

**From:** [CARMEL KELLY](#) on behalf of [planning mailbox](#)  
**To:** [MICHAEL MC ELWAINÉ](#)  
**Subject:** FW: Cornagill Residents  
**Date:** 20 January 2025 15:56:57  
**Attachments:** [1D. Site Map from Land Registry Ireland.pdf](#)  
[1B. Section 5 Application.pdf](#)  
[1C. Donegal County Council Section 5 Application Signatures.pdf](#)  
[3. Anns Care Advertisement for Jobs.pdf](#)  
[1A. Donegal County Council Official Form Completed Section 5 Application.pdf](#)  
[4. Home Manager Job Description.pdf](#)  
[5. Social Care Leader Job Description.pdf](#)  
[6. Social Care Worker Job Description.pdf](#)  
[8. Screenshots from websites.pdf](#)  
[7. Tusla Childrens Residential Services.pdf](#)  
[2. Louth County Council Development is not Exempted Development under Section 5.pdf](#)

---

---

**From:** Carl Rainey [REDACTED]  
**Sent:** Monday, January 20, 2025 2:38 PM  
**To:** planning mailbox <Planning@Donegalcoco.ie>  
**Subject:** Cornagill Residents

You don't often get email from [REDACTED]. [Learn why this is important](#)

CAUTION: This email originated from outside of Donegal County Council. Do not click links or open attachments unless you recognise the sender and are sure that the content is safe.

Dear Sirs,

We refer to your purported Section 5. Declaration in the name of Patrick McQuade dated 6th January 2025 (your reference S5 24/93, Chief Executive's Order No: 2025PH0009). We now, on legal advice, submit our own Section 5 Application in respect of the same property with a lot of additional and different information. We are firmly of the view this proposed development does not qualify for a Section 5 Exemption.

The fee of €80 has been paid - receipt number 663950.

We look forward to hearing from you in due course.

Regards,

Carl Rainey  
On behalf of Cornagill Residents



Comhairle Contae  
Dhún na nGall  
Donegal County Council



Comhairle Contae  
Dhún na nGall  
Donegal County Council

Planning Services

RECEIVED DATE: 20/01/2025

## SECTION 5 APPLICATION

FOR DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT

Completed application form & supporting documentation to be returned to the  
Planning Authority by email to [planning@donegalcoco.ie](mailto:planning@donegalcoco.ie)

<b>Name of Applicant(s):</b>	SEE ATTACHED
<b>Agent Name:</b> (if applicable)	
<b>Location of Proposed Development / Works:</b> (Townland or postal address as appropriate and Eircode if available)	CORNAGILL LETTERKENNY CO. DONEGAL F92 P3DR
<b>Description of Proposed Development including details of works (where applicable):</b> (Only works listed below will be assessed under this section 5 application)	
See Attach 1.	





**Comhairle Contae  
Dhún na nGall**  
Donegal County Council

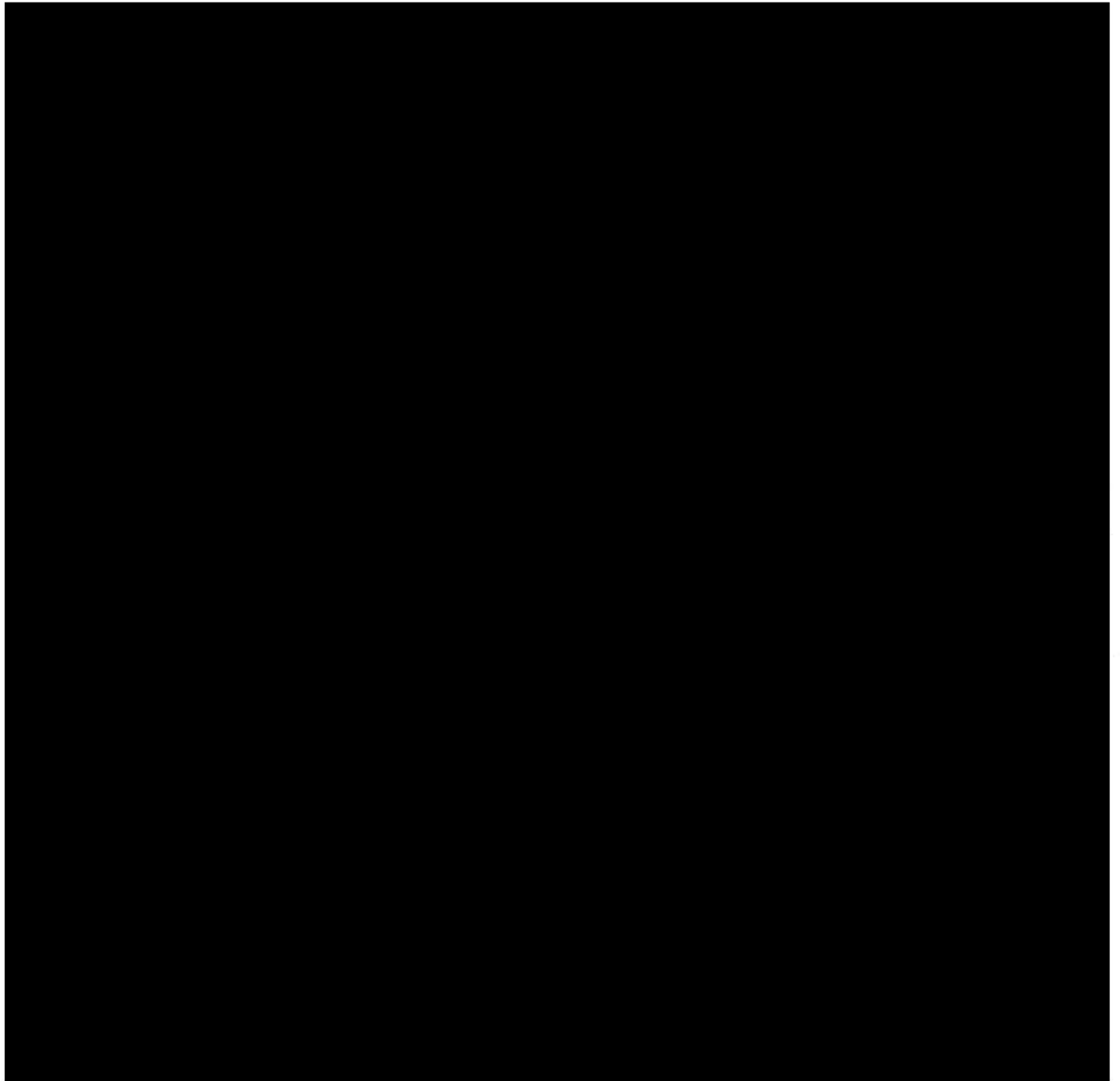
Is the development a Protected Structure or within the curtilage of a Protected Structure?	Yes	No
		NO
Has a declaration under Section 57 of the Planning and Development Act 2000 (as amended) been requested or issued in respect of the property.	Yes	No
		NO
Applicant(s) Interest in the site:		
If not the Owner of the site, please provide the name of the Landowner:	[REDACTED]	
Please list types of plans, drawings etc. submitted with this application:	CHILDREN'S CARE IRELAND / PATRICIA MURPHY MAP FROM LAND REGISTRY IRELAND, SCREENSHOTS FROM WEBSITES, JOB DESCRIPTIONS X 3, COPY OF PAGES FROM TUSLA WEBSITE, DESCRIPTION OF PROPOSED DEVELOPMENT INCLUDING DETAILS OF WORKS. LOUTH CO. COUNCIL DECISION ON SIMILAR CASE.	
Planning History - list any relevant planning application reference numbers:		
Are you aware of any enforcement proceedings connected to the site? If so, please supply details:	NO	

I hereby certify that the information provided is true and accurate	
Signature of Applicant/Agent:	See attached
Date:	17/01/2025



Comhairle Contae  
Dhún na nGall  
Donegal County Council

## Additional Contact Information



RECEIPT NO. 663950  
17/01/25



### **Advice to Applicant**

- (a) **Prescribed Fee** - €80.00 - You may wish to pay the fee by card by ringing the cash office on 074 9153900. Please note the receipt number in your cover email with the form.
- (b) Application must be accompanied by:
  - **Site location map** with site clearly outlined in red (to a scale of not less than 1:1000 in built up areas and 1:2500 in all other areas).
  - **Site layout plan** (Site or layout plans shall be drawn to a scale (which shall be indicated thereon) of not less than 1:500 or such other scale as may be agreed with the planning authority prior to the submission of the application, the site boundary shall be clearly delineated in red).
  - **Elevations** (if applicable) – (plans, elevations and sections drawn to a scale of not less than **1:200**).
  - **Other details** (e.g. landowner consent (if applicable), photographs as appropriate).
- (c) Completed application form & supporting documentation to be returned to the Planning Authority **by email** to [planning@donegalcoco.ie](mailto:planning@donegalcoco.ie)
- (d) More information on exempted development can be found on the OPR planning leaflets available at <https://www.opr.ie/planning-leaflets/>

# Donegal County Council

## SECTION 5 APPLICATION

### FOR DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT

**Name of Applicants:** Carl & Katrina Rainey, Mary Rose Ward, Tony Kieran & Françoise Arnaud Kieran, Liam & Linda Coyle, Michael & Katherine Purcell, Paul & Anne Marie Hynd, Liam & Eileen Bannan, Noel & Patti Harvey, Jim & Anne Toland, John & Dymphna Bradley, Mark & Fidelma Carrigy, Michael & Edel McGinty, John & Maria O'Doherty.

**Agent Name:** None

**Location of Proposed**

**Development/Works:** Cornagill, Letterkenny, Co. Donegal F92P30R

**Description of Proposed Development including details of works (where applicable):**

(Only works listed below will be assessed under this Section 5 Application)

We have recently become aware of the purported Section 5 Declaration which has issued by Donegal County Council (DCC) to Patrick McQuade dated 6th January 2025 in relation to a private dwelling house at Cornagill, Letterkenny, previously belonging to James & Irene Sweeney (neighbours to all of us) has been sold to a company/entity trading as Anns Care. <https://www.anns.co.uk/care-home/letterkenny-county-donegal/>

There are fundamental flaws in the Section 5 Declaration process including but not limited to the lack of a site notice, the lack of public notification of the application, the lack of public consultation, in particular consultation of those land owners adjacent to the proposed development and the lack of public notification of the purported decision and lack of appeal in respect of the Section 5 issued. We are therefore submitting this Section 5 Application.

We enclose a screenshots from this page. We note from the website they intend to open in March 2025. The primary purpose of this website appears to be for recruitment purposes as there is little or no information about the entity/company/owners etc.

It is difficult to establish, despite on-line searches, who are the exact owners of this entity but there is a connection with Anns Home Care and the current owners appear to be Pat and Ann McQuade. Anns Home care is a Northern Ireland entity and have an Irish Care Centre office at:

Ceol Na Mara  
Newry Street  
Carlingford  
Co. Louth  
hr@childrenscare.ie

They also have Care Centres in Ardee, Castleblaney, Garristown (North Co Dublin) and Inniskeen (Co Monaghan).

We are of the view they intend to open for business without applying for planning permission for a change of use, and we, due to the flaws in the Section 5 Application & Declaration process as explained above, are making this Section 5 Application to Donegal County Council seeking a declaration that this is not an exempt use and therefore does require planning permission.



For many reasons we believe they do not in actual fact intend to use the premises 'as a residence for persons with an intellectual or physical disability or mental illness' but instead use it for children in need of social care services, solely referred to them by Tusla. We recently had a meeting with the new owners and they stated : 'So these children are children who through no fault of their own cannot obtain a foster placement. They are not children from the criminal justice system or young offenders, that is not the children we work with. These are children who are between the ages of 11 and 17 and the family situation has broken down through no fault of their own. There is a real shortage of foster placements in Ireland.' By their own admission these are not children with an intellectual or physical disability or mental illness. This conversation has been legally recorded if you require proof.

Once again this is social care work and does not qualify as under Class 14(f) of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended) as an Exempted Development consisting of a change of use, from use as a house, to use as a residence for persons with an intellectual or physical disability or mental illness and persons providing care for such persons.

Their premises in Ardee was advertised as a 6 bedded home with 37 single rooms, 3 lounges, 3 dining rooms. <https://www.anns.co.uk/care-home/ardee-county-louth/>. Since our meeting they have amended this to a six bedded home (only) with no mention of lounges or dining rooms. They are advertising the house in Letterkenny as having 7 bedrooms (screenshots attached).

On the website for Letterkenny <https://www.anns.co.uk/care-home/letterkenny-county-donegal/> they are advertising for staff for the following roles – Home Manager, Social Care Leader and Social Care Worker. We attach a copy of the Job Descriptions. There is no mention of mental illness or intellectual or physical disability whatsoever in any of these job descriptions (or in their websites) but lots of references to social care and social work.

The advertisement for staff includes, among other requirements, the following:

**Experience Required:**

- 2 years relevant experience working with children/young people from challenging backgrounds.
- Successfully completed Key working roles (or equivalent) for a minimum of 6 months
- Up to date knowledge of legislation surrounding Residential Childcare and Safeguarding
- Experience of multi-disciplinary working with a range of professionals in the industry.
- To attend court and furnish the court with updated court reports.

**Level 8 qualification (Honours degree) or above in one of the following:**

- Psychology

**Other qualifications:**

- Higher Certificate in Custodial Care (Irish Prison Service)

All of the above suggests that the house is to provide placements for children requiring residential placements from a social care point of view. This does not qualify as an exempted category under a Section 5 Application

We enclose a printout from the Tusla website <https://www.tusla.ie/services/alternative-care/residential-care/what-are-childrens-residential-services/>. The last 2 paragraphs state:-

Over 90% of Children's Residential Centres nationally are community based which means they look like and **are situated within the same houses, estates and communities that everybody lives in.** For the most part, Children's Residential Centres are also supported by the same range of health services that are available to the rest of the population such as G.P's, Speech and Language Therapists, Physiotherapists, Psychologists etc.

Where Children's Residential Services differ however, is that **Centres are staffed on a 24hr basis by Social Care Workers, Leaders and Managers** and are supported in their efforts to look after the children and

young people in their care by external Managers, Social Work Services, Inspectors, Monitoring Officers and any others **including An Garda Síochána.**

‘Social Care Workers, Leaders and Managers’ are exactly the same roles the purchasers are advertising to recruit on their website.

All of the above suggests that the unit is to provide placements for children requiring residential placements from a social care point of view. This does not qualify as an exempted category under a Section 5 Application.

#### **Summary of the above**

They are advertising for 7 beds for children but the exemptions permits a maximum of 6, which means the exemptions cannot be availed of.

They are advertising for posts for social care, not for the care of children falling within the 3 specific categories in the exemption, which is another reason why the exemption cannot be availed of.

They are advertising for 3 social care posts, whereas the exemption permits a maximum of two, which is another reason they the exemption cannot be availed of.

Tusla requires a minimum of 3 employees for social care, exemption permits a maximum of 2, which is a further reason why the exemption cannot be availed of.

And, moreover, there are material proper planning and sustainable development considerations, which require assessment and analysis. Such assessment and analysis was lacking in respect of the purported S 5 declaration issued. The following are the primary considerations:

#### **Traffic**

The road used by the residents is not a public road but a private road owned by one person and the residents have a right of way to use the road for private use in connection with their private residential house.

However:

- each individual child has their own family members who will need access to visit, so that is six families, and each individual child will possibly need to have a variety of doctors, nurses and medical carers.
- Everybody in the house needs to be catered to with regards food and laundry services.
- The staff, including cooks, cleaners, gardeners etc. will need regular access.
- Tusla staff and inspectors will also need access.
- There will be playdates, school travel, sports events, socialising in town.

So all of these residents and attaching family members and service providers will almost double the traffic in the park if this project was to go ahead.

#### **Noise**

There will be a dramatic increase in traffic and consequently in noise from this source. There will also be an increase in noise from the children and staff which will affect the immediate neighbours in the enjoyment of their property.

#### **Overlooking**

The house is on a narrow site and on one side, the distance of this house from the boundary wall of the neighbouring property is only 2.35 metres. The upstairs window of this house looks directly into the kitchen and hall of the neighbouring house affording direct visibility into the house by the residents/staff/carers of a commercial premises. This will substantially affect the privacy of the neighbouring house in a way that has never before arisen.

## County Donegal Development Plan 2024 to 2030

The area in which the house is located is classified in County Donegal Development Plan 2024 to 2030 as 'Areas Under Strong Urban Influence' and in an 'Area of High Scenic Amenity'. The Development Plan states:

### **RH-O-1**

To ensure that new residential development in rural areas provides for genuine rural need. *This development is not a 'genuine rural need'.*

### **RH-P-9**

- (a) 1. (iv.) the safe and efficient disposal of effluent and surface waters in a manner that does not pose a risk to public health and accords with Environmental Protection Agency codes of practice; *See comments below about the septic tank situation.*

The septic tank is designed for a family home. Is it a Health & Safety issue, with at least 8 people living there plus visitors, cooks, cleaners, maintenance staff and others coming & going. In the past 18 months a local contractor for emptying septic tanks had to approach and ask the neighbouring property for permission to take down part of his fence so that the contractor could gain access to his septic tank. Permission was granted and the contractor reinstated the fence as agreed. Permission will most likely be refused when the next request is made.

### **T-P-12**

It is a policy of the Council not to permit developments requiring new accesses, or which would result in the adverse intensification of existing access points onto:

- a.) National Roads where the speed limit is greater than 60 kph;
- *All the additional traffic from this development will need access to and from the R245 which has a speed limit of 80kph.*

Moreover this is a commercial enterprise but:

- The property Title documents make it clear it is for a Private Dwelling House only.
- Access to the house is on a private road owned by one person and the right of way for use of the road is for residential purposes only.

We would, as precedent, like to draw to your attention to the Section 5 Application for Declaration on Development and Exempted Development to Louth County Council by Kholisa Sibanda & Sibonginkosi Bhebhe (T/A Nissi Healthcare).

This development consisting of a change of use as a house to use as a residence for persons with an intellectual or physical disability or mental illness and persons providing care for such persons. This is very similar to our Application and should be seriously considered as another reason not to grant an exemption. We attach a copy of the file and it can also be viewed here: <https://www.louthcoco.ie/en/services/planning/exempted-development-section-5-declarations/s5-2024-55-kholisa-sibanda-sibonginkosi-bhebhe.pdf>.

## **Other Considerations**

Safety of Residents, Children, Staff & Carers

- Condition 1. of Planning Permission for development of 9 no. sites in 1991, states 'All the development hereby permitted shall be carried out in accordance with An Foras Forbartha's "Recommendations for Site Development Works in Housing Areas", in consultation with the Council's Executive Engineer for the area.' In this regard, we believe the development is not to the standard stated above, never mind modern day standards.

- The 'Golf Course Road' is a 'Local Road'. It is a narrow road and is not gritted in winter. The private road used by the residents is also not gritted in winter. In winter it can, at times, be impossible to get up the hill of the private road and this raises an issue for Ambulance or other emergency services gaining access.
- There is no public lighting as required by Condition 8. of the original planning permission T.634/91 and the footpaths are in poor condition.
- The fire hydrants are rusted and have never been used or tested in over 30 years. Who has responsibility of ensuring the fire hydrants are to standard, tested and in working order, especially where the roads and footpaths are privately owned. What role does Donegal County Council and/or Uisce Eireann have here?
- As part of the recorded meeting they agreed, this is a business and the house will be used for commercial purposes.
- The considerations in Article 9, S.I. No. 600/2001 - Planning and Development Regulations, 2001 require assessment and analysis:

Article 9:

- (1) Development to which article 6 relates shall not be exempted development for the purposes of the Act if the carrying out of such development would contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act.




