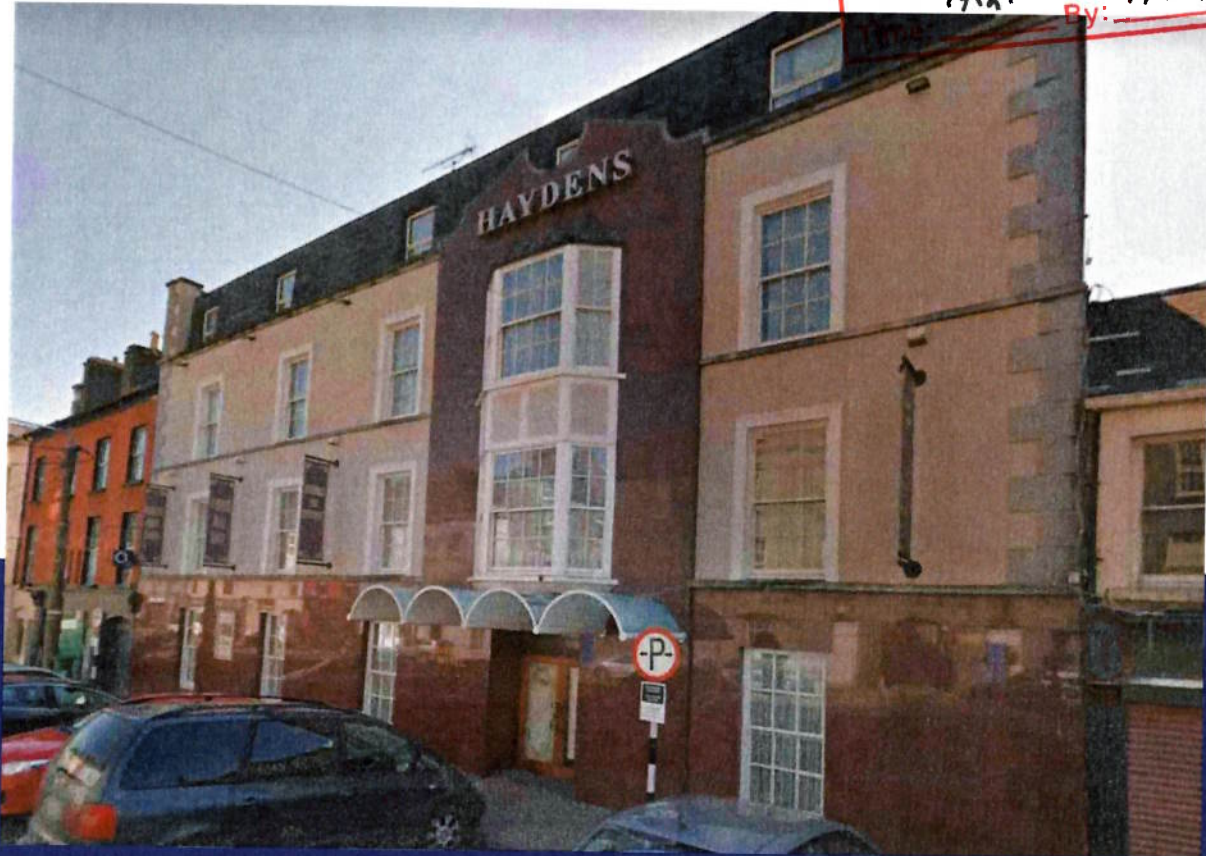


PLANNING REPORT

AN COIMISIÚN PLEANÁLA
LDG- 081241-25
ACP- _____
07 JUL 2025
Fee: € 220 Type: Claddagh
17121 By: Hand



SECTION 5 REFERRAL – DECLARATION OF EXEMPTED DEVELOPMENT

Galway County Council Reg. Ref. ED25/31

Hayden's Hotel, Dunlo St, Townparks,
Ballinasloe, Co. Galway

SUBMITTED ON 7th JULY 2025 ON BEHALF OF:
Claddagh Ventures Limited
Unit 3C Deerpark Business Centre,
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HUGHES
PLANNING
& DEVELOPMENT CONSULTANTS

1.0 Introduction

This referral to An Coimisiún Pleanála, pursuant to Section 5(3)(a) of the Planning and Development Act 2000 (as amended), has been prepared by Hughes Planning and Development Consultants, 85 Merrion Square, Dublin 2, on behalf of Claddagh Ventures Limited, Unit 3C Deerpark Business Centre, Claregalway Road, Oranmore, Co. Galway H91 X47K, and relates to a Section 5 Declaration made by Galway County Council on 17th June 2025 under Reg. Ref. ED25/31, regarding the use of Hayden's Hotel, Dunlo Street, Townparks, Ballinasloe, Co. Galway to provide much needed accommodation for displaced persons or persons seeking international protection.

