

File With _____

SECTION 131 FORM

Appeal NO: ACP -323195-25

Defer Re O/H

Having considered the contents of the submission ~~dated~~ received 25/08/25
from

Aupbay Limited I recommend that section 131 of the Planning and Development Act, 2000
be not be invoked at this stage for the following reason(s): No new planning issues raised

E.O.: Laura Goody Lawlor

Date: 11/09/25

For further consideration by SEO/SAO

Section 131 not to be invoked at this stage.

Section 131 to be invoked – allow 2/4 weeks for reply.

S.E.O.: _____

Date: _____

S.A.O.: _____

Date: _____

M _____

Please prepare BP _____ - Section 131 notice enclosing a copy of the attached submission

to: _____ Task No: _____

Allow 2/3/4weeks – BP _____

EO: _____

Date: _____

AA: _____

Date: _____

File With _____

CORRESPONDENCE FORM

Appeal No: ACP - 323195-25

M _____

Please treat correspondence received on 25/08/25 as follows:

1. Update database with new agent for Applicant/Appellant _____	
2. Acknowledge with BP ^{RL} <u>20</u>	1. RETURN TO SENDER with BP _____
3. Keep copy of Board's ^{Commissions} Letter <input type="checkbox"/>	2. Keep Envelope: <input type="checkbox"/>
	3. Keep Copy of Board's ^{Commissions} letter <input type="checkbox"/>

Amendments/Comments

Aupbay Limited response to S131 notice

4. Attach to file (a) R/S <input type="checkbox"/> (d) Screening <input type="checkbox"/> (b) GIS Processing <input type="checkbox"/> (e) Inspectorate <input type="checkbox"/> (c) Processing <input type="checkbox"/>	RETURN TO EO <input checked="" type="checkbox"/>
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	Plans Date Stamped <input type="checkbox"/>
	Date Stamped Filled in <input type="checkbox"/>
EO: <u>Laura Geedy Lawlor</u>	AA: <u>Jan Kelly</u>
Date: <u>11/09/25</u>	Date: <u>18/09/2025</u>

~~D. Cassels~~
Lawa

Catherine Flynn

From: Vitalija Janusonyte <vitalija@brockmcclure.ie>
Sent: Monday 25 August 2025 11:37
To: Appeals2
Cc: Suzanne McClure
Subject: ACP Ref. 323195-25 Paramount Hotel - Section 131 Observation
Attachments: BMC - ACP-323195-25 - Observation - 25.08.25.pdf

Caution: This is an **External Email** and may have malicious content. Please take care when clicking links or opening attachments. When in doubt, contact the ICT Helpdesk.

Dear Sir / Madam,

We, Brock McClure Planning & Development Consultants, 63 York Road, Dun Laoghaire, Co. Dublin, have been instructed by our client, Ampbay Limited, The Paramount Hotel, 27-30 Parliament Street, Dublin 2, to submit this observation in respect of the case registered under Ref. ACP-323195-25, as requested by An Coimisiún Pleanála by correspondence dated 06 August 2025 (appended to the attached observation document).

We note that the relevant response period is on or before 5.30 pm **26th August 2025**, and we confirm that this submission is lodged within this timeframe. It was confirmed with ACP that any observations can be submitted in digital copy via email.

We ask that all correspondence regarding this case is forwarded to our offices at 63 York Road, Dun Laoghaire, Co. Dublin.

Please confirm receipt of email by return.

