

File With \_\_\_\_\_

**SECTION 131 FORM**

Appeal NO: ACP-323195-25

Defer Re O/H

Having considered the contents of the submission ~~dated~~ received 22/08/25  
from

Applicant's agent 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 Grady Lawlor

Date: 28/8/25

**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 22/08/25 as follows:

1. Update database with new agent for Applicant/Appellant _____ 2. Acknowledge with BP <u>RL20</u> _____ 3. Keep copy of Board's Letter <input type="checkbox"/>	1. RETURN TO SENDER with BP _____ 2. Keep Envelope: <input type="checkbox"/> 3. Keep Copy of Board's letter <input type="checkbox"/>
--	--

**Amendments/Comments**

Applicant's response to S.131 notice.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

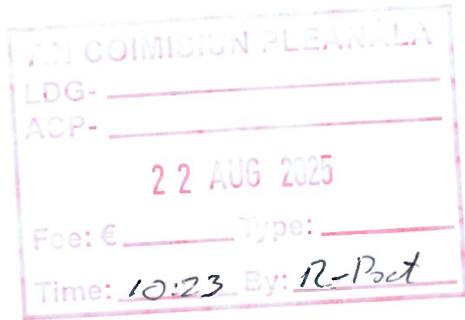
\_\_\_\_\_

**4. Attach to file**

- (a) R/S
- (b) GIS Processing
- (c) Processing
- (d) Screening
- (e) Inspectorate

RETURN TO EO

	Plans Date Stamped <input type="checkbox"/>
	Date Stamped Filled in <input type="checkbox"/>
EO: <u>Laura Goady Lawbe</u>	AA: <u>Shirley Conolly</u>
Date: <u>28/8/25</u>	Date: <u>03/09/25</u>



## Armstrong Planning

An Coimisiún Pleanála  
64 Marlborough Street  
Dublin 1  
D01 V902

21<sup>st</sup> August 2025

Dear Sir or Madam

**RE: ACP-323195-25 (formerly ABP-319436-24)**  
**Section 5 Referral - Paramount Hotel**  
**Planning Authority Ref: 0050/24**

I write on behalf of my client, Old City Management Limited (with an address c/o Erin Property Management, 49 Clontarf Road, Clontarf, Dublin 3), and refer to the letter from An Coimisiún Pleanála (the Commission) dated 6<sup>th</sup> August 2025, inviting further submissions following the High Court's remittal of this matter to the Commission.

This submission should be read in conjunction with our detailed Section 5 Declaration Request (dated 15<sup>th</sup> February 2024), which set out comprehensive arguments and case law precedents regarding the unauthorised change of use at the Paramount Hotel.

The present submission briefly summarises the main thrust of our original grounds of our referral and responds to the Respondent's Statement of Grounds in the judicial review proceedings. We maintain that the change of use from hotel to hostel (non-tourist), where care or short-term homeless accommodation is provided, constitutes development requiring planning permission.

### **Background and Original Case**

Our Section 5 referral concerns whether the change of use at the Paramount Hotel from a hotel to a hostel (non-tourist) where care or short-term homeless accommodation is provided constitutes development requiring planning permission.

The premises operated as a commercial hotel open to the public until December 2019. Since 2021, it has operated under contract with Dublin Regional Homeless Executive exclusively providing emergency accommodation for homeless persons. No food or beverage services are available to the general public. The premises are not marketed or available for commercial hotel bookings.

We maintain that hotels, hostels (tourist), and hostels (non-tourist) are separate and distinct land use categories for planning purposes. While the exemption in Class 14(g) of the Planning Regulations permits change between hotels and tourist hostels without planning permission, this exemption does not extend to non-tourist hostels serving vulnerable persons.





The fundamental distinction lies in the nature of the operation. Hotels operate on a commercial basis, serving paying guests including tourists and business travelers, with ancillary facilities accessible to the public. The current use operates as a social service under government contract, exclusively for persons referred by homeless services, without public accessibility.

#### **Response to "Care" Interpretation Arguments**

The Respondent contends that providing accommodation alone does not constitute "care" and that actual personal assistance is required. We respectfully disagree.

