

ROSCOMMON COUNTY COUNCIL

PLANNING AND DEVELOPMENT ACT, 2000 (as amended)

SECTION 5 - DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT

NOTIFICATION OF DETERMINATION

REGISTERED POST

Marcos Silveira,



Reference Number: DED 916
Application Received: 27th June, 2025
Name of Applicant: Marcos Silveira
Agent: James Lohan Consulting Engineers Ltd

WHEREAS a question has arisen as to whether (a) the conversion of a Vacant Pub into eight Apartments under the Planning & Development Act (Exempted Development) Regulations 2022 (S.175 of 2022) is exempted development, and (b) a development that proposes no parking on a town centre site could constitute a traffic hazard or obstruction to road users under Article 9(1) (a)(iii) under the Planning and Development Act (Exempted Development) Regulations 2018' at St. Patrick's Street, Castlerea, Co. Roscommon., is or is not development and is or is not exempted development:

AND WHEREAS Roscommon County Council, in considering this application, had regard particularly to:

- (a) Sections 2, 3 and 5 of the Planning and Development Act, 2000, as amended.
- (b) Article 10(6) of the Planning and Development Regulations, 2001, as amended.
- (c) The record forwarded to Roscommon County Council in accordance with subsection (6)(c) of Section 5 of the Planning and Development Acts 2000 as amended.
- (d) The planning history of the site.

AND WHEREAS Roscommon County Council has concluded that:

- (a) The works outlined above are development.
- (b) The proposed change of use falls within the provisions of Article 10(6) of the Planning and Development Regulations 2001, as amended.
- (c) The proposed development individually and in combination with other plans or projects would not be likely to have a significant effect on any European site and that the requirement for AA or EIAR does not apply with respect to the current case.

NOW THEREFORE:

By virtue of the powers vested in me by the Local Government Acts 1925 – 2024 and Section 5(2)(a) of the Planning and Development Act 2000 (as amended) and having considered the various submissions and reports in connection with the application described above, it is hereby declared that the said development for (a) the conversion of a Vacant Pub into eight Apartments under the Planning & Development Act (Exempted Development) Regulations 2022 (S.175 of 2022) is exempted development, and (b) a development that proposes no parking on a town centre site could constitute a traffic hazard or obstruction to road users under Article 9(1) (a)(iii) under the Planning And Development Act (Exempted Development) Regulations 2018' at St. Patrick's Street, Castlerea, Co. Roscommon., is development that is **exempted development** as defined within the Planning and Development Act 2000 (as amended) and associated Regulations.

Signed on behalf of the Council:



Mervyn Walsh,
Administrative Officer,
Planning.

Date: 19th February, 2026

cc agent via email: James Lohan Consulting Engineers Ltd
james@jlce.ie

ADVICE NOTE

This Section 5 Determination does not extend to mobility arrangements and car parking provision associated with the proposed development. Roscommon County Council's concerns in respect of potential public safety / traffic safety arising as a result of the subject development (which have previously been documented in determining Section 5 Reference No's DED 644 and DED 678 and in the refusal of Planning Ref. No. PD/24/60459) remain of relevance.

In the event of the development which is the subject of this Declaration progressing, it remains the developers responsibility to manage any car parking requirements the said development may require in order to ensure that it does not endanger public safety by reason of a traffic hazard or obstruction of road users.

ADVICE NOTE

Any person issued with a Declaration under Section 5 of the Planning and Development Act, 2000 (as amended) may, on payment to An Coimisiún Pleanála of the prescribed fee, refer a Declaration for review within 4 weeks of the date of the issuing of the Declaration.

ADVICE NOTE

This Declaration is based on the relevant Planning and Development Act 2000 (as amended) and the Planning and Development Regulations 2001 (as amended) at the date of issue. In the event that the Planning and Development Act 2000 (as amended) or the Planning and Development Regulations 2001 (as amended) change prior to the works being carried out this Declaration may no longer apply.

Carmel Curley

From: Carmel Curley
Sent: Thursday 19 February 2026 12:14
To: [REDACTED]
Cc: James Lohan
Subject: DED916 - Notification of Determination
Attachments: DED 916 Notification of Determination.pdf

A Chara,

Please find attached Notification of Determination for your Section 5 Declaration of Exempted Development Application – DED 916.

Mise le meas,

Carmel

Carmel Curley, Staff Officer,
Planning Department, Roscommon County Council,
Aras an Chontae, Roscommon, Co. Roscommon, F42 VR98
☎: (090) 6637100

✉: planning@roscommoncoco.ie | 🌐 www.roscommoncoco.ie

MAP LOCATION



**Planner's Report on application under Section 5 of the
Planning and Development Act 2000 (as amended)**

Reference No: DED 916

**Name and Address of
Applicant:**

Marcos Silveira, [REDACTED]

Name and Address of Agent: James Lohan Consulting Engineers Ltd, Unit 5, Ballypheason House,
Circular Road, Roscommon

Development:

Whether (a) the conversion of a vacant pub into eight apartments under the Planning and Development Act (Exempt Development) Regulations 2022 (S.175 of 2022) is exempted development, and (b) a development that proposes no parking on a town centre site could constitute a traffic hazard or obstruction to road users under Article 9(1) (a) (iii) under the Planning and Development Act (Exempted Development) Regulations 2018.

Development Location:

Saint Patrick's Street, Castlerea, Co. Roscommon

WHEREAS a question has arisen as to whether the following works; *Whether (a) the conversion of a vacant pub into eight apartments under the Planning and Development Act (Exempt Development) Regulations 2022 (S.175 of 2022) is exempted development, and (b) a development that proposes no parking on a town centre site could constitute a traffic hazard or obstruction to road users under Article 9(1) (a) (iii) under the Planning and Development Act (Exempted Development) Regulations 2018 is or is not development and is or is not exempted development.*

I have considered this question, and I have had regard particularly to –

- (a) Sections 2, 3 and 5 of the Planning and Development Act, 2000, as amended
- (b) Articles 10 (6) of the Planning and Development Regulations, 2001, as amended
- (c) The record forwarded to Roscommon County Council in accordance with subsection (6)(c) of Section 5 of the Planning and Development Acts 2000 as amended.
- (d) The planning history of the site.

Site Location & Development Description

The application site is located in the centre of Castlerea Town on St Patrick's Street. The site which consists of a two storey vacant building is zoned Town Core in the Castlerea Settlement Plan included in Volume II of the *Roscommon County Development Plan 2022-2028*. The ground floor of the building was previously a pub.

Planning History:

The planning history on the subject site, as follows:

Pl. Reg. Ref PD/24/60459 : Planning permission refused for the change of use of existing derelict pub building into 9 apartments. The development was proposed to “include alterations to elevations and construction of an extension along with alterations to existing roof, connection to existing public services and carry out all ancillary site development works.” Permission was refused for the reasons set out below.

- 1. The proposed development by reason of the nature and intensity of the proposed use and in the absence of demonstration of adequate provision and/or arrangements for onsite vehicular access and parking would create undue potential for hazardous or conflicting turning movements and unmanaged, casual or illegal car parking in the immediate vicinity of the site, which is located close to a major National Road junction and where on-street parking restrictions apply. The Planning Authority is not satisfied therefore that the proposed development, if permitted, would not endanger public safety by reason of traffic hazard or obstruction of road users or otherwise. The proposed development would accordingly be contrary to the proper planning and sustainable development of the area.*
- 2. The proposed development by reason of its design and layout which is not considered a sufficiently responsive built form in the context of the established pattern and form of development in the immediate vicinity and which furthermore, and irrespective of indications in documents received of shared amenity space outside the control of the applicant, has not made adequate provision for adequate communal open space, would constitute overdevelopment, would not meet the required standard of urban placemaking, would not provide a high quality residential environment and would impact unduly on the residential amenity of existing and future town centre residents if permitted. The proposed development would therefore be contrary to the provisions of Section 4 of “Sustainable Residential Development and Compact Settlements - Guidelines for Planning Authorities” (DHLGH; 2024) and would accordingly be contrary to the proper planning and sustainable development of the area.*
- 3. The proposed development, by reason of its design and layout which is not considered a sufficiently responsive built form in the context of the established pattern and form of development within Castlerea Architectural Conservation Area (ACA) would be contrary to the provisions of Roscommon County Development Plan Policy Objective BH9.5 which requires that new development within the Architectural Conservation Area respects the context of the area and contributes positively to the ACA in terms of design, scale, setting and material finishes. The proposed development would accordingly be contrary to the proper planning and sustainable development of the area.*
- 4. The Planning Authority is not satisfied based on submissions received that the proposed development by reason of its proposed design and layout would not result in increased or otherwise undue potential for overlooking of nearby properties. The proposed development would accordingly be contrary to the proper planning and sustainable development of the area.*

DED 644:

Application for a Declaration under Section 5 of the Planning & Development Act, 2000, as amended, regarding Exempted Development to “convert vacant pub into eight apartments under the Planning & Development Regulations 2018” at Castlerea, Co. Roscommon.

RCC Determination: Is development and is not exempted development.

DED 678:

Application for a Declaration under Section 5 of the Planning & Development Act, 2000, as amended, regarding the “conversion of a vacant pub into eight apartments under the Planning & Development Act (Exempted Development) Regulations 2018.”

RCC Determination: Is development and is not exempted development.

Note: Notwithstanding the Planning Authority’s knowledge of the limited criteria set out in Article 10(6) of the Planning and Development Regulations 2001 (as amended) applicable to the undertaking of changes of use from commercial to residential as exempted development, given the scale of development that was the subject of each of the above referenced DEDs and the site specific considerations which gave rise to significant concerns on the part of the Local Authority in respect of the developments having the potential to endanger public by reason of a traffic hazard, the Planning Authority considered it necessary to also take into account the provisions of Article 6 and Article 9(1)(a)(iii) in making a determination on same. Consequently, the determination made on each of the above detailed DEDs referenced Article 9(1)(a)(iii) in determining that the development in each case did not constitute exempted development i.e. on the basis that it would endanger public safety by reason of a traffic hazard or obstruction of road users.

Appropriate Assessment

The closest European site to the proposed development is Cloonchambers Bog SAC which is located circa 2.9km to the east of the subject site.

Having regard to the separation distance between the site and the closest Natura 2000 site and the nature of the proposal, there is no real likelihood of significant effects on the conservation objectives of these or other European sites arising from the proposed development. The need for further Appropriate Assessment can, therefore, be excluded.

EIA Screening:

The proposed development is a project but is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001 (as amended) No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination.

Relevant statutory provisions**Planning and Development Acts 2000 (as amended)****Section 2. -(1)**

“works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

Section 3. -(1)

In this Act, "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

Section 5(1)

If any question arises as to what, in any particular case, is or is not development or is or is not exempted development within the meaning of this Act, any person may, on payment of the prescribed fee, request in writing from the relevant planning authority a declaration on that question, and that person shall provide to the planning authority any information necessary to enable the authority to make its decision on the matter.

Section 5(4)

Notwithstanding *subsection (1)*, a planning authority may, on payment to the Board of such fee as may be prescribed, refer any question as to what, in any particular case, is or is not development or is or is not exempted development to be decided by the Board.

Planning and Development Regulations, 2001 as amended

Article 10 (6)

(a) In this sub-article—

"relevant period" means the period from the making of these Regulations until 31 December 2021.

(b) This sub-article relates to a proposed development, during the relevant period, that consists of a change of use to residential use from Class 1, 2, 3 or 6 of Part 4 to Schedule 1.

(c) Notwithstanding sub-article (1), where in respect of a proposed development referred to in paragraph (b)—

(i) the structure concerned was completed prior to the making of the Planning and Development (Amendment) (No. 2) Regulations 2018,

(ii) the structure concerned has at some time been used for the purpose of its current use class, being Class 1, 2, 3 or 6, and

(iii) the structure concerned, or so much of it that is the subject of the proposed development, has been vacant for a period of 2 years or more immediately prior to the commencement of the proposed development, then the proposed development for residential use, and any related works, shall be exempted development for the purposes of the Act, subject to the conditions and limitations set out in paragraph (d).

(d) (i) The development is commenced and completed during the relevant period.

(ii) Subject to sub-paragraph (iii), any related works, including works as may be required to comply with sub-paragraph (vii), shall affect only the interior of the structure and shall not materially affect the external appearance of the structure so as to render its appearance inconsistent with the character of the structure or of neighbouring structures.

(iii) Any related works for the alteration of existing ground floor shop fronts shall be consistent with the fenestration details and architectural and streetscape character of the remainder of the structure or of neighbouring structures.

(iv) No development shall consist of or comprise the carrying out of works to the ground floor area of any structure which conflicts with any objective of the relevant local authority development plan or local area plan, pursuant to the Part 1 of the First Schedule to the Act,

for such to remain in retail use, with the exception of any works the purpose of which is to solely provide on street access to the upper floors of the structure concerned.

(v) No development shall consist of or comprise the carrying out of works which exceeds the provision of more than 9 residential units in any structure.

(vi) Dwelling floor areas and storage spaces shall comply with the minimum floor area requirements and minimum storage space requirements of the "Sustainable Urban Housing: Design Standards for New Apartments — Guidelines for Planning Authorities" issued under section 28 of the Act or any subsequent updated or replacement guidelines.

(vii) Rooms for use, or intended for use, as habitable rooms shall have adequate natural lighting.

(viii) No development shall consist of or comprise the carrying out of works to a protected structure, as defined in section 2 of the Act, save where the relevant planning authority has issued a declaration under section 57 of the Act to the effect that the proposed works would not materially affect the character of the structure or any element, referred to in section 57(1)(b) of the Act, of the structure.

(ix) No development shall contravene a condition attached to a permission under the Act or be inconsistent with any use specified or included in such a permission.

(x) No development shall relate to any structure in any of the following areas:

(I) an area to which a special amenity area order relates;

(II) an area of special planning control;

(III) within the relevant perimeter distance area, as set out in Table 2 of Schedule 8, of any type of establishment to which the Major Accident Regulations apply.

(xi) No development shall relate to matters in respect of which any of the restrictions set out in subparagraph (iv), (vii), (viiA), (viiB), (viiC), (viii) or (ix) of article 9(1)(a), or paragraph (c) or (d) of article (9)(1), would apply.

(xii) No development shall consist of or comprise the carrying out of works for the provision of an onsite wastewater treatment and disposal system to which the code of practice made by the Environmental Protection Agency pursuant to section 76 of the Environmental Protection Agency Act 1992 relates and entitled Code of Practice — Wastewater Treatment and Disposal Systems Serving Single Houses together with any amendment to that Code or any replacement for it.

(e) (i) Where a person proposes to undertake development to which sub-paragraph (b) relates, then he or she shall accordingly notify the planning authority in whose functional area that the change of use concerned will occur in writing at least 2 weeks prior to the commencement of the proposed change of use and any related works.

(ii) Details of each notification under subparagraph (i), which shall include information on—

(I) the location of the structure, and

(II) the number of residential units involved, including the unit sizes and number of bedrooms in each unit,

shall be entered in a record by the planning authority maintained for this purpose and the record shall be available for inspection at the offices of the planning authority during office hours and on the planning authority's website.

(iii) During the years 2019, 2020, 2021 and 2022, each planning authority shall provide information to the Minister on the number of notifications received by it under this paragraph during the preceding calendar year, including details of the information so received for the purposes of subparagraph (ii).

Assessment and recommendation:

The question to be determined in this Section 5 application is whether (a) *the conversion of a vacant pub into eight apartments under the Planning and Development Act (Exempt Development) Regulations 2022 (S.175 of 2022) is exempted development, and (b) a development that proposes no parking on a town centre site could constitute a traffic hazard or obstruction to road users under Article 9(1) (a) (iii) under the Planning and Development Act (Exempted Development) Regulations 2018* is or is not development and is or is not exempted development.

Having regard to Planning Authority's continued concerns in relation to public safety and given that Article 10 (6) does not reference Article 9 (1) (iii) considerations, the Planning Authority on the 22nd Aug 2025 referred this subject DED 916 to An Coimisiún Pleanála, in accordance with Section 5(4) Planning and Development Act 2000 (as amended) for ACP to determine whether the above is or is not development and is or is not exempted development.

On the 2nd January 2026 An Coimisiún Pleanála in Ref. ACP-323524-25 in exercise of the powers inferred on it by section 138(1) of the Planning and Development Act, 2000 (as amended), refused to further consider the said referral under subsection (1)(b)(i) of Section 138 of the said Act. I note the content in the order from ACP which cited '*that there is no reference to the restriction under Article 9(1)(a)(iii) of the Planning and Development Regulations 2001 as amended, such that matters in relation to traffic safety do not apply under this criterion or the other criteria/restrictions on the exemption*'.

While the Planning Authority continues to have serious concerns regarding public safety implications associated with the proposed development as previously reported, the content of An Coimisiún Pleanála's Inspectors Report and associated order which sets out that the provisions of Article 9 of the Planning and Development Regulations 2001 (as amended) do not extend to Article 10, Change of use provisions is noted and given this position as set out by An Coimisiún Pleanála, the Planning Authority must now proceed to determine the question posed without reference to Article 9, irrespective of the Authority's continued concerns in respect of public safety.

In this context, whereas a question has arisen as to whether a proposed development; '*whether (a) the conversion of a vacant pub into eight apartments under the Planning and Development Act (Exempt Development) Regulations 2022 (S.175 of 2022) is exempted development, and (b) a development that proposes no parking on a town centre site could constitute a traffic hazard or obstruction to road users under Article 9(1) (a) (iii) under the Planning and Development Act (Exempted Development) Regulations 2018*', at St Patrick's Street, Castlerea, Co. Roscommon is or is not development and is or is not exempted development, I have considered this question, and I have had regard particularly to –

- (a) Sections 2, 3 and 5 of the Planning and Development Act, 2000, as amended
- (b) Article 10(6) of the Planning and Development Regulations, 2001, as amended
- (c) The record forwarded to Roscommon County Council in accordance with subsection (6)(c) of Section 5 of the Planning and Development Acts 2000 as amended.
- (d) The planning history of the site

AND WHEREAS I have concluded that

- The works outlined above are development.
- The proposed change of use falls within the provisions of Article 10(6) of the Planning and Development Regulations 2001, as amended.
- The proposed development individually and in combination with other plans or projects would not be likely to have a significant effect on any European site and that the requirement for AA or EIAR does not apply with respect to the current case.

AND WHEREAS I have concluded *Whether (a) the conversion of a vacant pub into eight apartments under the Planning and Development Act (Exempt Development) Regulations 2022 (S.175 of 2022) is exempted development, and (b) a development that proposes no parking on a town centre site could constitute a traffic hazard or obstruction to road users under Article 9(1) (a) (iii) under the Planning and Development Act (Exempted Development) Regulations 2018', at St Patrick's Street, Castlerea, Co. Roscommon is an exempted development.* I recommend that a declaration to that effect should be issued to the applicant.

Advice Note:

This Section 5 determination does not extend to mobility arrangements and car parking provision associated with the proposed development. Roscommon County Council's concerns in respect of potential public safety / traffic safety arising as a result of the subject development (which have previously been documented in determining Section 5 Reference No's DED 644 and DED 678 and in the refusal of Planning Ref. No. PD/24/60459) remain of relevance. **In the event of the development which is the subject of this Declaration progressing, it remains the developers responsibility to manage any car parking requirements the said development may require in order to ensure that it does not endanger public safety by reason of a traffic hazard or obstruction of road users.**

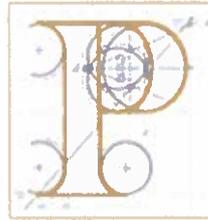
Signed


Paula Connaughton
Executive Planner

Date: 16th February 2026

Our Case Number: ACP-323524-25

Planning Authority Reference Number: DED 916



An
Coimisiún
Pleanála

Roscommon County Council
Áras an Chontae
Roscommon
Co. Roscommon

Date: 02 JAN 2026

Re: Whether the conversion of a vacant pub into 8 apartments is or is not development or is or is not exempted development.
St. Patrick's Street, Castlerea, Co. Roscommon, F45 T672

Dear Sir / Madam,

An order has been made by An Coimisiún Pleanála dismissing the above-mentioned referral under the Planning and Development Acts 2000 to 2022. A copy of the order is enclosed.

In accordance with section 146(5) of the Planning and Development Act 2000, as amended, the Commission will make available for inspection and purchase at its offices the documents relating to any matter falling to be determined by it, within 3 days following the making of its decision. The documents referred to shall be made available for a period of 5 years, beginning on the day that they are required to be made available. In addition, the Commission will also make available the Inspector's Report, the Direction and Commission Order in respect of the matter on the Commission's website (www.pleanala.ie). This information is normally made available on the list of decided cases on the website on the Wednesday following the week in which the decision is made.

The Public Access Service for the purpose of inspection/purchase of file documentation is available on weekdays from 9.15am to 5.30pm (including lunchtime) except on public holidays and other days on which the office of the Commission is closed.

Yours faithfully,

Rory Kelleedy
Executive Officer

DISMS37N



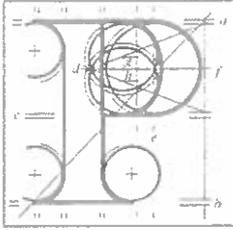
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D01 V902

64 Marlborough Street
Dublin 1
D01 V902



An
Coimisiún
Pleanála

Commission Order
ACP-323524-25

Planning and Development Act 2000, as amended

Planning Authority: Roscommon County Council

Planning Authority Reference Number: DED 916

WHEREAS Marcos Silveira care of James Lohan Planning and Design Consulting Engineers of Unit 5 Ballypheason House, Circular Road, Roscommon requested Roscommon County Council to consider an application consisting of the change of use of the former Horse and Jockey public house building at St. Patrick's Street, Castlerea, County Roscommon F45 T672, to eight number apartments, under S.I. 75 of 2022

AND WHEREAS Roscommon County Council assessed the question to be determined as: whether the conversion of a vacant pub into eight apartments is or is not development or is or is not exempted development; and whether a proposed development that proposes no parking on a town centre site could constitute a traffic hazard or obstruction under Article 9(1)(a)(iii) of the Planning and Development Regulations 2001, as amended, is or is not development or is or is not exempted development, all at St. Patrick's Street, Castlerea, County Roscommon,



AND WHEREAS Roscommon County Council did not make a declaration on these questions and referred the matter to An Coimisiún Pleanála on the 28th day of August, 2025,

AND WHEREAS, following assessment of this referral, An Coimisiún Pleanála was satisfied that the referral should not be further considered:

NOW THEREFORE An Coimisiún Pleanála, in exercise of the powers conferred on it by section 138(1) of the Planning and Development Act, 2000, as amended, hereby dismiss the said referral under subsection (1)(b)(i) of Section 138 of the said Act, based on the reasons and considerations set out below.

Reasons and Considerations

The Commission is satisfied that, in the particular circumstances, the referral should not be further considered by it, having regard to the nature of the referral, including the question raised which, in the Commission's opinion, relates to whether the conversion of a vacant pub at Saint Patrick's Street, Castlerea, County Roscommon, into eight apartments, is or is not development, or is or is not exempted development.

The Commission notes the previous determinations of Roscommon County Council in relation to the same, or substantially the same questions, and in respect of the same land, under Referral DED 644 issued by Roscommon County Council on 12th February 2024, and Referral DED 678 issued by Roscommon County Council on the 22nd July 2024, which was declared to be development which is not exempted development, and there has been no change in the question, planning facts or circumstances since the previous determination was made that would have relevance to the referral case now before the Commission.



Notwithstanding the Inspector's observations regarding the conditions and limitations attached to Article 10(6)(b) of the Planning and Development Regulations, 2001 as amended, and the Inspector's opinion, in relation to traffic safety per criterion (xi), that there is no reference to the restriction under Article 9(1)(a)(iii) of the Planning and Development Regulations, 2001 as amended, such that matters in relation to traffic safety do not apply under this criterion or the other criteria/restrictions on the exemption, the Commission is satisfied that, in the particular circumstances, the referral should not be further considered by it.

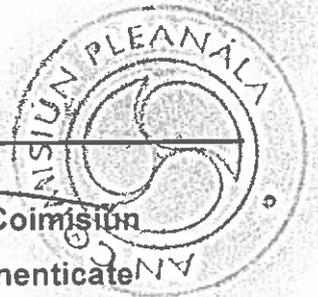


Mary Rose McGovern

Planning Commissioner of An Coimisiún

Pleanála duly authorised to authenticate

the seal of the Commission.



Dated this 2nd day of January 2026





Comhairle Contae
Ros Comáin
Roscommon
County Council



REGISTERED POST

Cathy Carleton,
Executive Officer,
Processing Section,
An Coimisiún Pleanála,
64 Marlborough Street,
Dublin 1,
D01 V902.

Date: 9th October, 2025
Planning Reference: ACP-323524-25 DED 916

Re: Application for a Declaration under Section 5 of the Planning & Development Act, 2000 (as amended), regarding Exempted Development.
Question arising relates to: “(a) the conversion of a vacant pub into eight apartments under the Planning & Development Act (Exempt Development) Regulations 2022 (S.175 of 2022) is exempted development, and (b) a development that proposes no parking on a town centre site could constitute a traffic hazard or obstruction to road users under Article 9(1)(a)(iii) at St. Patrick’s Street, Castlereagh, Co. Roscommon, F45 T672”.

A Chara,

Further to receipt of your email correspondence received on 7th October, 2025 in relation to the above Section 5 Declaration of Exempted Development Application, DED916, please find enclosed the historic files for DED 644 & DED 678 as requested.

Mise le meas,

Administrative Officer,
Planning Department.

Carmel Curley

From: Sarah O'Reilly
Sent: Tuesday 7 October 2025 15:53
To: Carmel Curley
Cc: Mervyn Walsh
Subject: ACP-323524-25 Your ref: DED 16

Follow Up Flag: Follow up
Flag Status: Completed

From: Cathy Carleton <cathy.carleton@pleanala.ie>
Sent: Tuesday 7 October 2025 15:50
To: Planning Department <Planning@roscommoncoco.ie>
Subject: ACP-323524-25 Your ref: DED 16

Caution: This email originated outside the organisation and may be malicious. Report all suspicious emails immediately by using the Meta Phish button above.

Hi,

Further to your letter dated 17th September 2025, it states that historic files have been uploaded to the Sharefile.

Please note the Commission cannot accept historic files thorough Sharefile.

Can these documents be forwarded by post at your earliest convenience?

Kind regards,
Cathy

Cathy Carleton
Executive Officer
Processing Section
An Coimisiún Pleanála
64 Marlborough Street
Dublin 1
D01 V902
Teil: 01-8737203
Facs: 01-8722684

Má fhaigheann tú an ríomhphost seo lasmuigh de na gnáthuaireanta oibre, ní bheidh mé ag súil le freagra ná gníomh lasmuigh de d'uaireanta oibre féin.

If you receive this email outside of normal working hours, I do not expect a response or action outside of your own working hours

Smaoinigh ar an timpeallacht sula ndéanann tú an ríomhphost seo a phriontáil.

Please consider the environment before printing this mail.

Fógra Rúin: Tá an ríomhphost seo agus aon chomhaid atá nasctha leis faoi rún agus dírithe amháin don seolaí. Má bhfuair tú an ríomhphost seo trí earráid, déan teagmháil le bainisteoir an chórais.

Tabhair faoi deara led thoil: aon tuairimí nochtaithe san ríomhphost seo is iad tuairimí an tseoltóra féin agus níl sé intuigthe gurb iad tuairimí An Coimisiún Pleanála nó go gcloíonn siad le polasaithe ráite An Coimisiún.

Confidentiality Notice: This email and any files transmitted with it are confidential and intended solely for the addressee. If you have received this email in error please notify the system manager.

Please Note: any views expressed in this email are those of the individual sender and may not necessarily reflect the views or accord with the stated policies of An Coimisiún Pleanála.

Please note that I may be sending this email outside your working hours and I do not expect a response or action outside your own working hours

Carmel Curley

From: Planning Department
Sent: Wednesday 17 September 2025 13:00
To: Dillon Corcoran
Subject: Roscommon County Council Planning Ref. No. DED-916 - ACP-323524-25 Appeal
Attachments: DED916 Response Letter to ACP 17-09-2025.pdf

Hi Dillion,

I refer to the above-mentioned appeal.

It is advised that the detail(s) requested regarding Planning File Reference DED916, have been uploaded electronically to An Coimisiún Pleanála's digital portal

Please find attached, cover letter confirming the above, in relation to the relevant material that has been forwarded, original letter forwarded to ACP via registered post today.

Regards,

Mervyn Walsh.

**Mervyn Walsh, Administrative Officer,
Planning Department, Roscommon County Council,
Aras an Chontae, Roscommon, Co. Roscommon, F42 VR98**

☎: (090) 6637100

✉: planning@roscommoncoco.ie | www.roscommoncoco.ie

MAP LOCATION



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Comhairle Contae
Ros Comáin
Roscommon
County Council



REGISTERED POST

Dillon Corcoran,
Administrative Assistant,
An Coimisiún Pleanála,
64 Marlborough Street,
Dublin 1,
D01 V902.

Date: 17th September 2025
Planning Reference: DED 916

Re: Application for a Declaration under Section 5 of the Planning & Development Act, 2000 (as amended), regarding Exempted Development.
Question arising relates to: "(a) the conversion of a vacant pub into eight apartments under the Planning & Development Act (Exempt Development) Regulations 2022 (S.175 of 2022) is exempted development, and (b) a development that proposes no parking on a town centre site could constitute a traffic hazard or obstruction to road users under Article 9(1)(a)(iii) at St. Patrick's Street, Castlerea, Co. Roscommon, F45 T672".

A Chara,

Further to receipt of your correspondence received on 4th September, 2025 in relation to the above Section 5 Declaration of Exempted Development Application, DED916, please note the following;

1. Details of previous decision affecting the site – **historic files have been uploaded on the Sharefile drive.**
2. Any correspondence that has taken place between the person(s) issued with a declaration under subsection (2) (a) of section 5 of the 2000 Act, (as amended), and the planning authority – **as per files uploaded.**
3. The name and address of the owner of the land in question and the name of the occupier of the said land, if different - **as per the Planning Application Form submitted for PD/24/60459 it was indicated that Marcos Silveira of [REDACTED] is the registered owner of the premises.**
4. Name and addresses of all persons notified by you under subsection (2) of section 5 of the 2000 Act (as amended) –
 - **Applicant:** **Marcos Silveria, Saint Patrick's Street, Castlerea, Co. Roscommon, F45 T672.**
 - **Agent:** **James Lohan Consulting Engineers Ltd, Unit 5, Ballypheason House, Circular Road, Roscommon, Co. Roscommon.**
5. Where no declaration was issued by you, indicate the date that the declaration was due to be issued in accordance with subsection (2) of section 5 of the 2000 Act (as amended) – **24th July 2025.**



Comhairle Contae
Ros Comáin
Roscommon
County Council



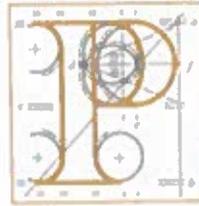
Mise le meas,

A handwritten signature in blue ink, appearing to read 'Mairead Gleeson'.

**Administrative Officer,
Planning Department.**

Our Case Number: ACP-323524-25

Planning Authority Reference Number: DED 916



**An
Coimisiún
Pleanála**

Roscommon County Council
Áras an Chontae
Roscommon
Co. Roscommon

Date: 01 September 2025

Re:



Dear Sir / Madam,

An Coimisiún Pleanála has received your referral and will consider it under the Planning and Development Act, 2000, (as amended). A receipt for the fee lodged is enclosed.

In order to comply with section 128 of the Planning and Development Act, 2000, (as amended), please forward, within a period of 2 weeks beginning on the date of this letter, copies of any information in your possession which is relevant to the referral, including:

- (i) details of previous decisions affecting the site;
- (ii) any correspondence that has taken place between the person(s) issued with a declaration under subsection (2)(a) of section 5 of the 2000 Act, (as amended), and the planning authority;
- (iii) the name and address of the owner of the land in question and the name of the occupier of the said land, if different;
- (iv) the names and addresses of all persons notified by you under subsection (2) of section 5 of the 2000 Act, (as amended);
- (v) where no declaration was issued by you, indicate the date that the declaration was due to be issued in accordance with subsection (2) of section 5 of the 2000 Act, (as amended).

Please note that under section 127(3) of the Planning and Development Act, 2000, (as amended), the person by whom the referral is made shall not be entitled to elaborate in writing upon or make further submissions in writing in relation to the grounds of the referral unless requested to do so by An Coimisiún Pleanála.

If you have any queries in the meantime, please contact the undersigned officer of the Commission at appeals@pleanala.ie.

**Teil
Glaó Áitiúil
Facs
Láithreán Gréasáin
Ríomhphost**

**Tel
LoCall
Facs
Website
Email**
(01) 858 8100
1800 275 175
(01) 872 2684
www.pleanala.ie
communications@pleanala.ie

64 Sráid Maoilbhríde
Baile Átha Cliath 1
D01 V902

64 Marlborough Street
Dublin 1
D01 V902

Yours faithfully,

PP Lauren Murphy

Dillon Corcoran
Administrative Assistant
Direct Line: 01-8049313

BPRL01PA



Teil
Glaio Áitiúil
Facs
Láithreán Gréasáin
Riomhphost

Tel (01) 858 8100
LoCall 1800 275 175
Fax (01) 872 2684
Website www.pleanala.ie
Email communications@pleanala.ie

64 Sráid Maoilbhríde
Baile Átha Cliath 1
D01 V902

64 Marlborough Street
Dublin 1
D01 V902



Comhairle Contae
Ros Comáin
Roscommon
County Council



REGISTERED POST

The Secretary,
An Coimisiún Pleanála,
64 Marlborough Street,
Dublin 1,
D01 V902.

AN COIMISIÚN PLEANÁLA	
LDG-	082469-25
ACP-	
28 AUG 2025	
Fee: €	110 ch
Time: Rpt	By: 10:15

Date: 26/08/2025
Planning Reference: DED 916

Re: Application for a Declaration under Section 5 of the Planning & Development Act, 2000 (as amended), regarding Exempted Development.
Question arising relates to: "(a) the conversion of a vacant pub into eight apartments under the Planning & Development Act (Exempt Development) Regulations 2022 (S.175 of 2022) is exempted development, and (b) a development that proposes no parking on a town centre site could constitute a traffic hazard or obstruction to road users under Article 9(1)(a)(iii) at St. Patrick's Street, Castlerea, Co. Roscommon, F45 T672".

A Chara,

Roscommon County Council wishes to refer **DED 916** to An Comisiún Pleanála for decision by the Commission.

Please find enclosed copy of the DED application received by Roscommon County Council together with all associated reports and correspondence.

Please find enclosed also cheque in the sum of €110.00 being fee for this referral.

Mise le meas,

Senior Executive Planner,
Planning Department.



REMITTANCE ADVICE / FAISNÉIS ÍOCAÍOCHTA

AN BORD PLEANALA
64 MARLBORO STREET DUBLIN 1
Ireland

Cheque No. XXXXXXXXXX
Supp ID / Uimh. Aitheantais XXXXXXXXXX
Date / Dáta 22/08/2025
Page / Leathanach 1/1

Your Ref/ Bhur dTagairt	Inv Date/ Dáta Sonraisc	Our Ref/ Ár dTagairt	AMOUNT/ SUIM EUR	Payable Iníoctha EUR
DED916	22/08/2025	30502522	110.00	110.00
PAGE TOTAL / IOMLÁN AN LEATHANAIGH			EUR 110.00	110.00
GRAND TOTAL / MÓRIOMLÁN			EUR 110.00	110.00

WH = Withholding Tax CT = Subcontractors Tax RA = Non Resident Landlord
 CMP = Late Payment Compensation

Planner's Report on application under Section 5 of the
Planning and Development Act 2000 (as amended)



Reference No: DED 916

Name and Address of Applicant: Marcos Silveira, [REDACTED]

Name and Address of Agent: James Lohan Consulting Engineers Ltd, Unit 5, Ballypheason House, Circular Road, Roscommon

Development: Whether (a) the conversion of a vacant pub into eight apartments under the Planning and Development Act (Exempt Development) Regulations 2022 (S.175 of 2022) is exempted development, and (b) a development that proposes no parking on a town centre site could constitute a traffic hazard or obstruction to road users under Article 9(1) (a) (iii) under the Planning and Development Act (Exempted Development) Regulations 2018.

Development Location: Saint Patrick's Street, Castlerea, Co. Roscommon

Planning History:

The planning history on the subject site, as follows:

Pl. Reg. Ref PD/24/60459:

Planning permission refused for the change of use of existing derelict pub building into 9 apartments. The development will include alterations to elevations and construction of an extension along with alterations to existing roof, connection to existing public services and carry out all ancillary site development works.

DED 644:

Application for a Declaration under Section 5 of the Planning & Development Act, 2000, as amended, regarding Exempted Development to "convert vacant pub into eight apartments under the Planning & Development Regulations 2018" at Castlerea, Co. Roscommon. Opinion: Is development and is not exempted development.

DED 678:

Application for a Declaration under Section 5 of the Planning & Development Act, 2000, as amended, regarding the "conversion of a vacant pub into eight apartments under the Planning & Development Act (Exempted Development) Regulations 2018." Opinion: Is development and is not exempted development.



Relevant Legislation:

Planning and Development Act 2000 (as amended)
Section 5(1)

If any question arises as to what, in any particular case, is or is not development or is or is not exempted development within the meaning of this Act, any person may, on payment of the prescribed fee, request in writing from the relevant planning authority a declaration on that question, and that person shall provide to the planning authority any information necessary to enable the authority to make its decision on the matter.

Section 5(4)

Notwithstanding *subsection (1)*, a planning authority may, on payment to the Board of such fee as may be prescribed, refer any question as to what, in any particular case, is or is not development or is or is not exempted development to be decided by the Board.

Assessment and recommendation:

The question to be determined in this Section 5 application is whether (a) the conversion of a vacant pub into eight apartments under the Planning and Development Act (Exempt Development) Regulations 2022 (S.175 of 2022) is exempted development, and (b) a development that proposes no parking on a town centre site could constitute a traffic hazard or obstruction to road users under Article 9(1) (a) (iii) under the Planning and Development Act (Exempted Development) Regulations 2018 is or is not development and is or is not exempted development.

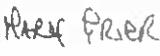
Following desktop examination of the application and in view of the planning history of the site including the identification of serious concerns in relation to traffic safety under a previous planning application and requests for a declaration under Section 5 and furthermore that Article 10 (6) does not reference Article 9 (1) (iii) considerations, I recommend that the application DED 916 be referred to An Bord Pleanála to decide whether the above is or is not development and is or is not exempted development. Referral in accordance with Section 5(4) Planning and Development Act 2000 (as amended).

Signed: 
Paula Connaughton
Executive Planner

Date: 22nd August 2025

Countersigned: 
Alan O'Connell,
Senior Executive Planner

Date: 25th August 2025

Agreed: 
Mary Grier,
Senior Planner

Date: 25th August 2025



Castlerea Area Office-Report on Planning Application

Planning Reference: DED 916

Contract Number

Address: Saint Patick's Street Castlerea, F45 T672

Development Description:

'Permission for the following; (a) the conversion of a Vacant Pub into eight Apartments under the Planning & and Development Act (Exempt Development) Regulations 2022 (S.175 of 2022) is exempted development, and (b) a development that proposes no parking on a town centre site could constitute a traffic hazard or obstruction to road users under Article 9(1) (a)(iii) under the Planning & Development Act (Exempted Development) regulations 2018 at Castlerea, Co. Roscommon.'

Observations/ Comments

1. The existing laneway is a shared right of way for access, we would have concerns over proposed bollards and raised planting bed areas in the laneway.
2. There is no car parking space provided for residents, what is the alternative.
3. The proposed right of way is servicing other properties how can this be used for bicycle parking and refuse area.
4. The existing right of way is already taken up as a refuse area for other properties.
5. We would have concerns of having an additional entrance to the upper apartments onto the laneway from the building.
6. No recreational outdoor space or balcony space for upper floor apartments.

Conclusion

Considering the above comments, we would have no further comments on the proposed development.

Signed:

Date:

02/07/2025

Castlerea Area Engineer

MEMORANDUM



To: North Roscommon Planner
Roads Department
Castlerea Area Office

From: Alan O'Connell, Senior Executive Planner, Planning Department.

Date: 1st July, 2025

Re: Application for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended), regarding Exempted Development.

Development: Permission for the following; (a) the conversion of a Vacant Pub into eight Apartments under the Planning & and Development Act (Exempt Development) Regulations 2022 (S.175 of 2022) is exempted development, and (b) a development that proposes no parking on a town centre site could constitute a traffic hazard or obstruction to road users under Article 9(1) (a)(iii) under the Planning & Development Act (Exempted Development) regulations 2018 at Castlerea, Co. Roscommon.

Applicant: Marcos Silveira

Planning Ref: DED 916

Attached, please find, an application for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended) regarding Exempted Development from Marcos Silveira for permission for the following; (a) the conversion of a Vacant Pub into eight Apartments under the Planning & and Development Act (Exempt Development) Regulations 2022 (S.175 of 2022) is exempted development, and (b) a development that proposes no parking on a town centre site could constitute a traffic hazard or obstruction to road users under Article 9(1) (a)(iii) under the Planning & Development Act (Exempted Development) regulations 2018 at Castlerea, Co. Roscommon. which was received on 27th June, 2025.

Please let me have your recommendation.



Alan O'Connell,
Senior Executive Planner,
Planning Department.

Carmel Curley

From: Carmel Curley
Sent: Wednesday 2 July 2025 11:31
To: Roads Department; Castlerea Area Office
Cc: John Freeman
Subject: DED916 - Referral
Attachments: DED916 - New File.pdf



Hi All,

Section 5 Declaration of Exempted Development **DED 916** has been received and the Planning Authority requires a report from your department by the 16/07/2025. The application has been made for the following;

'Permission for the following; (a) the conversion of a Vacant Pub into eight Apartments under the Planning & and Development Act (Exempt Development) Regulations 2022 (S.175 of 2022) is exempted development, and (b) a development that proposes no parking on a town centre site could constitute a traffic hazard or obstruction to road users under Article 9(1) (a)(iii) under the Planning & Development Act (Exempted Development) regulations 2018 at Castlerea, Co. Roscommon.'

Regards,

Carmel

Carmel Curley, Staff Officer,
Planning Department, Roscommon County Council,
Aras an Chontae, Roscommon, Co. Roscommon, F42 VR98
☎: (090) 6637100

✉: planning@roscommoncoco.ie | 🌐 www.roscommoncoco.ie

MAP LOCATION

ROS



Carmel Curley

From: Carmel Curley
Sent: Wednesday 2 July 2025 11:41
To: James Lohan
Subject: DED916 - Marcos Silveira
Attachments: DED 916 - Acknowledgement Letter & Receipt.pdf

Hi James,

Please see attached Acknowledgment Letter & Receipt for Marcos Silveira's Section 5 Declaration of Exempted Development Application – DED916.

Regards,

Carmel

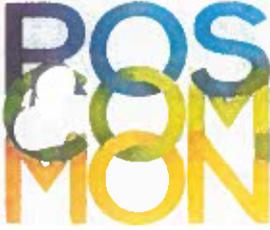
Carmel Curley, Staff Officer,
Planning Department, Roscommon County Council,
Aras an Chontae, Roscommon, Co. Roscommon, F42 VR98
☎: (090) 6637100

✉: planning@roscommoncoco.ie | www.roscommoncoco.ie

MAP LOCATION

ROS
CO





Comhairle Contae
Ros Comáin
Roscommon
County Council



Marcos Silveira,



Date: 1st July, 2025
Planning Reference: DED 916

Re: Application for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended), regarding Exempted Development.

Development: Permission for the following; (a) the conversion of a Vacant Pub into eight Apartments under the Planning & and Development Act (Exempt Development) Regulations 2022 (S.175 of 2022) is exempted development, and (b) a development that proposes no parking on a town centre site could constitute a traffic hazard or obstruction to road users under Article 9(1) (a)(iii) under the Planning & Development Act (Exempted Development) regulations 2018 at Castlerea, Co. Roscommon.

A Chara,

I wish to acknowledge receipt of the application which was received on the 27th June, 2025, for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended), regarding Exempted Development along with the appropriate fee in the sum of €80.00, Receipt No: L/01/0/235517 dated 30th June, 2025 receipt enclosed herewith.

Note: Please note your Planning Reference No. is **DED 916**
This should be quoted in all correspondence and telephone queries.

Mise le meas,

Alan O'Connell,
Senior Executive Planner,
Planning Department.

cc agent via email: James Lohan Consulting Engineers Ltd
james@jlce.ie

Roscommon County Council
Aras an Chontae
Roscommon
09086 37100



30/08/2025 14:21:01

Receipt No: 1019035517

MARCOS SILVERIA
C/O JAMES LOHAN ENGINEERING

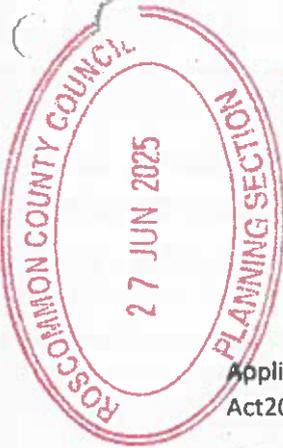
PLANNING APPLICATION FEES	80.00
GOODS	80.00
VAT Exempt/Non-vatable	
DED016	

Total 80.00 EUR

Tendered
Cheque 80.00
500413

Change 0.00

Issued By: Aine McDermott
From: Central Cash Office



Comhairle Contae
Ros Comáin
Roscommon
County Council

ÁrasanChontae,
Roscommon,
Co. Roscommon.