We request that An Coimisiún Pleanála review the Section 5 Declaration issued by Galway County Council and make a determination with regard to the following question:

“Whether the use of Hayden's Hotel to provide accommodation for displaced persons or individuals seeking international protection, constitutes exempted development or does not constitute exempt development at Hayden's Hotel, Dunlo St, Townparks, Ballinasloe, Co. Galway”.

It is respectfully submitted that the addition of 9 no. bedrooms and refurbishment works do not constitute development and therefore do not require planning permission.

The prescribed fee of **€220.00** is enclosed, along with a copy of the declaration issued by Galway County Council. This report sets out the rationale for the proposed use. We request that An Coimisiún Pleanála set aside the decision of Galway County Council and issue a declaration stating that the use of Hayden's Hotel to accommodate displaced persons for persons seeking international protection does not constitute development.

1.1 Section 5 Declaration of Galway County Council

On 17th June 2025, Galway County Council refused a declaration of exemption which the proposed use of Hayden's Hotel to provide accommodation to displaced persons or persons seeking international protection under Reg. Ref. ED25/31 (See Appendix A).

The Planning Authority determined that the addition of 9 no. bedrooms and 5 no. windows will require planning permission, stating:

‘We the planning authority are of the opinion that the addition of 9 no. bedrooms and 5 no. windows on the ground floor along with the extensive refurbishment works required to make the hotel habitable, will require the benefit of planning permission. Therefore, the change of use cannot be considered exempt under ‘Class 20f’ of the Planning and Development Regulations 2001 (as amended)’.

We note and emphasise that the proposal for the provision of 5 no. windows was removed at Additional Information stage of the Section 5 Application, as further discussed in Section 4.1.2 of this report. It is respectfully submitted that the refurbishment works, and internal alterations are considered exempted development under Section 4 (1) (h) of the Planning and Development Act 2000 as amended.

The Section 5 referral report will assess the proposed use in the context of the Planning and Development Act 2000 (as amended) and relevant case law.

1.2 Summary of Grounds for Referral

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

1. Proposed Works are Exempted under Section 4(1)(h) of the Planning and Development Act 2000 (as amended)- The works on the site include minor internal reconfiguration to provide an additional 9 no. bedrooms and refurbishment works, all of which are exempted under Section 4(1)(h) of the Planning and Development Act 2000 (as amended).

2. No Material Intensification of Use – The proposed use will not materially intensify the existing residential use. Applying the criteria set out in *Cork County Council v Slattery Pre-Cast Concrete* [2008] IEHC 291, no significant increases in vehicular traffic, infrastructure demand, visual impact, or impacts on residential amenity will arise.

2.0 Site Description

Hayden’s Hotel was a landmark 49- bedroom hotel in Ballinasloe until it’s closure in approximately 2014. The subject site occupies a partial wrap-around, corner site, with elevations fronting Dunlo St, Hymany Park (R446) and Jubilee Street. The primary entrance is located on Dunloe St and the main building measures 4-storeys. Other elements of the site measure single-storey in height. There is a noticeable level-difference on the site, sloping downwards from northwest to southeast.

Ballinalsoe train station is located c. 1.8km to the northwest. The site is served by bus routes 547 and 548, which link the site to Portumna and Loughrea.



Figure 1.0 Aerial image showing the subject site, Hayden’s Hotel (red star).