Kind Regards,

Vitalija Janusonyte
Senior Executive Planner

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Planning & Development Consultants
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An Coimisiún Pleanála
64 Marlborough Street,
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[via email: appeals@pleanala.ie]

25th August 2025

**Section 131 Observation regarding a Section 5 Referral
for lands at The Paramount Hotel, 7-8 and 9-10 Exchange Street Upper,
And 1, 27-28 and 29-30 Parliament Street, Dublin 2**

Ref. ACP-323195-25

DCC Ref. 0050/24

Dear Sir / Madam,

We, Brock McClure Planning & Development Consultants, 63 York Road, Dún Laoghaire, Co. Dublin, have been instructed by our client, **Ampbay Limited, The Paramount Hotel, 27-30 Parliament Street, Dublin 2**, owner of The Paramount Hotel, No. 7-10 Exchange Street Upper, No. 27-30 Parliament Street, Dublin 2 to submit this observation in respect of the case registered under Ref. ACP-323195-25, as requested by An Coimisiún Pleanála by correspondence dated 06 August 2025.

We note that the relevant response period is on or before 5.30 pm **26th August 2025**, and we confirm that this submission is lodged within this timeframe. It was confirmed with ACP that any observations can be submitted in digital copy via email.

As per the correspondence, we acknowledge that the Commission cannot consider comments that are outside the scope of the matters in question and as such, this response is set out as follows:

Section 1 – Observations on the Board’s Order dated 15th November 2024 (Ref. ABP-319436-24).

Section 2 – Planning Legislation

We respectfully request that the Commission review this case de novo and give due consideration to the observations set out below. Furthermore, we wish to reaffirm that all previously prepared observations submitted in relation to DCC Ref. 0050/24 and ABP-319436-24 remain relevant and should be considered in this context.



1 Observation on Boards Decision

The Request and The Declaration

The third party, Old City Management Limited, submitted a request to Dublin City Council asking:

“Whether the change of use at the Paramount Hotel from use as a ‘hotel’ to use as a ‘hostel (non-tourist) where care or short-term homeless accommodation is provided is development, and whether it is exempted development.”

Dublin City Council’s Declaration in March 2024 confirmed that:

“The change of use alleged in the Request “is EXEMPT from the requirement to obtain planning permission under Section 32 of the Planning & Development Acts 2000 (as amended).”

The following reasons and considerations were given:

“The Planning Authority considers that no development by reason of works or by reason of a material change of use has taken place at this premises and that the continued use of the premises as a hotel use is considered exempt from the requirement to seek planning permission.”

This stance was substantiated by the fact that no change of use had taken place at The Paramount Hotel, and that its core use remained aligned with its permitted hotel operation.

The Inspector’s Recommendation

In line with the Declaration, the Inspector’s Report from October 2024 (Section 8.3.14) also asserted that:

“Having considered that the question as raised in the question is not development by reason that a material change of use has taken place, I do not consider that the matter of exempted development arises as the provision which would arise to consider the question of exempted development as provided for in the Planning Act 2000, as amended and the Planning and Development Regulations, 2001 as amended do not arise and that the continued use of the premises as hotel use is considered exempt from the requirement to seek planning permission.”

The Inspector’s draft order subsequently concluded that:

“NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5 (3) (a) of the 2000 Act (as amended), hereby decides that the question of the change of use at the Paramount Hotel from use as a ‘hotel’ to use as a ‘hostel (non-tourist) where care or short-term homeless accommodation that development as defined under section 3 (1) (a) Of the Planning and Development Act 2000 (as amended) does not arise by reason that a material change of use has not taken place from the established and permitted use on the site.”

The Board’s Decision

On 15th November 2024, the signed Board Order decided that *“the change of use at the Paramount Hotel from use as a ‘hotel’ to use as a ‘hostel’ (non-tourist) where care or short-term homeless accommodation is provided at the Paramount Hotel... is development and is not exempted development.”*

In arriving at this decision, An Bord Pleanála (now, An Coimisiún Pleanála), concluded that:

- a) *The use of the building for short term homeless accommodation constitutes a change of use from the permitted hotel use with reference to the following:*
 - (i) *The current use as described in the submission of file, including those from the representative of the operator,*
 - (ii) *The predominant use of the building is no longer for tourist accommodation,*
 - (iii) *The provision of accommodation for homeless persons provides a ‘social need’ and therefore constitutes ‘care’ as defined in Article 5 (1), Part 2 of the Planning and Development Regulations 2002, as amended,*





