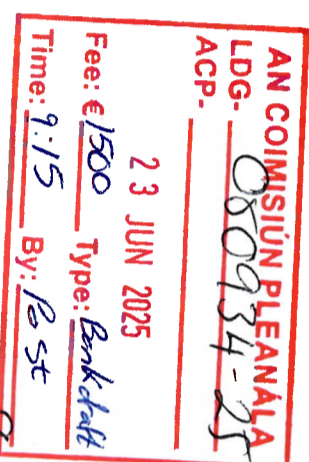




**Atlantic Building
CONSULTANTS**

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



Declaration Reference: ED25/66

Appellant: Dom St Properties (Ltd) Galway,

Appellant Address: Oranmore House, Main Street, Oranmore Co. Galway,

Agent: Atlantic Building Consultants Ltd

Agent Address: Unit 1, Digital Hub, Merchants Quay Business Quarter, Kilrush, Co Clare

Subject Property: No. 69, 70, 71, 72, 73, 74, 75, 76, 129, 130, 131 and 132 Caislean Ri, Athenry, Co. Galway.

Subject Matter: Appeal against Galway County Councils Decision to deem the use of existing residential dwellings located at No. 69, 70, 71, 72, 73, 74, 75, 76, 129, 130, 131 and 132 Caislean Ri, Athenry, Co. Galway for use as accommodation for protected persons is "Development" and "Not Exempted Development"

Date of Declaration: 27th May 2025

PLANNING APPEAL

1. Introduction

On behalf of our client, Dom St Properties (Ltd) Galway, we hereby submit this referral to An Bord Pleanála under the provisions of Section 5 of the Planning and Development Act, 2000 (as amended) in respect of the declaration made by Galway County Council under Reference ED25/66, dated 27th May 2025, concerning the use of an existing residential dwellings for accommodating persons seeking international protection.

We respectfully request that An Bord Pleanála review the Section 5 Declaration issued by Galway County Council and make a determination that providing accommodation to persons seeking international protection is deemed not "Development" and in the case that the use for accommodating persons seeking international protection is deemed "development, the use for accommodating persons seeking international protection is "Exempted Development" under Class 14(h) Part 1 of Schedule 2 of the Planning & Development Regulations 2001 (as amended).

The prescribed fee is enclosed align with a copy of the declaration issued by Galway County Council. This report sets out the rationale



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CONSULTANTS

1.1. Description of Property and Use

The subject property is a purpose-built residential estate comprising multiple self-contained, dwellings. The dwellings subject to this appeal comprise 12 semi-detached two storey dwellings located at No 69, 70, 71, 72, 73, 74, 75, 76, 129, 130, 131 and 132 Caislean Ri, Athenry, Co. Galway.

Each of the subject dwellings function independently and are self-contained, with private kitchen, bathroom, and habitable rooms, operating as standard residential units for families who are seeking international protection.

Residents are free to enter the individual dwellings as they wish, in a manner consistent with standard tenancies.

The subject dwellings have operated continuously as residential accommodation, and the use of these dwellings to provide accommodation to persons seeking international protection involves no structural alterations, no intensification of use, and no new impacts on the surrounding area.

The applicant provides no direct care facilities or services for the residents of the dwellings. There are no institutional or communal facilities onsite.

The dwellings are occupied by families in line with their original intended use and the occupancy rate of each dwelling does not constitute overcrowding or an excessive arrangement.

This number of occupants of each dwelling is well within reasonable limits for a shared household, especially when the space is adequate to accommodate everyone's needs comfortably.

Existing Occupancy

- 69 (8 people / 2 different families living together for 2+years)
- 70 (6 people / 1 family)
- 72 (6 people / 1 family)
- 73 (5 people / 1 family)
- 75 (5 people / 1 family)
- 129 (8 people / 2 different families living together for 2+years)
- 130 (7 people / 1 family)
- 131 (5 people / 1 family)
- 132 (5 people / 1 family)

This use of the subject dwellings aligns with the original planning permissions (P06/3813, P12/4, P20/1611, P21/1846), which do not restrict occupancy based on residents' legal or socioeconomic status, nor is there any restrictions on occupancy.



1.2. Section 5 Declaration of Galway County Council

On 27th May 2025, Galway County Council issued Declaration (Ref ED25–66) of Exempted Development under section 5 of the Planning & Development Act 2000 for existing dwelling houses located at No. 69, 70, 71, 72, 73, 74, 75, 76, 129, 130, 131 and 132 Caislean Ri, Athenny, Co. Galway.

The planning authority deemed the use of the existing dwellings for the purpose of providing accommodation for persons seeking international protection constitutes “development” under section 3 of the planning and development act 2000 as amended.

The planning authority has also deemed that the use of the dwellings for the purpose of providing accommodation for persons seeking international protection is not considered exempt under Class 14 (h) of the planning and development regulations 2001 (As amended), as a dwelling house does not fall under any of the structures that are considered to be exempt under Class 14 (h).

2. Summary of Grounds for Referral

2.1. Development

Galway County Council’s Declaration of Exempted Development under section 5 of the Planning & Development Act 2000 reference ED25/66 issued on 27th May 2025 states following:

“Having regard to the above, in conjunction with the Sections 2, 3 & 4 of the Planning and Development Act 2000 (as amended) and Articles 6 & 9 of the Planning and Development Regulations 2001 (as amended), it is considered that the development would constitute development under Section 3 of the Planning and Development Act 2000 (as amended).”

Under Section 3(1) of the Planning and Development Act 2000, development is set out as a “material change of use”. Such a “material change requires a shift in the functional character or planning impacts of the property (Westminster City Council v British Waterways Board [1985]. In this case there is:

i) **No Functional Change:** the dwellings remain residential in nature, irrespective of occupants being persons seeking international protection. In Donegal County Council Ref. S5 24/105, the use of apartments for protected persons was deemed identical in function to general residential use, as both involve “overnight accommodation by households.” In this case, the dwellings remain private homes with no communal facilities, management offices or intensification of use.
The dwelling are occupied by families who are familiar to each other and reside in these dwellings per the original intended use of the granted planning permissions.

ii) **No Planning Impact:** The use of the dwellings does not introduce new traffic, noise, or infrastructural demands beyond those of typical residential occupancy. There is no change to waste generation or visual character of the dwellings.

iii) **Legal Precedent:** The Supreme Court in *Dublin Corporation v Moore [1984] ILRM 339* affirmed that demographic differences among residents (such as legal status) are irrelevant

to planning assessments and held that “the socioeconomic profile of residents is irrelevant to materiality.” Accordingly, any variation in the demographic profile of the occupants such as their legal status or background should not be considered when determining whether a change of use is material, and the current use does not constitute a material change.

iv) Planning Precedent: The following definitions are provided to demonstrate the similarities between apartments and dwellings in terms of their intended use:

- Dwelling: Any building (or part thereof) ordinarily used as a residence, including houses, flats, apartments, associated land
- Apartment: A self-contained residential unit within a larger building—legally a type of dwelling

An Bord Pleanála case reference 307077-20 is provided as an example of a residential development comprising multiple units in close proximity that has been deemed to be “Not Development” and as such suitable to provide overnight accommodation to persons seeking international protection.

Premises: The Rock Centre

Description: The referral site is located to the southeast side of Ballinamore town centre in County Leitrim and currently comprises a two-three storey mixed-use development, including upper-level residential use and ground-floor retail and commercial uses that are anchored by a Tesco supermarket. The majority of the retail and commercial units at ground floor are vacant at present and the development has been subject of three recent planning permissions. The development is currently served by two expansive surface-level car parks on the northeast side and the rear of the main building, as well as a basement car park. The upper-floor residences are accessed solely by a gated stairs off Cannaboe Street and served by a management and security suite. Each of the 25 residences are own-door residences served by a central courtyard marking out individual amenity areas by raised planters and featuring seating areas and play areas.

Address: Ballinamore, Co. Leitrim

Reference: Reg. Ref. 307077-20

Planning Authority: Leitrim County Council

Decision: Following a referral to An Bord Pleanála, it was declared that the use of apartments for protected persons and works to the apartments is not development.



v) Development & Exempted Status

Either of the following should be demonstrated to constitute “Development” and in this case, no actual physical works/alterations (either completed or planned) are proposed to any of the dwellings nor has Galway County Council demonstrated material change of use to any of the dwellings has occurred.

The subject dwelling are being used for their intended purpose providing overnight accommodation to families.

2.2. Exempted Development

Galway County Council’s Declaration of Exempted Development under section 5 of the Planning & Development Act 2000 reference ED25/66 issued on 27th May 2025 states following:

“We the planning authority are of the opinion that the proposed works are not considered exempt under Class 14(h) of the Planning and Development Regulations 2001 (as amended), as a dwelling house does not fall under any of the structures that are considered to be exempt under Class 14(h) (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) **Premises Type:** The subject dwellings are unequivocally included under “other premises providing overnight accommodation” as established in *The Rock Centre* determination (ABP 307077-20) and *Robinson Hall* decision (Donegal CC S5 24/105).
- ii) **Regulatory Compliance:** There is no breach of original planning conditions (p06/3813) or zoning objectives for the subject dwellings
- iii) **Policy Synergy:** There is full alignment with Athenry LAP’s “Residential Existing” zoning (Section 6), National Policy Objective 37 (Housing for All), and Ireland’s obligations under the EU Reception Conditions Directive 2024/1346.
- iv) **Precedent-Based Certainty:** The unbroken consensus of planning authorities and An Bord Pleanála affirms that:
 - Residential use for protected persons equals no material change
 Or
 - If development, there is an automatic exemption under Class 14(h)

3. Supporting Documentation

Document	Reference	Description
Galway County Council Decision – Ref. ED25/66,	Appendix A	Galway County Council Decision – Ref.
Section 5 Declaration	Appendix B	Completed Section 5 Declaration Section 5 Application submitted to Galway County Council



4. Conclusions

Based on the comprehensive assessment above and along with supporting documentation, Atlantic Building Consultants Ltd, on behalf of Dom Street Properties Ltd (Galway), conclusively asserts the following:

“The use of No 69, 70, 71, 72, 73, 74, 75, 76, 129, 130, 131 and 132 Caislean Ri, Athenry, Co. Galway as accommodation for persons seeking international protection does not constitute development, as it involves no alterations or material change of use.”

“Should An Bord Pleanála determine the proposal constitutes ‘Development’, it is exempted development under Class 14(h), Part 1, Schedule 2 of the Planning & Development Regulations 2001 (as amended).”

For all queries or clarifications required in relation to the information provided in this letter, please contact the undersigned.

Yours sincerely

Mark Tubridy C.Eng MIEI, B.Eng.
Atlantic Building Consultants Ltd



Bosca Poist Uimhir 27,
Aras an Chontae,
Cnoc na Radharc,
Galilimh

Telephone: (091) 509308
Email: planning@galwaycoco.ie
Web: www.galway.ie

Comhairle Chontae na Galilimhe
Galway County Council

Dom St Properties (Ltd) Galway,
C/o Mark Tubridy,
Atlantic Building Consultants Ltd,
1 Digital Hub,
Merchants Quay Business Quarter,
Frances Street, Kilrush,
Co. Clare, V15 FN53.

27th May 2025

RE: Declaration of Exempted Development under section 5 of the Planning & Development Act 2000

ED25/66 – Section 5 response is requested for 12 residential dwellings to determine if the current use for accommodation for persons seeking international protection is "Development" and if it is "Exempted Development" at No. 60, 70, 71, 72, 73, 74, 75, 76, 129, 130, 131 and 132 Caislean Ri, Athenry, Co. Galway.

DECISION – NOT EXEMPTED DEVELOPMENT

A Chara,

The Planning Authority, in considering this Section 5 application, had regard particularly to

- (a) The definition of "works" set out in Section 2 of the Planning and Development Act 2000 (as amended);
- (b) The definition of "development" set out in Section 3 of said Planning and Development Act;
- (c) Section 4 of said Planning and Development Act 2000 (as amended);
- (d) Article 6 of the Planning and Development Regulations 2001 (as amended);
- (e) Article 9 of the Planning and Development Regulations 2001 (as amended);
- (f) Class 14(h) of the Planning and Development Regulations 2001 (as amended);
- (g) Documents submitted from the referrer in this Section 5 application.

The Planning Authority, in exercise of the powers conferred on it by Section 5 of the 2000 Planning Act (as amended), hereby decides that:

The current use for accommodation for persons seeking international protection is "Development" and if it is "Exempted Development" at No. 60, 70, 71, 72, 73, 74, 75, 76, 129, 130, 131 and 132 Caislean Ri,

Our Ref: ED 25/66

Athenry, Co. Galway is development and is **not exempted development** under Class 14(h) of the Planning and Development Regulations 2001 (as amended)

Opinion:

Having regard to the above, in conjunction with the Sections 2, 3 & 4 of the Planning and Development Act 2000 (as amended) and Articles 6 & 9 of the Planning and Development Regulations 2001 (as amended), it is considered that the development would constitute development under Section 3 of the Planning and Development Act 2000 (as amended).