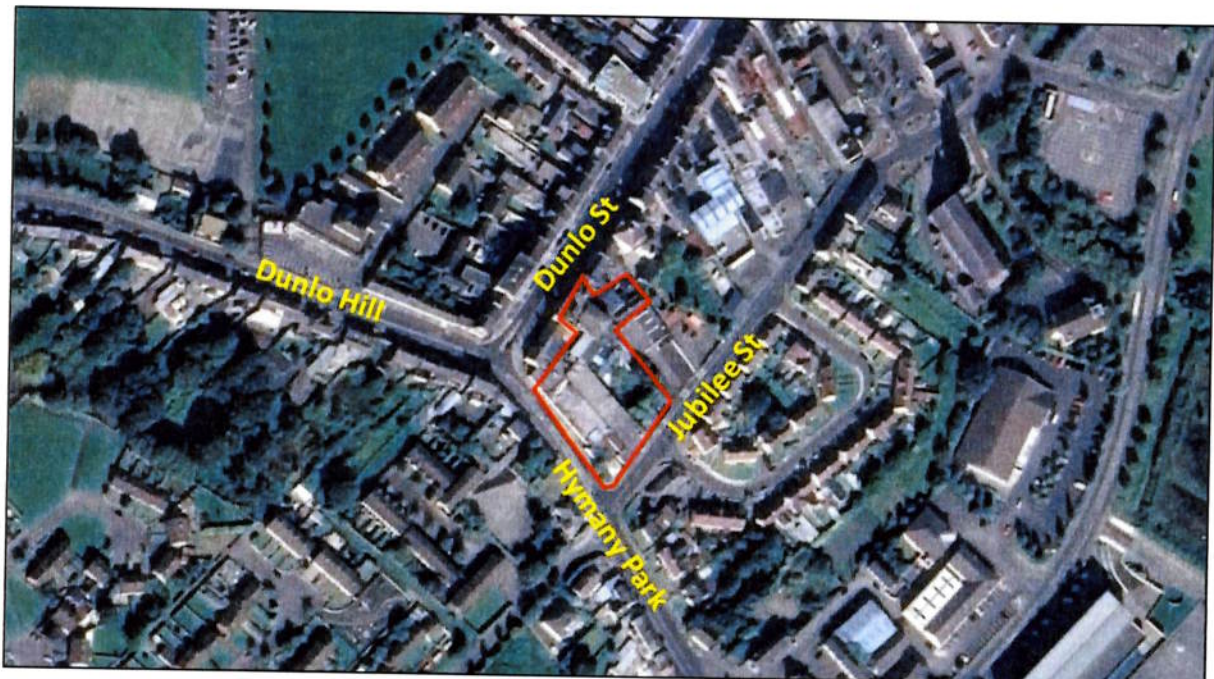


Figure 2.0 Aerial image showing the locational context of the subject site, outlined in red.



Figure 3.0 Street view image of the subject site.



Figure 4.0 Streetview image of the subject site.

2.0 Planning History

A review of Galway County Council Planning Register revealed the following planning history within the subject site:

Reg. Ref. FS12894 Planning permission granted by Galway County Council on 23rd April 1994 for a new function room, storage and toilets.

3.0 Planning Context

CLASS 20F

The application (Reg. Ref. ED25/31) as refused by Galway County Council, requested a Section 5 Declaration on whether the “hotel seeking an exemption under Section 5” is or is not development and is or is it not exempted development. Exemption is claimed under Class 20F of Schedule 2 Part 1 of the Planning and Development Regulations 2001, as amended.

The use of the hotel for accommodating persons seeking international protection through IPAS should be considered exempted development as per Class 20F of Part 1, Schedule 2 of the Planning and Development Regulations 2001 (as amended). Class 20F reads as follows:

Class 20F

Temporary use by or on behalf of the Minister for Children, Equality, Disability, Integration and Youth to accommodate or support persons seeking international protection of any structure or part of a structure used as a school, college, university, training centre, social centre, community centre, non-residential club, art gallery, museum, library, reading room, sports club or stadium, gymnasium, hotel, convention centre, conference centre, shop, office, Defence Forces barracks, light industrial building, airport operational building, wholesale warehouse or repository, local authority administrative office, play centre, medical and other health and social care accommodation, event and exhibition space or any structure or part of structure normally used for public worship or religious instruction.

The subject site comprises a hotel which was in operation until 2014. It is our opinion that the use of the hotel to accommodate persons seeking international protection should be considered exempted development under Class 20F. ‘Hotel’ is listed under Class 20F of the regulations.

The above exemption is subject to the following limitations as listed in Part 1, Schedule 2 of the Planning and Development Regulations 2001 (as amended):

Limitations

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

7. 'international protection', for the purpose of this class, has the meaning given to it in section 2(1) of the International Protection Act 2015 (No. 66 of 2015).
8. 'temporary protection', for the purpose of this class, has the meaning given to it in Article 2 of Council Directive 2001/55/EC of 20 July 2001.

