

AN COIMISIÚN PLEANÁLA  
LDG- 082306-25.  
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25 AUG 2025  
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Time: 16.31 By: hand



## Armstrong Planning

An Coimisiún Pleanála  
64 Marlborough Street  
Dublin 1  
D01 V902

22<sup>nd</sup> August 2025

Dear Sir or Madam

**RE: APPEAL AGAINST DECLARATION UNDER SECTION 5 OF THE PLANNING AND DEVELOPMENT ACT 2000 (AS AMENDED) - 60 KNOCKNASHEE, GOATSTOWN, DUBLIN 14 (REF10725)**

Armstrong Planning - with an address at 12 Clarinda Park North, Dún Laoghaire, Co. Dublin, A96 V6F9 - has been retained by Mrs. Sheila Hillis (the Appellant), with an address at 61 Knocknashee, Goatstown, Dublin 14, to prepare and submit this appeal against the Declaration issued by Dún Laoghaire-Rathdown County Council on 31<sup>st</sup> July 2025 under Section 5 of the Planning and Development Act, 2000 (as amended) in respect of 60 Knocknashee, Goatstown, Dublin 14.

### The Council's Declaration

The Council declared that:

- 1. The use of 60 Knocknashee to accommodate 13 students does not constitute a material change of use from its authorised use as a single dwelling house;*
- 2. As no material change of use has occurred, the use does not constitute "development" under Section 3(1);*
- 3. The substitution of the garage door with fenestration constitutes "development" and qualifies as "exempted development";*
- 4. The installation of fenestration in the side elevation constitutes "development" that is NOT EXEMPT under Section 4(1)(h).*

### Grounds of Appeal

We respectfully appeal the Council's findings in respect of items 1, 2 and 3 above, namely that:

(i) the use of the property to accommodate 13 students does not constitute development;  
and

(ii) the substitution of the garage door with fenestration constitutes exempted development.



We maintain that these findings represent a fundamental misinterpretation of planning law. The Council's position on student accommodation, if upheld, would effectively remove planning control over the conversion of family homes to intensive multi-occupancy accommodation throughout the State. Furthermore, the Council's determination that the garage conversion constitutes exempted development fails to properly apply the statutory tests regarding visual impact and consistency with the character of the structure and neighbouring structures. Both determinations must be overturned to maintain the integrity of the planning system and the proper application of exempted development provisions.

### **1. The Council Has Misapplied the Test for Material Change of Use**

The established test for material change of use, as set out in *Monaghan County Council v Brogan* [1987] IR 333, is whether the change would be "*a matter of concern to the planning authority*." The Supreme Court held that this assessment must consider the planning impacts of the change.

We respectfully submit that the Council has failed to properly apply this test. The change from single-family occupancy to accommodation for 13 unrelated adults self-evidently generates planning concerns including:

- A potential six-fold increase in vehicular movements and parking demand
- Fundamentally different patterns of activity and occupation
- Commercial management structures versus owner-occupation
- Intensified use of services and infrastructure
- Documented impacts on neighbouring amenity

The Council's declaration offers no reasoning as to why these impacts would not be "*a matter of concern*" to the planning authority. This represents a failure to apply the established legal test.

### **2. The Council Has Ignored Its Own Development Plan Distinctions**

The Dún Laoghaire-Rathdown County Development Plan 2022-2028 explicitly distinguishes between "Residential" use and "Student Accommodation" in its land use zoning objectives and definitions. This distinction exists precisely because these uses have different planning implications and require different planning responses.

The Council's position that student accommodation for 13 occupants is indistinguishable from single-family residential use renders its own Development Plan distinctions meaningless. We submit that the Commission cannot uphold an interpretation that effectively nullifies explicit Development Plan provisions.

### **3. The Intensity and Character of Use Has Fundamentally Changed**

Section 3(1) of the Act defines "development" as including "*the making of any material change in the use of any structures or other land*." The word "*material*" relates to the character of the use, not merely the identity of the occupants.

We have provided documentary evidence (letter signed by 13 occupants dated 24th April 2025) confirming the number of residents. The property, last advertised as a 4-bedroom dwelling, now accommodates 13 adults with approximately 2-3 persons per bedroom. This represents not merely a change in occupants but a fundamental alteration in the character and intensity of use.