We the planning authority are of the opinion that the proposed works are not considered exempt under Class 14(h) of the Planning and Development Regulations 2001 (as amended), as a dwelling house does not fall under any of the structures that are considered to be exempt under Class 14(h)

*(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,***

We acknowledge the applicant's reference to An Bord Pleanála's ABP-307077-20 report and Donegal County Council's Section 5 Referral Report – S524/104. However, we, the planning authority do not consider that singular dwelling houses falls within the scope of 'other premises' as described in 'Class 14(h) of the Planning and Development Regulations 2001 (as amended).

Please note that you may appeal this decision to **An Bord Pleanála** within four weeks of the issue of this declaration on payment of the prescribed fee. appeals@pleanala.ie

Mise le meas

John O'Connor
Planning & Sustainable Development Unit



**REQUEST FOR SECTION 5 DECLARATION
OF EXEMPTED DEVELOPMENT**

@

**No. 69, 70, 71, 72, 73, 74, 75, 76, 129, 130, 131 and
132**

Caislean Ri, Athenry, Co. Galway

Atlantic Building Consultants Ltd
1 Digital Hub, Merchants Quay Business Quarter,
Frances Street, Kilrush, Co. Clare, Ireland V15 FN53

Email: info@atlantibc.ie
Website: www.atlantibc.ie

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DOCUMENT CONTROL SHEET

Project Title	Request for Section 5 Declaration of Exempted Development
Project Subject	No. 69, 70, 71, 72, 73, 74, 75, 76, 129, 130, 131 and 132 Caislean Ri, Athenry, Co. Galway
TE Reference	P_25_169
Revision	02
Status	Final Report
Control Date	13 th May 2025

Record of Issue

Issue	Status	Date
1/1	Final	13/05/2025

Distribution

Organisation/Person	Status
Galway County Council	Submission

1. INTRODUCTION

1.1. Executive Summary

Atlantic Building Consultants Ltd, have prepared this Report to accompany a request for a Declaration pursuant to Section 5 of the Planning and Development Act, 2000, as amended, on behalf of our client, Dom Street Properties Ltd (Galway), concerning twelve (12) semi-detached dwellings located in Caislean Ri, Athenry, Co. Galway.

The subject dwellings are located No 69, 70, 71, 72, 73, 74, 75, 76, 129, 130, 131 and 132 Caislean Ri, Athenry, Co. Galway and have being accommodating International Protection Applicants for since December 2022.

We submit the following in relation to these dwellings:

Use of residential houses as temporary accommodation for persons seeking international protection does not constitute "development" as it does not involve altering the nature of occupancy from general residential use to accommodation for protected persons.

Where it is determined by Galway County Council that the use of the subject dwellings does constitute "development", that such a change is exempted under Class 14(h) Part 1 of Schedule 2 of the Planning & Development Regulations 2001 (as amended) where it meets the prescribed conditions below:

- a) The proposal aligns with Class 14(h), as the site is already permitted for residential use.*
- b) No works are proposed that would contravene existing planning conditions.*
- c) The use as accommodation for protected persons complies with local zoning and planning policy, including social inclusion objectives.*

1.2. Applicant

This report has been commissioned by Dom Street Properties Ltd (Galway),

1.3. Location

The existing site is located Caislean Ri, Athenry, Co. Galway and includes twelve (12) two storey semi-detached dwellings – refer to site map attached and below.

- 69 Caislean Ri, Athenry, Co. Galway, H65 TV76
- 70 Caislean Ri, Athenry, Co. Galway, H65 X209
- 71 Caislean Ri, Athenry, Co. Galway, H65 RX67
- 72 Caislean Ri, Athenry, Co. Galway, H65 R597
- 73 Caislean Ri, Athenry, Co. Galway, H65 AW02
- 74 Caislean Ri, Athenry, Co. Galway, H65 Y132
- 75 Caislean Ri, Athenry, Co. Galway, H65 CT93
- 76 Caislean Ri, Athenry, Co. Galway, H65 PK31
- 129 Caislean Ri, Athenry, Co. Galway, H65 W672
- 130 Caislean Ri, Athenry, Co. Galway, H65 A990
- 131 Caislean Ri, Athenry, Co. Galway, H65 H012
- 132 Caislean Ri, Athenry, Co. Galway, H65 DK74

1.4. Consultant

This report and supporting application have been compiled and submitted on behalf of the applicant by Atlantic Building Consultants Ltd.

1.5. Supporting Documents

Document	Reference	Description
Declaration Form	Appendix A	Completed Section 5 Declaration
Inspectors Report	ABP-307077-20	An Bord Plána Report
Section 5 Referral Report	Ref. No: S524/105	Robbinson Hall Apartments
Location Map	P_25_169 LM	OSI Map – Scale 1:2500
Site Map	A125	Site Map – Scale 1:500

2. SITE DESCRIPTION

The subject site is located in Caislean Ri, Athenny, Co. Galway. The site is bound on all sides by existing residential land uses.

The dwellings subject to this application are outlined in red in the below image and represent twelve (12) semi-detached residential dwellings.



Figure 1: Google Map - <https://maps.app.goo.gl/eyNVagNzddFQ2Yz58>

3. PLANNING HISTORY

The following table demonstrates the planning history for the site pertaining to the dwellings applicable to this request for a Section 5 Declaration of Exempted Development. As is evidenced below, the site has been consistently approved for residential use since 2006, with Extensions of Duration granted in 2012 and 2021.

Planning Reference	Description	Grant Date
P06/3813	"To construct a creche with four bedroom apartment over and 74 no, dwelling houses consisting of (1) 2 no. two storey detached houses (2), 52 no, two storey semi-detached houses (3), 20 no, two storey terraced houses (five blocks of 4) and 4 (polishing filters, roads and associated services to be connected to wastewater treatment plant approved under Pl. REF No. 043598 (Gross Floor Area 7965sqm) in the townland of Cullairbaun.	2006
P12/4	"Extension of Duration for full permission Planning to construct a creche with four bedroom apartment over and 74 no, dwelling houses consisting of (1) 2 no. two storey detached houses (2), 52 no, two storey semi-detached houses (3), 20 no, two storey terraced houses (five blocks of 4) and 4 (polishing filters, roads and associated services to be connected to waste water treatment plant approved under Pl. REF No. 043598 (Gross Floor Area 7965sqm) in the townland of Cullairbaun"	17/04/2012
P20/1611	"for revisions to access arrangements to housing development previously permitted under Pl. Ref. No.'s 06/3813 (as extended under Pl. Ref. No's 12/4 & 18/12) at Cullairbaun, Atherry. The development consists of : 1) Varying of Condition No. 20 of Pl. Ref. No. 06/3813. The proposed revision seeks to retain the existing "Caislean Ri" housing estate entrance onto the R347 road. In addition, it is proposed to construct a mini roundabout along the R347 road to the south of the existing Caislean Ri entrance, which will include facilitation of access to the permitted housing development (west of the R347) originally granted under Pl. Ref. No. 06/3813 (as extended under Pl. Ref No's 12/4 & 18/12). The mini-roundabout will also facilitate continued north-south access along the R347 road, as well as providing continued access to and from the Ard Esker housing estate to the east. (2) Alterations to internal access roads, including provision of a cul de sac adjacent to Caislean Ri, whilst providing for pedestrian connectivity to the latter housing estate, together with associated site works"	21/06/2021
P21/1846	"Extension of Duration for full permission Planning to construct a creche with four bedroom apartment over and 74 no, dwelling houses consisting of (1) 2 no. two storey detached houses (2), 52 no, two storey semi-detached houses (3), 20 no, two storey terraced houses (five blocks of 4) and 4 (polishing filters, roads and associated services to be connected to waste water treatment plant approved under Pl. REF No. 043598 (Gross Floor Area 7965sqm) in the townland of Cullairbaun"	22/12/2021

4. PLANNING PRECEDENTS

The following Planning Precedents have been set in County Leitrim (via An Bord Pleanála) and Co Donegal in relation to the use of residential dwellings for accommodation for persons seeking international protection.

a) The Rock Centre,

Description:

The referral site is located to the southeast side of Ballinamore town centre in County Leitrim and currently comprises a two-three storey mixed-use development, including upper-level residential use and ground-floor retail and commercial uses that are anchored by a Tesco supermarket. The majority of the retail and commercial units at ground floor are vacant at present and the development has been subject of three recent planning permissions. The development is currently served by two expansive surface-level car parks on the northeast side and the rear of the main building, as well as a basement car park. The upper-floor residences are accessed solely by a gated stairs off Cannaboe Street and served by a management and security suite. Each of the 25 residences are own-door residences served by a central courtyard marking out individual amenity areas by raised planters and featuring seating areas and play areas.

Address: Ballinamore, Co. Leitrim

Reference: Reg. Ref. 307077-20

Planning Authority: Leitrim County Council

Decision: Following a referral to An Bord Pleanála, it was declared that the use of apartments for protected persons and works to the apartments is not development.

Inspector's Report Noted:

"I am satisfied that the subject block of apartments can therefore be considered under the term 'other premises' for the purposes of Class 14, providing residential or overnight accommodation. Accordingly, I consider that the use of the apartments for the reception and care of protected persons or as accommodation for protected persons comes within the scope of the exempted development provided for under Classes 14(h) and (i) of Part 1 of Schedule 2 to the Regulations".

The Inspector further noted upon visiting the referral site, "it is being operated as residential accommodation, as per the permitted use and the status or personal circumstances of the apartment residents is not a material planning issue. I am satisfied that the current use of the apartments is not as a facility for the reception and care of protected persons and does not constitute a change of use from the permitted use and, therefore, does not constitute development".

b) Robinson Hall Apartments

Description:

Residential development comprising a mix of self-contained dwelling & common areas. The building comprises multiple self-contained units, each designed to offer private living spaces with essential amenities. The units are equipped with kitchen facilities, living areas, and private bathrooms, ensuring residents have the autonomy and comfort necessary for daily activities.

Port Road, Letterkenny, Co Donegal

Address:

Ref: S5 24/105

Reference:

Donegal County Council

Planning Authority:

Donegal County Council

Decision:

“The proposal IS DEVELOPMENT and IS EXEMPTED DEVELOPMENT”

Planners Report Concluded:

The Planning Authority concluded that The proposal IS DEVELOPMENT and IS EXEMPTED DEVELOPMENT, as the development falls within the scope of Class 14(h) of Part 1 of Schedule 2 of the Planning & Development Regulations 2001 (as amended) and in considering this referral, had regard particularly to:

- a) Sections 2, 3, 4, and 177U of the Planning and Development Act, 2000 (as amended),
- b) Articles 6(3), 9(1), and Class 14(H) of Part 1 of Schedule 2 of the Planning & Development Regulations 2001 (as amended).
- c) The planning history, current use of the subject site, and Section 5 declarations by An Bord Pleanála.

5. **STATUTORY PROVISIONS**

Section 2(1) of the Planning and Development Act 2000 as amended states the following:

- a) "development" has the meaning assigned to it by Section 3
- b) "works includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal"

Section 3(1) of the Planning and Development Act 2000 as amended states the following

- a) "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 over land'.

Article 6(1) of the Planning and Development Regulations 2001-2025 (hereinafter referred to as 'the Regulations') provide 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'.

Schedule 2 of Part 1 of the Regulations, sets out the classes of exempted development, including "Class 14" allowing for "development consisting of a change of use":

- a) "(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,
- b) (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".

Article 5 of the Regulations sets out certain definitions, the following of which are relevant to the referral questions:-

- a) any structure which was designed for use as one or more dwellings, except such a structure which was used as business premises immediately before 1 October 1964 or is so used with permission under the Act.

'care' means personal care, including help with physical, intellectual or social needs.

'protected person' - (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.

6. **ATHENRY LOCAL AREA PLAN 2024-2030**

The Atherry Local Area Plan 2024-2030 sets out the overall Development Strategy and Planning Policy Objectives for the Town for the period 2024 to 2030.

The following is provided to demonstrate the approved land use along with adherence to the policy objectives of Galway County Council for the ongoing use of the subject dwellings to accommodate persons seeking international protection.

The subject site is zoned as “Residential Existing” per the Atherry Local Area Plan 2024-2030

The subject site is located adjacent to arrow in map below.

Link: [1. Atherry Local Area Plan 2024 - 2030 0\(1\).pdf](#)



Figure 2: Map 1A Land Use Zoning Plan

The land use zones for “Residential Existing” states following:

- Policy Objective: “To protect and improve the residential amenities of existing residential areas”
- Description: “To provide for house improvements, alterations and extensions of residential development in accordance with principles of good design and protection of existing amenities”

Under the Policy Objectives set out in section 4 of Atherry Local Area Plan 2024-2030 (June 2024), ASP15 States the following:

“It is the Policy Objective of Galway County Council to support the principles of social inclusion and universal design and access, to ensure that all individuals have access to goods, services and buildings to assist them to participate in and contribute to all aspects of a vibrant life within Atherry”

7. ASSESSMENT

a) Description of Property and Use

The subject property is a purpose-built residential estate comprising multiple self-contained, dwellings. The dwellings subject to this section 5 declaration of exempted development comprise 12 semi-detached two storey dwellings located at No 69, 70, 71, 72, 73, 74, 75, 76, 129, 130, 131 and 132 Caislean Ri, Athenry, Co. Galway.