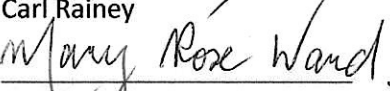
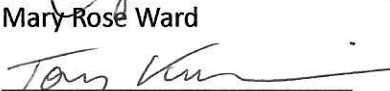


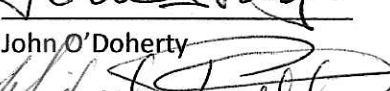
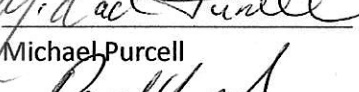
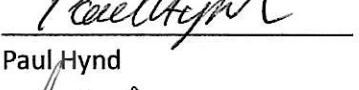
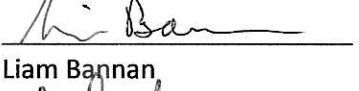
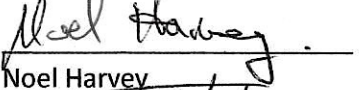
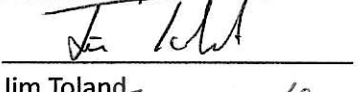
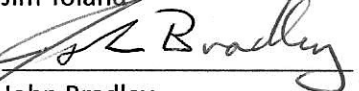
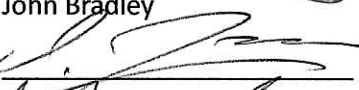
# Donegal County Council

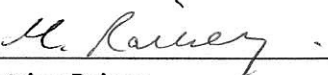
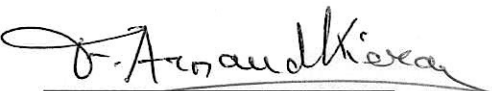
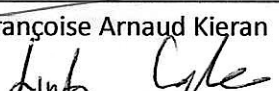
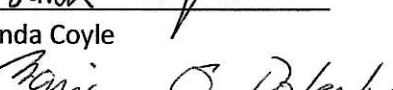
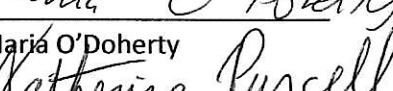
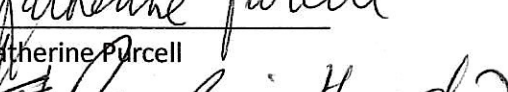

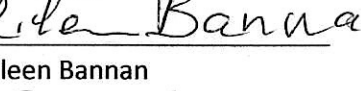

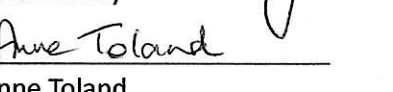
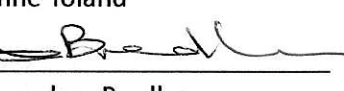

## SECTION 5 APPLICATION

### FOR DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT

**Name of Applicants:** Carl & Katrina Rainey, Mary Rose Ward, Tony Kieran & Françoise Arnaud Kieran, Liam & Linda Coyle, John & Maria O'Doherty, Michael & Katherine Purcell, Paul & Anne Marie Hynd, Liam & Eileen Bannan, Noel & Patti Harvey, Jim & Anne Toland, John & Dymphna Bradley, Mark & Fidelma Carrigy, Michael & Edel McGinty.

**Applicants Signatures:**

  
Carl Rainey  
  
Mary Rose Ward  
  
Tony Kieran  
  
Liam Coyle  
  
John O'Doherty  
  
Michael Purcell  
  
Paul Hynd  
  
Liam Bannan  
  
Noel Harvey  
  
Jim Toland  
  
John Bradley  
  
Mark Carrigy  
  
Michael McGinty

  
Katrina Rainey  
  
Françoise Arnaud Kieran  
  
Linda Coyle  
  
Maria O'Doherty  
  
Katherine Purcell  
  
Anne Marie Hynd  
  
Eileen Bannan  
  
Patti Harvey  
  
Anne Toland  
  
Dymphna Bradley  
  
Fidelma Carrigy  
  
Edel McGinty

Date:- 17/01/2025

# Donegal County Council

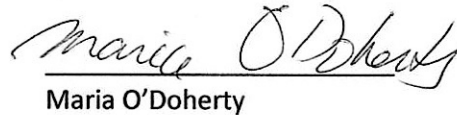
## SECTION 5 APPLICATION

### FOR DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT

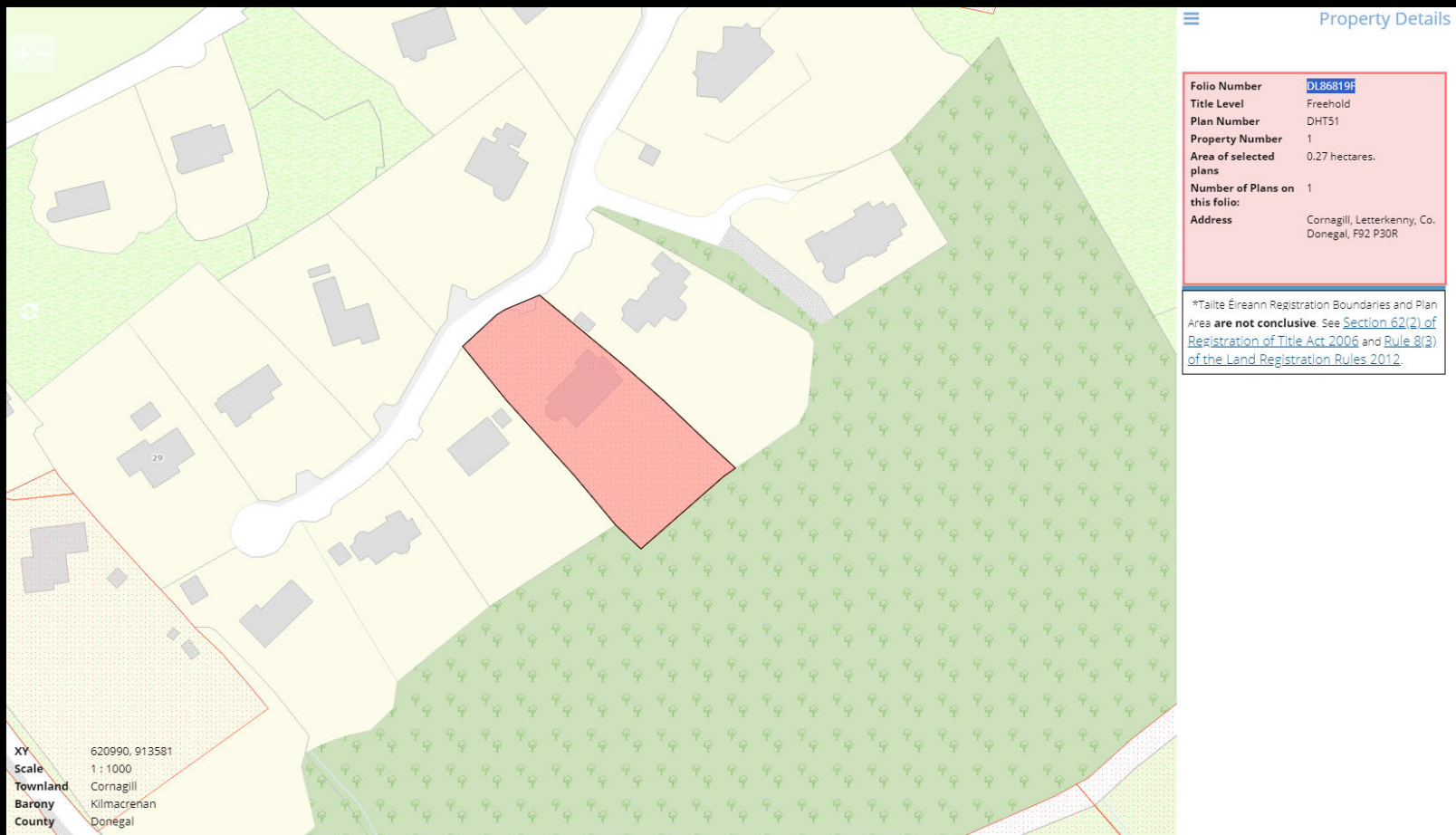
**Name of Applicants:** Carl & Katrina Rainey, Mary Rose Ward, Tony Kieran & Françoise Arnaud Kieran, Liam & Linda Coyle, John & Maria O'Doherty, Michael & Katherine Purcell, Paul & Anne Marie Hynd, Liam & Eileen Bannan, Noel & Patti Harvey, Jim & Anne Toland, John & Dymphna Bradley, Mark & Fidelma Carrigy, Michael & Edel McGinty, John & Maria O'Doherty

**Applicants Signatures:**

  
John O'Doherty

  
Maria O'Doherty

Date:- 17/01/2025



**Louth County Council**  
Town Hall, Crowe Street, Dundalk, County Louth



**Application For Declaration on Development and Exempted Development  
Under Part 1, Section 5 of the Planning and Development Act 2000 (as  
amended)**

**1. Name and address of Applicant:**

**KHOLISA SIBANDA & SIBONGINKOSI RHEBE T/A NISSA**

**ARE** having its



Phone Number

E-Mail

**2. Name and address of Agent (if any)**

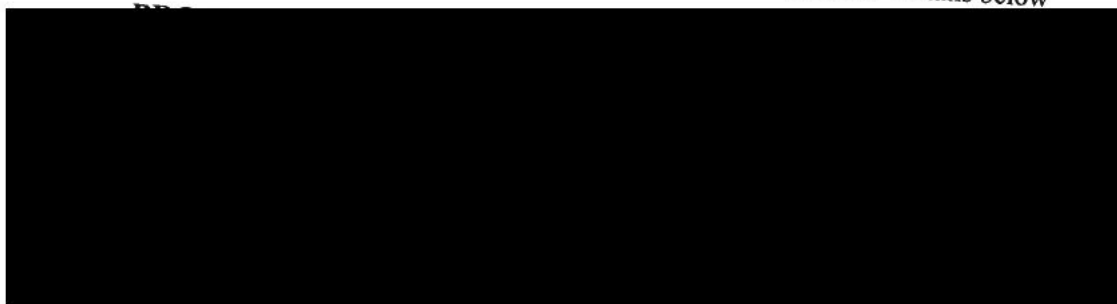
**3. Name and address for all correspondence (if not completed, correspondence will be sent to  
applicant)**

C/O Canavan Byrne , Kingsfurze House, Old Lucan Road, Dublin 20 D20KR60

**4. Applicant's interest in site:**

applicant is not freehold owner of the property in question, please provide name & address of  
owner)

The applicant ( as above ) is leasing the premises from a landlord. Details below



**5. Location of proposed development (specify house no. and street name, where applicable)**

**58 MCSWINEY STREET DUNDALK**



**6. Description of proposed development:**

The house is proposed to be used as a Tusla Registered Residential Care Facility for young people, under 18 years old. It is a 6-bedroom house, 5 bedrooms will be used for residents and the 6<sup>th</sup> bedroom for an office.

**7. Does the development consist of works to be carried out to an existing or proposed protected structure? Yes ☐ No ☒**

If Yes, has a Declaration under Section 57 of the Planning and Development Act 2000 been requested or issued for the property by the Planning Authority?

\_\_\_\_\_  
\_\_\_\_\_

**8. (a) If the proposed development is an extension to a dwellinghouse, please include the following:**

• Floor area of Proposed Extension \_\_\_\_\_ sq.m • Floor area of Existing Dwelling \_\_\_\_\_ sq.m • Area of Rear Private Open Space \_\_\_\_\_ sq.m • Overall Height of Structure \_\_\_\_\_ metres

N/A

**(b) Have any previous extensions been carried out? Yes No**  
If Yes, please specify:

\_\_\_\_\_  
N/A

**9. (a) If the development is for the erection of a garage/shed/store etc. please include the following**

• Proposed garage/shed/store \_\_\_\_\_ sq.m • Floor area of Existing Structure(s) \_\_\_\_\_ sq.m • Area of Rear Private Open Space \_\_\_\_\_ sq.m • Overall Height of Structure \_\_\_\_\_ metres

N/A

**(b) Has any previous garage/shed/store been constructed? Yes No**

NO

If Yes, please specify:

\_\_\_\_\_

**10. For any building to be retained on site, or for a change of use of the property please indicate:**

Existing Use: Currently not occupied. Was a Doctor's surgery

Proposed: Tusla Registered Residential facility for children under 18

11. Please state, where applicable, materials to be used in the construction of any boundary wall or fence:

Signature of Applicant: K. Sibanda Date 07 October 2024

Please include one copy of the following documents with this application form: · Site

Location Map: (Scale 1:1000)

· Site Layout Map: (Scale 1:200 or 1:500)

· Floor Plans & Elevations: (Scale 1:50, 1:100 or 1:200)

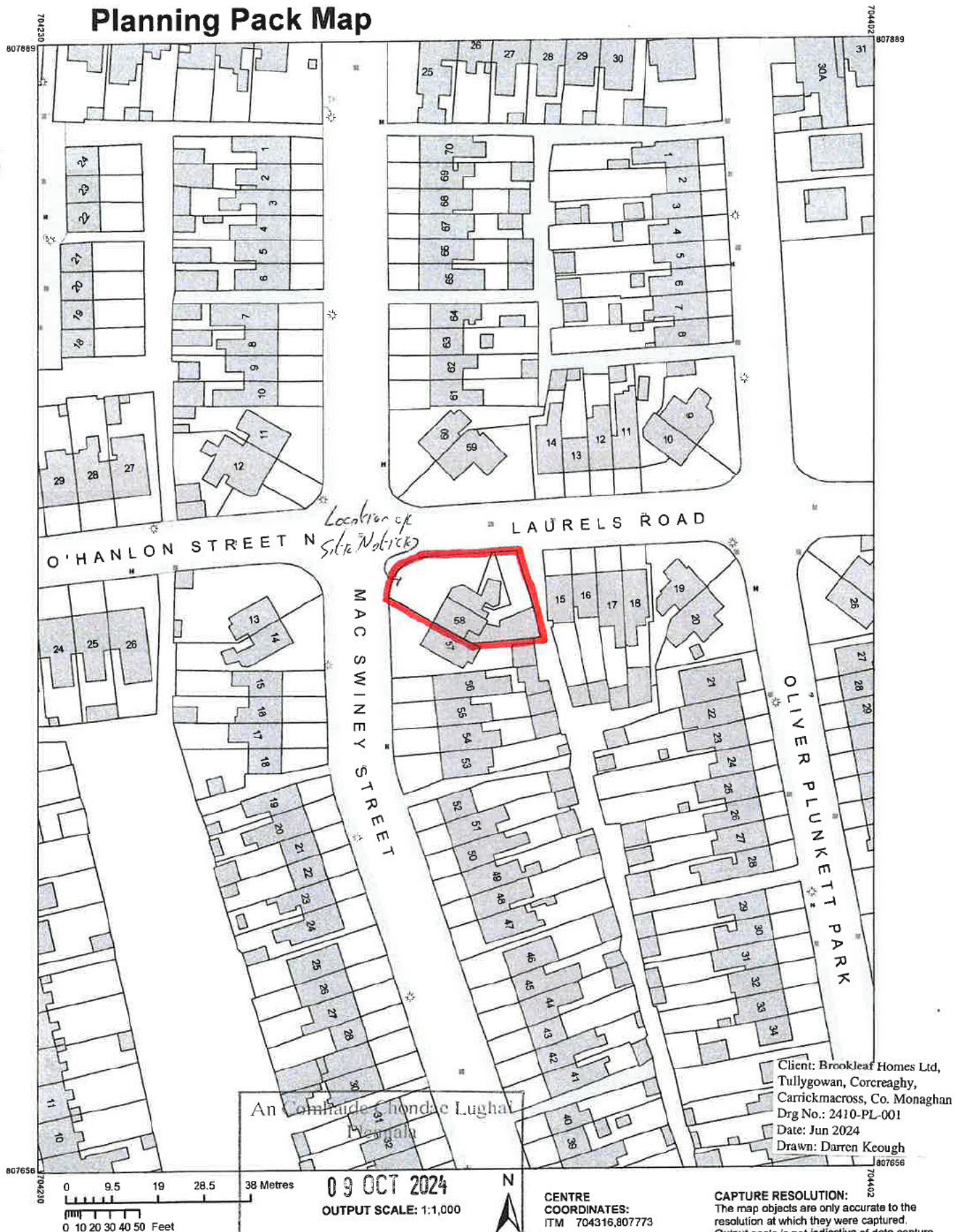
· Application fee: (€80)

**\*\*NOTE: If the property outlined in Question 5 is a Protected Structure please submit two copies of all documentation listed above.**

Completed Application Form & Fee €80.00 must be submitted to:

Planning Office  
Louth County Council  
Town Hall  
Crowe Street, Dundalk  
County Louth

# Planning Pack Map



**COMPILED AND PUBLISHED BY:**  
National Mapping Division of  
Táilte Éireann,  
Phoenix Park,  
Dublin 8,  
Ireland.  
D08F6E4

[www.tailte.ie](http://www.tailte.ie)

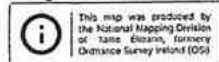
Any unauthorised reproduction  
infringes Táilte Éireann copyright.

No part of this publication may  
be copied, reproduced or transmitted  
in any form or by any means without  
the prior written permission of the  
copyright owner.

The representation on this map of  
a road, track or footpath  
is not evidence of the existence  
of a right of way.

Ordnance Survey maps  
never show legal property  
boundaries, nor do they  
show ownership of physical  
features.

© National Mapping Division of  
Táilte Éireann, 2023  
All rights reserved



**CENTRE  
COORDINATES:**  
ITM 704316,807773

**PUBLISHED:** 14/09/2023  
**ORDER NO.:** 50357190\_1

**MAP SERIES:** 1:1,000  
**MAP SHEETS:** 1632-16

Name & Address of Firm who  
Prepared Application:  
Darren Keough & Assoc's.  
56 Belfry Drive,  
Dundalk Co. Louth

**CAPTURE RESOLUTION:**  
The map objects are only accurate to the  
resolution at which they were captured.  
Output scale is not indicative of data capture  
scale.  
Further information is available at:  
[www.osi.ie](http://www.osi.ie); search 'Capture Resolution'  
**LEGEND:**  
[www.osi.ie](http://www.osi.ie); search 'Large Scale Legend'

