Validation Checklist

Lodgement Number : **LDG-089100-26**
Case Number: **ACP-324427-26**
Customer: **Oscar Dawn Limited**
Lodgement Date: **09/07/2026 14:31:00**
Validation Officer: **James Sweeney**
PA Name: **Kildare County Council**
PA Reg Ref: **ED/1356**
Case Type: **Section 5 Referrals**
Lodgement Type: **Referral**

An Coimisiún Pleanála

Validation Checklist	Value
Confirm Classification	Confirmed - Correct
Confirm PA Case Link	Confirmed-Correct
Confirm ABP Case Link	Confirmed-Correct
Fee/Payment	Valid – Correct
Name and Address available	Yes
Agent Name and Address available (if engaged)	Yes
Subject Matter available	Yes
Question	Yes
Sufficient Fee Received	Yes
Received On time	Yes
Eligible to make lodgement	Yes
Completeness Check of Documentation	Yes
Valid Lodgement Channel	Yes

BPRL01

BPRL07

*Scan referral

*Stamp cover page

Run at: 09/07/2026 14:43

Run by: James Sweeney

Lodgement Cover Sheet - LDG-089100-26

An Coimisiún Pleanála

Details

Lodgement Date	09/07/2026
Customer	Oscar Dawn Limited
Lodgement Channel	Web Portal
Lodgement by Agent	Yes
Agent Name	Brock McClure
Correspondence Primarily Sent to	Agent
Registered Post Reference	

Lodgement ID	LDG-089100-26
Map ID	
Created By	James Sweeney
Physical Items included	No
Generate Acknowledgement Letter	
Customer Ref. No.	2E8F3858
PA Reg Ref	ED/1356

Categorisation

Lodgement Type	Referral
Section	Processing

PA Name	Kildare County Council
Case Type (3rd Level Category)	Section 5 Referrals

Fee and Payments

Specified Body	No
Oral Hearing	No
Fee Calculation Method	System
Currency	Euro
Fee Paid	220.00
Refund Amount	0.00

Observation/Objection Allowed?	
Payment	PMT-071031-26
Related Payment Details Record	PD-070860-26

Run at: 09/07/2026 14:43

Run by: James Sweeney

James Sweeney

From: James Sweeney
Sent: Thursday 9 July 2026 14:43
To: Planning Department
Subject: Referral

Hi,

The Commission has received a referral dated 9/7/26 in relation to your reference ED/1356.

In order for the Commission to validate this appeal, can you please confirm the following;

1. Your date of decision
2. Name and Address of Applicant:
3. Name and Address of Agent (if any):
4. Full Question:
5. Owner/Occupier names and address:
6. Any other interested parties:

Please note our reference is ACP-324427-26.

Kind Regards,
James

Make a Planning Appeal

Direct URL: https://forms.gov.ie/en/68e6334b054d8f2739f8ad5b

AN COIMISIÚN PLEANÁLA
LDG- 089100-26
ACP- 324427-26
09 JUL 2026
Fee: € 220 Type: Referral
Time: 14:31 By: Online

Response ID	6a4f8414de4884b79f566da6
Date submitted	09/07/2026

Check if you can appeal to An Coimisiún Pleanála

What type of appeal are you making?	First-party appeal (I lodged the original application to the planning authority)
Select the statement that applies to you	I am an agent acting on behalf of the appellant
During the appeal we will post/email information and items to the appellant or to the appellant's agent. For this appeal, who should we write to?	The agent acting on behalf of the appellant or prescribed body
Throughout the appeal process, we may issue correspondence to the appellant/agent as selected above by email. Please confirm that you are satisfied to receive correspondence by email	Yes

Appeal type

This section will determine the type of appeal you wish to make and calculate the fee involved. If you qualify for the reduced fee, only that amount will be charged.