Each of the subject dwellings function independently and are self-contained, with private kitchen, bathroom, and habitable rooms, operating as standard residential units for families who are seeking international protection.

Residents are free to enter the individual dwellings as they wish, in a manner consistent with standard tenancies.

The subject dwellings have operated continuously as residential accommodation, and the use of these dwellings to provide accommodation to persons seeking international protection involves no structural alterations, no intensification of use, and no new impacts on the surrounding area.

The applicant provides no direct care facilities or services for the residents of the dwellings. There are no institutional or communal facilities onsite.

This use aligns with the original planning permissions (P06/3813, P12/4, P20/1611, P21/1846), which do not restrict occupancy based on residents' legal or socioeconomic status.

b) Material Change of Use

Under Section 3(1) of the Planning and Development Act 2000, development is set out as a "material change of use". Such a "material change requires a shift in the functional character or planning impacts of the property (Westminster City Council v British Waterways Board [1985]). In this case there is:

- i) **No Functional Change:** the dwellings remain residential in nature, irrespective of occupants being persons seeking international protection. In Donegal County Council Ref. S5 24/105, the use of apartments for protected persons was deemed identical in function to general residential use, as both involve "overnight accommodation by households." In this case, the dwellings remain private homes with no communal facilities, management offices or intensification of use.
- ii) **No Planning Impact:** The use does not introduce new traffic, noise, or infrastructural demands beyond those of typical residential occupancy. There will be no change to waste or visual character.
- iii) **Legal Precedent:** The Supreme Court in *Dublin Corporation v Moore [1984] ILRM 339* affirmed that demographic differences among residents (such as legal status) are irrelevant to planning assessments and held that "the socioeconomic profile of residents is irrelevant to materiality."

Accordingly, any variation in the demographic profile of the occupants such as their legal status or background should not be considered when determining whether a change of use is material, and the current use does not constitute a material change.

c) Development & Exempted Status

The applicant does not intend to carry out any works to the subject dwellings that will materially change the existing layout, elevations or use. Under Section 2(1) of the *Planning and Development Act 2000* (as amended), "development" requires either:

- i) Physical works (none proposed), or
- ii) Material change of use (none identified).

Even if the Council determines the use to be development, it would then qualify as exempted development under Class 14(h) Schedule 2 of the Planning Regulations as:

- i) the dwellings are "other premises providing overnight accommodation", and
- ii) the use aligns with residential zoning (Athenry LAP 2024-2030) and complies with all conditions of original permissions.

Precedent: An Bord Pleanála (Ref. 307077-20) and Donegal County Council (Ref. S5 24/105) have ruled similar cases as exempt.

d) Policy Synergy & Strategic Alignment

The proposed use demonstrates full compatibility with Ireland's integrated planning and social inclusion framework. At the local level, it directly supports:

- i) Athenry LAP 2024-2030 "Residential Existing" zoning (Section 6), which prioritizes "protection and enhancement of residential amenities" without restricting occupant profiles.
- ii) Galway County Development Plan 2022-2028 Social Infrastructure Objectives (SI-03), mandating "diverse housing solutions for vulnerable groups."

Nationally, it aligns with:

- i) Housing for All (NPO 37): "Provision of suitable accommodation for international protection applicants."
- ii) Social Inclusion Policy (DEHLG 2020): "Universal access to housing as a fundamental right."

Internationally, it fulfills:

- i) EU Reception Conditions Directive (2013/33/EU): Article 18(1) on "dignified housing standards for applicants."
- ii) UN Sustainable Development Goal 11: "Inclusive, safe, and sustainable human settlements."

This multi-tiered policy congruence eliminates any planning justification to oppose the use, as it simultaneously preserves residential zoning integrity, advances statutory social obligations, and implements Ireland's humanitarian commitments.

8.

CONCLUSION

Based on the comprehensive assessment above, Atlantic Building Consultants Ltd., on behalf of Dom Street Properties Ltd (Galway), conclusively asserts the following to support this Declaration request:

a) Definitive Absence of Development

- i) The existing use to provide accommodation for persons seeking international protection for the dwellings located at No 69, 70, 71, 72, 73, 74, 75, 76, 129, 130, 131 and 132 Caislean Ri, Athenry, Co. Galway remains residential under current planning regulations. The subject properties retain their essential residential character without modification to their physical state or functional use.
- ii) There are no works proposed for existing dwellings located at No 69, 70, 71, 72, 73, 74, 75, 76, 129, 130, 131 and 132 Caislean Ri, Athenry, Co. Galway that would constitute “Development” per the meaning derived from Section 3(1) of the Planning and Development Act 2000.
- iii) The current use to provide accommodation for persons seeking international protection for the dwellings located at No 69, 70, 71, 72, 73, 74, 75, 76, 129, 130, 131 and 132 Caislean Ri, Athenry, Co. Galway do not contravene any local or planning policies for the town of Athenry.
- iv) Jurisprudence confirms (Dublin Corporation v Moore [1984]) that occupant demographics cannot constitute a material change in planning terms.
- v) No intensification of use occurs, as the dwellings continue to operate at their approved residential capacity without institutional features.

b) Unqualified Exemption Under Class 14(h)

Should the Council adopt a conservative interpretation, all requirements for exemption are categorically met:

- i) **Premises Type:** The dwellings are unequivocally “other premises providing overnight accommodation” as established in *The Rock Centre* determination (ABP 307077-20) and *Robinson Hall* decision (Donegal CC S5 24/105).
- ii) **Regulatory Compliance:** There is no breach of original planning conditions (p06/3813) or zoning objectives.
- iii) **Policy Synergy:** There is full alignment with Athenry LAP’s “Residential Existing” zoning (Section 6), National Policy Objective 37 (Housing for All), and Ireland’s obligations under the EU Reception Conditions Directive 2024/1346.
- iv) **Precedent-Based Certainty:** The unbroken consensus of planning authorities and An Bord Pleanála affirms that:
 - Residential use for protected persons equals no material changeOr
 - If development, there is an automatic exemption under Class 14(h)



Atlantic Building
CONSULTANTS

9. DECLARATION REQUEST

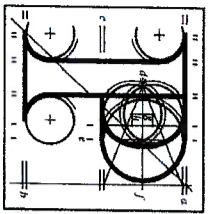
Pursuant to Section 5 of the Planning and Development Act 2000, the Applicant respectfully requests that the Galway County Council provide by way of Section 5 Declaration response to the following:

PRIMARY POSITION

"The use of No 69, 70, 71, 72, 73, 74, 75, 76, 129, 130, 131 and 132 Caislean Ri, Athenny, Co. Galway as accommodation for persons seeking international protection does not constitute development, as it involves no alterations or material change of use."

ALTERNATIVE POSITION

"Should the Council determine the proposal constitutes 'Development', it is hereby confirmed as exempted development under Class 14(h), Part 1, Schedule 2 of the Planning & Development Regulations 2001 (as amended)."



An
Bord
Pleanála

Inspector's Report ABP-307077-20

Question	Whether use of incomplete apartments as apartments or as apartments for protected persons and works to the apartments is or is not development or is or is not exempted development
Location	The Rockquarter, Cannaboe Street, Ballinamore, County Leitrim
Declaration	
Planning Authority	Leitrim County Council
Planning Authority Reg. Ref.	ED-19-31
Applicant for Declaration	Liam Madden
Planning Authority Decision	Split
Referral	
Referred by	Liam Madden
Owner/Occupier	Remcoll 2 Ltd.
Observer(s)	None
Date of Site Inspection	30 th November 2020
Inspector	Colm McLoughlin

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1.0 Site Location and Description

1.1. The referral site is located to the southeast side of Ballinamore town centre in County Leitrim and currently comprises a two-three storey mixed-use development, including upper-level residential use and ground-floor retail and commercial uses that are anchored by a Tesco supermarket. The majority of the retail and commercial units at ground floor are vacant at present and the development has been subject of three recent planning permissions. The development is currently served by two expansive surface-level car parks on the northeast side and the rear of the main building, as well as a basement car park. The upper-floor residences are accessed solely by a gated stairs off Cannaboe Street and served by a management and security suite. Each of the 25 residences are own-door residences served by a central courtyard marking out individual amenity areas by raised planters and featuring seating areas and play areas.

2.0 The Question

2.1. The following are questioned by the referer:

- 'whether the use of the then incomplete and abandoned apartments at 'The Rock', Ballinamore, County Leitrim for use as apartments is or is not development and is or is not exempted development';
- 'whether the change of use of the then incomplete and abandoned apartments and partly completed on foot of planning permission 04/1546 at 'The Rock', Ballinamore, County Leitrim to 'The Reception and Care of those seeking International Protection' is or is not development and is or is not exempted development';
- 'whether the built works carried out internally and externally at the above then incomplete apartments currently in use as 'The Reception and Care of those seeking International Protection' are or are not development and are or are not exempted development'.

2.2. Noting information gathered during my site inspection and following a review of the submitted information, in the interest of clarity and to comprehensively address

matters raised by the referrer, it is considered appropriate that the questions referred to the Board be reworded and addressed by the following questions:

- whether the use of previously incomplete and abandoned apartments, as apartments, and;
 - whether the use of previously incomplete and abandoned apartments to use for the reception and care of protected persons, and;
 - whether the works to complete the previously incomplete and abandoned apartments, in order to use the apartments for the reception and care of protected persons,
- at The Rockquarter, Cannaboe Street, Ballinamore, County Leitrim, is or is not development or is or is not exempted development.

2.3. I intend to proceed with my assessment on the basis of the reworded questions.

3.0 Planning Authority Declaration

3.1. Declaration

3.1.1. The planning authority initially advised the referrer that they required additional time under section 5(2)(ba)(ii) of the Planning & Development Act 2000, as amended (hereinafter referred to as 'the Act'), in order to make a determination regarding the question, which the referrer subsequently responded to. Following this, the planning authority engaged with the High Courts regarding the information submitted by the referrer and also with the Department of Justice and Equality, requesting clarification on a contractual agreement between the owner of the referral site and the Minister for Justice and Equality. The planning authority subsequently declared the following on the 31st day of March, 2020:

- use of the then incomplete and abandoned apartments for use as apartments is development and is exempted development;
- change of use of the then incomplete and abandoned apartments and partly completed on foot of planning permission P04/1546 to 'The Reception and Care of those seeking International Protection' is not development;

- the built works carried out internally and externally at incomplete apartments currently in use as 'The Reception and Care of those seeking International Protection' are development and are exempted development.

3.1.2. Pursuant to Section 5 of the Act, this Declaration has now been referred to the Board for review.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The recommendation within the report of the Planning Officer (March 2020) reflects the Declaration issued by the planning authority. The planning report can be summarised as follows:

- photographs taken in 2009 by the Council's Enforcement Officer reveal that the subject structure was sealed and watertight; the primary structure was, therefore, complete in 2009 and only the internal fit out of the apartments remained incomplete;
- abandonment of the permitted residential apartment use did not arise;
- internal fit out works are exempted development under section 4(1)(h) of the Act;
- the subject previously permitted apartments are currently being used to provide residential accommodation to applicants seeking international protection, which remains solely a residential use;
- change of use does not equal a change in tenure, therefore development has not occurred by the provision of the accommodation for persons seeking international protection;
- the external works elements are incidental to the use and the provision of services and open spaces completing the building, and, therefore, can come within the terms of section 40(2)(a)(iii) and (iv) of the Act.

3.2.2. Other Technical Reports

- None received.

4.0 Planning History

4.1. Referral Site

4.1.1. The planning history associated with the referral site, includes the following planning applications:

- Leitrim County Council (LCC) Ref. P04/1546 – a ten-year permission was granted by the planning authority in June 2005 for a supermarket with a service yard, five retail units, two office units, 21 residential units, a crèche and play area, 141 parking spaces and a car showroom;
- LCC Ref. P05/544 – permission was granted in November 2005 by the Planning Authority for revisions to the parent permission LCC Ref. P04/1546 primarily comprising revised elevations and floor areas to the retail and commercial units, as well as revisions to provide for 22 residential units in total;
- LCC Ref. P07/585 – permission was granted in January 2008 by the Planning Authority for revisions to the parent permission LCC Ref. P04/1546 primarily providing for an increased ground floor area, six additional retail and four additional office units at first floor, a total of 25 residential units, change of use of crèche to residential unit and an increased ground-floor area;
- ABP ref. 306621-20 (LCC ref. P19/255) – permission was granted by the Board in June 2020 for a change of use of a retail unit to a pharmacy;
- ABP ref. 306577-20 (LCC ref. P19/254) – permission was granted by the Board in June 2020 for a café and alterations to the entrance area;
- ABP ref. 306549-20 (LCC ref. P19/243) – permission was granted by the Board in June 2020 for a three-storey office building over the existing basement structure on the northeast end of the site.