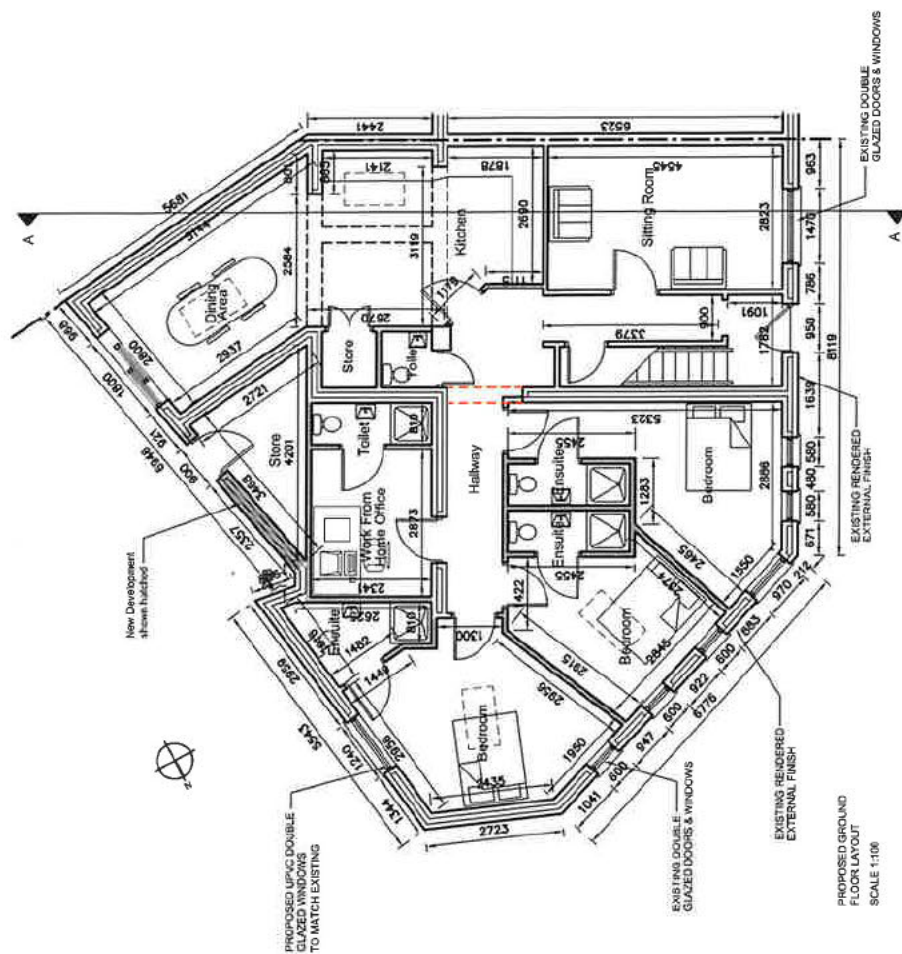


**Táilte  
Éireann**







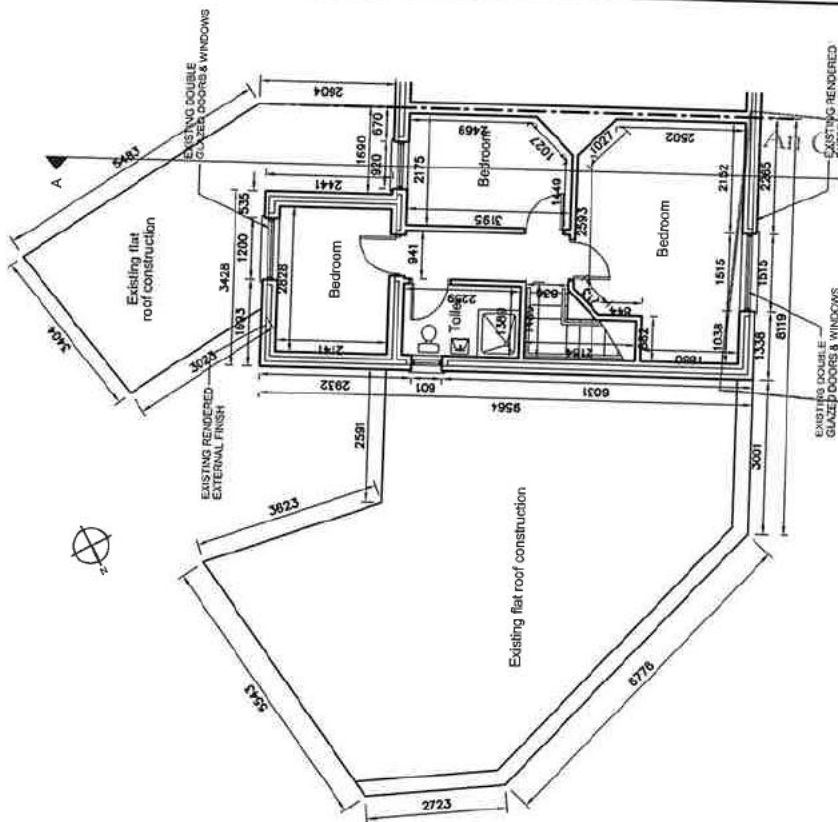
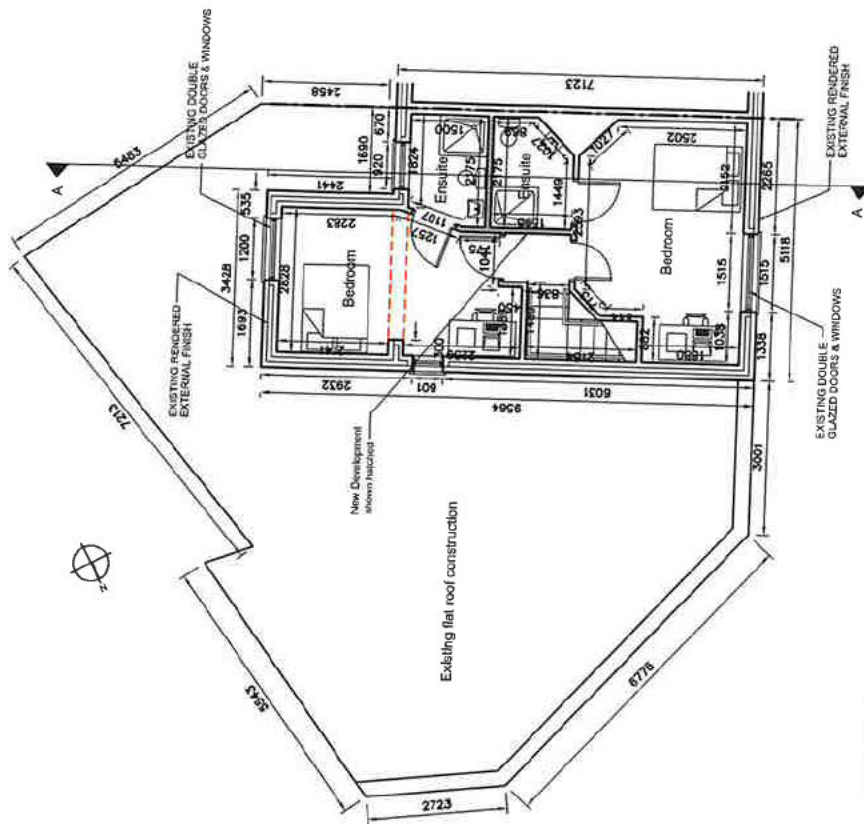


darren keough & associates  
design, draughting &  
planning consultants  
56 BELFRY DRIVE, DUNDALK, CO. DUBLIN  
mob: 0872259697  
email: needplandrawn@gmail.com

09 OCT 2024

An Comhaide Chondae Lughai  
Pleanala

Project	PROPOSED RETENTION OF AS BUILT DEVELOPMENT AT 89 MC SWINEY STREET, DUNDALK CO. LOUTH	Date	
Drawing no.	2410 - PL - 000	Issue	Jan 24
Client	BROOKLEAF HOMES LTD, TULLYGOWAN COTTREAGHY, CAMBRIDGE/CAMBS, CO MONMAGHAN	Scale	1:100
		Drawn by	Darren Kough
		Checked	



PROPOSED GROUND  
FLOOR LAYOUT  
SCALE 1:100

09 OCT 2024

Fuarthas

Amhaide Chondae Lughai  
Pleanala

darren keough & associates  
design, draughting &  
planning consultants  
56 BELFRY DRIVE, DUNDALK, CO. LOUTH  
mob: 0872259897  
email: neopiansdrawn@gmail.com



EXISTING & PROPOSED  
FIRST FLOOR LAYOUT

PROPOSED RETENTION OF AS BUILT DEVELOPMENT  
AT 18 MC SWINEY STREET, DUNDALK, CO. LOUTH

DATE: 09 OCT 2024

SCALE: 1:100

PROJECT: 2410-PL-1001

CLIENT: Darren Keough

DESIGNER: Darren Keough

DATE: 09 OCT 2024

SCALE: 1:100

PROJECT: 2410-PL-1001

CLIENT: Darren Keough

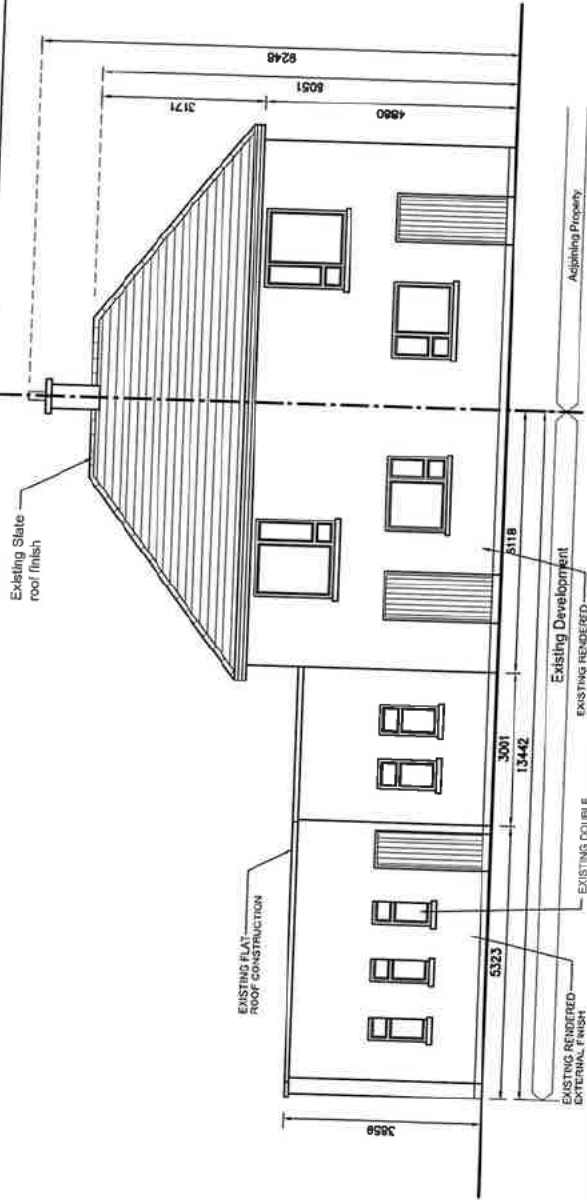
DESIGNER: Darren Keough

DATE: 09 OCT 2024

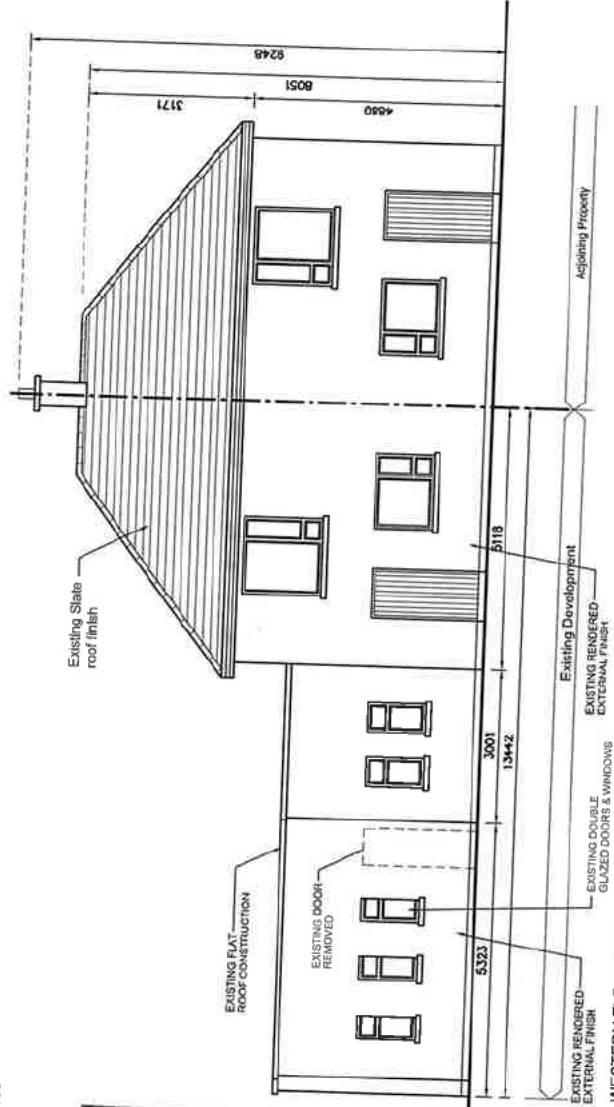
SCALE: 1:100

PROJECT: 2410-PL-1001

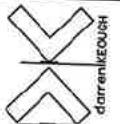
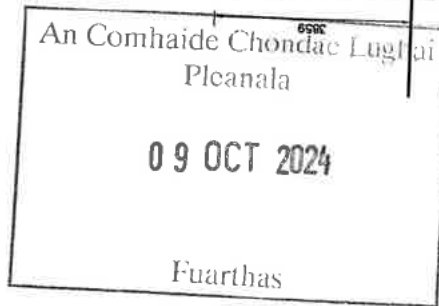
BROOKLEAF HOMES LTD, TULLYGEHAN, CO. DUBLIN



EXISTING WESTERN ELEVATION  
SCALE 1:100



PROPOSED WESTERN ELEVATION  
SCALE 1:100



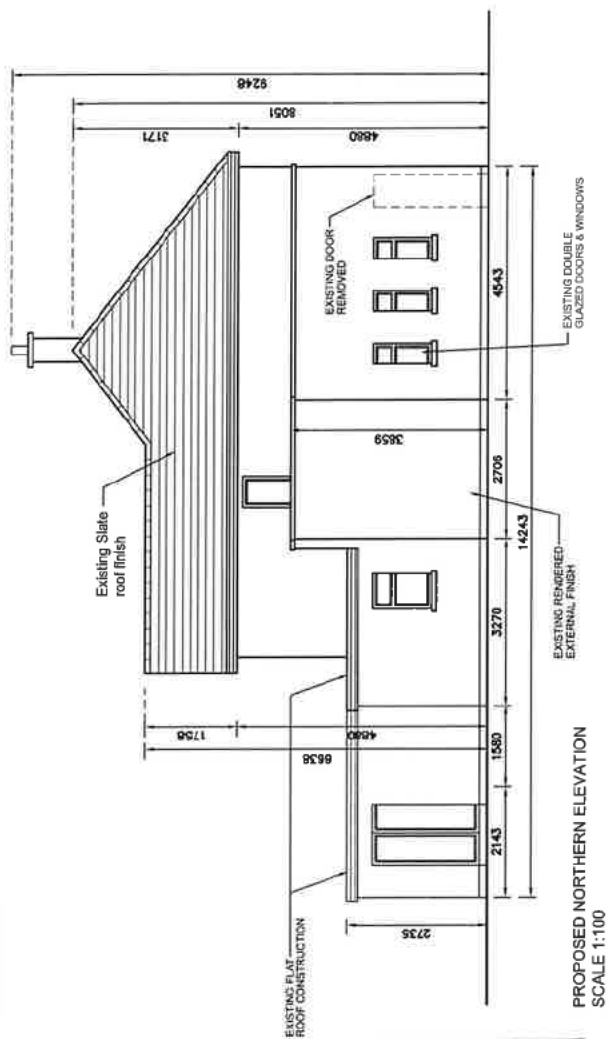
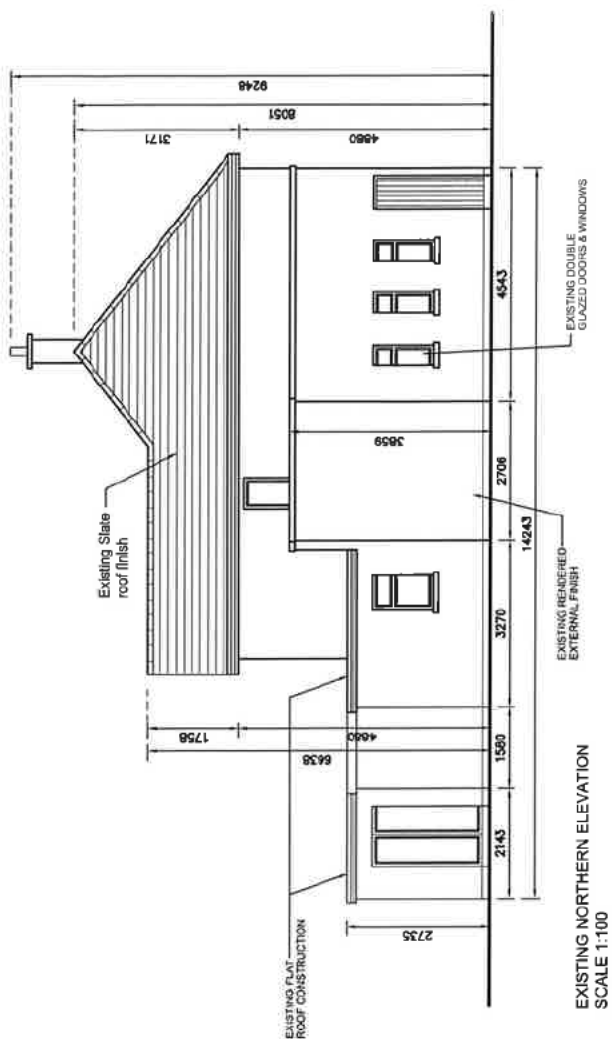
darren keough & associates  
design, draughting &  
planning consultants  
56 BELFRY DRIVE, DUNDALK, CO. LOUTH  
mob: 0872259897  
email: neepd@darrenkeough.com

Project: PROPOSED RETENTION OF AS BUILT DEVELOPMENT  
AT 58 MC SWINEY STREET, DUNDALK CO. LOUTH

EXISTING & PROPOSED  
WESTERN ELEVATIONS

Drawn: Darren Keough  
Date: Jun '24  
Scale: 1:100  
Status: Complete

BROOKLEAF HOMES LTD, TULLYTOWN, CORRBEGHY, CARROWKROSS, CO. MONAGHAN



An Comhaide Chondae Lughai  
Pleanala

09 OCT 2024

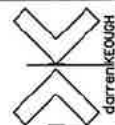
Fuarthas

**darren keough & associates  
design, draughting &  
planning consultants**

56 BELFRY DRIVE, DUNDALK, CO. LOUTH

mob: 0872259697  
email: needplansdrawn@gmail.com

mob: 08/223989/  
email: needplansdrawn@gmail.com



PROPOSED RETENTION OF AS BUILT DEVELOPMENT  
AT 58 MC SWINEY STREET, DUNDALK CO. DUBLIN

EXISTING & PROPOSED  
NORTHERN ELEVATIONS

Score	Jun 24	Score	1,900
-------	--------	-------	-------

Score	Jun 24	Score	1,900
-------	--------	-------	-------

<p><b>Stalwart:</b>  <b>Darren Keough</b></p>	<p><b>Chairman:</b>  <b>Chris Paul</b></p>
---	--

<p><b>Stalwart:</b>  <b>Darren Keough</b></p>	<p><b>Chairman:</b>  <b>Chris Paul</b></p>
---	--

<p><b>Stalwart:</b>  <b>Darren Keough</b></p>	<p><b>Chairman:</b>  <b>Chris Paul</b></p>
---	--



**Louth County Council**  
**Section 5 Declaration**

**Planning Ref:** S5 2024/55  
**Applicant's Name:** Kholisa Sibanda & Sibonginkosi Bhebhe (T/A Nissi Healthcare)

**Type of Application:** Section 5 Declaration

**Development:** To use a house as a Tusla registered residential care facility for young people under 18 years old. The dwelling is a 6 bedroom house, 5 bedrooms will be used for residents and the 6<sup>th</sup> bedroom as an office.

**Site Location:** 58 MacSwiney Street, Dundalk, Co Louth.

**Due Date:** 4<sup>th</sup> November 2024

---

**1. Site Location and Description**

A declaration has been sought in relation to a property located at the junction of McSwiney Street and The Laurels, Dundalk. The building is a two-storey detached dwelling with a single storey annex. This site is located within the settlement limit of Dundalk on lands designated as 'A1 Existing Residential' in the Louth County Development Plan 2021-2027 (as varied).

**2. Planning History**

**Development Address** 58 McSwiney Street Dundalk Co. Louth A91NH94 MCSWINEY STREET DUNDALK.  
**Applicant Name**  
**Application Status** APPLICATION FINALISED  
**Decision Date** 15/08/2024

<b>Decision</b>	CONDITIONAL
<b>Development Description</b>	Retention permission for an as built development, including the partial change of use from doctors surgery to a residential property including internal changes to the existing residential part of the development The development also includes a ground floor extension to the rear of an existing dwelling and elevational changes to the side and rear of the property
<b>File Reference</b>	2460341

<b>Development Address</b>	58 MAC SWINEY STREET DUNDALK MC SWINEY STREET
<b>Applicant Name</b>	CIARA DUINNIN
<b>Application Status</b>	APPLICATION FINALISED
<b>Decision Date</b>	02/09/2003
<b>Decision</b>	CONDITIONAL
<b>Development Description</b>	CHANGE OF USE FROM BEAUTICIANS SALON TO DOCTORS SURGERY AND FOR EXTENSION AND ALTERATIONS TO SAME
<b>File Reference</b>	03520161



Site outlined in red

### 3. Declaration Sought

The description of the proposed development detailed in Question 6 of the Section 5 Declaration Application Form is *"the house is proposed to be used as a Tusla registered residential care facility for young people, under 18 years old. It is a 6-bedroom house, 5 bedrooms will be used for residents and the 6<sup>th</sup> bedroom as an*

office". The applicant has submitted plans and elevations of the building to which this declaration relates.