Part 2, Article 5 of the Regulations defines care as "personal care, including help with physical, intellectual or social needs." Homelessness is fundamentally a social need requiring social intervention. This interpretation is consistent with extensive government policy documentation, including "A Key to the Door" (2007-2010), which explicitly identifies homelessness as requiring "social housing units...to meet social need," and the Health Act 2004, which links housing with health and social care services.

The provision of emergency accommodation to homeless persons inherently addresses social needs. To argue otherwise would require denying that homelessness is a social care issue, which contradicts decades of Irish social policy. Crucially, and notwithstanding the above, even if the Commission were to find that care is not provided at the appeal site, the fundamental change from commercial hotel to social service accommodation would still constitute a material change of use given the different planning considerations involved.

#### **Response to Hotel Definition Arguments**

The Respondent argues that hotels can accommodate any clientele without restriction. While this is partially correct, complete conversion to single-purpose social accommodation fundamentally alters the use beyond what can reasonably be considered hotel operation.

The Hotel Proprietors Act 1963 defines hotels as establishments providing accommodation "for all comers without special contract." The current operation fails this test. It is not open to all comers but operates under specific contract with DRHE, serves only persons referred by homeless services, and does not operate on a commercial basis. The contractual relationship is with the State rather than individual occupants

The Inspector's finding that the premises "continues to operate as a hotel" relied on superficial characteristics such as the presence of a front desk and food service. These operational similarities do not preserve the fundamental character of the use. A hospital may have reception desks and provide meals, but this does not make it a hotel.

#### **Development Plan Considerations**

The Respondent (during the Judicial Review process) argued that Sections 15.13.9 and 15.14.1 of the Development Plan do not establish materially different planning considerations. This misreads these provisions.

Section 15.13.9 specifically addresses "non-tourist hostel accommodation," explicitly linking it with "homeless accommodation" and "social support institutions." It requires detailed assessments including mapping of all homeless and social support services within 750m, statements on catchment area and expected daily clients, details of security and operational management, and assessment of impact on the public realm and quality environment. The section warns that such uses can





"undermine the sustainability of a neighbourhood" and must be carefully balanced. The planning authority may attach conditions limiting the duration of permission on a temporary basis.

By stark contrast, Section 15.14.1.1 not only encourages hotels to provide publicly accessible facilities such as cafés, restaurants and bars "to generate activity at street level throughout the day and night," but further encourages them to "provide a mix of publicly accessible uses vertically throughout the building such as roof terrace restaurant and bars to further generate activity." The section emphasises that hotel rooms should be designed "to ensure a high level of amenity is obtained" for guests. These provisions envision hotels as vibrant, publicly accessible commercial establishments that contribute to urban vitality at multiple levels – quite literally from street level to rooftop.

These contrasting approaches reflect fundamentally different planning impacts: commercial visitor accommodation is encouraged to maximise public engagement and activity generation, while social service accommodation must demonstrate it won't undermine neighbourhood sustainability. These provisions are not merely descriptive but implemented through binding Policy Objectives that create mandatory requirements.

**Policy Objective QHSN28** of the Development Plan mandates that "all proposals to provide or extend temporary homeless accommodation or support services shall be supported by information demonstrating that the proposal would not result in an undue concentration of such uses nor undermine the existing local economy, resident community or regeneration of an area." This mandatory requirement includes providing a map of all homeless services within 750m radius, a statement on catchment area identifying whether serving local or regional demand, and a statement regarding management of the service/facility, none of which would ever be sought for a hotel application.

These requirements impose regulatory burdens that fundamentally alter the nature of the development application. A hotel applicant faces no obligation to demonstrate community impact, justify catchment areas, or accept temporary permission limitations. A homeless accommodation provider must satisfy each of these regulatory hurdles before permission can even be considered. This is not merely a different assessment of the same use – it is an entirely different regulatory framework with distinct compliance obligations.

Conversely, **Policy Objective CEE028** seeks "to promote and facilitate tourism as a key element of the city's economy." Hotels fall squarely within this objective, actively encouraged to enhance street vitality and provide amenity at multiple levels.

**Policy Objective QHSN29** specifically addresses "Temporary Accommodation Located in the City Centre" and explicitly refers to "expansion of tourist hostels and hotels" for use as temporary/homeless accommodation, establishing a presumption against such proposals in Dublin 1, 7 & 8. This Policy Objective demonstrates the planning authority's recognition that conversion from hotel to homeless use is not a continuation of existing use but a distinct change requiring planning scrutiny – why else would it specifically address "expansion of tourist hostels and hotels" for homeless use if such conversion didn't constitute development?