4.2. Relevant Referrals

4.2.1. The following referrals subject of declarations by the Board are considered relevant:

- ABP Ref. 301688 – in February 2019 the Board decided that the conversion of the premises at Nos.57, 59 & 61 Cabra Road (Protected Structure), Dublin 7 to a supported homeless accommodation facility is development and is exempted development;
- ABP Ref. PL68:RL2685 – in May 2010 the Board decided that the change of use of the first and second floors of a hotel at Nos.58 & 59 Main Street, Longford, to a hostel to accommodate refugees is development and is not exempted development;
- ABP Ref. PL79:RL2503 – in August 2008 the Board decided that the refurbishment and change of use of a residential unit at 56 Mitchel Street, Thurles, County Tipperary, for use as emergency accommodation for not more than six persons deemed to be homeless is development and is exempted development;
- ABP Ref. PL11:RF0969 – in April 2001 the Board decided that the change of use of a convent in Stradbally, County Laois, to accommodate refugees and/or asylum seekers is development and is not exempted development.

5.0 Policy & Context

5.1. Leitrim County Development Plan 2015-2021

- 5.1.1. Leitrim County Development Plan 2015-2021 is the statutory plan for this area. The Development Plan identifies Ballinamore as a tier 2A settlement in the land-use strategy for the County, with the referral site identified as being within an area zoned for 'Mixed-use'. Objective OBJ 7 of the Plan seeks the development of lands zoned 'Mixed Use' for commercial residential, health, community, educational, cultural, retail and related uses. The site and surrounding area does not have any conservation status. The Housing Strategy appended to the County Development Plan outlines that Leitrim County Council will work with voluntary organisations and other government agencies, in ensuring accommodation is available to all. The Development Plan also notes that persons continue to move to the County for housing, economic and refugee purposes.

5.2. Natural Heritage Designations

5.2.1. The nearest designated sites to the referral site is the Cuilcagh - Anierin Uplands Special Area of Conservation (SAC) (Site Code: 000584), which is located approximately 6.9km to the northwest of the development site.

6.0 Statutory Provisions

6.1. Planning and Development Act 2000, as amended

6.1.1. Section 2(1) of the Act states the following:

- 'development' has the meaning assigned to it by Section 3;
- 'works' includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal'

6.1.2. Section 3(1) states that:

- '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 over land'.

6.1.3. Section 4(1) of the Act sets out various forms and circumstances in which development is exempted development for the purposes of the Act, including Section 4(1)(h) providing for the carrying out of works for the maintenance, improvement or alteration of any structure that only affect the interior of the structure or which do not materially affect the external appearance so as to render it inconsistent with the character of neighbouring structures.

6.1.4. 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 2001-2020.

6.1.5. Section 40 of the Act places limits on the duration of a permission and these limits shall not apply following the expiration of the appropriate period, under subsection (2)(a)(iii):

- in the case of a house, shop, office or other building which itself has been completed, in relation to the provision of any structure or works included in the

relevant permission and which are either necessary for or ancillary or incidental to the use of the building in accordance with that permission.

6.2. Planning and Development Regulations 2001-2020

6.2.1. Article 6(1) of the Planning and Development Regulations 2001-2020 (hereinafter referred to as 'the Regulations') provide 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'.

6.2.2. Schedule 2 of Part 1 to 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'.

6.2.3. As provided for in Article 9(1)(a), the following development to which article 6 relates, shall not be exempted development, if the carrying out of such development would, inter alia:

- (i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act;
- (viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use.

6.2.4. Article 5 of the Regulations sets out certain definitions, the following of which are relevant to the referral questions:-

- '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'
- 'excluded premises' means –
 - (a) any premises used for purposes of a religious, educational, cultural, recreational or medical character,
 - (b) any guest house or other premises (not being a hotel or a hostel) providing overnight guest accommodation, block of flats or apartments, club, or boarding house, or
 - (c) any structure which was designed for use as one or more dwellings, except such a structure which was used as business premises immediately before 1 October, 1964 or is so used with permission under the Act.
- 'care' means personal care, including help with physical, intellectual or social needs.

6.2.5. For the purposes of Schedule 2, the Regulations provide the following definition of a 'protected person' -

- (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.

6.3. Other Legislative Definitions

6.3.1. A person who has made an application to the Minister for Justice and Equality for a declaration under Section 8 of the Refugee Act, 1996 is defined as 'a person who arrives at the frontiers of the State seeking asylum in the State or seeking the protection of the State against persecution or requesting not to be returned or removed to a particular country or otherwise indicating an unwillingness to leave the State for fear of persecution'. Section 3 of the Immigration Act, 1999, includes those 'persons whom the Minister proposes to make a deportation order in relation to or whom has been notified of same'. A 'programme refugee' is defined in the Refugee Act, 1996, as 'a person to whom leave to enter and remain in the State for temporary protection or resettlement as part of a group of persons has been given by the Government and whose name is entered in a register established and maintained by the Minister for Foreign Affairs, whether or not such person is a refugee within the meaning of the definition of refugee'.

7.0 The Referral

7.1. Referrer's Case

7.1.1. The referrer's submission was received by An Bord Pleanála on the 14th day of April, 2020, and can be summarised as follows:

- the first-floor corrals and internal and external works to the semi-derelict apartments are development;
- the parent permission for the development expired, therefore, the development was unauthorised and exemptions do not apply;
- the declaration should be considered in light of referrals relating to the use of apartments at Chancery Hall in Dublin for short-stay accommodation (ABP ref. 302856, 302857, 302858, 302859, 302861, 302862, 302865 and 302866);

- the use of incomplete or abandoned apartments for residential purposes requires planning permission regardless of whether or not this is for short-stay or long-stay accommodation;
- the use of the incomplete apartments as a reception and care for those seeking international protection is development and their use for refugees is a material change of use;
- the change of use does not come within the terms of Class 14(h) as the incomplete, semi-derelict and never-occupied apartments are not and never were premises or a residential institution providing overnight accommodation;
- there is no exemption to allow a change of use from apartments to housing of protected persons;
- there is no fire safety certificate for four of the apartments and legal development works cannot be undertaken to an illegal building.

7.2. Planning Authority's Response

7.2.1. The Planning Authority did not respond to the referrer's case.

7.3. Owner / Occupiers Response

7.3.1. The owner / occupiers response to the Board with respect to the referral can be summarised as follows:

- of relevance to this case are the planning applications relating to the site that were recently decided by the Board (ABP refs. 306621-20, 306577-20 & ABP ref. 306549-20);
- no unauthorised use arises, as the residential aspect of the premises is in use as residential accommodation and it is not appropriate or correct to assert that the identity of the end-user vitiates the permitted use;
- the referrer has a history of objecting;
- investment to complete and occupy the development has been undertaken and the referral is a clear attempt to stymie the regeneration of the area.

7.4. Observations

7.4.1. None received.

7.5. Further Submissions

7.5.1. Following consultation by An Bord Pleanála with the Minister for Justice and Equality and the Chief State Solicitor's Office, no responses were received.

8.0 Assessment

8.1. Introduction

8.1.1. The purpose of this referral is not to determine the acceptability or otherwise of the matters raised in respect of the proper planning and sustainable development of the area, but rather whether or not the matters in question constitute development, and if so fall within the scope of exempted development within the meaning of the relevant legislation. The Board should be aware that much of the information presented by the referrer relates to matters that are outside the jurisdiction of this section 5 referral, given that they relate to assertions regarding enforcement and other regulatory regimes, such as building and fire safety regulations.

8.1.2. The referral to the planning authority was accompanied by a cover letter which addressed the recent planning and development history of the referral site, contractual matters, enforcement matters and information relating to refugees, asylum seekers, migrants, direct provision centres and emergency residential orientation centres (EROCs). The referral was also accompanied by details relating to a High Court case pertaining to the referral site, including affidavits, a copy of the Planning and Development Regulations 2015 (S.I. No.582 of 2015), copies of legal correspondence, including letters from the Chief State Solicitor's Office and a Memorandum of Agreement relating to contracts for using part of the referral site, copies of newspaper articles, land registry details and company details, as well as planning correspondence, documentation and drawings relating to the referral site.

8.1.3. Each of the questions raised relate to the completion and use of the 25 own-door apartments accessed at first-floor level in the subject development. These

residential units were initially the subject of a grant of planning permission in 2005 under LCC ref. P04/1546 and were subject of revisions that were permitted under LCC ref. P05/544 in 2005 and LCC ref. P07/585 in 2008.

8.2. Is or is not development?

8.2.1. Section 3 of the Act defines development as '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'. As defined in section 2(1) of the Act, works include 'any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal'.

Works

8.2.2. The three questions put forward involve a slight variation of the preceding question, although each of the questions would appear to initially question whether the completion of the works to the subject apartments after the expiration of their appropriate period would or would not involve development. The appropriate period for the relevant permissions would have expired on the 9th day of June, 2015. The Planning Authority has outlined that their records reveal that the development was substantially complete in 2009. I am satisfied that there is a permission for the apartments and that their consequent recorded completion, including subsequent fit-out necessary and ancillary or incidental to the use of the permitted building, would have come under section 40 of the Act and, therefore, do not come within the scope of section 5 of the Act. Consequently, whether the permitted works to complete the previously incomplete and abandoned apartments is or is not development, is not a matter for this section 5 referral.

Change of Use

8.2.3. Each of the questions also query whether a change of use of the apartments has arisen and if a change of use has arisen, is this material for planning purposes. The referrer asserts that as the apartments were not completed within the lifetime of the parent permission, their permitted use had been abandoned and to bring the apartments into use would comprise a material change of use. Consequently, the questions relate to whether or not the residential apartment use has been abandoned or if the permitted use as apartments can be resumed.

8.2.4. High Court judgement (IEHC 74 – 2004) 'Molloy & Others - v - The Minister for Justice, Equality and Law Reform & Others' is applicable in the consideration of this aspect of the question. This concluded that where the use in the original permission can still apply and is capable of being implemented, it could therefore be resumed, since there had been no material structural alteration to the property, and as it did not involve an intensification of use. The original valid planning permission cannot be lost or abandoned if such a case arises. I consider that the Molloy case is applicable in the consideration of the circumstances presented in this referral case, for the following reasons:-

- the parent permission relating to the site was a ten-year planning permission granted in June 2005 for a mixed-use development under LCC Ref. P04/1546 and subject to permitted revisions under LCC refs. P05/544 and P07/585;
- I am not aware of the permitted residential aspect of the development being used for non-residential purposes and permission was not sought for their alternative use;
- the internal and external works undertaken to the premises following the expiration of the appropriate period and prior to the occupation of the residential aspect, involving fit-out works and the provision of services, did not involve construction work;
- substantive evidence to show that the owner/occupiers intended to abandon the use of the apartments has not been provided;
- having inspected the premises internally and externally, there are no material structural alterations that restricted the permitted use of the premises as apartments;
- the use as apartments would be of similar character and intensity to that which was permitted.

8.2.5. Accordingly, it follows from the assessment above that the use of the apartments as apartments is not abandoned and is not a material change from the permitted use and, therefore, the use as apartments is not development.

8.2.6. The next issue to consider from the questions, is whether or not the current use of the permitted apartments conforms to a change of use that would be material. The

referrer states that the current use of the facility is for 'the reception and care of those seeking international protection' or as stated in the reworded questions 'the reception and care of protected persons'. Various references to potential use as an EROC are also provided throughout the referral documentation. EROCs are centres for asylum seekers in Ireland, where in addition to offering accommodation, ancillary services to facilitate relocation and resettlement would be provided. EROCs serve as temporary accommodation facilities for persons arriving into the country through relocation and resettlement, providing medical services, language training, education, cultural orientation and social protection services.

8.2.7. 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 accommodation is being operated in a manner similar to other apartment developments, with gated access and servicing by a management and security suite. Facilities beyond those that would normally form part of an apartment complex were not in evidence and the facility does not feature any particular additional reception, orientation or care services. The facility is not operating as an emergency reception for the care of protected persons, it is being operated as residential accommodation, as per the permitted use and the status or personal circumstances of the apartment residents is not a material planning issue. I am satisfied that the current use of the apartments is not as a facility for the reception and care of protected persons and does not constitute a change of use from the permitted use and, therefore, does not constitute development.

8.3. Is or is not exempt development?

8.3.1. I am satisfied that in response to the referrer's questions, development has not currently taken place on the referral site. However, should the Board consider otherwise and to comprehensively address the changes that were not in evidence, although they were asserted by the referrer to have taken place, below I consider the

provisions set out within Articles 5(1), 6(1), 9(1) and 10(1) of the Regulations and whether any exemptions would apply.

8.3.2. I am satisfied that Article 10(1) of the Regulations would not provide for an exemption to allow the apartments change to a reception and care centre for protected persons, as this change would not consist of a change of use within any one of the classes of use specified in Part 4 of Schedule 2 to the Regulations.