Is your appeal solely under Section 48 and/or Section 49 of the Planning and Development Acts?	No
Are you appealing against a non-financial condition that has been attached to a permission by the planning authority?	No
Does your appeal include retention?	No
Does your appeal relate to commercial development?	No
Does your appeal or application include an Environmental Impact Assessment Report (EIAR) or Natura Impact Statement (NIS)?	No
Do you wish to request an oral hearing?	No
Please confirm the following fee details are correct:	Yes

Appellant/company details

This section is for details of the person/company who is making the appeal. If you are an agent submitting an appeal on behalf of a person/company, please include their details on this page. You can submit your agent details on the next page if applicable

Appellant's full name/Company name	Oscar Dawn Limited
Is the appellant/company's address in the Republic of Ireland?	Yes
Address	Unit 28 Sandyford Office Park Blackthorn Avenue Sandyford Dublin 18 D18 PD89 Ireland
Phone number	+35315593859
Is there more than one appellant associated with this appeal?	No

*Please be advised that An Coimisiún Pleanála will only correspond with one appellant throughout the appeal process. If you wish to include further appellants on the appeal you may do so in your grounds to appeal document.
If the appeal is a third party appeal, you must ensure that you have a planning authority submission acknowledgement letter for each appellant listed. This must be uploaded with your appeal documents.*

Agent's details

Agent's full name/Company name	Brock McClure Planning and Development Consultants
Is your address in the Republic of Ireland?	Yes
Address	BROCK MCCLURE CONSULTANTS DURKAN HOUSE 63 YORK ROAD DUN LAOGHAIRE DUBLIN A96T0H4 Ireland
Phone number	+35315593859

Details about the proposed development

This section asks for details about the planning authority decision you wish to appeal

Planning authority	Kildare County Council
Planning authority register reference number	ED/1356
Address of proposed development	HAZEL HOTEL DIRECT PROVISION CENTRE SKIRTEEN MONASTEREVIN KILDARE W34YY51 Ireland

Grounds for appeal

Describe the grounds of your appeal (planning reasons and arguments). You can enter them here or attach them as a document below	We, Brock McClure, Planning & Development Consultants, 63 York Road, Dun Laoghaire, Co. Dublin, have been instructed by our client, Oscar Dawn Limited, Unit 28, Sandyford Office Park, Blackthorn Avenue, Sandyford, Dublin 18, D18 PD89, to lodge this referral of the decalaration by Kildare County Council on Reg Ref: ED/135 dated the 16th of June, to An Coimisiún Pleanála, under Section 5 (3)(a) of the Planning and Development Act 2000 (as amended). Please refer to the Cover Letter and the Referral Report for further information.

You can also attach further supporting materials on the next page

Supporting material

If you wish you can include supporting materials with your appeal. Supporting materials include photographs, plans, surveys, drawings, technical guidance documents and so on.

Please note An Coimisiún Pleanála will receive a complete copy of documents/drawings/maps that were submitted at planning authority stage. When submitting supporting material, please only include new documents. (This does not apply to third party appeals where we will always require a copy of your planning authority submission acknowledgement letter.)

If you have added attachments, submitting the form may take a few moments. Thanks for your patience.

63 York Road
Dun Laoghaire
Co. Dublin
www.brockmcclure.ie

The Secretary,

An Coimisiún Pleanála,

64 Marlborough Street,

Rotunda,

Dublin 1,

D01 V902

9th July 2026

Re: Referral of Section 5 Declaration of ED/1356

For Hazel Hotel, Skirteen, Monasterevin, Co. Kildare, W34 YY51

Dear Sir/Madam,

We, **Brock McClure, Planning & Development Consultants, 63 York Road, Dun Laoghaire, Co. Dublin,** have been instructed by our client, Oscar Dawn Limited, Unit 28, Sandyford Office Park, Blackthorn Avenue, Sandyford, Dublin 18, D18 PD89, to lodge this referral of the decalaration by Kildare County Council on Reg Ref: ED/135 dated the 16th of June, to An Coimisiún Pleanála, under Section 5 (3)(a) of the Planning and Development Act 2000 (as amended).

On the 19th of May 2026, an application was lodged for a Declaration of Exempted Development under Section 5 of Planning and Development Act 2000 (as amended) for development at Hazel Hotel, Skirteen, Monasterevin Co. Kildare W34 YY51. A declaration was sought as to

"Whether a temporay change of use of a hotel to accommodation for persons seeking International Protection is considered exempted under Class 20F of Part 1, Schedule 2 of the Planning and Development Regulations 2001 (as amended) at Hazel Hotel, Skirteen, Monasterevin, Co. Kildare, W34 YY51."