#### 4. EIA Screening and Determination

Council Directive 85/337/EEC (as amended) on the assessment of the effects of certain public and private projects on the environment ('the EIA Directive') is designed to ensure that projects likely to have significant effects on the environment are subject to a comprehensive assessment of their environmental effects prior to development consent being given. The latest amendments to the EIA Directive are provided under Directive 2014/52/EU and Circular letter PL 1/2017. Based on information provided and having considered the nature, size and location of the development, there is no real likelihood of significant effects on the environment and as such as EIAR is not required.

#### 5. Appropriate Assessment

This proposal is located within 15km of the following designated European Sites:

European Site	Site Code	Distance to site	Qualifying Interests
Stabannon & Braganstown SPA	IE0004091	14 km	<ul style="list-style-type: none"><li>• Greylag Goose</li></ul>
Dundalk Bay SPA,	IE0004026	0.5 km	<ul style="list-style-type: none"><li>• Great Crested Grebe</li><li>• Greylag Goose</li><li>• Light-bellied Brent Goose</li><li>• Shelduck</li><li>• Teal</li><li>• Mallard</li><li>• Pintail</li><li>• Common Scoter</li><li>• Red-breasted Merganser</li></ul>



			<ul style="list-style-type: none"> <li>• Oystercatcher</li> <li>• Ringed Plover</li> <li>• Golden Plover</li> <li>• Grey Plover</li> <li>• Lapwing</li> <li>• Knot</li> <li>• Dunlin</li> <li>• Blactailed Godwit</li> <li>• Bar-tailed Godwit</li> <li>• Curlew</li> <li>• Redshank</li> <li>• Black-headed Gull</li> <li>• Common Gull</li> <li>• Herring Gull</li> <li>• Wetland and Waterbirds</li> </ul>
Dundalk Bay SAC	IE0000455	0.5 km	<ul style="list-style-type: none"> <li>• Estuaries</li> <li>• Mudflats and sandflats not covered by seawater at low tide</li> <li>• Perennial vegetation of stony banks</li> <li>• Salicornia and other annuals colonising mud and sand</li> <li>• Atlantic salt meadows,</li> <li>• Mediterranean salt meadows.</li> </ul>
Carlingford Mountain SAC	IE0000453	6.8 km	<ul style="list-style-type: none"> <li>• To maintain or restore the favourable conservation condition of the Annex I habitat(s) for which the SAC has been selected:</li> </ul>

### Assessment:

Having regard to the nature and scale of the proposed development and the nature of the receiving environment and the sites location in a fully serviced urban environment, no appropriate assessment issues arise and 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 (Special Area of Conservation or Special Protected Area) and as such an Appropriate Assessment (Stage 2 AA) is not required.

## **6. Legislative Context**

**Section 2 of the Planning and Development Act 2000, as amended, states that:**

In accordance with Section 2 of the Planning & Development Act, 2000 "*Development*" means 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.

"*Exempted development*" has the meaning specified in section 4;

"*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;

"*Unauthorised development*" means, in relation to land, the carrying out of any unauthorised works (including the construction, erection or making of any unauthorised structure) or the making of any unauthorised use.

"*Unauthorised works*" means any works on, in, over or under land commenced on or after 1st October 1964, being development other than—

(a) exempted development (within the meaning of section 4 of the Act of 1963 or section 4 PDA), or

(b) development which is the subject of a permission granted under Part IV of the Act of 1963 [or under section 34, 37G or 37N PDA], being a permission, which has not been revoked, and which is carried out in compliance with that permission or any condition to which that permission is subject; and

“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 of the Planning and Development Act 2000, as amended, states that:**

Section 3(1) PDA 2000 defines “development” as follows:

*“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 4 of the Planning and Development Act 2000, as amended, states that:**

Section 4(1) provides a list of statutory exempted development including development consisting of the use of any land for the purpose of agriculture and development consisting of the use for that purpose of any building occupied together with land so used under section 4(1)(a).

Section 4(2) provides for the making of regulations relating to exempted development. The Planning & Development Regulations (PDR) 2001 (as amended) give effect to section 4(2).

Section 4(1)(h) provides for *“Development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external*



*appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures”.*

**Section 5 of the Planning and Development Act 2000, as amended, states that:**

(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.

(2) (a) Subject to *paragraph (b)*, a planning authority shall issue the declaration on the question that has arisen and the main reasons and considerations on which its decision is based to the person who made the request under *subsection (1)*, and, where appropriate, the owner and occupier of the land in question, within 4 weeks of the receipt of the request.

(b) A planning authority may require any person who made a request under *subsection (1)* to submit further information with regard to the request in order to enable the authority to issue the declaration on the question and, where further information is received under this paragraph, the planning authority shall issue the declaration within 3 weeks of the date of the receipt of the further information.

(c) A planning authority may also request persons in addition to those referred to in *paragraph (b)* to submit information in order to enable the authority to issue the declaration on the question.

**Section 32 of the Planning and Development Act 2000, as amended, states that:**

Section 32 PDA 2000 sets out a general obligation to obtain planning permission in respect of any development of land, not being exempted development, and in the case of development, which is unauthorised, for the retention of that unauthorised development.

**Article 6 of the Planning & Development Regulations (PDR) 2001 (as amended)**

*Article 6 of the Planning & Development Regulations, 2001 (as amended) provides (subject to the restrictions in article 9 PDR 2001) for the classes of exempted development under column 1 of Parts 1, 2 and 3 of Schedule 2, subject, where applicable, to the conditions and limitations imposed upon such classes as set out in column 2.*

**Article 9 of the Planning & Development Regulations (PDR) 2001 (as amended)**

*Article 9(1) of the Planning & Development Regulations, 2001 (as amended) provides restrictions on exemptions as follows:*

*9. (1) Development to which article 6 relates shall not be exempted development for the purposes of the Act—*

*(a) if the carrying out of such development would—*

*(i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,*

*(ii) consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,*

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

*(iiia) endanger public safety by reason of hazardous glint and/or glare for the operation of airports, aerodromes, or aircraft,*

*(iv) except in the case of a porch to which class 7 specified in column 1 of Part 1 of Schedule 2 applies and which complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1, comprise the construction, erection, extension or renewal of a building on any street so as to bring forward the building, or any part of the building, beyond the front wall of the building on either side thereof or beyond a line determined as the building line in*



*a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,*

*(v) consist of or comprise the carrying out under a public road of works other than a connection to a wired broadcast relay service, sewer, water main, gas main or electricity supply line or cable, or any works to which class 25, 26 or 31 (a) specified in column 1 of Part 1 of Schedule 2 applies,*

*(vi) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,*

*(vii) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or 13 other objects of archaeological, geological, historical, scientific or ecological interest, the preservation of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan local area plan or the draft development plan or draft local area plan.*

*(viiA) consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments, pursuant to section 12(1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to and in accordance with a consent granted under Section 14 or a licence granted under section 26 of the National Monuments Act, 1930 (No. 2 of 1930), as amended,*

*(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 which would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site;*

*(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.*

*(viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,*

*(ix) consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,*

*(x) consist of the fencing or enclosure of any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility,*

*(xi) obstruct any public right of way,*

*(xii) further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area,*



## **Schedule 2, Planning and Development Regulations (2001) (as amended)**

**Class 14(f)** Development consisting of a change of use from use as a house to use as a residence for persons with an intellectual or physical disability or mental illness and persons provided care for such persons. Conditions/Limitations include: The number of persons with an intellectual or physical disability or a mental illness living in any such residence shall not exceed 6 and the number of resident carers shall not exceed 2.

### **7. Assessment**

#### ***Does the proposal constitute development?***

Having regard to the definition of development in The Planning and Development Act as “*the carrying out of works on, in, over or under lands or the making of any material change in the use of any structures or other land.*” The change of use of a domestic house to a community care home is considered to constitute a form of development as it constitutes a material change of use.

#### ***Does the proposal constitute exempt development?***

Class 14(f) of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended) is relevant in the assessment of whether the development is or is not exempted development.

The documentation submitted states that the declaration sought is for “*the house is proposed to be used as a Tusla registered residential care facility for young people, under 18 years old. It is a 6-bedroom house, 5 bedrooms will be used for residents and the 6<sup>th</sup> bedroom as an office*”.

The number of persons who will be residing at the house is not known. The number of resident carers is also not known. It is also not known if the persons residing at the care home are persons with an intellectual or physical disability or mental illness.

The submitted plans are taken from a planning application recently determined at this property for *“Retention permission for an as built development, including the partial change of use from doctors surgery to a residential property including internal changes to the existing residential part of the development The development also includes a ground floor extension to the rear of an existing dwelling and elevational changes to the side and rear of the property”*. The drawings are still labelled relating to that application, it is not clear if this is to be the layout of the home once operational.

When considering the above factors, it is not clear to the Planning Authority that the proposed use specifically falls within the exemption created under Class 14(f) or if it conflicts with the limitations allowed under that exemption. It therefore cannot be stated at this stage that the questions asked is development that is exempted development.

I have reviewed the Planning Conditions of previous application Reference 2460341 and this proposal is not in breach of any of the Planning Conditions attached to that permission. The development does not conflict with any of the restrictions on exemptions as set out in Article 9(1) of the Planning & Development Regulations, 2001 (as amended).

## **8. Recommendation**

Having regard to the foregoing it is considered that the change of use from a dwelling to a care facility constitutes development within the meaning of section 3 of the Planning & Development Act 2000 (as amended).

However, it is not clear to the Planning Authority that the proposal is of a type specifically allowed for under the Class 14(f) exemption as it is not clear what nature of care is being provided for at this premises, it is also not clear if the proposal complies with the limitations for this form of exemption. The question submitted also detailed that structural works were to be undertaken at the property to convert a bedroom to

an office however the submitted plans do not correspond with this and relate to a recent planning application on this site.

It is therefore recommended that Further Information is requested seeking the applicant to demonstrate that the proposal falls within that allowed under Class 14(f).

### **Further Information**

1. Section 5 of the Planning and Development Act as amended provides that if any question arises as to what, is or is not development or is or is not exempted development within the meaning of this Act, any person may, 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.

Having regard to the submitted details, it is not clear to the Planning Authority that the proposed development complies with the exemption as set out in Class 14(f) Schedule 2, Planning and Development Regulations (2001) (as amended).


You are requested to clarify the nature and type of care that is to be provided at this premises. You should specify the type of care to be provided for children at this setting and what medical criteria if any is to be used to determine what children will be housed at this location. The ages of children to be catered for should be clarified and the required ratio of carer's required both during daytime and evening. The number of children and staff residing at the facility should also be clarified.

Furthermore, question 6 on the submitted application form indicates that one of the bedrooms is to be used as an office. Elevations and plans have been submitted with this application however these relate to an application recently determined on this site under planning reference 2460341. You are therefore requested to provide revised plans indicating the full extent of proposed physical works at this site.



The applicant is requested to provide Further Information with regards to the exact nature of a service being provided for at this facility and full extent of physical works so as to enable the planning authority to make a robust assessment as to whether it meets the limitations of any exemptions provided for in the planning and development Act 2000 as amended.

  
James King  
Assistant Planner  
Date: 23/10/24

  
Joanna Kelly  
Senior Planner  
Date: 23/10/2024

\_\_\_\_\_  
Thomas McEvoy  
Director of Services  
Date:



## **LOUTH COUNTY COUNCIL**

### **REGISTERED POST**

Kholisa Sibanda & Sibonginkosi Bhebhe  
T/A Nissi Healthcare  
c/o Canavan Byrne  
Kingsfurze House  
Old Lucan Road  
Dublin 20  
D20 KR60

Planning Section  
Town Hall  
Crowe Street  
Dundalk  
Co. Louth

Tel: 042-9335457

**Date: 25<sup>th</sup> October 2024**

### **SECTION 5 FURTHER INFORMATION REQUEST**

Re: Application for Declaration of "Exempted Development" Part 1 Section 5, Planning & Development Act 2000 (as amended):- as to whether to use a house as a Tusla registered residential care facility for young people under 18 years old. It is a 6-bedroom house, 5 bedrooms will be used for residents and the 6<sup>th</sup> bedroom as an office at 58 McSwiney Street, Dundalk, Co. Louth, is or is not development and is or is not exempted development.

**APPLICANT – Kholisa Sibanda & Sibonginkosi Bhebhe (T/A Nissi Healthcare)**

**REF. NO. S5 2024/55**

Dear Sir/Madam,

Further to your application received on 09<sup>th</sup> October 2024 the Planning Authority will not be in a position to determine whether the works constitute Exempted Development until such time as the following further information is submitted: -

1. Section 5 of the Planning and Development Act as amended provides that if any question arises as to what, is or is not development or is or is not exempted development within the meaning of this Act, any person may, 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.

Having regard to the submitted details, it is not clear to the Planning Authority that the proposed development complies with the exemption as set out in Class 14 (f) of Schedule 2, Planning and Development Regulations (2001) (as amended).

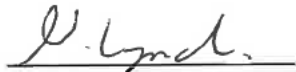
You are requested to clarify the nature and type of care that is to be provided at this premises. You should specify the type of care to be provided for children at this setting and what medical criteria if any is to be used to determine what children will be housed at this location. The ages of children to be catered for should be clarified and the required ratio of carer's required both during daytime and evening. The number of children and staff residing at the facility should also be clarified.

2. Furthermore, question 6 on the submitted application form indicates that one of the bedrooms is to be used as an office. Elevations and plans have been submitted with this application however these relate to an application recently determined on this site under planning reference 2460341. You are therefore requested to provide revised plans indicating the full extent of proposed physical works at this site.

The applicant is requested to provide Further Information with regards to the exact nature of a service being provided for at this facility and full extent of physical works so as to enable the planning authority to make a robust assessment as to whether it meets the limitations of any exemptions provided for in the planning and development Act 2000 as amended.

This matter is being dealt with by **James King, Assistant Planner, Louth County Council** who can be contacted on 042-9335457.

Yours faithfully,



**Niamh Lynch**  
**Planning Section**

## Niamh Lynch

---

**From:** Planning Group CRM  
**Sent:** Thursday 31 October 2024 08:56  
**To:** Niamh Lynch  
**Subject:** FW: URGENT Section 5 Exemption Further Information Request : Attention Niamh Lynch  
**Attachments:** Mc Swiney plans.zip; Fw\_ RE Applying for registration..eml

**From:** NISSI Healthcare [REDACTED]  
**Sent:** Wednesday 30 October 2024 23:13  
**To:** Planning Group CRM <PlanningGroup@louthcoco.ie>  
**Subject:** URGENT Section 5 Exemption Further Information Request : Attention Niamh Lynch

Dear Planning Officer,

Further to correspondence from Niamh Lynch please see below.

An Comhaide Chondae Lughair  
Pleanála

30 OCT 2024

FI received

Fuarthas

Nissi Healthcare seeks a Section 5 planning exemption to use the premises at 58 McSwiney Street for residential services dedicated to children under the age of 18 who are under the care of the TUSLA Child and Family Agency. This home is intended to support young people predominantly aged 12–18; however, on occasion, it may accommodate children under 12 as well.

The primary objective of the residence is to provide a stable, mainstream environment for children within a shared, multi-occupancy setting. This shared residential structure will cater to the everyday needs of the children, ensuring a supportive and manageable living space that resembles a typical family home.

The house will operate with qualified vetted staff on-site 24 hours a day, ensuring continuous support and supervision for the children. There will always be a minimum of two staff members on duty at any given time, with an appointed manager available during office hours to oversee the operations. The residence will accommodate a maximum of five children at a time, and it is essential to note that none of the children placed in this residence will require specialised medical care. Additionally, the premises are not equipped to meet the needs of children requiring disability services.

We believe that this arrangement aligns with the principles of mainstream residential care and is in line with the standards set by TUSLA for children's services. As such, we kindly request that the



council consider granting a Section 5 exemption to facilitate the operation of this much-needed residential service and it is catering for under 6 children, as per the exemption requirements.

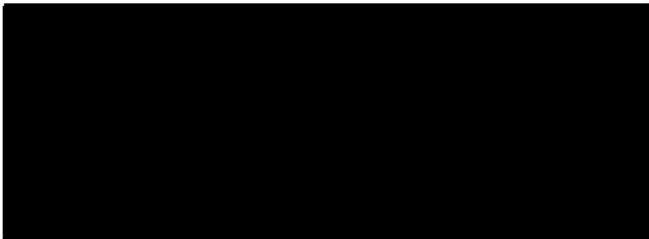
The drawings attached are correct and the application form may have confused matters. The rooms are correctly labelled. The home office is what we refer to as 'office' and 'the sitting room' is also labelled correctly in the drawing. There are 5 bedrooms. Please find attached our communication with TUSLA.

Thank you for your attention to this request. We look forward to your positive consideration and are available to provide any further information as needed.

Kind regards

Kholisa

--



The content of this email is confidential and intended for the recipient specified in message only. It is strictly forbidden to share any part of this message with any third party, without a written consent of the sender. If you received this message by mistake, please reply to this message and follow with its deletion, so that we can ensure such a mistake does not occur in the future.

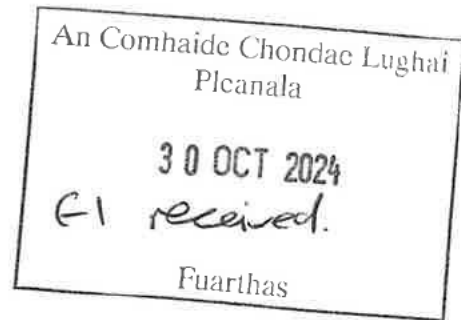
## Niamh Lynch

---

**From:** Residential Care <residentialcare@canavanbyrne.ie>  
**Sent:** Monday 8 July 2024 15:56  
**To:** NISSI Healthcare  
**Subject:** Fw: RE Applying for registration.

Hi

Please see correspondence with Tusla for the Architect.



---

**From:** [REDACTED]  
**Sent:** Monday 8 July 2024 14:39  
**Subject:** RE Applying for registration.

Dear Charlene please see response below.

The Child Care Act 1991 Part VIII Section 60 (1) identified that there is a legal requirement for any person who operates a non- statutory children's residential centre to have this centre registered with Tusla (where the Act refers to the Health Board this now is Tusla, the Child and Family Agency.)

It goes on to say that any person who contravenes a provision of this section shall be guilty of an offence.

All registered providers must apply to the ACIMs using the prescribed application form to have their centre entered onto the register of children's centres. The application form can be found on the Tusla website:

<https://www.tusla.ie/services/alternative-care/registration-and-inspection-service/registration-of-childrens-residential-centres/>.

The application form must be submitted with all the supporting documents as listed on the form.

Section 61(3)(B) of the Child Care Act 1991 Part VIII states that registration of a centre lasts for three years. After which time registration renewal is required, the registered provider must then reapply for registration no less than 6 months before the expiry date of the registration.

Centres when registered are subject to ongoing inspection to assess compliance with the Child Care (Standards in Children's Residential Centres) Regulations, 1996 and The National Standards for Children's Residential Centres, 2018 (HIQA). Reports of the finding of inspections are published on the Tusla website  
<https://www.tusla.ie/services/alternative-care/registration-and-inspection-service/inspection-reports/>.

Ms Sharon McLoughlin  
Inspector Manager DNE/DML

"Tá an fhaisnéis sa ríomhphost seo (ceangaltáin san áireamh) faoi rún. Baineann sé leis an té ar seoladh chuige amháin agus tá sé ar intinn go bhfaighfidh siadsan amháin é agus gurb iadsan amháin a dhéanfaidh breithniú air. Más rud é nach tusa an duine ar leis é, tá cosc iomlán ar aon fhaisnéis atá ann, a úsáid, a chraobhscaoileadh, a scaipeadh, a nochtadh, a fhoilsiú, ná a chóipeáil. Seans gurb iad tuairimí pearsanta an údar atá san ríomhphost agus nach tuairimí Tusla iad.

Má fuair tú an ríomhphost seo trí dhearmad, bheadh muid buíoch dá gcuirfeá in iúil don Deasc Seirbhísí ECT ar an nguthán ag [+353 1 7718870](tel:+35317718870) nó ar an ríomhphost chuig [tuslaict@tusla.ie](mailto:tuslaict@tusla.ie) agus ansin glan an ríomhphost seo ded' chóras."