8.3.3. Part 1 of Schedule 2 to the Regulations deals with general exempted development, including the conditions and limitations to the exemptions, if any. Development consisting of a change of use from various guest accommodation, religious, defence barracks and other premises, as well as residential institutions providing overnight accommodation, to use for accommodation for protected persons and use as an EROC for protected persons is exempt under Classes 14(h) and (i). There are no conditions or limitations listed beside these exemption classes. The exemption does not specifically refer to a change from residential accommodation, apartments or a category to which the subject permitted use would reasonably fall into, but the exemption does refer to a change from 'other premises'. The Regulations do not specifically define a 'premises', but they do define a 'business premises' and an 'excluded premises'. Based on the definitions, a block of apartments is an 'excluded premises' and therefore not a 'business premises' for the purposes of the Regulations. A standard dictionary definition for a 'premises' is as a house or other building and the land on which it is built. I am satisfied that the subject block of apartments can therefore be considered under the term 'other premises' for the purposes of Class 14, providing residential or overnight accommodation. Accordingly, I consider that the use of the apartments for the reception and care of protected persons or as accommodation for protected persons comes within the scope of the exempted development provided for under Classes 14(h) and (i) of Part 1 of Schedule 2 to the Regulations.

8.3.4. If the carrying out of development would contravene a planning condition or be inconsistent with any permitted use, the Class 14 exemptions for the aforementioned changes of use are restricted under Article 9(1)(a)(i) of the Regulations. Condition 1 of the parent permission LCC ref. P04/1546 states the following:

- Notwithstanding the exempted development provisions of the Planning and Development Regulations, any proposed change of use or occupancy, or any other form of exempted development i.e. outbuildings, boundary walls, etc., shall be subject to the written agreement of the Planning Authority or Permissions as may be required.
- 8.3.5. Accordingly, if it had been considered that a material change of use or occupancy had arisen from that which was permitted, this condition would restrict the exemption provided for under Article 9(1)(a)(i) of the Regulations.

9.0 Recommendation

- 9.1. I recommend that the Board should decide this referral in accordance with the following draft order.

WHEREAS questions have arisen as to:

- whether the use of previously incomplete and abandoned apartments, as apartments, and
- whether the use of previously incomplete and abandoned apartments to use for the reception and care of protected persons, and
- whether the works to complete the previously incomplete and abandoned apartments, in order to use the apartments for the reception and care of protected persons,

at The Rockquarter, Cannaboe Street, Ballinamore, County Leitrim, is or is not development or is or is not exempted development:

AND WHEREAS Liam Madden requested a declaration on this question from Leitrim County Council, and the Council issued a declaration on the 31st day of March, 2020, stating the following:

- use of the then incomplete and abandoned apartments for use as apartments is development and is exempted development;

- change of use of the then incomplete and abandoned apartments and partly completed on foot of planning permission 04/1546 to 'The Reception and Care of those seeking International Protection' is not development;
- the built works carried out internally and externally at incomplete apartments currently in use as 'The Reception and Care of those seeking International Protection' are development and are exempted development.

AND WHEREAS Liam Madden requested a declaration on this question on the 14th day of April, 2020, from An Bord Pleanála:

AND WHEREAS An Bord Pleanála, in considering this referral, had regard particularly to –

- (a) sections 2(1), 3(1), 4, 5 and 40 of the Planning and Development Act 2000, as amended,
- (b) articles 5(1), 6(1), 9(1) and 10(1) of the Planning and Development Regulations 2001-2020,
- (c) the planning and development history of the site,
- (d) the nature of the current use of the site,
- (e) the submissions of the Referrer,
- (f) the report of the Planning Inspector:

AND WHEREAS An Bord Pleanála has concluded that:

- (a) the provision of works to complete the apartments, included in the relevant permission and which are either necessary for or ancillary or incidental to the use of the building permitted, come within the scope of Section 40 of the Planning and Development Act 2000, as

amended, and do not come within the scope of Section 5 of the Planning and Development Act 2000, as amended;

(b) the permitted use of the apartments was not abandoned and the current use of the premises as apartments, and not as a facility for the reception and care of protected persons, does not constitute a change of use from the permitted use and, therefore, does not constitute development.

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5(3)(a) of the Planning and Development Act 2000, as amended, hereby decides that the use of the premises at The Rockquarter, Cannaboe Street, Ballinamore, County Leitrim as apartments, including residential accommodation for protected persons, is not development.

Colm McLoughlin
Planning Inspector

8th December 2020

SECTION 5 REFERRAL REPORT – Ref. No: S524/105

Donegal County Council

1.0 COMMENTS

The subject site, Robinson Hall Apartments, Port Road, Letterkenny, Co. Donegal, is an existing apartment complex. The current referral seeks to determine whether the proposed use of the residential apartments as long-term residential accommodation for protected persons, constitutes development and, if so, whether it is exempted development.

The site is not included on the Council's Record of Protected Structures nor on the National Inventory of Architectural Heritage. The site is located within a Town Centre zoning designation under the Letterkenny Plan and Local Transport Plan 2023-2029, where residential uses are considered open for consideration.

2.0 EVALUATION

Statutory Provisions

Planning and Development Act, 2000 (as amended)

- **Section 2(1):**
 - Defines "structure" and "works" relevant to development considerations.
- **Section 3(1):**
 - States that development includes the carrying out of works or a material change in the use of any structure or land.
- **Section 4:**
 - Outlines categories of development that may be exempt from requiring planning permission.

Planning and Development Regulations, 2001 (as amended)

Class 14(H) of Schedule 2, Part 1:

- Permits a change of use "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... to use as accommodation for protected persons."
- Protected persons are defined under the International Protection Act 2015.
- Conditions of exemption include:

- Compliance with the definition and purpose of "protected persons."
 - No contravention of planning conditions or zoning regulations.
-

3.0 ASSESSMENT

3.1 Consideration of Proposed Development

1. **Existing Use:**
 - The property currently consists of residential apartments within a multi-unit complex.
 2. **Proposed Use:**
 - The change of use is proposed to accommodate protected persons under Class 14(h).
 - Protected persons are defined in Section 2(1) of the International Protection Act 2015.
 3. **Analysis of Development:**
 - The proposed change constitutes a material change of use, as it involves altering the nature of occupancy from general residential use to accommodation for protected persons, fulfilling the statutory definition of "development" under Section 3(1) of the Act.
 - However, such a change is explicitly exempted under Class 14(h) provided it meets the prescribed conditions.
 4. **Compliance with Class 14(h) Conditions:**
 - The proposal aligns with Class 14(h), as the site is already a permitted residential complex.
 - No works are proposed that would contravene existing planning conditions.
 - The use as accommodation for protected persons does not conflict with local zoning or planning policy.
-

3.2 Appropriate Assessment

- As the development constitutes a change of use without physical works, there is no requirement for an Appropriate Assessment under Section 177U(9) of the Planning and Development Act 2000 (as amended).
-

3.3 Environmental Impact Assessment (EIA)

- No significant environmental impacts arise from this proposed change of use, and the development is not within a class of projects requiring EIA under Schedule 5, Parts 1 and 2 of the Planning and Development Regulations 2001 (as amended).

4.0 CONCLUSION

It is considered that:

1. The proposed use of the apartments for accommodation for protected persons constitutes development under Section 3(1) of the Planning and Development Act 2000 (as amended).
2. The proposed development is exempted development under Class 14(h) of the Planning and Development Regulations 2001 (as amended), as it satisfies the prescribed conditions for exemption.

5.0 RECOMMENDATION

It is hereby recommended that a declaration be made that the subject matter of the request as above –

IS Development

&

IS Exempted Development within the meaning of the above act.

The

proposal

to:

(i) Use the apartments as long-term accommodation for protected persons as provided for under Schedule 2, Part 1 Class 14(h) of the Planning & Development Regulations 2001 (as amended).

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), and Class 14(H) of Part 1 of Schedule 2 of the Planning & Development Regulations 2001 (as amended).
- The planning history, current use of the subject site, and Section 5 declarations by An Bord Pleanála.

And concluded that:

The proposal IS DEVELOPMENT and IS EXEMPTED DEVELOPMENT, as the development falls within the scope of Class 14(h) of Part 1 of Schedule 2 of the Planning & Development Regulations 2001 (as amended).



Executive Planner
20/01/2025



Frank Sweeney
Senior Executive Planner
Community Development & Planning Services
21/01/2025

Chief Executive's Order No: 2025PH0177

Planning and Development Acts 2000 (as amended)

SECTION 5:-

Request received 17th December 2024 from JMA Ventures Limited, C/O Kevin Hughes, Hughes Planning & Development Consultants, 85 Merrion Square, Dublin 2, D02 FX60 in relation to use of residential apartments as long-term residential accommodation for protected persons at Robinson Hall Apartments, Port Road, Letterkenny, Co. Donegal.

SUBMITTED:-

Written request received 17th December 2024 as above and report dated 20th January 2025 from the Executive Planner (Ref. No: S5 24/105 refers).

ORDER:-

Having considered the said request, the report of the Executive Planner, and the record forwarded to the Council by An Bord Pleanála in compliance with Sub-Section 6(c) of the said Section I have concluded that a declaration on the questions in the said request should be made in the terms of that in the Schedule to this Order, the main reasons and considerations therefore being detailed therein. I therefore Order that the declaration issue to the said requester and the owners/occupiers of the land concerned and, further, that it be entered in the Council's Planning Register in compliance with Sub-Section (5) of the said Section.


SENIOR EX. PLANNER

DATED THIS 22nd DAY OF JANUARY 2025

Chief Executive's Order No: 2025PH0177

Ref.No: S5 24/105

SCHEDULE

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

IS Development

IS 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), and Class 14(H) of Part 1 of Schedule 2 of the Planning & Development Regulations 2001 (as amended).

And concluded that:

The proposal **IS DEVELOPMENT** within the meaning of the Planning and Development Act 2000 (as amended) and **IS EXEMPTED DEVELOPMENT** as the development falls within the scope of Class 14(h) of Part 1 of Schedule 2 of the Planning & Development Regulations 2001 (as amended).

10/22
JS



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

Áras an Chontae,
Leifear,
Contae Dhún na nGall, F93 Y6Z2
County House,
Lifford,
County Donegal, F93 Y6Z2

T: 074 91 53900
E: info@donegalcoco.ie
W: www.donegalcoco.ie
W: www.cdhunanangall.ie
Planning Services
E: planning@donegalcoco.ie

Ref. No: S524/105

21st January 2025


JMA Ventures Limited,
C/O Kevin Hughes,
Hughes Planning & Development Consultants,
85 Merrion Square,
Dublin 2,
D02 FX60

**Re: Use of residential apartments as long-term residential accommodation for
protected persons at Robinson Hall Apartments, Port Road, Letterkenny, Co.
Donegal.**

A Chara,

I refer to your request received on 17th December 2024 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: 2025PH0177

Reference No: S5 24/105

Name of Requester: JMA Ventures Limited,
C/O Kevin Hughes,
Hughes Planning & Development Consultants,
85 Merrion Square,
Dublin 2,
D02 FX60

Summarised Description of development the subject matter of request:

Use of residential apartments as long-term residential accommodation for protected persons

Location: Robinson Hall Apartments, Port Road, Letterkenny, Co Donegal.

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

IS Development

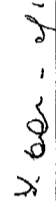
IS Exempted Development

WITHIN THE MEANING OF THE ABOVE ACT

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

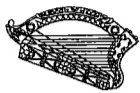
- Sections 2, 3, 4, and 177U of the Planning and Development Act, 2000 (as amended).
- Articles 6(3), 9(1), and Class 14(H) of Part 1 of Schedule 2 of the Planning & Development Regulations 2001 (as amended).

The proposal **IS DEVELOPMENT** within the meaning of the Planning and Development Act 2000 (as amended) and **IS EXEMPTED DEVELOPMENT** as the development falls within the scope of Class 14(h) of Part 1 of Schedule 2 of the Planning & Development Regulations 2001 (as amended).



For Senior Ex/Planner
Planning Services

Dated this 21st day of January 2025



STATUTORY INSTRUMENTS.

S.I. No. 582 of 2015

PLANNING AND DEVELOPMENT (AMENDMENT) (NO. 4)
REGULATIONS 2015

PLANNING AND DEVELOPMENT (AMENDMENT) (NO. 4)
REGULATIONS 2015

I, ALAN KELLY, Minister for the Environment, Community and Local Government, in exercise of the powers conferred on me by sections 4(2) and 262 of the Planning and Development Act 2000 (No. 30 of 2000) (as adapted by the Environment, Heritage and Local Government (Alteration of Name of Department and Title of Minister) Order (No. 193 of 2011), hereby make the following regulations with respect to which, pursuant to section 262(4) of that Act, a draft has been laid before each House of the Oireachtas and a resolution approving of the draft has been passed by each such House:

Citation

1. (1) These Regulations may be cited as the Planning and Development (Amendment) (No. 4) Regulations 2015.

(2) These Regulations and the Planning and Development Regulations 2001 to 2015 shall be construed as one and may be collectively cited as the Planning and Development Regulations 2001 to 2015.

Interpretation

2. In these Regulations, unless otherwise stated—

“the Act” means the Planning and Development Act 2000;

“the Principal Regulations” means the Planning and Development Regulations 2001 (S.I. No. 600 of 2001).