Kildare County Council issued a Declaration under Section 5 of the Planning and Development Act (2000) (as amended) on the 16th of June 2026, deeming that the subject change of use is 'Not Exempted' from requiring

planning permission. This Section 5 Declaration Referral is made to An Coimisiún Pleanála as the applicant and project team are of the opinion that the subject change of use should be determined to be 'Exempted' from requiring planning permission

As the Declaration under Section 5 of the Planning and Development Act (2000) as amended in relation to the above noted question (KCC Reg Ref. ED/1356) was issued by Kildare County Council on the 16th of June 2026, we note that the relevant referral deadline is the 13th of July 2026. We confirm that this Section 5 Declaration referral is lodged to An Coimisiún Pleanála before this deadline.

We confirm that the referral has been lodged to An Coimisiún Pleanála online. Please find enclosed the following:

No	Items	Consultant	Copies
Planning & Planning Admin			
1	Referral Cover Letter	BMC	1 Copy
2	Referral Planning Report	BMC	1 Copy
3	Referral Fee (€220)	BMC	1 Copy

We confirm that we act for Oscar Dawn Limited and request that all future correspondence in relation to this matter be directed to this office. We trust that you will find everything in order.

If you have any queries, please contact this office at the address or number below.

Yours sincerely,

Suzanne McClure

MRUP MIPI MRTPI

suzanne@brockmcclure.ie

01 559 3859

Section 5 Declaration

Referral to An Coimisiún Pleanála

Kildare County Council

Reg Ref: ED/1356

Temporary Change of Use

Under Class 20F at:

Hazel Hotel

Skirteen,

Monasterevin,

Co. Kildare,

W34 YY51

On behalf of:

Oscar Dawn Limited

Brock McClure
PLANNING & DEVELOPMENT CONSULTANTS

63 York Road,

Dún Laoghaire

Co. Dublin

www.brockmcclure.ie

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1 Introduction

We, Brock McClure, Planning & Development Consultants, 63 York Road, Dun Laoghaire, Co. Dublin, have been instructed by our client, Oscar Dawn Ltd., Unit 28, Sandyford Office Park, Blackthorn Avenue, Sandyford Business Park, Dublin D18 PD89, to lodge this referral of a Section 5 Declaration made by Kildare County Council relating to the question of whether a temporary change of use from a Hotel to Temporary International Protection Accommodation is or is not exempted development at Hazel Hotel, Skirteen, Monasterevin, Co. Kildare, W34 YY51.

Kildare County Council issued a Declaration under Section 5 of the Planning and Development Act (2000) (as amended) on the 16th of June 2026, deeming that the subject change of use is 'Not Exempted' from requiring planning permission. In this regard, this Section 5 Declaration Referral is made to An Coimisiún Pleanála as the applicant and project team are of the opinion that the subject change of use should be determined to be 'Exempted' from requiring planning permission.

As the Declaration under Section 5 of the Planning and Development Act (2000) as amended in relation to the above noted question (KCC Reg Ref. ED/1356) was issued by Kildare County Council on the 16th of June 2026, we note that the relevant referral deadline is the 14th of July 2026. We confirm that this Section 5 Declaration referral is lodged to An Coimisiún Pleanála before this deadline.

The statutory appeal fee of €220 is enclosed herewith – as per fee type R1 described as – *You want to refer a declaration made by a planning authority on a question that was put to the planning authority.*

We ask the Inspector and the Commission to have regard for the content of this Report, and the originally submitted Section 5 Declaration content, and determine if the subject change of use is 'Exempted' or 'Not Exempted' from requiring planning permission de novo.