"Information in this email (including attachments) is confidential. It is intended for receipt and consideration only by the intended recipient. If you are not an addressee or intended recipient, any use, dissemination, distribution, disclosure, publication or copying of information contained in this email is strictly prohibited. Opinions expressed in this email may be personal to the author and are not necessarily the opinions of Tusla.

If this email has been received by you in error we would be grateful if you could immediately notify the ICT Service Desk by telephone at [+353 1 7718870](tel:+35317718870) or by email to [tuslaict@tusla.ie](mailto:tuslaict@tusla.ie) and thereafter delete this e-mail from your system"

# Planning Pack Map



## COMPILED AND PUBLISHED BY:

National Mapping Division of  
Táille Éireann,  
Phoenix Park,  
Dublin 8,  
Ireland.  
D08F6E4

[www.tailte.ie](http://www.tailte.ie)

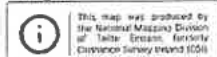
Any unauthorised reproduction  
infringes Táille Éireann copyright.

No part of this publication may  
be copied, reproduced or transmitted  
in any form or by any means without  
the prior written permission of the  
copyright owner.

The representation on this map  
of a road, track or footpath  
is not evidence of the existence  
of a right of way.

Ordnance Survey maps  
never show legal property  
boundaries, nor do they  
show ownership of physical  
features.

© National Mapping Division of  
Táille Éireann, 2023  
All rights reserved



This map was produced by  
the National Mapping Division  
of Táille Éireann, formerly  
Ordnance Survey Ireland (OSi)

OUTPUT SCALE: 1:1,000



CENTRE  
COORDINATES:  
ITM 704316,807773

PUBLISHED:  
14/09/2023

MAP SERIES:  
1:1,000

ORDER NO.:  
50357190\_1

MAP SHEETS:  
1632-16

## CAPTURE RESOLUTION:

The map objects are only accurate to the  
resolution at which they were captured.  
Output scale is not indicative of data capture  
scale.

Further information is available at:  
[www.osi.ie](http://www.osi.ie); search 'Capture Resolution'  
LEGEND:  
[www.osi.ie](http://www.osi.ie); search 'Large Scale Legend'



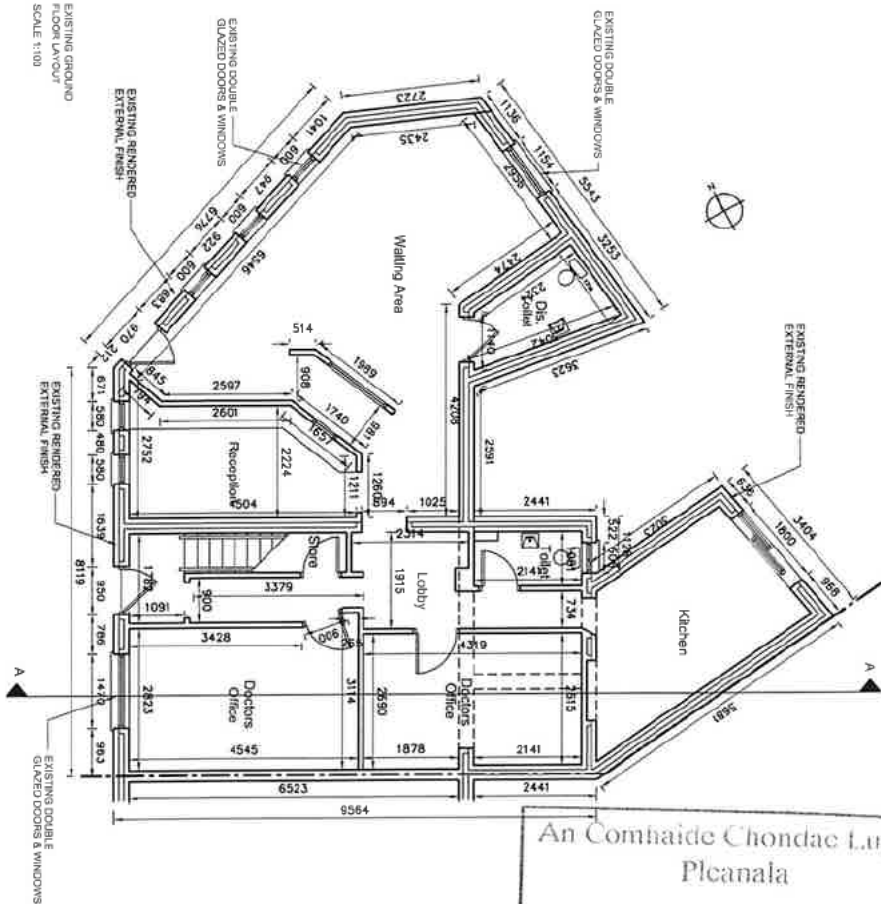
**Táille  
Éireann**

Name & Address of Firm who  
Prepared Application:  
Darren Keough & Assoc's.  
56 Belfry Drive,  
Dundalk, Co. Louth

Client: Brookleaf Homes Ltd.  
Tullygowan, Corcreaghy,  
Carrickmacross, Co. Monaghan  
Drg No.: 2410-PL-001  
Date: Jun 2024  
Drawn: Darren Keough



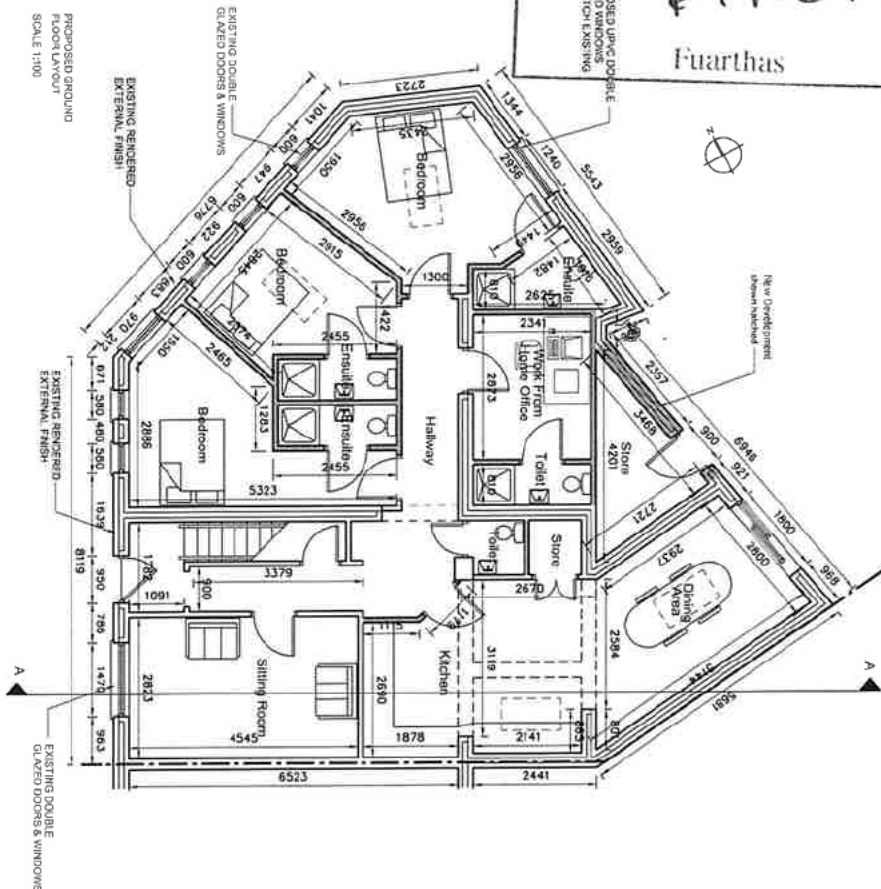




An Comhaide Chondae Lughai  
Pleanála

30 OCT 2024  
€1 received.

Fuarthas



darren keough & associates  
design, draughting &  
planning consultants  
56 BELFRY DRIVE, DUNDALK, CO. DUBLIN  
mob: 0872259697  
email: nee@planningconsultants.com



PROPOSED RETENTION OF AS BUILT DEVELOPMENT  
AT 56 MC SWINEY STREET, DUNDALK, CO. DUBLIN

2410-PR-003

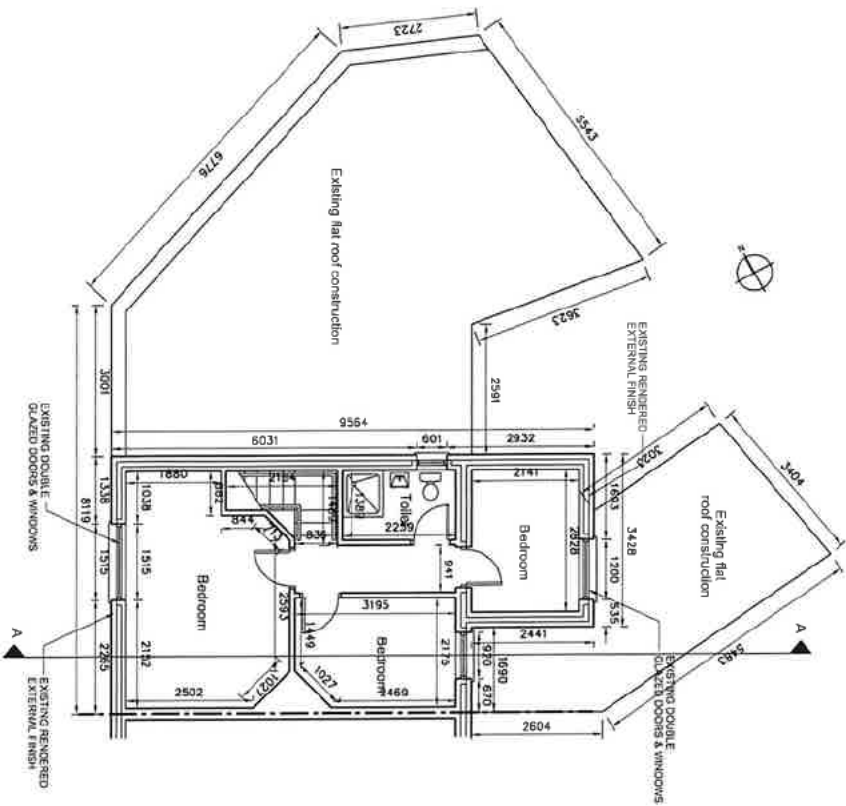
DATE: 24th JUL 2024

DRAWN: Darren Keough

CHECKED: [Signature]

SCALE: 1:100

PROJECT: BROWNE & HOGAN LTD, TULLYVOWN, CONTEMPORARY GARDEN/ARCHES, CO. MONAGHAN

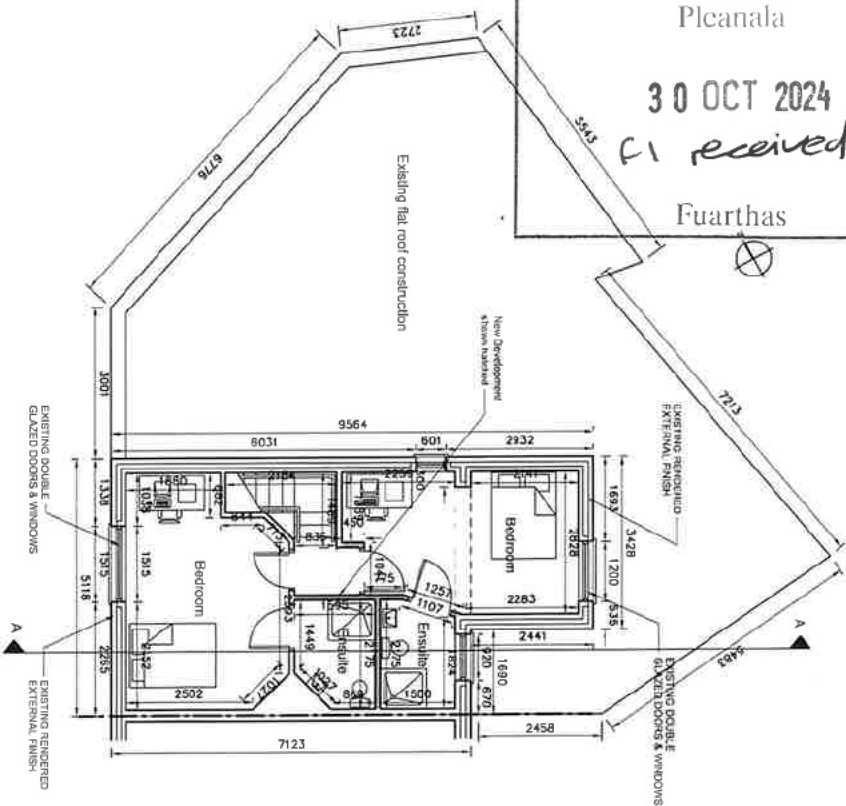


An Comhaide Chondac Lughai  
Pleanala

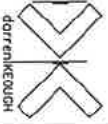
30 OCT 2024

fi received

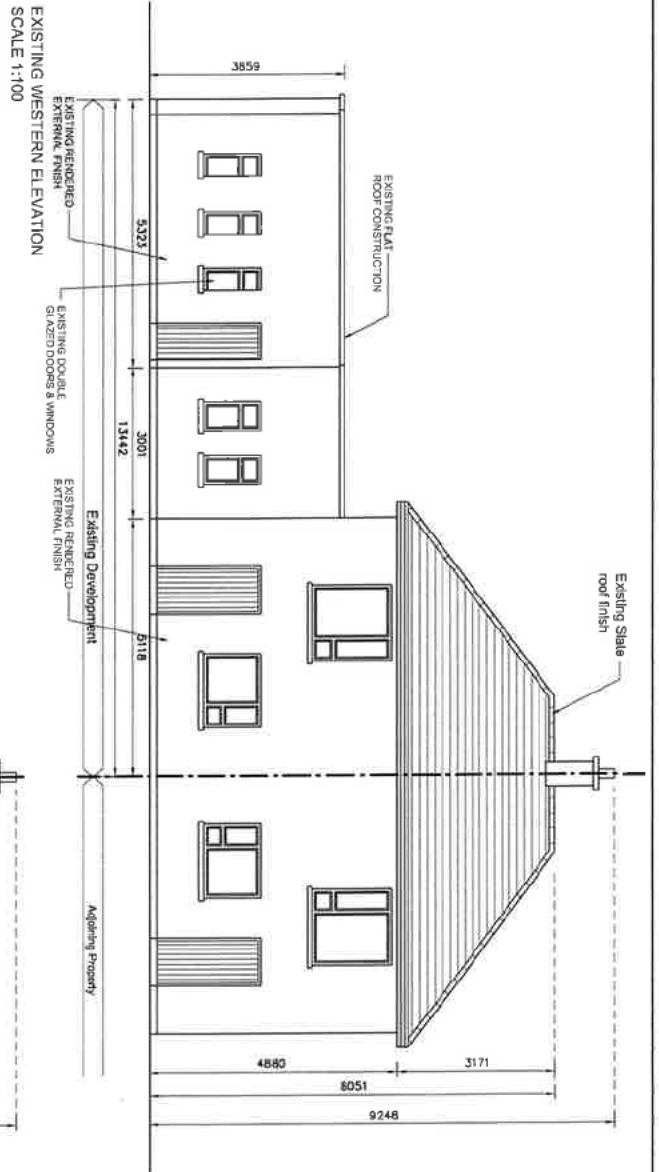
Fuarthas



darren keough & associates  
design, draughting &  
planning consultants  
56 BELFRY DRIVE, DUNDALK, CO. DUBLIN  
mob: 0872259637  
email: needplansdrawn@gmail.com



PROPOSED RETENTION OF AS BUILT DEVELOPMENT  
AT 56 MC SWINEY STREET, DUNDALK, CO. DUBLIN  
Drawing No: 2410-PL-001  
Date: Jan 24  
Scale: 1:100  
Drawn: Darren Keough  
Checked: [Signature]  
BROOKLYN HOMES LTD TULLYDOWN, CONTEMPORARY GARDENARCHES CO. MOUNTAIN

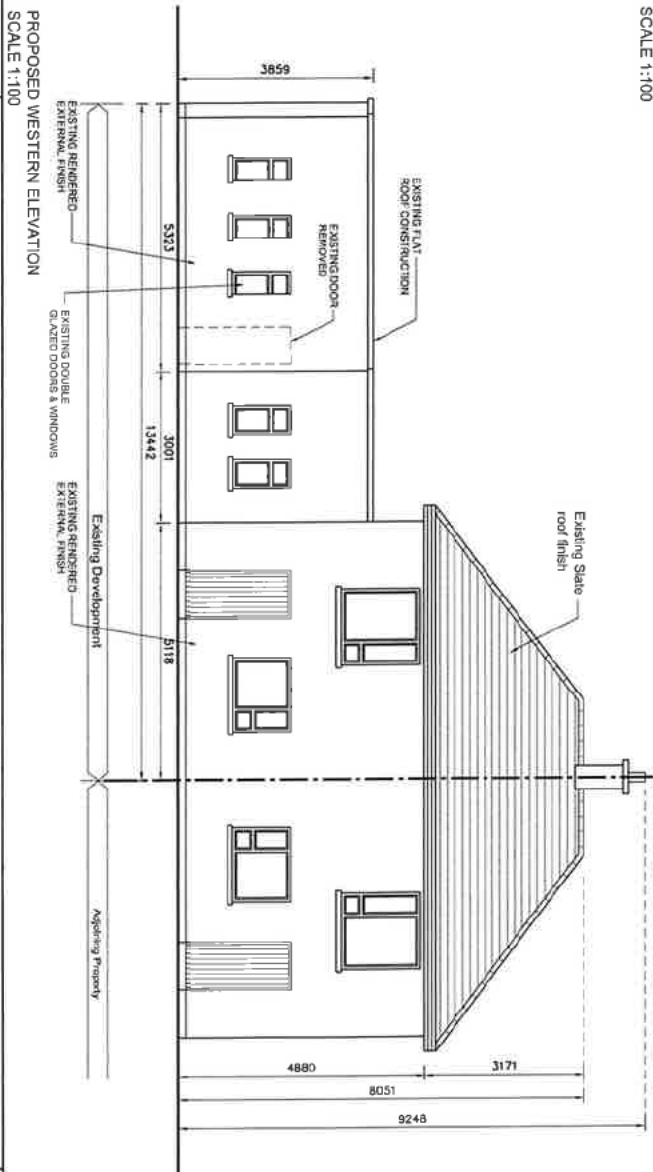


An Comhaide Chondac Lughai  
Pleanala

30 OCT 2024

*F1 received*

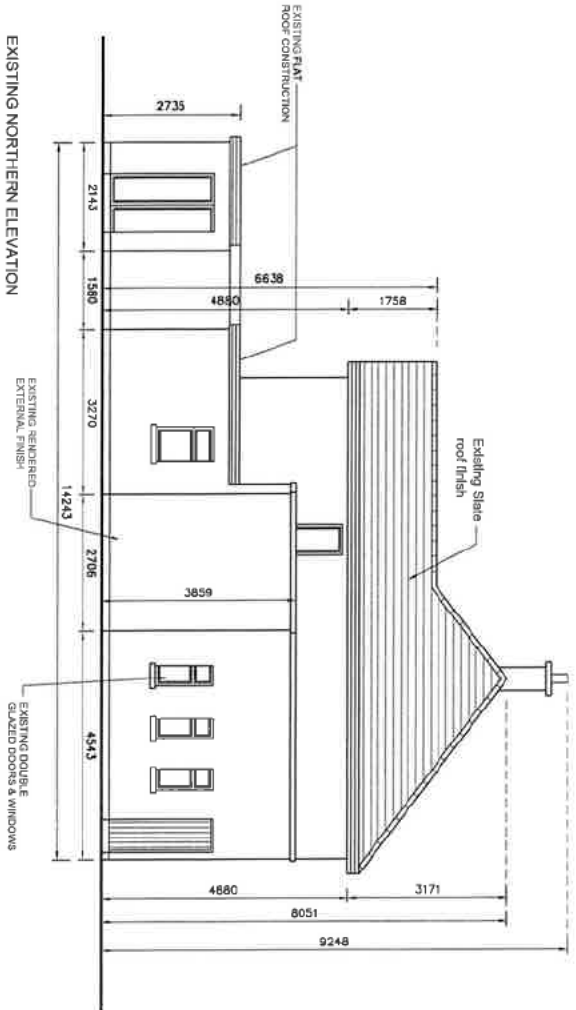
Fuarthas



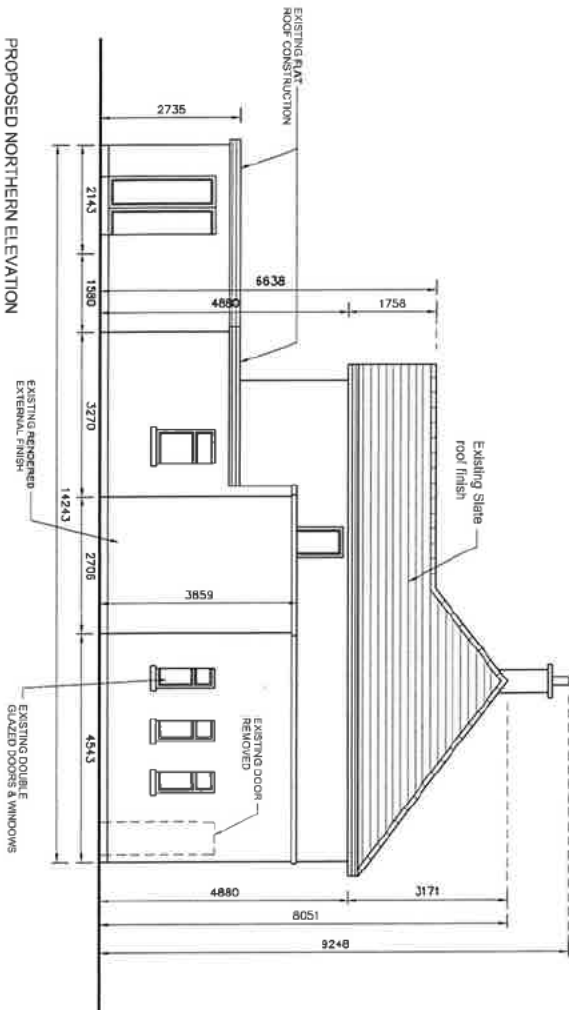
PROPOSED WESTERN ELEVATION  
SCALE 1:100