Amendment of Article 5 of the Principal Regulations

3. (1) Article 5(1) of the Principal Regulations is amended by substituting for the definition of “business premises” the following definition:

“ ‘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;”

(2) Article 5(1) of the Principal Regulations is amended by substituting for the definition of “excluded premises” the following definition:

“ ‘excluded premises’ means—

(a) any premises used for purposes of a religious, educational, cultural, recreational or medical character,

(b) any guest house or other premises (not being a hotel or a hostel) providing overnight guest accommodation, block of flats or apartments, club, or boarding house, or

(c) any structure which was designed for use as one or more dwellings, except such a structure which was used as business premises immediately before 1 October, 1964 or is so used with permission under the Act;”

(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;”

Amendment of Part 1 of Schedule 2 to the Principal Regulations

4. (1) Subject to paragraph (2), Part 1 (‘Exempted Development - General’) of Schedule 2 to the Principal Regulations is amended by substituting for “Change of use CLASS 14” the following:

Column 1 Description of Development	Column 2 Conditions and Limitations
<i>Change of use</i>	
CLASS 14	
Development consisting of a change of use—	
(a) from use for the sale of hot food for consumption off the premises, or for the sale or leasing or display for sale or leasing of motor vehicles, to use as a shop,	
(b) from use as a public house, to use as a shop,	
(c) from use for the direction of funerals, as a funeral home, as an amusement arcade or a restaurant, to use as a shop,	
(d) from use to which class 2 of Part 4 of this Schedule applies, to use as a shop,	
(e) from use as 2 or more dwellings, to use as a single dwelling, of any structure previously used as a single dwelling,	
(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,	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.
(g) from use as a hotel, to use as a hostel (other than a hostel where care is provided),	
(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, and	
(j) from the change of use specified in paragraph (h) or (i) or both, to the permitted use of the premises immediately prior to the change of use specified in the said paragraph (h) or (i) or both.	Class 14(j) shall not apply after a period of 3 years from the date of the commencement of the change of use specified in Class 14(h) or (i) or both, whichever date is the earliest.

(2) For convenience of reference there is set out in the amendment provided for by paragraph (1) the relevant headings that apply for the columns concerned.

GIVEN under my Official Seal,
17 December 2015.



ALAN KELLY TD,
Minister for the Environment, Community and Local
Government.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation).

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

- Class 14(g): Change of use of a premises from a hotel to a hostel (other than a hostel where care is provided);
- Class 14(h): Change of use of various forms of premises providing residential or overnight accommodation to specific use as accommodation for refugees and asylum seekers, as defined in legislation. This class of exempted development will assist in implementing the Government’s Irish Refugee Protection Programme (IRPP), which was established on 10 September 2015 in response to the migration crisis in central and southern Europe;
- Class 14(i): Change of use of various forms of premises providing overnight accommodation to use as an emergency reception and orientation centre (EROC) for refugees and asylum seekers. A network of EROCs will be established by the Department of Justice and Equality for the initial reception of persons arriving in Ireland under the IRPP;
- Class 14(j): Return of premises, the use of which changed under an exemption in Class 14(h) or 14(i), to their permitted use immediately prior to that change of use. It is a condition of this class that the exemption from planning permission will apply for a period of 3 years only from the date of the commencement of the change of use exempted under Class 14(h) or (i) or both.

Article 3 of these Regulations amends the definitions of “business premises” and “excluded premises” in the Principal Regulations to remove the distinction in them between a hotel and a hostel.

In accordance with section 16(3) of the Interpretation Act 2005, these Regulations come into operation at the end of the day before the day on which the Regulations are made.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ó
FOILSEACHAIN RIALTAIS,
52 FAICHE STABHNA, BAILE ÁTHA CLIATH 2
(Tel: 01 - 6476834 nó 1890 213434; Fax: 01 - 6476843)
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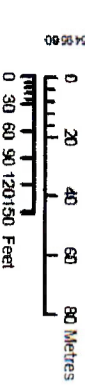
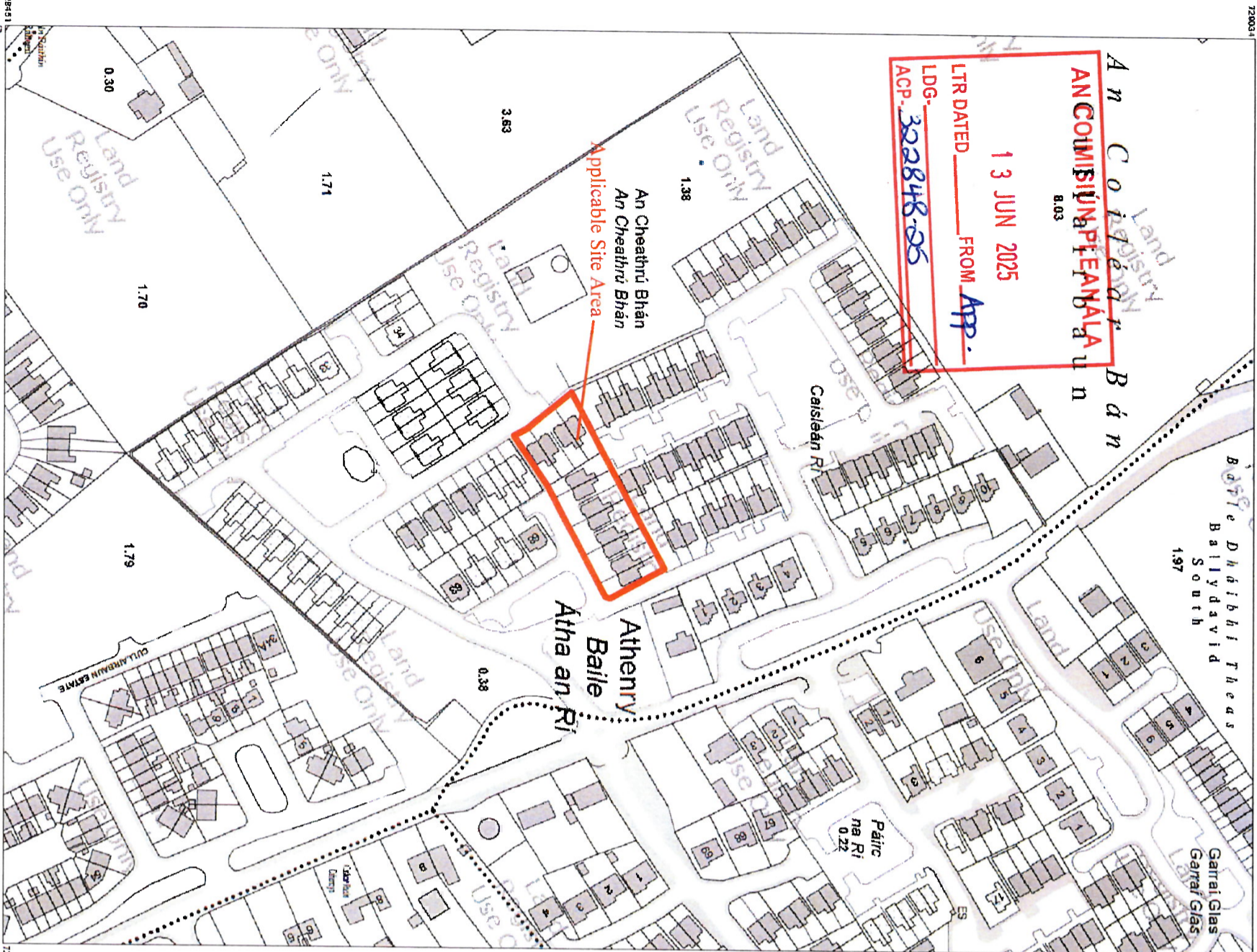
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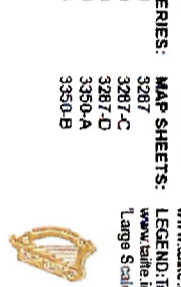
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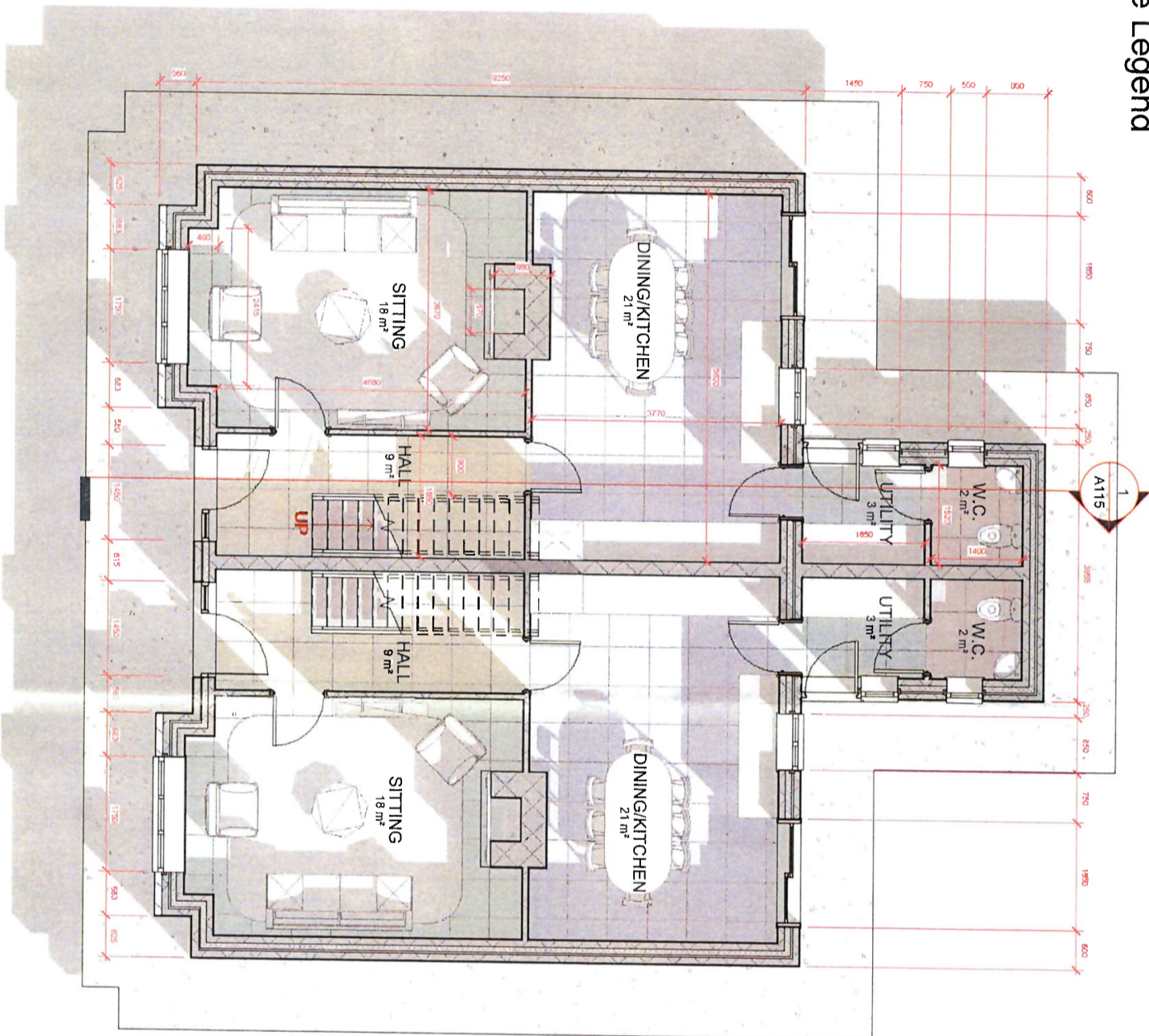
Tailte Éireann



Tailte Éireann

By Room Name Legend

- DINING/KITCHEN
- HALL
- SITTING
- UTILITY
- W.C.