2 Formal Details

We can confirm the following formal details for this appeal:

Referral:	First Party Referral of a Section 5 Declaration
Fee:	€220 (ACP category 'R1' for the purpose of fees)
Planning Authority:	Kildare County Council
Reg. Ref:	ED/1356
Appeal Deadline	13th July 2026
Applicant & Appellant Name:	Oscar Dawn Limited
Applicant & Appellant Address:	Oscar Dawn Limited, Unit 28, Sandyford Office Park, Blackthorn Avenue, Sandyford, Dublin 18, D18PD8
Agent Name:	Brock McClure Planning & Development Consultants
Agent Address:	63 York Road, Dún Laoghaire, Co. Dublin, A96 T0H4
Proposal Address:	Hazel Hotel, Skirteen, Monasterevin, Co Kildare W34 YY51.
Section 5 Declaration Request Question:	"Whether the change of use from hotel use to Temporary International Protection Accommodation is or is not exempted development"

3 Site Context

The following Section of this Section 5 Referral Report has been prepared to summarise the Site Context for the benefit of An Coimisiún Pleanála. A detailed analysis of the Site Context was included within the Section 5 Declaration Report originally lodged to Kildare County Council. We refer An Coimisiún Pleanála to the originally lodged report for details:

Subject Site:	The subject site is located at Hazel Hotel Skirteen, Monasterevin, Co. Kildare W34 YY51. The subject site is located on the outskirts of Monasterevin Town. It is located approx. 600 m from the town centre. The site currently contains 1 no. building, with permitted extensions to accommodate 35 no. bedrooms.
Subject Site Planning History:	**Reg Ref: 24357** For the development of a solar panel array consisting of up to c.94kWp (c.414m2) of solar panels fixed to metal frames and anchored to the ground, cable ducts and all associated works. For the development of a solar panel array consisting of up to c.94kWp (c.414m2) of solar panels fixed to metal frames and anchored to the ground, cable ducts and all associated works. **Grant: 04/06/2025**
	Reg Ref: 02321 For eighteen bedroom extension to hotel, alterations to toilets and lobby area and erection of first floor offices. **Grant: 12/05/2003**
	Reg Ref: 011588 Retention of 7 no. bedrooms, (b) for an additional 2 no. bedrooms, (c) retention of prefabricated staff accommodation, (d) retention of American boutique to the rear of the site, (e) retention of service yard, utility building on site. **Grant 12/05/2003**
	Reg Ref: 001332 Erection of a sign at the entrance **Grant 27/12/2000**
	Reg Ref: 901029 Addition of bedrooms **Grant: 23/01/1991**
	Reg Ref: 891426 Extension to dining room **Grant 01/03/1990**

	Reg Ref: 89156 Erection of a Sign **Grant 19/05/1989**
	Reg Ref: 8935 Function room, kitchen, new front elevation and car park **Grant 21/04/1989**
	Reg Ref: 78304 Erection of Function Room Grant 31/03/1978
	Reg Ref: 76884 Additional Bedroom Grant 30/03/1976
	Reg Ref: 76223 Retention of Road Signs Refused 30/03/1976
Planning Context:	The Kildare County Development Plan 2023-2029 represents the statutory planning document governing the subject site. The Kildare County Development Plan 2023-2029 was adopted by the elected members of Kildare County Council on 9th of December 2022. The Plan came into effect on the 28th January 2023 and has since been subject to 3 no. variations. The Kildare Development Plan 2023-2029 does not provide a specific zoning of the site in Monasterevin. The Monasterevin Local Area Plan 2025-2031 is under review., so the zoning must have regard to the adopted Monasterevin Local Area Plan 2016-2022 until the review of the Monasterevin Local Area Plan 2025-2031 is complete. It is in the preparation stage of the Draft Plan and Issues Paper. A recent consultation ran from the 9th of April to Wednesday 22nd of May 2024 

	As outlined in the figure above, the subject site is zoned **'L: Leisure & Amenity'** with an objective to *"To improve existing leisure and amenity facilities."* The purpose of this zoning is to reflect the established hotel use on site (The Hazel Hotel) and to provide for new and improved leisure and amenity facilities and ancillary uses on site.

History of Site

Hazel Hotel ceased operations as a hotel in 2011. The Hazel Hotel was used for State-supported refugee accommodation in 2015. In 2016, the Hazel Hotel was recognised publicly as an Emergency Reception and Orientation Centre. In September 2018, the accommodation transitioned to a Direct Provision/International Protection accommodation. From 2018 to date, Hazel Hotel has been a longstanding international protection accommodation in Monasterevin. The use of the property for refugee accommodation has been well documented through several site inspections by the State since 2018 and various media reports. Through interagency meetings, housing support and liaison with departments, the use has been acknowledged by the local authority.