Phone: (090) 6637100
Email: planning@roscommoncoco.ie

RoscommonCountyCouncil



Application for a Declaration under Section 5 of the Planning & Development Act 2000, regarding Exempted Development

Name:	Marcos Silveira
Address:	[REDACTED]
Name & Address of Agent:	James Lohan Consulting Engineers Ltd, Unit 5, Ballypheason house, Circular road, Roscommon
Nature of Proposed Works	Whether <ul style="list-style-type: none"> (a) the conversion of Vacant Pub into eight Apartments under the Planning and Development Act (Exempt Development) Regulations 2022 (S.I 75 of 2022) is exempted development, <u>and</u> (b) a development that proposes no parking on a town centre site could constitute a traffic hazard or obstruction to road users under Article 9(1)(a)(iii)
Location (Townland & O.S.No.)	Town land: Castlerea, Roscommon OS Map no: 2219-05, 2157-25
Floor Area	Existing (vacant) Public house 522 m ² (inc. bin store)
Height above ground level	Floor level- between 150mm - 220mm above ground level (Ridge height 9.90m above ground level)
Total area of private open space remaining after completion of this development	At the rear of the building there is an area of 115 m ² of open space of which 22 m ² belongs to the owner of the building and 93 m ² is shared access space by neighbouring buildings
Roofing Material (Slates, Tiles, other) (Specify)	Existing Slates to roof. Proposed replacement of damaged roof with new roof at the north side of the building. New slates to be on a like-for-like basis.
Proposed external walling (plaster, stonework, brick or other finish, giving color)	Existing plaster render to be maintained as is. Street elevation painted white

<p>Is proposed works located at front/rear/side of existing house.</p>	<p>No extension proposed. Minor elevation changes to the southern elevation – confined to re-opening blocked up opes, one new window on wall, rooflights in roof space. Two windows on the second floor at the rear (north) and internal fit out. Please refer to detailed drawings attached.</p>
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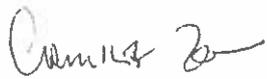


RoscommonCountyCouncil



Application for a Declaration under Section 5 of the Planning & Development Act 2000, regarding Exempted Development

Has an application been made previously for this site	YES
If yes give ref. number (include full details of existing extension, if any)	DED 644 DED 678 In addition, formal Notification submitted to the Planning Authority under Article 10(6). Letter received from RCC dated 16 th June 2025 wherein the formal Notification was not accepted on the basis that the proposal ' <i>could endanger public safety by reason of traffic hazard or obstruction of road users</i> '.
Existing use of land or structure	VACANT PUB- Public House for in excess of 10 years.
Proposed use of land or structure	DOMESTIC apartments
Distance of proposed building line from edge of road way	Existing (building is in line with neighboring building on the Street)
Does the proposed development involve the provision of a piped water supply	EXISTING WATER SUPPLIED
Does the proposed development involve the provision of sanitary facilities	EXISTING PUBLIC WATER SEWER

Signature: 

Date: 26/06/2025

Note: This application must be accompanied by:-

- (a) €80 fee
- (b) Site Location map to a scale of 1:2500 clearly identifying the location
- (c) Site Layout plan to the scale of 1:500 indicating exact location of proposed development
- (d) Detailed specification of development proposed



DED Application to Roscommon County Council under S.I 75 of 2022

Article 10(6)

**Development at former Horse & Jockey, St. Patricks Street, Castlerea, Co.
Roscommon F45-T672**



Applicant: Marcos Silveira



Unit 5, Ballypheason House,
Circular Road
Roscommon, F42 C982.

Ph: 0906634365 Mob: 0878228529
E: james@jlce.ie & aaron@jlce.ie
Web: www.jlce.ie

Architectural Designs – Consulting Engineers

June 2025



Table of Contents

- 1.0 DED under Article 10(6) S.I 75 of 2022
- 2.0 Statutory Context - The Planning and Development Act (Exempted Development) Regulations 2022
- 3.0 Site Description and Context
- 4.0 Planning History
- 5.0 Policy Context
- 6.0 Proposed Works
 - 6.1 Castlerea Architectural Conservation Area
 - 6.2 Assessment under Article 10(6)(a) – Changes of Use Criterion
 - 6.3 Traffic/Parking
- 7.0 ABP Decisions
- 8.0 Conclusion





1.0 DED under Article 10(6)

We, on behalf of our client, Mr. Marcos Silveira, request Roscommon County Council to consider this application under S.I 75 of 2022 that development will be carried out at the former Horse and Jockey Public House building at St. Patricks Street Castlerea (F45 T672).

The development will consist of a Change of Use of the former public house building to 8 no. apts.

This report sets out the rationale and justification of the development in line with the current legislation. It should be read in conjunction with all drawings and documents submitted as part of this notification.

A number of recent decisions (precedents) by An Bord Pleanála also accompany this notification by way of separate attachments.



2.0 Statutory Context - The Planning and Development Act (Exempted Development) Regulations 2022

Turning vacant properties into occupied homes is a key objective of *Housing for All*, with these empty properties providing opportunities to improve housing supply and drive regeneration of urban centres. The Planning and Development Act (Exempted Development) Regulations 2022 (S.I. 75 of 2022) extends to 31 December 2025 the exemption given by S.I. 30 of 2018. The review and extension of the 2018 planning regulations up until the end of 2025, and to include public houses, fulfils a commitment made in *Housing for All*, specifically Action 20.3 of *Housing for All* as well as Action 22 of the Government's *Town Centre First Policy*.

Current Classes of Use to which the Exemption will Apply

The Regulations apply to commercial type buildings which may be vacant (and therefore available) and which are suitable for housing, such as shops, offices, etc.

As such, the exemption will apply only to buildings that currently have a specific Class of Use with reference to the Exempted Development Classes of Use set out in Part 4 of Schedule 2 of the Principal Regulations— Planning and Development Regulations 2001 (as amended) — as follows:

Class 1: Use as a shop

Class 2: Use for the provision of

(a) financial services,

(b) professional services (other than health or medical services),

(c) any other services (including use as a betting office) where the services are provided principally to visiting members of the public

Class 3: Use as an office, other than a use to which class 2 of this part of this Schedule applies

Class 6: Use as a residential club, a guest house or a hostel (other than a hostel where care is provided)

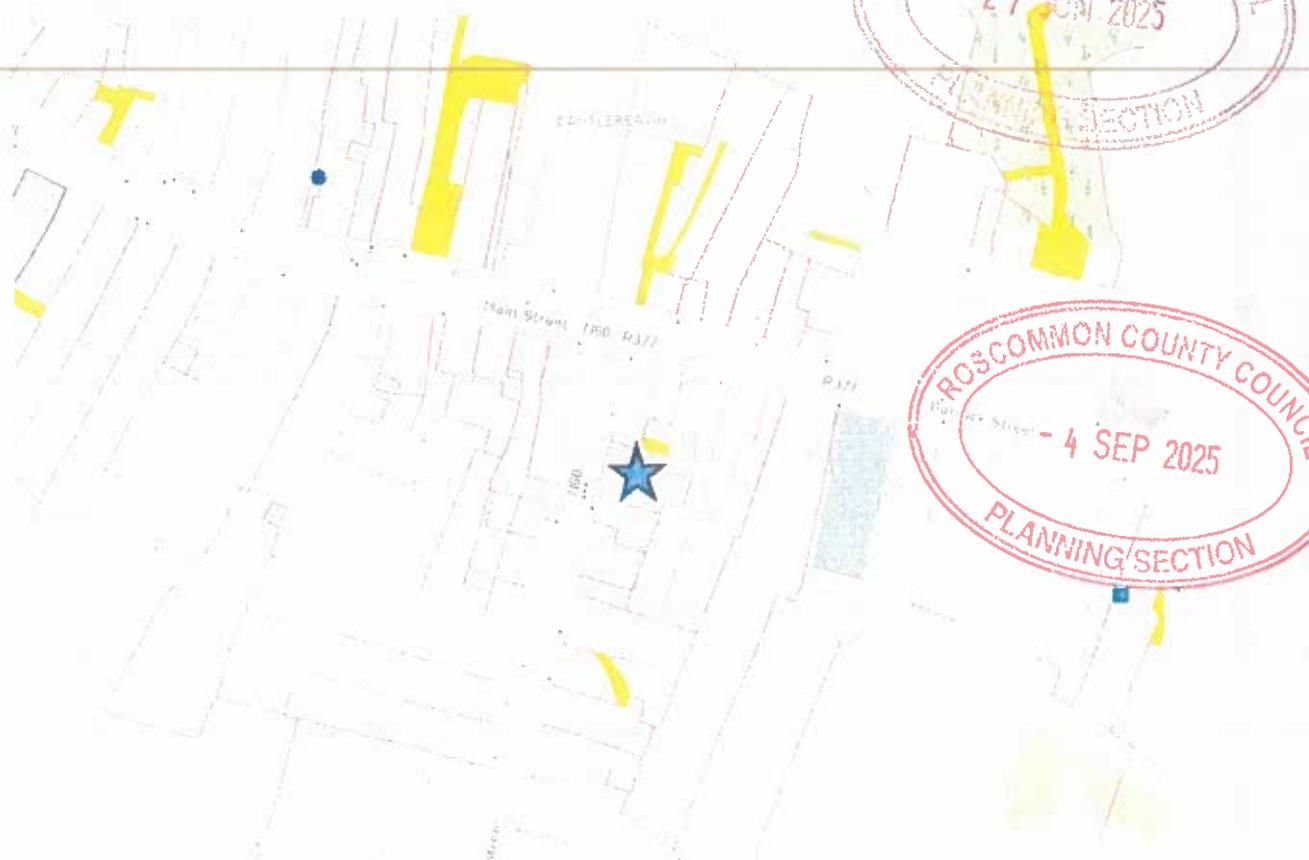
Class 12: Use as a Public House, meaning a premises which has been licensed for the sale and consumption of intoxicating liquor on the premises under the Licensing Acts 1833 to 2018.

3.0 Site Description and Context

The existing building is located just off main street in Castlerea town centre. It comprises a 3-storey end of terrace commercial building that contains a former pub at ground floor with storage/living accommodation on the upper floors. It is a three storey building of with associated outbuildings.

Pedestrian access is currently via a number of pedestrian doors (given its former use as a pub) with vehicular access restricted to a shared laneway to the side (south) of the building.

Site Location – Denoted by a Star



4.0 Planning History

Two previous Section 5 Declarations were made (and refused) to Roscommon County Council under

- DED 644
- DED 678

Having had two previous DEDs refused, the applicant /owner sought permission to develop 9 no. apts under a planning application.

24/60459 Planning REFUSED for the change of use of existing derelict pub building into 9 apartments. The development will include alterations to elevations and construction of an extension along with alterations to existing roof, connection to existing public services and carry out all ancillary site development works

Notification under Article 10(6).

A formal Notification submitted to the Planning Authority under Article 10(6). Letter received from RCC dated 16th June 2025 wherein the formal Notification was **not accepted** on the basis that the proposal '*could endanger public safety by reason of traffic hazard or obstruction of road users*'.

Letter attached to this report.

5.0 Policy Context

Bringing Back Homes - Manual for the reuse of existing buildings (2nd edition, April 2024)
Department of Housing, Local Government and Heritage

This practical Guide as issued by the Dept. sets out the context of the Statutory Exemption, minimum standards, the Notification Process and a number of directly comparable Case Studies (Chapter 5) within Architectural Conservation Areas.

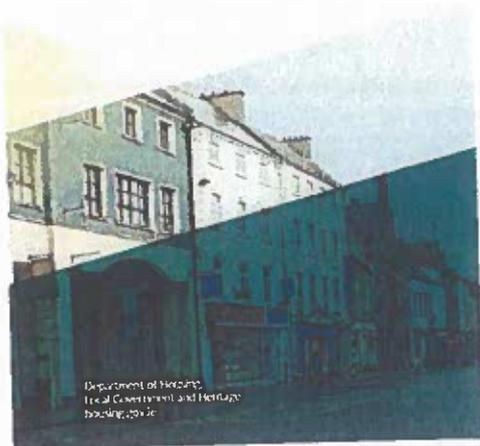
Bringing Back Homes – Manual for the reuse of existing buildings was developed to support and facilitate the reuse of vacant buildings in towns and cities for residential use. The objective is to increase the number of viable residential properties.

THIS NOTIFICATION HAS HAD DUE REGARD TO THIS MANUAL – IN PARTICULAR GUIDANCE ON INTERVENTIONS, MINIMUM STANDARDS AND BEST PRACTICE.





Bringing Back Homes



Roscommon County Development Plan 2022-2028

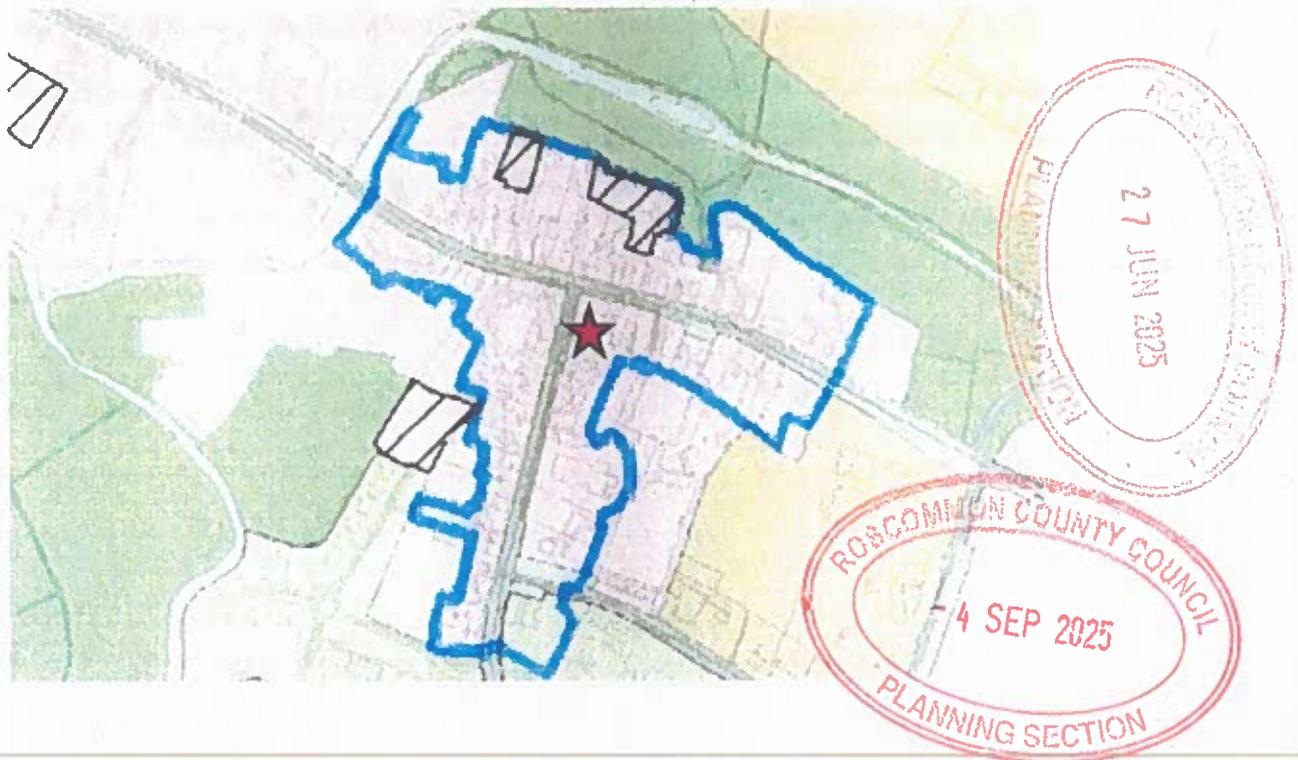
Under Volume II of the RCDP, the **Castlerea Settlement Plan** sets out the policies for development within the town. The aim of the Plan is to support the vitality and viability of Castlerea by taking a proactive approach to halt the further deterioration of the town centre, addressing vacancy and dilapidation.

It is policy to support the redevelopment and reuse of existing town centre buildings/sites which enhance the character, urban design quality and environment of the town centre to ensure that Castlerea remains attractive for investment, commerce, retailing and residential development.

Future new residential developments in Castlerea will be considered in the context the *NPF*, which aims to deliver on the principle of more sustainable '**compact growth**', by targeting at least 30% of all new residential development to occur within the existing built-up footprint towns and villages. **There will be an emphasis on utilising infill sites and brownfield opportunities, rather than peripheral development patterns which could undermine the vitality of town centres and impacting upon the ability to deliver consolidated urban development (emphasis added).**

The historic area of the town emanates from Market Square towards Main Street, Barrack Street and Patrick Street. From an architectural perspective, these areas of the town remain relatively unchanged since the mid-twentieth century. Much of this area is designated as an **Architectural Conservation Areas (ACA)**, the extent of which is identified on Map 9.3, contained in Volume 1 (Written Statement) of this *Roscommon County Development Plan 2022-2028*.

Below: Site in Context of Castlerea ACA



The site is zoned **Town Core** in the Settlement Plan. The following policy objectives are particularly relevant to this proposal:

- *Policy Objective CA2* Identify and facilitate the development and renewal of vacant sites, obsolete areas, derelict sites and derelict buildings in a manner appropriate to the area
- *Policy Objective CA5* Promote the development of the Town Core as an intensive, high quality, well-landscaped and accessible environment. Facilitate an appropriate mix of residential, commercial, service, tourism, enterprise, public and community uses that provides a range of services, facilities and amenities to serve the local community and visitors to Castlerea.
- *Policy Objective CA7* Encourage residential use of vacant upper storey space over commercial premises on the main thoroughfares of the Town Core
- *Policy Objective CA8* Encourage the regeneration of derelict buildings and appropriate mixed use development on infill sites, including residential development and upper floor apartments.

Under Map 4 of the Castlerea Settlement Plan, the site is within lands identified as '**Regeneration and Residential**'. As such this Notification reinforces the stated objectives of RCC.

6.0 Proposed Works

It is proposed to avail of the current (statutory) exemption for change of use of public houses into living (residential) accommodation. Given the scale of the building, a total of 8 no. apartments are proposed. A detailed breakdown of the floor areas is set out in the attached drawings. An extract is as follows:

LEGEND

Units	No Beds	Persons per Unit	Gross Floor Area Provided (sq.m)	Gross Floor Area Required (sq.m)	Aggregate Living Area Provided (sq.m)	Aggregate Living Area Required (sq.m)	Aggregate Bedroom Area Provided (sq.m)	Aggregate Bedroom Area Required (sq.m)	Storage Area Provided (sq.m)	Storage Area Required (sq.m)
1	1	2	55	45	34.3	23	11.9	11.4	3.2	3
2	1	2	50	45	27.9	23	11.9	11.4	3.0	3
3	Studio	2	40	37	31.5	30	0	0	3.0	3
4	1	2	53	45	30.4	23	12.3	11.4	3.0	3
5	2	3	78	63	32.5	30	13+7.9=20.9	13+7.1=20.1	5	5
6	Studio	2	37	37	30	28	0	0	3.2	3
7	1	2	58	45	30.7	23	14.9	11.4	3.0	3
8	2	3	72	63	31.2	28	13.0+8.2=21.92	13+7.1=20.1	5	5

6.1 Castlerea Architectural Conservation Area

As:

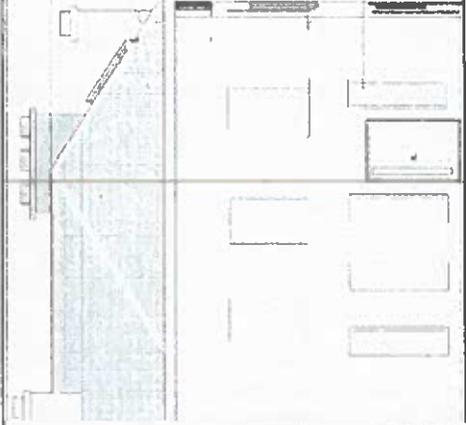
- set out under the Exemptions
- per case studies under the Bringing Back Homes Manual; and
- per ABPs recent decisions

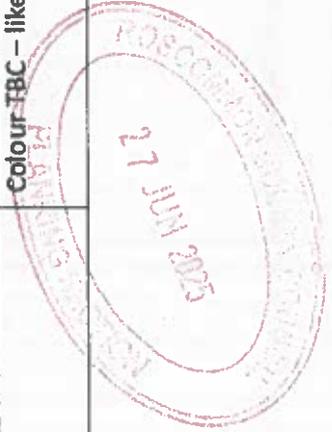
the proposed changes to facilitate the change of use to residential are not considered material. The minor changes are highlighted below with an Architectural Heritage Impact Assessment.

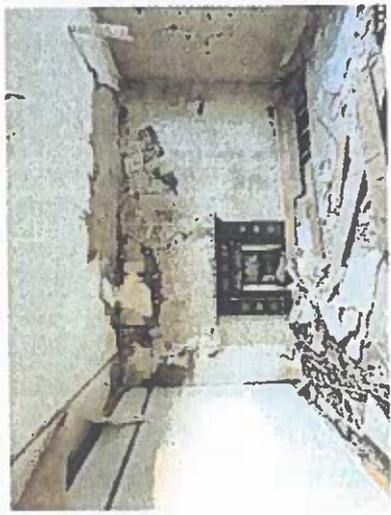


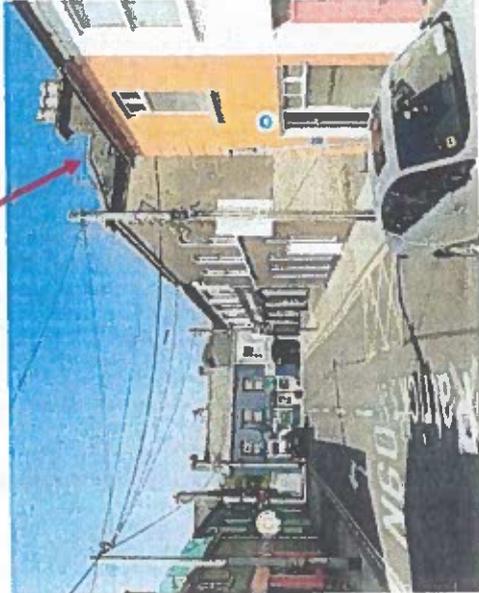
Architectural Heritage Impact Assessment

Impact on St. Patricks Street

Item	Existing	Proposed Works	Impact
Change of existing door		 <p>It is proposed to replace the existing door (old) with a modern, simply configured high energy efficient door</p>	<p>Positive – no changes to the existing rhythm of the streetscape</p>
New windows	Old low efficient windows	New highly efficient energy rated windows	Positive
Paint Building	Dark brown colour	Colour TBC – likely to be a bright colour	Positive



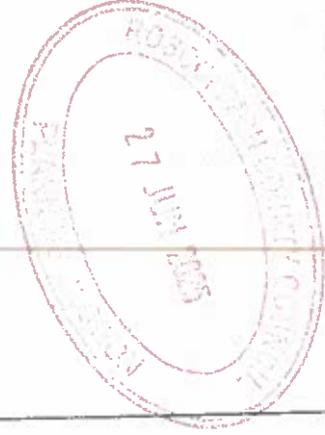
<p>Repair to roof/chimney stacks & gutters</p>	<p>Some slates cracked with minor water ingress.</p> 	<p>Renew/repair as necessary. Replace like with like. It should be noted that the existing chimneys are all contained within the structural walls i.e no internal build outs, as per the floorplans. Photo to left illustrates this.</p>	<p>Positive</p>
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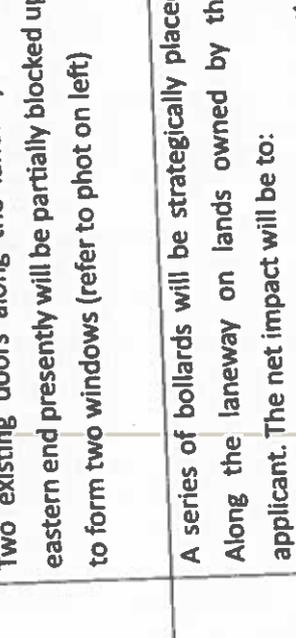
<p>New Rooflights</p>	<p>Currently there is one visible rooflight from the streetscape, as identified below.</p> 	<p>A series of new rooflights (5 no.) is proposed on the roof along the laneway to the side (south). These will not detract from the streetscape as they will be largely hidden from view from St. Patricks Street due to:</p> <ol style="list-style-type: none"> 1. site orientation 2. screening behind existing chimney stacks which are being retained <p>Some limited (restricted) views may be possible from St. Patricks Street, but only at an angled view along the laneway.</p>	<p>Neutral</p> <p>Photo Below shows that the rooflights will now be visible from the ground</p> 
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ROSCOPH COUNCIL
 - 4 SEP 2025
 PLANNING SECTION

27 JUL 2025

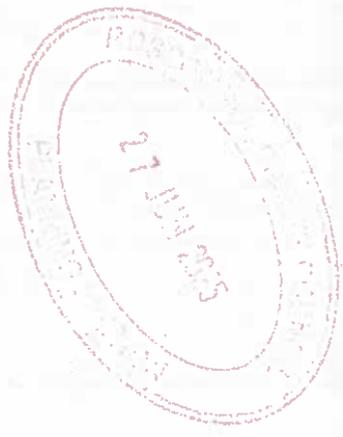
<p>New window</p>	<p>N/A</p>	<p>One new small window is proposed along the laneway to facilitate light into a first floor bedroom.</p> <p>As there are a series of existing first floor windows presently, this will not have any material impact on the streetscape.</p>	<p>Neutral</p>
<p>Changes to opes at Ground Floor</p>		<p>An old door (below)– which was previously blocked up (see new plaster)– will be opened up once again to form the main entrance to the building.</p>	<p>Positive – the new opes will provide activity and passive supervision along this laneway, without impacting on the existing (commercial) uses.</p>



<p>Example of an existing door – which was once a window – as evident from the cill in situ, to become a new window at ground floor.</p>	 <p>Two existing doors along the laneway to the eastern end presently will be partially blocked up to form two windows (refer to phot on left)</p>	<p>A series of bollards will be strategically placed Along the laneway on lands owned by the applicant. The net impact will be to:</p> <ol style="list-style-type: none"> a. Clearly define the new access to the building 	<p>Positive, and fully consistent with the stated objectives of the Castlereagh Settlement Plan set out under the RCDP 2022-2028</p>
<p>Ancillary works – bollards (retractable), paving, planters and no parking signage</p>	<p>N/A</p>		

	<p>b. Provide a hierarchy of movement for vulnerable occupants i.e paved 2m wide pathway</p> <p>c. Planters to enhance the streetscape and act as placemaking</p> <p>d. A 'No Parking' sign will ensure no parking is provided on site, which is currently uncontrolled</p>	
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Conclusion:
As demonstrated above, all of the said works will have a positive or neutral impact on the ACA. No material impact is proposed to the streetscape. While minor works (all relating to the opes) are proposed along the laneway to the south, these are far removed from St. Patricks Street and have minimal impact. In essence, the works will have a wholly positive impact, breathing new life into this redundant building and improving the visual appearance of this laneway.

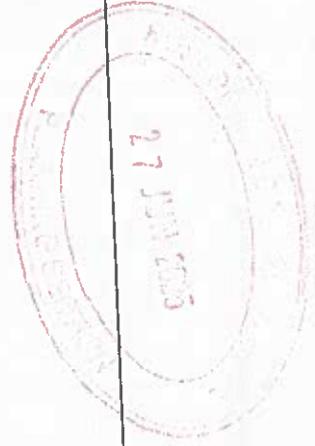


6.2 Assessment under Article 10(6)(a) – Change of Use Criterion

Stipulation	Assessment
<p>This sub-article relates to a proposed development, during the relevant period, that consists of a change of use to residential use from Class 1, 2, 3, 6 or 12 of Part 4 to Schedule 2.</p>	<p>The existing use is Class 12 – therefore compliant</p>
<p>2. 'relevant period' means the period from 8 February 2018 until 31 December 2025.</p>	<p>Noted – all works will be completed by 31 December 2025</p>
<p>the structure concerned, or so much of it that is the subject of the proposed development, has been vacant for a period of 2 years or more immediately prior to the commencement of the proposed development,</p>	<p>Compliant – the structure has been vacant for in excess of 10 years.</p>
<p>The development is commenced and completed during the relevant period.</p>	<p>As above</p>
<p>any related works, including works as may be required to comply with sub-paragraph (vii), shall – (i) primarily affect the interior of the structure</p>	<p>Compliant – please refer to plans proposed</p>
<p>(ii) retain 50 per cent or more of the existing external fabric of the building, and</p>	<p>Compliant - Practically 100% of the building is being retained</p>
<p>(iii) Any related works for the alteration of existing ground floor shop fronts shall be consistent with the fenestration details and architectural and streetscape character of the remainder of the structure or of neighbouring structures.</p>	<p>Compliant – no changes proposed – refer to AHIA</p>
<p>not materially affect the external appearance of the structure so as to render its appearance inconsistent with the character of the structure or of neighbouring structures.</p>	<p>Compliant – no changes proposed – refer to AHIA</p>



<p>Compliant – Planning Policy as set out under Section 5.0 fundamentally encourages the regeneration/reuse of vacant/redundant buildings.</p>	<p>(iv) No development shall consist of or comprise the carrying out of works to the ground floor area of any structure which conflicts with any objective of the relevant local authority development plan or local area plan, pursuant to the Part 1 of the First Schedule to the Act, for such to remain in retail use, with the exception of any works the purpose of which is to solely provide on street access to the upper floors of the structure concerned.</p>
<p>Compliant - 8 no. units are proposed only.</p>	<p>(v) No development shall consist of or comprise the carrying out of works which exceeds the provision of more than 9 residential units in any structure</p>
<p>Compliant – all 8 no. units are fully compliant with the min. floor areas as per drawings & Table under Section 6.0</p>	<p>(vi) Dwelling floor areas and storage spaces shall comply with the minimum floor area requirements and minimum storage space requirements of the “Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities” issued under section 28 of the Act or any subsequent updated or replacement guidelines.</p>
<p>Compliant - The existing building is characterised by large opes. Minor interventions are required which will introduce new rooflights and windows to ensure compliance with Building Regulations and ensure natural daylight.</p>	<p>(vii) Rooms for use, or intended for use, as habitable rooms shall have adequate natural lighting.</p>
<p>N/A – Not a protected structure</p>	<p>(viii) No development shall consist of or comprise the carrying out of works to a protected structure, as defined in section 2 of the Act, save where the relevant planning authority has issued a declaration under section 57 of the Act to the effect that the proposed works would not materially affect the character of the structure or any element, referred to in section 57(1)(b) of the Act, of the structure.</p>



<p>(ix) No development shall contravene a condition attached to a permission under the Act or be inconsistent with any use specified or included in such a permission.</p>	<p>N/A no conditions are applicable</p>
<p>(x) No development shall relate to any structure in any of the following areas</p> <ul style="list-style-type: none"> (i) an area to which a special amenity area order relates (ii) an area of special planning control; 	<p>Compliant – No such areas designated. Full AHIA in section 6.1 above demonstrating that no material impact will be on the existing ACA.</p>
<p>Article 10(6)(d)(xi)</p>	<p>Article 9(1)(a)(iii) states that exemptions may not apply where such works would endanger public safety by reason of traffic hazard or obstruction of road users.</p> <p>As evident from this report, and the drawings, NO CAR PARKING IS BEING PROVIDED, CONSISTENT WITH COMPACT URBAN GROWTH GUIDELINES. PUBLIC PARKING HAS BEEN IDENTIFIED WITHIN A SHORT WALK OF THIS DEVELOPMENT.</p>

Conclusion:
This Notification is fully compliant with the statutory provisions as set out above.



6.3 Traffic/Parking

No car parking is being provided on site. This development cannot therefore present a Traffic Hazard, as no parking is proposed in the first instance. In the previous Notification to RCC under Article 10(6), Roscommon County Council stated;

In particular, and as referred to in DED/644, DED/678, and Article 10(6)(d)(xi) outlined above, Article 9 (1)(a)(iii) applies to this proposal as the possibility that the proposal could "endanger public safety by reason of traffic hazard or obstruction of road users" cannot be excluded.

It is therefore advised that the proposed development is not in accordance with the criteria for availing of an exemption as set out under Article 10(6) of the Planning & Development Regulations 2001 (as amended) and requires planning permission.

We would respectfully ask the Council to justify/determine how:

- a. Article 9 (1)(a)(iii) applies to this proposal when no parking is being proposed
- b. a traffic hazard/obstruction to road users 'could' arise, and;
- c. the Council concluded that a traffic hazard/obstruction to road users 'cannot be excluded', and on what technical/planning grounds.

If concerns are raised in relation to the works within the development, this will be managed on site by a professional construction team as would be commonplace with any town centre development.

Given the location of the site in an area identified by RCC as being town centre, it is respectfully suggested that parking can be accommodated within the general area as per the 'Parking' dwg attached. This is fully consistent with the *Sustainable Residential Development and Compact Settlements - Guidelines for Planning Authorities*.

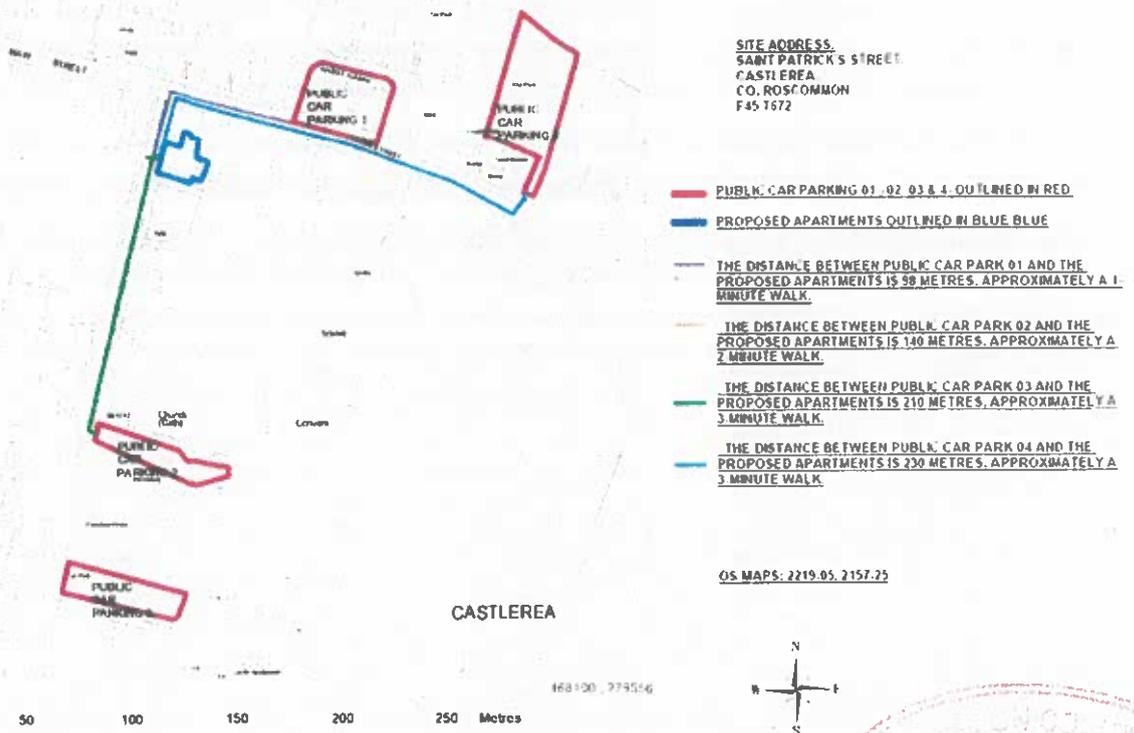
The Dwg also highlights 4 no. existing public car parks within a 3 minute walk of the building/site. These can/will ensure any displacement of parking can be accommodated, A series of interventions are also proposed which will;

- a. allow access to the laneway for existing service vehicles only
- b. restrict any parking on the laneway
- c. safeguard pedestrian movement

As with ANY town centre site, if unauthorised parking does occur, it is up to the Gardaí to police the matter. Every effort has been made to 'design out' such an occurrence, including displacement.



Below: Public Parking Drawing included in this Notification pack.



7.0 ABP Decisions

A number of reports accompany this Notification, namely:

- **ABP-315056-22 - Inspector's Report**

This relates to a similar assessment under article 10(6) on a town centre site in Gort.

- **ABP – 314440-22 - Inspector's Report**

In this case SDCC ruled that the development in Brittas constituted *inter alia* a traffic hazard under Article 9. This was overruled by ABP on the basis that a traffic hazard is not listed as one of the restrictions under Article 10(6). Extract below from ABPs report (pg. 20).

comply with Article 9(1)(a)(i). The referrer has indicated that no part of the development would be located in close proximity to the site access, and drivers, cyclists and pedestrians would be unaffected by the proposal. They also state that the Planning Authority has not highlighted any particular aspect that would support the conclusion. Notwithstanding, sub-paragraph (ii) is evidently not listed as one of the restrictions under Article 10(6)(c)(xi) and is irrelevant to the assessment. The Planning Authority's rationale for de-exempting the proposal on this basis cannot be sustained.

8.0 Conclusion

We would respectfully ask the Local Authority to determine that all of the said works are exempted and fully compliant with Article 10(6) / S.I 75 of 2022 having due regard to;

- a. National and local planning policy mandate to increase residential units on vacant town centre sites
- b. The 'Bringing Back Homes Manual' published by Government
- c. Housing Emergency and 'Housing for All' Government publication
- d. Achieving compact urban growth
- e. Zoning of the site



However should the Council wish to refer this directly An Coimisiún Pleanála for determination, we would welcome same.

A handwritten signature in black ink, appearing to read "James Lohan", written over a horizontal line.

 James Lohan



Attached: Response from RCC to Notification under Article 10(6) dated June 16th 2025.

Appendix 1: Case Study – Athlone

- Location: 44-48 Connaught Street, Athlone
- Specifics:
 - Change of Use from public house to 7 no. apartments under Article 10(6)
 - Westmeath Coco notified in 2023 – uploaded online in 2023 list (extract below)
 - Within an ACA
 - Works complete / all units occupied



Summary Information	
Local Authority	Westmeath
Total No. of Notifications	7

Detailed Information						
	Date Notification Received	Date Works to Commence	Location of Structure	Circle	Previous Commercial Use (Public House / Office, etc)	Total Number of Residential Units
1		06/03/2023		N37 YT50		
2	12/06/2023	21/06/2023	52 Middle Main Street Kilbeggan	N91 TD6X	Bookmakers/ offices	1
3	12/06/2023	21/06/2023	52 Middle Main Street Kilbeggan	N91 TD6X	Bookmakers/ offices	1
4	08/06/2023	23/06/2023	Block H Market Point Mullingar	N91 RD0K		9
5	22/06/2023	10/07/2023	Unit 2 Main St Rochfortbridge	N91 CX29	Barber Shop	1
6	03/08/2023	01/10/2023	Mary Street Mullingar	N91 WF34	Architects Office	1
7	15/09/2023	29/09/2023	1st Floor 7 Connaught St Athlone	N37 H2V5	Beauty Salon/Hairdressers	2

Commercial use
 Class 1 - shop
 Class 2 - service
 Class 3 - office
 Class 6 - guesthouse
 Class 12 - pub



Marcos Silveira,



Date: 16th June 2025.

Re: Notification of Exempted Development - Article 10(6) Change of use Exemption Property formerly known as Horse & Jockey Pub, St. Patrick's Street, Castlerea, Co. Roscommon.



A Chara,

I refer to your Notification of Exempted Development under Article 10(6) of the Planning & Development Regulations 2001(as amended) in relation to property formerly known as Horse & Jockey Pub, St. Patrick's Street, Castlerea, Co. Roscommon, received on 13th May 2025.

It is noted that the Notification is in relation to a proposed change of use from a former pub to 8 residential units.

It is noted that the property was previously the subject of 2 no. Declaration of Exempted Development applications under Section 5 of the Planning & Development 2000 (as amended), as follows:

- DED/644: A declaration was sought regarding whether the conversion of a vacant pub into eight apartments is or is not development and is or is not exempted development. A declaration was issued by the Planning Authority on 12/02/2024 confirming that the proposed development is development that is not exempted development as defined within the Planning & Development Act 2000 (as amended) and associated Regulations.
- DED/678: A declaration was sought regarding whether the conversion of a vacant pub into eight apartments is or is not development and is or is not exempted development. A declaration was issued by the Planning Authority on 22/07/2024 confirming that the proposed development is development that is not exempted development as defined within the Planning & Development Act 2000 (as amended) and associated Regulations.

With regard to the Change of Use Notification submitted on 13th May 2025, your attention is drawn to Article 10(6)(d)(xi) which states the following:

"No development shall relate to matters in respect of which any of the restrictions set out in sub-paragraph (iv), (vii), (viiA), (viiB), (viiC), (viii) or (ix) of article 9{1}(a), or paragraph (c) or (d) of article (9)(1), would apply".

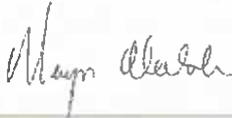
In particular, and as referred to in DED/644, DED/678, and Article 10(6)(d)(xi) outlined above, Article 9 (1)(a)(iii) applies to this proposal as the possibility that the proposal could "endanger public safety by reason of traffic hazard or obstruction of road users" cannot be excluded.

It is therefore advised that the proposed development is not in accordance with the criteria for availing of an exemption as set out under Article 10(6) of the Planning & Development Regulations 2001 (as amended) and requires planning permission.

It is noted that the property was previously the subject of a planning application, as follows:

- PD/24/60459 - Permission for the change of use of existing derelict pub building into 9 apartments. The development will include alterations to elevations and construction of an extension along with alterations to existing roof, connection to existing public services and carry out all ancillary site development works at Saint Patrick's Street, Castlerea, Co. Roscommon, F45 T672 and a decision to refuse permission issued on 21st November 2024.

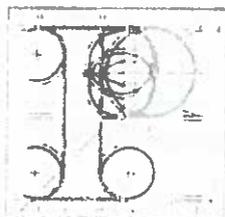
Mise le meas,



Mervyn Walsh,
Administrative Officer,
Planning Department.



c.c.: James Lohan Planning & Design Consulting Engineers Ltd.,
Unit 6, Ballypheason House,
Circular Road,
Roscommon,
Co. Roscommon.



An
Bord
Pleanála

Board Order
ABP-314440-22



Planning and Development Acts 2000 to 2022

Planning Authority: South Dublin County Council

Planning Register Reference Number: ED22/0023



WHEREAS a question has arisen as to whether the partial conversion of existing derelict public lounge to contain two apartments at Blue Gardenia, McDonaghs Lane, Brittas, County Dublin is or is not development or is or is not exempted development,

AND WHEREAS Edward Fahy care of Farry Town Planning Limited of Suite 180, 28 South Frederick Street, Dublin requested a declaration on this question from South Dublin County Council and the said Council issued a declaration on the 28th day of July, 2022 stating that the matter is development and is not exempted development,

AND WHEREAS the said question was referred to An Bord Pleanála by the said Edward Fahy on the 22nd day of August, 2022,



AND WHEREAS An Bord Pleanála, in considering this referral, had regard particularly to –

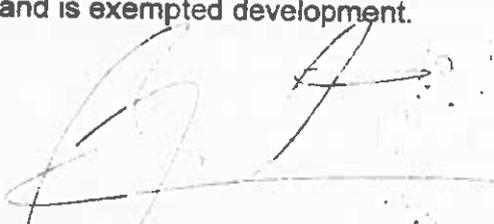
- (a) Sections 2(1) and 3(1)(a) of the Planning and Development Act 2000, as amended,
- (b) Articles 9(1) and 10(6) of the Planning and Development Regulations 2001, as amended,
- (c) Class 12 of Part 4 of Schedule 2 of the Planning and Development Regulations 2001, as amended,
- (d) the planning history of the Public House, and
- (e) relevant precedent referrals and judgments,



AND WHEREAS An Bord Pleanála has concluded that:

- (a) the proposed residential use is a material change in the use of the derelict public lounge at 'Blue Gardenia' Public House being development,
- (b) the proposed works to the derelict public lounge at 'Blue Gardenia' Public House to facilitate the proposed use is development, and
- (c) the proposed development would come within the scope of exempted development under Article 10(6)(c) as it would consist of a change of use of part of a Public House within Class 12 of Part 4 of Schedule 2 of the said regulations to residential use,

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5(3)(a) of the Planning and Development Act 2000, as amended, hereby decides that the partial conversion of the existing derelict public lounge to contain two apartments at Blue Gardenia, McDonagh's Lane, Brittas, County Dublin is development and is exempted development.



Joe Boland

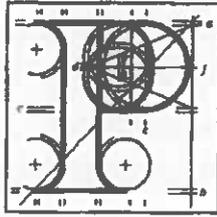
**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**



Dated this 12th day of Dec

2023.





An
Bord
Pleanála

Inspector's Report
ABP-314440-22



Question

Whether the partial conversion of existing derelict public lounge to contain 2 apartments is or is not development or is or is not exempted development

Location

Blue Gardenia, McDonagh's Lane,
Brittas, Co. Dublin

Declaration

Planning Authority

South Dublin County Council

Planning Authority Reg. Ref.

