby decides that the proposed “use of a Guesthouse to provide accommodation for persons seeking international protection” at no. 7 Castle Street, Ardee, County Louth is **development** and is **exempted development**.

In Summary

A Declaration of Exemption is hereby GRANTED for the proposed works as detailed on the plans and particulars submitted on 01st November 2024.

Yours faithfully,



Niamh Lynch
Planning Section

Telephone: 01 4149000 Fax: 01 4149104 Email:
planningdept@sducobco.ie

Hughes Planning and Development Consultants
85, Merrion Square
Dublin 2

20-Nov-2024

Dear Sir/ Madam,

Our Ref: ED24/0057
Re: The Forge Guesthouse, Mill Road, Saggart, Co. Dublin

I wish to inform you that the proposed development of Whether the use of a Guesthouse at the Forge Guesthouse, Mill Road, Saggart, Co. Dublin D24PV2, (A Protected Structure RPS Ref. 320) to provide accommodation for persons seeking international protection, constitutes exempted development or does not constitute exempted development? 2 (a) Section of Exempted Development Regulations under witch exemption is claimed (if Known): Class 14 Planning and Development Regulations 2001-2024 Schedule 2, Article 6, Part 1 at the above address is, by Chief Executive's Order PR/1291 dated 18-Nov-2024 , DECLARED EXEMPT and therefore **WILL NOT** require planning permission.

A copy of the Planner's report is enclosed for your information.

Yours faithfully,

Pamela Hughes
for Senior Planner