Timeline of Hazel Hotel

For convenience of An Coimisiún Pleanála we have outlined the key events of the Hazel Hotel in County Kildare.

Date	Event
2011	Hazel Hotel has closed down its' operation as a hotel
August/ September 2015	Hazel Hotel commissioned as a refugee orientation accommodation from Department of Justice.
2016	Recognition of Emergency Reception and Orientation Centre
2016	Engagement began with the Children and Young People's Services Committee structure in Kildare. The applicant has remained in contact with the committee.
2017	Oireachtas recognition of Hazel Hotel as a Refugee Resettlement Context
9 August 2018	Hazel Hotel stopped its use as an Emergency Reception and Orientation Centre.
September 2018	Opening as Direct Provision/ International Centre. Recognition of the IPAS centre
2018- to current	Site Inspections of the Hazel Hotel from the State began.

September 2018	Kildare County Councillor held Information Sessions in the Hazel Hotel for residents.
March 2019	Public Confirmation of Hazel Hotel as a Direct Provision Centre in the Laois Today newspaper.
April 2019	Planning Engagement with Kildare County Council Fire Officer.
2021	Hazel Hotel is included in the Housing Needs Demand and Assessment which was carried out in 2021 and published in the Kildare County Development Plan 2023.
January 2024	There was a HIQA Inspection carried out at the Hazel Hotel.
August 2024	Engagement with Kildare County Council Local Authority Integration Team

4 Kildare County Council Section 5 Declaration

Kildare County Council issued a Declaration under Section 5 of the Planning and Development Act (2000) (as amended) on the 16th of June 2026, deeming that the subject change of use is 'Not Exempted' from requiring planning permission. Kildare County Council deemed the proposal 'Not Exempted' from requiring planning permission for the following reason:

"It is stated in the application form that the property currently provides accommodation for persons seeking international protection. The Local Authority was not notified of the location of the change of use prior to commencement of development; therefore, the application does not comply with Condition No.5 of Class 20F and therefore is not considered exempted under Class 20F.

Having regard to:

- ***Sections 2, 3, 4, and 5, of the Planning and Development Act 2000 (as***
- ***amended);***
- ***Articles 6 (specifically Class 20F, Part 1, Schedule 2) of the Planning and***
- ***Development Regulations 2001 (as amended); and***
- ***The nature, extent and purpose of the development.***

It is considered that the proposed works constitutes development as defined in Section 3(1) of the Planning and Development Act 2000 (as amended) and is not exempted development as defined by the Planning and Development Act 2000 (as amended) and the Planning and Development Regulations 2001 (as amended)."

It is noted to An Coimisiún Pleanála that the only report the Kildare county Council have published with this Declaration is the planner's report.

5 Grounds for Referral

Having reviewed the S5 Declaration issued by Kildare County Council, it is our professional opinion that the reasons listed as the basis for deeming the change of use hotel to Temporary International Protection Accommodation at Hazel Hotel Skirteen, Monastervin, Co. Kildare W34 YY51 (KCC Reg Ref. ED/1356) as 'Not Exempted' from requiring planning permission have been incorrectly applied.

In this regard, this referral is specifically requesting that An Coimisiún Pleanála examines the Section 5 Declaration question de novo and deems this proposal to be 'Exempted' from requiring Planning Permission, overturning the Kildare County Council Section 5 Declaration originally issued, which deemed the proposal to be 'Not Exempted' from requiring planning permission.

The applicant's response to the reason attached to Kildare County Council's letter declaring the proposal as 'Not Exempted' from requiring planning permission is now included below for the benefit of An Coimisiún Pleanála.

5.1 Applicant's Response to reason included in Kildare County Council S5 Declaration

Kildare County Council determined the following reason to be the only reason for the development being declared as not exempted development:

"It is stated in the application form that the property currently provides accommodation for persons seeking international protection. The Local Authority was not notified of the location of the change of use prior to commencement of development, therefore the application does not comply with Condition No.5 of Class 20F and therefore is not considered exempted under Class 20F.