These Policy Objectives create different regulatory pathways:

- Hotels are assessed under tourism and economic development policies (CEE028) and encouraged to maximise public accessibility at all levels
- Homeless accommodation triggers social infrastructure policies (QHSN28, QHSN29) with stringent assessment requirements
- Hotels are expected to provide high amenity standards and generate urban vitality





- Homeless facilities must demonstrate they won't undermine local communities and may receive only temporary permissions

The planning authority has no discretion to ignore these Policy Objectives. They constitute mandatory regulatory burdens that differ fundamentally between hotel and homeless accommodation uses. A hotel developer and a homeless accommodation provider face entirely different application requirements, assessment criteria, and potential conditions. This divergence in regulatory treatment conclusively satisfies the Brogan test – the planning authority would have materially different concerns requiring different evidence, applying different standards, and potentially imposing different limitations including temporary permissions that would never apply to a hotel seeking to contribute to urban vitality from street to rooftop.

### **The Brogan Test for Material Change of Use**

The Supreme Court in *Monaghan County Council v Brogan* [1987] IR 333 established the definitive test for determining whether a change constitutes a material change of use. The test asks whether the change would be a matter that would be of concern to the planning authority in deciding whether to grant planning permission. This is not about whether permission would ultimately be granted, but whether the planning authority would have different planning considerations to assess.

The Brogan test is whether the planning authority would need to consider different factors; here, the Development Plan confirms that it would. Applying this test to the Paramount Hotel conclusively demonstrates that a material change of use has occurred. The planning authority would have fundamentally different concerns when considering a hotel application versus a homeless accommodation facility, as evidenced by the Development Plan itself.

Section 15.13.9 of the Development Plan, which specifically addresses "non-tourist hostel accommodation," requires applicants to provide information that would never be sought for a hotel application. These include a map of all homeless and social support services within 750m, statements on catchment area and expected daily clients, details of security and operational management, and an assessment of impact on the public realm and quality environment. The planning authority may also attach conditions limiting the duration of permission on a temporary basis. None of these considerations arise with hotel applications.

Conversely, Section 15.14.1.1 encourages hotels to provide publicly accessible facilities such as cafés, restaurants and bars "to generate activity at street level throughout the day and night." The planning authority actively promotes hotels as contributors to street vitality and public accessibility – considerations entirely absent from, indeed contrary to, the assessment of homeless accommodation.

The Development Plan explicitly recognises that "an over-concentration of non-tourist hostel accommodation, homeless accommodation, social support institutions... can potentially undermine the sustainability of a neighbourhood." This acknowledgment directly satisfies the Brogan test. The planning authority has identified that homeless accommodation raises sustainability concerns that simply do not arise with hotels.

Furthermore, Policy Objective QHSN28 requires any proposal for temporary homeless accommodation to demonstrate it would not result in "undue concentration" or "undermine the existing local economy, resident community or regeneration of an area." These are planning concerns specific to homeless facilities that would be irrelevant to a hotel application.





The Inspector's analysis failed to apply the Brogan test. Instead of asking whether the planning authority would have different regulatory concerns, the Inspector focused on superficial operational similarities. Had the test been properly applied, it would have been apparent that the planning authority would assess entirely different matters including cumulative social service impacts, security implications for vulnerable residents, effects on local commercial vitality, and whether temporary permission limitations should apply.

The Brogan test is satisfied not because the planning authority would necessarily refuse permission for homeless accommodation, but because it would apply different criteria, seek different information, and potentially impose different conditions. This distinction in planning treatment confirms that the change from hotel to homeless accommodation constitutes a material change of use requiring planning permission.

### **Different User Groups and Their Distinct Planning Impacts**

Having established that the Brogan test requires examining whether the planning authority would have different matters of concern, we must now address why such different concerns arise. We submit that the fundamental reason lies in the distinct user groups served and their consequent planning impacts – a distinction repeatedly recognised in planning case law.

Hotels serve self-selecting commercial clientele who contribute to the local economy through discretionary spending, patronising local businesses and generating street vitality. Non-tourist hostels accommodate state-referred vulnerable persons with complex social needs, creating fundamentally different demands on local infrastructure and services.