ED22/0023

Applicant for Declaration

Edward Fahy

Planning Authority Decision

Is not exempted development

Referral

Referred by

Applicant

Owner/ Occupier

Edward Fahy

Observer(s)

None

Date of Site Inspection

26th May 2023

Inspector

Philip Maguire





1.0 Site Location and Description

- 1.1. The referral site is located in the rural village of Brittas, County Dublin, in the foothills of the Dublin Mountains and c. 5km south, southeast of Rathcoole. It is situated along and west of the N81 between Blessington and Tallaght, at its junction with L6048 (McDonagh's Lane). The surrounding area is characterised by ribbon development extending north and west along the adjoining roads, and to the southeast along the R114, opposite St Martin's National School. The Brittas River is c. 0.6km to the south.
- 1.2. The referral site is irregular shaped and consists of a two-storey building with double-apex roof and single-storey projections to the front, side and rear. The building lies to the south of the site with a surface car park to the north. Vehicular access is via the N81 where the posted speed limit is 60kph. The roadside boundary is defined by a low wall and railing with public footpath and bollards to the front. The external wall of the building together with an earth bank, trees, wall and fencing define the southern boundary. Remaining boundaries are defined by hedging and thick vegetation. The building previously operated as a public house known as Blue Gardenia, formerly the Brittas Inn. There was no evidence this use was operational during my site inspection.

2.0 The Question

- 2.1. The question relates to the partial conversion of a derelict public lounge to two apartments. The matter has been referred by the applicant for the declaration. The description of the proposed development as set out in Question 4 of the application form to the Planning Authority was:
- 'Partial conversion of existing derelict public lounge to contain 2 no. apartments – 1 no. one bed and 1 no. two bed.'*
- 2.2. The referral documentation includes a cover letter and report prepared by Farry Town Planning and a proposed floor plan drawing prepared by DaCAD Designs. The drawing illustrates the proposed apartments to the southeast corner of the building. The internal layout broadly reflects that submitted to the Planning Authority albeit with marginal changes to the proposed floor areas within the two-bed apartment unit.
- 2.3. Works are mostly internal but include the replacement of existing openings to the front and side with new windows, three in total, and the removal of part of the flat roof above.

Planning Authority Declaration



3.1. Declaration

3.1.1. The Planning Authority issued a declaration on 25th July 2022 which stated:

"That the applicant be informed that the proposed development of Partial conversion of existing derelict public lounge to contain 2 no. apartments – 1 no. one bed and 1 no. two bed at Blue Gardena, McDonagh's Lane, Brittas, Co. Dublin is development and is not considered to be exempted development under the Planning and Development Act 2000 (as amended) and the Planning and Development Regulations 2001, (as amended) and therefore does require planning permission."

3.1.2. I note the Planning Authority, throughout their documentation refer to the building as 'Blue Gardena' as opposed to 'Blue Gardenia', as per the application form.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- Planning Report (25/07/22): Basis for the Planning Authority decision. It assessed the proposal against the various criteria, conditions and limitations under Articles 10(6)(c) and 10(6)(d) of the Planning Regulations and considered that further information was required in respect of the vacancy period; proposed commencement and completion; effects on European sites; and wastewater treatment. It also considered that information was required in respect of traffic impacts but it deemed the proposal did not comply with this condition in the absence of same. Finally, it considered the proposal failed to comply with Article 10(6)(d)(vi) in relation to minimum floor areas set out in the Apartment Guidelines and Article 10(6)(d)(vii) in relation to availability of adequate natural lighting. It concluded that the proposal is development and not exempted development by virtue of Article 9(1)(a)(iii) or Article 10(6)(d)(vi), (vii) and (xi) of the Regulations.

3.2.2. Other Technical Reports

None.

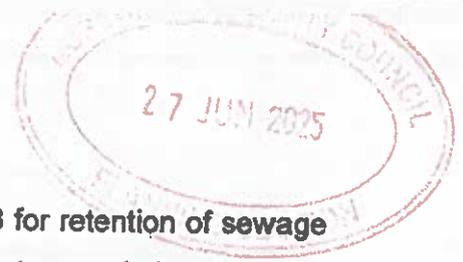
4.0 Planning History

4.1. Referral site:

PA ref. SD21A/0061: Permission refused in May 2021 for the change of use of partial ground floor area of public house for use as 2 no. apartments (1 no. two-bed and 1 no. one-bed) for 8 no. reasons. The following are relevant to this case:

3. *The proposed vehicular access onto the N81 at a location where the speed limit is 60km/h and where there is a bend in the road approximately 50m to the south of the proposed access, where the sightline envelope has not been satisfactorily determined at this location, would endanger public safety by reason of traffic hazard or obstruction of road users or otherwise and would therefore be contrary to the proper planning and sustainable development of the area.*
7. *Having regard to the absence of an Ecological Assessment, and mitigating proposals, submitted with the planning application, and having regard to the location of the site in proximity to the Brittas pNHA, for which the Local Authority has an obligation to protect, it cannot be determined that there will be no likelihood of significant effects on the environment arising from the proposed development and if granted could result in a detrimental impact on the receiving environment and would therefore be contrary to the proper planning and sustainable development of the area.*
8. *Having regard to the drinking water supply to the proposed units/Blue Gardenia building sourced from an on-site well which is situated immediately adjacent to the wastewater percolation system for the site which would service the proposed change of use and the lack of site suitability assessment submitted with the wastewater treatment system and percolation area the proposed development could be prejudicial to public health and if granted would be contrary to the proper planning and sustainable development of the area.*

PA ref. SD19A/0183: Permission refused in July 2019 for retention of a single-storey kiosk to serve tea and coffee to takeaway customers etc. The Planning Authority considered that there was inadequate visibility at the proposed entrance and the proposal would lead to increased traffic movement which would endanger public safety by reason of a traffic hazard.



PA ref. S98A/0542: Permission **granted** in December 1998 for retention of sewage treatment plant. Condition 2 required the installation of adequate percolation pipework to accommodate the effluent generated by the proposed treatment system operating at full capacity i.e. 23,000 litres/day.

PA ref. S97A/0659: Permission **granted** in January 1998 for a new lobby and façade alterations. Condition 6 required surface water to discharge to soakways and not to the septic tank system.

PA ref. S97A/0190: Permission **granted** in July 1997 for alterations to the facade and extension to form new lobby entrance.

PA ref. M/2249: Permission **granted** in December 1977 for a new porch at entrance to existing bar.

PA ref. K/2811: Permission **granted** in March 1977 for the conversion of enclosed yard to covered store.

PA ref. G/1715: Permission **granted** in January 1975 for fascia and signs.

PA ref. G/1714: Permission **granted** in February 1975 for extension to premises.

4.2. Adjacent site(s):

c. 60m west, northwest



PA ref. SD21A/0349: Permission **refused** in February 2022 for retention of a single-storey log cabin dwelling and vehicular access with new DWWTs etc. for 8 no. reasons including rural housing need; residential amenity; ribbon development; traffic safety; public health; and Appropriate Assessment.

5.0 Policy Context

5.1. South Dublin County Development Plan 2022-2028

5.1.1. The current Development Plan came into effect on 3rd August 2023. The Planning Authority decision of 26th July 2022 was made under the previous Plan for the period 2016-2022. This referral shall be determined under the current Plan.

5.1.2. The referral site is zoned 'High Amenity – Dublin Mountains' (HA-DM) with a zoning objective 'to protect and enhance the outstanding natural character of the Dublin

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Mountains Area. Residential uses are 'open for consideration' in accordance with Council policy for residential development in rural areas and not permitted above 350m contour. The referral site lies between the 240m and 250m contour.

5.2. Apartment Guidelines

- 5.2.1. The Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (DHLGH, July 2023) focus on the locational and planning specific aspects to apartment development generally. Section 1.10 notes that they also provide a "target standard" where existing buildings are to be "wholly or partly redeveloped or refurbished for residential use", including apartments, and acknowledges the exemption under S.I. No. 30 of 2018 (Planning and Development (Amendment) (No. 2) Regulations 2018), since extended under S.I. No. 75 of 2022.
- 5.2.2. Section 6.5 of the Guidelines notes the importance of the provision of acceptable levels of natural light in new apartment development but states that planning authorities must weigh up the overall quality of the design and layout of the scheme and measures proposed to maximise daylight provision with the site location etc.
- 5.2.3. Section 6.6 of the Guidelines notes that planning authorities should have regard to quantitative performance approaches to daylight provision outlined in guides like *A New European Standard for Daylighting in Buildings EN17037* or *UK National Annex BS EN17037* and the associated *BRE Guide 209 2022 Edition* (June 2022).
- 5.2.4. Section 6.7 notes that where an applicant cannot fully meet all of the daylight provision requirements, this must be clearly identified and a rationale for alternative, compensatory design solutions must be set out, which planning authorities should accept at their discretion, taking account of their assessment of specific objectives.
- 5.2.5. Section 6.9 of the Guidelines requests planning authorities to practically and flexibly apply the general requirements of the guidelines in relation to refurbishment schemes, particularly in historic buildings, 'over the shop' or other existing conversion projects, where property owners must work with existing building fabric and dimensions.
- 5.2.6. The Guidelines state that various standards may be relaxed for building refurbishment schemes, on a case-by-case basis, subject to overall design quality. These include storage space, private amenity space and communal amenity space requirements.



5. Natural Heritage Designations

Slade of Saggart and Crooksling Glen pNHA (000211) – east of the N81.

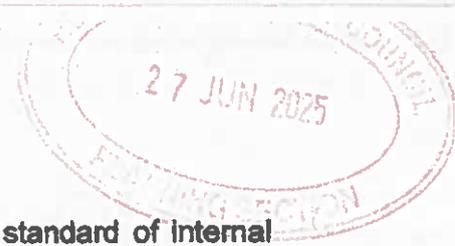
6.0 The Referral

6.1. Referrer's Case

6.1.1. The referrer's case can be summarised as follows:

- In respect of ecological considerations, the referrer submits that the exclusionary provisions set out in Article 9 of the Planning Regulations do not apply to the subject referral as the Slade of Saggart and Crooksling Glen pNHA does fall within the definition of a 'European site' as per section 177R of the Planning Act.
- With regards wastewater treatment and referring to "Article 10(6)(vii)" of the Planning Regulations whilst citing the text under Article 10(6)(d)(xii), the referrer submits that the Planning Authority's approach, whereby the proposal would be deemed as requiring consent on the basis of the inadequacy of the submitted sewage information, is legally incorrect. The referrer states that "Article 10(6)(vii)", presumably Article 10(6)(d)(xii), does not direct the local authority to consider the adequacy or sufficiency of the foul effluent system.
- In relation to the timing of the works, it is stated that the referrer intends to undertake the works for the provision of the new apartments as soon as may be after the issue of any favourable determination by the Board and to complete all operations on or before 31st December 2025.
- With regards to road safety and referencing *Cunningham v An Bord Pleanála*, the referrer notes that at no time did the Council highlight any physical feature, road characteristic or other engineering consideration which would support the conclusion that the carrying out of this development would endanger public safety by reason of a traffic hazard etc. The referrer states that no part of the development would be located in close proximity to the site access, and drivers, cyclists and pedestrians would be unaffected by the proposal.
- In relation to the provision of adequate natural light, the referrer notes that the proposal is identical to that refused under PA ref. SD21A/0061 and none of the 8





no. refusal reasons were based on light penetration or the standard of internal accommodation to be provided. The referrer states that the Council's Planning Report does not refer to any planning standard such as the Development Plan or any design norms in terms of the Building Regulations. The referrer contends that bedrooms are used at night when the need for daylight to undertake domestic tasks would have ceased and the proposal should not be de-exempted on this ground. They conclude that available light to future residents would be acceptable.

- In respect of floorspace, the referrer submits that the Council erred in its interpretation of "Article (6)(d)(vi)" of the Planning Regulations when considering the proposal didn't comply with the storage space requirements, presumably Article 10(6)(d)(vi). The referrer notes that the Regulations make no reference to any maximum storage area but simply seeks to ensure compliance with the minimum storage requirements. In terms of the size of the larger bedroom within the two-bed apartment, the referrer has submitted a modified drawing showing an increase in floor area from 11.52sq.m to 13sq.m. It is stated that this drawing also addresses the Planning Authority's maximum floorspace concerns.

6.2. Planning Authority Response

6.2.1. The Planning Authority's response can be summarised as follows:

- The Planning Authority confirms its decision.
- The issues raised in the appeal have been covered in the planner's report.



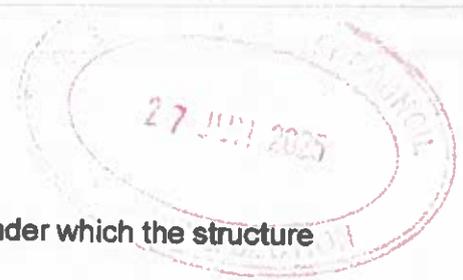
7.0 Statutory Provisions

7.1. The relevant provisions are set out in the Planning and Development Act 2000 (as amended) ('PDA 2000 or the Act') and the Planning and Development Regulations 2001 (as amended) ('PDR 2001 or the Regulations').

7.2. Section 2 – PDA 2000

7.2.1. Section 2(1) provides the following interpretations which are relevant:

"structure" means *inter alia* any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined,



and where the context so admits, includes the land on, in or under which the structure is situate etc.;

“use”, in relation to land, does not include the use of the land by the carrying out of any works thereon; and

“works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal etc.



7.3. Section 3 – PDA 2000

7.3.1. Section 3(1)(a) defines “development” as:

The carrying out of any works in, on, over or under land, or the making of any material change in the use of any land or structures situated on land.

7.4. Article 9 – PDR 2001

7.4.1. Article 9 in effect de-exempts certain classes of development that would be exempt under normal circumstances. The restrictions under Article 9(1)(a) apply if the carrying out of such development would *inter alia*:

(iii) endanger public safety by reason of traffic hazard or obstruction of road users,

(viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site, and

(viiC) consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000.

7.5. Article 10 – PDR 2001

7.5.1. Article 10(6) is directly relevant:

(a) In this sub-article—

‘habitable room’ means a room used for living or sleeping purposes but does not include a kitchen that has a floor area of less than 6.5 square metres;

‘relevant period’ means the period from 8 February 2018 until 31 December 2025.

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(b) This sub-article relates to a proposed development, during the relevant period, that consists of a change of use to residential use from Class 1, 2, 3, 6 or 12 of Part 4 to Schedule 2.

(c) Notwithstanding sub-article (1), where in respect of a proposed development referred to in paragraph (b)—

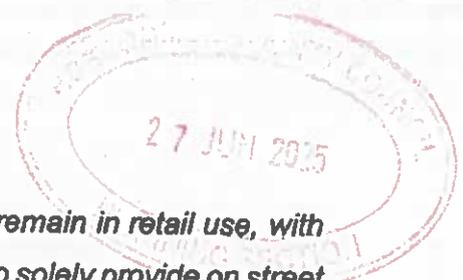
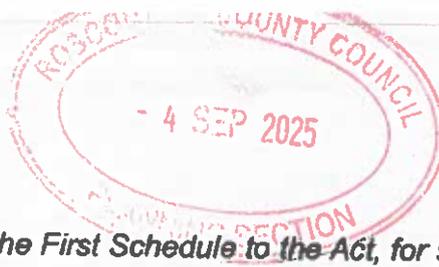
- (i) the structure concerned was completed prior to the making of the Planning and Development (Amendment) (No. 2) Regulations 2018,
- (ii) the structure concerned has at some time been used for the purpose of its current use class, being Class 1, 2, 3, 6 or 12, and
- (iii) the structure concerned, or so much of it that is the subject of the proposed development, has been vacant for a period of 2 years or more immediately prior to the commencement of the proposed development,

then the proposed development for residential use, and any related works, shall be exempted development for the purposes of the Act, subject to the conditions and limitations set out in paragraph (d).

(d) (i) The development is commenced and completed during the relevant period.

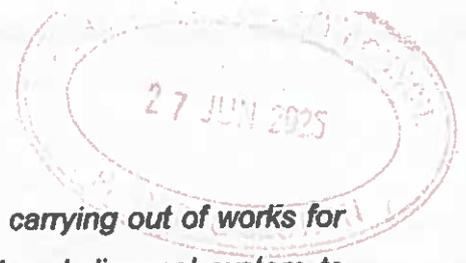
(ii) Subject to sub-paragraph (iii), any related works, including works as may be required to comply with sub-paragraph (vii), shall –

- (I) primarily affect the interior of the structure,
 - (II) retain 50 per cent or more of the existing external fabric of the building, and
 - (III) not materially affect the external appearance of the structure so as to render its appearance inconsistent with the character of the structure or of neighbouring structures.
- (iii) Any related works for the alteration of existing ground floor shop fronts shall be consistent with the fenestration details and architectural and streetscape character of the remainder of the structure or of neighbouring structures.
- (iv) No development shall consist of or comprise the carrying out of works to the ground floor area of any structure which conflicts with any objective of the relevant local authority development plan or local area plan, pursuant to the



Part 1 of the First Schedule to the Act, for such to remain in retail use, with the exception of any works the purpose of which is to solely provide on street access to the upper floors of the structure concerned.

- (v) No development shall consist of or comprise the carrying out of works which exceeds the provision of more than 9 residential units in any structure.
- (vi) Dwelling floor areas and storage spaces shall comply with the minimum floor area requirements and minimum storage space requirements of the "Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities" issued under section 28 of the Act or any subsequent updated or replacement guidelines.
- (vii) Rooms for use, or intended for use, as habitable rooms shall have adequate natural lighting.
- (viii) No development shall consist of or comprise the carrying out of works to a protected structure, as defined in section 2 of the Act, save where the relevant planning authority has issued a declaration under section 57 of the Act to the effect that the proposed works would not materially affect the character of the structure or any element, referred to in section 57(1)(b) of the Act, of the structure.
- (ix) No development shall contravene a condition attached to a permission under the Act or be inconsistent with any use specified or included in such a permission.
- (x) No development shall relate to any structure in any of the following areas:
 - (I) an area to which a special amenity area order relates;
 - (II) an area of special planning control;
 - (III) within the relevant perimeter distance area, as set out in Table 2 of Schedule 8, of any type of establishment to which the Major Accident Regulations apply.
- (xi) No development shall relate to matters in respect of which any of the restrictions set out in sub-paragraph (iv), (vii), (viiA), (viiB), (viiC), (viii) or (ix) of article 9(1)(a), or paragraph (c) or (d) of article (9)(1), would apply.



- (xii) *No development shall consist of or comprise the carrying out of works for the provision of an onsite wastewater treatment and disposal system to which the code of practice made by the Environmental Protection Agency pursuant to section 76 of the Environmental Protection Agency Act 1992 relates and entitled Code of Practice –Wastewater Treatment and Disposal Systems Serving Single Houses together with any amendment to that Code or any replacement for it.*

7.5.2. Part 4 of Schedule 2 sets out the following relevant class of use:

CLASS 12 *Use as a Public House, meaning a premises which has been licensed for the sale and consumption of intoxicating liquor on the premises under the Licensing Acts 1833 to 2018.*

7.6. Precedent Referral Cases

- 7.6.1. In ABP ref. RL2442, the Board considered whether the change of use from a public house to off-licence is or is not development or is or is not exempted development. The main issue was whether a material change of use had taken place. The Board decided that the change of use was development and was not exempted development, concluding *inter alia* that the change of use from use as a public house to use as an off-licence constitutes a material change of use by reason of trading patterns, consumption on the premises versus consumption off the premises, car parking and traffic, likely impacts on neighbouring residential amenity and social behaviour.
- 7.6.2. In ABP ref. RL2398, the Board considered whether the change of use of part of public house to a shop is or is not development or is or is not exempted development. The Board decided that the change of use was development and not exempted development, concluding that Class 14, Part 1, Schedule 2 of the Regulations didn't apply as the use would endanger public safety by reason of a traffic hazard etc. [Article 9(1)(a)(iii)]. The Inspector's comments in respect of material change of use are noted.
- 7.6.3. In ABP ref. RL2727, the Board considered whether the use of a premises as a Public House, having not been used as a Public House between 1991 and December 2009, was or was not development and was or was not exempted development. The Board decided that the property had existed as a Public House since prior to 1991 and had not changed or been abandoned and concluded that it was not development.

Precedent Judgements

Change of Use

- 7.7.1. In *Roadstone Provinces Ltd v An Bord Pleanála* [2008] IEHC 2010, the courts approved the decision in *Galway Co Co v Lackagh Rock* (cited below) and concluded that the Board would have to consider that there had been a change in use before looking at planning considerations to determine the materiality of the identified change.

Material Change in Use

- 7.7.2. In *Monaghan County Council v Brogan* [1987] IR 333, the courts confirmed that the term "material" means material in planning terms, that is whether the issues raised by the change of use would raise matters that would normally be considered by a planning authority if it were dealing with an application for planning permission, such as "residential amenity, traffic safety or policy issues in relation to statutory plans".
- 7.7.3. In *Galway Co Co v Lackagh Rock Ltd* [1985] IR 120, the courts concluded that in determining whether or not a present use was materially different to a previous use, regard must be had to matters of planning concern arising on the previous use when compared with the present use. If these matters were materially different than the nature of the present use, it must be equally materially different.

- 7.7.4. In *Stanley v An Bord Pleanála* [2022] IEHC 177, the courts refused a challenge to the validity of the Board's determination that a change of use was 'material' and affirmed the authorities under *Galway Co Co*, *Monaghan Co Co* and *Roadstone Provinces*.

Factors to Consider Regarding Materiality

- 7.7.5. In *Carrickhall Holdings Ltd v Dublin Corporation* [1983] ILRM 268, the courts had regard to the impact of the new use on the amenities of local residents and in particular the increased traffic, parking and noise when considering whether there had been a material change from a hotel bar to a public bar.

Planning Unit

- 7.7.6. In *Carroll and Colley v Brushfield Ltd* (unreported, 9 October 1992) HC, the courts held that the planning unit was the entire hotel premises when considering whether the change of use of part of the building was a change within the overall use of the building.

8.0 Assessment



8.1. Preliminary Points

- 8.1.1. The referral relates to the partial conversion of an 'existing derelict public lounge' to residential use. The planning history for the premises dates from the 1970's (Section 4.1). I also note that the 'Brittas Inn' is depicted on historical mapping for the area (Historic 25 Inch, 1897-1913), suggesting that it is a pre-1963 structure, hence the first planning application being for an extension to the premises under PA ref. G/1714.
- 8.1.2. The referrer states that the premises has been in his ownership since August 2017, at which time it had been vacant for eight years. He also states that the premises was reopened in August 2018 but closed again in March 2020, and its licence was sold.
- 8.1.3. I am therefore satisfied that the 'public lounge' is part of a 'premises which has been licensed for the sale and consumption of intoxicating liquor on the premises' within Class 12, Part 4, Schedule 2 i.e. a Public House. I am also satisfied that this use has been lawfully established and not abandoned notwithstanding references to dereliction and the sale of the licence, having regard to the commentary under ABP ref. RL2727.

8.2. Development – *Is or is not...*

- 8.2.1. The proposal involves a change of use of part of a Public House to residential use. It is self-evident that this is a change of use, and this change gives rise to material planning considerations in respect of traffic safety and residential amenity, in particular. Indeed, some policy issues also arise given the HA-DM zoning objective. It is also evident that S.I. No. 30 of 2018 (Planning and Development (Amendment) (No. 2) Regulations 2018), since extended under S.I. No. 75 of 2022, was specifically introduced to provide an exemption for this type of residential development.
- 8.2.2. The proposal also involves the blocking up of doors and windows to the front and side of the building and partial removal of the flat roof to create 'external courtyards', albeit within the built footprint. This falls within the definition of 'works' and is also therefore development. The partial conversion of the existing derelict public lounge to contain 2 no. apartments is therefore development. This is not disputed by either party.



6. **Exempted Development – Is or is not...**

8.3.1. A change of use to residential use from *inter alia* Class 12, use as a Public House, and any related works, during the period from 8th February 2018 to 31st December 2025 is exempted development under Article 10(6)(c) of the Regulations, subject to the conditions and limitation under Article 10(6)(d). Before considering these, it is important to address the preliminary criteria under Article 10(6)(c)(i) to (iii), inclusive.

(i) – Status of the Structure Concerned

Having regard to my site inspection, the documentation on file and other relevant documentation including the planning history and historical mapping, I am fully satisfied that the structure was completed prior to the making of the Planning and Development (Amendment) (No. 2) Regulations 2018 i.e. prior to 8th February 2018.

(ii) – Use of the Structure Concerned

Having regard to my site inspection, the documentation on file including the referrers submission that the premises was most recently open between August 2018 and March 2020, and other relevant documentation including the planning history and historical mapping, I am fully satisfied that the structure was at some time used for the purpose of its current use class, being Class 12, use as a Public House.

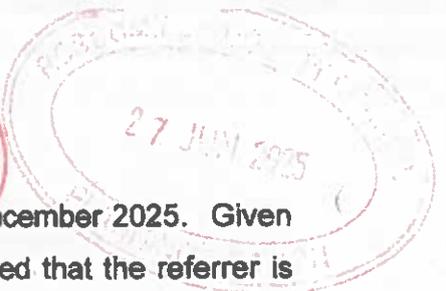
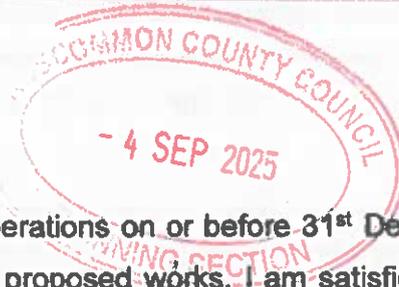
(iii) – Period of Vacancy of the Structure Concerned

There is no definition of “vacant” in the Planning Regulations, nor in the subsequent S.I. No. 75/2022, however it should be given its natural and ordinary meaning which suggests the premises is empty and not being used. Whilst the Planning Authority noted that the applicant had not provided any evidence to prove the vacancy period, I am satisfied the structure concerned, or so much of it that is the subject of the proposed development, would, on the balance of probabilities, be vacant for a period of more than 2 years immediately prior to the commencement of the proposal.

8.3.2. The proposal would therefore be exempt under Article 10(6)(c), subject to the conditions and limitations under Article 10(6)(d) which are now considered in turn.

(i) – Commencement and Completion

The referrer has submitted that they intend to commence the works for the provision of the new apartments as soon as may be after the issue of a favourable determination



by the Board and complete all operations on or before 31st December 2025. Given the relatively minor nature of the proposed works, I am satisfied that the referrer is likely to have commenced and completed the development during the relevant period.

(ii) – Extent of Works

The works involve the replacement of existing door and window openings to the front and side with new windows, three in total, and the removal of part of the flat roof above to create external courtyards, albeit within the built footprint. The works are to the southeast corner of the building, and primarily affect the interior of the structure and do not materially affect the external appearance of the structure so as to render its appearance inconsistent with the character of the structure or of neighbouring structures. I note more than 50% of the existing external built fabric will be retained.

(iii) – Shopfronts and Streetscape Character

Works to the external fabric of the building include the replacement of existing door and window openings within the flat roof projection which wraps around the front and side of what would have been the original 'Brittas Inn'. This part of the front of the building presents as a shopfront with fascia signage and retractable awning above. It has a set of centrally located half-glazed doors flanked with half-glazed window openings, painted yellow. Other finishes include painted render and brick detailing. The fascia sign is black with 'Blue Gardenia' in raised gold lettering. The adjoining façade, which also forms part of the wraparound projection, has a brick finish with two square window openings. The proposal will effectively replicate this adjoining façade. Having regard to the submitted drawings, I am satisfied that the alteration of existing shopfront will be consistent with the fenestration details and architectural and streetscape character of the remainder of the structure and neighbouring structures.

(iv) – Conflicts with Development Plan / LAP Objectives

As previously noted, the existing building has an established use as a Public House under Class 12, Part 4, Schedule 2 of the Regulations. The condition and limitation under Article 10(6)(d)(iv) does not therefore apply as it relates to the protection of 'retail uses' under a specific objective of a development plan or local area plan with retail uses typically provided for under Class 1, Part 4, Schedule 2 i.e. Use as a shop.



(v) – Maximum Number of Residential Units

The referrer proposes two apartments which is evidently below the Article 10(6)(d)(v) threshold of more than 9 residential units in any structure. The Planning Authority has indicated that "the proposal would comply with this issue". The Board should note that I did not access the building during the site inspection to ascertain whether any of the remainder of the building had been converted to apartments. I do note that the existing floor plans illustrate what appears to be 7 no. bedrooms with en-suite facilities although this is presumably guest accommodation incidental to the use as a Public House.

(vi) – Compliance with Apartment Guidelines

The Planning Authority did raise concerns however regarding the size of the storage area and the aggregate bedroom floor area for the two-bed apartment. The relevant requirements from Appendix 1 of the Apartment Guidelines are detailed below in addition to the floor space provided, as illustrated on the submitted floor plan.

Apartment Type \ Minimum Criteria	One-bed		Two-bed (3 person)	
	Required	Provided	Required	Provided
Overall floor area (sq.m)	45	*45.53	63	*67.79
Aggregate floor area for living/dining/kitchen (sq.m)	23	23.20	28	28.73
Widths for the main living/dining rooms (m)	3.3	3.76	3.6	~4.10
Bedroom floor areas (sq.m)	7.1	11.40	7.1 11.4	8.57 14.23
Bedroom widths (m)	2.1	2.8	2.1 2.8	2.1 2.8
Aggregate bedroom floor areas (sq.m)	11.4	11.4	20.1	22.8
Storage space requirements (sq.m)	3	3.19	5	5.10
Floor areas for private amenity space (sq.m)	5	5.2	6	8.36

~Average width

*Manual calculation (no areas provided for Hallways or Shower Rooms)

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Regarding the storage area, the Planning Authority refers to the general rule in section 3.31 of the Guidelines which states that 'no individual storage room should exceed 3.5sq.m'. The referrer submits that Article 10(6)(d)(vi) of the Planning Regulations makes no reference to a maximum storage area, and I agree. Moreover, the Guidelines indicate that these are 'target standards' where existing buildings are to be wholly or partly redeveloped for residential use, applied practically and flexibly in relation to refurbishment schemes and may be relaxed on a case-by-case basis, subject to overall design quality. I also note that the internal layout of the two-bed apartment has been revised to meet the minimum aggregate bedroom floor area and all other requirements are met or exceeded. The proposal complies with the minimum floor area and storage space requirements of the Guidelines and the Planning Authority's rationale for de-exempting the proposal on this basis cannot be sustained.

(vii) – Availability of Adequate Natural Lighting

The Planning Authority also raised concerns regarding the availability of adequate natural lighting to habitable rooms, noting that all 3 bedrooms would be served by windows and doors overlooking the enclosed courtyard amenity areas which would be bound by a 3m wall in close proximity to the openings. They considered that this would result in significant impacts on natural lighting and would not be acceptable. The referrer submits that the proposal is identical to that previously refused permission under PA ref. SA21A/0061 and none of the refusal reasons were based on the standard of internal accommodation or the availability of adequate natural lighting. They note that the Planning Authority does not refer to any planning standard or design norm and contend that the light available to future residents would be acceptable.

Section 6.6 of the Apartment Guidelines states that planning authorities should have regard to quantitative performance approaches to daylight provision outlined in guides like *A New European Standard for Daylighting in Buildings EN17037* or *UK National Annex BS EN17037* and the associated *BRE Guide 209 2022 Edition* (June 2022). These are the relevant standards, but neither the Guidelines nor the listed guides are explicitly referenced under Article 10(6)(d)(vii). Moreover, section 6.7 notes that where the minimum standards of daylight provision cannot be fulfilled, this should be clearly identified and a rationale for any alternative, compensatory design solution must be set out. This would require the referrer to provide a daylight and sunlight assessment.



Compliance with the condition and limitation under Article 10(6)(d)(vii) therefore hinges on whether it is viewed subjectively, as the Planning Authority did, or objectively in line with a quantitative planning standard, as suggested by the referrer. In the absence of any reference to the Guidelines under Article 10(6)(d)(vii), I am satisfied that it is a subjective test, and a daylight and sunlight analysis is not required. Having regard to the large window and door openings which are on aggregate 70% of the relevant façade, the separation distance to the external wall and the area of the respective courtyards, I am satisfied that the daylight provided would be no different to a recessed balcony in a standard apartment block. On balance, rooms for use, or intended for use, as habitable rooms will have adequate natural lighting and the Planning Authority's rationale for de-exempting the proposal on this basis cannot be sustained.

(viii) – Works to a Protected Structure

Whilst the building is evident on historic mapping for the area, it is not listed in the Record of Protected Structures (Appendix 3a of the Development Plan). The proposed development does not therefore involve works to a protected structure.

(ix) – Contravention of Planning Condition / Inconsistency with Use

The planning history is listed in Section 4.1 above. The proposed development does not appear to contravene a condition attached to a permission nor would be inconsistent with any use specified or included in such a permission having regard to the referrer's submission in respect of the period of vacancy and sale of the licence.

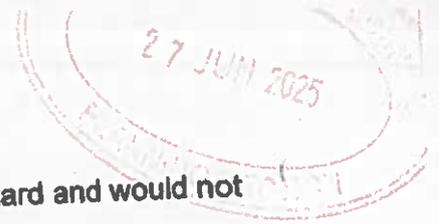
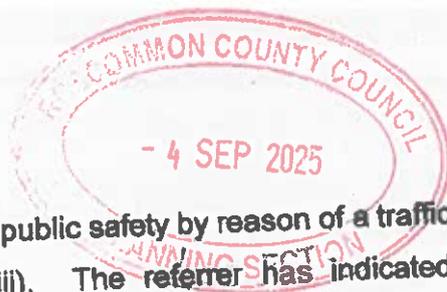
(x) – Specified Areas

The structure is not located within an area to which a special amenity area order relates, an area of special planning control or within the relevant perimeter distance area of any type of establishment to which the Major Accident Regulations apply.

(xi) – Certain Restrictions under Article 9

Article 10(6)(d)(xi) provides that certain restrictions under Article 9 also apply to the exemption under Article 10(6)(c) including sub-paragraphs (iv), (vii), (viiA), (viiB), (viiC), (viii) and (ix) of Article 9(1)(a) and paragraphs (c) and (d) of Article 9(1).

The Planning Authority noted that a similar proposal was previously refused at the referral site due to concerns regarding traffic hazards and public safety. Without further consideration of the likely impact on traffic and road users, they considered the



development could endanger public safety by reason of a traffic hazard and would not comply with Article 9(1)(a)(iii). The referer has indicated that no part of the development would be located in close proximity to the site access, and drivers, cyclists and pedestrians would be unaffected by the proposal. They also state that the Planning Authority has not highlighted any particular aspect that would support their conclusion. Notwithstanding, sub-paragraph (iii) is evidently not listed as one of the restrictions under Article 10(6)(d)(xi) and is irrelevant to the assessment. The Planning Authority's rationale for de-exempting the proposal on this basis cannot be sustained.

Referencing sub-paragraph (viiB) of Article 9(1)(a) and the 7th refusal reason under PA ref. SD21A/0060, the Planning Authority considered that further information would be required in respect of the impact the proposed works would have on the integrity of the Slade of Saggart and Crooksling Glen pNHA. Sub-paragraph (viiB) refers specifically to the 'integrity of European sites' and the referrer correctly points out that Slade of Saggart and Crooksling pNHA does fall within the definition of a 'European site' as per section 177R of the Planning Act. This is also acknowledged by the Planning Authority. The nearest European site is 4.7km to the southeast (Wicklow Mountains SAC, 002122) and the nearest with any potential hydrological connectivity is 6.5km to the south, southwest (Poulaphouca Reservoir SPA, 004063). I also note that sub-paragraph (viiC) relates to natural heritage areas (NHA's) and therefore there is no restriction pertaining to specifically designated proposed NHA's including the Slade of Saggart and Crooksling Glen and therefore further information is not required.

I am therefore satisfied that the relevant restrictions under Article 9 do not apply.

(xii) – Onsite Wastewater Treatment

The Planning Authority also raised concerns regarding a lack of wastewater treatment information with the section 5 application. The referrer submits that Article 10(6)(d)(xii) does not direct the Planning Authority to consider the adequacy or sufficiency of the foul effluent system and I am inclined to agree. It is simply a restriction on the provision of an onsite wastewater treatment and disposal system as part of the development. The proposal does not involve the provision of a DWWTs and this condition is met.

8.3.3. I am satisfied that the proposal complies with the criteria under Article 10(6)(c) and the conditions and limitations under Article 10(6)(d) of the Planning Regulations and is therefore exempted development for the purposes of the Planning Act.



Appropriate Assessment

- 8.4.1. Having regard to the nature and scale of the proposed development, which is for the partial conversion of derelict public lounge to two apartments, and the distance from the nearest European sites, no Appropriate Assessment issues arise. Therefore, it is not considered that the proposed development would be likely to have a significant effect, individually, or in combination with other plans or projects, on a European site.

9.0 Recommendation

- 9.1. I recommend that the Board should decide this referral in accordance with the following draft order.

WHEREAS a question has arisen as to whether the partial conversion of the derelict public lounge to two apartments at 'Blue Gardenia', McDonagh's Lane, Brittas, County Dublin is or is not development or is or is not exempted development:

AND WHEREAS Edward Fahy requested a declaration on this question from South Dublin County Council and the Council issued a declaration on the 25th day of July, 2022 stating that the matter was development and was not exempted development:

AND WHEREAS Edward Fahy referred this declaration for review to An Bord Pleanála on the 22nd day of August, 2022:

AND WHEREAS An Bord Pleanála, in considering this referral, had regard particularly to –

- (a) Sections 2(1) and 3(1)(a) of the Planning and Development Act, 2000, as amended,
- (b) Articles 9(1) and 10(6) of the Planning and Development Regulations, 2001, as amended,



- (c) Class 12 of Part 4 of Schedule 2 of the Planning and Development Regulations, 2001, as amended,
- (d) the planning history of the Public House, and
- (e) relevant precedent referrals and judgments:

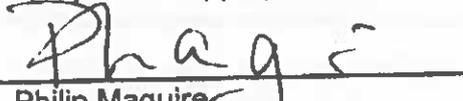


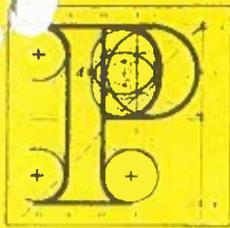
AND WHEREAS An Bord Pleanála has concluded that:

- (a) The proposed residential use is a material change in the use of the derelict public lounge at 'Blue Gardenia' Public House being development; and
- (b) The proposed works to the derelict public lounge at 'Blue Gardenia' Public House to facilitate the proposed use is development; and
- (c) The proposed development would come within the scope of exempted development under Article 10(6)(c) as it would consist of a change of use of part of a Public House within Class 12 of Part 4 of Schedule 2 of the said Regulations to residential use.

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5(3)(a) of the 2000 Act, hereby decides that the partial conversion of the derelict public lounge to two apartments at 'Blue Gardenia', McDonagh's Lane, Brittas, County Dublin is development and is exempted development.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.


Philip Maguire
Planning Inspector
4th August 2023



An
Bord
Pleanála

Board Direction
BD-014801-23
ABP-314440-22



The submissions on this file and the Inspector's report were considered at a Board meeting held on 06/12/2023.

The Board decided, as set out in the following Order, that

Board Order as follows:-

WHEREAS a question has arisen as to whether the partial conversion of the derelict public lounge to two apartments at 'Blue Gardenia', McDonagh's Lane, Brittas, County Dublin is or is not development or is or is not exempted development:

AND WHEREAS Edward Fahy requested a declaration on this question from South Dublin County Council and the Council issued a declaration on the 25th day of July, 2022 stating that the matter was development and was not exempted development:

AND WHEREAS Edward Fahy referred this declaration for review to An Bord Pleanála on the 22nd day of August, 2022:

AND WHEREAS An Bord Pleanála, in considering this referral, had regard particularly to –

(a) Sections 2(1) and 3(1)(a) of the Planning and Development Act, 2000, as amended,

(b) Articles 9(1) and 10(6) of the Planning and Development Regulations, 2001, as amended,

(c) Class 12 of Part 4 of Schedule 2 of the Planning and Development Regulations, 2001, as amended,

(d) the planning history of the Public House, and

(e) relevant precedent referrals and judgments:

AND WHEREAS An Bord Pleanála has concluded that:

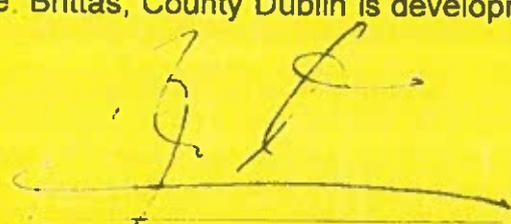
(a) The proposed residential use is a material change in the use of the derelict public lounge at 'Blue Gardenia' Public House being development; and

(b) The proposed works to the derelict public lounge at 'Blue Gardenia' Public House to facilitate the proposed use is development; and

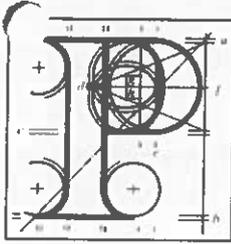
(c) The proposed development would come within the scope of exempted development under Article 10(6)(c) as it would consist of a change of use of part of a Public House within Class 12 of Part 4 of Schedule 2 of the said Regulations to residential use.

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5(3)(a) of the 2000 Act, hereby decides that the partial conversion of the derelict public lounge to two apartments at 'Blue Gardenia', McDonagh's Lane, Brittas, County Dublin is development and is exempted development.

Board Member:


Joe Boland

Date: 06/12/2023



An
Bord
Pleanála



Inspector's Report ABP-315056-22

Question

Whether the proposed change of use from shop to apartments is or is not development or is or is not exempted development.

Location

Bridge Street, Gort, Co. Galway.

Declaration

Planning Authority

Galway County Council

Planning Authority Reg. Ref.

ED22/49

Applicant for Declaration

Dean Raftery.

Planning Authority Decision

Is not exempted development

Referral

Referred by

Dean Raftery.

Owner/ Occupier

Applicant.

Observer(s)

None.

Date of Site Inspection

27th June 2023.

Inspector

Barry O'Donnell





Site Location and Description

- 1.1. The subject site is located on the south side of Bridge Street, Gort, in south County Galway. It comprises a 3-storey terraced, commercial block that contains 3 No. shop units at ground floor and storage/living accommodation on upper floors.
- 1.2. The block addresses Bridge Street and incorporates a stone-clad finish on its front elevation. There are 3 No. separate shopfronts at ground floor level, addressing Bridge Street.

2.0 The Question

- 2.1. The question the subject of the referral before the Board is: -

'Whether the change of use from shop to apartments is or is not development and is or is not exempted development.'

3.0 Planning Authority Declaration



3.1. Declaration

- 3.1.1. The Planning Authority issued a declaration dated 13th October 2022, which states that the proposed development is development and is not exempted development.

3.2. Planning Authority Reports

- 3.2.1. An undated Planning Report has been provided, which reflects the Planning Authority's determination. The report states that the proposed works are beyond the scope of S.I. No. 75/2022, paying particular regard to the extensive exterior works such as conversion of a roof area to a patio and the addition of a significant amount of window openings.

3.2.2. Other Technical Reports

None.



Planning History

4.1. I encountered the following historic planning records pertaining to the site: -

10/1712: Permission granted on 7th March 2011 for retention of extension to rear of existing commercial premises and revised layout to existing premises, to that granted under Reg. Ref. 05/853.

06/4369: Permission granted on 15th January 2007 for change of use of existing retail unit 1 to use as a restaurant.

05/853: Permission granted on 29th August 2010 for construction of an extension to existing supermarket, extension to rear of 2 No. shop units adjacent to supermarket, conversion of first and second floors over supermarket and shop units to 4 No. apartments, new shopfront to front of supermarket and shop units and alterations to rear site access and associated site works.

04/1989: Permission granted on 6th September 2004 for extension to existing supermarket, new shopfront to supermarket and adjacent premises to south, conversion of ground floor shed to shop and alterations to rear site access and associated site works.



5.0 Policy Context

5.1. Galway County Development Plan 2022 - 2028

5.1.1. The site is located within the urban footprint of Gort, in south County Galway.

5.2. Gort Local Area Plan 2013 – 2023

5.2.1. The local area plan was extended for a further 5-year period, from 25th June 2018.

5.2.2. The site is subject to the 'C1 – Town Centre/Commercial' zoning. The site is also located within an Architectural Conservation Area, which encompasses the town centre area.



3 Cultural Heritage Designations

5.3.1. The subject site is not located within or adjacent to any designated European site, the closest such site being Coole-Garryland Complex SAC (Site Code 000252), which is c.1.45km west. Coole-Garryland SPA (Site Code 004107) lies slightly further west.

6.0 The Referral

6.1 Referrer's Case

- The legislation does not state that partial conversion of a shop unit is not exempt. The Planning Authority has not assessed the application properly.
- The development provides 1-bed accommodation, which is needed in the town of Gort. It makes the best possible use of the building.

6.2 Planning Authority Response

6.2.1. None received.

6.3 Further Responses

6.3.1. None.



7.0 Statutory Provisions

7.1 Planning and Development Act, 2000, as amended

7.1.1. Section 3(1) of Planning and Development Act 2000, as amended, states – In this Act, “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.

7.1.2. Section 2(1) of the act states - “works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation

involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

7.2. Planning and Development Regulations 2001-2023

7.2.1. Article 10(6)(a) – Changes of Use

(a) In this sub-article— 'habitable room' means a room used for living or sleeping purposes but does not include a kitchen that has a floor area of less than 6.5 square metres;

'relevant period' means the period from 8 February 2018 until 31 December 2025.