Having regard to:

- ***Sections 2, 3, 4, and 5, of the Planning and Development Act 2000 (as amended);***
- ***Articles 6 (specifically Class 20F, Part 1, Schedule 2) of the Planning and Development Regulations 2001 (as amended); and***
- ***The nature, extent and purpose of the development.***

it is considered that the proposed works constitutes development as defined in Section 3(1) of the Planning and Development Act 2000 (as amended) and is not exempted development as defined by the Planning and Development Act 2000 (as amended) and the Planning and Development Regulations 2001 (as amended)."

We respectfully submit that the information provided in this referral highlight how this declaration is **without any basis in reason or fact and should be disregarded by the Commission.**

1. Notifications made to Kildare County Council to date

There has been significant engagement with Kildare County Council about the Hazel Hotel being an IPAS centre and we consider the requirement for 'notification' to be fully satisfied. In the first instance, the

Commission should note that within S.I. No. 376/2023- Planning and Development (Exempted Development) (No.4) Regulations 2023 Condition #5 states that the:

"The relevant local authority must be notified of locations where change of use is taking place prior the commencement of development."

For clarity, the wording states 'relevant local authority' and does not refer specifically to the "Planning Authority". We understand that some Planning Authorities have set up a 'Notification Form' and associated Register for premises wishing to avail of the exemption. Kildare County Council has no official Form or Register available. The 'Planning Forms' section of the website does not contain any Form that could be used for Notification purposes. We contrast this with the 20F Notification form prepared by Fingal County Council, which is available in the 'Planning Forms' online and can be submitted to the Planning Authority of Fingal County Council.

In the absence of any Form or Register held by the Planning Authority, it is wholly appropriate to consider the owner's engagement with other sections of the Local Authority as demonstrating compliance with the relevant 'notification' requirement of the Regulations.

Furthermore, other departments of Kildare County Council were previously acknowledged of the use of Hazel Hotel as an IPAS centre. There was an email correspondence between the applicant and the Kildare County Councillor Kevin Duffy where there were information sessions held for the residents at the Hazel Hotel as shown in Appendix 1.

The client, Oscar Dawn Limited also wishes to note there has been ongoing attendance from Kildare County Council representatives at interagency meetings about the Hazel Hotel. This demonstrates key engagement with Council to ensure it had its full awareness of the use and the development.

The Planning Authority's position on this matter is called further into question when regard is had to Appendix 1 - the Housing Need and Demand Assessment & Housing Strategy of the Kildare County Development Plan 2023-2029, which was published in 2023. In this key piece of planning policy, Hazel Hotel is acknowledged as one of 2 no. centres of accommodation for international protection applicants:

	Contracted Capacity	Current Capacity (21/12/2020)
Accommodation Centre, Eyre Powell Hotel, Main Street, Newbridge	152	117 (18/11/2020)
Accommodation Centre, Hazel Hotel, Monasterevin	143	76 (21/12/2020)

Figure 1 Accommodation Centres in Kildare

It is simply not credible to suggest the Planning Authority were not formally aware of the IPAS use at the Hazel Hotel. We consider the requirement for 'notification' to be fully satisfied by evidence of the extensive engagement across all areas of the Local Authority to date.

It is submitted that, in this case, the purpose of the notification requirement was satisfied. Kildare County Council had knowledge of the use through its own department, interagency engagement, housing supports, fire safety engagement and Local Authority Integration Team.

2. **Inconsistencies of S5 declarations from Kildare County Council**

It is necessary to highlight that within the HNDA of Appendix 1 of the Kildare County Development Plan, there are 2 no. accommodation centres that offer international protection: Hazel Hotel and Eyre Powell Hotel.

Eyre Powell Hotel recently submitted a S5 declaration (ED/1303) for the change of use of a hotel to temporary accommodation for those seeking international protection. The decision of this S5 declaration was the same as the Hazel Hotel decision where the development was considered "Not Exempted Development" for the same reasons. Although, Eyre Powell Hotel has been operating as an IPAS centre since 2013 which is longer than the time Hazel Hotel has been operating. At the time of writing this report, this decision was referred to An Comisiún Pleanála and the decision is expected to be made on the 28th of July 2026.