AN COIMISIÚN PLEANÁLA
 13 JUN 2025
 LTR DATED _____ FROM *App.*
 LDG- *300848-05*
 ACP- *300848-05*

1 **Ground**
 1 : 75

No.	Description	Date

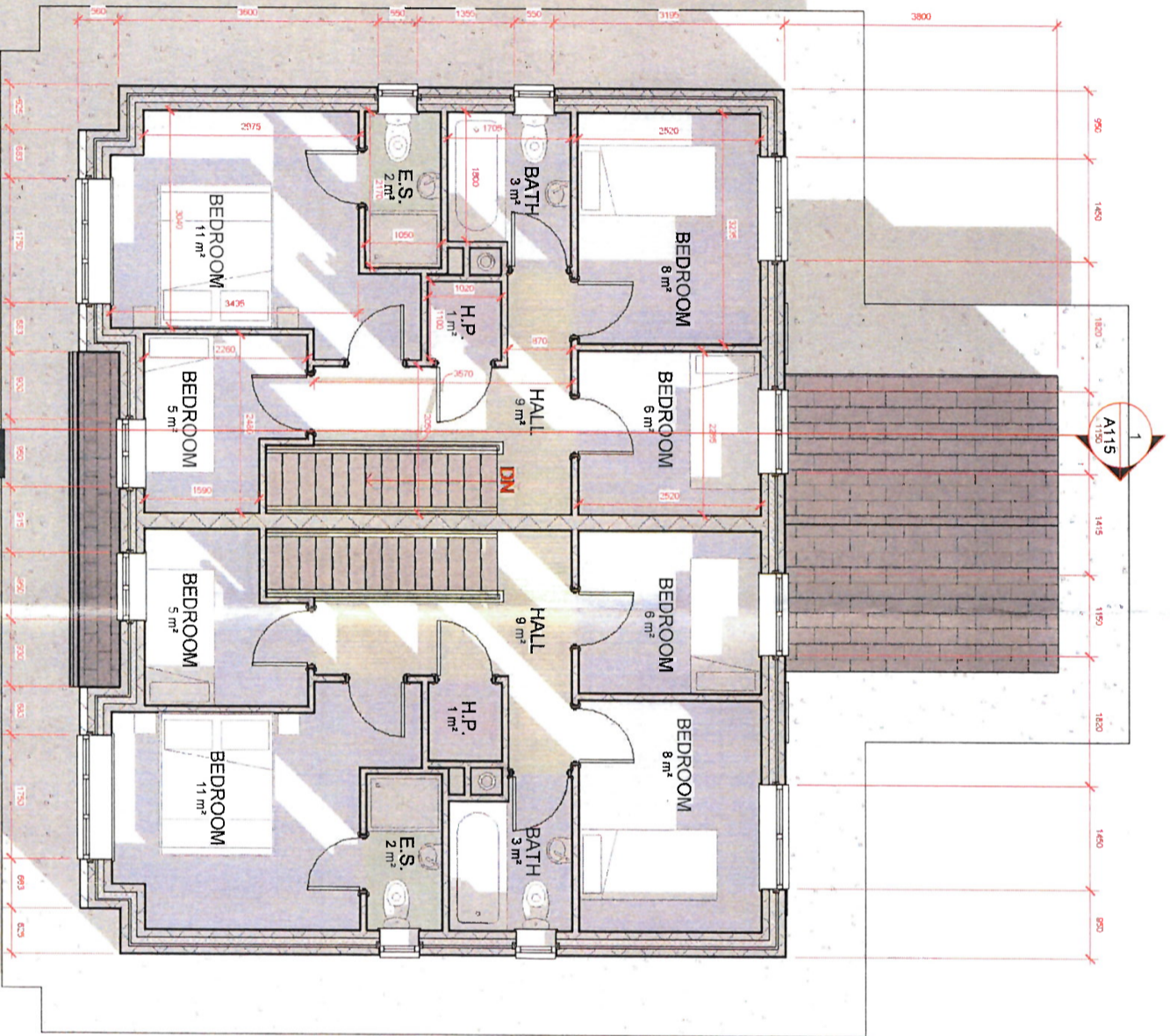
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	Proposed Buildings
	SHEET
	Ground Floor Plan

CLIENT	Athenry Houses
Date	22.04.25
Drawn by	
Author	
Checked by	
Checker	
Project number	
Project Number	
DRAWING NUMBER	A101
Scale (@ A3)	1 : 75
REV	

By Room Name Legend

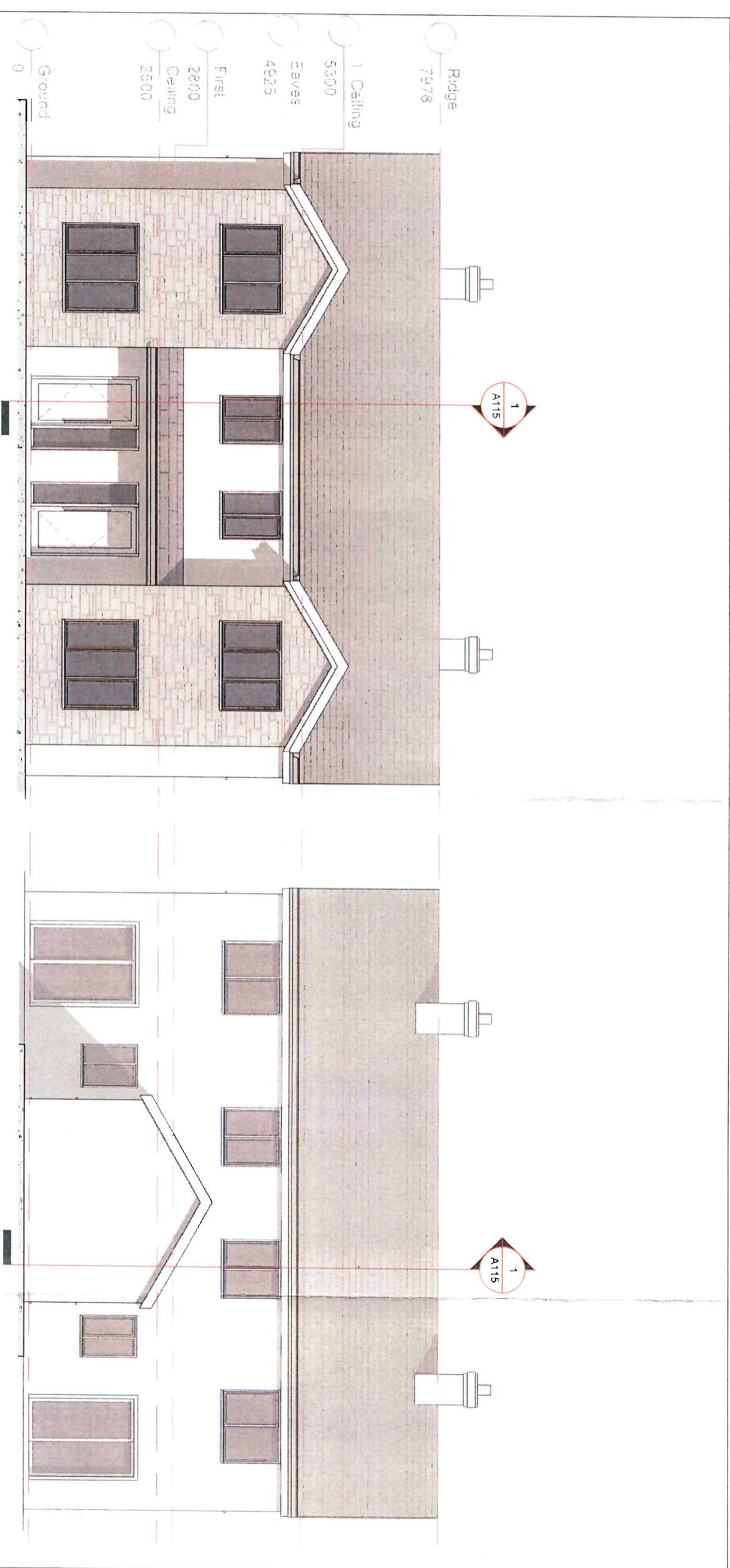
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- BEDROOM
- E.S.
- H.P.
- HALL



1
First
1 : 75

No.	Description	Date

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CODE	STATUS	SUITABILITY DESCRIPTION	PURPOSE OF ISSUE	SHEET	Date 22.04.25	
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					Author	
					Checked by	
					Checker	

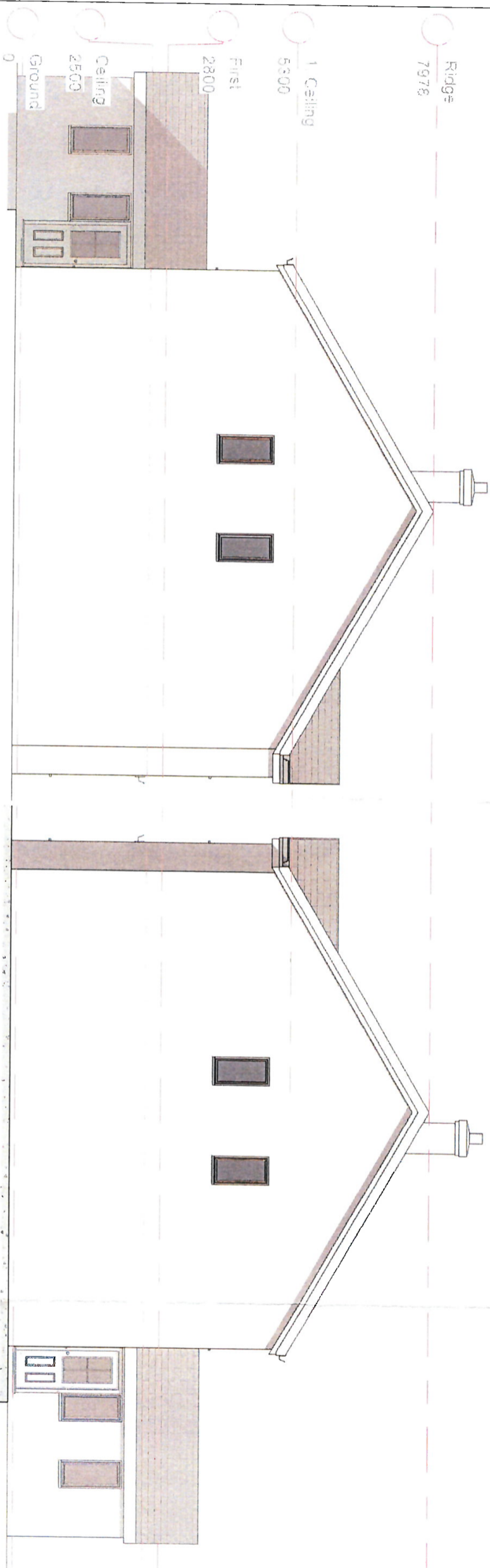


1 South
1 : 75

2 North
1 : 75

No.	Description	Date

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						Author		DRAWING NUMBER	
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						Checker		A110	REV



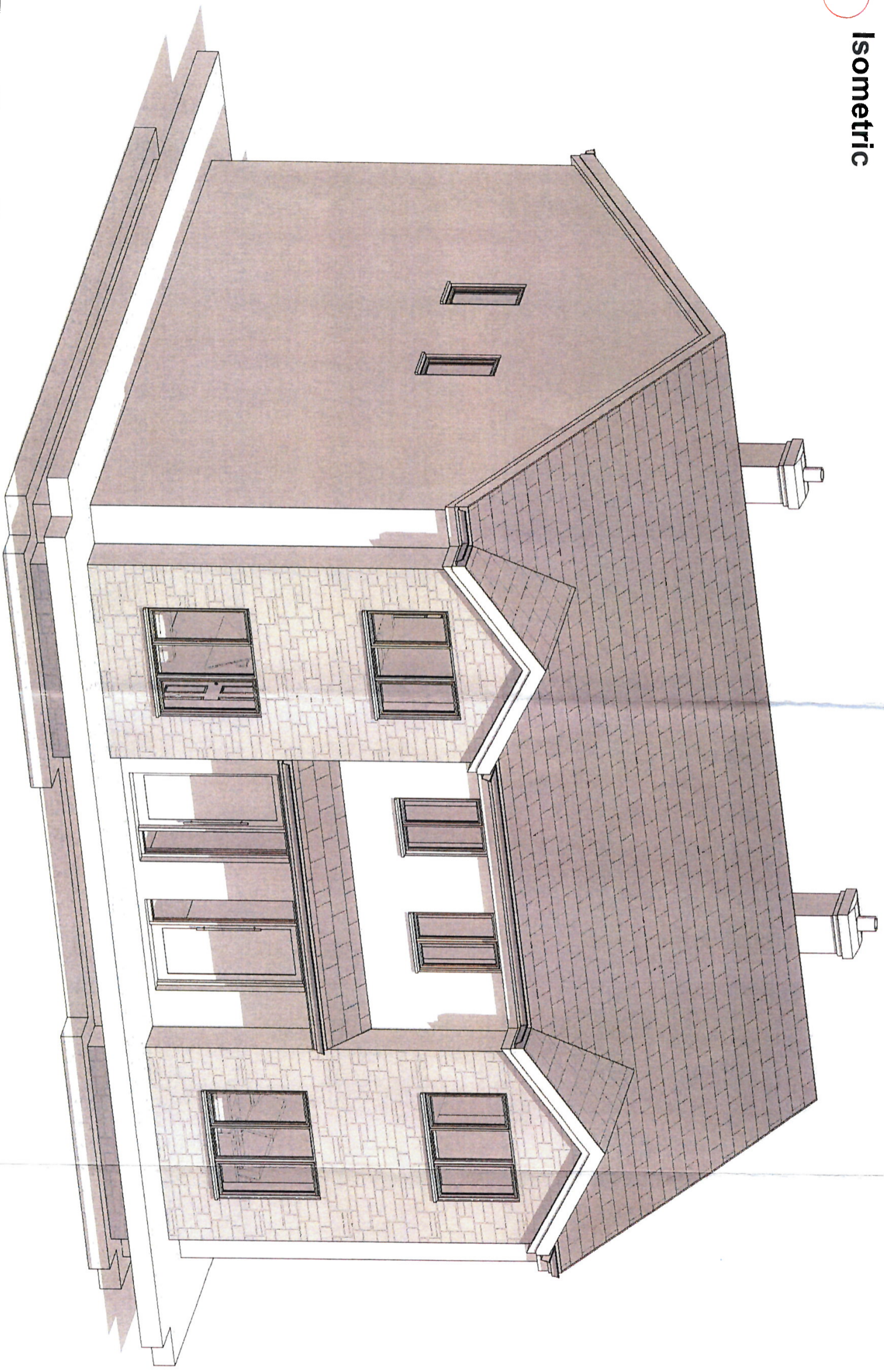
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2 East
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No.	Description	Date