(b) This sub-article relates to a proposed development, during the relevant period, that consists of a change of use to residential use from Class 1, 2, 3, 6 or 12 of Part 4 to Schedule 2.

(c) Notwithstanding sub-article (1), where in respect of a proposed development referred to in paragraph (b)—

(i) the structure concerned was completed prior to the making of the Planning and Development (Amendment) (No. 2) Regulations 2018,

(ii) the structure concerned has at some time been used for the purpose of its current use class, being Class 1, 2, 3, 6 or 12, and

(iii) the structure concerned, or so much of it that is the subject of the proposed development, has been vacant for a period of 2 years or more immediately prior to the commencement of the proposed development,

then the proposed development for residential use, and any related works, shall be exempted development for the purposes of the Act, subject to the conditions and limitations set out in paragraph (d).

(d)(i) The development is commenced and completed during the relevant period.

(ii) Subject to sub-paragraph (iii), any related works, including works as may be required to comply with sub-paragraph (vii), shall –

(I) primarily affect the interior of the structure,

(II) retain 50 per cent or more of the existing external fabric of the building, and

(...) not materially affect the external appearance of the structure so as to render its appearance inconsistent with the character of the structure or of neighbouring structures.

(iii) Any related works for the alteration of existing ground floor shop fronts shall be consistent with the fenestration details and architectural and streetscape character of the remainder of the structure or of neighbouring structures.

(iv) No development shall consist of or comprise the carrying out of works to the ground floor area of any structure which conflicts with any objective of the relevant local authority development plan or local area plan, pursuant to the Part 1 of the First Schedule to the Act, for such to remain in retail use, with the exception of any works the purpose of which is to solely provide on street access to the upper floors of the structure concerned.

(v) No development shall consist of or comprise the carrying out of works which exceeds the provision of more than 9 residential units in any structure.

(vi) Dwelling floor areas and storage spaces shall comply with the minimum floor area requirements and minimum storage space requirements of the "Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities" issued under section 28 of the Act or any subsequent updated or replacement guidelines.

(vii) Rooms for use, or intended for use, as habitable rooms shall have adequate natural lighting.

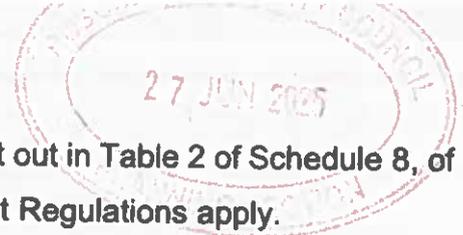
(viii) No development shall consist of or comprise the carrying out of works to a protected structure, as defined in section 2 of the Act, save where the relevant planning authority has issued a declaration under section 57 of the Act to the effect that the proposed works would not materially affect the character of the structure or any element, referred to in section 57(1)(b) of the Act, of the structure.

(ix) No development shall contravene a condition attached to a permission under the Act or be inconsistent with any use specified or included in such a permission.

(x) No development shall relate to any structure in any of the following areas:

(I) an area to which a special amenity area order relates;

(II) an area of special planning control;



(...) within the relevant perimeter distance area, as set out in Table 2 of Schedule 8, of any type of establishment to which the Major Accident Regulations apply.

(xi) No development shall relate to matters in respect of which any of the restrictions set out in sub-paragraph (iv), (vii), (viiA), (viiB), (viiC), (viii) or (ix) of article 9(1)(a), or paragraph (c) or (d) of article (9)(1), would apply.

(xii) No development shall consist of or comprise the carrying out of works for the provision of an onsite wastewater treatment and disposal system to which the code of practice made by the Environmental Protection Agency pursuant to section 76 of the Environmental Protection Agency Act 1992 relates and entitled Code of Practice – Wastewater Treatment and Disposal Systems Serving Single Houses together with any amendment to that Code or any replacement for it.

(e)(i) Where a person proposes to undertake development to which paragraph (b) relates, then he or she shall in the case of development relating to Class 1, 2, 3, 6 or 12 of Part 4 to Schedule 2, notify in writing the planning authority in whose functional area that the change of use will occur not less than 14 days prior to the commencement of the works related to the proposed change of use and any related works;

(ii) Details of each notification under subparagraph (i), which shall include information on—



(I) the location of the structure,

(II) the number of residential units involved, including the unit sizes and number of bedrooms in each unit, and

(III) the Eircode for the relevant property,

shall be entered in a record by the planning authority maintained for this purpose and the record shall be available for inspection at the offices of the planning authority during office hours and on the planning authority's website.

(iii) During the years 2019, 2020, 2021, 2022, 2023, 2024, 2025 and 2026 each planning authority shall provide information to the Minister on the number of notifications received by it under this paragraph during the preceding calendar year, including details of the information so received for the purposes of subparagraph (ii).

7.2.2. Part 4, Schedule 2 – Exempted Development, Classes of Use



Class 1: Use as a shop.

Class 2: Use for the provision of— (a) financial services, (b) professional services (other than health or medical services), (c) any other services (including use as a betting office), where the services are provided principally to visiting members of the public.

Class 3: Use as an office, other than a use to which class 2 of this Part of this Schedule applies.

Class 6: Use as a residential club, a guest house or a hostel (other than a hostel where care is provided).

Class 12: Use as a Public House, meaning a premises which has been licensed for the sale and consumption of intoxicating liquor on the premises under the Licensing Acts 1833 to 2018.



8.0 Assessment

8.1. Background

- 8.1.1. The question before the Board relates to 'Whether the change of use from shop to apartments is or is not development and is or is not exempted development.'
- 8.1.2. The Planning Authority determined that the proposed development is development and is not exempted development and this decision was grounded in the Planning Officer's report, which referred to the extent of exterior works such as conversion of a roof area to a patio and the addition of a significant amount of window openings as important factors.
- 8.1.3. In referring the Planning Authority's determination, the applicant submits that the determination does not accord with the legislation.

8.2. Is or is not development

- 8.2.1. The applicant proposes the conversion of the shop floor area and associated storage space, to use as 4 No. 1-bedroom apartments. This constitutes a material change of use in the land and thus constitutes 'development', which is defined under Section 3(1) of the Planning and Development Act, 2000 as amended (the Act), as the carrying out

any works in, on, over or under land, or the making of any material change in the use of any land or structures situated on land.

8.3. Is or is not exempted development



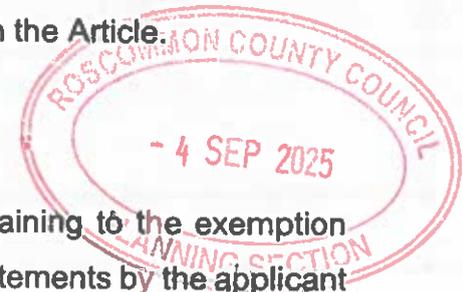
8.3.1. Article 10(6)(a) of the Planning and Development Regulations 2001 – 2023 provides an exempted development provision for 'a change of use to residential use from Class 1, 2, 3, 6 or 12 of Part 4 to Schedule 2.' Of relevance to this referral, Class 1 of Part, Schedule relates to use as a shop.

8.3.2. The subject site has been the subject of a number of previous applications and, with particular reference to Reg. Refs. 10/1712 and 05/853, the applications indicate that the ground floor of each unit was in use as a shop and the first-floor areas were in use for storage/living accommodation. The floor plan drawings provided with Reg. Ref. 05/853 indicate that the area of the first floor closest to Bridge Street contained 2 No. apartments and the rear area was used for storage.

8.3.3. The following statements by the applicant are also noted to the claim of exemption under Article 10(6)(a): -

- The structure concerned contains what was previously a shop and associated first floor storage and this use was in place prior to the making of the Planning and Development (Amendment) (No. 2) Regulations 2018,
- The affected area of the shop units have been vacant for more than 2 years.

8.3.4. In view of the above, I consider the subject units accord with Article 10(6)(a), subject to compliance with conditions and limitations contained within the Article.



8.4. Restrictions on exempted development

8.4.1. Article 10(6)(d)(i-xii) contains conditions and limitations pertaining to the exemption and are set out in Section 7.2.1 of my report. The following statements by the applicant regarding these conditions and limitations are noted: -

Criterion (i): The applicant states that the development will be commenced and completed within the relevant period.

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Criterion (ii): The development primarily affects the interior of the structure, more than 50% of the external fabric is retained and proposed changes are to the rear so there will be no adverse effect on the character of the structure or neighbouring structures.

Criterion (iii): There is no change to the shopfront or streetscape.

Criterion (iv): There is no conflict between the proposal and the Gort development plan.

Criterion (v): There will be a total number of 7 apartments in the building.

Criterion (vi): The development complies with the minimum requirements of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities.

Criterion (vii): All rooms have adequate natural lighting.

Criterion (viii): The structure is not a protected structure.

Criterion (ix): The development does not contravene a condition attached to a grant of permission.

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Criterion (x): The development is not located within a special amenity area or an area of special planning control and is not affected by the Major Accidents Directive.

8.4.2. I have considered the proposed elevation and floor plan drawings provided with the application and note that the front elevation of the building is unaffected by the proposal, with elevational changes confined to the rear part of the building.

8.4.3. With reference to the elevational changes proposed, these relate to the provision of window and door openings for the proposed units. Works are also proposed to a roof profile, for the provision of a patio/circulation area that would allow access to each of the units from a proposed stairwell.

8.4.4. With reference to the requirement to comply with specified standards within the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, I note that the floor area of each unit exceeds the minimum required size for a 1-bed apartment. Whilst the dedicated storage area for units does not appear to itself to achieve the minimum required 3sqm, there is adequate space within living and bedroom areas to provide additional storage. This approach to storage space is provided for by the Guidelines and is thus acceptable.

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8.4.5. Regarding access to natural light, each unit is provided with windows to all habitable rooms, on the south-east elevation. Units will therefore be well-lit in the mornings.

8.4.6. In my view, the proposed elevational changes to the building are minor in nature and accord with the conditions and limitations attached to Article 10(6)(d). No changes are proposed to the front (Bridge Street) elevation and I consider there will be no adverse effect on the character of the structure or the character of the streetscape.

8.4.7. As the applicant states, the development is not located within a special amenity area or an area of special planning control and is not affected by the Major Accidents Directive. I am also satisfied that the development does not conflict with restrictions set out in sub-paragraph (iv), (vii), (viiA), (viiB), (viiC), (viii) or (ix) of article 9(1)(a), or paragraph (c) or (d) of article (9)(1).

8.4.8. In view of my assessment, I conclude that the development accords with the conditions and limitations attached to Article 10(6) of the Regulations.

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8.5. **Appropriate Assessment**

8.5.1. The subject site is not located within or adjacent to any designated European site, the closest such site being Coole-Garryland Complex SAC (Site Code 000252), which is c.1.45km west. Coole-Garryland SPA (Site Code 004107) lies slightly further west.

8.5.2. The proposed development comprises a change of use, including conversion works, from a shop to apartments. The site is located in the town centre of Gort.

8.5.3. The development involves works which are minor in nature and, taken together with its locational context, I am satisfied that no issues arise in respect of Appropriate Assessment.

9.0 **Recommendation**

9.1. I recommend that the Board should decide this referral in accordance with the following draft order.

WHEREAS a question has arisen as to whether the change of use from shop to apartments is or is not development and is or is not exempted development.

AND WHEREAS Dean Raftery requested a declaration on this question from Galway County Council and the Council issued a declaration on the 13th October 2022, stating that the proposed development is development and is not exempted development.

AND WHEREAS Dean Raferty referred this declaration for review to An Bord Pleanála on the 7th day of November 2022:

AND WHEREAS An Bord Pleanála, in considering this referral, had regard particularly to –

- (a) Section 2(1) of the Planning and Development Act, 2000, as amended,
- (b) Section 3(1) of the Planning and Development Act, 2000,
- (c) Article 9(1) of the Planning and Development Regulations, 2001 – 2023,
- (d) Article 10(6) of the Planning and Development Regulations, 2001 – 2023,
- (e) the planning history of the site,
- (f) The pattern of development in the area:

AND WHEREAS An Bord Pleanála has concluded that the change of use from shop to apartments constitutes 'development', as defined under Section 3(1) of the Planning and Development Act, 2000 as amended and would come generally within the scope of the exempted development provision provided at Article 10(6) of the Planning and Development Regulations 2001 – 2023.

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5(3)(a) of the 2000 Act, hereby decides that the change of use from shop to apartments is development and is exempted development.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought

influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

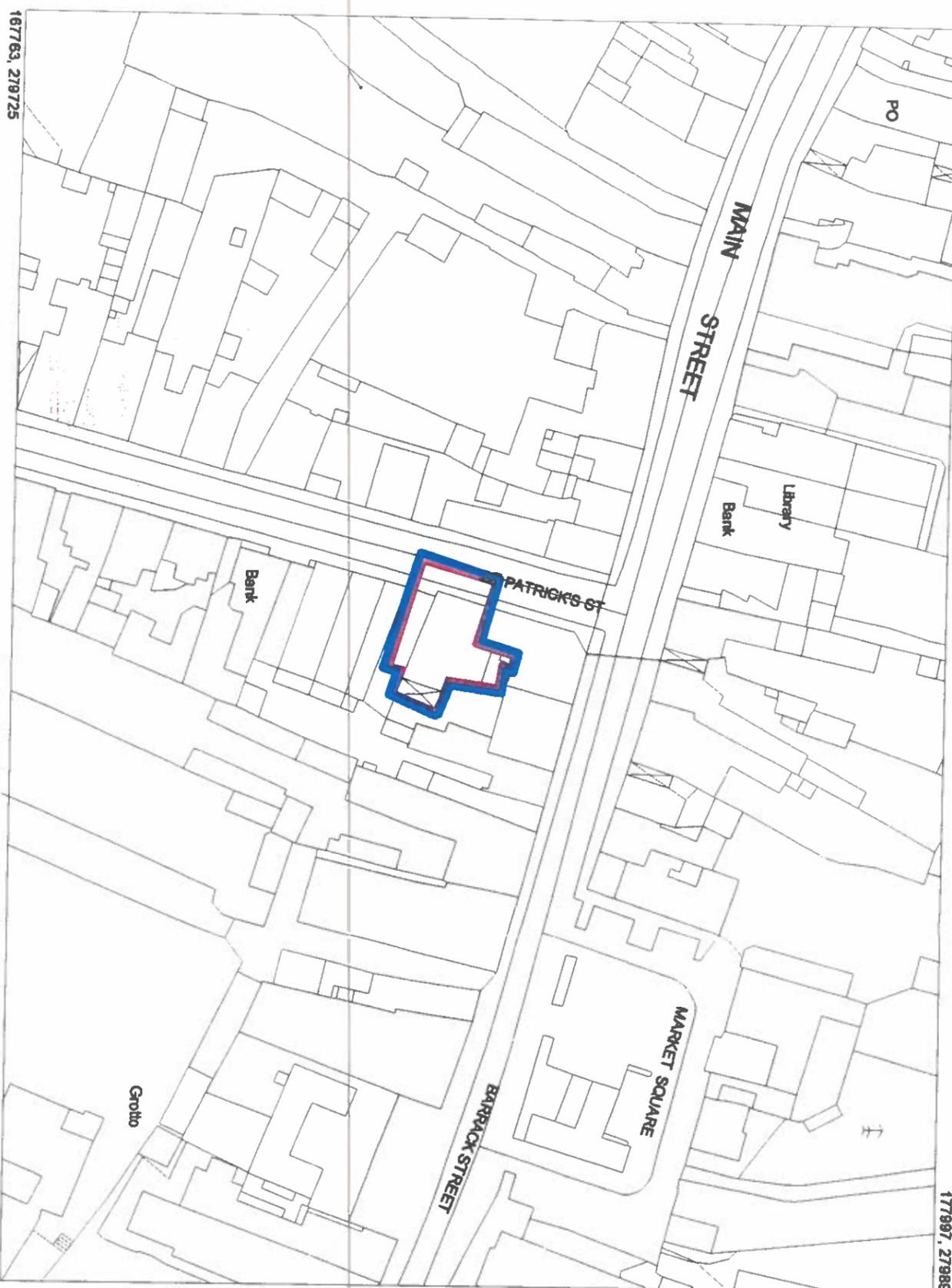
Barry O'Donnell
Planning Inspector

17th July 2023.



167763, 279885

177997, 279885



1 0 Site Location
1 : 1000

DRAWINGS FOR NOTIFICATION UNDER:
Exempt Development Regulations 2022

LEGEND

- **SITE BOUNDARY OUTLINED IN RED (0.37 HECTARES)**
- **LAND HOLDINGS OUTLINED IN BLUE**

SITE ADDRESS:
SAINT PATRICK'S STREET,
CASTLEREA,
CO. ROSCOMMON
F45 T672

OS MAPS: 2219-05, 2157-25



AN COMISIÚN PLEANÁLA
28 AUG 2025
LTR DATED _____ FROM _____
LDG. **523524-25**
ACP. **523524-25**

NATIONAL MAPPING DIVISION OF TALE ÉIREANN
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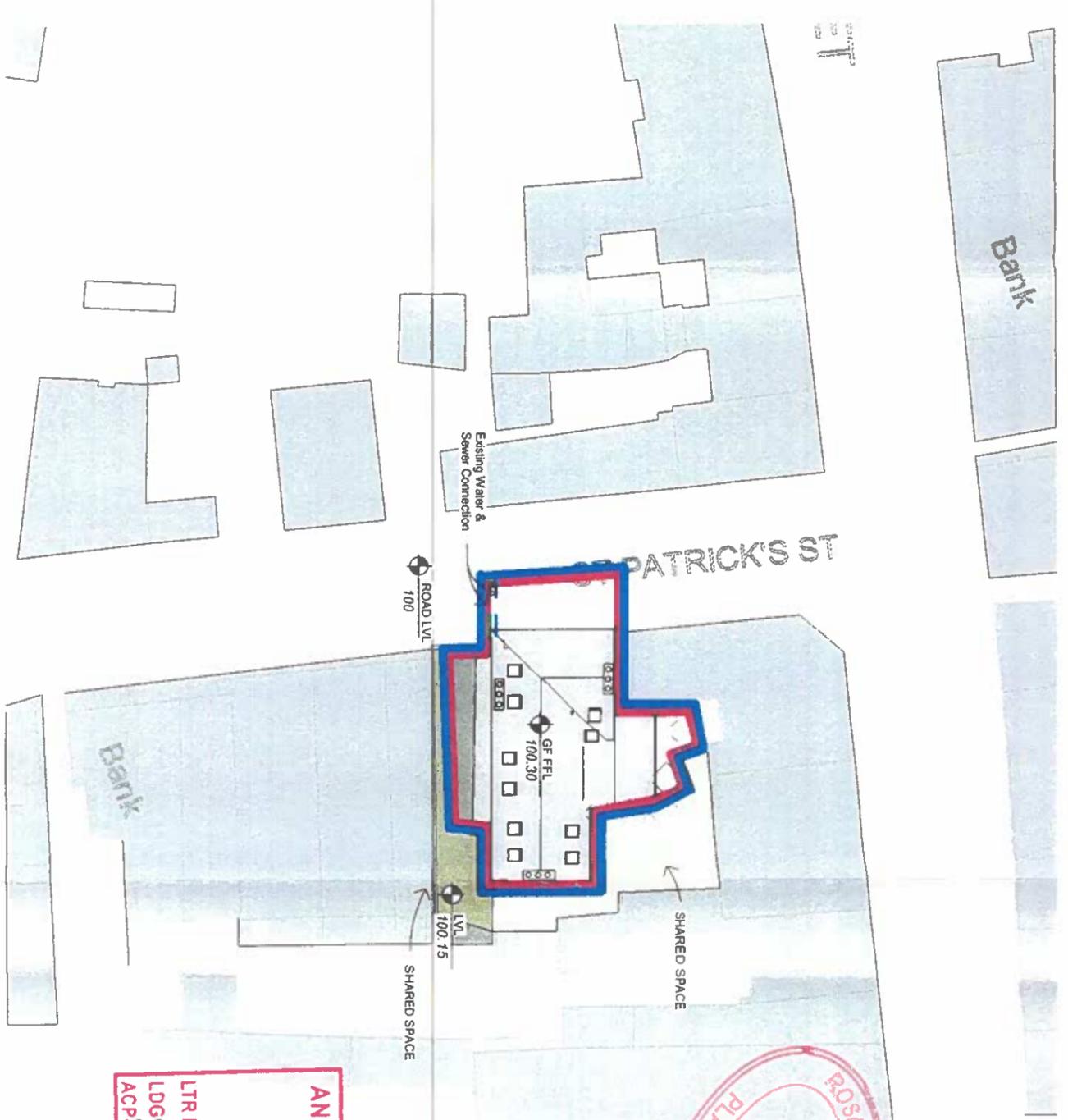
James Lohan	108	108	108
MARCOS SILVEIRA	34	34	34
SITE PATRICK'S STREET, CASTLEREA, CO. ROSCOMMON	PLANNING APPLICATION	25-104	02/05/2025
	Site Location Plan	001	02/05/2025
		As indicated	As indicated

LEGEND

 SITE BOUNDARY OUTLINED IN RED (0.37 HECTARES)

 LAND HOLDINGS OUTLINED IN BLUE

DRAWINGS FOR NOTIFICATION UNDER:
Exempt Development Regulations 2022



ROSCOMMON COUNTY COUNCIL
- 4 SEP 2025
PLANNING SECTION

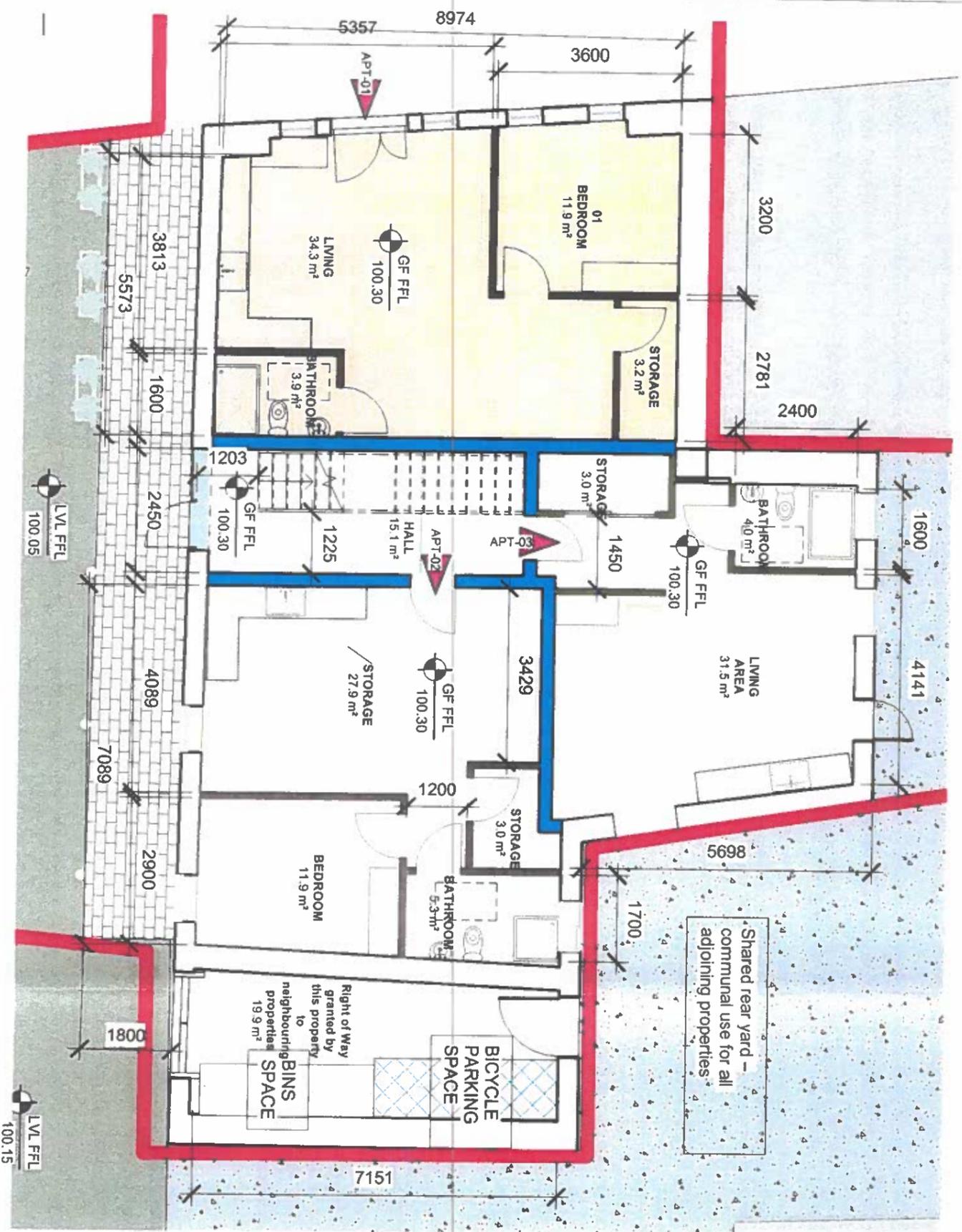
AN COIMISIÚN PLEANÁLA
28 AUG 2025
LTR DATED _____ FROM _____
LDG 323524-25
ACP

1 0 Site Layout Plan
1 : 500

EXEMPT DEVELOPMENT

 <p>James Lohan ARCHITECTURE & DESIGN CONSULTANTS</p>		<p>Client: MARCOS SILVEIRA Site: SAINT PATRICK'S STREET, CASTLEREA - F451872 Co: ROSCOMMON</p>	
<p>Project: 123 Drawing: PLANNING APPLICATION Site Layout Plan</p>	<p>Project No: 25-104 Drawing No: 002 Scale: As indicated @ A3</p>	<p>Project No: 25-104 Drawing No: 002 Scale: As indicated @ A3</p>	<p>Date: 02/09/2025 Rev: 01 Scale: As indicated @ A3</p>

DRAWINGS FOR NOTIFICATION UNDER:
Exempt Development Regulations 2022



1 01-Ground Floor Plan - Proposed
1 : 100



Shared rear yard - communal use for all adjoining properties.

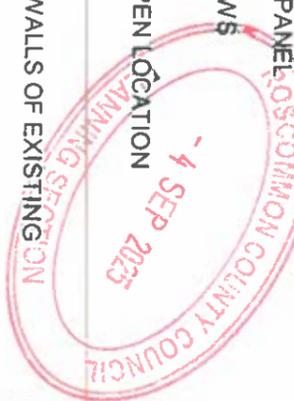
Right of Way granted by this property to neighbouring properties 19.9 m²
BICYCLE PARKING SPACE
BIN SPACE

AREASCHEDULE

- GROUND FLOOR AREA : 189 M²
- FIRST FLOOR AREA : 189 M²
- SECOND FLOOR AREA : 144 M²
- TOTAL AREA : 522 M²

LEGEND

- EXISTING WINDOWS TO BE BLOCKED INSIDE - KEEP OUTSIDE ONLY
- EXISTING DOOR TO BE REPLACED WITH WINDOWS
- REPLACED EXISTING DOOR AND WINDOW WITH NEW DOOR AND SIDE GLASS PANEL
- NEW WINDOWS
- ORIGINAL OPEN LOCATION
- ORIGINAL WALLS OF EXISTING HOUSE
- PROPOSED NEW WALLS TO BE BUILT
- PROPOSED FIRE-RESISTANT WALL



AN COMISIÚN PLEANÁLA
2 8 AUG 2025

LEGEND

Units	No Beds	Persons per Unit	Gross Floor Area Provided (sq.m)	Gross Floor Area Required (sq.m)	Aggregate Living Area Provided (sq.m)	Aggregate Living Area Required (sq.m)	Aggregate Bedroom Area Provided (sq.m)	Aggregate Bedroom Area Required (sq.m)	Aggregate Storage Provided (sq.m)	Aggregate Storage Required (sq.m)
1	1	2	55	45	34.3	23	11.9	11.4	3.2	3
2	1	2	50	45	27.9	23	11.9	11.4	3.0	3
3	Studio	2	40	37	31.5	30	0	0	3.0	3
4	1	2	53	45	30.4	23	12.3	11.4	3.0	3
5	2	3	78	63	32.5	30	13+7=20.9	13+7=20.1	5	5
6	Studio	2	37	37	30	28	0	0	3.2	3
7	1	2	58	45	30.7	23	14.9	11.4	3.0	3
8	2	3	72	63	31.2	28	13.0+8.2=21.92	13+7=20.1	5	5



20 NOT SCALE FROM THIS DRAWING FOR CONSTRUCTION PURPOSES
ALL ERRORS AND OMISSIONS TO BE REPORTED TO THE ARCHITECT
THIS DRAWING TO BE READ IN CONJUNCTION WITH RELEVANT CONSULTANT'S SERVICES
STATES KEEN SA SKETCH 055 CV PA 089 W MARY PT FOR TENDER FOR CONSTRUCTION SS 08295290

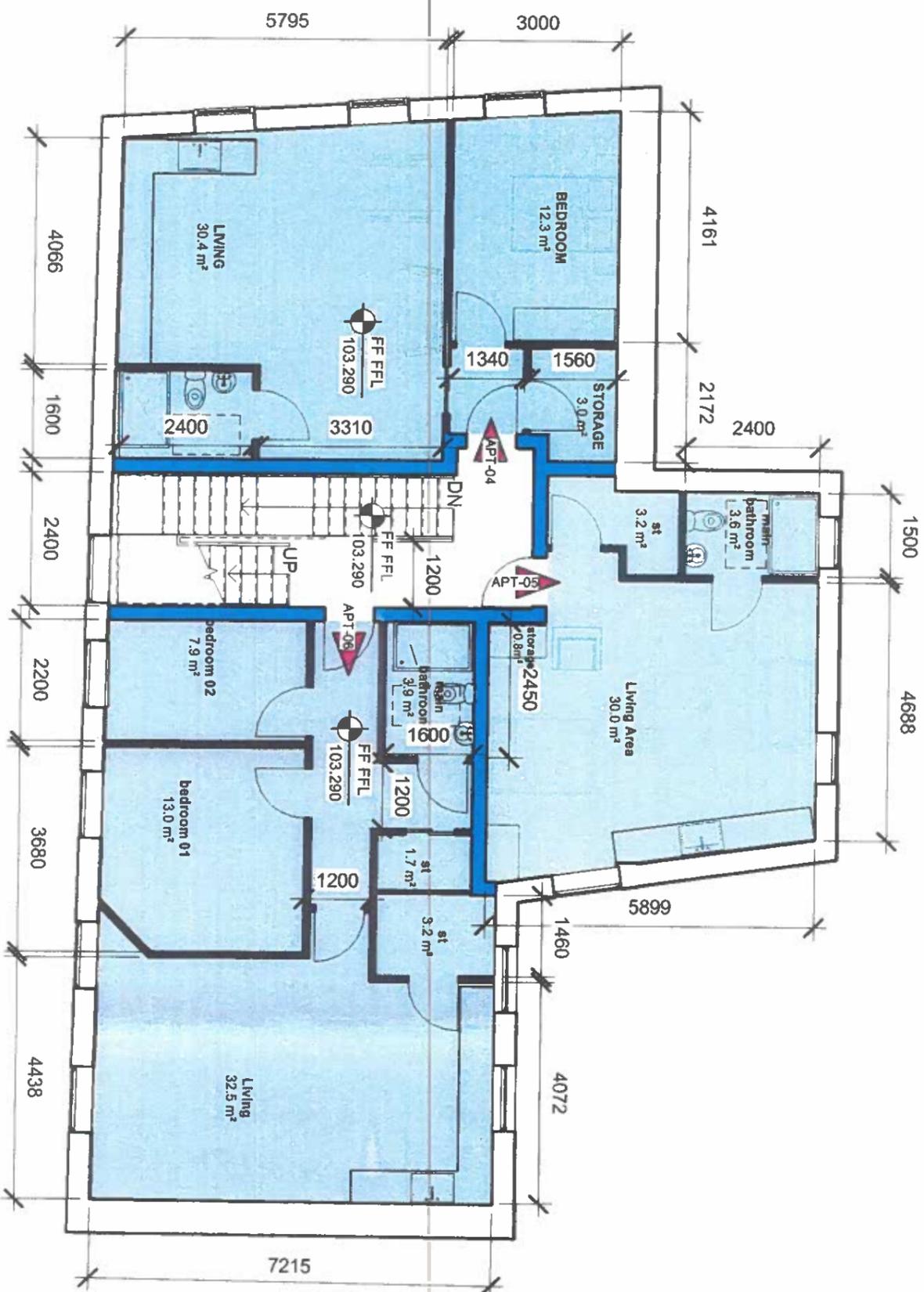
EXEMPT DEVELOPMENT

James Lohan Architect
 20 NOT SCALE FROM THIS DRAWING FOR CONSTRUCTION PURPOSES
 ALL ERRORS AND OMISSIONS TO BE REPORTED TO THE ARCHITECT
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 STATES KEEN SA SKETCH 055 CV PA 089 W MARY PT FOR TENDER FOR CONSTRUCTION SS 08295290

James Lohan Architect
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 STATES KEEN SA SKETCH 055 CV PA 089 W MARY PT FOR TENDER FOR CONSTRUCTION SS 08295290

DRAWINGS FOR NOTIFICATION UNDER:
Exempt Development Regulations 2022



1 02-First Floor Plan - Proposed
1 : 100



LEGEND

Units	No Beds	Persons per Unit	Gross Floor Area Provided (sq.m)	Gross Floor Area Required (sq.m)	Aggregate Living Area Provided (sq.m)	Aggregate Living Area Required (sq.m)	Aggregate Bedroom Area Provided (sq.m)	Aggregate Bedroom Area Required (sq.m)	Storage Area Provided (sq.m)	Storage Area Required (sq.m)
1	1	2	55	45	34.3	23	11.9	11.4	3.2	3
2	1	2	50	45	27.9	23	11.9	11.4	3.0	3
3	Studio	2	40	37	31.5	30	0	0	3.0	3
4	1	2	53	45	30.4	23	12.3	11.4	3.0	3
5	2	3	78	63	32.5	30	13+7.9=20.9	13+7.1=20.1	5	5
6	Studio	2	37	37	30	28	0	0	3.2	3
7	1	2	58	45	30.7	23	14.9	11.4	3.0	3
8	2	3	72	63	31.2	28	13.0+8.2=21.92	13+7.1=20.1	5	5

LEGEND

- EXISTING WINDOWS TO BE BLOCKED INSIDE -KEEP OUTSIDE ONLY
- EXISTING DOOR TO BE REPLACED WITH WINDOWS
- REPLACED EXISTING DOOR AND WINDOW WITH NEW DOOR AND SIDE GLASS PANEL
- NEW WINDOWS
- ORIGINAL OPEN LOCATION
- ORIGINAL WALLS OF EXISTING HOUSE
- PROPOSED NEW WALLS TO BE BUILT
- PROPOSED FIRE RESISTANT LEANALA WALL

28 AUG 2025
LTR DATED FROM
LDG 23524-25
ACP

ROSCOMMON COUNTY COUNCIL
PLANNING
4 SEP 2025

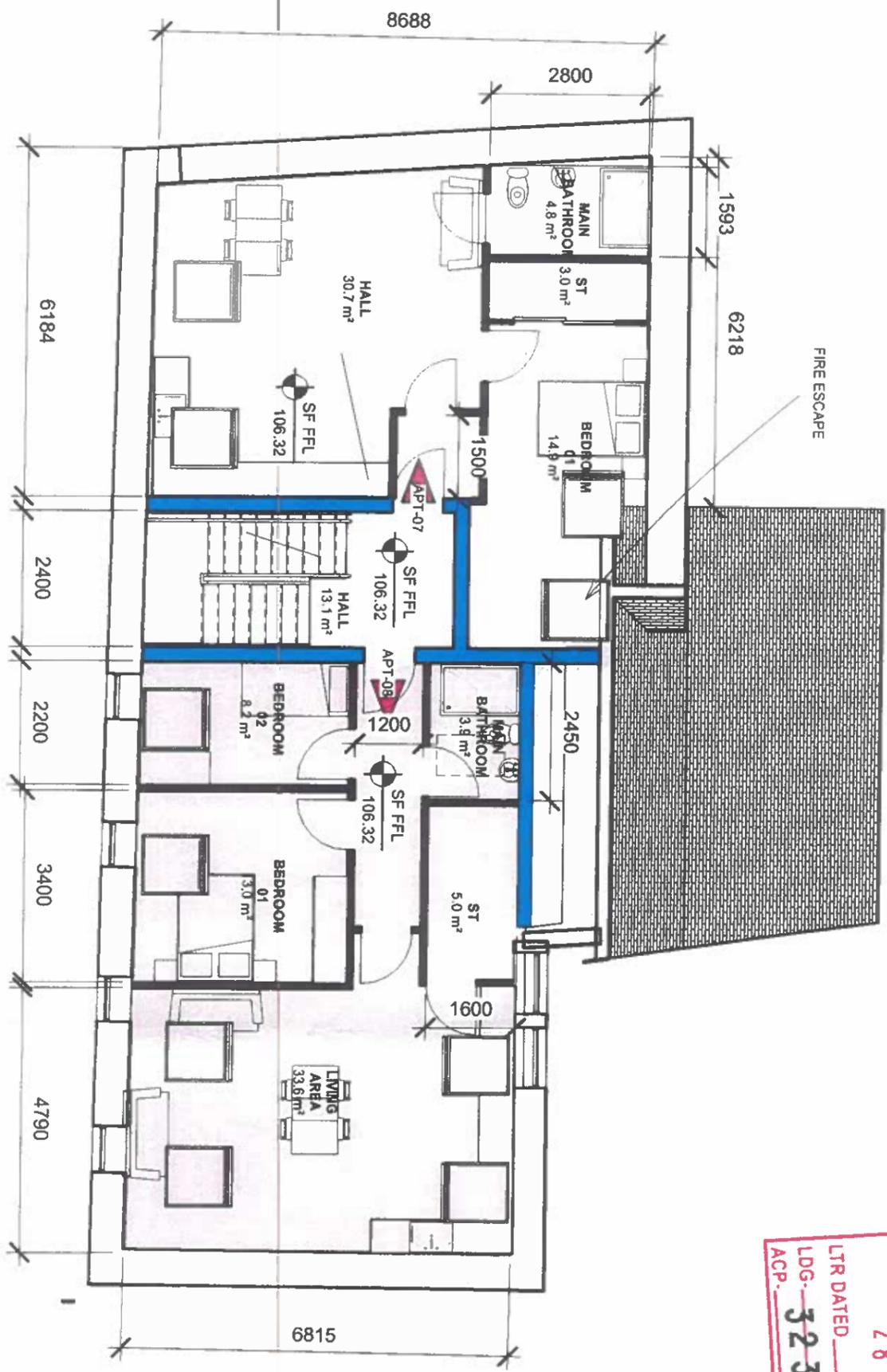
AN COIMIISIÚN PLEANÁLA

28 AUG 2025

LTR DATED FROM
LDG-323524-25
ACP

DRAWINGS FOR NOTIFICATION UNDER:
Exempt Development Regulations 2022

27 JUN 2025



1 03-Second Floor Plan -Proposed
1 : 100



- LEGEND**
- EXISTING WINDOWS TO BE BLOCKED INSIDE -KEEP OUTSIDE ONLY
 - EXISTING DOOR TO BE REPLACED WITH WINDOWS
 - REPLACED EXISTING DOOR AND WINDOW WITH NEW DOOR AND SIDE GLASS PANEL
 - NEW WINDOWS
 - ORIGINAL OPEN LOCATION
 - ORIGINAL WALLS OF EXISTING HOUSE
 - PROPOSED NEW WALLS TO BE BUILT
 - PROPOSED FIRE-RESISTANT WALL

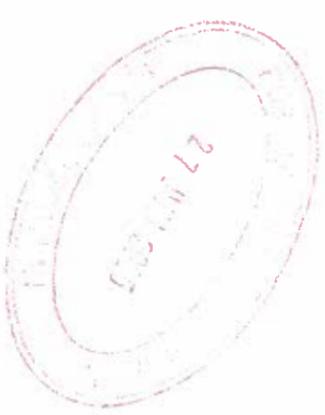
LEGEND

Units	No.Beds	Persons per Unit	Gross Floor Area Provided (sq.m)	Gross Floor Area Required (sq.m)	Aggregate Living Area Provided (sq.m)	Aggregate Living Area Required (sq.m)	Aggregate Bedroom Area Provided (sq.m)	Aggregate Bedroom Area Required (sq.m)	Storage Area Provided (sq.m)	Storage Area Required (sq.m)
1	1	2	55	45	34.3	23	11.9	11.4	3.2	3
2	1	2	50	45	27.9	23	11.9	11.4	3.0	3
3	Studio	2	40	37	31.5	30	0	0	3.0	3
4	1	2	53	45	30.4	23	12.3	11.4	3.0	3
5	2	3	78	63	32.5	30	13+7.9=20.9	13+7.1=20.1	5	5
6	Studio	2	37	37	30	28	0	0	3.2	3
7	1	2	58	45	30.7	23	14.9	11.4	3.0	3
8	2	3	72	63	31.2	28	13.0+8.2=21.92	13+7.1=20.1	5	5

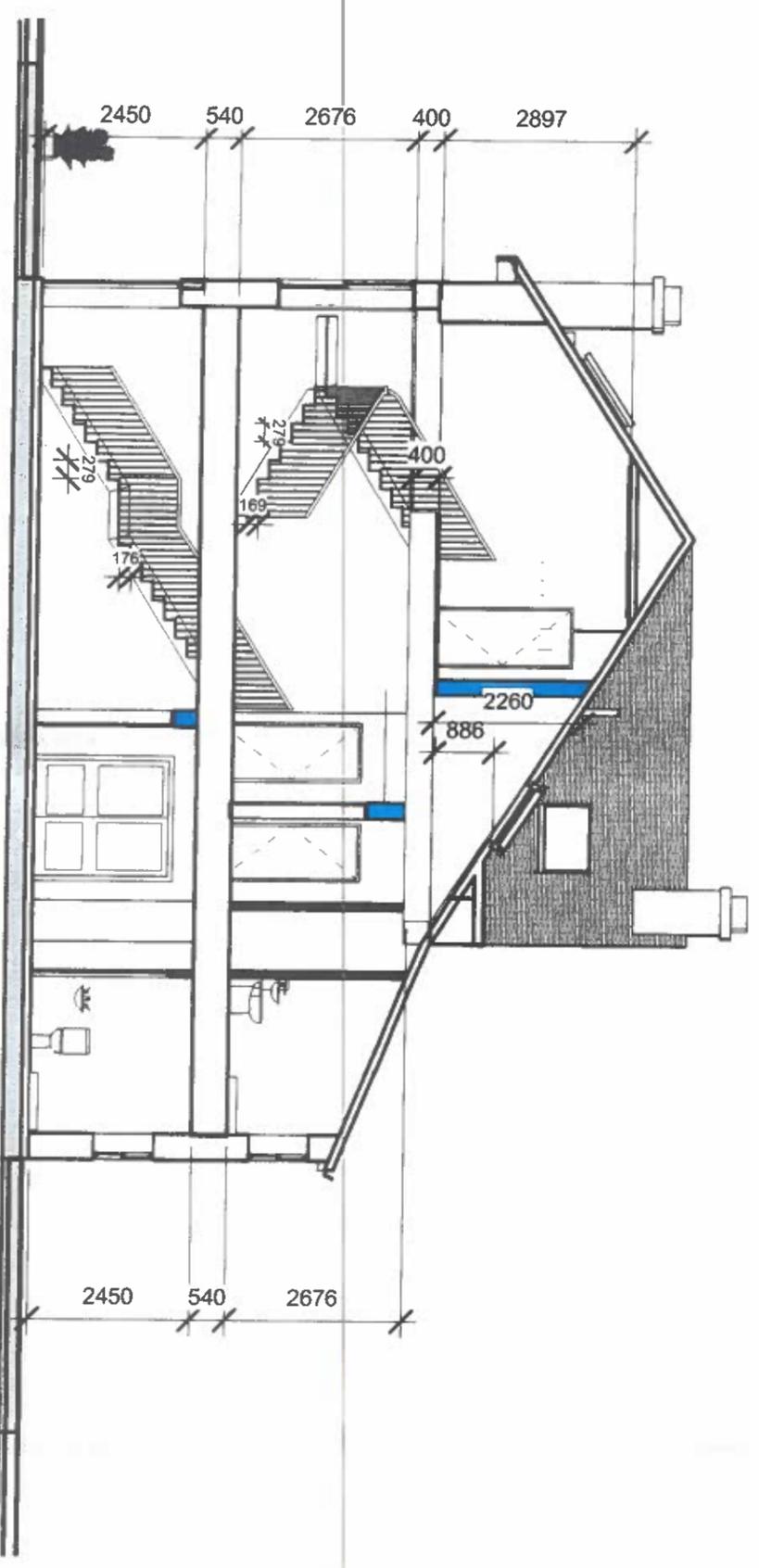


EXEMPT DEVELOPMENT

DRAWINGS FOR NOTIFICATION UNDER:
Exempt Development Regulations 2022



AN COIMISIÚN PLEANÁLA
28 AUG 2025
LTR DATED _____ FROM _____
LDG-523524-25
ACP



1 Proposed Section 1
1 : 100

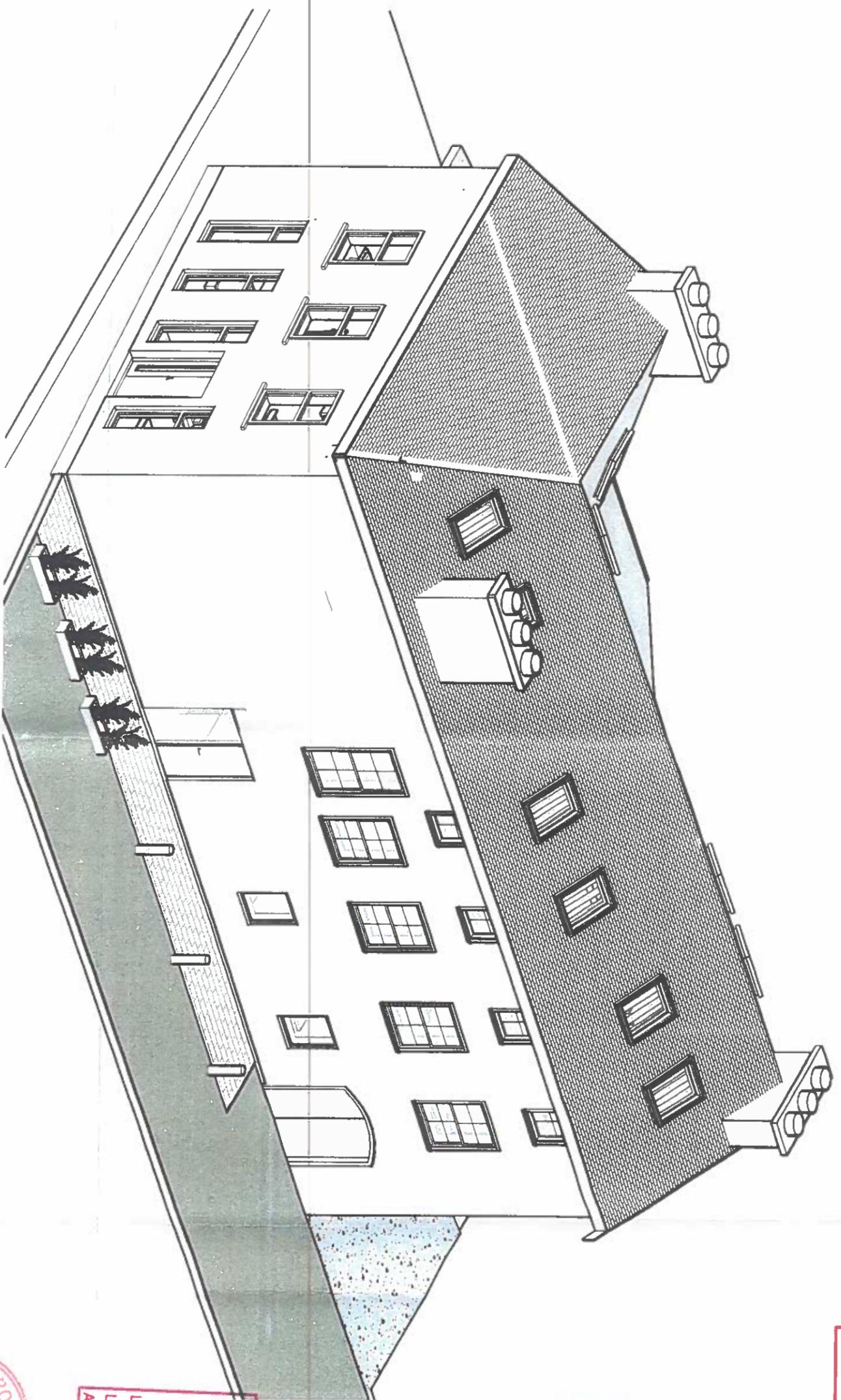


DO NOT SCALE FROM THIS DRAWING OR FROM FIGURED DIMENSIONS
ALL DIMENSIONS AND QUANTITIES TO BE REPORTED TO THE ARCHITECT
THIS DRAWING TO BE READ IN CONJUNCTION WITH RELEVANT CONSULTANT'S DRAWINGS
STATUS: CLIENT'S SECTION DESIGN AND APPLICATION FOR TENDER FOR CONSTRUCTION IS SUSPENDED