The Board has consistently recognised this distinction. In **ABP-308540-20**, the Inspector found the change to homeless accommodation constituted "a material change of use by reason of providing a different service (homeless accommodation) to a different user group (homeless persons)." The Inspector specifically identified the different user group as a reason for finding material change had occurred.

Similarly, in **ABP-307064-20**, the Board found that accommodating individuals who have some degree of vulnerability and risk of homelessness meant the use would not come within the meaning of a commercial guesthouse as it is operated by a housing agency on a non-commercial basis.

We would point out that our investigations documented regular callouts for ambulance, fire, and police services to the Paramount – emergency responses rare during hotel operation. Local businesses report significant increases in shoplifting, aggressive behaviour, and anti-social activities. These impacts reflect the reality that concentrated vulnerable populations require intensive support services that, when absent, burden surrounding businesses and residents.

Furthermore, hotels operate within market dynamics – maintaining standards to attract customers and compete for business. Social service accommodation operates outside these constraints, with the operator's relationship being with the state agency rather than individual residents, removing market mechanisms that would otherwise ensure standards and community integration.

Section 15.13.9 of the Development Plan explicitly recognises that concentrations of homeless accommodation can "potentially undermine the sustainability of a neighbourhood." This reflects empirical planning experience about service demands and cumulative impacts, necessitating the detailed assessments required for homeless facilities but not hotels.





These differential impacts directly satisfy the Brogan test. The planning authority must assess fundamentally different matters – not as prejudice but as recognition of empirically different demands on infrastructure, services, and community sustainability. Case law's consistent reference to user groups confirms the planning system properly distinguishes between uses based on the populations served and their consequent impacts.

### **Procedural Matters and Conclusion**

The High Court proceedings identified that the Board failed to provide adequate reasoning for departing from the Inspector's recommendation. We respectfully submit that when the Commission reconsiders this matter, it should recognise that:

First, the Inspector's narrow interpretation of "care" as requiring hands-on personal assistance ignores that social needs are explicitly included in the regulatory definition. Homeless accommodation inherently addresses social needs, as recognised throughout Irish social policy.

Second, the operational similarities cited by the Inspector do not preserve hotel use when the fundamental purpose has changed from commercial accommodation to social service provision, the user group has changed from paying guests to referred vulnerable persons, and public accessibility has been eliminated.

Third, the Development Plan's distinct treatment of these uses reflects genuine planning differences that cannot be dismissed as merely addressing "concentration" issues.

To characterise this case as merely about the socio-economic status of guests would be to fundamentally misunderstand what has occurred at the Paramount Hotel. The premises has undergone a complete transformation from a commercial enterprise serving the public to a closed social service facility operating under state contract, with significant negative impacts on residential amenities in the area. Paying customers (mostly foreign tourists) have been replaced by state-referred beneficiaries; the public bar has shuttered; the restaurant no longer serves walk-in diners; the online booking platforms show no availability; and the very purpose of the building has shifted from profit-generation to social intervention. This is not a hotel accommodating some homeless guests alongside its regular trade – it is a homeless facility occupying the physical shell of what was once a hotel. The planning system exists precisely to regulate such fundamental changes in use, which bring different impacts, require different considerations, and serve fundamentally different societal functions.

To hold otherwise would collapse the carefully maintained statutory distinction between commercial accommodation and social service uses, undermining both the Planning Act and the Development Plan. We respectfully ask the Commission to recognise this transformation for what it is: development requiring planning permission.

Accordingly, the Commission is invited to determine under Section 5 of the Act that the current use of the Paramount Hotel under contract with DRHE constitutes development, being a material change of use from hotel to hostel (non-tourist) where care/short-term homeless accommodation is provided; that no exemption under the Regulations applies, and that planning permission is therefore required.

We trust this assists the Commission in its reconsideration of this matter.

Yours faithfully,



A



---

**DAVID ARMSTRONG** BA MRUP MIPI MRTPI

For and on behalf of Armstrong Planning Ltd  
12 Clarinda Park North, Dún Laoghaire, Co. Dublin, A96 V6F9  
01 5787104 | [info@armstrongplanning.ie](mailto:info@armstrongplanning.ie) | [www.armstrongplanning.ie](http://www.armstrongplanning.ie)