- (iv) A hotel or hostel, other than a hostel where care is provided, is a ‘business premises’ as defined in Article 5 (1), Part 2 of the Planning and Development Regulations 2002, as amended, therefore the use of the building for a hotel as permitted is a business premises, the use of the building for short term homeless accommodation is not a business premises,
- b) The change of use from the permitted hotel to use as short term homeless accommodation raises planning considerations which are materially different to the planning considerations relating to the permitted hotel use, with references to the distinctions in the planning considerations between hotels intended for visitor accommodation and hostels / sheltered accommodation / family hubs for non-tourist homeless accommodation as referred to in the Dublin City Development Plan 2022-2028, including at section 15.13.9, 15.14.1 and 15.14.1.1,
- c) The change of use, therefore constitutes a material change of use and is development as defined in Section 3 of the Planning and Development Act, 2000, as amended, and
- d) Neither the Planning and Development Act, 2000, as amended, nor the Planning and Development Regulations, 2001, as amended provide any exemption in respect of such a material change of use”

No Change of Use Has Occurred

From the outset, it must be unequivocally emphasised to the Commission that the Paramount Hotel continues to operate as a hotel as per its permitted use. Notably, there has been no change in the essential nature or function of the use of the building. The only element that has varied is the socio-economic status of the guests occupying rooms within the hotel. This, in both planning and law terms, is immaterial.

Planning legislation does not distinguish between different types of occupiers, nor does it address the funding source for accommodation. There is no legal basis for concluding that the use of a hotel becomes unauthorised or materially altered merely because some or all occupants are homeless persons or the accommodation is funded by the State.

We respectfully draw the Commission’s attention to the recent and authoritative judgment of the High Court in *Leitrim County Council v Dromapop Ltd* [2024] IEHC 233, which directly and unequivocally addresses this point. At paragraphs 27 and 33, the High Court held that the use of a hotel to provide accommodation for homeless persons remains within the scope of its existing hotel use.

“There is no rigid definition of a “hotel”... it’s accommodation, not anything else, that defines a hotel... Certainly a kitchen is not indispensable. Many hotels don’t have kitchens” (Dromapop, paragraph 27).

“Some hotels cater for special categories of the market... A hotel providing temporary accommodation for commercial tourists, not involving meals, is still a hotel. Even the use to accommodate protection seekers and displaced persons might have been situated within the outer contours of the concept of a hotel. After all, some people live in hotels on an ongoing basis...” (Dromapop, paragraph 33).

This decision confirms that the provision of accommodation to homeless individuals, particularly where the operation of the hotel, including staffing, facilities, and services, continues as before does not constitute a change of use.

There was no suggestion in the judgement in *Dromapop* that the mere accommodation of ‘refugees’ would extinguish hotel use in that case. Accordingly, the central premise of the Board’s decision, namely that a change of use has occurred is erroneous. No such change of use has occurred, nor is there any material basis on which to assert that one has.

Again, we remind the Commission that Dublin City Council’s Enforcement Officer, following an enforcement query made by the third party, responded in December 2023 as follows:

“Recent investigation & inspections carried out by the area enforcement officer revealed that the above premises, a hotel, is currently in use providing accommodation to persons. There has been no deviation from the approved use and consequently it is intended to close this file with no further action.” [Our emphasis]





The enforcement officer's response acknowledges the continuity of the hotel's operations and highlights that the Paramount Hotel is providing accommodation within the scope of its permitted operations and no change of use has occurred, consistent with the judgement in *Dromapop* which stated that 'it's accommodation, not anything else, that defines a hotel...' (paragraph 27).

This confirms that the Paramount Hotel continues to operate as a hotel, and no change of use had occurred.

Misinterpretation of 'Care' and 'Social Need'

Whether or not the accommodation of homeless persons constitutes the provision of "care" for the purposes of Article 5 (1), Part 2 of the Regulations, 2001 (as amended), and therefore engages the exemption under Class 14 (g) of Part 1 of Schedule 2, is a secondary question that only arises if a change of use is first established. Since no change of use has occurred, that question does not arise and is irrelevant.