EXEMPT DEVELOPMENT

		100% Planning 13 North Wall 100% Planning		100% Planning 13 North Wall 100% Planning	
CLIENT: MARCOS SILVEIRA SITE: SAINT PATRICK'S STREET, CO. ROSCOMMON	DATE: 23/08/2025 PLANNING APPLICATION 25-104 Sections Proposed	DATE: 25-104 23/08/2025 070 As indicated @ A3			

DRAWINGS FOR NOTIFICATION UNDER:
Exempt Development Regulations 2022



1 Front Perspective - Proposed

27 JUN 2023

AN COIMISIÚN PLEANÁLA
28 AUG 2025
LTR DATED FROM
LDG-
ACP 323524-25

ROSCOMMON COUNTY COUNCIL
- 4 SEP 2023
PLANNING SECTION

**EXEMPT
DEVELOPMENT**

James Lohan Civil Engineering 13 Westing Steeves	Unit 5, Station House, Keshmonee Road, Roscommon (E202397)	Tel: (086) 881315	E-mail: jlohan@jlohan.ie
CLIENT MARGO'S SILVERIA	JOB PLANNING APPLICATION	DOB NO 25-104	DATE 02/08/2025
SITE SMALL PATRICK'S STREET, CASTLEREA - R4-182	DRAWING Preliminary Proposed	SCALE 1:500 @ A3	REV 080 25/06/23 C ZM

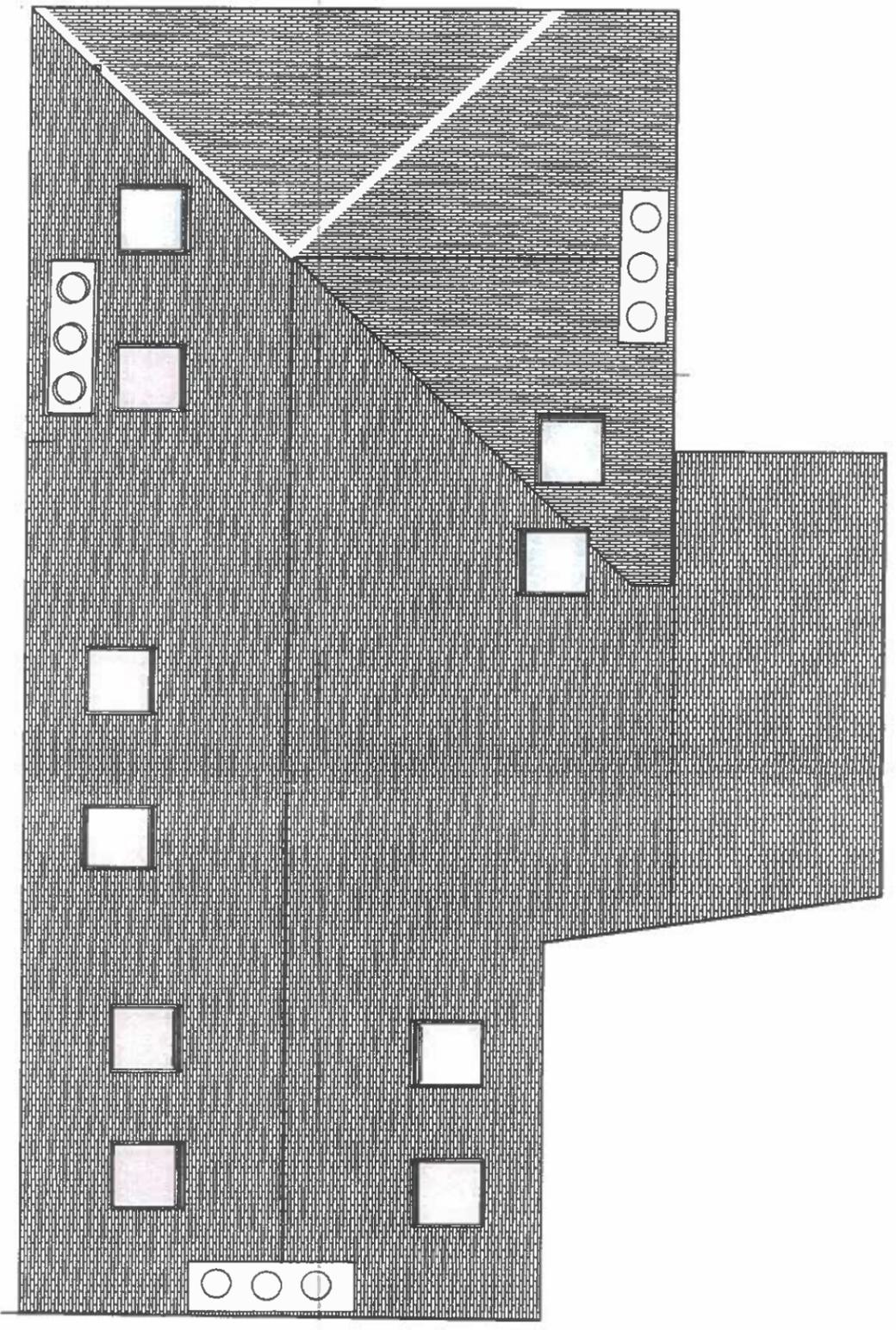
DRAWINGS FOR NOTIFICATION UNDER:
Exempt Development Regulations 2022



LEGEND

- EXISTING ROOF WINDOWS
- PROPOSED NEW ROOF WINDOWS

AN COMISIÚN PLEANÁLA
 LTR DATED 28 AUG 2025 FROM _____
 LDG. 323524-25
 ACP



NOTE: ALL CHIMNEY STACKS WITHIN
STRUCTURAL WALLS

1 Roof Plan Proposed
1 : 100

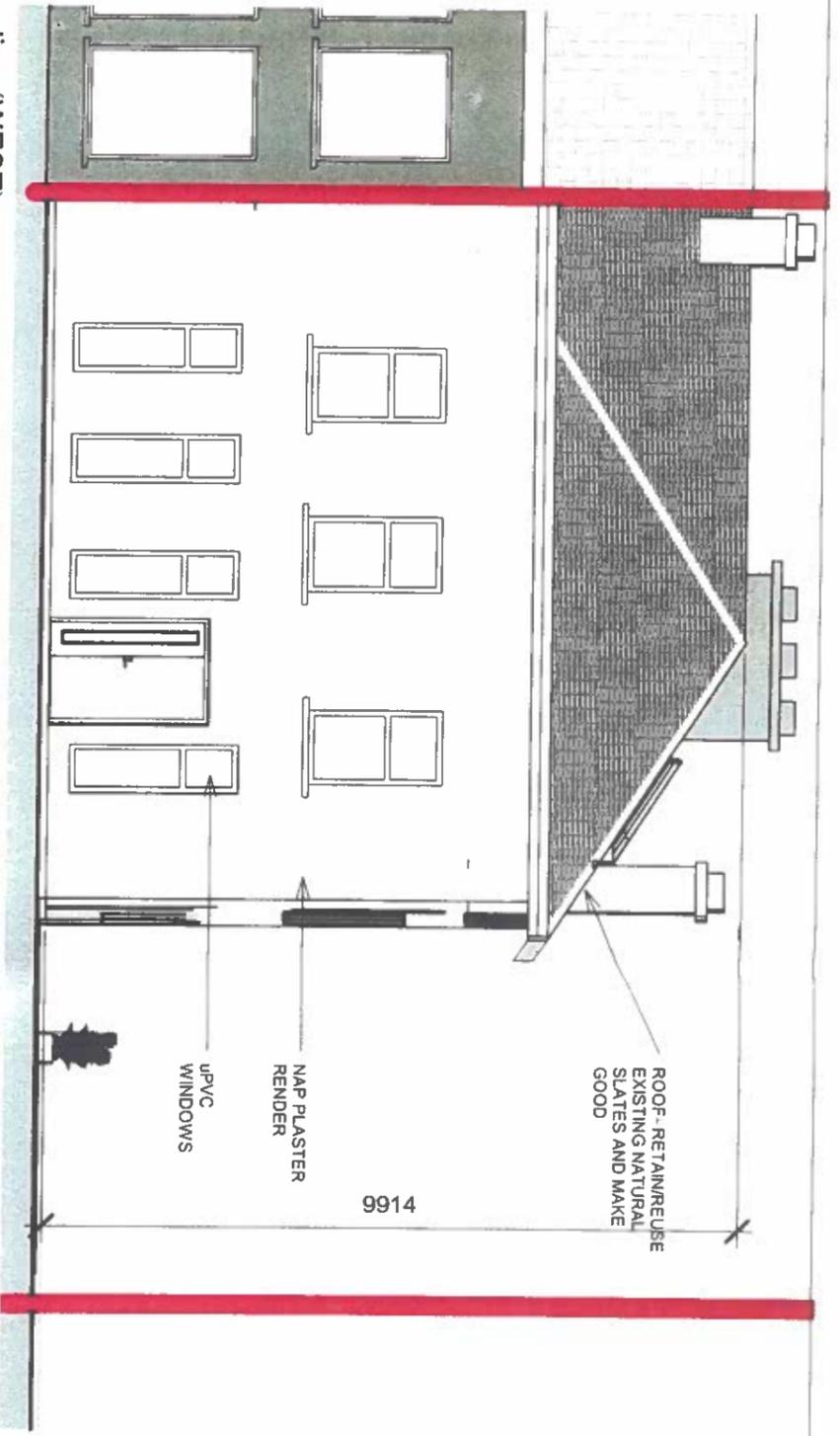


EXEMPT DEVELOPMENT

DRAWINGS FOR NOTIFICATION UNDER Exempt Development Regulations 2022

LEGEND

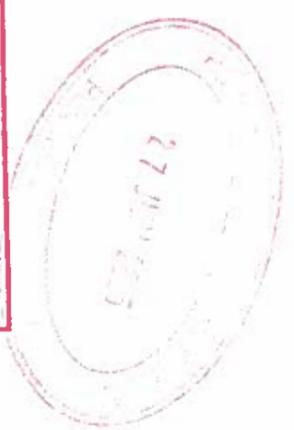
- EXISTING ROOF WINDOWS
- PROPOSED NEW ROOF WINDOWS



② Proposed Front Elevation (WEST)
1 : 100



① Proposed Side Rear Elevation (EAST)
1 : 100



AN COIMISIÚN PLEANÁLA
28 AUG 2025
LTR DATED _____ FROM _____
LDG 323524-25
ACP



EXEMPT DEVELOPMENT

James Lohan Planning & Design Consulting Engineers 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000	PLANNING APPLICATION	25-104	02/05/2025
CLIENT	MARCOS SILVEIRA	DATE	02/05/2025
SITE	SANIT PATRICK'S STREET, CASTLEREA, F65-T872 CO. ROSCOMMON	SCALE	AS INDICATED @ A3
DATE	02/05/2025	SCALE	AS INDICATED @ A3

ROOF-RETAIN/REUSE
EXISTING NATURAL SLATES
AND MAKE GOOD

DOOR SAME PLACE
AS EXISTING
INCREASE SIZE

1 Proposed Side Elevation (SOUTH)
1 : 100



2 Proposed Side Elevation (NORTH)
1 : 100

DRAWINGS FOR NOTIFICATION UNDER:
Exempt Development Regulations 2022

LEGEND

-  EXISTING ROOF WINDOWS
-  PROPOSED NEW ROOF WINDOWS

LEGEND

-  EXISTING WINDOWS TO BE BLOCKED INSIDE - KEEP OUTSIDE ONLY
-  EXISTING DOOR TO BE REPLACED WITH WINDOWS
-  REPLACED EXISTING DOOR AND WINDOW WITH NEW DOOR AND SIDE GLASS PANEL
-  NEW WINDOWS

ROSCOMMON COUNTY COUNCIL
PLANNING SECTION
- 4 SEP 2025

27 SEP 2025

ORIGINAL OPENLOCATION
AN COIMISIUN PLEANALA
28 AUG 2025
LTR DATED FROM
LDG 323524-25
ACP



James Lohan
Planning & Design Consulting Engineers

DO NOT SCALE FROM THIS DRAWING. ONLY FROM DIMENSIONS.
ALL ERRORS AND OMISSIONS TO BE REPORTED TO THE ARCHITECT.
THIS DRAWING TO BE READ IN CONJUNCTION WITH RELEVANT CONSULTANT'S DRAWINGS.
STATUS: SEE SKETCH DESIGN OR REQUIREMENT FOR TENDER FOR CONSTRUCTION SUPERVISION.

EXEMPT
DEVELOPMENT

James Lohan		PLANNING APPLICATION	
CLIENT	MARCOS SILVEIRA	DATE	26.10.24
SITE	SAINT PATRICK'S STREET, CASTLEBERA, F45-T872 CO. ROSCOMMON	SCALE	AS SHOWN
DATE	28.08.25	REVISION	01
DESIGNER	SAINT PATRICK'S STREET, CASTLEBERA, F45-T872 CO. ROSCOMMON	DATE	28.08.25
DATE	28.08.25	REVISION	01

Mervyn Walsh

From: Planning Department
Sent: Friday 29 August 2025 15:19
To: Cathy Carleton
Subject: FW: Referral

Hi Cathy,

In response to the email notification received on 29/08/2025, please see details below, with regard to the Section 5 – Declaration of Exempted Development Application Ref. No. **DED/916**:

1. Your decision date: **N/A – Referred to ACP on 26/08/2028 under the Planning & Development Act 2000 (as amended) – Section 5(4).**
2. The question put to the planning authority: **Where as a question has arisen as to whether permission for (a) the conversion of Vacant Pub into eight Apartments under the Planning & and Development Act (Exempt Development) Regulations 2022 (S.175 of 2022) is exempted development, and (b) a development that proposes no parking on a town centre site could constitute a traffic hazard or obstruction to road users under Article 9(1)(a)(iii).**
3. The name and address of the landowner and occupier, if different, and any other parties involved in the case:
 - Landowner/Occupier – Marcos Silveira, [REDACTED]
 - Agent – James Lohan Planning & Desing Consulting Engineers, Unit 6, Ballypheason House, Circular Road, Roscommon, Co. Roscommon, F42 C982.
4. Any other interested parties to the application? **As per Item No. 3 above.**

Regards,

Mervyn Walsh.

**Mervyn Walsh, Administrative Officer,
Planning Department, Roscommon County Council,
Aras an Chontae, Roscommon, Co. Roscommon, F42 VR98**

☎: (090) 6637100

✉: planning@roscommoncoco.ie | www.roscommoncoco.ie

MAP LOCATION



From: Cathy Carleton <cathy.carleton@pleanala.ie>
Sent: Friday 29 August 2025 12:43
To: Planning Department <Planning@roscommoncoco.ie>
Subject: Referral

A Chara,

The Commission has received your Section 5 referral from under reference **DED 916**.

The referral was received on **28 August 2025**. Could you please confirm the following:

1. Your decision date
2. The question put to the planning authority
3. The name and address of the landowner and occupier, if different, and any other parties involved in the case.
4. Any other interested parties to the application?

Kind regards,

Cathy

Cathy Carleton
Executive Officer
Processing Section
An Coimisiún Pleanála
64 Marlborough Street
Dublin 1
D01 V902
Teil: 01-8737203
Facs: 01-8722684

Má fhaigheann tú an ríomhphost seo lasmuigh de na gnáthuaireanta oibre, ní bheidh mé ag súil le freagra ná gníomh lasmuigh de d'uaireanta oibre féin.

If you receive this email outside of normal working hours, I do not expect a response or action outside of your own working hours

Smaoinigh ar an timpeallacht sula ndéanann tú an ríomhphost seo a phriontáil.

Please consider the environment before printing this mail.

Fógra Rúin: Tá an ríomhphost seo agus aon chomhaid atá nasctha leis faoi rún agus dírithe amháin don seolaí. Má bhfuair tú an ríomhphost seo trí earráid, déan teagmháil le bainisteoir an chórais.

Tabhair faoi deara led thoil: aon tuairimí nochtaithe san ríomhphost seo is iad tuairimí an tseoltóra féin agus níl sé intuigthe gurb iad tuairimí An Coimisiún Pleanála nó go gcloíonn siad le polasaithe ráite An Coimisiún.

Confidentiality Notice: This email and any files transmitted with it are confidential and intended solely for the addressee. If you have received this email in error please notify the system manager.

Please Note: any views expressed in this email are those of the individual sender and may not necessarily reflect the views or accord with the stated policies of An Coimisiún Pleanála.

Please note that I may be sending this email outside your working hours and I do not expect a response or action outside your own working hours



Comhairle Contae
Ros Comáin
Roscommon
County Council



REGISTERED POST

The Secretary,
An Coimisiún Pleanála,
64 Marlborough Street,
Dublin 1,
D01 V902.

Date: 26/08/2025
Planning Reference: DED 916

Re: Application for a Declaration under Section 5 of the Planning & Development Act, 2000 (as amended), regarding Exempted Development.
Question arising relates to: “(a) the conversion of a vacant pub into eight apartments under the Planning & Development Act (Exempt Development) Regulations 2022 (S.175 of 2022) is exempted development, and (b) a development that proposes no parking on a town centre site could constitute a traffic hazard or obstruction to road users under Article 9(1)(a)(iii) at St. Patrick’s Street, Castlereagh, Co. Roscommon, F45 T672”.

A Chara,

Roscommon County Council wishes to refer **DED 916** to An Coimisiún Pleanála for decision by the Commission.

Please find enclosed copy of the DED application received by Roscommon County Council together with all associated reports and correspondence.

Please find enclosed also cheque in the sum of €110.00 being fee for this referral.

Mise le meas,

Senior Executive Planner,
Planning Department.



Comhairle Contae
Ros Comáin
Roscommon
County Council



REGISTERED POST

Marcos Silveira,



Date: 26/08/2025

Planning Reference: DED 916

Re: Application for a Declaration under Section 5 of the Planning & Development Act, 2000 (as amended), regarding Exempted Development.

Question arising relates to: "(a) the conversion of a vacant pub into eight apartments under the Planning & Development Act (Exempt Development) Regulations 2022 (S.175 of 2022) is exempted development, and (b) a development that proposes no parking on a town centre site could constitute a traffic hazard or obstruction to road users under Article 9(1)(a)(iii) at St. Patrick's Street, Castlerea, Co. Roscommon, F45 T672".

A Chara,

I refer to the above application for a Declaration under Section 5 of the Planning & Development Act, 2000 (as amended).

I wish to advise that this application has been referred by the Planning Authority to An Coimisiún Pleanála, under Section 5(4) of the Planning & Development Act 2000 (as amended).

Mise le meas,

Senior Executive Planner,
Planning Department.

c.c.: James Lohan Consulting Engineers Ltd.,
Unit 6,
Ballypheason House,
Circular Road,
Roscommon.

**Planner's Report on application under Section 5 of the
Planning and Development Act 2000 (as amended)**

Reference No: DED 916

**Name and Address of
Applicant:**

Marcos Silveira, [REDACTED]

Name and Address of Agent: James Lohan Consulting Engineers Ltd, Unit 5, Ballypheason House,
Circular Road, Roscommon

Development:

Whether (a) the conversion of a vacant pub into eight apartments under the Planning and Development Act (Exempt Development) Regulations 2022 (S.175 of 2022) is exempted development, and (b) a development that proposes no parking on a town centre site could constitute a traffic hazard or obstruction to road users under Article 9(1) (a) (iii) under the Planning and Development Act (Exempted Development) Regulations 2018.

Development Location:

Saint Patrick's Street, Castlerea, Co. Roscommon

Planning History:

The planning history on the subject site, as follows:

Pl. Reg. Ref PD/24/60459:

Planning permission refused for the change of use of existing derelict pub building into 9 apartments. The development will include alterations to elevations and construction of an extension along with alterations to existing roof, connection to existing public services and carry out all ancillary site development works.

DED 644:

Application for a Declaration under Section 5 of the Planning & Development Act, 2000, as amended, regarding Exempted Development to "convert vacant pub into eight apartments under the Planning & Development Regulations 2018" at Castlerea, Co. Roscommon. Opinion: Is development and is not exempted development.

DED 678:

Application for a Declaration under Section 5 of the Planning & Development Act, 2000, as amended, regarding the "conversion of a vacant pub into eight apartments under the Planning & Development Act (Exempted Development) Regulations 2018." Opinion: Is development and is not exempted development.

Relevant Legislation:

Planning and Development Act 2000 (as amended)

Section 5(1)

If any question arises as to what, in any particular case, is or is not development or is or is not exempted development within the meaning of this Act, any person may, on payment of the prescribed fee, request in writing from the relevant planning authority a declaration on that question, and that person shall provide to the planning authority any information necessary to enable the authority to make its decision on the matter.

Section 5(4)

Notwithstanding *subsection (1)*, a planning authority may, on payment to the Board of such fee as may be prescribed, refer any question as to what, in any particular case, is or is not development or is or is not exempted development to be decided by the Board.

Assessment and recommendation:

The question to be determined in this Section 5 application is whether (a) the conversion of a vacant pub into eight apartments under the Planning and Development Act (Exempt Development) Regulations 2022 (S.175 of 2022) is exempted development, and (b) a development that proposes no parking on a town centre site could constitute a traffic hazard or obstruction to road users under Article 9(1) (a) (iii) under the Planning and Development Act (Exempted Development) Regulations 2018 is or is not development and is or is not exempted development.

Following desktop examination of the application and in view of the planning history of the site including the identification of serious concerns in relation to traffic safety under a previous planning application and requests for a declaration under Section 5 and furthermore that Article 10 (6) does not reference Article 9 (1) (iii) considerations, I recommend that the application DED 916 be referred to An Bord Pleanála to decide whether the above is or is not development and is or is not exempted development. Referral in accordance with Section 5(4) Planning and Development Act 2000 (as amended).

Signed: 
Paula Connaughton
Executive Planner

Date: 22nd August 2025

Countersigned: 
Alan O'Connell,
Senior Executive Planner

Date: 25th August 2025

Agreed: 
Mary Grier,
Senior Planner

Date: 25th August 2025

Castlerea Area Office-Report on Planning Application

Planning Reference: DED 916

Contract Number

Address: Saint Patick's Street Castlerea, F45 T672

Development Description:

'Permission for the following; (a) the conversion of a Vacant Pub into eight Apartments under the Planning & and Development Act (Exempt Development) Regulations 2022 (S.175 of 2022) is exempted development, and (b) a development that proposes no parking on a town centre site could constitute a traffic hazard or obstruction to road users under Article 9(1) (a)(iii) under the Planning & Development Act (Exempted Development) regulations 2018 at Castlerea, Co. Roscommon.'

Observations/ Comments

1. The existing laneway is a shared right of way for access, we would have concerns over proposed bollards and raised planting bed areas in the laneway.
2. There is no car parking space provided for residents, what is the alternative.
3. The proposed right of way is servicing other properties how can this be used for bicycle parking and refuse area.
4. The existing right of way is already taken up as a refuse area for other properties.
5. We would have concerns of having an additional entrance to the upper apartments onto the laneway from the building.
6. No recreational outdoor space or balcony space for upper floor apartments.

Conclusion

Considering the above comments, we would have no further comments on the proposed development.

Signed:



Date:

02/07/2025

Castlerea Area Engineer

MEMORANDUM

To: North Roscommon Planner
Roads Department
Castlerea Area Office

From: Alan O'Connell, Senior Executive Planner, Planning Department.

Date: 1st July, 2025

Re: Application for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended), regarding Exempted Development.

Development: Permission for the following; (a) the conversion of a Vacant Pub into eight Apartments under the Planning & and Development Act (Exempt Development) Regulations 2022 (S.175 of 2022) is exempted development, and (b) a development that proposes no parking on a town centre site could constitute a traffic hazard or obstruction to road users under Article 9(1) (a)(iii) under the Planning & Development Act (Exempted Development) regulations 2018 at Castlerea, Co. Roscommon.

Applicant: Marcos Silveira

Planning Ref: DED 916

Attached, please find an application for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended) regarding Exempted Development from Marcos Silveira for permission for the following; (a) the conversion of a Vacant Pub into eight Apartments under the Planning & and Development Act (Exempt Development) Regulations 2022 (S.175 of 2022) is exempted development, and (b) a development that proposes no parking on a town centre site could constitute a traffic hazard or obstruction to road users under Article 9(1) (a)(iii) under the Planning & Development Act (Exempted Development) regulations 2018 at Castlerea, Co. Roscommon. which was received on 27th June, 2025.

Please let me have your recommendation.



Alan O'Connell,
Senior Executive Planner,
Planning Department.



Comhairle Contae
Ros Comáin
Roscommon
County Council



Marcos Silveira,



Date: 1st July, 2025
Planning Reference: DED 916

Re: Application for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended), regarding Exempted Development.

Development: Permission for the following; (a) the conversion of a Vacant Pub into eight Apartments under the Planning & and Development Act (Exempt Development) Regulations 2022 (S.175 of 2022) is exempted development, and (b) a development that proposes no parking on a town centre site could constitute a traffic hazard or obstruction to road users under Article 9(1) (a)(iii) under the Planning & Development Act (Exempted Development) regulations 2018 at Castlerea, Co. Roscommon.

A Chara,

I wish to acknowledge receipt of the application which was received on the 27th June, 2025, for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended), regarding Exempted Development along with the appropriate fee in the sum of €80.00, Receipt No: L/01/0/235517 dated 30th June, 2025 receipt enclosed herewith.

Note: Please note your Planning Reference No. is **DED 916**
This should be quoted in all correspondence and telephone queries.

Mise le meas,


Alan O'Connell,
Senior Executive Planner,
Planning Department.

cc agent via email: James Lohan Consulting Engineers Ltd
james@jlce.ie

Roscommon County Council
Aras an Chontae
Roscommon
09066 37100
.....

30/06/2025 14 21 01

Receipt No. 1010/235517

MARCOS SILVERIA
C/O JAMES LOHAN ENGINEERING

PLANNING APPLICATION FEES	80 00
GOODS	80 00
VAT Exempt/Non-vatable	
DED916	

Total .	80 00 EUR
---------	-----------

Tendered *	
Cheque	80 00
500413	

Change	0 00
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Issued By : Aine McDermott
From : Central Cash Office



Comhairle Contae
Ros Comáin
Roscommon
County Council

ÁrasanChontae,
Roscommon,
Co. Roscommon.

Phone: (090) 6637100

Email: planning@roscommoncoco.ie

RoscommonCountyCouncil

Application for a Declaration under Section 5 of the Planning & Development Act 2000, regarding Exempted Development

Name:	Marcos Silveira
Address:	[REDACTED]
Name&AddressofAgent:	James Lohan Consulting Engineers Ltd, Unit 5, Ballypheason house, Circular road, Roscommon
Nature of Proposed Works	Whether (a) the conversion of Vacant Pub into eight Apartments under the Planning and Development Act (Exempt Development) Regulations 2022 (S.I 75 of 2022) is exempted development, and (b) a development that proposes no parking on a town centre site could constitute a traffic hazard or obstruction to road users under Article 9(1)(a)(iii)
Location (Townland&O.S.No.)	Town land: Castlereaa, Roscommon OS Map no: 2219-05, 2157-25
Floor Area	Existing (vacant) Public house 522 m ² (inc. bin store)
Height above ground level	Floor level- between 150mm - 220mm above ground level (Ridge height 9.90m above ground level)
Total area of private open space remaining after completion of this development	At the rear of the building there is an area of 115 m ² of open space of which 22 m ² belongs to the owner of the building and 93 m ² is shared access space by neighbouring buildings
RoofingMaterial(Slates,Tiles, other)(Specify)	Existing Slates to roof. Proposed replacement of damaged roof with new roof at the north side of the building. New slates to be on a like-for-like basis.
Proposed external walling(plaster, stonework, brick or other finish, giving color)	Existing plaster render to be maintained as is. Street elevation painted white

<p>Is proposed works located at front/rear/side of existing house.</p>	<p>No extension proposed. Minor elevation changes to the southern elevation – confined to re-opening blocked up opes, one new window on wall, rooflights in roof space. Two windows on the second floor at the rear (north) and internal fit out. Please refer to detailed drawings attached.</p>
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Roscommon County Council

Application for a Declaration under Section 5 of the Planning & Development Act 2000,
regarding Exempted Development

Has an application been made previously for this site	YES
If yes give ref. number (include full details of existing extension, if any)	DED 644 DED 678 In addition, formal Notification submitted to the Planning Authority under Article 10(6). Letter received from RCC dated 16 th June 2025 wherein the formal Notification was not accepted on the basis that the proposal ' <i>could endanger public safety by reason of traffic hazard or obstruction of road users</i> '.
Existing use of land or structure	VACANT PUB- Public House for in excess of 10 years.
Proposed use of land or structure	DOMESTIC apartments
Distance of proposed building line from edge of road way	Existing (building is in line with neighboring building on the Street)
Does the proposed development involve the provision of piped water supply	EXISTING WATER SUPPLIED
Does the proposed development involve the provision of sanitary facilities	EXISTING PUBLIC WATER SEWER

Signature: 

Date: 26/06/2025

Note: This application must be accompanied by:-

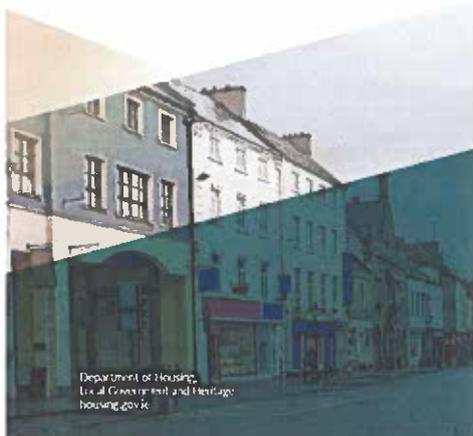
- (a) €80 fee
- (b) Site Location map to a scale of 1:2500 clearly identifying the location
- (c) Site Layout plan to the scale of 1:500 indicating exact location of proposed development
- (d) Detailed specification of development proposed





Bringing Back Homes

Manual for the reuse of existing buildings (2nd edition)



Roscommon County Development Plan 2022-2028

Under Volume II of the RCDP, the **Castlerea Settlement Plan** sets out the policies for development within the town. The aim of the Plan is to support the vitality and viability of Castlerea by taking a proactive approach to halt the further deterioration of the town centre, addressing vacancy and dilapidation.

It is policy to support the redevelopment and reuse of existing town centre buildings/sites which enhance the character, urban design quality and environment of the town centre to ensure that Castlerea remains attractive for investment, commerce, retailing and residential development.

Future new residential developments in Castlerea will be considered in the context the *NPF*, which aims to deliver on the principle of more sustainable '**compact growth**', by targeting at least 30% of all new residential development to occur within the existing built-up footprint towns and villages. **There will be an emphasis on utilising infill sites and brownfield opportunities, rather than peripheral development patterns which could undermine the vitality of town centres and impacting upon the ability to deliver consolidated urban development (emphasis added).**

The historic area of the town emanates from Market Square towards Main Street, Barrack Street and Patrick Street. From an architectural perspective, these areas of the town remain relatively unchanged since the mid-twentieth century. Much of this area is designated as an **Architectural Conservation Areas (ACA)**, the extent of which is identified on Map 9.3, contained in Volume I (Written Statement) of this *Roscommon County Development Plan 2022-2028*.

Below: Site in Context of Castlerea ACA



The site is zoned **Town Core** in the Settlement Plan. The following policy objectives are particularly relevant to this proposal:

- *Policy Objective CA2* Identify and facilitate the development and renewal of vacant sites, obsolete areas, derelict sites and derelict buildings in a manner appropriate to the area
- *Policy Objective CA5* Promote the development of the Town Core as an intensive, high quality, well-landscaped and accessible environment. Facilitate an appropriate mix of residential, commercial, service, tourism, enterprise, public and community uses that provides a range of services, facilities and amenities to serve the local community and visitors to Castlerea.
- *Policy Objective CA7* Encourage residential use of vacant upper storey space over commercial premises on the main thoroughfares of the Town Core
- *Policy Objective CA8* Encourage the regeneration of derelict buildings and appropriate mixed use development on infill sites, including residential development and upper floor apartments.

Under Map 4 of the Castlerea Settlement Plan, the site is within lands identified as '**Regeneration and Residential**'. As such this Notification reinforces the stated objectives of RCC.

6.0 Proposed Works

It is proposed to avail of the current (statutory) exemption for change of use of public houses into living (residential) accommodation. Given the scale of the building, a total of 8 no. apartments are proposed. A detailed breakdown of the floor areas is set out in the attached drawings. An extract is as follows:

LEGEND

Units	No.Beds	Persons per Unit	Gross Floor Area Provided (sq.m)	Gross Floor Area Required (sq.m)	Aggregate Living Area Provided (sq.m)	Aggregate Living Area Required (sq.m)	Aggregate Bedroom Area Provided (sq.m)	Aggregate Bedroom Area Required (sq.m)	Storage Area Provided (sq.m)	Storage Area Required (sq.m)
1	1	2	55	45	34.3	23	11.9	11.4	3.2	3
2	1	2	50	45	27.9	23	11.9	11.4	3.0	3
3	Studio	2	40	37	31.5	30	0	0	3.0	3
4	1	2	53	45	30.4	23	12.3	11.4	3.0	3
5	2	3	78	63	32.5	30	13+7.9=20.9	13+7.1=20.1	5	5
6	Studio	2	37	37	30	28	0	0	3.2	3
7	1	2	58	45	30.7	23	14.9	11.4	3.0	3
8	2	3	72	63	31.2	28	13.0+8.2=21.92	13+7.1=20.1	5	5

6.1 Castlerea Architectural Conservation Area

As:

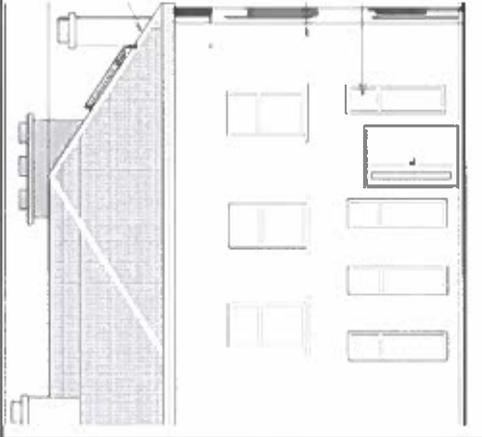
- set out under the Exemptions
- per case studies under the Bringing Back Homes Manual; and
- per ABPs recent decisions

the proposed changes to facilitate the change of use to residential are not considered material. The minor changes are highlighted below with an Architectural Heritage Impact Assessment.



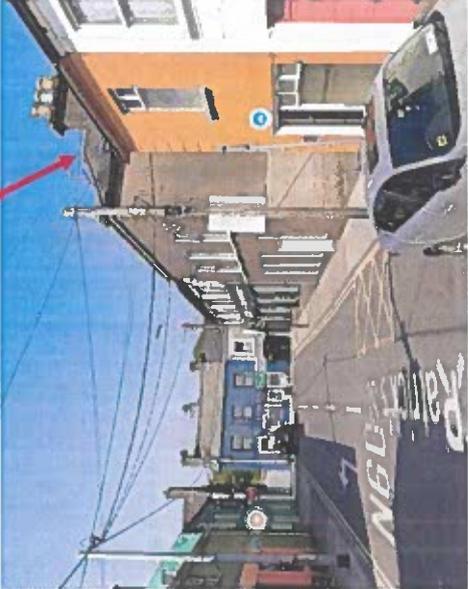
Architectural Heritage Impact Assessment

Impact on St. Patricks Street

Item	Existing	Proposed Works	Impact
Change of existing door		 <p>It is proposed to replace the existing door (old) with a modern, simply configured high energy efficient door</p>	<p>Positive – no changes to the existing rhythm of the streetscape</p>
New windows	Old low efficient windows	New highly efficient energy rated windows	Positive
Paint Building	Dark brown colour	Colour TBC – likely to be a bright colour	Positive

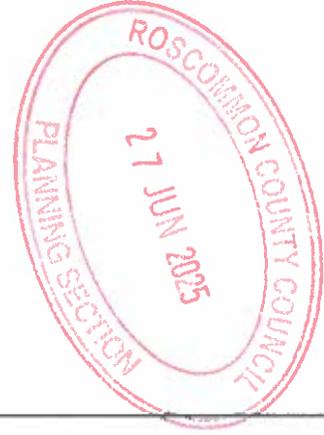


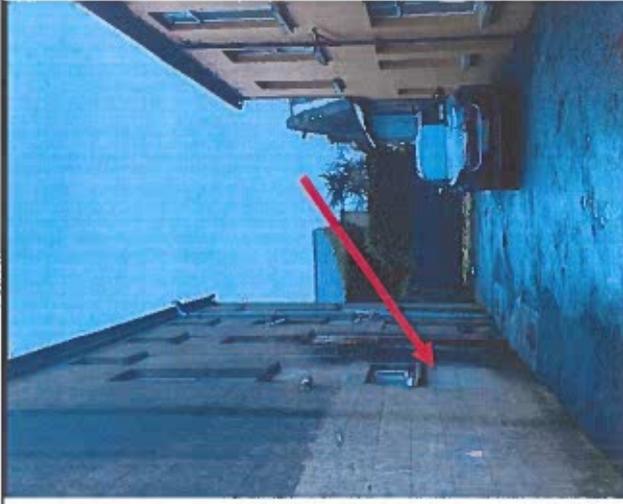
<p>Repair to roof/chimney stacks & gutters</p>	<p>Some slates cracked with minor water ingress.</p> 	<p>Renew/repair as necessary. Replace like with like. It should be noted that the existing chimneys are all contained within the structural walls i.e no internal build outs, as per the floorplans. Photo to left illustrates this.</p>	<p>Positive</p>
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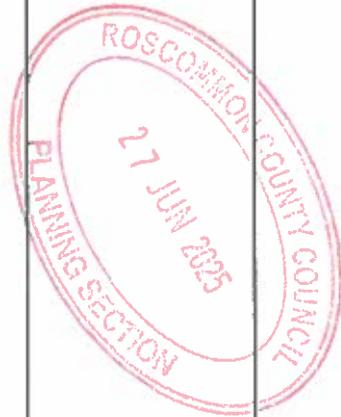
<p>New Rooflights</p>	<p>Currently there is one visible rooflight from the streetscape, as identified below.</p> 	<p>A series of new rooflights (5 no.) is proposed on the roof along the laneway to the side (south). These will not detract from the streetscape as they will be largely hidden from view from St. Patricks Street due to:</p> <ol style="list-style-type: none"> 1. site orientation 2. screening behind existing chimney stacks which are being retained <p>Some limited (restricted) views may be possible from St. Patricks Street, but only at an angled view along the laneway.</p>	<p>Neutral</p> <p>Photo Below shows that the rooflights will now be visible from the ground</p> 
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<p>New window</p>	<p>N/A</p>	<p>One new small window is proposed along the laneway to facilitate light into a first floor bedroom.</p> <p>As there are a series of existing first floor windows presently, this will not have any material impact on the streetscape.</p>	<p>Neutral</p>
<p>Changes to opes at Ground Floor</p>		<p>An old door (below)— which was previously blocked up (see new plaster)- will be opened up once again to form the main entrance to the building.</p>	<p>Positive – the new opes will provide activity and passive supervision along this laneway, without impacting on the existing (commercial) uses.</p>



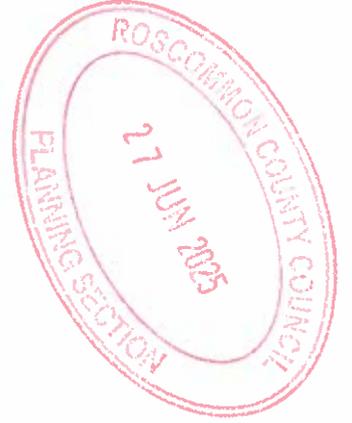
	<p>Example of an existing door – which was once a window – as evident from the cill in situ, to become a new window at ground floor.</p>	 <p>Two existing doors along the laneway to the eastern end presently will be partially blocked up to form two windows (refer to phot on left)</p>	
<p>Ancillary works – bollards (retractable), paving, planters and no parking signage</p>	<p>N/A</p>	<p>A series of bollards will be strategically placed Along the laneway on lands owned by the applicant. The net impact will be to:</p> <ol style="list-style-type: none"> a. Clearly define the new access to the building 	<p>Positive, and fully consistent with the stated objectives of the Castlereagh Settlement Plan set out under the RCDP 2022-2028</p>



		<p>b. Provide a hierarchy of movement for vulnerable occupants i.e paved 2m wide pathway</p> <p>c. Planters to enhance the streetscape and act as placemaking</p> <p>d. A 'No Parking' sign will ensure no parking is provided on site, which is currently uncontrolled</p>	
--	--	---	--

Conclusion:

As demonstrated above, all of the said works will have a positive or neutral impact on the ACA. No material impact is proposed to the streetscape. While minor works (all relating to the opes) are proposed along the laneway to the south, these are far removed from St. Patricks Street and have minimal impact. In essence, the works will have a wholly positive impact, breathing new life into this redundant building and improving the visual appearance of this laneway.