The Council's suggestion that this intensity of occupation falls within normal residential use stretches the concept beyond any reasonable interpretation and would effectively eliminate planning control over Houses in Multiple Occupation (HMOs).

#### **4. The Planning Unit Has Been Subdivided**

The property now functions as multiple separate households, with each student maintaining exclusive use of their bedroom space while sharing communal facilities. This differs fundamentally from a single household unit where all spaces are genuinely shared by one family group.

This subdivision of the planning unit into multiple separate living arrangements constitutes development, as established in cases such as *Keleghan v Dublin Corporation* where the Courts recognised that the subdivision of a single planning unit requires planning assessment.

#### **5. The Council's Approach Contradicts National Planning Guidance**

The Office of the Planning Regulator's published guidance 'A Guide to Doing Work Around the House' explicitly states that "*any substantial change of use which has an impact or potential impact on neighbours or the local community (third parties) will need planning permission.*"

The accommodation of 13 students in a property designed for single-family occupation clearly constitutes a "*substantial change*" with documented impacts on neighbours. The Council's declaration fails to address why this clear guidance should not apply.

#### **6. The Council's Decision Creates an Absurd Planning Precedent**

If upheld, the Council's position would mean that any dwelling house in the State could be converted to accommodate unlimited numbers of occupants without planning permission, provided those occupants were "*residing*" there. This would:

- Undermine the entire system of planning control over residential densities
- Remove any ability to manage the cumulative impacts of intensive occupation
- Contradict the explicit provisions for student accommodation in numerous Development Plans
- Create an unregulated pathway for commercial operators to establish HMOs

We respectfully submit that this cannot have been the legislative intent and represents an unreasonable interpretation of the Act.

#### **7. The Council's Own Partial Finding Undermines Its Position**

Notably, the Council found that the installation of windows in the side elevation does constitute non-exempt development due to impacts on neighbouring property. It is internally inconsistent to find that minor fenestration works require permission due to their impacts while simultaneously finding that accommodating 13 adults instead of one family generates no planning concerns whatsoever.

#### **8. The Council Has Erred in Finding the Garage Conversion Constitutes Exempted Development**

We further appeal the Council's declaration that the substitution of the garage door with fenestration constitutes "*exempted development.*" We respectfully submit that the Council has failed to properly apply the conditions and limitations that govern such exemptions.

### **8.1 Failure to Comply with Section 4(1)(h) of the Act**

Section 4(1)(h) of the Planning and Development Act 2000 (as amended) provides that development consisting of works for the maintenance, improvement or other alteration of any structure shall be exempted development only where such works "*do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures.*"

We respectfully submit that the fenestration inserted in place of the garage door manifestly fails this test. The photographic evidence submitted with our original application clearly demonstrates that:

- The materials and finishes utilised for the new fenestration are visually incongruous with both the existing dwelling and the established character of neighbouring properties
- The stark contrast between the new materials and the original facade creates a jarring visual discontinuity
- The contemporary design and materials of the replacement fenestration are fundamentally at odds with the established residential character of Knocknashee

The Council's declaration provides no reasoning as to how fenestration that is visually incompatible with both the host structure and neighbouring properties could satisfy the requirements of Section 4(1)(h). This represents a failure to properly apply the statutory test.

### **8.2 Material Alteration of External Appearance**

The conversion of a garage door to fenestration fundamentally alters the external appearance of the structure. Where, as here, this alteration employs materials and design approaches that are inconsistent with the prevailing character, it cannot benefit from the exemption.

The Council appears to have considered only whether garage conversions can, in principle, constitute exempted development under Class 1 of Part 1, Schedule 2 of the Planning and Development Regulations 2001 (as amended). However, the Council has failed to assess whether these specific works, with their inappropriate materials and jarring visual impact, satisfy the conditions and limitations required for such exemption.

### **8.3 Cumulative Impact with Change of Use**

We would further point out that these physical works were clearly undertaken to facilitate the accommodation of 13 students. When considered in conjunction with the intensified use (which we maintain constitutes development), the visual incongruity of the garage conversion forms part of a comprehensive unauthorised redevelopment of the property.