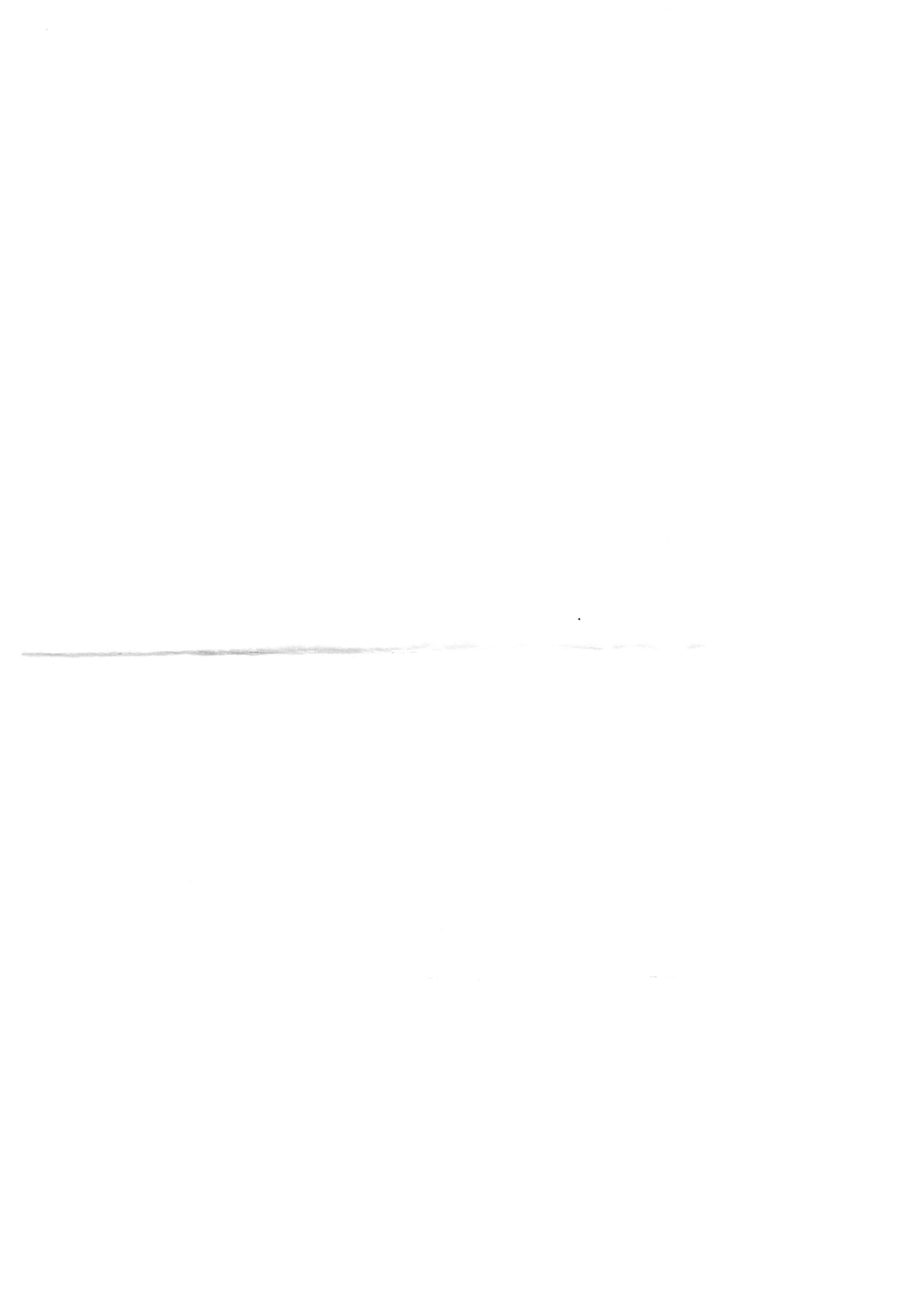
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				Checked by Checker	DRAWING NUMBER A111

1 Isometric

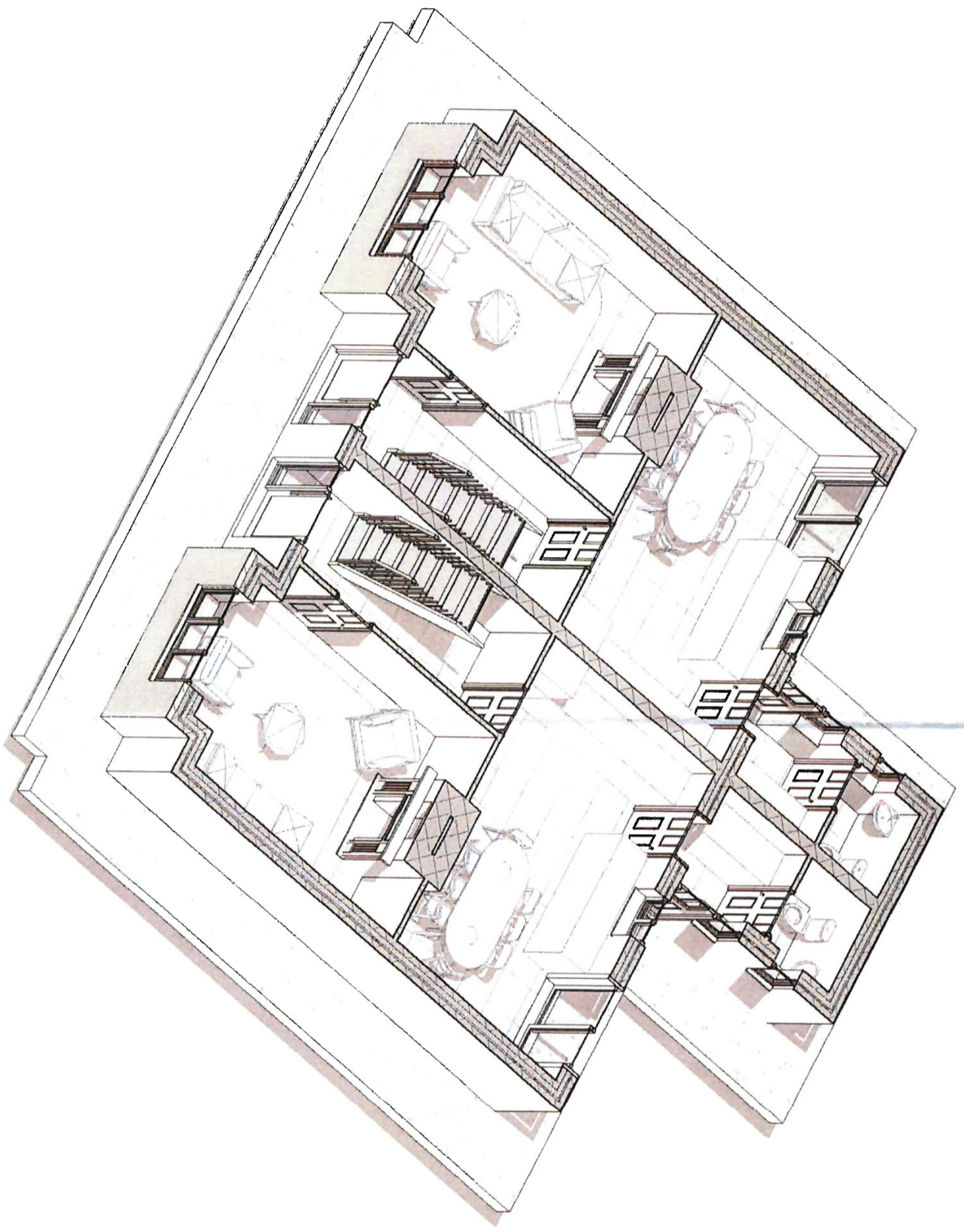


No.	Description	Date

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					Checked by	DRAWING NUMBER
					Checker	REV



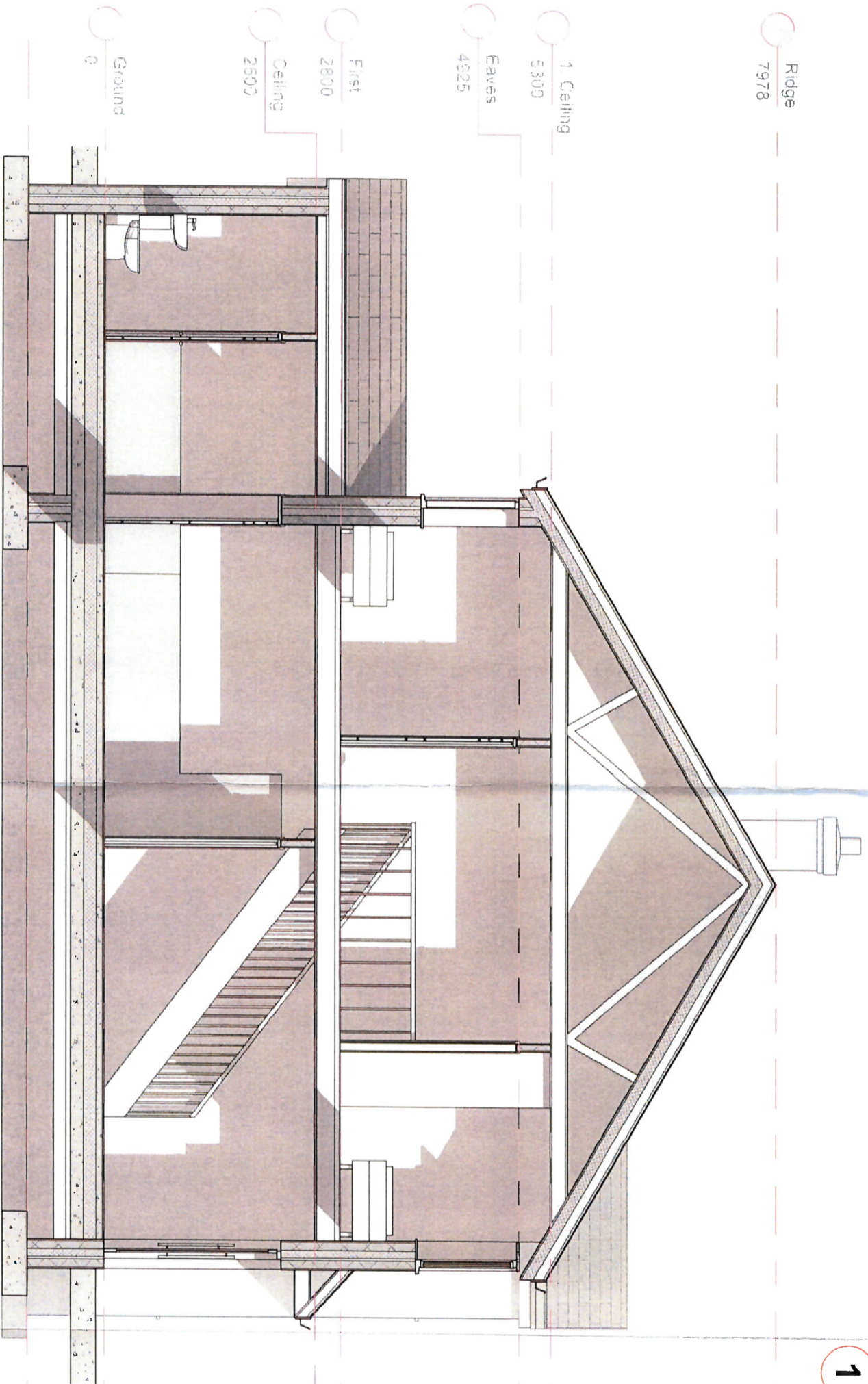
1 Iso Ground



No.	Description	Date

A.B.C.			PROJECT		Athenry Houses	
CODE	STATUS	SUITABILITY DESCRIPTION	PURPOSE OF ISSUE	SHEET	Date	Project number
				Proposed Buildings	22.04.25	
				Ground Isometric	Drawn by	Project Number
					Author	DRAWING NUMBER
					Checked by	
					Checker	A113
						Scale (@ A3)
						REV





1 Section 1
1 : 50

No.	Description	Date

<p>A.B.C.</p>				<p>PROJECT Proposed Buildings</p>		<p>CLIENT Athenry Houses</p>			
CODE	STATUS	SUITABILITY DESCRIPTION	PURPOSE OF ISSUE	SHEET	Section	Date 22.04.25	Project number Project Number	Scale (@ A3) 1 : 50	REV
						Drawn by Author	DRAWING NUMBER A115		
						Checked by Checker			