With regards to point 6 above, the term 'Displaced Persons' under Article 2 of Council Implementing Decision (EU) 2022/382 of 4 March 2022 means the following categories of persons displaced from Ukraine on or after 24 February 2022, as a result of the military invasion by Russian armed forces that began on that date:

- (a) Ukrainian nationals residing in Ukraine before 24 February 2022;
- (b) Stateless persons, and nationals of third countries other than Ukraine, who benefited from international protection or equivalent national protection in Ukraine before 24 February 2022; and,
- (c) Family members of the persons referred to in points (a) and (b).

It is further noted that for the purposes of paragraph 1, point (c), the following persons shall be considered to be part of a family, in so far as the family was already present and residing in Ukraine before 24 February 2022:

- (i) The spouse of a person referred to above, point (a) or (b), or the unmarried partner in a stable relationship, where the legislation or practice of the Member State concerned treats unmarried couples in a way comparable to married couples under its national law relating to aliens;
- (ii) the minor unmarried children of a person referred to above, point (a) or (b), or of his or her spouse, without distinction as to whether they were born in or out wedlock or adopted;
- (iii) Other close relatives who lived together as part of the family unit at the time of the circumstances surrounding the mass influx of displaced persons, and who were wholly or mainly dependent on a person referred to in paragraph 1, point (a) or (b) at the time.

It is considered that Article 2 of the Council Implementing Decision (EU) 2022/382 of the 4th of March 2022 sets out the criteria for displaced persons. The housing of persons described otherwise, unless specifically noted under this class, will not meet the requisite standards of the exemption described herein and would therefore not constitute exempted development under Class 20F.

Furthermore, in relation to point 7, 'International Protection' is defined under the 2015 Act as:

- a) as a refugee, on the basis of a refugee declaration, or
- b) as a person eligible for subsidiary protection, on the basis of a subsidiary protection declaration;

Thereafter, for the purposes of this exemption, people under international protection shall be defined based on the above.

It is noted that Article 9 of the Regulations places restrictions on exempted development in certain cases. It states:

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

- (a) *if the carrying out of such development would—*
 - (i) *contravene a condition attached to permission under the Act or be inconsistent with any use specified in a permission under the Act,*

There are no conditions of note in the recent planning permissions.

In summary, the subject site comprises a hotel and the temporary change of use of the entirety of the subject site to accommodate persons seeking international protection is considered exempted development under Class 20F of Part 1, Schedule 2 of the Planning and Development Regulations 2001 (as amended).

It is noted that no works can be sought as part of this declaration. We note that the drawings depicted minor works, which involve the creation of 5 no windows on the side (southwestern) elevation. We are confident that these works adhere to Section 4(1)(h) of the Planning and Development Act which allows development that does not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or neighbouring structure. However, the Planning Authority has deemed these works not exempted and therefore in requirement of a planning application.

CLASS 14(h)

The Section 5 Application to Galway City Council (Reg. Ref. ED25/31) sought a Declaration of Exempted Development under 20F. Whilst we consider the proposed development to be exempted under Class 20F of the Planning and Development Regulations 2001 (as amended), we also consider that the proposed development may be exempted under Class 14(h) of the Planning and Development Regulations 2001 (as amended). We would accept a Section 5 Declaration of Exemption under either Class 20F or Class 14(h) if the commission were to consider it appropriate.

Class 14(h)

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,

The subject site comprises a hotel which was in operation until 2014. It is our opinion that the use of the hotel to accommodate persons seeking international protection should be considered exempted development under Class 14(h).

The above exemption is subject to the following limitations as listed in Part 1, Schedule 2 of the Planning and Development Regulations 2001 (as amended):

Limitations

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.

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.

Interpretation

2. In these Regulations, unless otherwise stated—

“ ‘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;”.

In summary, the subject site comprises a hotel and the temporary change of use of the entirety of the subject site to accommodate persons seeking international protection is considered exempted development under Class 14(h) of Part 1, Schedule 2 of the Planning and Development Regulations 2001 (as amended).

We reiterate that we originally applied for a Section 5 Declaration of Exempted Development to Galway County Council under Class 20F of the Planning and Development Regulations 2001 but would also accept a Section 5 Declaration of Exempted Development under Class 14(h) of the Planning and Development Regulations 2001 were An Coimisiún Pleanála to find it appropriate.

4.0 Grounds for Referral

This Referral raises two principal issues for consideration by the Commission:

- (i) Whether the proposed internal refurbishment and reconfiguration works constitute development; and,
- (ii) whether the addition of 9 no. bedrooms constitutes an intensification of use at the site.

These two key issues are addressed in detail in the following section of this report.