The exemptions under Section 4(1)(h) were never intended to facilitate works that fundamentally alter the character of residential properties through the use of inappropriate materials that disrupt the established visual coherence of residential areas.

## **9. Conclusion and Relief Sought**

We respectfully request that An Coimisiún Pleanála:

1. Overturn the Council's declaration that the use of 60 Knocknashee to accommodate 13 students does not constitute a material change of use;



2. Declare that such use constitutes "development" within the meaning of Section 3 of the Planning and Development Act 2000 (as amended);
3. Declare that such development is not exempted development and requires planning permission.
4. Overturn the Council's declaration that the garage conversion constitutes exempted development;
5. Declare that the substitution of the garage door with fenestration, utilising materials and finishes that are visually incongruous with both the existing dwelling and neighbouring structures, constitutes development that is not exempted under Section 4(1)(h) of the Act and requires planning permission.

The Council's interpretation, under items 1 and 2, if allowed to stand, would effectively remove planning control over a significant category of development with real and documented impacts on residential amenity. We submit that the Commission must apply the established legal tests and recognise that the accommodation of 13 unrelated adults in a single dwelling house represents a material change in the character of use requiring proper planning assessment.

Regarding item 3, the Council's failure to properly assess the visual impact of these works against the statutory criteria represents a material error that must be corrected to ensure the integrity of the exempted development provisions.

Please find enclosed:

- A cheque for the appeal fee of €220
- Copy of the Council's declaration dated 31st July 2025
- Copy of our original Section 5 application and supporting documentation
- Additional photographic evidence of current conditions

We look forward to the Commission's determination of this appeal in due course, and request that all correspondence on this matter be directed to the undersigned.

Yours faithfully,

**DAVID ARMSTRONG** BA MRUP MIPI MRTPI

For and on behalf of Armstrong Planning Ltd  
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01 5787104 | [info@armstrongplanning.ie](mailto:info@armstrongplanning.ie) | [www.armstrongplanning.ie](http://www.armstrongplanning.ie)

**Planning Department**  
An Rannóg Pleanála  
Decision Section  
Direct Tel: 01 2054700  
Email: [planning@dlrcoco.ie](mailto:planning@dlrcoco.ie)

David Armstrong of Armstrong Planning  
Armstrong Planning  
12, Clarinda Park North  
Dun Laoghaire  
Dublin  
A96V6F9

**Reference No:** REF10725  
**Application Type:** Declaration on Development and Exempted Development Act – Section 5, Planning & Development Act (as amended)  
**Registration Date:** 15-Jul-2025  
**Decision Date:** 31-Jul-2025  
**Location:** 60, Knocknashee, Dublin 14, D14XV34  
**Development Works:** We respectfully ask that the council issue declarations on the following questions:

- (i) Whether the use of 60 Knocknashee as accomodation for 13 students constitutes a material change of use from its authorised use as a single dwelling house;
- (ii) Whether such change of use (if found to exist) constitutes "development" within the meaning of Section 3 of the Act;
- (iii) Whether any such development is exempted development under Section 4 of the Act or the Planning and Development Regulations 2001(as amended).
- (iv) whether building works, undertaken in apparent conjunction with the change of use(comprising installation of fenestration in the side elevation and replacement garage door with fenestration) constitute development requiring planning permission.

### **NOTIFICATION OF DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT**

In pursuance of its functions under the planning & Development Act, 2000 (as amended), Dún Laoghaire-Rathdown County Council has, by Order No. Ref.P/1495/25 dated 31-Jul-2025 decided to issue a Declaration that:

#### **Recommendation**

I recommend that Dún Laoghaire-Rathdown County Council advise the Applicant that:

Having regard to Sections 2, 3, and 4(1)(h) of the Planning and Development Act 2000 (as amended), it is considered that:

1. The use of 60 Knocknashee to accommodate 13 students does not constitute a material change of use from its authorised use as a single dwelling house.
2. As no material change of use has occurred, the use does not constitute "development" under Section 3(1), and the question of exemption does not arise.
3. The substitution of the garage door with fenestration constitutes "development" and qualifies as "exempted development" pursuant to Class 1 of Part 1, Schedule 2 of the Planning and Development Regulations 2001 (as amended).
4. However, the installation of fenestration in the side elevation constitutes 'development' that is **NOT EXEMPT** under Section 4(1)(h), as it materially alters the external appearance involving works on a party boundary.