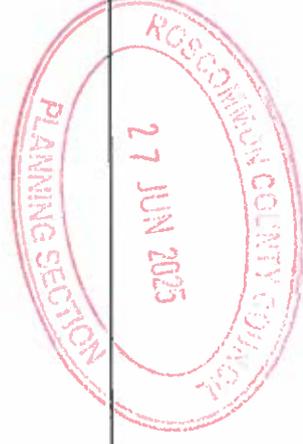


6.2 Assessment under Article 10(6)(a) – Change of Use Criterion

Stipulation	Assessment
This sub-article relates to a proposed development, during the relevant period, that consists of a change of use to residential use from Class 1, 2, 3, 6 or 12 of Part 4 to Schedule 2.	The existing use is Class 12 – therefore compliant
'relevant period' means the period from 8 February 2018 until 31 December 2025.	Noted – all works will be completed by 31 December 2025
the structure concerned, or so much of it that is the subject of the proposed development, has been vacant for a period of 2 years or more immediately prior to the commencement of the proposed development,	Compliant – the structure has been vacant for in excess of 10 years.
The development is commenced and completed during the relevant period.	As above
any related works, including works as may be required to comply with sub-paragraph (vii), shall – (i) primarily affect the interior of the structure	Compliant – please refer to plans proposed
(ii) retain 50 per cent or more of the existing external fabric of the building, and	Compliant - Practically 100% of the building is being retained
(iii) Any related works for the alteration of existing ground floor shop fronts shall be consistent with the fenestration details and architectural and streetscape character of the remainder of the structure or of neighbouring structures.	Compliant – no changes proposed – refer to AHIA
not materially affect the external appearance of the structure so as to render its appearance inconsistent with the character of the structure or of neighbouring structures.	Compliant – no changes proposed – refer to AHIA



<p>(iv) No development shall consist of or comprise the carrying out of works to the ground floor area of any structure which conflicts with any objective of the relevant local authority development plan or local area plan, pursuant to the Part 1 of the First Schedule to the Act, for such to remain in retail use, with the exception of any works the purpose of which is to solely provide on street access to the upper floors of the structure concerned.</p>	<p>Compliant – Planning Policy as set out under Section 5.0 fundamentally encourages the regeneration/reuse of vacant/redundant buildings.</p>
<p>(v) No development shall consist of or comprise the carrying out of works which exceeds the provision of more than 9 residential units in any structure</p>	<p>Compliant - 8 no. units are proposed only.</p>
<p>(vi) Dwelling floor areas and storage spaces shall comply with the minimum floor area requirements and minimum storage space requirements of the “Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities” issued under section 28 of the Act or any subsequent updated or replacement guidelines.</p>	<p>Compliant – all 8 no. units are fully compliant with the min. floor areas as per drawings & Table under Section 6.0</p>
<p>(vii) Rooms for use, or intended for use, as habitable rooms shall have adequate natural lighting.</p>	<p>Compliant - The existing building is characterised by large opes. Minor interventions are required which will introduce new rooflights and windows to ensure compliance with Building Regulations and ensure natural daylight.</p>
<p>(viii) No development shall consist of or comprise the carrying out of works to a protected structure, as defined in section 2 of the Act, save where the relevant planning authority has issued a declaration under section 57 of the Act to the effect that the proposed works would not materially affect the character of the structure or any element, referred to in section 57(1)(b) of the Act, of the structure.</p>	<p>N/A – Not a protected structure</p>



<p>(ix) No development shall contravene a condition attached to a permission under the Act or be inconsistent with any use specified or included in such a permission.</p>	<p>N/A no conditions are applicable</p>
<p>(x) No development shall relate to any structure in any of the following areas</p> <ul style="list-style-type: none"> (i) an area to which a special amenity area order relates (ii) an area of special planning control; 	<p>Compliant – No such areas designated. Full AHIA in section 6.1 above demonstrating that no material impact will be on the existing ACA.</p>
<p>Article 10(6)(d)(xi)</p>	<p>Article 9(1)(a)(iii) states that exemptions may not apply where such works would endanger public safety by reason of traffic hazard or obstruction of road users.</p> <p>As evident from this report, and the drawings, NO CAR PARKING IS BEING PROVIDED, CONSISTENT WITH COMPACT URBAN GROWTH GUIDELINES. PUBLIC PARKING HAS BEEN IDENTIFIED WITHIN A SHORT WALK OF THIS DEVELOPMENT.</p>

Conclusion:

This Notification is fully compliant with the statutory provisions as set out above.





6.3 Traffic/Parking

No car parking is being provided on site. **This development cannot therefore present a Traffic Hazard, as no parking is proposed in the first instance.** In the previous Notification to RCC under Article 10(6), Roscommon County Council stated;

In particular, and as referred to in DED/644, DED/678, and Article 10(6)(d)(xi) outlined above, Article 9 (1)(a)(iii) applies to this proposal as the possibility that the proposal could "endanger public safety by reason of traffic hazard or obstruction of road users" cannot be excluded.

It is therefore advised that the proposed development is not in accordance with the criteria for availing of an exemption as set out under Article 10(6) of the Planning & Development Regulations 2001 (as amended) and requires planning permission.

We would respectfully ask the Council to justify/determine how:

- a. **Article 9 (1)(a)(iii) applies to this proposal when no parking is being proposed**
- b. **a traffic hazard/obstruction to road users 'could' arise, and;**
- c. **the Council concluded that a traffic hazard/obstruction to road users 'cannot be excluded', and on what technical/planning grounds.**

If concerns are raised in relation to the works within the development, this will be managed on site by a professional construction team as would be commonplace with any town centre development.

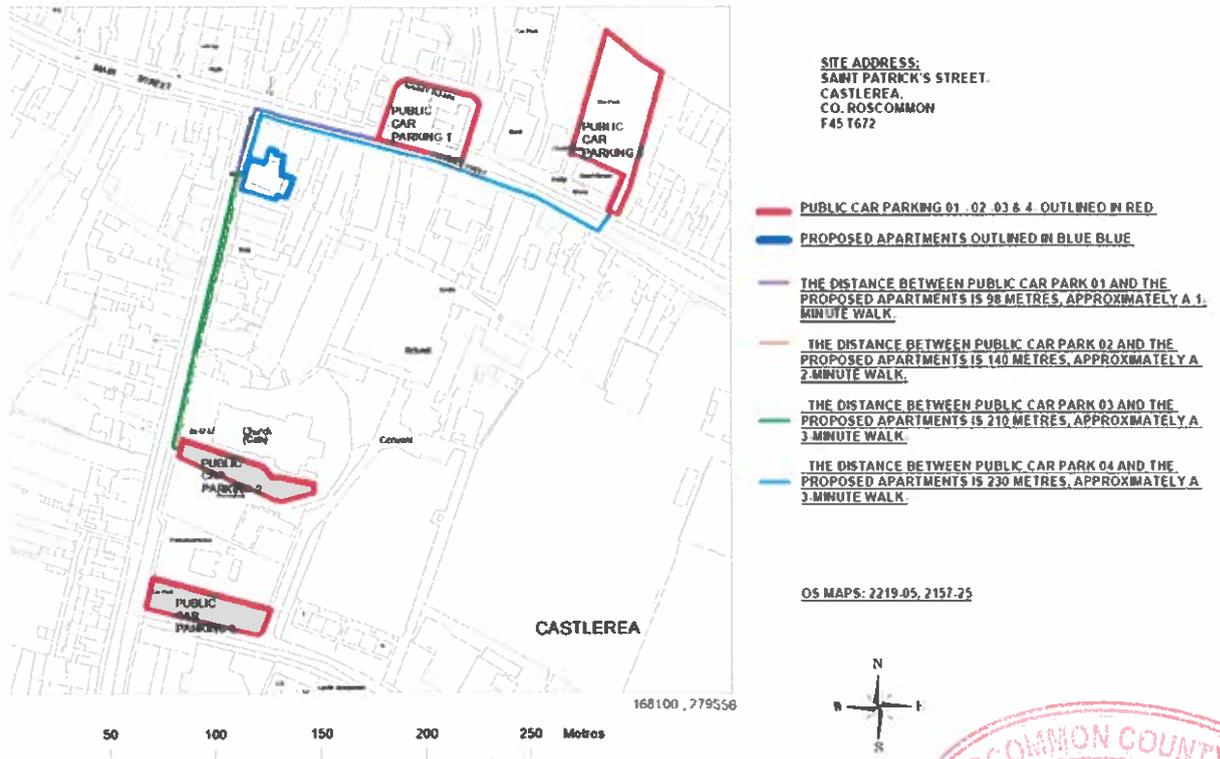
Given the location of the site in an area identified by RCC as being **town centre**, it is respectfully suggested that parking can be accommodated within the general area as per the 'Parking' dwg attached. This is fully consistent with the *Sustainable Residential Development and Compact Settlements - Guidelines for Planning Authorities*.

The Dwg also highlights 4 no. existing public car parks within a 3 minute walk of the building/site. These can/will ensure any displacement of parking can be accommodated. A series of interventions are also proposed which will;

- a. allow access to the laneway for existing service vehicles only
- b. restrict any parking on the laneway
- c. safeguard pedestrian movement

As with ANY town centre site, if unauthorised parking does occur, it is up to the Gardaí to police the matter. Every effort has been made to 'design out' such an occurrence, including displacement.

Below: Public Parking Drawing included in this Notification pack.



7.0 ABP Decisions

A number of reports accompany this Notification, namely:

- **ABP-315056-22 - Inspector's Report**

This relates to a similar assessment under article 10(6) on a town centre site in Gort.

- **ABP – 314440-22 - Inspector's Report**

In this case SDCC ruled that the development in Brittas constituted *inter alia* a traffic hazard under Article 9. This was overruled by ABP on the basis that a traffic hazard is not listed as one of the restrictions under Article 10(6). Extract below from ABPs report (pg. 20).

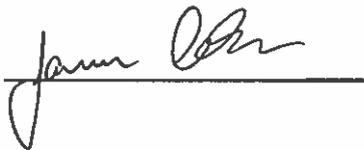
comply with Article 9(1)(a)(ii) The referrer has indicated that no part of the development would be located in close proximity to the site access, and drivers, cyclists and pedestrians would be unaffected by the proposal. They also state that the Planning Authority has not highlighted any particular aspect that would support their conclusion. Notwithstanding, sub-paragraph (ii) is evidently not listed as one of the restrictions under Article 10(6)(c)(xi) and is irrelevant to the assessment. The Planning Authority's rationale for de-exempting the proposal on this basis cannot be sustained.

8.0 Conclusion

We would respectfully ask the Local Authority to determine that all of the said works are exempted and fully compliant with Article 10(6) / S.I 75 of 2022 having due regard to;

- a. National and local planning policy mandate to increase residential units on vacant town centre sites
- b. The 'Bringing Back Homes Manual' published by Government
- c. Housing Emergency and 'Housing for All' Government publication
- d. Achieving compact urban growth
- e. Zoning of the site

However should the Council wish to refer this directly An Coimisiún Pleanála for determination, we would welcome same.



 **James Lohan**
Planning & Design Consulting Engineers



Attached: Response from RCC to Notification under Article 10(6) dated June 16th 2025.

Appendix 1: Case Study – Athlone

- Location: 44-48 Connaught Street, Athlone
- Specifics:
 - Change of Use from public house to 7 no. apartments under Article 10(6)
 - Westmeath Coco notified in 2023 – uploaded online in 2023 list (extract below)
 - Within an ACA
 - Works complete / all units occupied



Summary Information	
Local Authority	Westmeath
Total No. of Notifications	7

Detailed Information						
	Date Notification Received	Date Works to Commence	Location of Structure	Eircode	Previous Commercial Use(Public House / Office, etc)	Total Number of Residential Units
1	23/02/2023	08/03/2023		N37 YT50	Public House	7
2	12/06/2023	21/06/2023	52 Middle Main Street Kilbeggan	N91 TD6X	Bookmakers/ offices	1
3	12/06/2023	21/06/2023	52 Middle Main Street Kilbeggan	N91 TD6X	Bookmakers/ offices	1
4	08/06/2023	23/06/2023	Block H Market Point Mullingar	N91 RD0K		9
5	22/06/2023	10/07/2023	Unit 2 Main St Rochfortbridge	N91 CX29	Barber Shop	1
6	03/08/2023	01/10/2023	Mary Steet Mullingar	N91 WF34	Architects Office	1
7	15/09/2023	29/09/2023	1st Floor 7 Connaught St Athlone	N37 H2V5	Beauty Salon/Hairdressers	2

Commercial use
 Class 1 - shop
 Class 2 - services
 Class 3 - office
 Class 6 - guesthouse
 Class 12 - pub



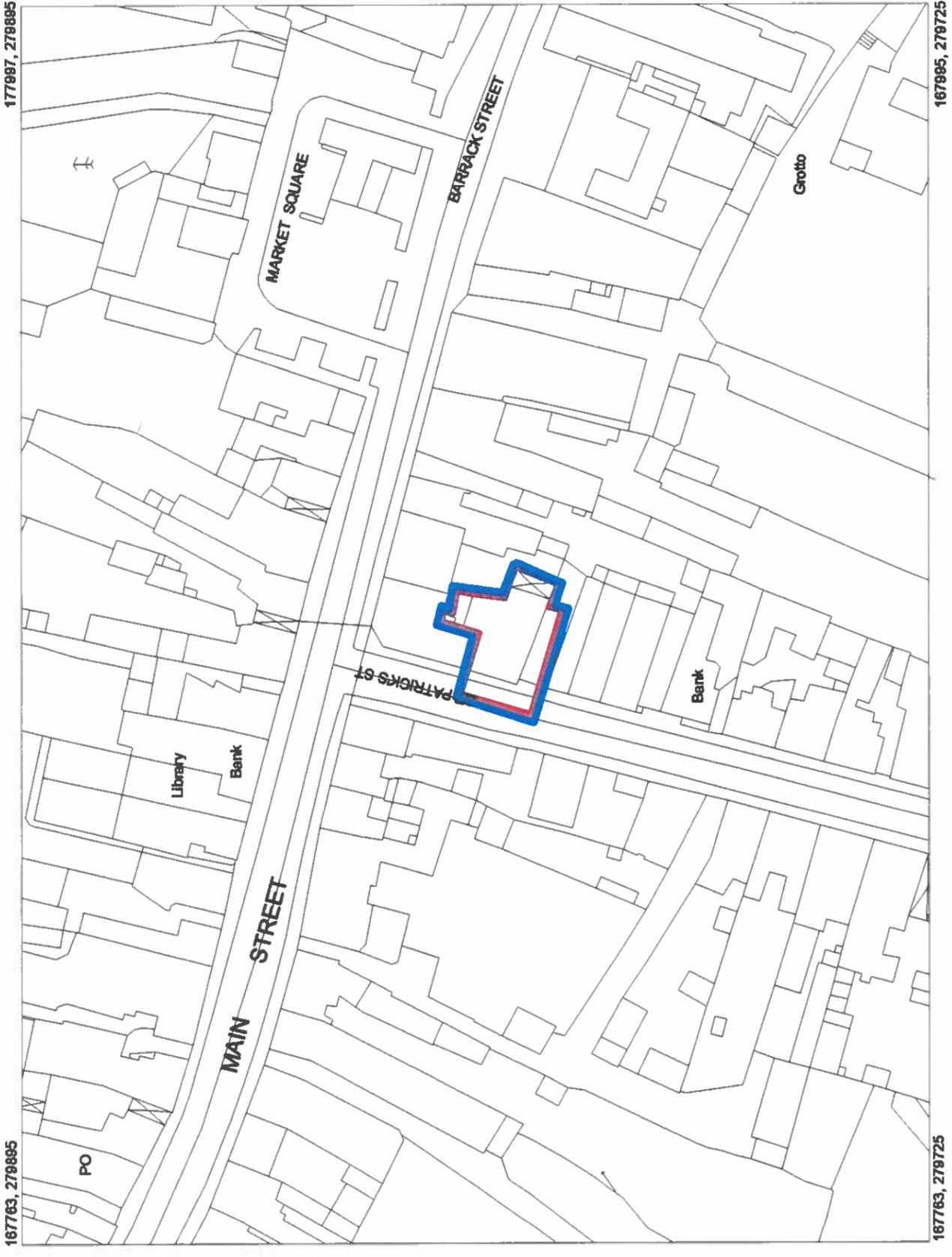
**DRAWINGS FOR NOTIFICATION UNDER:
Exempt Development Regulations 2022**

LEGEND

- **SITE BOUNDARY OUTLINED IN RED (0.37 HECTARES)**
- **LAND HOLDINGS OUTLINED IN BLUE**

**SITE ADDRESS:
SAINT PATRICK'S STREET,
CASTLEREA,
CO. ROSCOMMON
F45 T672**

OS MAPS: 2219-05, 2157-25



1 Site Location
1 : 1000



CYAL50358888
NATIONAL MAPPING DIVISION OF TAILE ÉIREANN
COPYRIGHT LICENCE

James Lohan Civil Engineering Architecture Design Surveying	Unit 5, Brynhogan House, Roscommon F42C187 Tel: (00353) 8634365	E-mail: jlohan@jlohan.ie
CLIENT MARCOS SILVEIRA	JOB NO 25-104	DATE 02/05/2025
SITE SAINT PATRICK'S STREET, CASTLEREA - F45-T672	PROJECT PLANNING APPLICATION	REV REV
	DRAWING Site Location Plan	DESIGNED BY C.L.M.

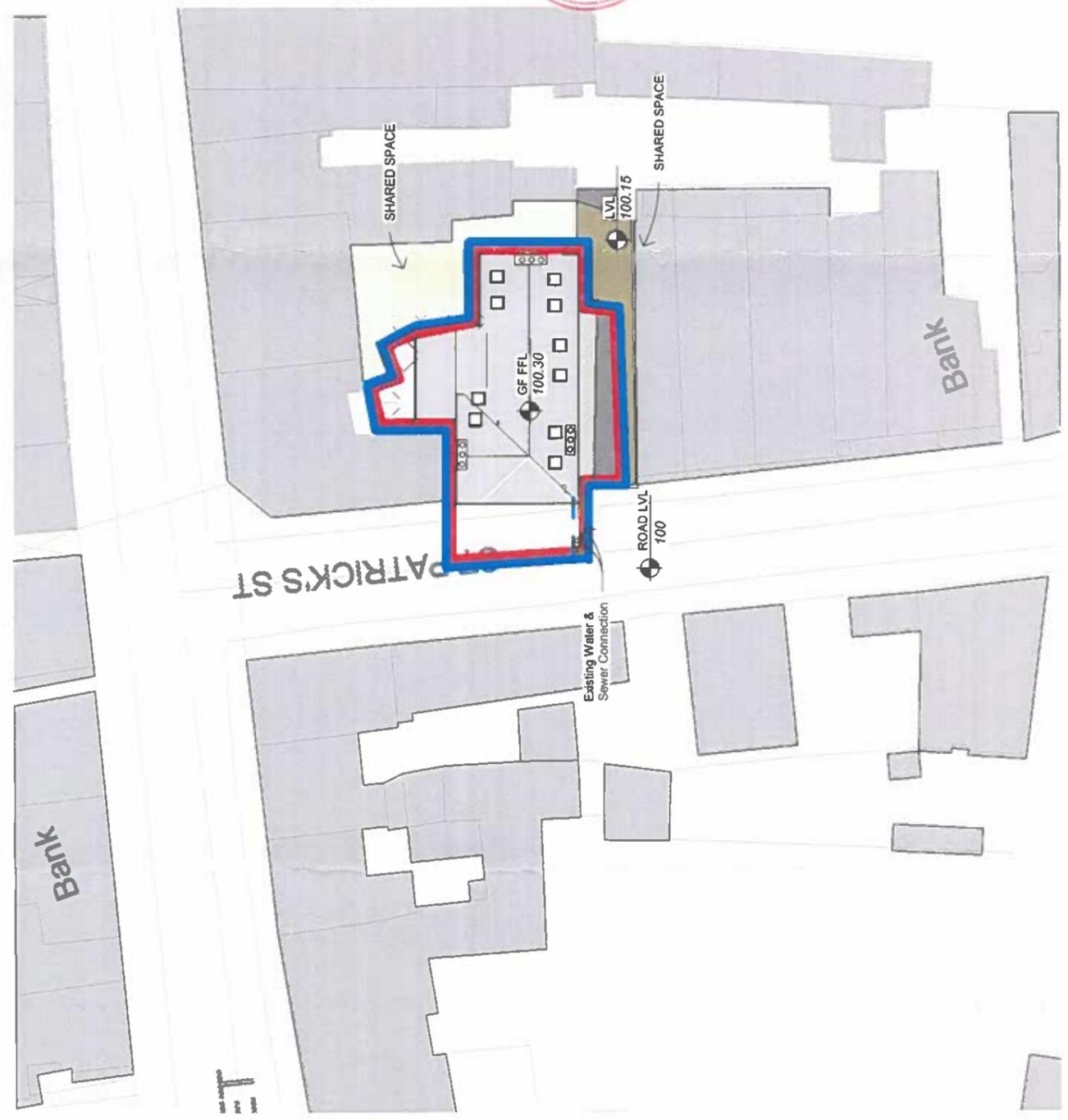
**EXEMPT
DEVELOPMENT**

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ALL ERRORS AND OMISSIONS TO BE REPORTED TO THE ARCHITECT.
THIS DRAWING TO BE READ IN CONJUNCTION WITH RELEVANT CONSULTANT'S DRAWINGS.
STATUS: KEY SKETCH DESIGN OR PRELIMINARY FOR TENDER FOR CONSTRUCTION. SUPERSEDED

LEGEND

-  **SITE BOUNDARY OUTLINED IN RED (0.37 HECTARES)**
-  **LAND HOLDINGS OUTLINED IN BLUE**

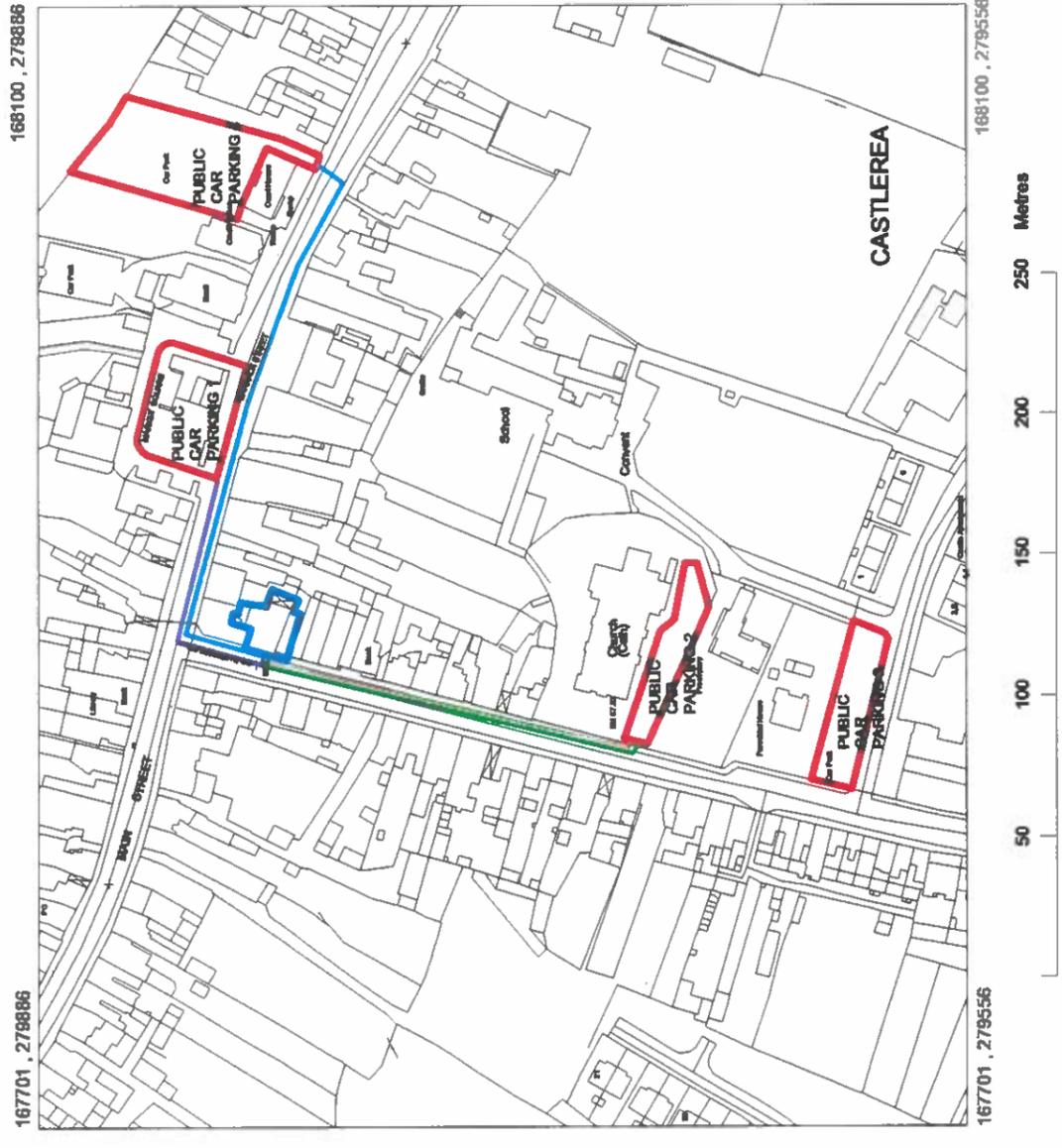
**DRAWINGS FOR NOTIFICATION UNDER:
Exempt Development Regulations 2022**



**1 0 Site Layout Plan
1 : 500**

EXEMPT DEVELOPMENT

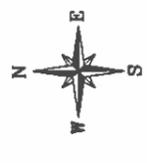
DRAWINGS FOR NOTIFICATION UNDER Exempt Development Regulations 2022



SITE ADDRESS:
 SAINT PATRICK'S STREET,
 CASTLEREA,
 CO. ROSCOMMON
 F45 T672

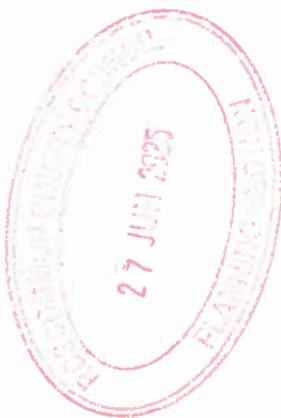
- █ PUBLIC CAR PARKING 01 - 02 - 03 & 4 - OUTLINED IN RED
- █ PROPOSED APARTMENTS OUTLINED IN BLUE
- █ THE DISTANCE BETWEEN PUBLIC CAR PARK 01 AND THE PROPOSED APARTMENTS IS 98 METRES, APPROXIMATELY A 1-MINUTE WALK.
- █ THE DISTANCE BETWEEN PUBLIC CAR PARK 02 AND THE PROPOSED APARTMENTS IS 140 METRES, APPROXIMATELY A 2-MINUTE WALK.
- █ THE DISTANCE BETWEEN PUBLIC CAR PARK 03 AND THE PROPOSED APARTMENTS IS 210 METRES, APPROXIMATELY A 3-MINUTE WALK.
- █ THE DISTANCE BETWEEN PUBLIC CAR PARK 04 AND THE PROPOSED APARTMENTS IS 230 METRES, APPROXIMATELY A 3-MINUTE WALK.

OS MAPS: 2219-05.2157-25

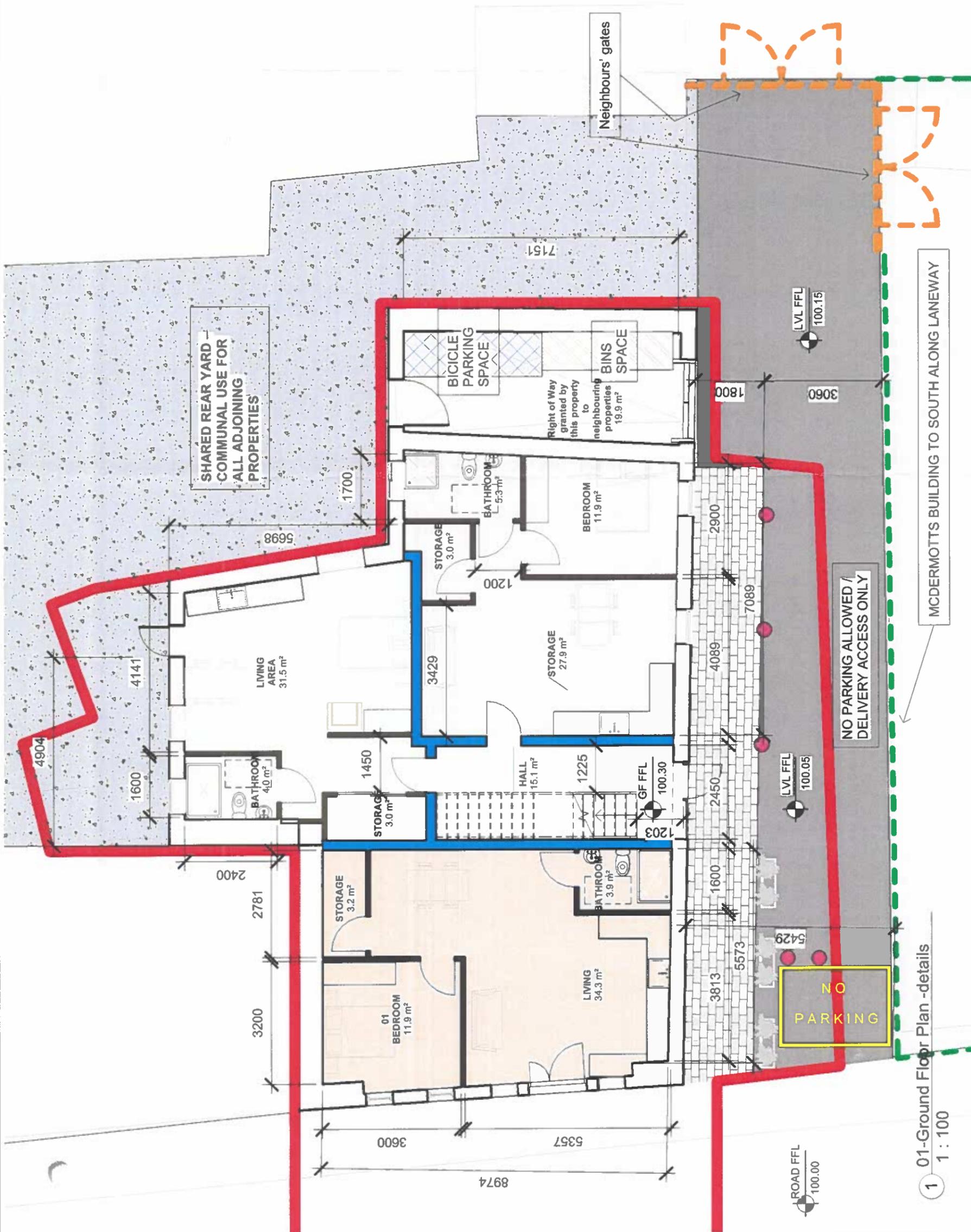


1 Parking
 1 : 2500

DRAWINGS FOR NOTIFICATION UNDER:
Exempt Development Regulations 2022



- ORIGINAL WALLS OF EXISTING HOUSE
- PROPOSED NEW WALLS TO BE BUILT
- PROPOSED FIRE-RESISTANT WALL
- AREASCHEDULE PROPOSED SPACES
- PROPOSED BIN SPACE
- PROPOSED BICYCLE PARKING SPACE
- PROPOSED WALK WAY
- SHARED REAR YARD
- NEIGHBOURS' GATES
- MCDERMOTTS BUILDING
- SITE BOUNDARY OUTLINED IN RED
- RETRACTABLE / LOCKABRE BOLLARDS



1 01-Ground Floor Plan -details
1 : 100

James Lohan
Planning & Design Consulting Engineers

Client: Marcos Silveira
Site: Saint Patrick's Street, Castlereagh, Co. Roscommon

Job No: 25-104
Date: 02/05/2025

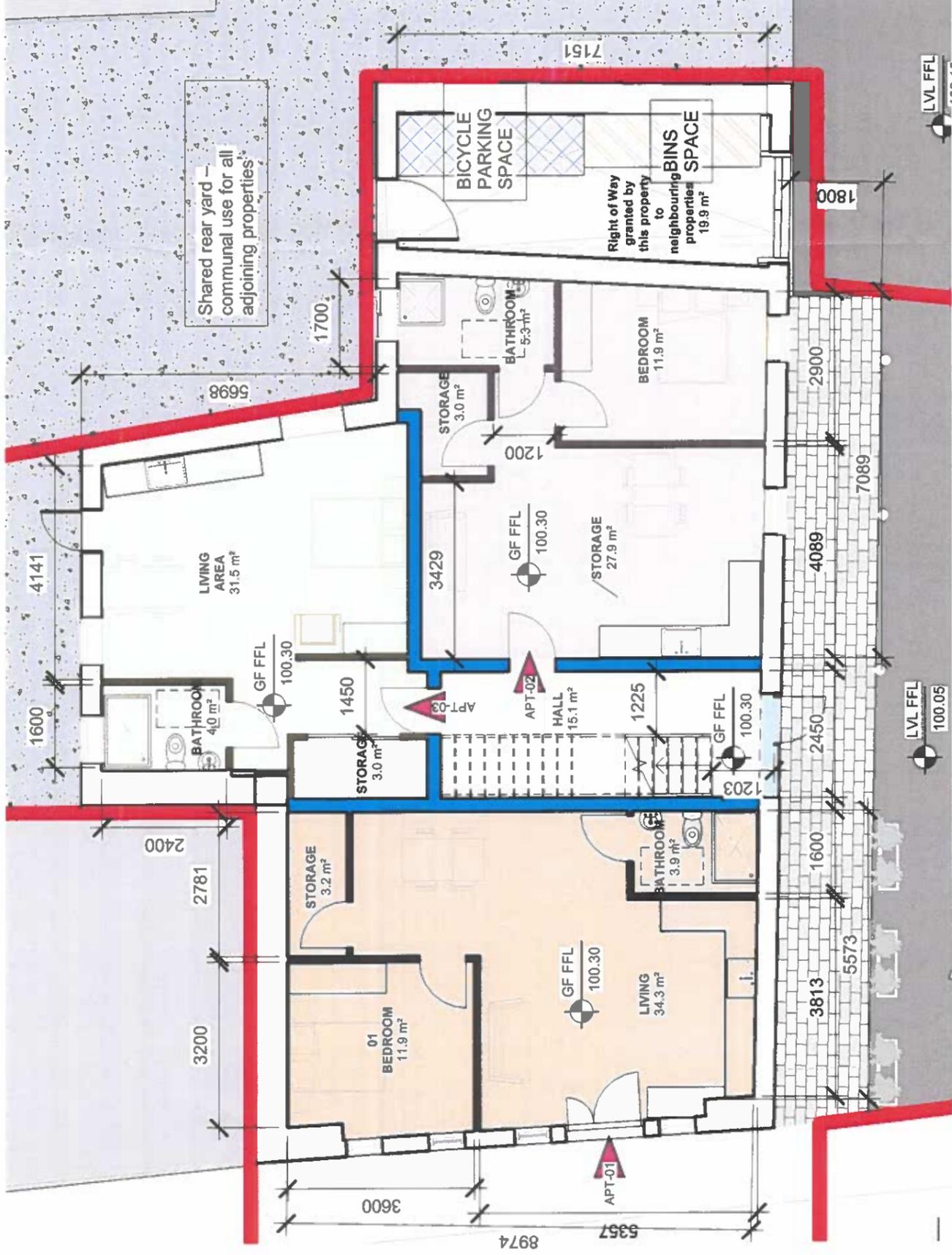
Drawn: C.Zen
Checked: C.Zen

EXEMPT DEVELOPMENT

1:50 SCALE FROM THIS DRAWING WORK ONLY FROM FIGURED DIMENSIONS.
ALL ERRORS AND OMISSIONS TO BE REPORTED TO THE ARCHITECT.
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STATUS KEY: SK SKETCH DESIGN PR PRELIMINARY FT FOR TENDER FC FOR CONSTRUCTION SS SUPERSEDED

James Lohan
Planning & Design Consulting Engineers

DRAWINGS FOR NOTIFICATION UNDER:
Exempt Development Regulations 2022



AREASCHEDULE

GROUND FLOOR AREA : 189 M²
FIRST FLOOR AREA : 189 M²
SECOND FLOOR AREA : 144 M²
TOTAL AREA : 522 M²



LEGEND

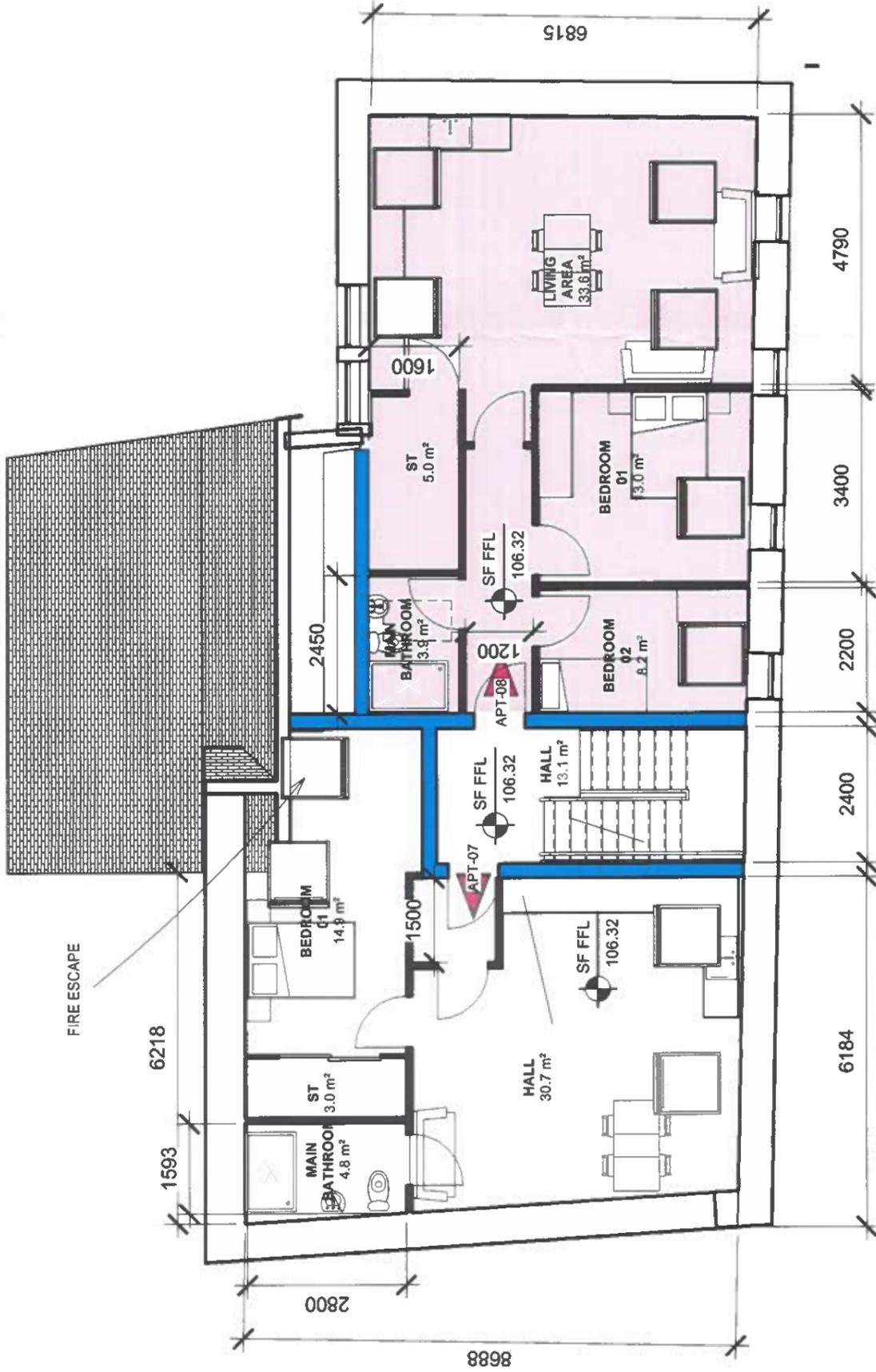
- EXISTING WINDOWS TO BE BLOCKED INSIDE - KEEP OUTSIDE ONLY
- EXISTING DOOR TO BE REPLACED WITH WINDOWS
- REPLACED EXISTING DOOR AND WINDOW WITH NEW DOOR AND SIDE GLASS PANEL
- NEW WINDOWS
- ORIGINAL OPEN LOCATION
- ORIGINAL WALLS OF EXISTING HOUSE
- PROPOSED NEW WALLS TO BE BUILT
- PROPOSED FIRE-RESISTANT WALL

LEGEND

Units	No. Beds	Persons per Unit	Gross Floor Area Provided (sq.m)	Gross Floor Area Required (sq.m)	Aggregate Living Area Provided (sq.m)	Aggregate Living Area Required (sq.m)	Aggregate Bedroom Area Provided (sq.m)	Aggregate Bedroom Area Required (sq.m)	Storage Area Provided (sq.m)	Storage Area Required (sq.m)
1	1	2	55	45	34.3	23	11.9	11.4	3.2	3
2	1	2	50	45	27.9	23	11.9	11.4	3.0	3
3	Studio	2	40	37	31.5	30	0	0	3.0	3
4	1	2	53	45	30.4	23	12.3	11.4	3.0	3
5	2	3	78	63	32.5	30	13+7.9=20.9	13+7.1=20.1	5	5
6	Studio	2	37	37	30	28	0	0	3.2	3
7	1	2	58	45	30.7	23	14.9	11.4	3.0	3
8	2	3	72	63	31.2	28	13.0+8.2=21.92	13+7.1=20.1	5	5

1 01-Ground Floor Plan - Proposed
1 : 100

**DRAWINGS FOR NOTIFICATION UNDER:
Exempt Development Regulations 2022**



1 03- Second Floor Plan -Proposed
1 : 100

LEGEND

- EXISTING WINDOWS TO BE BLOCKED INSIDE -KEEP OUTSIDE ONLY
- EXISTING DOOR TO BE REPLACED WITH WINDOWS
- REPLACED EXISTING DOOR AND WINDOW WITH NEW DOOR AND SIDE GLASS PANEL
- NEW WINDOWS
- ORIGINAL OPEN LOCATION
- ORIGINAL WALLS OF EXISTING HOUSE
- PROPOSED NEW WALLS TO BE BUILT
- PROPOSED FIRE-RESISTANT WALL

LEGEND

Units	No.Beds	Persons per Unit	Gross Floor Area Provided (sq.m)	Gross Floor Area Required (sq.m)	Aggregate Living Area Provided (sq.m)	Aggregate Living Area Required (sq.m)	Aggregate Bedroom Area Provided (sq.m)	Aggregate Bedroom Area Required (sq.m)	Storage Area Provided (sq.m)	Storage Area Required (sq.m)
1	1	2	55	45	34.3	23	11.9	11.4	3.2	3
2	1	2	50	45	27.9	23	11.9	11.4	3.0	3
3	Studio	2	40	37	31.5	30	0	0	3.0	3
4	1	2	53	45	30.4	23	12.3	11.4	3.0	3
5	2	3	78	63	32.5	30	13+7.9=20.9	13+7.1=20.1	5	5
6	Studio	2	37	37	30	28	0	0	3.2	3
7	1	2	58	45	30.7	23	14.9	11.4	3.0	3
8	2	3	72	63	31.2	28	13.0+8.2=21.92	13+7.1=20.1	5	5

DO NOT SCALE FROM THIS DRAWING WORK ONLY FROM FIGURED DIMENSIONS

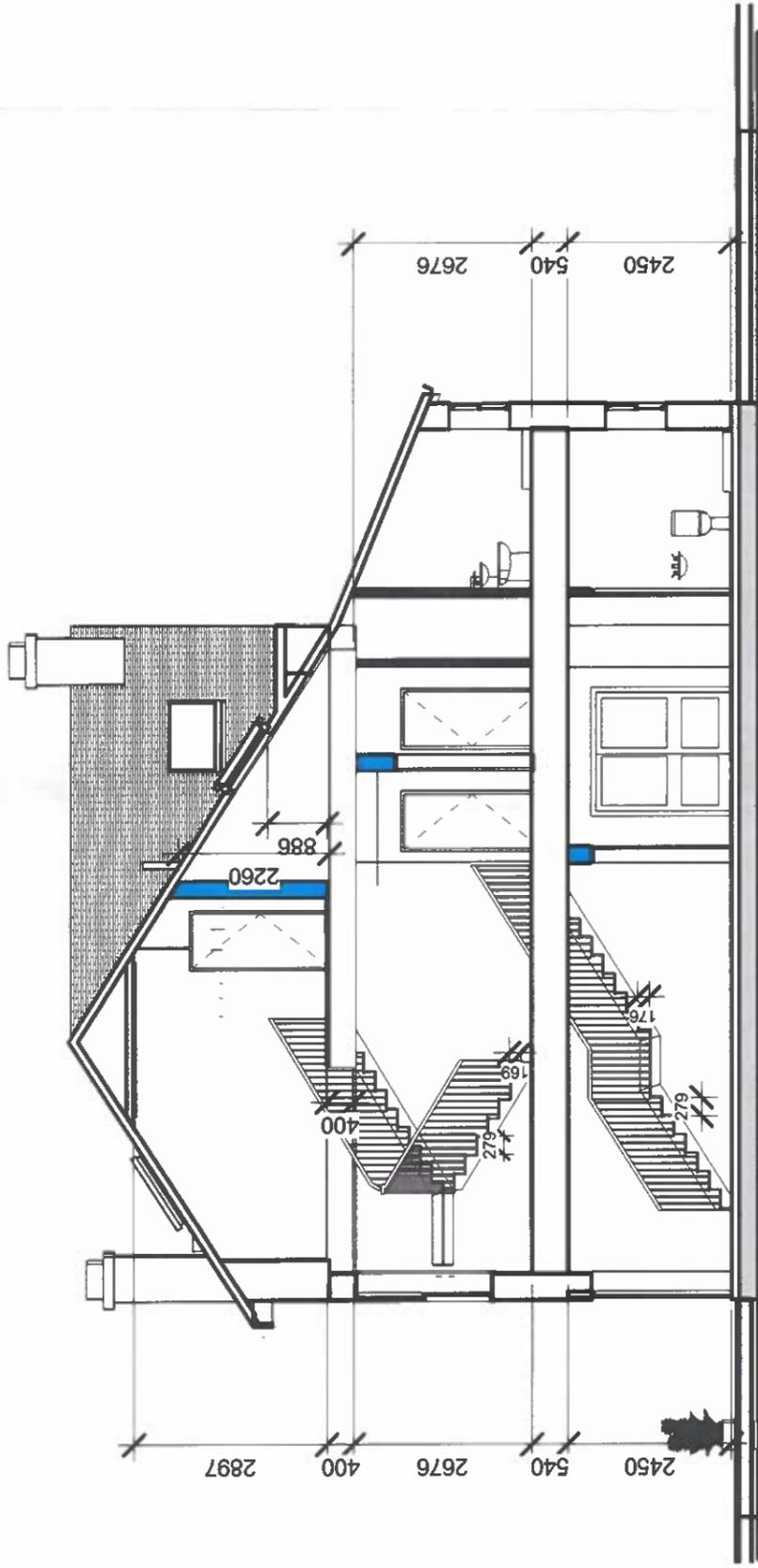
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DRAWINGS FOR NOTIFICATION UNDER:
Exempt Development Regulations 2022