EXISTING NORTHERN ELEVATION  
SCALE 1:100

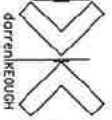


PROPOSED NORTHERN ELEVATION  
SCALE 1:100



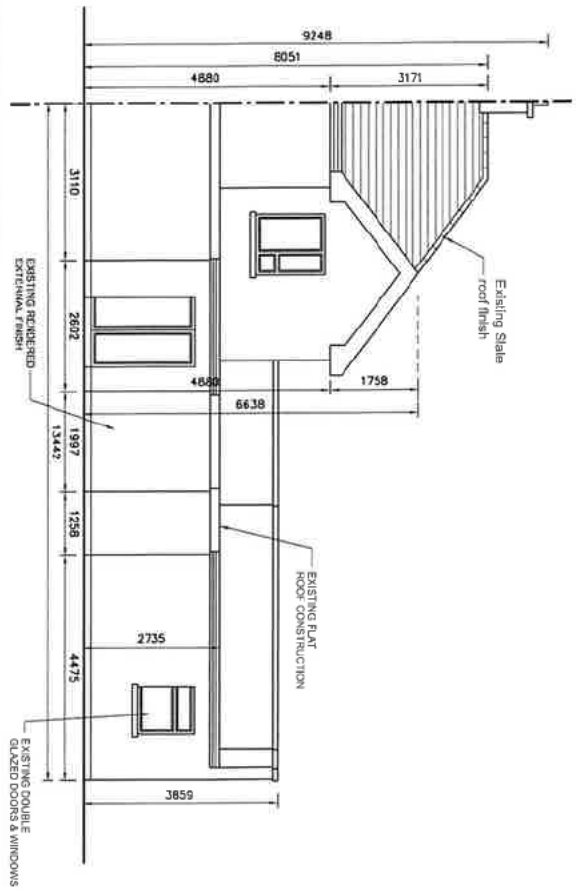
An Comhaide Chondae Lughai  
Pleanala  
30 OCT 2024  
FI received  
Fuarthas

darren keough & associates  
design, drafting &  
planning consultants  
56 BELFRY DRIVE, DUNDALK, CO. DUBLIN  
mob: 0872259697  
email: neep@darrenkeough.com

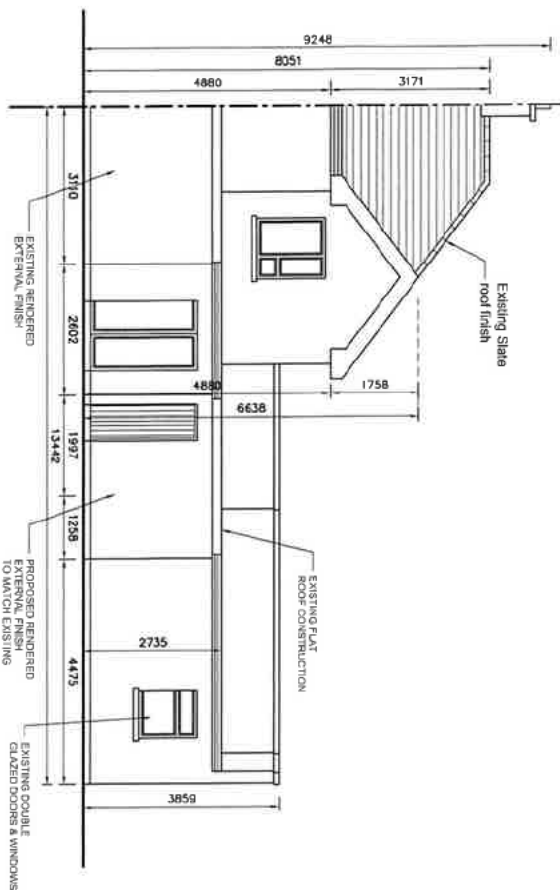


PROPOSED RETENTION OF AS BUILT DEVELOPMENT  
AT 56 MC SWINEY STREET, DUNDALK CO. DUBLIN  
EXISTING & PROPOSED  
NORTHERN ELEVATIONS  
DATE: 24.10.24  
SCALE: 1:100  
DRAWN: (Darren Keough)  
CHECKED: (Darren Keough)  
BROOKFIELD HOMES LTD, TILLYGOWN, CO. DUBLIN

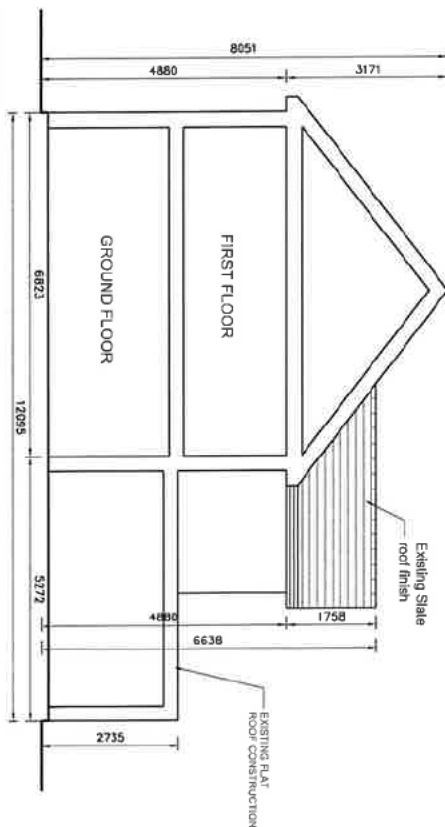
EXISTING EASTERN ELEVATION  
SCALE 1:100



PROPOSED EASTERN ELEVATION  
SCALE 1:100

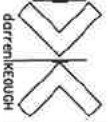


PROPOSED SECTION A-A  
SCALE 1:100



An Comhaide Chondae Lughai  
Pleanala  
30 OCT 2024  
FI received.  
Fuarthas

darren keough & associates  
design, draughting &  
planning consultants  
56 BELFRY DRIVE, DUNDALK, CO. DUBLIN  
t: 0872259697  
e: darren@dkad.com



PROPOSED RETENTION OF AB BUILT DEVELOPMENT  
AT 56 MC SWINEY STREET, DUNDALK, CO. DUBLIN  
Drawing to: 2410-PL-007  
Date: Jan 24  
Scale: 1:100  
Drawn by: Darren Keough  
Checked by: Darren Keough  
Project: BUNOILEAF HOMES LTD, TULLYVOWAN, CONGREAHY, CARRICKMACROSS, CO. MONaghan

**Louth County Council  
Section 5 Declaration**

**Planning Ref:** S5 2024/55

**Applicant's Name:** Kholisa Sibanda & Sibonginkosi Bhebhe (T/A Nissi Healthcare)

**Type of Application:** Section 5 Declaration

**Development:** To use a house as a Tulsa registered residential care facility for young people under 18 years old. The dwelling is a 6 bedroom house, 5 bedrooms will be used for residents and the 6<sup>th</sup> bedroom as an office.

**Site Location:** 58 McSwiney Street, Dundalk, Co Louth

**Due Date:** 18<sup>th</sup> November 2024

**\*\*This is an assessment of further information and should be read in conjunction with the initial assessment report dated 23<sup>rd</sup> September 23/10/24\*\***

---

**1.0 SUMMARY OF PREVIOUS REPORT:**

Having considered the declaration, the following details were requested from the applicant:

*"Having regard to the submitted details, it is not clear to the Planning Authority that the proposed development complies with the exemption as set out in Class 14(f) Schedule 2, Planning and Development Regulations (2001) (as amended).*

*You are requested to clarify the nature and type of care that is to be provided at this premises. You should specify the type of care to be provided for children at this setting and what medical criteria if any is to be used to determine what children will be housed at this location. The ages of children to be catered for should be clarified and the required ratio of carer's required both during daytime and evening. The number of children and staff residing at the facility should also be clarified.*

*Furthermore, question 6 on the submitted application form indicates that one of the bedrooms is to be used as an office. Elevations and plans have been submitted with this application however these relate to an application recently determined on this site under planning reference 2460341. You are therefore requested to provide revised plans indicating the full extent of proposed physical works at this site.*

*The applicant is requested to provide Further Information with regards to the exact nature of a service being provided for at this facility and full extent of physical works so as to enable the planning authority to make a robust assessment as to whether*

*it meets the limitations of any exemptions provided for in the planning and development Act 2000 as amended."*

## **2.0. RESPONSE FROM APPLICANT:**

The applicant has submitted an email from NISSI Healthcare which states that the premises at No. 58 McSwiney Street is proposed to be used for residential services dedicated to children under the age of 18 who are under the care of the TULSA Child and Family Agency. The email notes that the home is intended to support young people predominantly aged 12-18; however, on occasion, it may accommodate children under 12 as well.

The email also states that the primary objective of the residence is to provide a stable, mainstream environment for children within a shared, multi-occupancy setting. This shared residential structure will cater to the everyday needs of the children, ensuring a supportive and manageable living space that resembles a typical family home. The house is proposed to operate with qualified vetted staff who will be on-site 24 hours a day, ensuring continuous support and supervision for the children. There will always be a minimum of two staff members on duty at any given time, with an appointed manager available during office hours to oversee the operations.

The residence will accommodate a maximum of 5 no. children at a time, and it is essential to note that none of the children placed in this residence will require specialised medical care, the premises are not equipped to meet the needs of children requiring disability services.

The arrangement aligns with the principles of mainstream residential care and is in line with the standards set by TULSA for children's services.

The email from the applicant also indicates that corrected drawings have been submitted, and clarify what was labelled the home office is an office, and the sitting room is also now correctly labelled in the drawing, as well as 5 no. bedrooms.

## **3.0 QUESTION FOR DETERMINATION**

The declaration sought as detailed in Question 6 of the Section 5 Declaration Application form is *"the house is proposed to be a Tulsa Registered Residential Care Facility for young people, under 18 years old. It is a 6-bedroom house, 5 bedrooms will be used for residents and the 6<sup>th</sup> bedroom for an office"*.

The Planning Authority, based on the further information submitted and review of the floor plans and elevations resubmitted, is considering the "question for determination" as:

*"Whether the change of use of a house to a Tulsa Registered Residential care facility for a maximum of 5 no. young people requiring no specialised medical care, and a minimum of 2 no. carers to be on duty at all times, is or is not development and is or is not exempted development"*.



#### 4. EIA SCREENING AND DETERMINATION

Council Directive 85/337/EEC (as amended) on the assessment of the effects of certain public and private projects on the environment ('the EIA Directive') is designed to ensure that projects likely to have significant effects on the environment are subject to a comprehensive assessment of their environmental effects prior to development consent being given. The latest amendments to the EIA Directive are provided under Directive 2014/52/EU and Circular letter PL 1/2017. Based on information provided and having considered the nature, size and location of the development, there is no real likelihood of significant effects on the environment and as such as EIAR is not required.

#### 5. APPROPRIATE ASSESSMENT

This proposal is located within 15km of the following designated European Sites:

European Site	Site Code	Distance to site	Qualifying Interests
Stabannon & Braganstown SPA	IE0004091	14 km	<ul style="list-style-type: none"><li>• Greylag Goose</li></ul>
Dundalk Bay SPA,	IE0004026	0.5 km	<ul style="list-style-type: none"><li>• Great Crested Grebe</li><li>• Greylag Goose</li><li>• Light-bellied Brent Goose</li><li>• Shelduck</li><li>• Teal</li><li>• Mallard</li><li>• Pintail</li><li>• Common Scoter</li><li>• Red-breasted Merganser</li><li>• Oystercatcher</li><li>• Ringed Plover</li><li>• Golden Plover</li></ul>

			<ul style="list-style-type: none"> <li>• Grey Plover</li> <li>• Lapwing</li> <li>• Knot</li> <li>• Dunlin</li> <li>• Blactailed Godwit</li> <li>• Bar-tailed Godwit</li> <li>• Curlew</li> <li>• Redshank</li> <li>• Black-headed Gull</li> <li>• Common Gull</li> <li>• Herring Gull</li> <li>• Wetland and Waterbirds</li> </ul>
Dundalk Bay SAC	IE0000455	0.5 km	<ul style="list-style-type: none"> <li>• Estuaries</li> <li>• Mudflats and sandflats not covered by seawater at low tide</li> <li>• Perennial vegetation of stony banks</li> <li>• Salicornia and other annuals colonising mud and sand</li> <li>• Atlantic salt meadows,</li> <li>• Mediterranean salt meadows.</li> </ul>
Carlingford Mountain SAC	IE0000453	6.8 km	<ul style="list-style-type: none"> <li>• To maintain or restore the favourable conservation condition of the Annex I habitat(s) for which the SAC has been selected:</li> </ul>

#### Assessment:

Having regard to the nature and scale of the proposed development and the nature of the receiving environment and the sites location in a fully serviced urban environment, no appropriate assessment issues arise and 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 (Special Area of Conservation or Special Protected Area) and as such an Appropriate Assessment (Stage 2 AA) is not required.

## 6. LEGISLATIVE CONTEXT

### **Section 2 of the Planning and Development Act 2000, as amended, states that:**

In accordance with Section 2 of the Planning & Development Act, 2000 “*Development*” means 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.

“*Exempted development*” has the meaning specified in section 4;

“*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

“*Unauthorised development*” means, in relation to land, the carrying out of any unauthorised works (including the construction, erection or making of any unauthorised structure) or the making of any unauthorised use

“*Unauthorised works*” means any works on, in, over or under land commenced on or after 1st October 1964, being development other than—

(a) exempted development (within the meaning of section 4 of the Act of 1963 or section 4 PDA), or

(b) development which is the subject of a permission granted under Part IV of the Act of 1963 [or under section 34, 37G or 37N PDA], being a permission, which has not been revoked, and which is carried out in compliance with that permission or any condition to which that permission is subject; and

“*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 of the Planning and Development Act 2000, as amended, states that:**

Section 3(1) PDA 2000 defines “development” as follows:

*“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 4 of the Planning and Development Act 2000, as amended, states that:**

Section 4(1) provides a list of statutory exempted development.

Section 4(2) provides for the making of regulations relating to exempted development. The Planning & Development Regulations (PDR) 2001 (as amended) give effect to section 4(2).

Section 4(1)(h) provides for *“Development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures”*.

**Section 5 of the Planning and Development Act 2000, as amended, states that:**

- (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.
- (2) (a) Subject to *paragraph (b)*, a planning authority shall issue the declaration on the question that has arisen and the main reasons and considerations on which its decision is based to the person who made the request under *subsection (1)*, and, where appropriate, the owner and occupier of the land in question, within 4 weeks of the receipt of the request.  
  
(b) A planning authority may require any person who made a request under *subsection (1)* to submit further information with regard to the request in order to enable the authority to issue the declaration on the question and, where further information is received under this paragraph, the planning authority shall issue the declaration within 3 weeks of the date of the receipt of the further information.  
  
(c) A planning authority may also request persons in addition to those referred to in *paragraph (b)* to submit information in order to enable the authority to issue the declaration on the question.

**Section 32 of the Planning and Development Act 2000, as amended, states that:**

Section 32 PDA 2000 sets out a general obligation to obtain planning permission in respect of any development of land, not being exempted development, and in the case of development, which is unauthorised, for the retention of that unauthorised development.

**Article 6 of the Planning & Development Regulations (PDR) 2001 (as amended)**

*Article 6 of the Planning & Development Regulations, 2001 (as amended) provides (subject to the restrictions in article 9 PDR 2001) for the classes of exempted development under column 1 of Parts 1, 2 and 3 of Schedule 2, subject, where applicable, to the conditions and limitations imposed upon such classes as set out in column 2.*



## **Article 9 of the Planning & Development Regulations (PDR) 2001 (as amended)**

*Article 9(1) of the Planning & Development Regulations, 2001 (as amended) provides restrictions on exemptions as follows:*

*9. (1) Development to which article 6 relates shall not be exempted development for the purposes of the Act—*

*(a) if the carrying out of such development would—*

*(i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,*

*(ii) consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,*

*(iii) endanger public safety by reason of traffic hazard or obstruction of road users, (iiia) endanger public safety by reason of hazardous glint and/or glare for the operation of airports, aerodromes, or aircraft,*

*(iv) except in the case of a porch to which class 7 specified in column 1 of Part 1 of Schedule 2 applies and which complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1, comprise the construction, erection, extension or renewal of a building on any street so as to bring forward the building, or any part of the building, beyond the front wall of the building on either side thereof or beyond a line determined as the building line in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,*

*(v) consist of or comprise the carrying out under a public road of works other than a connection to a wired broadcast relay service, sewer, water main, gas main or electricity supply line or cable, or any works to which class 25, 26 or 31 (a) specified in column 1 of Part 1 of Schedule 2 applies,*

*(vi) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,*

*(vii) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or 13 other objects of archaeological, geological, historical, scientific or ecological interest, the preservation of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan local area plan or the draft development plan or draft local area plan.*

*(viiA) consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments, pursuant to section 12(1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to and in accordance with a*

*consent granted under Section 14 or a licence granted under section 26 of the National Monuments Act, 1930 (No. 2 of 1930), as amended,*

*(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 which would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site;*

*(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.*

*(viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,*

*(ix) consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,*

*(x) consist of the fencing or enclosure of any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility,*

*(xi) obstruct any public right of way,*

*(xii) further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area,*

## **Schedule 2, Planning and Development Regulations (2001) (as amended)**

**Class 14(f):** Development consisting of a change of use from use as a house to use as a residence for persons with an intellectual or physical disability or mental illness and persons providing care for such persons. Conditions/Limitations include: The number of persons with an intellectual or physical disability or a mental illness living in any such residence shall not exceed 6 and the number of resident carers shall not exceed 2.

## **7.0 ASSESSMENT**

### **Do the works constitute “development”?**

Having regard to the definition of development in the Planning and Development Act 2000 as “the carrying out of works on, in over or under lands or the making of any material change in the use of any structures or other land”. The change of use of a domestic house to a community care home is considered to constitute a form of development as it constitutes a material change of use.

### **Do the works constitute exempted development?**

Class 14(f) of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended) is relevant in the assessment of whether the development is or is not exempted development.

The applicant has provided the Planning Authority with a Further Information response which expands on the initial documentation received.