This highlights a strong pattern that Kildare County Council have been applying the conditions of the recent statutory instrument to different locations to wrongfully declare S5 declarations of IPAS centres despite their established presence within the county. We strongly believe that this provides justification for the decision to be reconsidered by An Coimisiún Pleanála.

Additionally, in April 2025, a decision was made by Kildare County Council for the submission ED/1217, that declared that the change of use of the main hotel development and 15 no. short stay self-catering apartments to accommodation for persons seeking International Protection is considered EXEMPTED development. Within this Section 5 submission there was no previous submission of notification to the County Council.

The inconsistencies suggest that the declaration decision should be reviewed de novo from An Coimisiún Pleanála as the Planning Authority has a track record of inconsistent decision making on this issue.

3. **Regard to Sections 2, 3, 4, and 5, of the Planning and Development Act 2000 (as amended);**

It was stated in the planner's report that the change of use was considered to be a "***material change of use***" and having regard to Sections 2, 3, 4, and 5, of the Planning and Development Act 2000 (as amended), and therefore the planner constituted it as development.

To reinstate for the comission there are no external works or modifications being proposed. The use continues to rely on the existing accommodation infrastructure of the hotel.

Notwithstanding this, the planner stated in the planner's report that a material change in use can "*become "material" if the new use is different in character or impact, having regard to planning considerations such as intensity of use, nature of occupancy, demand on local services, and potential effects on residential*

amenity or traffic." However, the planner fails to specifically state how this change of use of the Hazel Hotel is considered to be a material change of use.

We refer An Comisiún Pleanála to the definition of a material change in use in Part 2 Section 7 of the Planning and Development Act where it defines a material change in use as the following:

"A material change in use of land or a martime site includes:

(a) a change in the use of land or a maritime site, or any structure on land or a maritime site, to, or by the addition of, a use that consists of or includes the exhibition of advertisements,

(b) a change in the use of land or a maritime site to, or by the addition of, a use that consists of or includes the—

I. placing or keeping of vans, tents or other objects (whether or not moveable and whether or not collapsible) for the purpose of caravanning, camping, habitation or selling goods or services,

II. storage of caravans or tents, or

III. deposit of vehicles (whether or not usable in accordance with the purpose for which they were constructed or most recently used), old metal, mining or industrial waste, builder's waste, rubbish or debris,

(c) a change in use of a house or part of a house that was most recently used as a single dwelling to a use as 2 or more dwellings,

(d) a change in use of a house or part of a house situated in a rent pressure zone (within the meaning of section 8) to a use for short-term letting (within the meaning of section 8) purposes,

(e) in respect of premises used for retail purposes, a change in use from a prescribed retail purpose to another prescribed retail purpose,

(f) in respect of premises used for industrial purposes, a change in use from a prescribed industrial purpose to another prescribed industrial purpose, and

(g) such change of land or a maritime site from one use to another use as may be prescribed."

As per the definition in the Part 2 Section 7 of the Planning and Development Act, the change of use a from the hotel into a temporary accommodation for those seeking internal protection is not considered a material change in use. Furthermore, the definition of development within Section 3(1) of the Planning and Development Act includes:

"Development' means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land."

As established the change of use is not a material change of use which does not constitute development.

Furthermore, for the convenience of An Coimisiún Pleanála we have compiled this list of previous S5 declarations for a change of use from hotel to temporary accommodation of persons seeking international protection where the development was considered exempted development:

- **Kildare County Council**
  Reg Ref: ED/1217
- **Longford County Council**
  Reg Ref: DC25/23
- **Dublin City Council**
  Reg Ref: 0035/26
- **Wexford County Council**
  Reg Ref: EXD01227

These types of developments were considered to not be a material change of use. All of these locations within the above examples were operating as IPAS centres before the publication of the S.I No. 376/2023.

4. **Accordance with the *Articles 6 (specifically Class 20F, Part 1, Schedule 2) of the Planning and Development Regulations 2001 (as amended).***

We also ask An Coimisiún Pleanála to examine the proposal in the context of Schedule 2, Part 1, Class 20F of the Planning and Development Regulations 2001 (as amended) and the associated Conditions and Limitations and deem that the proposal is compliant with the requirements to be determined as a proposal 'Exempted' from requiring planning permission on this basis.