4.1 Proposed Works

The works on the site include minor internal reconfiguration to provide an additional 9 no. bedrooms and refurbishment works, all of which are exempted under Section 4(1)(h) of the Planning and Development Act 2000 (as amended).

The 5 no. additional windows, which were identified as a refusal reason for the Section 5 Declaration, was proposed at application stage then removed at RFI stage, as displayed in Section 4.1.2 below.

4.1.1 Physical Condition of the Structure

As can be seen in the photographs taken on the 1st of April 2025 and included overleaf, the physical condition of Hayden's Hotel can be described as good, with the layout being consistent with that of its lawful use as a hotel. The proposed works include internal refurbishment works and minor internal reconfigurations which are considered exempted works in accordance with Section 4(1)(h) of the Planning and Development Act 2000 (as amended). As noted, no substantial works have been carried out.



Figure 5.0 A ground-floor bedroom in Hayden's Hotel, as included in the photographic survey carried out on 1st April 2025.



Figure 6.0 A first-floor bedroom and bathroom in Hayden's Hotel, as included in the photographic survey carried out on 1st April 2025.



Figure 7.0 A second-floor bedroom and bathroom in Hayden's Hotel, as included in the photographic survey carried out on 1st April 2025.



Figure 8.0 A third-floor bedroom and bathroom in Hayden's Hotel, as included in the photographic survey carried out on 1st April 2025.

As displayed above, the internal areas are in good condition and only require minor refurbishment works. It is considered that these works are exempted development under Section 4(1)(h) of the Planning and Development Act 2000 (as amended) and are considered minimal.

4.1.2 Windows

The decision letter from Galway County Council for the Section 5 Application (Reg. Ref. ED25/31) dated 17th June 2025 states:

'We the planning authority are of the opinion that the addition of 9 no. bedrooms and 5 no. windows on the ground floor along with the extensive refurbishment works required to make the hotel habitable, will require the benefit of planning permission. Therefore, the change of use cannot be considered exempt under 'Class 20f' of the Planning and Development Regulations 2001 (as amended).'

It was considered that the proposed 5 no. windows at ground floor level would not materially affect the external appearance of the building and therefore should be exempted under Section 4(1)(h) of the Planning and Development Act 2000 (as amended). However, at RFI stage, the proposed 5 no. windows at ground floor level were removed from the proposal. It is therefore considered that this refusal reason from Galway County Council is blatantly inaccurate as there are no additional windows proposed at the site, as displayed in the drawings submitted at RFI stage of the Section 5 Application.

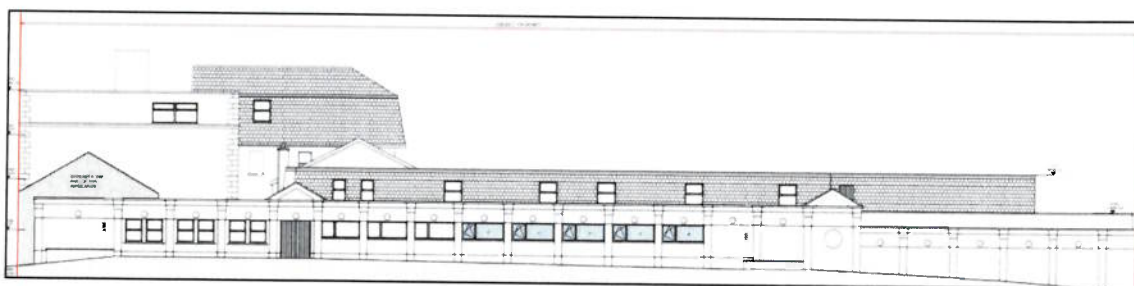


Figure 9.0 Southwest elevation with 5 no. proposed windows, as submitted at Application Stage.

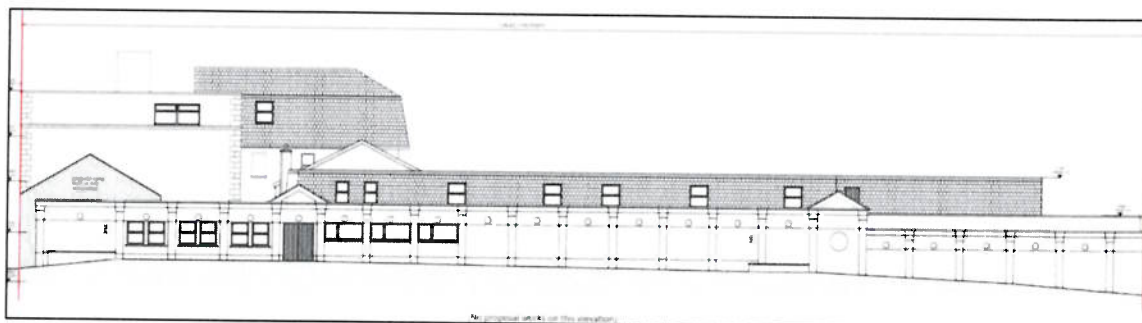


Figure 10.0 Southwest elevation as submitted at RFI stage.