In any event, and without prejudice to our primary position that there is no change of use, it is denied that the accommodation of homeless persons constitutes "care" within the meaning of the Regulations. The Board's interpretation of Article 5 (1) of the Regulations is unfounded. The Board's reasoning that the provision of accommodation for homeless persons meets a 'social need' and therefore constitutes 'care' under the Regulations is a misapplication of the relevant law and a distortion of legislative intent.

It is clear from the Regulations as a whole, that the concept of 'personal care' does not include accommodation, and that 'social need' in Article 5 (1) does not include the provision of accommodation as that is not 'personal care'. The ordinary and natural meaning of "personal" care means it relates to some aspect of the person (or personal aspect) which may be physical, intellectual or social. This may involve nursing and / or health services. Personal care therefore includes support with tasks essential to everyday living. It does not include the provision of accommodation.

This can be seen from the distinction between "hostel" and "hostel where care is provided" in the Regulations which demonstrates that accommodation in a hostel is not itself 'care'. Otherwise, the reference to "where care is provided" as an addition, would be superfluous.

The relevant legislative history and intention is clear:

Part 4 of Schedule 2, Class 9(a) concerning change of use: *"for the provision of residential accommodation and care to people in need of care (but not the use of a house for that purpose)"*

Part 1 of Schedule 2, Class 14(g) concerning change of use: from use as a hotel, to use as a hostel (other than a hostel where care is provided).

When the Minister introduced Class 14(g) of Part 1, Schedule 2 of the Planning and Development Regulations 2001 (as amended) to the Oireachtas on 15 December 2015, the following was stated before the Joint Committee on Environment, Culture and the Gaeltacht:

"Under this amendment, a premises previously operated as a hotel may be used to accommodate persons in hostel-type accommodation. While the change of use is not confined to any particular class of persons, this amendment will be of particular benefit in clarifying the planning status of hotels that provide accommodation for homeless persons, asylum seekers and refugees."

This statement reflects the legislative purpose and leaves no room for ambiguity. The intention was to facilitate, not restrict, the use of hotels to accommodate vulnerable groups, including homeless persons. An interpretation that classifies such accommodation as 'care' in a way that disqualifies it from exemption under Class 14 (g) is entirely inconsistent with this legislative purpose and violates the fundamental principles of statutory interpretation. The Board's interpretation of 'social need' as synonymous with 'care' effectively nullifies the operation of Class 14 (g) and renders its intended purpose and application redundant.





Hotel Use Remains Business Use

The Board’s findings at (a)(iv), that the use of the building for the accommodation of homeless persons means it no longer constitutes a “business premises” is also flawed.

The operation of the hotel in these circumstances remains commercial in nature. The Paramount Hotel continues to operate as a hotel in all respects: commercial operation, short-term accommodation, and paid-for stays. The accommodation of homeless persons, irrespective of funding sources, does not alter the business premise status of the hotel.

Again, the *Dromaprop* judgment reaffirms this, acknowledging that hotels can cater to various categories of guests, including vulnerable individuals, without losing their commercial status.

Consequences of the Board’s Decision

It follows that the Board’s subsequent conclusions in points (b), (c), and (d) are based on entirely erroneous assumptions that a change of use has occurred. As such:

- If there is no change of use (which is our firm and supported position), then the issue of “material change” or “development” within the meaning of the Act does not arise.
- Likewise, the question of whether or not an exemption applies under Class 14(g) only becomes relevant if a change of use is first established. Since no such change has occurred, the exemption question is moot.
- In any event, and without prejudice to our primary position, we firmly reject the Board’s flawed interpretation that accommodating homeless persons constitutes “care” for the purposes of Article 5(1) or removes the development from the scope of Class 14(g).