Date of issue: 31-Jul-2025

Signed: *Tara Fitzpatrick*  
For Senior Executive Officer

**NOTE:** Where a Declaration is issued under Section 5, any Person issued with such a Declaration, may, on payment to An Bord Pleanála, 64 Marlborough Street, Dublin 1, of a fee of €220, refer the Declaration for review, **within 4 weeks** of the date of issue of the Declaration.



## Armstrong Planning

Dún Laoghaire-Rathdown County Council  
Planning and Organisational Innovation  
Registry and Decisions Section  
Marine Road  
Dún Laoghaire  
Co. Dublin

11<sup>th</sup> June 2025

Dear Sir or Madam

**Re: REQUEST FOR DECLARATION UNDER SECTION 5 OF THE PLANNING AND DEVELOPMENT ACT 2000 (AS AMENDED) - 60 KNOCKNASHEE, GOATSTOWN, DUBLIN 14**

Dear Sir or Madam,

Armstrong Planning - with an address at 12 Clarinda Park North, Dún Laoghaire, Co. Dublin, A96 V6F9 - has been retained by Mrs. Sheila Hillis (the Applicant), with an address at of 61 Knocknashee, Goatstown, Dublin 14, to prepare and submit this application for a Declaration on Development and Exempted Development under Section 5 of the Planning and Development Act, 2000 (as amended) at 60 Knocknashee, Goatstown, Dublin 14 (the application site), in relation to the use of the adjoining property at 60 Knocknashee as student accommodation housing 13 occupants, as well as works to the property (including elevational alterations) to facilitate the change of use.

### Background

We note that the Council's Enforcement Section has taken the position that "*the use of a residential house for residential use by students would not constitute development*" (ref: ENF GC 28125, dated 5<sup>th</sup> June 2025). We respectfully submit that this position fails to properly consider whether the change from single-family occupancy to accommodation for 13 unrelated students constitutes a material change in the character of the use, which would constitute "development" under Section 3 of the Act.

### The Questions for Determination

We respectfully ask that the Council issue declarations on the following questions:

- (i) Whether the use of 60 Knocknashee as accommodation for 13 students constitutes a material change of use from its authorised use as a single dwelling house;



(ii) Whether such change of use (if found to exist) constitutes "development" within the meaning of Section 3 of the Act;

(iii) Whether any such development is exempted development under Section 4 of the Act or the Planning and Development Regulations 2001 (as amended).

(iv) whether building works, undertaken in apparent conjunction with the change of use (comprising installation of fenestration in the side elevation and replacement garage door with fenestration) constitute development requiring planning permission.

## **Grounds for Application**

### **1. Material Change in Character of Use**

We maintain that the change from a single dwelling house to student accommodation for 13 occupants fundamentally alters the character of the use. The test for material change of use, as established in *Monaghan County Council v Brogan* [1987] IR 333, is whether the change would be a matter of concern to the planning authority. We submit that accommodating 13 unrelated adults in what was designed as a family home represents such a change in character that it must be of legitimate planning concern.

### **2. Development Plan Distinction**

We would point out that the Dún Laoghaire-Rathdown County Development Plan 2022-2028 specifically distinguishes between "Residential" use and "Student Accommodation" in its land use definitions. This distinction would be meaningless if, as the Enforcement Section suggests, all forms of residential occupation were interchangeable from a planning perspective.

### **3. Intensity and Planning Impacts**

The intensification from single-family to 13-person occupancy generates materially different planning impacts including:

- Increased parking demand (potentially 13 vehicles versus 1-2 for a family)
- Different refuse generation patterns and volumes
- Excessive waste generation encouraging rodents and vermin
- Increased comings and goings affecting residential amenity
- Different management structures (commercial letting versus owner-occupation)

We have documentary evidence in the form of a letter signed by 13 occupants dated 24<sup>th</sup> April 2025, confirming this number of residents. The house was last advertised as a 4 bedroom house, the garage conversion is likely to have created an additional 2no. bedrooms, meaning that there are likely to be 2 students per bedroom.