In essence, there are no proposed windows and therefore the decision made by Galway County Council has been based on an inaccurate interpretation of the subject proposal.

4.2 No Material Intensification of Use

The proposed use will not materially intensify the existing residential use. Applying the criteria set out in *Cork County Council v Slattery Pre-Cast Concrete* [2008] IEHC 291, no significant increases in vehicular traffic, infrastructure demand, visual impact, or impacts on residential amenity will arise.

4.2.1 Plans

The floor plans below, as prepared by Logical, display the proposed alterations at the site. We note that there are 53 no. existing bedrooms and the Section V Application proposed an additional 9 no. bedrooms, representing a 17% increase in bedrooms at the site.



Figure 11.0 Existing (left) and proposed (right) ground floor plan.

As displayed above, the proposed ground floor plan includes the addition of 9 no. bedrooms without substantially altering the existing layout of the hotel. The remaining floors proposed no additional bedrooms.



Figure 12.0 Existing (left) and proposed (right) first floor plan.



Figure 13.0 Existing (left) and proposed (right) second floor plan.

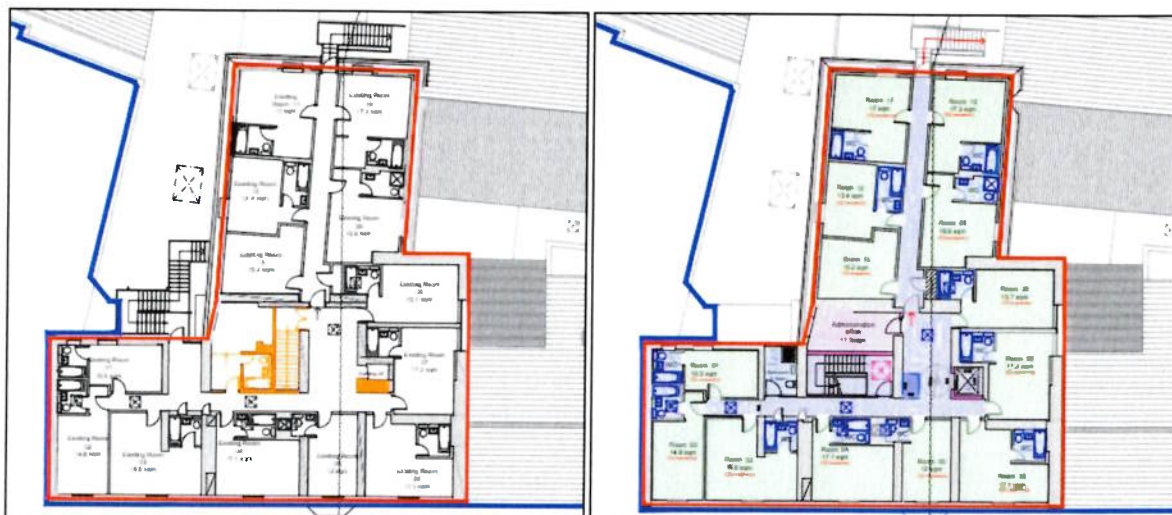


Figure 14.0 Existing (left) and proposed (right) third floor plan.

In essence, the proposal includes the addition of 9 no. bedrooms on the ground floor of Hayden Hotel. It is not considered that the addition of 9 no. bedrooms to a hotel with 53 no. existing bedrooms represents an intensification of use on the site.

4.2.2 No Material Change of Use

It is submitted that the continued residential use of Hayden’s Hotel, including its proposed use to accommodate displaced persons or persons seeking international protection, where no care is provided, does not constitute a material change of use.

This conclusion is consistent with recent planning authority determinations in comparable cases, as outlined in Section 4.3.4 below.

Accordingly, the commission is respectfully requested to confirm that the proposed development does not constitute development for the purposes of the Planning and Development Act 2000 (as amended).