In light of the comprehensive evidence outlined above, specifically the findings of the Environmental Enforcement Officer (December 2023), the Declaration by Dublin City Council (March 2024), the Inspector’s Report (October 2024), and the authoritative judgment in the *Dromapop* case (April 2024); it is clear that the Board’s decision and order represents a significant outlier, rooted in a misconception and misapplication of both the relevant planning principles and legislative frameworks. The consistent conclusions reached by these key authorities starkly contrast with the Board’s determination, highlighting a critical divergence in interpretation and application of the law.

In light of these points, we respectfully ask the Commission to firmly reconsider its position, taking into account the detailed observations and arguments raised herein. The significant divergence between the Board’s decision and the prevailing legal and planning context warrants a thorough and objective reassessment.

2 Planning Legislation

The Planning and Development Regulations, 2001 (as amended), set out the use classes in which change from one use type within the class to another would be exempt development and where change from one use class to another use class would not be exempt development.

While it is our considered view that no change of use has occurred at the Paramount Hotel, in any case, if the Commission considers that a change of use has occurred, it is thereby considered exempt development under the provisions of Section 4 (2) (a) of the Planning and Development Act, 2000 (as amended), and Article 6 and Class 14(g) of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001 (as amended), as follows:

Class 14 states:

“Development consisting of a change of use—

(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.”

Note: The above Class 14 (g) – (i) have been inserted into the Planning and Development Regulations, 2001 (as amended) by article S.I. No. 582 / 2015 Planning and Development (Amendment) (No. 4) Regulations 2015.

We assert to the Commission that no material change of use has occurred and equally, it can be considered exempt under Class 14 of the Planning and Development Regulations, 2001 (as amended).

Thus, if the Commission finds that a change of use has occurred, we assert that it is covered by the Class 14 (g) exemption and should be treated accordingly.

We confirm that we act on behalf of Ampbay Limited, request that all future correspondence in relation to this matter be directed to this office. In this regard, we look forward to receiving written acknowledgement of this submission in due course.

If you have any queries, please contact me directly.

Yours sincerely,

Suzanne McClure
MRUP MIPI MRTPI
suzanne@brockmcclure.ie
01 559 3859





Appendix I – ACP Correspondence

Our Case Number: ACP-323195-25
Planning Authority Reference Number: 0050/24
Your Reference: Ampbay Limited



Brock McClure Planning & Development Consultants
63 York Road
Dún Laoghaire
Co. Dublin



Date: 06 August 2025

Re: Whether the change of use at the Paramount Hotel from use as a 'hotel' to use as a 'hostel (non-tourist) where care or short-term homeless accommodation is provided' is or is not development or is or is not exempted development.
The Paramount Hotel, Numbers 7-8 and 9 & 10 Exchange Street Upper, and Numbers 1, 27-28 and 29-30 Parliament Street, Dublin 2.

Dear Sir / Madam,

I have been asked by An Coimisiún Pleanála (formerly An Bord Pleanála) to refer to the above-mentioned referral bearing reference number ACP-323195-25.

An Coimisiún Pleanála had previously made a decision on this referral by order dated 15th November, 2024 and under referral reference number ABP-319436-24. That decision was quashed by order of the High Court and the case was remitted back to An Coimisiún Pleanála for a new decision. A copy of the High Court order is attached for your information.

Having regard to the foregoing the referral has now been reactivated.

Having regard to the High Court Order in this case, the quashing of the previous Commission decision and the passage of time, the Commission considers that it is appropriate and in the interests of justice to request you under section 131 of the Planning and Development Act 2000 to make any further general submissions/observations you may have on the referral.

Any such submissions that you may have in response to this notice must be received on or before **26 August 2025**.

The Commission cannot consider comments that are outside the scope of the matters in question. Your submission in response to this notice must be received by the Commission not later than 5.30 p.m. on the date specified above.

If no submission or observation is received before the end of the specific period, the Commission will proceed to determine the referral without further notice to you, in accordance with section 133 of the 2000 Act.

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