1 Proposed Section 1
1 : 100

EXEMPT DEVELOPMENT

/	/	/	/	/	/	/	/	/	/
REV	1/A	2/B	3/C	4/D	5/E	6/F	7/G	8/H	9/I

James Lohan
Civil Engineering
Structural Design
Surveying

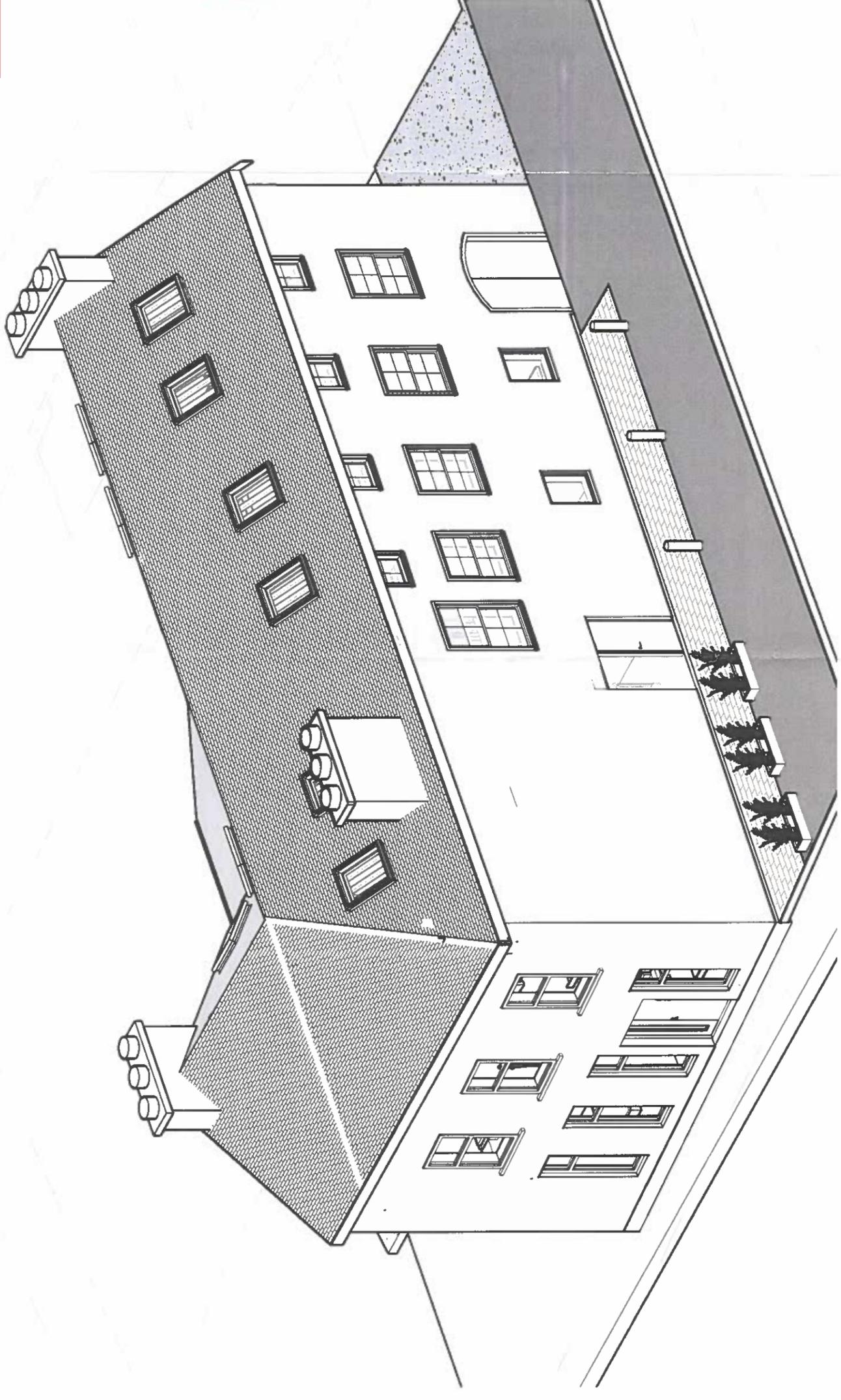
CLIENT: MARCOS SILVEIRA
SITE: SAINT PATRICK'S STREET, CASTLEREA, F45-T072, CO. ROSCOMMON

Unit 5, Ballybegone House, Roscommon F42CC982
Tel: (090) 663455
E-mail: jlohan@jlohan.ie

JOB No: 25-104
JOB TITLE: PLANNING APPLICATION
DRAWG No: 070
DRAWG TITLE: Sections Proposed
DATE: 02/05/2025
REV: REV
DESIGNED BY: C.Zem
As indicated @ A3



**DRAWINGS FOR NOTIFICATION UNDER:
Exempt Development Regulations 2022**



1 Front Perspective - Proposed

**EXEMPT
DEVELOPMENT**

NO.	REV
1	1
2	1
3	1
4	1
5	1
6	1
7	1
8	1
9	1
10	1



DRAWINGS FOR NOTIFICATION UNDER:
Exempt Development Regulations 2022



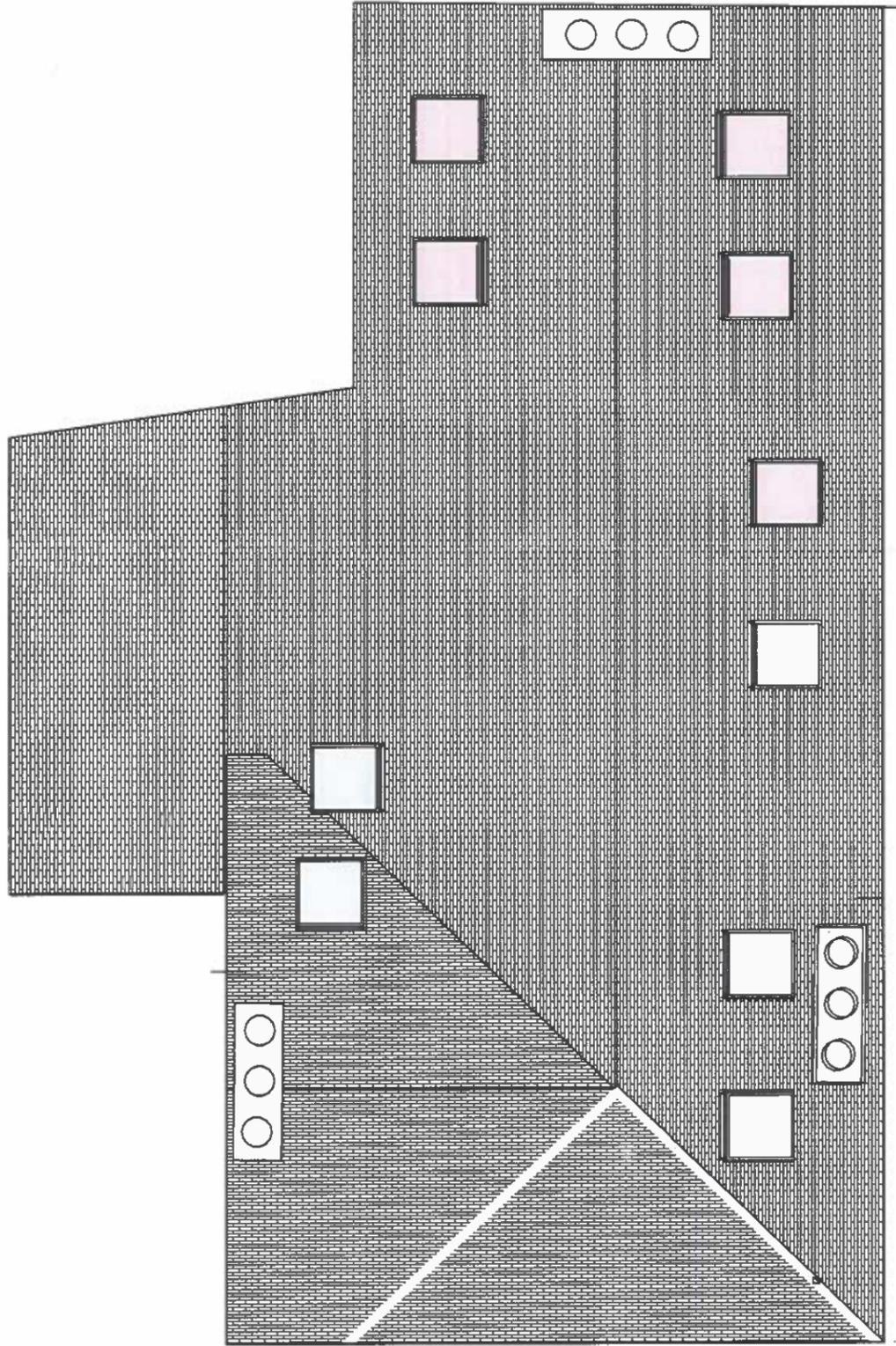
LEGEND



EXISTING ROOF WINDOWS



PROPOSED NEW ROOF WINDOWS



NOTE: ALL CHIMNEY STACKS WITHIN
STRUCTURAL WALLS

1 Roof Plan Proposed
1 : 100



James Lohan
Planning & Design Consulting Engineers

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STATUS KEY: SK SKETCH DESIGN PR PRELIMINARY FT FOR TENDER FC FOR CONSTRUCTION SS SUPERSEDED

**EXEMPT
DEVELOPMENT**

James Lohan
Civil Engineering
Architectural Design
Surveying
100, E. Ballyphegan Road,
Castlerock, Roscommon, F12C882
Tel: (087) 683446

CLIENT:
MARCOS SILVEIRA
SAINT PATRICK'S STREET,
CASTLEROCK, F12C-1072,
CO. ROSCOMMON

JOB No: 25-104
PLANNING APPLICATION: Roof Plan Proposed
DRAWING No: 040
DATE: 02/06/2025
REV:

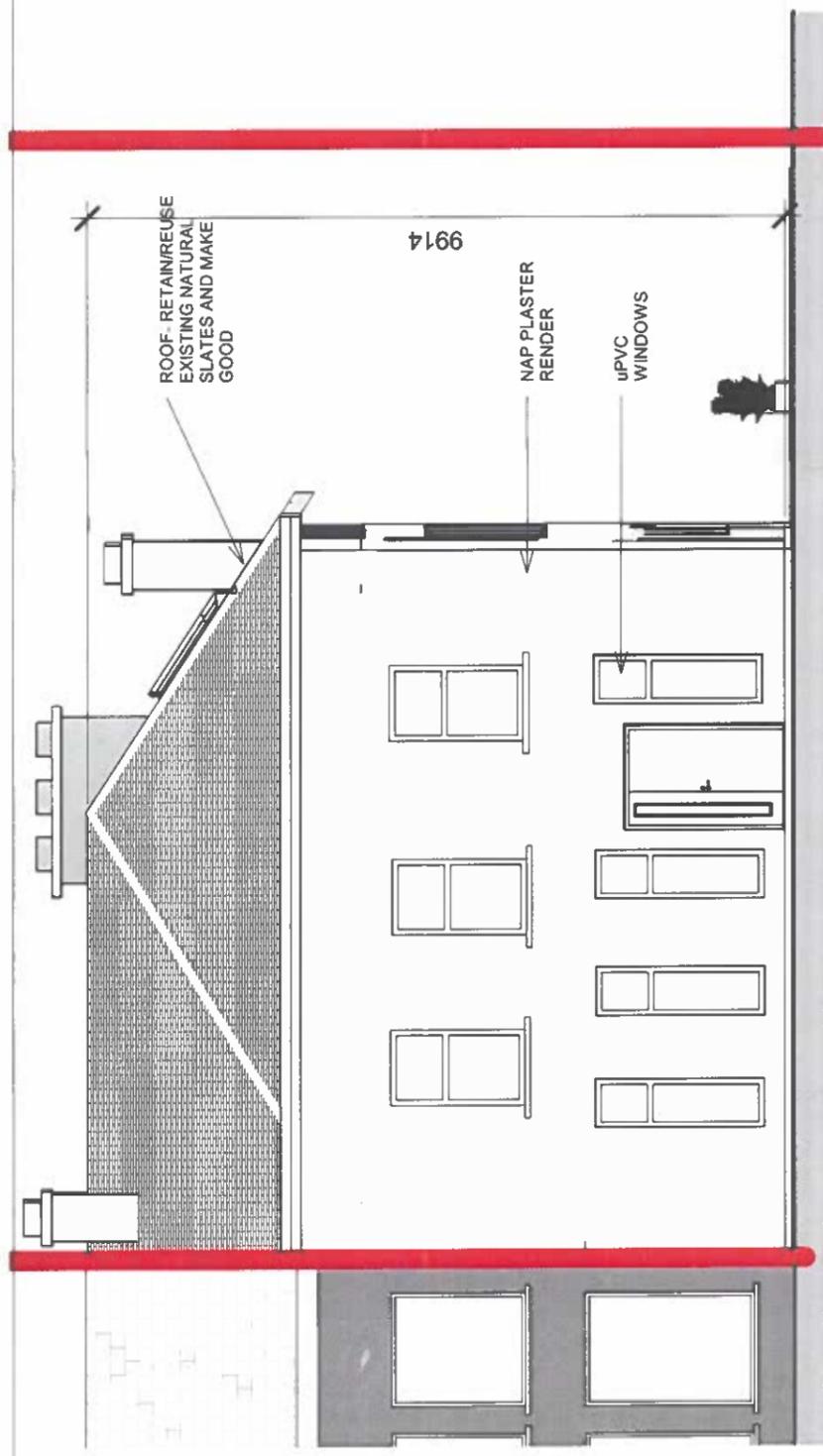
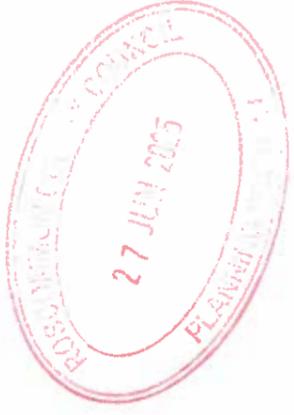
DESIGNED BY: C.Zeh
SCALE: As indicated @ A3



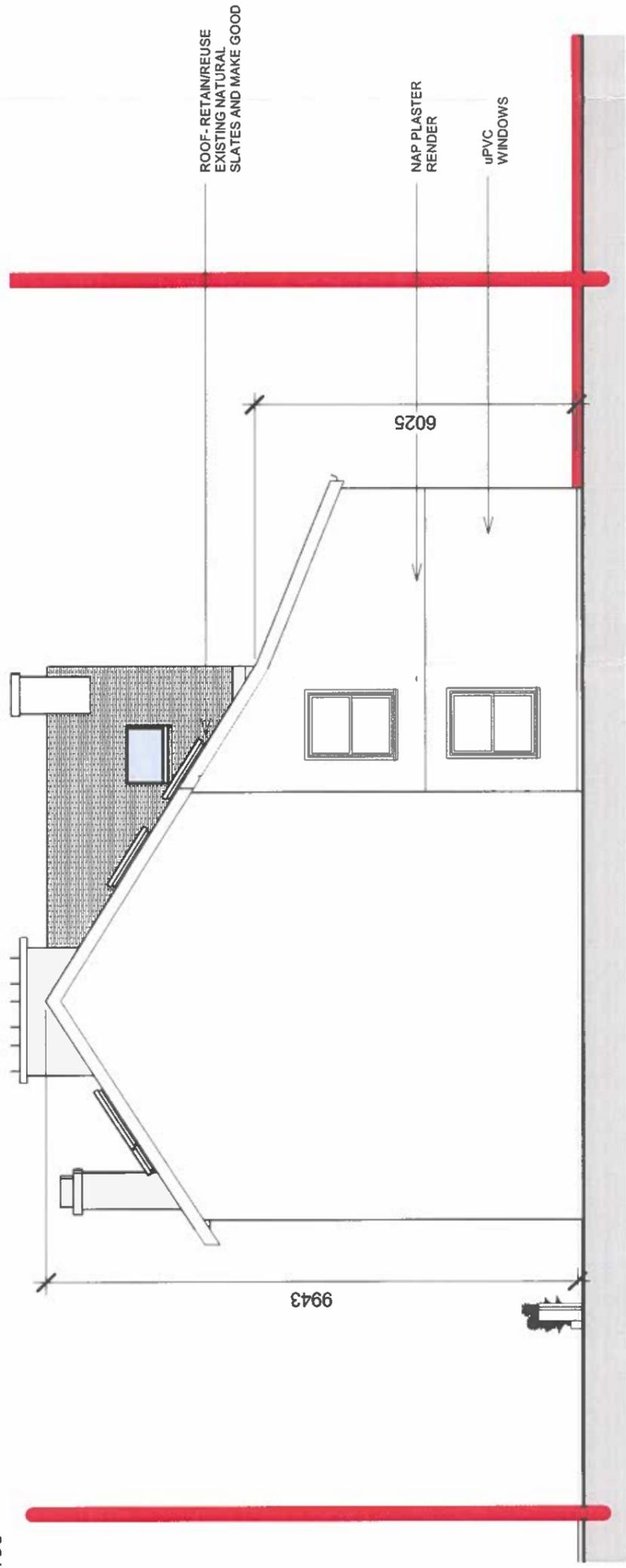
**DRAWINGS FOR NOTIFICATION UNDER:
Exempt Development Regulations 2022**

LEGEND

- EXISTING ROOF WINDOWS
- PROPOSED NEW ROOF WINDOWS



② Proposed Front Elevation (WEST)
1 : 100



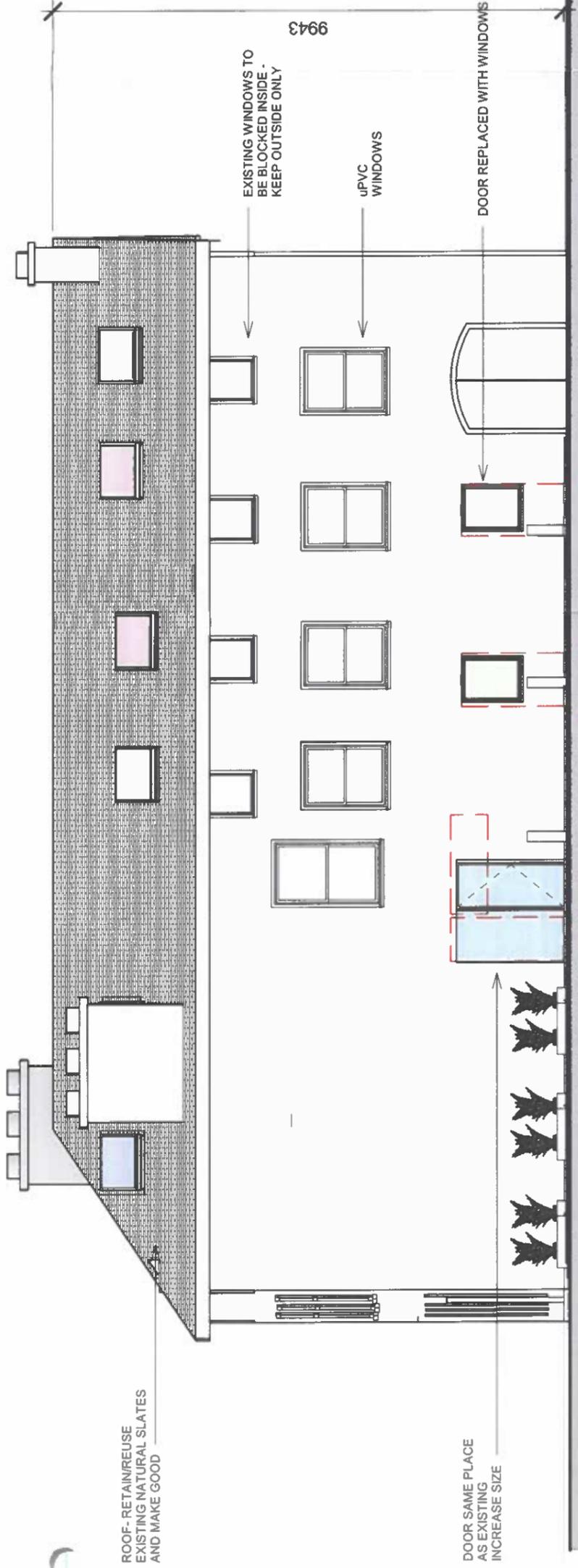
① Proposed Side Rear Elevation (EAST)
1 : 100

**DRAWINGS FOR NOTIFICATION UNDER:
Exempt Development Regulations 2022**



LEGEND

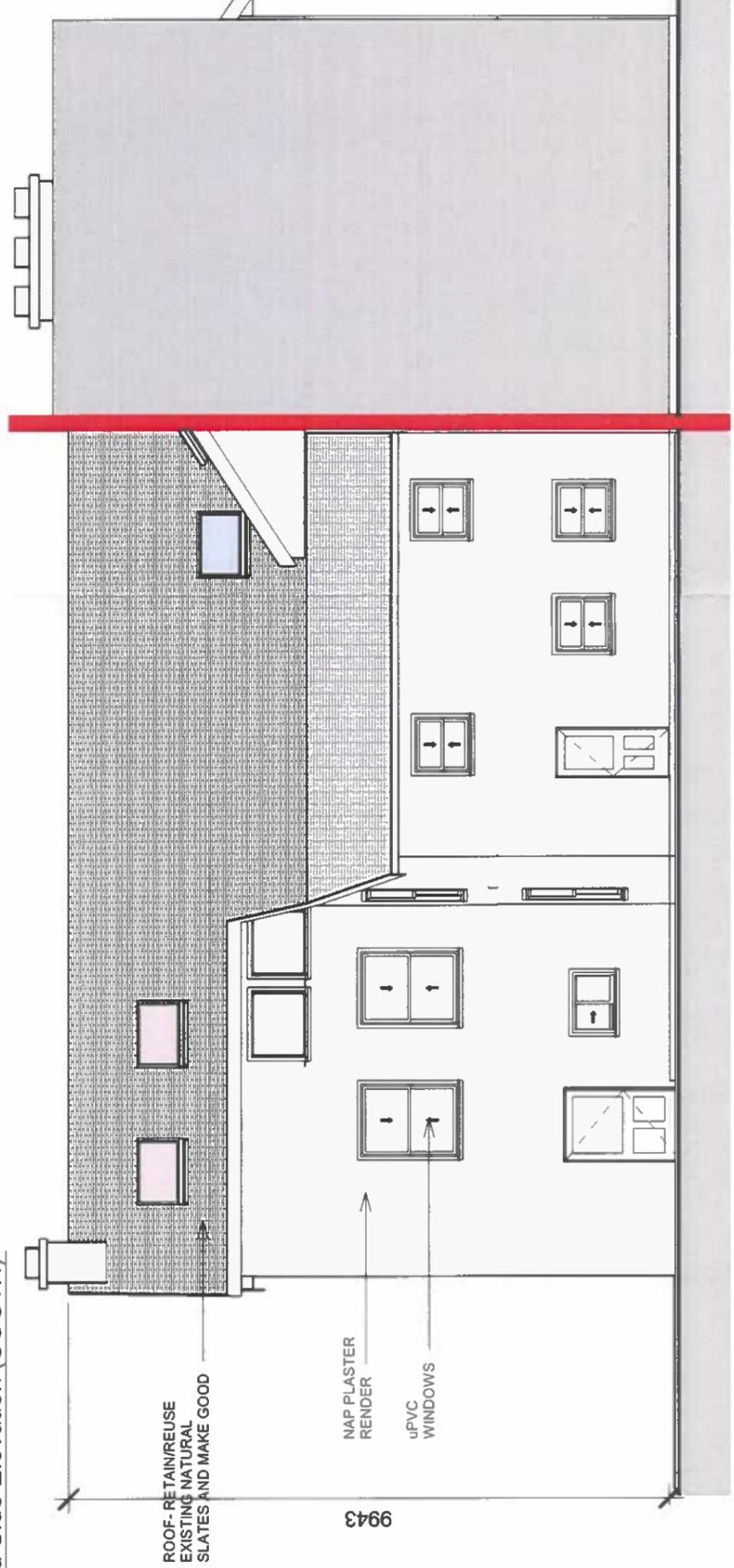
- EXISTING ROOF WINDOWS
- PROPOSED NEW ROOF WINDOWS



1 Proposed Side Elevation (SOUTH)
1 : 100

LEGEND

- EXISTING WINDOWS TO BE BLOCKED INSIDE -KEEP OUTSIDE ONLY
- EXISTING DOOR TO BE REPLACED WITH WINDOWS
- REPLACED EXISTING DOOR AND WINDOW WITH NEW DOOR AND SIDE GLASS PANEL
- NEW WINDOWS
- ORIGINAL OPEN LOCATION



2 Proposed Side Elevation (NORTH)
1 : 100

James Lohan
Architectural Design Services
100, Phoenix House, Circular Road, Roscommon F42 3B7
Tel: (086) 861455

CLIENT
MARCOS SILVEIRA
SAINT PATRICK'S STREET, CASTLEREA - F45-1072
CO. ROSCOMMON

JOB
PLANNING APPLICATION
DRAWING
Side Elevations
Proposed

JOB No
25-104

DATE
02/05/2025

DRG No
000

SCALE
As Indicated @ A3

DESIGNED BY
C.Zen

EXEMPT DEVELOPMENT

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STATUS KEY: SK SKETCH DESIGN PR PRELIMINARY FT FOR TENDER FC FOR CONSTRUCTION SS SUPERSEDED

James Lohan
Planning & Design Consulting Engineers



Marcos Silveira,



Date: 16th June 2025.

Re: Notification of Exempted Development - Article 10(6) Change of use Exemption Property formerly known as Horse & Jockey Pub, St. Patrick's Street, Castlereagh, Co. Roscommon.

A Chara,

I refer to your Notification of Exempted Development under Article 10(6) of the Planning & Development Regulations 2001(as amended) in relation to property formerly known as Horse & Jockey Pub, St. Patrick's Street, Castlereagh, Co. Roscommon, received on 13th May 2025.

It is noted that the Notification is in relation to a proposed change of use from a former pub to 8 residential units.

It is noted that the property was previously the subject of 2 no. Declaration of Exempted Development applications under Section 5 of the Planning & Development 2000 (as amended), as follows:

- DED/644: A declaration was sought regarding whether the conversion of a vacant pub into eight apartments is or is not development and is or is not exempted development. A declaration was issued by the Planning Authority on 12/02/2024 confirming that the proposed development is development that is not exempted development as defined within the Planning & Development Act 2000 (as amended) and associated Regulations.
- DED/678: A declaration was sought regarding whether the conversion of a vacant pub into eight apartments is or is not development and is or is not exempted development. A declaration was issued by the Planning Authority on 22/07/2024 confirming that the proposed development is development that is not exempted development as defined within the Planning & Development Act 2000 (as amended) and associated Regulations.

With regard to the Change of Use Notification submitted on 13th May 2025, your attention is drawn to Article 10(6)(d)(xi) which states the following:

"No development shall relate to matters in respect of which any of the restrictions set out in sub-paragraph (iv), (vii), (viiA), (viiB), (viiC), (viii) or (ix) of article 9(1)(a), or paragraph (c) or (d) of article (9)(1), would apply".

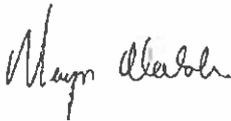
In particular, and as referred to in DED/644, DED/678, and Article 10(6)(d)(xi) outlined above, Article 9 (1)(a)(iii) applies to this proposal as the possibility that the proposal could "*endanger public safety by reason of traffic hazard or obstruction of road users*" cannot be excluded.

It is therefore advised that the proposed development is not in accordance with the criteria for availing of an exemption as set out under Article 10(6) of the Planning & Development Regulations 2001 (as amended) and requires planning permission.

It is noted that the property was previously the subject of a planning application, as follows:

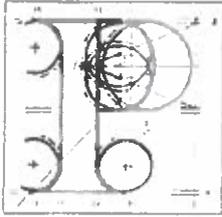
- PD/24/60459 - Permission for the change of use of existing derelict pub building into 9 apartments. The development will include alterations to elevations and construction of an extension along with alterations to existing roof, connection to existing public services and carry out all ancillary site development works at Saint Patrick's Street, Castlerea, Co. Roscommon, F45 T672 and a decision to refuse permission issued on 21st November 2024.

Mise le meas,



Mervyn Walsh,
Administrative Officer,
Planning Department.

c.c.: James Lohan Planning & Design Consulting Engineers Ltd.,
Unit 6, Ballypheason House,
Circular Road,
Roscommon,
Co. Roscommon.



An
Bord
Pleanála



Board Order
ABP-314440-22

Planning and Development Acts 2000 to 2022

Planning Authority: South Dublin County Council

Planning Register Reference Number: ED22/0023

WHEREAS a question has arisen as to whether the partial conversion of existing derelict public lounge to contain two apartments at Blue Gardenia, McDonaghs Lane, Brittas, County Dublin is or is not development or is or is not exempted development,

AND WHEREAS Edward Fahy care of Farry Town Planning Limited of Suite 180, 28 South Frederick Street, Dublin requested a declaration on this question from South Dublin County Council and the said Council issued a declaration on the 28th day of July, 2022 stating that the matter is development and is not exempted development,

AND WHEREAS the said question was referred to An Bord Pleanála by the said Edward Fahy on the 22nd day of August, 2022,



AND WHEREAS An Bord Pleanála, in considering this referral, had regard particularly to –

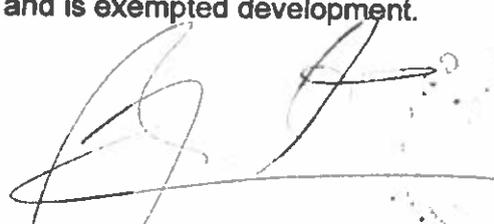
- (a) Sections 2(1) and 3(1)(a) of the Planning and Development Act 2000, as amended,
- (b) Articles 9(1) and 10(6) of the Planning and Development Regulations 2001, as amended,
- (c) Class 12 of Part 4 of Schedule 2 of the Planning and Development Regulations 2001, as amended,
- (d) the planning history of the Public House, and
- (e) relevant precedent referrals and judgments,

AND WHEREAS An Bord Pleanála has concluded that:

- (a) the proposed residential use is a material change in the use of the derelict public lounge at 'Blue Gardenia' Public House being development,
- (b) the proposed works to the derelict public lounge at 'Blue Gardenia' Public House to facilitate the proposed use is development, and
- (c) the proposed development would come within the scope of exempted development under Article 10(6)(c) as it would consist of a change of use of part of a Public House within Class 12 of Part 4 of Schedule 2 of the said regulations to residential use,

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5(3)(a) of the Planning and Development Act 2000, as amended, hereby decides that the partial conversion of the existing derelict public lounge to contain two apartments at Blue Gardenia, McDonagh's Lane, Brittas, County Dublin is development and is exempted development.

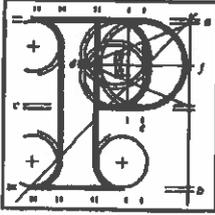


Joe Boland

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this *12th* day of *June* 2023.





An
Bord
Pleanála

Inspector's Report ABP-314440-22

Question	Whether the partial conversion of existing derelict public lounge to contain 2 apartments is or is not development or is or is not exempted development
Location	Blue Gardenia, McDonagh's Lane, Brittas, Co. Dublin
Declaration	
Planning Authority	South Dublin County Council
Planning Authority Reg. Ref.	ED22/0023
Applicant for Declaration	Edward Fahy
Planning Authority Decision	Is not exempted development
Referral	
Referred by	Applicant
Owner/ Occupier	Edward Fahy
Observer(s)	None
Date of Site Inspection	26 th May 2023
Inspector	Philip Maguire





1.0 Site Location and Description

- 1.1. The referral site is located in the rural village of Brittas, County Dublin, in the foothills of the Dublin Mountains and c. 5km south, southeast of Rathcoole. It is situated along and west of the N81 between Blessington and Tallaght, at its junction with L6048 (McDonagh's Lane). The surrounding area is characterised by ribbon development extending north and west along the adjoining roads, and to the southeast along the R114, opposite St Martin's National School. The Brittas River is c. 0.6km to the south.
- 1.2. The referral site is irregular shaped and consists of a two-storey building with double-apex roof and single-storey projections to the front, side and rear. The building lies to the south of the site with a surface car park to the north. Vehicular access is via the N81 where the posted speed limit is 60kph. The roadside boundary is defined by a low wall and railing with public footpath and bollards to the front. The external wall of the building together with an earth bank, trees, wall and fencing define the southern boundary. Remaining boundaries are defined by hedging and thick vegetation. The building previously operated as a public house known as Blue Gardenia, formerly the Brittas Inn. There was no evidence this use was operational during my site inspection.

2.0 The Question

- 2.1. The question relates to the partial conversion of a derelict public lounge to two apartments. The matter has been referred by the applicant for the declaration. The description of the proposed development as set out in Question 4 of the application form to the Planning Authority was:

'Partial conversion of existing derelict public lounge to contain 2 no. apartments – 1 no. one bed and 1 no. two bed.'
- 2.2. The referral documentation includes a cover letter and report prepared by Farry Town Planning and a proposed floor plan drawing prepared by DaCAD Designs. The drawing illustrates the proposed apartments to the southeast corner of the building. The internal layout broadly reflects that submitted to the Planning Authority albeit with marginal changes to the proposed floor areas within the two-bed apartment unit.
- 2.3. Works are mostly internal but include the replacement of existing openings to the front and side with new windows, three in total, and the removal of part of the flat roof above.



3. Planning Authority Declaration

3.1. Declaration

3.1.1. The Planning Authority issued a declaration on 25th July 2022 which stated:

"That the applicant be informed that the proposed development of Partial conversion of existing derelict public lounge to contain 2 no. apartments – 1 no. one bed and 1 no. two bed at Blue Gardena, McDonagh's Lane, Brittas, Co. Dublin is development and is not considered to be exempted development under the Planning and Development Act 2000 (as amended) and the Planning and Development Regulations 2001, (as amended) and therefore does require planning permission."

3.1.2. I note the Planning Authority, throughout their documentation refer to the building as 'Blue Gardena' as opposed to 'Blue Gardenia', as per the application form.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- **Planning Report (25/07/22):** Basis for the Planning Authority decision. It assessed the proposal against the various criteria, conditions and limitations under Articles 10(6)(c) and 10(6)(d) of the Planning Regulations and considered that further information was required in respect of the vacancy period; proposed commencement and completion; effects on European sites; and wastewater treatment. It also considered that information was required in respect of traffic impacts but it deemed the proposal did not comply with this condition in the absence of same. Finally, it considered the proposal failed to comply with Article 10(6)(d)(vi) in relation to minimum floor areas set out in the Apartment Guidelines and Article 10(6)(d)(vii) in relation to availability of adequate natural lighting. It concluded that the proposal is development and not exempted development by virtue of Article 9(1)(a)(iii) or Article 10(6)(d)(vi), (vii) and (xi) of the Regulations.

3.2.2. Other Technical Reports

None.



4.0 Planning History

4.1. Referral site:

PA ref. SD21A/0061: Permission refused in May 2021 for the change of use of partial ground floor area of public house for use as 2 no. apartments (1 no. two-bed and 1 no. one-bed) for 8 no. reasons. The following are relevant to this case:

3. *The proposed vehicular access onto the N81 at a location where the speed limit is 60km/h and where there is a bend in the road approximately 50m to the south of the proposed access, where the sightline envelope has not been satisfactorily determined at this location, would endanger public safety by reason of traffic hazard or obstruction of road users or otherwise and would therefore be contrary to the proper planning and sustainable development of the area.*
7. *Having regard to the absence of an Ecological Assessment, and mitigating proposals, submitted with the planning application, and having regard to the location of the site in proximity to the Brittas pNHA, for which the Local Authority has an obligation to protect, it cannot be determined that there will be no likelihood of significant effects on the environment arising from the proposed development and if granted could result in a detrimental impact on the receiving environment and would therefore be contrary to the proper planning and sustainable development of the area.*
8. *Having regard to the drinking water supply to the proposed units/Blue Gardenia building sourced from an on-site well which is situated immediately adjacent to the wastewater percolation system for the site which would service the proposed change of use and the lack of site suitability assessment submitted with the wastewater treatment system and percolation area the proposed development could be prejudicial to public health and if granted would be contrary to the proper planning and sustainable development of the area.*

PA ref. SD19A/0183: Permission refused in July 2019 for retention of a single-storey kiosk to serve tea and coffee to takeaway customers etc. The Planning Authority considered that there was inadequate visibility at the proposed entrance and the proposal would lead to increased traffic movement which would endanger public safety by reason of a traffic hazard.



PA ref. S98A/0542: Permission granted in December 1998 for retention of sewage treatment plant. Condition 2 required the installation of adequate percolation pipework to accommodate the effluent generated by the proposed treatment system operating at full capacity i.e. 23,000 litres/day.

PA ref. S97A/0659: Permission granted in January 1998 for a new lobby and façade alterations. Condition 6 required surface water to discharge to soakways and not to the septic tank system.

PA ref. S97A/0190: Permission granted in July 1997 for alterations to the facade and extension to form new lobby entrance.

PA ref. M/2249: Permission granted in December 1977 for a new porch at entrance to existing bar.

PA ref. K/2811: Permission granted in March 1977 for the conversion of enclosed yard to covered store.

PA ref. G/1715: Permission granted in January 1975 for fascia and signs.

PA ref. G/1714: Permission granted in February 1975 for extension to premises.

4.2. Adjacent site(s):

c. 60m west, northwest

PA ref. SD21A/0349: Permission refused in February 2022 for retention of a single-storey log cabin dwelling and vehicular access with new DWWTs etc. for 8 no. reasons including rural housing need; residential amenity; ribbon development; traffic safety; public health; and Appropriate Assessment.

5.0 Policy Context

5.1. South Dublin County Development Plan 2022-2028

5.1.1. The current Development Plan came into effect on 3rd August 2023. The Planning Authority decision of 26th July 2022 was made under the previous Plan for the period 2016-2022. This referral shall be determined under the current Plan.

5.1.2. The referral site is zoned 'High Amenity – Dublin Mountains' (HA-DM) with a zoning objective *'to protect and enhance the outstanding natural character of the Dublin*



Mountains Area. Residential uses are 'open for consideration' in accordance with Council policy for residential development in rural areas and not permitted above 350m contour. The referral site lies between the 240m and 250m contour.

5.2. Apartment Guidelines

- 5.2.1. The Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (DHLGH, July 2023) focus on the locational and planning specific aspects to apartment development generally. Section 1.10 notes that they also provide a "target standard" where existing buildings are to be "wholly or partly redeveloped or refurbished for residential use", including apartments, and acknowledges the exemption under S.I. No. 30 of 2018 (Planning and Development (Amendment) (No. 2) Regulations 2018), since extended under S.I. No. 75 of 2022.
- 5.2.2. Section 6.5 of the Guidelines notes the importance of the provision of acceptable levels of natural light in new apartment development but states that planning authorities must weigh up the overall quality of the design and layout of the scheme and measures proposed to maximise daylight provision with the site location etc.
- 5.2.3. Section 6.6 of the Guidelines notes that planning authorities should have regard to quantitative performance approaches to daylight provision outlined in guides like *A New European Standard for Daylighting in Buildings EN17037* or *UK National Annex BS EN17037* and the associated *BRE Guide 209 2022 Edition* (June 2022).
- 5.2.4. Section 6.7 notes that where an applicant cannot fully meet all of the daylight provision requirements, this must be clearly identified and a rationale for alternative, compensatory design solutions must be set out, which planning authorities should accept at their discretion, taking account of their assessment of specific objectives.
- 5.2.5. Section 6.9 of the Guidelines requests planning authorities to practically and flexibly apply the general requirements of the guidelines in relation to refurbishment schemes, particularly in historic buildings, 'over the shop' or other existing conversion projects, where property owners must work with existing building fabric and dimensions.
- 5.2.6. The Guidelines state that various standards may be relaxed for building refurbishment schemes, on a case-by-case basis, subject to overall design quality. These include storage space, private amenity space and communal amenity space requirements.



5. **Natural Heritage Designations**

Slade of Saggart and Crooksling Glen pNHA (000211) – east of the N81.

6.0 **The Referral**

6.1. **Referrer's Case**

6.1.1. The referrer's case can be summarised as follows:

- In respect of ecological considerations, the referrer submits that the exclusionary provisions set out in Article 9 of the Planning Regulations do not apply to the subject referral as the Slade of Saggart and Crooksling Glen pNHA does fall within the definition of a 'European site' as per section 177R of the Planning Act.
- With regards wastewater treatment and referring to "Article 10(6)(vii)" of the Planning Regulations whilst citing the text under Article 10(6)(d)(xii), the referrer submits that the Planning Authority's approach, whereby the proposal would be deemed as requiring consent on the basis of the inadequacy of the submitted sewage information, is legally incorrect. The referrer states that "Article 10(6)(vii)", presumably Article 10(6)(d)(xii), does not direct the local authority to consider the adequacy or sufficiency of the foul effluent system.
- In relation to the timing of the works, it is stated that the referrer intends to undertake the works for the provision of the new apartments as soon as may be after the issue of any favourable determination by the Board and to complete all operations on or before 31st December 2025.
- With regards to road safety and referencing *Cunningham v An Bord Pleanála*, the referrer notes that at no time did the Council highlight any physical feature, road characteristic or other engineering consideration which would support the conclusion that the carrying out of this development would endanger public safety by reason of a traffic hazard etc. The referrer states that no part of the development would be located in close proximity to the site access, and drivers, cyclists and pedestrians would be unaffected by the proposal.
- In relation to the provision of adequate natural light, the referrer notes that the proposal is identical to that refused under PA ref. SD21A/0061 and none of the 8



no. refusal reasons were based on light penetration or the standard of internal accommodation to be provided. The referrer states that the Council's Planning Report does not refer to any planning standard such as the Development Plan or any design norms in terms of the Building Regulations. The referrer contends that bedrooms are used at night when the need for daylight to undertake domestic tasks would have ceased and the proposal should not be de-exempted on this ground. They conclude that available light to future residents would be acceptable.

- In respect of floorspace, the referrer submits that the Council erred in its interpretation of "Article (6)(d)(vi)" of the Planning Regulations when considering the proposal didn't comply with the storage space requirements, presumably Article 10(6)(d)(vi). The referrer notes that the Regulations make no reference to any maximum storage area but simply seeks to ensure compliance with the minimum storage requirements. In terms of the size of the larger bedroom within the two-bed apartment, the referrer has submitted a modified drawing showing an increase in floor area from 11.52sq.m to 13sq.m. It is stated that this drawing also addresses the Planning Authority's maximum floorspace concerns.

6.2. Planning Authority Response

6.2.1. The Planning Authority's response can be summarised as follows:

- The Planning Authority confirms its decision.
- The issues raised in the appeal have been covered in the planner's report.

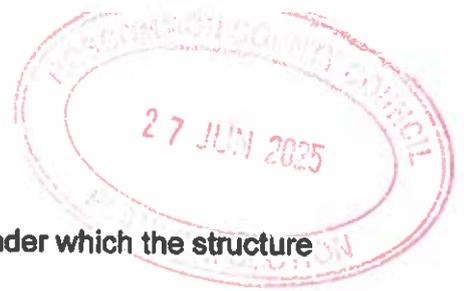
7.0 Statutory Provisions

7.1. The relevant provisions are set out in the Planning and Development Act 2000 (as amended) ('PDA 2000 or the Act') and the Planning and Development Regulations 2001 (as amended) ('PDR 2001 or the Regulations').

7.2. Section 2 – PDA 2000

7.2.1. Section 2(1) provides the following interpretations which are relevant:

"structure" means *inter alia* any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined,



and where the context so admits, includes the land on, in or under which the structure is situate etc.;

“use”, in relation to land, does not include the use of the land by the carrying out of any works thereon; and

“works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal etc.