4.2.3 Relevant Legal Provisions

The question of whether an intensification of an established use constitutes a material change of use is assessed by reference to planning criteria. In *Cork County Council v Slattery Pre-Cast Concrete* [2008] IEHC 291, Clarke J. explained:

"The assessment of whether an intensification of use amounts to a sufficient intensification to give rise to a material change in use must be assessed by reference to planning criteria. Are the changes such that they have an effect on the sort of matters which would properly be considered from a planning or environmental perspective?"

Relevant planning considerations include significant changes in vehicular traffic, noise, visual impact, or impacts on residential amenity.

Similarly, in *Molloy v Minister for Justice* [2004] IEHC 74, the High Court confirmed that a significant intensification of use may constitute development requiring planning permission. However, in that case, the Court held that whether such intensification had actually occurred was a factual question to be determined based on practical impacts, not hypothetical concerns.

The Court further emphasised that any concerns about future intensification would only become material if and when actual impacts arose.

4.2.4 Application to the Proposed Development

It is submitted that the proposed use of Hayden's Hotel as accommodation for displaced persons or persons seeking international protection will not result in a material intensification of use for the following reasons:

Vehicular Traffic

The level of vehicular traffic associated with the proposed use will be limited. Residents are unlikely to own private vehicles, and the level of vehicular trips generated will be comparable to or lower than typical residential occupancy patterns. No significant increase in traffic movements is anticipated.

Pressure on Infrastructure

The proposed occupancy, including the provision of 9 no. additional bedrooms, will not put any additional strain on the infrastructure which serves the site. The demand on local water, drainage, and waste services will be equivalent to ordinary hotel use and will not place additional pressure on infrastructure.

Visual Impact

No external alterations to the building are proposed. The visual appearance of the building will remain consistent with its existing character, and no adverse visual impact will arise.

Having regard to the above, it is submitted that the proposed development will not give rise to any material intensification of use that would amount to development under the Planning and Development Act 2000 (as amended). The operational impacts of the proposal remain within the scope of normal hotel use, as envisaged by relevant case law and planning principles.

4.3 Planning Precedents

Recent Section 5 declarations reinforce the position that the continued use of existing hotels to accommodate displaced persons or persons seeking international protection without care provision does not constitute development.

CLASS 20F

The Address Hotel Citywest, Old Naas Road, Citywest, Dublin 22

Reg. Ref. ED25/0020 South Dublin County Council granted exemption on 25th March 2025 for *“Whether the use of The Address Hotel Citywest, Old Naas Road, Citywest, Dublin 22, D22 W580, to provide accommodation for displaced persons or persons seeking international protection, constitutes exempted development or does not constitute exempt development?”*

The Chief Executives order notes:

‘It is noted that no external works are proposed. Notwithstanding, it is considered that the proposed change of use from hotel to temporary use for accommodation for International Protection Applicants constitutes a material change of use of the structure and would therefore be considered development’.

Pery's Hotel, Glentworth Street, Limerick

Reg. Ref. EC/184/24 Limerick City and County Council granted exemption on 14th February 2025 for *“Whether the use of a hotel at Pery's Hotel, Glentworth Street, Limerick, V94N59K, to provide accommodation for displaced persons or persons seeking international protection, constitutes exempted development or does not constitute exempt development?”*

The notification from Limerick City and County Council states:

'NOW THEREFORE the Planning Authority in exercise of the powers conferred on it by Section 5(2) (a) of the Planning and Development Act 2000 (as amended) hereby decides that the said development as described above is Development and is Exempt Development'.

CLASS 14(h)

Dun a Ri House Hotel, Kingscourt, Co. Cavan

Ref. ABP-321373-24 Cavan County Council referred the Section V Application (Reg. Ref. 384) to An Bord Pleanála where the board granted exemption on 14th April 2025 for *'whether the use of a Guesthouse at Dun a Ri House Hotel, Kingscourt, County Cavan, A82 ND30, to provide accommodation for persons seeking international protection, constitutes exempted development or does not constitute exempt development'*.

As stated in the board order:

'An Bord Pleanála has concluded that -

(a) the change of use of a guesthouse at Dun a Ri House Hotel, Kingscourt, County Cavan, to provide accommodation for persons seeking international protection constitutes a material change of use and therefore is development as defined under Section 3(1)(a) of the Planning and Development Act 2000 (as amended).

(b) the change of use of a guesthouse at Dun a Ri House Hotel to provide accommodation for persons seeking international protection is exempted development as it comes within the scope of Class 14 - Part 1 of Schedule 2 - 'Exempted Development - General' inserted by The Planning and Development (Amendment) (Number 4) Regulations 2015 (S.I No 582/2015)'.