The applicant has submitted an email from NISSI Healthcare which states that that a minimum of 2 carers will be resident on-site at any given time and a maximum of 5 residents. The email also states that none of the children residing within the premises will require medical attention.

From review of the further information received, the drawings have been resubmitted without any revision, as requested through the mechanism of further information. The email submitted by the applicant indicates that there are only 5 no. bedrooms and as such the applicant proposes no physical changes be made from that approved under planning reference 24/60341.

Under Class 14 (f) of Schedule 2, Planning and Development Regulations (2001) (as amended), development consisting of a change of use from use as a residence for persons with an intellectual or physical disability or mental illness and persons providing care for such persons is exempted development. Conditions/Limitations include: The number of persons with an intellectual or physical disability or a mental illness living in any such residence shall not exceed 6 and the number of resident carers shall not exceed 2.

In light of the further information received that indicates a *minimum* number of two carers will be on duty at all times, the Planning Authority cannot be satisfied that the number of resident carers shall not exceed 2. Additionally, from review of the floorplans of planning reference 24/6034, there is only capacity for 5 no. bedrooms, and so it is not clear where carers would be residing. Additionally, the explicit indication that none of the children placed in this residence will require specialised medical care, I do not consider that the use is considered exempted development under Class 14(f) of Schedule 2 of the Planning and Development Regulations (2001) (as amended).

## **8.0 RECOMMENDATION AND CONCLUSION:**

*8.1 Having regard to the foregoing it is considered that “Whether the change of use of a house to a Tulsa Registered Residential care facility for a maximum of 5 no. young*

people requiring no specialised medical care, and a minimum of 2 no. carers to be on duty at all times, is or is not development and is or is not exempted development" at 58 McSwiney Street, Dundalk, County Louth constitutes development within the meaning of section 3 of the Planning & Development Act 2000 (as amended).

8.2 However, having regard to **Class 14(f)** of Part 1, Schedule 2 of the Planning and Development Regulations, 2001 (as amended), it is considered that the said development is not exempt development.

Accordingly, I would recommend an order along the following lines: -

**WHEREAS** a question has arisen pursuant to Section 5 of the Planning and Development Act 2000 (as amended) as to "*Whether the change of use of a house to a Tulsa Registered Residential care facility for a maximum of 5 no. young people requiring no specialised medical care, and a minimum of 2 no. carers to be on duty at all times, is or is not development and is or is not exempted development*" at 58 McSwiney Street, Dundalk, County Louth is or is not development and is or is not exempt development.

**AND WHEREAS** Louth County Council in consideration of this question has had regard particularly to:

- (a) The definition of "development" in **Section 3(1)** of the Planning & Development Act 2000 (as amended);
- (b) Specifically, the provisions under **Class 14(f) of Part 1, Schedule 2** of the Planning and Development Regulations, 2001 (as amended),
- (c) Articles 6 and 9 of the Planning & Development Regulations 2001 (as amended);
- (d) Planning history and last authorised use of the property in question
- (e) Further information received by the Planning Authority on 30<sup>th</sup> October 2024

**AND WHEREAS** Louth County Council has concluded: -

- a) The *change of use of a house to a Tulsa Registered Residential care facility for a maximum of 5 no. young people requiring no specialised medical care, and a minimum of 2 no. carers to be on duty at all times* constitutes development under Section 3(1) of the Planning & Development Act, 2000 (as amended) and;
- b) The definition of "house" under section 2 of the Planning and Development Act, 2000 which refers to *inter alia* a building or part of building which is being or has been occupied as a dwelling or was provided for use as a dwelling but has not been occupied;
- c) The occupation of the dwelling house by multiple children in care setting would give rise to material considerations in this instance and therefore consists of the making of a material change of use;
- d) The planning authority is not satisfied that the structure will be utilised as a residence for persons with an intellectual or physical disability or mental illness or that the number of resident staff would be confined to two as per the limitation of Class 14(f).

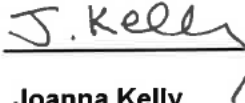


e) The proposal is therefore development that is not exempted development.

**NOW THEREFORE** Louth County Council in exercise of the powers conferred on it by Section 5(2)(a) of the Planning and Development Act 2000 (as amended), hereby decides that the proposed "*change of use of a house to a Tulsa Registered Residential care facility for a maximum of 5 no. young people requiring no specialised medical care, and a minimum of 2 no. carers to be on duty at all times, is or is not development and is or is not exempted development*" at 58 McSwiney Street, Dundalk, County Louth is **development** and is **not exempted development**.



Niamh Boyle  
Assistant Planner  
Date: 13/11/2024



Joanna Kelly  
Senior Planner  
Date: 14th November 2024



Thomas McEvoy  
Director of Services  
Date: 14/11/24

**LOUTH COUNTY COUNCIL**

**CHIEF EXECUTIVE'S ORDER**

**PLANNING & DEVELOPMENT ACT 2000 ( as amended)**

**Section 5 Exempted Development**

<b>Chief Executive's Order No:</b>	844/2024
<b>Reference No:</b>	S5 2024/55
<b>Date Application Received:</b>	09/10/2024 & Further Information on 30/10/2024
<b>Description of Development:</b>	Change of use of a house to a Tulsa Registered Residential care facility for a maximum of 5 no. young people requiring no specialised medical care, and a minimum of 2 no. carers to be on duty at all times
<b>Name of Applicant:</b>	Kholisa Sibanda & Sibonginkosi Bhebhe (T/A Nissi Healthcare)
<b>Location of Development</b>	58 McSwiney Street, Dundalk, Co. Louth

**WHEREAS** a question has arisen pursuant to Section 5 of the Planning and Development Act 2000 (as amended) as to "*Whether the change of use of a house to a Tulsa Registered Residential care facility for a maximum of 5 no. young people requiring no specialised medical care, and a minimum of 2 no. carers to be on duty at all times, is or is not development and is or is not exempted development*" at 58 McSwiney Street, Dundalk, County Louth is or is not development and is or is not exempt development.

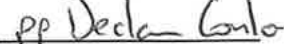
**AND WHEREAS** Louth County Council in consideration of this question has had regard particularly to:

- (a) The definition of "*development*" in **Section 3(1)** of the Planning & Development Act 2000 (as amended);
- (b) Specifically, the provisions under **Class 14(f) of Part 1, Schedule 2** of the Planning and Development Regulations, 2001 (as amended),
- (c) Articles 6 and 9 of the Planning & Development Regulations 2001 (as amended);
- (d) Planning history and last authorised use of the property in question
- (e) Further information received by the Planning Authority on 30<sup>th</sup> October 2024

**AND WHEREAS** *Louth County Council has concluded: -*

- (a) *The change of use of a house to a Tulsa Registered Residential care facility for a maximum of 5 no. young people requiring no specialised medical care, and a minimum of 2 no. carers to be on duty at all times" constitutes development under Section 3(1) of the Planning & Development Act, 2000 (as amended) and;*
- (b) *The definition of "house" under section 2 of the Planning and Development Act, 2000 which refers to *inter alia* a building or part of building which is being or has been occupied as a dwelling or was provided for use as a dwelling but has not been occupied;*
- (c) *The occupation of the dwelling house by multiple children in care setting would give rise to material considerations in this instance and therefore consists of the making of a material change of use;*
- (d) *The planning authority is not satisfied that the structure will be utilised as a residence for persons with an intellectual or physical disability or mental illness or that the number of resident staff would be confined to two as per the limitation of Class 14(f).*
- (e) *The proposal is therefore development that is not exempted development.*

**NOW THEREFORE** Louth County Council in exercise of the powers conferred on it by Section 5(2)(a) of the Planning and Development Act 2000 (as amended), hereby decides that the proposed "*change of use of a house to a Tulsa Registered Residential care facility for a maximum of 5 no. young people requiring no specialised medical care, and a minimum of 2 no. carers to be on duty at all times, is or is not development and is or is not exempted development*" at 58 McSwiney Street, Dundalk, County Louth is **development** and is **not exempted development**.

**SIGNED:**   
Niamh Boyle  
Assistant Planner

**Dated:** 14/11/24

**ORDER:** In pursuance of the powers conferred upon the Council by the above Act, I concur with the above recommendation and I hereby direct that a **Declaration of Exemption be REFUSED** for development as described above.

**SIGNED:**   
Thomas McEvoy  
Director of Services

**Dated: 15<sup>th</sup> November 2024**

To whom this function has been delegated in accordance with the provision of sections 154 of the Local Government Act 2001 by Order no CE.S. 336/24 dated the 15<sup>th</sup> September 2024.



Comhairle Contae Lú  
Louth County Council

**REGISTERED POST**

Kholisa Sibanda & Sibonginkosi Bhebhe  
T/A Nissi Healthcare  
c/o Canavan Byrne  
Kingsfurze House  
Old Lucan Road  
Dublin 20  
D20 KR60

15<sup>th</sup> November 2024

**Re: Ref. S5 2024/55**

**Application for Declaration of "Exempted Development" Part 1, Section 5 Planning & Development Act 2000 (as amended) as to whether the change of use of a house to a Tulsa Registered Residential care facility for a maximum of 5 no. young people requiring no specialised medical care, and a minimum of 2 no. carers to be on duty at all times, at 58 McSwiney Street, Dundalk, Co. Louth is or is not development and is or is not exempt development within the meaning of the Planning and Development Act, 2000 (as amended)**

Dear Sir/Madam,

I wish to acknowledge receipt of your application received on 09<sup>th</sup> October 2024 and further information received on 30<sup>th</sup> October 2024 in relation to the above. Having assessed all information and enclosures received with the application, the Planning Authority wishes to advise as follows: -

**WHEREAS** a question has arisen pursuant to Section 5 of the Planning and Development Act 2000 (as amended) as to "*Whether the change of use of a house to a Tulsa Registered Residential care facility for a maximum of 5 no. young people requiring no specialised medical care, and a minimum of 2 no. carers to be on duty at all times, is or is not development and is or is not exempted development*" at 58 McSwiney Street, Dundalk, County Louth is or is not development and is or is not exempt development.

**AND WHEREAS** Louth County Council in consideration of this question has had regard particularly to:

- (a) The definition of "*development*" in **Section 3(1)** of the Planning & Development Act 2000 (as amended);
- (b) Specifically, the provisions under **Class 14(f) of Part 1, Schedule 2** of the Planning and Development Regulations, 2001 (as amended),

Comhairle Contae Lú  
Halla an Bhaile  
Sráid Crowe  
Dún Dealgan  
Contae Lú  
A91 W20C

Louth County Council  
Town Hall  
Crowe Street  
Dundalk  
County Louth  
A91 W20C

+ 353 42 9335457  
+ 353 42 9334549  
info@louthcoco.ie  
www.louthcoco.ie

Cuirfear fáilte roimh chomhfhreagras Gaeilge - Correspondence in Irish is welcome  
Féach foláirimh faoi Lú ón gComhairle ag [www.mapalserter.ie/Louth](http://www.mapalserter.ie/Louth)  
View Council alerts for Louth at [www.mapalserter.ie/Louth](http://www.mapalserter.ie/Louth)

- (c) Articles 6 and 9 of the Planning & Development Regulations 2001 (as amended);
- (d) Planning history and last authorised use of the property in question
- (e) Further information received by the Planning Authority on 30<sup>th</sup> October 2024

**AND WHEREAS** *Louth County Council has concluded: -*

- (a) *The change of use of a house to a Tulsa Registered Residential care facility for a maximum of 5 no. young people requiring no specialised medical care, and a minimum of 2 no. carers to be on duty at all times" constitutes development* under Section 3(1) of the Planning & Development Act, 2000 (as amended) and;
- (b) The definition of "house" under section 2 of the Planning and Development Act, 2000 which refers to *inter alia* a building or part of building which is being or has been occupied as a dwelling or was provided for use as a dwelling but has not been occupied;
- (c) The occupation of the dwelling house by multiple children in care setting would give rise to material considerations in this instance and therefore consists of the making of a material change of use;
- (d) The planning authority is not satisfied that the structure will be utilised as a residence for persons with an intellectual or physical disability or mental illness or that the number of resident staff would be confined to two as per the limitation of Class 14(f).
- (e) The proposal is therefore development that is not exempted development.

**NOW THEREFORE** Louth County Council in exercise of the powers conferred on it by Section 5(2)(a) of the Planning and Development Act 2000 (as amended), hereby decides that the proposed "*change of use of a house to a Tulsa Registered Residential care facility for a maximum of 5 no. young people requiring no specialised medical care, and a minimum of 2 no. carers to be on duty at all times, is or is not development and is or is not exempted development*" at 58 McSwiney Street, Dundalk, County Louth is **development** and is **not exempted development**.

### **In Summary**

**A Declaration of Exemption is hereby REFUSED for the proposed works as detailed on the plans and particulars submitted on 09<sup>th</sup> October 2024 and 30<sup>th</sup> October 2024.**

**This decision may be referred by you to An Bord Pleanála for review within 4 weeks of the date of this letter subject to the payment of the appropriate fee.**

Yours faithfully,



Niamh Lynch  
Planning Section





## CHILDRENS CARE IRELAND

### Recruitment Day

Positions Available: Social Care

**Ann's at Clanree Hotel**  
17 Nov 2024 · 🌐  
Workers, Social Care Leaders,  
Deputy Manager and  
Home Manager

✨ Our Children's Care Team are recruiting for their brand-new home in Letterkenny Co. Donegal. ✨

📅 Friday 22nd November

We are holding a recruitment day at Clanree Hotel Derry Road, Bunnagee, Letterkenny, Co. Donegal, Ireland

📍 Clanree Hotel,  
Derry Road,  
Letterkenny, Co.  
Donegal, Ireland  
Call in for a chat on Friday 22nd November between 11am-2pm!

We have the following positions available:

- 💚 Social Care Workers
- 💙 Social Care Leaders
- 💚 Deputy Manager
- 💙 Home Manager

☎️ Can't make the recruitment day, call the team on 016917162 to find out more.


 **Message Ann's**

  24

1 comment 12 shares

 Like

 Comment

 Share



CHILDRENS CARE IRELAND

## Recruitment Day

Positions Available: Social Care Workers, Social Care Leaders, Deputy Manager and Home Manager

JOIN NOW!



Friday 22nd November  
11am- 4pm



Clanree Hotel,  
Derry Road,  
Bunnagee,  
Letterkenny, Co.  
Donegal, Ireland



[www.anns.co.uk](http://www.anns.co.uk)



Ann's at Clanree Hotel

17 Nov 2024 · 🌐

✨ Our Children's Care Team are recruiting f... See more

 Message Ann's




24

1 comment 12 shares

 Like

 Comment

 Share

## **The role - Home Manager**

Children's Care Ireland is seeking an experienced, enthusiastic, organised and professional Home Manager to be part of the team at their new children's residential facility in Letterkenny, Co. Donegal. This will be a 5 bedroom house.

Working in a supervisory role and in collaboration with the Home Manager you will help guide the team in the delivery of high-quality social care in a safe and therapeutic environment in accordance regulatory requirements and our policies and procedures.

### **KEY RESPONSIBILITIES:**

- To ensure that all care practices comply with relevant childcare legislation, National Standards for Children's Residential Centres and best practice.
- To actively promote, participate in and ensure the provision of high standards of physical care, hygiene and safety for all children resident in the Home.
- To manage the home so as to meet as far as possible the expressed needs of the individual children, and to promote positive outcomes for them
- To participate in the pre-admission and admission processes to ensure that the placement needs of the child are fully identified and individual care plans in place to meet these needs.
- To ensure that individual care plans are developed, implemented and monitored in accordance with agreed standards.
- To attend and contribute to planning meetings, statutory reviews, management team meetings and other meetings as required, representing the Home in a positive fashion and where necessary, acting as an advocate for the child and their family.
- To contribute to the development and maintenance of good working relationships with parents and other family members, social workers, teachers, doctors, and all other relevant professionals and agencies.
- To ensure that the young people's views and wishes are sought and acted upon where appropriate.
- To ensure that the Therapeutic Crisis Intervention (TCI) model is fully integrated within the homes care practices and to monitor and evaluate their application.
- To ensure monthly summary reports/weekly reports on Children's placements are provided to the Social Worker.
- To attend court and furnish the court with updated court reports.
- To ensure that regular statistics are provided in updating the census held on young in people
- To carry out regular audits of care standards and practices within the home and develop creative ways of engaging young people in this process.
- To contribute to the development and implementation of governance systems within the company to ensure continuous improvement in the quality of service provided.
- To help create and develop links between the home and the local community.

**(2) STAFF MANAGEMENT:**

- To provide leadership and guidance.
- To organize and manage staff on a day to day basis in order to maintain 24 hours staff cover and consistent care.
- To assist in the induction of new staff so that they can acquire an understanding of their role and responsibilities.
- To provide professional supervision to staff and participate in staff appraisal in accordance with Children's Care Ireland policies and procedures.
- To ensure effective communication within the staff team regarding operational practice, including systematic handovers between relevant staff, accurate and detailed recording by all staff, and regular staff meetings.
- To assist and support staff with the production of written reports.
- To implement Children's Care Irelands human resource policies when required including participating in the staff selection process, appraisal process, management of absence etc.
- To promote a positive culture of learning and development within the staff team.
- To develop on an annual basis a team training and development plan based on an analysis of individual training needs, the needs of residents and any external factors.

**(3) MANAGEMENT OF FINANCES:**

- To assist with budgetary control in terms of verifying monthly returns, mileage sheets and accounts for payment where required.
- To ensure that financial procedures re: children's allowances, pocket money, clothing etc are adhered to by staff within the home.
- To ensure petty cash policy is adhered to by staff within the home and the completion of monthly petty cash returns to Finance

**(4) MANAGEMENT OF RESOURCES:**

- To create a homely setting with which children can identify.
- To ensure the maintenance and promotion of a safe environment that complies with health and safety and other legal requirements.
- To ensure the outside of the building, the grounds, equipment, vehicles are maintained in good condition, encouraging staff and children to care for their surroundings and make best use of available resources.

**(5) PERSONAL:**

- To promote high standards of child care practice.
- To take appropriate action to deal immediately with poor practice and to report to the Directors when aware of such practice in any circumstances.

- To continually develop own professional knowledge and skills, by participating in supervision, attending courses and study days to develop and broaden awareness and skills in accordance with the Homes' staff development and training plan.
- To participate with on call and undertake sleeping-in duties if required
- To supervise students where appropriate (subject to completion of practice teacher or similar training). This job description is not definitive or restrictive and should be regarded as providing guidelines within which the post holder will work. It will be subject to periodic review in order to ensure it continues to meet the future needs of Childrens Care Ireland

**Essential Criteria:**

- Minimum Level 8 degree in Social Care/Work
- 4 years' experience of working in a social care environment with children
- A full driving licence with access to a car and business insurance.

**Experience Required:**

- Previous management experience preferred
- Up to date knowledge of legislation surrounding Residential Childcare and Safeguarding
- Experience of multi-disciplinary working with a range of professionals in the industry
- Ability to deliver reports and meet deadlines.
- Full driving licence
- Flexible approach to meet business needs



## **The role – Social Care Leader**

Children's Care Ireland are seeking dedicated and compassionate and Social Care Leaders to be part of the team at their new children's residential facility in Letterkenny, Co. Donegal

Working in a supervisory role and in collaboration with the Home Manager you will help guide the team in the delivery of high-quality social care in a safe and therapeutic environment in accordance regulatory requirements and Our policies and procedures.