7.3. Section 3 – PDA 2000

7.3.1. Section 3(1)(a) defines “development” as:

The carrying out of any works in, on, over or under land, or the making of any material change in the use of any land or structures situated on land.

7.4. Article 9 – PDR 2001

7.4.1. Article 9 in effect de-exempts certain classes of development that would be exempt under normal circumstances. The restrictions under Article 9(1)(a) apply if the carrying out of such development would *inter alia*:

(iii) endanger public safety by reason of traffic hazard or obstruction of road users,

(viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site, and

(viiC) consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000.

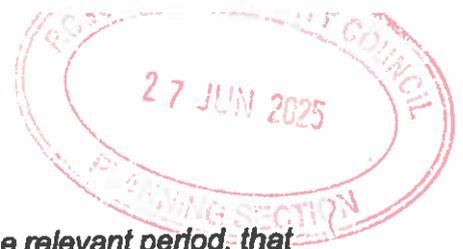
7.5. Article 10 – PDR 2001

7.5.1. Article 10(6) is directly relevant:

(a) In this sub-article—

‘habitable room’ means a room used for living or sleeping purposes but does not include a kitchen that has a floor area of less than 6.5 square metres;

‘relevant period’ means the period from 8 February 2018 until 31 December 2025.



(b) This sub-article relates to a proposed development, during the relevant period, that consists of a change of use to residential use from Class 1, 2, 3, 6 or 12 of Part 4 to Schedule 2.

(c) Notwithstanding sub-article (1), where in respect of a proposed development referred to in paragraph (b)—

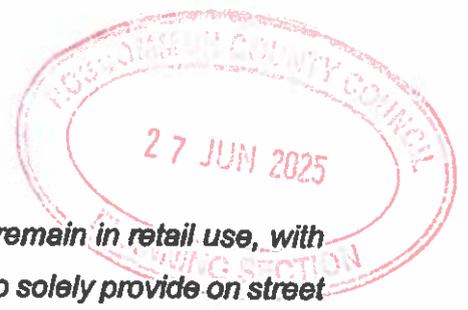
- (i) the structure concerned was completed prior to the making of the Planning and Development (Amendment) (No. 2) Regulations 2018,**
- (ii) the structure concerned has at some time been used for the purpose of its current use class, being Class 1, 2, 3, 6 or 12, and**
- (iii) the structure concerned, or so much of it that is the subject of the proposed development, has been vacant for a period of 2 years or more immediately prior to the commencement of the proposed development,**

then the proposed development for residential use, and any related works, shall be exempted development for the purposes of the Act, subject to the conditions and limitations set out in paragraph (d).

(d) (i) The development is commenced and completed during the relevant period.

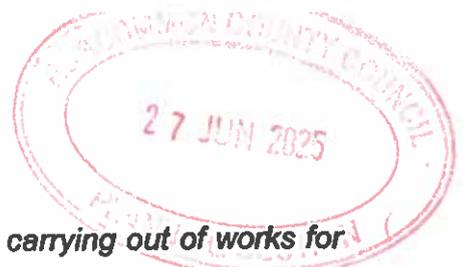
(ii) Subject to sub-paragraph (iii), any related works, including works as may be required to comply with sub-paragraph (vii), shall –

- (I) primarily affect the interior of the structure,**
 - (II) retain 50 per cent or more of the existing external fabric of the building, and**
 - (III) not materially affect the external appearance of the structure so as to render its appearance inconsistent with the character of the structure or of neighbouring structures.**
- (iii) Any related works for the alteration of existing ground floor shop fronts shall be consistent with the fenestration details and architectural and streetscape character of the remainder of the structure or of neighbouring structures.**
- (iv) No development shall consist of or comprise the carrying out of works to the ground floor area of any structure which conflicts with any objective of the relevant local authority development plan or local area plan, pursuant to the**



Part 1 of the First Schedule to the Act, for such to remain in retail use, with the exception of any works the purpose of which is to solely provide on street access to the upper floors of the structure concerned.

- (v) *No development shall consist of or comprise the carrying out of works which exceeds the provision of more than 9 residential units in any structure.*
- (vi) *Dwelling floor areas and storage spaces shall comply with the minimum floor area requirements and minimum storage space requirements of the "Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities" issued under section 28 of the Act or any subsequent updated or replacement guidelines.*
- (vii) *Rooms for use, or intended for use, as habitable rooms shall have adequate natural lighting.*
- (viii) *No development shall consist of or comprise the carrying out of works to a protected structure, as defined in section 2 of the Act, save where the relevant planning authority has issued a declaration under section 57 of the Act to the effect that the proposed works would not materially affect the character of the structure or any element, referred to in section 57(1)(b) of the Act, of the structure.*
- (ix) *No development shall contravene a condition attached to a permission under the Act or be inconsistent with any use specified or included in such a permission.*
- (x) *No development shall relate to any structure in any of the following areas:*
 - (I) *an area to which a special amenity area order relates;*
 - (II) *an area of special planning control;*
 - (III) *within the relevant perimeter distance area, as set out in Table 2 of Schedule 8, of any type of establishment to which the Major Accident Regulations apply.*
- (xi) *No development shall relate to matters in respect of which any of the restrictions set out in sub-paragraph (iv), (vii), (viiA), (viiB), (viiC), (viii) or (ix) of article 9(1)(a), or paragraph (c) or (d) of article (9)(1), would apply.*



- (xii) *No development shall consist of or comprise the carrying out of works for the provision of an onsite wastewater treatment and disposal system to which the code of practice made by the Environmental Protection Agency pursuant to section 76 of the Environmental Protection Agency Act 1992 relates and entitled Code of Practice –Wastewater Treatment and Disposal Systems Serving Single Houses together with any amendment to that Code or any replacement for it.*

7.5.2. Part 4 of Schedule 2 sets out the following relevant class of use:

CLASS 12 *Use as a Public House, meaning a premises which has been licensed for the sale and consumption of intoxicating liquor on the premises under the Licensing Acts 1833 to 2018.*

7.6. Precedent Referral Cases

- 7.6.1. In ABP ref. RL2442, the Board considered whether the change of use from a public house to off-licence is or is not development or is or is not exempted development. The main issue was whether a material change of use had taken place. The Board decided that the change of use was development and was not exempted development, concluding *inter alia* that the change of use from use as a public house to use as an off-licence constitutes a material change of use by reason of trading patterns, consumption on the premises versus consumption off the premises, car parking and traffic, likely impacts on neighbouring residential amenity and social behaviour.
- 7.6.2. In ABP ref. RL2398, the Board considered whether the change of use of part of public house to a shop is or is not development or is or is not exempted development. The Board decided that the change of use was development and not exempted development, concluding that Class 14, Part 1, Schedule 2 of the Regulations didn't apply as the use would endanger public safety by reason of a traffic hazard etc. [Article 9(1)(a)(iii)]. The Inspector's comments in respect of material change of use are noted.
- 7.6.3. In ABP ref. RL2727, the Board considered whether the use of a premises as a Public House, having not been used as a Public House between 1991 and December 2009, was or was not development and was or was not exempted development. The Board decided that the property had existed as a Public House since prior to 1991 and had not changed or been abandoned and concluded that it was not development.



7... Precedent Judgements

Change of Use

- 7.7.1. In *Roadstone Provinces Ltd v An Bord Pleanála* [2008] IEHC 2010, the courts approved the decision in *Galway Co Co v Lackagh Rock* (cited below) and concluded that the Board would have to consider that there had been a change in use before looking at planning considerations to determine the materiality of the identified change.

Material Change in Use

- 7.7.2. In *Monaghan County Council v Brogan* [1987] IR 333, the courts confirmed that the term "material" means material in planning terms, that is whether the issues raised by the change of use would raise matters that would normally be considered by a planning authority if it were dealing with an application for planning permission, such as "residential amenity, traffic safety or policy issues in relation to statutory plans".
- 7.7.3. In *Galway Co Co v Lackagh Rock Ltd* [1985] IR 120, the courts concluded that in determining whether or not a present use was materially different to a previous use, regard must be had to matters of planning concern arising on the previous use when compared with the present use. If these matters were materially different than the nature of the present use, it must be equally materially different.
- 7.7.4. In *Stanley v An Bord Pleanála* [2022] IEHC 177, the courts refused a challenge to the validity of the Board's determination that a change of use was 'material' and affirmed the authorities under *Galway Co Co*, *Monaghan Co Co* and *Roadstone Provinces*.

Factors to Consider Regarding Materiality

- 7.7.5. In *Carrickhall Holdings Ltd v Dublin Corporation* [1983] ILRM 268, the courts had regard to the impact of the new use on the amenities of local residents and in particular the increased traffic, parking and noise when considering whether there had been a material change from a hotel bar to a public bar.

Planning Unit

- 7.7.6. In *Carroll and Colley v Brushfield Ltd* (unreported, 9 October 1992) HC, the courts held that the planning unit was the entire hotel premises when considering whether the change of use of part of the building was a change within the overall use of the building.



8.0 Assessment

8.1. Preliminary Points

- 8.1.1. The referral relates to the partial conversion of an 'existing derelict public lounge' to residential use. The planning history for the premises dates from the 1970's (Section 4.1). I also note that the 'Brittas Inn' is depicted on historical mapping for the area (Historic 25 Inch, 1897-1913), suggesting that it is a pre-1963 structure, hence the first planning application being for an extension to the premises under PA ref. G/1714.
- 8.1.2. The referrer states that the premises has been in his ownership since August 2017, at which time it had been vacant for eight years. He also states that the premises was reopened in August 2018 but closed again in March 2020, and its licence was sold.
- 8.1.3. I am therefore satisfied that the 'public lounge' is part of a 'premises which has been licensed for the sale and consumption of intoxicating liquor on the premises' within Class 12, Part 4, Schedule 2 i.e. a Public House. I am also satisfied that this use has been lawfully established and not abandoned notwithstanding references to dereliction and the sale of the licence, having regard to the commentary under ABP ref. RL2727.

8.2. Development – *is or is not...*

- 8.2.1. The proposal involves a change of use of part of a Public House to residential use. It is self-evident that this is a change of use, and this change gives rise to material planning considerations in respect of traffic safety and residential amenity, in particular. Indeed, some policy issues also arise given the HA-DM zoning objective. It is also evident that S.I. No. 30 of 2018 (Planning and Development (Amendment) (No. 2) Regulations 2018), since extended under S.I. No. 75 of 2022, was specifically introduced to provide an exemption for this type of residential development.
- 8.2.2. The proposal also involves the blocking up of doors and windows to the front and side of the building and partial removal of the flat roof to create 'external courtyards', albeit within the built footprint. This falls within the definition of 'works' and is also therefore development. The partial conversion of the existing derelict public lounge to contain 2 no. apartments is therefore development. This is not disputed by either party.



8. . Exempted Development – Is or is not...

8.3.1. A change of use to residential use from *inter alia* Class 12, use as a Public House, and any related works, during the period from 8th February 2018 to 31st December 2025 is exempted development under Article 10(6)(c) of the Regulations, subject to the conditions and limitation under Article 10(6)(d). Before considering these, it is important to address the preliminary criteria under Article 10(6)(c)(i) to (iii), inclusive.

(i) – Status of the Structure Concerned

Having regard to my site inspection, the documentation on file and other relevant documentation including the planning history and historical mapping, I am fully satisfied that the structure was completed prior to the making of the Planning and Development (Amendment) (No. 2) Regulations 2018 i.e. prior to 8th February 2018.

(ii) – Use of the Structure Concerned

Having regard to my site inspection, the documentation on file including the referrers submission that the premises was most recently open between August 2018 and March 2020, and other relevant documentation including the planning history and historical mapping, I am fully satisfied that the structure was at some time used for the purpose of its current use class, being Class 12, use as a Public House.

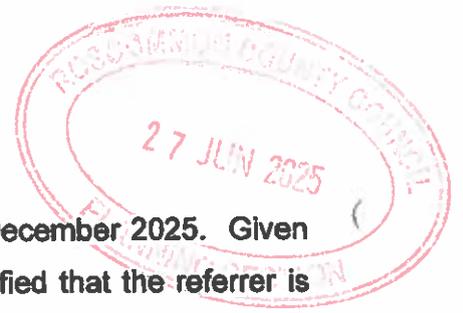
(iii) – Period of Vacancy of the Structure Concerned

There is no definition of “vacant” in the Planning Regulations, nor in the subsequent S.I. No. 75/2022, however it should be given its natural and ordinary meaning which suggests the premises is empty and not being used. Whilst the Planning Authority noted that the applicant had not provided any evidence to prove the vacancy period, I am satisfied the structure concerned, or so much of it that is the subject of the proposed development, would, on the balance of probabilities, be vacant for a period of more than 2 years immediately prior to the commencement of the proposal.

8.3.2. The proposal would therefore be exempt under Article 10(6)(c), subject to the conditions and limitations under Article 10(6)(d) which are now considered in turn.

(i) – Commencement and Completion

The referrer has submitted that they intend to commence the works for the provision of the new apartments as soon as may be after the issue of a favourable determination



by the Board and complete all operations on or before 31st December 2025. Given the relatively minor nature of the proposed works, I am satisfied that the referrer is likely to have commenced and completed the development during the relevant period.

(ii) – Extent of Works

The works involve the replacement of existing door and window openings to the front and side with new windows, three in total, and the removal of part of the flat roof above to create external courtyards, albeit within the built footprint. The works are to the southeast corner of the building, and primarily affect the interior of the structure and do not materially affect the external appearance of the structure so as to render its appearance inconsistent with the character of the structure or of neighbouring structures. I note more than 50% of the existing external built fabric will be retained.

(iii) – Shopfronts and Streetscape Character

Works to the external fabric of the building include the replacement of existing door and window openings within the flat roof projection which wraps around the front and side of what would have been the original 'Brittas Inn'. This part of the front of the building presents as a shopfront with fascia signage and retractable awning above. It has a set of centrally located half-glazed doors flanked with half-glazed window openings, painted yellow. Other finishes include painted render and brick detailing. The fascia sign is black with 'Blue Gardenia' in raised gold lettering. The adjoining façade, which also forms part of the wraparound projection, has a brick finish with two square window openings. The proposal will effectively replicate this adjoining façade. Having regard to the submitted drawings, I am satisfied that the alteration of existing shopfront will be consistent with the fenestration details and architectural and streetscape character of the remainder of the structure and neighbouring structures.

(iv) – Conflicts with Development Plan / LAP Objectives

As previously noted, the existing building has an established use as a Public House under Class 12, Part 4, Schedule 2 of the Regulations. The condition and limitation under Article 10(6)(d)(iv) does not therefore apply as it relates to the protection of 'retail uses' under a specific objective of a development plan or local area plan with retail uses typically provided for under Class 1, Part 4, Schedule 2 i.e. Use as a shop.



(v) – Maximum Number of Residential Units

The referrer proposes two apartments which is evidently below the Article 10(6)(d)(v) threshold of more than 9 residential units in any structure. The Planning Authority has indicated that “the proposal would comply with this issue”. The Board should note that I did not access the building during the site inspection to ascertain whether any of the remainder of the building had been converted to apartments. I do note that the existing floor plans illustrate what appears to be 7 no. bedrooms with en-suite facilities although this is presumably guest accommodation incidental to the use as a Public House.

(vi) – Compliance with Apartment Guidelines

The Planning Authority did raise concerns however regarding the size of the storage area and the aggregate bedroom floor area for the two-bed apartment. The relevant requirements from Appendix 1 of the Apartment Guidelines are detailed below in addition to the floor space provided, as illustrated on the submitted floor plan.

Apartment Type Minimum Criteria	One-bed		Two-bed (3 person)	
	Required	Provided	Required	Provided
Overall floor area (sq.m)	45	*45.53	63	*67.79
Aggregate floor area for living/dining/kitchen (sq.m)	23	23.20	28	28.73
Widths for the main living/dining rooms (m)	3.3	3.76	3.6	~4.10
Bedroom floor areas (sq.m)	7.1	11.40	7.1 11.4	8.57 14.23
Bedroom widths (m)	2.1	2.8	2.1 2.8	2.1 2.8
Aggregate bedroom floor areas (sq.m)	11.4	11.4	20.1	22.8
Storage space requirements (sq.m)	3	3.19	5	5.10
Floor areas for private amenity space (sq.m)	5	5.2	6	8.36

~Average width

*Manual calculation (no areas provided for Hallways or Shower Rooms)



Regarding the storage area, the Planning Authority refers to the general rule in section 3.31 of the Guidelines which states that 'no individual storage room should exceed 3.5sq.m'. The referrer submits that Article 10(6)(d)(vi) of the Planning Regulations makes no reference to a maximum storage area, and I agree. Moreover, the Guidelines indicate that these are 'target standards' where existing buildings are to be wholly or partly redeveloped for residential use, applied practically and flexibly in relation to refurbishment schemes and may be relaxed on a case-by-case basis, subject to overall design quality. I also note that the internal layout of the two-bed apartment has been revised to meet the minimum aggregate bedroom floor area and all other requirements are met or exceeded. The proposal complies with the minimum floor area and storage space requirements of the Guidelines and the Planning Authority's rationale for de-exempting the proposal on this basis cannot be sustained.

(vii) – Availability of Adequate Natural Lighting

The Planning Authority also raised concerns regarding the availability of adequate natural lighting to habitable rooms, noting that all 3 bedrooms would be served by windows and doors overlooking the enclosed courtyard amenity areas which would be bound by a 3m wall in close proximity to the openings. They considered that this would result in significant impacts on natural lighting and would not be acceptable. The referrer submits that the proposal is identical to that previously refused permission under PA ref. SA21A/0061 and none of the refusal reasons were based on the standard of internal accommodation or the availability of adequate natural lighting. They note that the Planning Authority does not refer to any planning standard or design norm and contend that the light available to future residents would be acceptable.

Section 6.6 of the Apartment Guidelines states that planning authorities should have regard to quantitative performance approaches to daylight provision outlined in guides like *A New European Standard for Daylighting in Buildings EN17037* or *UK National Annex BS EN17037* and the associated *BRE Guide 209 2022 Edition (June 2022)*. These are the relevant standards, but neither the Guidelines nor the listed guides are explicitly referenced under Article 10(6)(d)(vii). Moreover, section 6.7 notes that where the minimum standards of daylight provision cannot be fulfilled, this should be clearly identified and a rationale for any alternative, compensatory design solution must be set out. This would require the referrer to provide a daylight and sunlight assessment.



Compliance with the condition and limitation under Article 10(6)(d)(vii) therefore hinges on whether it is viewed subjectively, as the Planning Authority did, or objectively in line with a quantitative planning standard, as suggested by the referrer. In the absence of any reference to the Guidelines under Article 10(6)(d)(vii), I am satisfied that it is a subjective test, and a daylight and sunlight analysis is not required. Having regard to the large window and door openings which are on aggregate 70% of the relevant façade, the separation distance to the external wall and the area of the respective courtyards, I am satisfied that the daylight provided would be no different to a recessed balcony in a standard apartment block. On balance, rooms for use, or intended for use, as habitable rooms will have adequate natural lighting and the Planning Authority's rationale for de-exempting the proposal on this basis cannot be sustained.

(viii) – Works to a Protected Structure

Whilst the building is evident on historic mapping for the area, it is not listed in the Record of Protected Structures (Appendix 3a of the Development Plan). The proposed development does not therefore involve works to a protected structure.

(ix) – Contravention of Planning Condition / Inconsistency with Use

The planning history is listed in Section 4.1 above. The proposed development does not appear to contravene a condition attached to a permission nor would be inconsistent with any use specified or included in such a permission having regard to the referrer's submission in respect of the period of vacancy and sale of the licence.

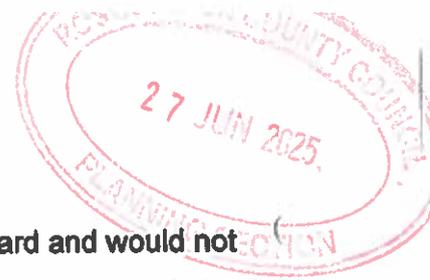
(x) – Specified Areas

The structure is not located within an area to which a special amenity area order relates, an area of special planning control or within the relevant perimeter distance area of any type of establishment to which the Major Accident Regulations apply.

(xi) – Certain Restrictions under Article 9

Article 10(6)(d)(xi) provides that certain restrictions under Article 9 also apply to the exemption under Article 10(6)(c) including sub-paragraphs (iv), (vii), (viiA), (viiB), (viiC), (viii) and (ix) of Article 9(1)(a) and paragraphs (c) and (d) of Article 9(1).

The Planning Authority noted that a similar proposal was previously refused at the referral site due to concerns regarding traffic hazards and public safety. Without further consideration of the likely impact on traffic and road users, they considered the



development could endanger public safety by reason of a traffic hazard and would not comply with Article 9(1)(a)(iii). The referrer has indicated that no part of the development would be located in close proximity to the site access, and drivers, cyclists and pedestrians would be unaffected by the proposal. They also state that the Planning Authority has not highlighted any particular aspect that would support their conclusion. Notwithstanding, sub-paragraph (iii) is evidently not listed as one of the restrictions under Article 10(6)(d)(xi) and is irrelevant to the assessment. The Planning Authority's rationale for de-exempting the proposal on this basis cannot be sustained.

Referencing sub-paragraph (viiB) of Article 9(1)(a) and the 7th refusal reason under PA ref. SD21A/0060, the Planning Authority considered that further information would be required in respect of the impact the proposed works would have on the integrity of the Slade of Saggart and Crooksling Glen pNHA. Sub-paragraph (viiB) refers specifically to the 'integrity of European sites' and the referrer correctly points out that Slade of Saggart and Crooksling pNHA does fall within the definition of a 'European site' as per section 177R of the Planning Act. This is also acknowledged by the Planning Authority. The nearest European site is 4.7km to the southeast (Wicklow Mountains SAC, 002122) and the nearest with any potential hydrological connectivity is 6.5km to the south, southwest (Poulaphouca Reservoir SPA, 004063). I also note that sub-paragraph (viiC) relates to natural heritage areas (NHA's) and therefore there is no restriction pertaining to specifically designated proposed NHA's including the Slade of Saggart and Crooksling Glen and therefore further information is not required.

I am therefore satisfied that the relevant restrictions under Article 9 do not apply.

(xii) – Onsite Wastewater Treatment

The Planning Authority also raised concerns regarding a lack of wastewater treatment information with the section 5 application. The referrer submits that Article 10(6)(d)(xii) does not direct the Planning Authority to consider the adequacy or sufficiency of the foul effluent system and I am inclined to agree. It is simply a restriction on the provision of an onsite wastewater treatment and disposal system as part of the development. The proposal does not involve the provision of a DWWTS and this condition is met.

- 8.3.3. I am satisfied that the proposal complies with the criteria under Article 10(6)(c) and the conditions and limitations under Article 10(6)(d) of the Planning Regulations and is therefore exempted development for the purposes of the Planning Act.



8. Appropriate Assessment

- 8.4.1. Having regard to the nature and scale of the proposed development, which is for the partial conversion of derelict public lounge to two apartments, and the distance from the nearest European sites, no Appropriate Assessment issues arise. Therefore, it is not considered that the proposed development would be likely to have a significant effect, individually, or in combination with other plans or projects, on a European site.

9.0 Recommendation

- 9.1. I recommend that the Board should decide this referral in accordance with the following draft order.

WHEREAS a question has arisen as to whether the partial conversion of the derelict public lounge to two apartments at 'Blue Gardenia', McDonagh's Lane, Brittas, County Dublin is or is not development or is or is not exempted development:

AND WHEREAS Edward Fahy requested a declaration on this question from South Dublin County Council and the Council issued a declaration on the 25th day of July, 2022 stating that the matter was development and was not exempted development:

AND WHEREAS Edward Fahy referred this declaration for review to An Bord Pleanála on the 22nd day of August, 2022:

AND WHEREAS An Bord Pleanála, in considering this referral, had regard particularly to –

- (a) Sections 2(1) and 3(1)(a) of the Planning and Development Act, 2000, as amended,
- (b) Articles 9(1) and 10(6) of the Planning and Development Regulations, 2001, as amended,

- (c) Class 12 of Part 4 of Schedule 2 of the Planning and Development Regulations, 2001, as amended,
- (d) the planning history of the Public House, and
- (e) relevant precedent referrals and judgments:

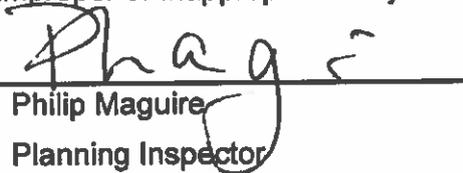


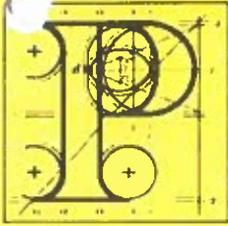
AND WHEREAS An Bord Pleanála has concluded that:

- (a) The proposed residential use is a material change in the use of the derelict public lounge at 'Blue Gardenia' Public House being development; and
- (b) The proposed works to the derelict public lounge at 'Blue Gardenia' Public House to facilitate the proposed use is development; and
- (c) The proposed development would come within the scope of exempted development under Article 10(6)(c) as it would consist of a change of use of part of a Public House within Class 12 of Part 4 of Schedule 2 of the said Regulations to residential use.

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5(3)(a) of the 2000 Act, hereby decides that the partial conversion of the derelict public lounge to two apartments at 'Blue Gardenia', McDonagh's Lane, Brittas, County Dublin is development and is exempted development.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.


Philip Maguire
Planning Inspector
4th August 2023



An
Bord
Pleanála

Board Direction
BD-014801-23
ABP-314440-22

The submissions on this file and the Inspector's report were considered at a Board meeting held on 06/12/2023.

The Board decided, as set out in the following Order, that

Board Order as follows:-



WHEREAS a question has arisen as to whether the partial conversion of the derelict public lounge to two apartments at 'Blue Gardenia', McDonagh's Lane, Brittas, County Dublin is or is not development or is or is not exempted development:

AND WHEREAS Edward Fahy requested a declaration on this question from South Dublin County Council and the Council issued a declaration on the 25th day of July, 2022 stating that the matter was development and was not exempted development:

AND WHEREAS Edward Fahy referred this declaration for review to An Bord Pleanála on the 22nd day of August, 2022:

AND WHEREAS An Bord Pleanála, in considering this referral, had regard particularly to –

- (a) Sections 2(1) and 3(1)(a) of the Planning and Development Act, 2000, as amended,
- (b) Articles 9(1) and 10(6) of the Planning and Development Regulations, 2001, as amended,
- (c) Class 12 of Part 4 of Schedule 2 of the Planning and Development Regulations, 2001, as amended,
- (d) the planning history of the Public House, and
- (e) relevant precedent referrals and judgments:

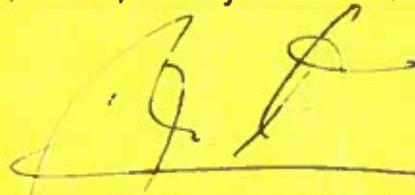


AND WHEREAS An Bord Pleanála has concluded that:

- (a) The proposed residential use is a material change in the use of the derelict public lounge at 'Blue Gardenia' Public House being development; and
- (b) The proposed works to the derelict public lounge at 'Blue Gardenia' Public House to facilitate the proposed use is development; and
- (c) The proposed development would come within the scope of exempted development under Article 10(6)(c) as it would consist of a change of use of part of a Public House within Class 12 of Part 4 of Schedule 2 of the said Regulations to residential use.

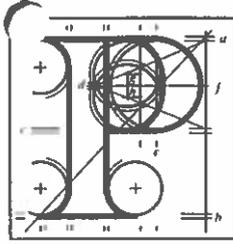
NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5(3)(a) of the 2000 Act, hereby decides that the partial conversion of the derelict public lounge to two apartments at 'Blue Gardenia', McDonagh's Lane, Brittas, County Dublin is development and is exempted development.

Board Member:


A handwritten signature in black ink, appearing to read "Joe Boland", written over a horizontal line.

Date: 06/12/2023

27 JUN 2025



An
Bord
Pleanála



Inspector's Report ABP-315056-22

Question

Whether the proposed change of use from shop to apartments is or is not development or is or is not exempted development.

Location

Bridge Street, Gort, Co. Galway.

Declaration

Planning Authority

Galway County Council

Planning Authority Reg. Ref.

ED22/49

Applicant for Declaration

Dean Raftery.

Planning Authority Decision

Is not exempted development

Referral

Referred by

Dean Raftery.

Owner/ Occupier

Applicant.

Observer(s)

None.

Date of Site Inspection

27th June 2023.

Inspector

Barry O'Donnell



1.0 Site Location and Description

- 1.1. The subject site is located on the south side of Bridge Street, Gort, in south County Galway. It comprises a 3-storey terraced, commercial block that contains 3 No. shop units at ground floor and storage/living accommodation on upper floors.
- 1.2. The block addresses Bridge Street and incorporates a stone-clad finish on its front elevation. There are 3 No. separate shopfronts at ground floor level, addressing Bridge Street.

2.0 The Question

- 2.1. The question the subject of the referral before the Board is: -
'Whether the change of use from shop to apartments is or is not development and is or is not exempted development.'

3.0 Planning Authority Declaration

3.1. Declaration

- 3.1.1. The Planning Authority issued a declaration dated 13th October 2022, which states that the proposed development is development and is not exempted development.

3.2. Planning Authority Reports

- 3.2.1. An undated Planning Report has been provided, which reflects the Planning Authority's determination. The report states that the proposed works are beyond the scope of S.I. No. 75/2022, paying particular regard to the extensive exterior works such as conversion of a roof area to a patio and the addition of a significant amount of window openings.
- 3.2.2. Other Technical Reports
None.



4.0 Planning History

4.1. I encountered the following historic planning records pertaining to the site: -

10/1712: Permission granted on 7th March 2011 for retention of extension to rear of existing commercial premises and revised layout to existing premises, to that granted under Reg. Ref. 05/853.

06/4369: Permission granted on 15th January 2007 for change of use of existing retail unit 1 to use as a restaurant.

05/853: Permission granted on 29th August 2010 for construction of an extension to existing supermarket, extension to rear of 2 No. shop units adjacent to supermarket, conversion of first and second floors over supermarket and shop units to 4 No. apartments, new shopfront to front of supermarket and shop units and alterations to rear site access and associated site works.

04/1989: Permission granted on 6th September 2004 for extension to existing supermarket, new shopfront to supermarket and adjacent premises to south, conversion of ground floor shed to shop and alterations to rear site access and associated site works.

5.0 Policy Context

5.1. Galway County Development Plan 2022 - 2028

5.1.1. The site is located within the urban footprint of Gort, in south County Galway.

5.2. Gort Local Area Plan 2013 – 2023

5.2.1. The local area plan was extended for a further 5-year period, from 25th June 2018.

5.2.2. The site is subject to the 'C1 – Town Centre/Commercial' zoning. The site is also located within an Architectural Conservation Area, which encompasses the town centre area.



5.3. **Cultural Heritage Designations**

5.3.1. The subject site is not located within or adjacent to any designated European site, the closest such site being Coole-Garryland Complex SAC (Sie Code 000252), which is c.1.45km west. Coole-Garryland SPA (Site Code 004107) lies slightly further west.

6.0 **The Referral**

6.1. **Referrer's Case**

- The legislation does not state that partial conversion of a shop unit is not exempt. The Planning Authority has not assessed the application properly.
- The development provides 1-bed accommodation, which is needed in the town of Gort. It makes the best possible use of the building.

6.2. **Planning Authority Response**

6.2.1. None received.

6.3. **Further Responses**

6.3.1. None.

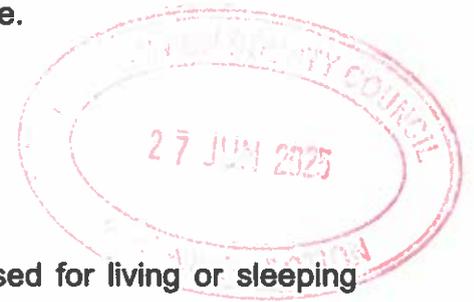
7.0 **Statutory Provisions**

7.1. **Planning and Development Act, 2000, as amended**

7.1.1. **Section 3(1)** of Planning and Development Act 2000, as amended, states – In this Act, “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.

7.1.2. **Section 2(1)** of the act states - “works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation

Involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.



7.2. Planning and Development Regulations 2001-2023

7.2.1. Article 10(6)(a) – Changes of Use

(a) In this sub-article— 'habitable room' means a room used for living or sleeping purposes but does not include a kitchen that has a floor area of less than 6.5 square metres;

'relevant period' means the period from 8 February 2018 until 31 December 2025.

(b) This sub-article relates to a proposed development, during the relevant period, that consists of a change of use to residential use from Class 1, 2, 3, 6 or 12 of Part 4 to Schedule 2.

(c) Notwithstanding sub-article (1), where in respect of a proposed development referred to in paragraph (b)—

(i) the structure concerned was completed prior to the making of the Planning and Development (Amendment) (No. 2) Regulations 2018,

(ii) the structure concerned has at some time been used for the purpose of its current use class, being Class 1, 2, 3, 6 or 12, and

(iii) the structure concerned, or so much of it that is the subject of the proposed development, has been vacant for a period of 2 years or more immediately prior to the commencement of the proposed development,

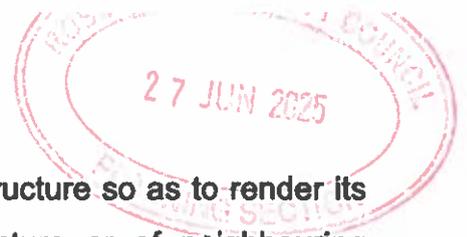
then the proposed development for residential use, and any related works, shall be exempted development for the purposes of the Act, subject to the conditions and limitations set out in paragraph (d).

(d)(i) The development is commenced and completed during the relevant period.

(ii) Subject to sub-paragraph (iii), any related works, including works as may be required to comply with sub-paragraph (vii), shall –

(I) primarily affect the interior of the structure,

(II) retain 50 per cent or more of the existing external fabric of the building, and



(...) not materially affect the external appearance of the structure so as to render its appearance inconsistent with the character of the structure or of neighbouring structures.

(iii) Any related works for the alteration of existing ground floor shop fronts shall be consistent with the fenestration details and architectural and streetscape character of the remainder of the structure or of neighbouring structures.

(iv) No development shall consist of or comprise the carrying out of works to the ground floor area of any structure which conflicts with any objective of the relevant local authority development plan or local area plan, pursuant to the Part 1 of the First Schedule to the Act, for such to remain in retail use, with the exception of any works the purpose of which is to solely provide on street access to the upper floors of the structure concerned.

(v) No development shall consist of or comprise the carrying out of works which exceeds the provision of more than 9 residential units in any structure.

(vi) Dwelling floor areas and storage spaces shall comply with the minimum floor area requirements and minimum storage space requirements of the "Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities" issued under section 28 of the Act or any subsequent updated or replacement guidelines.

(vii) Rooms for use, or intended for use, as habitable rooms shall have adequate natural lighting.

(viii) No development shall consist of or comprise the carrying out of works to a protected structure, as defined in section 2 of the Act, save where the relevant planning authority has issued a declaration under section 57 of the Act to the effect that the proposed works would not materially affect the character of the structure or any element, referred to in section 57(1)(b) of the Act, of the structure.

(ix) No development shall contravene a condition attached to a permission under the Act or be inconsistent with any use specified or included in such a permission.

(x) No development shall relate to any structure in any of the following areas:

(I) an area to which a special amenity area order relates;

(II) an area of special planning control;



(...) within the relevant perimeter distance area, as set out in Table 2 of Schedule 8, of any type of establishment to which the Major Accident Regulations apply.

(xi) No development shall relate to matters in respect of which any of the restrictions set out in sub-paragraph (iv), (vii), (viiA), (viiB), (viiC), (viii) or (ix) of article 9(1)(a), or paragraph (c) or (d) of article (9)(1), would apply.

(xii) No development shall consist of or comprise the carrying out of works for the provision of an onsite wastewater treatment and disposal system to which the code of practice made by the Environmental Protection Agency pursuant to section 76 of the Environmental Protection Agency Act 1992 relates and entitled Code of Practice – Wastewater Treatment and Disposal Systems Serving Single Houses together with any amendment to that Code or any replacement for it.

(e)(i) Where a person proposes to undertake development to which paragraph (b) relates, then he or she shall in the case of development relating to Class 1, 2, 3, 6 or 12 of Part 4 to Schedule 2, notify in writing the planning authority in whose functional area that the change of use will occur not less than 14 days prior to the commencement of the works related to the proposed change of use and any related works;

(ii) Details of each notification under subparagraph (i), which shall include information on—

(I) the location of the structure,

(II) the number of residential units involved, including the unit sizes and number of bedrooms in each unit, and

(III) the Eircode for the relevant property,

shall be entered in a record by the planning authority maintained for this purpose and the record shall be available for inspection at the offices of the planning authority during office hours and on the planning authority's website.

(iii) During the years 2019, 2020, 2021, 2022, 2023, 2024, 2025 and 2026 each planning authority shall provide information to the Minister on the number of notifications received by it under this paragraph during the preceding calendar year, including details of the information so received for the purposes of subparagraph (ii).

7.2.2. Part 4, Schedule 2 – Exempted Development, Classes of Use



Class 1: Use as a shop.

Class 2: Use for the provision of— (a) financial services, (b) professional services (other than health or medical services), (c) any other services (including use as a betting office), where the services are provided principally to visiting members of the public.

Class 3: Use as an office, other than a use to which class 2 of this Part of this Schedule applies.

Class 6: Use as a residential club, a guest house or a hostel (other than a hostel where care is provided).

Class 12: Use as a Public House, meaning a premises which has been licensed for the sale and consumption of intoxicating liquor on the premises under the Licensing Acts 1833 to 2018.

8.0 Assessment

8.1. Background

- 8.1.1. The question before the Board relates to 'Whether the change of use from shop to apartments is or is not development and is or is not exempted development.'
- 8.1.2. The Planning Authority determined that the proposed development is development and is not exempted development and this decision was grounded in the Planning Officer's report, which referred to the extent of exterior works such as conversion of a roof area to a patio and the addition of a significant amount of window openings as important factors.
- 8.1.3. In referring the Planning Authority's determination, the applicant submits that the determination does not accord with the legislation.

8.2. Is or is not development

- 8.2.1. The applicant proposes the conversion of the shop floor area and associated storage space, to use as 4 No. 1-bedroom apartments. This constitutes a material change of use in the land and thus constitutes 'development', which is defined under Section 3(1) of the Planning and Development Act, 2000 as amended (the Act), as the carrying out

C. any works in, on, over or under land, or the making of any material change in the use of any land or structures situated on land.



8.3. Is or is not exempted development

8.3.1. Article 10(6)(a) of the Planning and Development Regulations 2001 – 2023 provides an exempted development provision for 'a change of use to residential use from Class 1, 2, 3, 6 or 12 of Part 4 to Schedule 2.' Of relevance to this referral, Class 1 of Part, Schedule relates to use as a shop.

8.3.2. The subject site has been the subject of a number of previous applications and, with particular reference to Reg. Refs. 10/1712 and 05/853, the applications indicate that the ground floor of each unit was in use as a shop and the first-floor areas were in use for storage/living accommodation. The floor plan drawings provided with Reg. Ref. 05/853 indicate that the area of the first floor closest to Bridge Street contained 2 No. apartments and the rear area was used for storage.

8.3.3. The following statements by the applicant are also noted to the claim of exemption under Article 10(6)(a): -

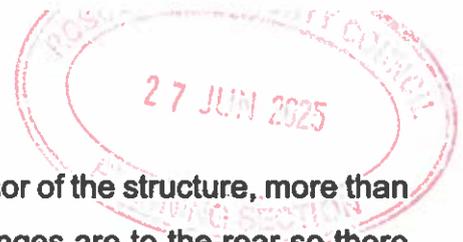
- The structure concerned contains what was previously a shop and associated first floor storage and this use was in place prior to the making of the Planning and Development (Amendment) (No. 2) Regulations 2018,
- The affected area of the shop units have been vacant for more than 2 years.

8.3.4. In view of the above, I consider the subject units accord with Article 10(6)(a), subject to compliance with conditions and limitations contained within the Article.

8.4. Restrictions on exempted development

8.4.1. Article 10(6)(d)(i-xii) contains conditions and limitations pertaining to the exemption and are set out in Section 7.2.1 of my report. The following statements by the applicant regarding these conditions and limitations are noted: -

Criterion (i): The applicant states that the development will be commenced and completed within the relevant period.



Criterion (ii): The development primarily affects the interior of the structure, more than 50% of the external fabric is retained and proposed changes are to the rear so there will be no adverse effect on the character of the structure or neighbouring structures.

Criterion (iii): There is no change to the shopfront or streetscape.

Criterion (iv): There is no conflict between the proposal and the Gort development plan.

Criterion (v): There will be a total number of 7 apartments in the building.

Criterion (vi): The development complies with the minimum requirements of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities.

Criterion (vii): All rooms have adequate natural lighting.

Criterion (viii): The structure is not a protected structure.

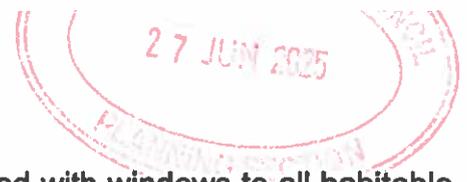
Criterion (ix): The development does not contravene a condition attached to a grant of permission.

Criterion (x): The development is not located within a special amenity area or an area of special planning control and is not affected by the Major Accidents Directive.

8.4.2. I have considered the proposed elevation and floor plan drawings provided with the application and note that the front elevation of the building is unaffected by the proposal, with elevational changes confined to the rear part of the building.

8.4.3. With reference to the elevational changes proposed, these relate to the provision of window and door openings for the proposed units. Works are also proposed to a roof profile, for the provision of a patio/circulation area that would allow access to each of the units from a proposed stairwell.

8.4.4. With reference to the requirement to comply with specified standards within the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, I note that the floor area of each unit exceeds the minimum required size for a 1-bed apartment. Whilst the dedicated storage area for units does not appear to itself to achieve the minimum required 3sqm, there is adequate space within living and bedroom areas to provide additional storage. This approach to storage space is provided for by the Guidelines and is thus acceptable.



- 8.4.5. Regarding access to natural light, each unit is provided with windows to all habitable rooms, on the south-east elevation. Units will therefore be well-lit in the mornings.
- 8.4.6. In my view, the proposed elevational changes to the building are minor in nature and accord with the conditions and limitations attached to Article 10(6)(d). No changes are proposed to the front (Bridge Street) elevation and I consider there will be no adverse effect on the character of the structure or the character of the streetscape.
- 8.4.7. As the applicant states, the development is not located within a special amenity area or an area of special planning control and is not affected by the Major Accidents Directive. I am also satisfied that the development does not conflict with restrictions set out in sub-paragraph (iv), (vii), (viiA), (viiB), (viiC), (viii) or (ix) of article 9(1)(a), or paragraph (c) or (d) of article (9)(1).
- 8.4.8. In view of my assessment, I conclude that the development accords with the conditions and limitations attached to Article 10(6) of the Regulations.

8.5. **Appropriate Assessment**

- 8.5.1. The subject site is not located within or adjacent to any designated European site, the closest such site being Coole-Garryland Complex SAC (Sie Code 000252), which is c.1.45km west. Coole-Garryland SPA (Site Code 004107) lies slightly further west.
- 8.5.2. The proposed development comprises a change of use, including conversion works, from a shop to apartments. The site is located in the town centre of Gort.
- 8.5.3. The development involves works which are minor in nature and, taken together with its locational context, I am satisfied that no issues arise in respect of Appropriate Assessment.

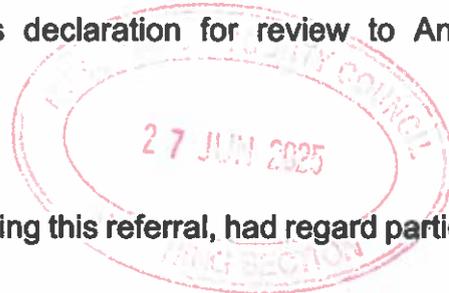
9.0 **Recommendation**

- 9.1. I recommend that the Board should decide this referral in accordance with the following draft order.

WHEREAS a question has arisen as to whether the change of use from shop to apartments is or is not development and is or is not exempted development.

AND WHEREAS Dean Raftery requested a declaration on this question from Galway County Council and the Council issued a declaration on the 13th October 2022, stating that the proposed development is development and is not exempted development.

AND WHEREAS Dean Raferty referred this declaration for review to An Bord Pleanála on the 7th day of November 2022:



AND WHEREAS An Bord Pleanála, in considering this referral, had regard particularly to –

- (a) Section 2(1) of the Planning and Development Act, 2000, as amended,
- (b) Section 3(1) of the Planning and Development Act, 2000,
- (c) Article 9(1) of the Planning and Development Regulations, 2001 – 2023,
- (d) Article 10(6) of the Planning and Development Regulations, 2001 – 2023,
- (e) the planning history of the site,
- (f) The pattern of development in the area:

AND WHEREAS An Bord Pleanála has concluded that the change of use from shop to apartments constitutes 'development', as defined under Section 3(1) of the Planning and Development Act, 2000 as amended and would come generally within the scope of the exempted development provision provided at Article 10(6) of the Planning and Development Regulations 2001 – 2023.

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5(3)(a) of the 2000 Act, hereby decides that the change of use from shop to apartments is development and is exempted development.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought

influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Barry O'Donnell
Planning Inspector

17th July 2023.