The subject site at Hayden's Hotel is materially similar in scale, configuration, and intended use to the precedent sites. In each case, it was found that the use of a hotel to provide accommodation for displaced persons or persons seeking international protection is development and is exempted development.

5.0 Conclusion

As noted, this Section 5 referral relates to two specific issues:

- (i) Whether the proposed internal refurbishment and reconfiguration works constitute development; and,
- (ii) whether the addition of 9 no. bedrooms constitutes an intensification of use at the site.

It is considered that the proposed internal refurbishment works are exempted under Class 4 (1)(h) of the Planning and Development Act 2000 (as amended).

Whilst it is contended that the Planning Authority erred in its approach to formulating a decision due to their reference to the 5 no. windows which were removed from the proposal at RFI stage, as a Section 5 declaration concerns the nature of the use proposed. It is submitted that the proposed use will not give rise to any material intensification of use having regard to established planning criteria. The operational format remains as a hotel in character and will not result in significant additional impacts in terms of traffic, infrastructure, or visual appearance.

Recent planning precedents reinforce the position that the use of hotels to displaced persons or persons seeking international protection is exempted development.

Therefore, the question before the Commission is:

“Whether the use of Hayden’s Hotel to provide accommodation for displaced persons or individuals seeking international protection, constitutes exempted development or does not constitute exempt development at Hayden’s Hotel, Dunlo St, Townparks, Ballinasloe, Co. Galway”.

Accordingly, it is respectfully requested that the commission overturn the decision of Galway County Council and confirm that:

- The proposed refurbishment works at Hayden Hotel are exempted under Class 4(1)(h) **OR** Class 20F of the Planning and Development Act 2000 (as amended); and
- the proposed use of Hayden’s Hotel to provided accommodation for displaced persons or persons seeking international protection does not constitute development requiring planning permission under the Planning and Development Act 2000 (as amended).

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



Kevin Hughes MIPI MRTPI
Director for HPDC

Appendix A Copy of the decision by Galway County Council to refuse the Section 5 Application.



Bosca Poist Uimhir 27,
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Cnoc na Radharc,
Gaillimh

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

Comhairle Chontae na Gaillimhe
Galway County Council

Claddagh Ventures Limited,
C/o Kevin Hughes,
Hughes Planning,
85 Merrion Square,
Dublin 2,
D02 FX60.

17th June 2025

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

ED25/31 – Whether the use of Hayden's Hotel to provide accommodation for displaced persons or individuals seeking international protection, constitutes exempted development or does not constitute exempt development at Hayden's Hotel, Dunlo St, Townparks, Ballinasloe, 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 20F’ Schedule 2 Part 1 of said Planning and Development Regulations.
- (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 use of Hayden’s Hotel to provide accommodation for displaced persons or individuals seeking international protection, constitutes exempted development or does not constitute exempt development at Dunlo St, Townparks, Ballinasloe, Co. Galway is development and is **not exempted development** under ‘Class 20F’ 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).

Having considered the works proposed the Planning Authority is of the opinion that the proposed works would not be considered exempted development under 'Class 20f' of the Planning and Development Regulations 2001 (as amended).

CLASS 20F

Temporary use by or on behalf of the Minister for Children, Equality, Disability, Integration and Youth to accommodate or support displaced persons or persons seeking international protection of any structure or part of a structure used as a school, college, university, training centre, social centre, community centre, non-residential club, art gallery, museum, library, reading room, sports club or stadium, gymnasium, hotel, convention centre, conference centre, shop, office, Defence Forces barracks, light industrial building, airport operational building, wholesale warehouse or repository, local authority administrative office, play centre, medical and other health and social care accommodation, event and exhibition space or any structure or part of structure normally used for public worship or religious instruction.

Conditions and Limitations:

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

We the planning authority are of the opinion that the addition of 9 no. bedrooms and 5 no. windows on the ground floor along with the extensive refurbishment works required to make the hotel habitable, will require the benefit of planning permission. Therefore, the change of use cannot be considered exempt under 'Class 20f' of the Planning and Development Regulations 2001 (as amended).

Note: After reviewing the requested further information photographic survey, we the planning authority are of the opinion that in it's current state the Hayden Hotel is not suitable to accommodate or support displaced persons or persons seeking international protection.

Our Ref: ED 25/31

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