	Exempted Development Class 20F – Conditions and Limitations	**Applicant Response**
1	The temporary use shall only be for the purposes of accommodating displaced persons or for the purposes of accommodating persons seeking international protection.	Noted - The proposal is for change of use from hotel to Temporary International Protection Accommodation.

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 2022[1] comes to an end in accordance with Article 6 of the Council Directive 2001/55/EC of 20 July 2001.	Noted
3	The use for the purposes of accommodating persons seeking international protection shall be discontinued not later than 31 December 2028.	Noted
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.	Noted
5	The relevant local authority must be notified of locations where change of use is taking place prior the commencement of development.	Noted. Extensive engagement carried out with different departments of Kildare County Council.
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.	Noted
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."	Noted

Table 1 – Exempted Development Class 20F Conditions and Limitations

5. **The Nature, Extent and Purpose of the Development.**

The nature, extent and purpose of development being included as a reason of the planner's report is incongruous due to the conclusion in the Appropriate Assessment Screening Report in Appendix 1 of the Planner's Report. The planner clearly determines in the screening conclusion statement of the report that the proposed change of use would have no potential significant effects on the surrounding area. It was specifically noted that in the screening assessment that the development fell into the "No Potential Significant Affects" category as the development was considered to be of a *"temporary change of use only, existing structure, no new works proposed, no impact on integrity of Natura 2000 network."*

We also ask An Coimisiún Pleanála to examine the subject proposal in the context of Article 9 (1) of the Planning and Development Regulations 2001 (as amended), and deem that the proposal is compliant with the requirements to be determined as a proposal 'Exempted' from requiring planning permission on the following basis:

- The proposal does not contravene a condition attached to any previous planning applications pertaining to the subject site.

- The change of use from hotel to Temporary International Protection Accommodation will comply with all requirements of the Department of Children, Equality, Disability, Integration and Youth. It is therefore considered that no impact to traffic safety or public safety is likely to occur as a result.

- The change of use from hotel to Temporary International Protection Accommodation will not consist of or compromise the extension, alteration, repair or renewal of an unauthorised structure, or a structure the use of which is an unauthorised use.

- It is not considered that the development will have a significant impact on the integrity of any European sites. The change of use from hotel to Temporary International Protection Accommodation utilises existing foul and surface water drainage connections associated with the hotel use.

Therefore, it must be concluded that the nature and extent of the development is considered appropriate and will not adversely impact the surrounding areas. We trust that An Coimisiún Pleanála will issue a Declaration that the development is therefore exempted development.

6 Conclusion

We consider that the Section 5 Declaration material provided by the applicant throughout the Section 5 Declaration process clearly demonstrates that the change of use on the site is exempted development and complies with the exemption requirements and conditions outlined in Schedule 2, Part 1, Class 20F and Article 9(1) of the Planning and Development Regulations 2001 (as amended).

We ask An Coimisiún Pleanála to examine the Section 5 Declaration Request question of whether a change of use from Hotel to Temporary International Protection Accommodation is or is not exempted development at Hazel Hotel, Skirteen, Monastervin, Co. Kildare W34 YY51 (KCC Reg Ref. ED/1356) de novo, and determine if the subject change of use is 'Exempted' or 'Not Exempted' from requiring planning permission.

Appendix 1

From: Cllr. Kevin Duffy <kevinduffyfg@gmail.com>
Sent: Monday 2 September 2019 2:02 pm
To: Hazel Hotel <office@oscar-dawn.ie>
Subject: Arranging Clinic

Good afternoon Renata,

Hope this finds you well.

Following recent conversations with Imran he mentioned that it would be beneficial for the residents of The Hazel if I came in to hold an advice clinic.

I'd like to arrange a suitable time to do this over the coming weeks. Could you please let me know of any afternoons or evenings that would be suitable for you? Also, if the residents have any particular issues they would like assistance with please let me know.

I look forward to hearing from you.

Kind regards
Kevin

Cllr. Kevin Duffy | Kildare County Council | Fine Gael

kevinduffyfg@gmail.com | 0852390341