### **4. Planning Unit Considerations**

We respectfully submit that the property now accommodates multiple households, with each student having exclusive use of their bedroom and sharing communal facilities. This differs fundamentally from a family home where all spaces are truly shared by a single household unit.

### **5. Legal Framework**

Section 3(1) of the Act defines "development" as including "*the making of any material change in the use of any structures or other land.*" The word "material" relates to the character of the use, not



merely the identity of the users. We maintain that student accommodation for 13 occupants represents a different character of use from a single dwelling house, regardless of both being broadly "residential." A residential dwelling and Student accommodation serve distinct user groups with different needs, each exerting different impacts with different planning implications.

According to the Office of the Planning Regulator's Guidance 'A Guide to Doing Work Around the House' - "*any substantial change of use which has an impact or potential impact on neighbours or the local community (third parties) will need planning permission.*" We have pointed out to the Council's Enforcement Section numerous impacts on neighbours incurred by the unauthorised change of use - see Ground 3 above for details).

## **6. Associated Physical Works**

We would further point out that significant physical works have been undertaken at the property, which appear designed to facilitate the accommodation of multiple occupants. These works include the conversion of the garage (including replacement of the garage door with fenestration), the insertion of new windows in the side elevation directly overlooking our client's property at No. 61, and various internal alterations to create the additional habitable accommodation.

Class 1 of Part 1, Schedule 2 of the Planning and Development Regulations 2001 (as amended) explicitly provides for the conversion of garages as exempted development, **subject to specified conditions and limitations.**

We would point out that this garage conversion does not meet the 'Conditions and Limitations' qualifying Class 1 of Schedule 2, Part 1 '*Exempted Development - General*' in the Planning and Development Regulations 2001, (as amended)' as the ground floor windows inserted in the side elevation are less than 1m from the boundary they face (see 6a of of the C&Ls qualifying Class 1).

Furthermore, we respectfully submit that these works do not benefit from the exemption under Section 4(1)(h) of the Act, which requires that works "*do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures.*" The fenestration inserted in place of the garage door utilises materials and finishes that are visually incongruous with both the existing dwelling and the established character of neighbouring properties (as evidenced in the photographs submitted). The stark contrast between the new materials and the original facade renders these works non-exempt development.

Furthermore, we maintain that the insertion of windows in the side elevation addressing our client's property constitutes development requiring permission, as these works materially affect the external appearance of the structure and introduce overlooking where none previously existed.

## **7. Cumulative Impact of Development**

When considered cumulatively with the change of use, these physical alterations demonstrate a comprehensive redevelopment of the property from a single dwelling house to what effectively operates as a house in multiple occupation (HMO).

We respectfully ask that the Council also declare whether these works, undertaken in apparent conjunction with the change of use, constitute development requiring planning permission. The interconnected nature of the physical works and the intensified use suggests a deliberate conversion that goes far beyond the normal evolution of a family home, and we submit that both the use and the works require proper planning assessment.



## Conclusion

We respectfully request that the Council issue a declaration finding that the use of 60 Knocknashee as student accommodation for 13 occupants constitutes 'development' requiring planning permission. The current position of the Enforcement Section, if maintained, would effectively remove any planning control over the conversion of family homes to intensive multi-occupancy accommodation, which cannot have been the legislative intent.

In addition to the completed application form, and a cheque for the requisite application fee of €80, please find 3 copies of the following items submitted as part of the application for a Declaration under Section 5.

- Site location map
- Photographic survey
- Letter from 13 Students at No. 60

We look forward to receiving the Council's declaration within the statutory timeframe. Please direct all correspondence on this matter to the undersigned.

Yours faithfully,

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**DAVID ARMSTRONG** *BA MRUP MIPI MRTPI*

For and on behalf of Armstrong Planning Ltd  
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AN COIMISIÚN PLEANÁLA

2 5 AUG 2025

LTR DATED \_\_\_\_\_ FROM Ref.

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ACP. 323570-25