### **Principal responsibilities**

- To work directly with the young people in a home like setting, developing a therapeutic, professional, and caring relationship to ensure that their physical, psychological, social, and emotional needs are met.
- To assist the management team in creating and maintaining a caring, safe, stable, and professional environment for both the young people to live in and the staff to work in.
- To assist in the development of educational plans and support participation in recreational activities
- To keep accurate and up to date records and reports in respect of individual young people and the daily activities of the home.
- Oversee budgets for young people including clothing budgets, holiday budgets, school budgets and family access budgets.
- Attend and contribute at meetings such as Child in Care Reviews / Looked After Reviews, Placement Planning Meetings and other relevant multi-disciplinary meetings.
- Oversee, write, and edit all reports when submitted for meeting and reviews.
- Take responsibility for the effective and efficient running of shifts.
- Oversee, supervise, and develop the skills of staff in their daily working practice.
- Support management with the in-house induction of new staff and complete supervision both formal and informal with new staff
- Promote and actively encourage the delivery of a safe, structured, and nurturing environment.
- Complete identified pieces of monitoring work as directed by management.
- Complete internal audits on key work files to ensure all is in line with National Standards and company policy and procedures.
- Undertake role of Designated Liaison Person (DLP) for Child Protection within the home
- Work as part of a multidisciplinary team both within the home and with external agencies
- Ensure and undertake supervisory responsibilities, including the written supervision of care team support workers, within legislative time scales.
- To comply with relevant Health and Safety including Fire Safety policy and procedures

- Participate in training and continued professional development undertaking all relevant training as required.
- Ensure the delivery of all key worker areas and responsibilities.
- Participate in shift patterns which will include, evenings, weekend, and sleepovers. There may be occasions where there may have to be waking nights depending on the needs and risks presented by the young people.
- Participate in the on-call rota as and when required.

### **Qualifications Required**

#### **Level 7 qualification (degree) or above in one of the following:**

- Social Care
- Social Work
- Health and Social
- Child & Adolescent Psychotherapy
- Youth & Community
- Teaching
- Nursing
- Social Science
- Addiction Counselling
- Counselling / Psychotherapy
- Family Support
- Disability Studies
- Applied Behavioural Analysis
- Early Years Care

#### **Level 8 qualification (Honours degree) or above in one of the following:**

- Psychology

#### **Other qualifications:**

- Higher Certificate in Custodial Care (Irish Prison Service)

#### **Experience Required:**

- 2 years relevant experience working with children/young people from challenging backgrounds.
- Successfully completed Key working roles (or equivalent) for a minimum of 6 months
- Up to date knowledge of legislation surrounding Residential Childcare and Safeguarding

- Experience of multi-disciplinary working with a range of professionals in the industry
- Ability to deliver reports and meet deadlines.
- Full driving licence
- Flexible approach to meet business needs.

## **The role – Social Care Worker**

Children's Care Ireland are seeking dedicated and compassionate and social care workers to be part of the team at their new children's residential facility in Letterkenny, Co. Donegal

Working as part of a team you will be responsible for providing high quality social care in a safe and therapeutic environment in accordance regulatory requirements and Ann's policies and procedures.

### **Principal responsibilities**

- To work directly with the young people in a home like setting, developing a therapeutic, professional, and caring relationship to ensure that their physical, psychological, social, and emotional needs are met.
- Accompany the young people to appointments, meetings, holidays and outings where appropriate.
- To work in partnership with the young people and their families/ significant others to build, maintain and support relationships where appropriate.
- To assist in the development of educational plans and support participation in recreational activities.
- To participate in daily handovers, team meetings, Care planning meetings/ Looked After Review meetings and other meetings as required.
- Ensure any relevant information pertaining to the young people is appropriately handed over to colleagues / management during handovers and before the end of your shift.
- Undertake key worker responsibilities ensuring that young person's files are kept up to date, appropriate information is in place, be a key contact for that young person's network such as their Social Workers, Teachers, Guardian ad Litem and family where appropriate.
- Managing and overseeing daily petty cash ensuring proper recording of receipts, safe keeping of monies and any other valuables within the home.
- To comply with relevant Health and Safety including Fire Safety policy and procedures
- Participate in training and continued professional development through probation and appraisals.
- To foster good working relationships with professionals from other disciplines and agencies.
- To keep accurate and up to date records and reports in respect of individual young people and the daily activities of the home.
- Inform line management of any concerns you may have in relation to the welfare of the young people and any safeguarding concerns you may have in relation to the young people.
- Report any concerns in relation to the behaviours or conduct of other staff to line management.
- Participate in formal supervision with line management in accordance with Ann's Children's Care policy and procedures and in line with the National Standards.

- To carry out general housework and preparation of meals, involving the children as appropriate.
- Participate in shift patterns which will include, evenings, weekend, and sleepovers. There may be occasions where there may have to be waking nights depending on the needs and risks presented by the young people..

### **Qualifications Required**

#### **Level 7 qualification (degree) or above in one of the following:**

- Social Care
- Social Work
- Health and Social
- Child & Adolescent Psychotherapy
- Youth & Community
- Teaching
- Nursing
- Social Science
- Addiction Counselling
- Counselling / Psychotherapy
- Family Support
- Disability Studies
- Applied Behavioural Analysis

#### **Level 8 qualification (Honours degree) or above in one of the following:**

- Psychology

#### **Other qualifications:**

- Higher Certificate in Custodial Care (Irish Prison Service)

#### **Experience Required:**

- Full clean driving licence
- Experience of working with children and young people in care and /or experience of working with children and young people in a residential setting desirable but not essential
- Ability to work in regulated activity, care for and supervise young persons
- Flexible – willing and able to adapt to changing circumstances, shift patterns and expectation



From Tusla Website

### **Residential Care** (<https://www.tusla.ie/services/alternative-care/residential-care/>)

The Child and Family agency is committed to ensuring that children and young people are supported to live at home with their families, near their friends and schools and within their own communities.

Accordingly, the Child and Family Agency will only take children and young people into care when it has formed the view that at least for the time being, their health, development or wellbeing cannot otherwise be ensured.

When taking children and young people into care, more often than not Social Workers and the parents concerned will do so by agreement but where agreement cannot be reached, the Child and Family Agency will apply to the courts for one of a number of Care Orders to ensure the safety and wellbeing of the child or young person concerned.

When this happens, every effort is made to place children and young people within their extended family (Relative Foster Care) or in a Foster Care placement.

However, this is not always possible and so at any moment in time approximately one in twenty of the children and young people taken into the care of the Child and Family Agency will be placed with Children's Residential Services.

### **What are Children's Residential Services?** (<https://www.tusla.ie/services/alternative-care/residential-care/what-are-childrens-residential-services/>)

Children's Residential Services aim to provide a physically, emotionally and psychologically safe space in which children and young people can heal, develop and move forward in their lives.

While the majority of children and young people placed in Children's Residential Services are there because of family problems and others have experienced neglect or some other form of abuse, most are placed in Residential Care because of their behaviour is too challenging to be managed in any other care setting.

It is also the case that some young people actually choose a placement in Residential Care because they do not wish to be placed with any family but their own. Other children and young people are placed in Children's Residential Centres while Social Workers work with their families and others to determine where their needs can best be met into the future.

Over 90% of Children's Residential Centres nationally are community based which means they look like and are situated within the same houses, estates and communities that everybody lives in. For the most part, Children's Residential Centres are also supported by the same range of health services that are available to the rest of the population such as G.P.'s, Speech and Language Therapists, Physiotherapists, Psychologists etc.

Where Children's Residential Services differ however, is that Centres are staffed on a 24hr basis by Social Care Workers, Leaders and Managers and are supported in their efforts to look after the children and young people in their care by external Managers, Social Work Services, Inspectors, Monitoring Officers and any others including An Garda Síochána.



# Letterkenny Childrens Home, Co Donegal

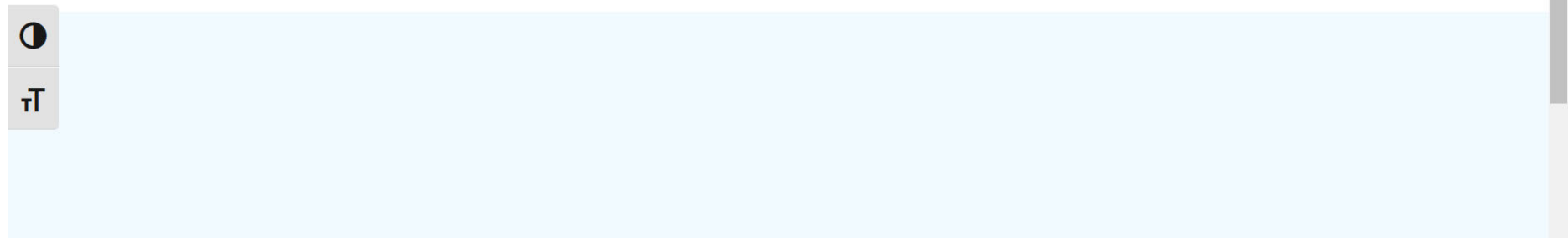
Setting the bar in Childrens residential care

# A Warm Welcome to Cornagill House

**Cornagill House is situated in a tranquil and serene setting overlooking Lough Swilly on the outskirts of Letterkenny .**

Finished to an exceptionally high standard, this 7-bed home has several separate living areas including a conservatory with views over the estuary, a cinema room and a games room.

The home is due to accept its first referrals in March 2025.



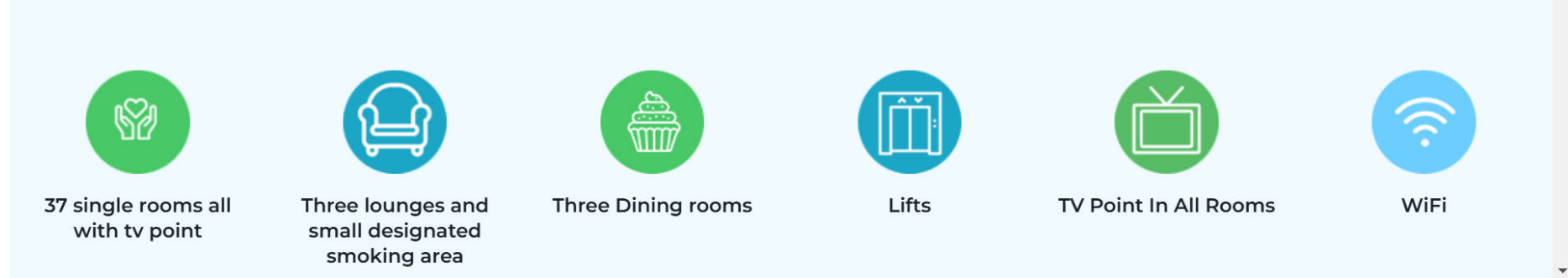
## Job Vacancies at Letterkenny County Donegal

Westpoint House is a six-bedded home located in a peaceful rural setting on the outskirts of Ardee, Co Louth.

Opened in April 2024, the home offers a comfortable and homely environment, featuring a sensory room, two separate living spaces and expansive gardens enclosed by tall hedgerows and secured by electric gates.

The grounds include a greenhouse and vegetable patch, which is used throughout the year.

This tranquil setting ensures both comfort and safety for its young people while fostering a connection to nature.



---



**Comhairle Contae  
Dhún na nGall**  
Donegal County Council

Áras an Chontae,  
Leifear,  
Contae Dhún na nGall, F93 Y622

County House,  
Lifford,  
County Donegal, F93 Y622

**T:** 074 91 53900  
**E:** info@donegalcoco.ie  
**W:** www.donegalcoco.ie  
**W:** www.ccdhunnangall.ie

**Planning Services**  
**E:** planning@donegalcoco.ie

Ref. No: **S525/04**

22/01/2025

Cornagill Residents  
c/o CARL RAINEY

**Re: Written request pursuant to Section 5 of the Planning & Development Act 2000 (as amended) Declaration & Referral on development and exempted development.**  
*Change of use as a house to use as a residence for persons with intellectual or physical disability or mental illness at Cornagill, Letterkenny, Co. Donegal*

A Chara,

I wish to acknowledge receipt of your application for a Section 5 Declaration which was received on 20 Jan 2025.

Mise, le meas,

**For Senior Ex. Planner**  
**Planning Services**





**From:** [Carl Rainey](#)  
**To:** [MICHAEL MC ELWAINE](#)  
**Subject:** Re: FW: Cornagill Residents  
**Date:** 10 February 2025 15:37:01

---

You don't often get email from [REDACTED]. [Learn why this is important](#)

CAUTION: This email originated from outside of Donegal County Council. Do not click links or open attachments unless you recognise the sender and are sure that the content is safe.

Dear Mr. Mc Elwaine,

I refer to Cornagill Residents application for a Section 5 Declaration (Ref. No: S525/04) lodged with you on 20th January. [REDACTED]

[REDACTED]

We would also like to draw your attention to the County Donegal Development Plan 2024-2030, Chapter 12 – Community Development and in particular Sections CC-P-1 and CC-P-2 and and would point out that this development is also contrary to this part (and other parts referred to in our Application) of the County Development Plan.

Looking forward to hearing from you.

Regards,

Carl Rainey  
For Cornagill Residents

## **SECTION 5 REFERRAL REPORT – Ref. No: S525/04**

### **Donegal County Council**

#### **1.0 COMMENTS**

The subject site, Cornagill, Letterkenny, Co. Donegal, is an existing dwelling. The current referral seeks to determine whether the proposed use of the dwelling as a residential care facility for children constitutes development and, if so, whether it is exempted development.

The Planning Authority has reviewed the information provided by the applicants and, based on the details submitted, has distilled the core question as follows:

**Does the proposed use of the dwelling at Cornagill, Letterkenny, as a residential care facility for children under social care placements (as opposed to a residence for persons with an intellectual or physical disability or mental illness) constitute a material change of use that requires planning permission, and does it fall outside the scope of exempted development under Class 14(f) of the Planning and Development Regulations 2001 (as amended)?**

Concerns raised by local residents regarding the lack of a site notice, absence of public consultation, and alleged non-compliance with the County Development Plan are noted but are not material to the determination of this Section 5 application, which assesses only whether planning permission is required for the proposed change of use.

#### **2.0 EVALUATION**

##### **Statutory Provisions**

##### **Planning and Development Act, 2000 (as amended)**

- **Section 2(1):** Defines "structure" and "works" relevant to development considerations.
- **Section 3(1):** States that development includes the carrying out of works or a material change in the use of any structure or land.
- **Section 4:** Outlines categories of development that may be exempt from requiring planning permission.

##### **Planning and Development Regulations, 2001 (as amended)**

- **Class 14(f) of Schedule 2, Part 1:** Permits a change of use "from use as a house, to use as a residence for persons with an intellectual or physical disability or mental illness and persons providing care for such persons."

Conditions of exemption include:

- The number of persons with an intellectual or physical disability or a mental illness living in any such residence shall not exceed six.
- The number of resident carers shall not exceed two.

### **3.0 ASSESSMENT**

#### **3.1 Consideration of Proposed Development**

##### **Existing Use:**

The property is currently a private residential dwelling.

##### **Proposed Use:**

The application seeks to determine whether the use of the dwelling for residential care for children under the management of a private care provider constitutes exempted development.

##### **Analysis of Development:**

- The proposed change constitutes a material change of use under Section 3(1) of the Act.
- The exemption under Class 14(f) applies strictly to a residence for persons with an intellectual or physical disability or mental illness and persons providing care for such persons.
- Documentation submitted, including job advertisements and recorded conversations, indicates that the facility is intended for social care placements for children who do not necessarily have an intellectual or physical disability or mental illness.
- The facility proposes more than six residents and/or more than two resident carers, exceeding the exemption limitations.
- The proposed use does not fit within the scope of Class 14(f) as an exempted development.

#### **3.2 Appropriate Assessment**

As the development constitutes a change of use without physical works, there is no requirement for an Appropriate Assessment under Section 177U(9) of the Planning and Development Act 2000 (as amended).

#### **3.3 Environmental Impact Assessment (EIA)**

No significant environmental impacts arise from this proposed change of use, and the development is not within a class of projects requiring EIA under Schedule 5, Parts 1 and 2 of the Planning and Development Regulations 2001 (as amended).

---

### **4.0 CONCLUSION**

It is considered that:

- The proposed use of the dwelling as a residential care facility for children constitutes development under Section 3(1) of the Planning and Development Act 2000 (as amended).

- The proposed development **is not exempted development** under Class 14(f) of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended), as it does not satisfy the prescribed conditions for exemption.

## 5.0 RECOMMENDATION

It is hereby recommended that in accordance with Section 5(2)(c) Planning & Development Act 2000 (as amended) that the planning authority requests the owners of the subject site to submit information to enable the authority to issue the declaration on the question as the question relates to development that the owners of the property have already received a Section 5 Declaration on.

See attached correspondence.

Subject Site owners to be advised that any information shall be submitted within 4 weeks following which time the planning authority will proceed to make the declaration within the subsequent 3 weeks.



---

Executive Planner  
Development Applications Unit  
17/02/2025



---

Frank Sweeney  
Senior Executive Planner  
Community Development & Planning Services  
17/02/2025



**Comhairle Contae  
Dhún na nGall**  
Donegal County Council

Áras an Chontae,  
Leifear,  
Contae Dhún na nGall, F93 Y622

County House,  
Lifford,  
County Donegal, F93 Y622

T: 074 91 53900  
E: [info@donegalcoco.ie](mailto:info@donegalcoco.ie)  
W: [www.donegalcoco.ie](http://www.donegalcoco.ie)  
W: [www.ccdhunangall.ie](http://www.ccdhunangall.ie)

**Planning Services**  
E: [planning@donegalcoco.ie](mailto:planning@donegalcoco.ie)

Issued by email only to: [REDACTED]

Our Reference S525/04

Carl & Katrina Rainey, Mary Rose Ward, Tony Kieran & Françoise Arnaud Kieran, Liam & Linda Coyle, Michael & Katherine Purcell, Paul & Anne Marie Hynd, Liam & Eileen Bannan, Noel & Patti Harvey, Jim & Anne Toland, John & Dymphna Bradley, Mark & Fidelma Carrigy, Michael & Edel McGinty, John & Maria O'Doherty

17<sup>th</sup> February 2025

**Re: A Declaration under Section 5 of the Planning & Development Act 2000 (as amended) sought on the carrying out of development on lands at Cornagill, Letterkenny, Co. Donegal F92P30R. The development posed by the applicant is considered by the planning authority to be: "Does the proposed use of the dwelling at Cornagill, Letterkenny, as a residential care facility for children under social care placements (as opposed to a residence for persons with an intellectual or physical disability or mental illness) constitute a material change of use that requires planning permission, and does it fall outside the scope of exempted development under Class 14(f) of the Planning and Development Regulations 2001 (as amended)"**

Dear Sirs and Madams,

I am writing to you in relation to the above Section 5 Declaration referenced above and wish to advise that under Section 5(2)(c) Planning & Development Act 2000 (as amended) the planning authority may request persons in addition to those who requested the declaration to submit information to enable the authority to issue the declaration on the question. As the works in question are on lands not within the requestors legal ownership the planning authority has written to the landowners affording them the opportunity to submit information which may enable or assist the authority in issuing the declaration. The landowner has been advised that any information shall be submitted within 4 weeks following which time the planning authority will proceed to make the declaration within the subsequent 3 weeks.

If you have any queries on the above you are advised to contact Sean O'Neill on 074 91 53900.

Yours sincerely,

**For Senior Ex. Planner**  
**Planning Services**  
/jmcc



26/02/2025

**REGISTERED POST**

Mr. Sean O'Neill  
Community Development & Planning Services  
County House  
Lifford  
Co. Donegal

Dear Mr. O'Neill,

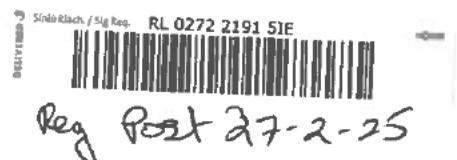
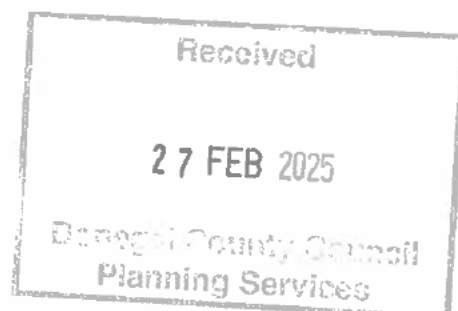
**Re: Your Reference S525/04**

We refer to the above Section 5 Application and confirm receipt by email of your letter dated 17<sup>th</sup> February 2025. We responded by email on 24<sup>th</sup> February 2025 to 'planning@donegalcoco.ie' and have not, as would appear customary, received an acknowledgement of receipt from you/Donegal County Council and hence this Registered by Post letter.

We now enclose a copy of the email dated 24<sup>th</sup> February 2025 and look forward to hearing from you.

Yours sincerely,

Carl Rainey  
For Cornagill Residents





Carl Rainey [REDACTED]

---

**Section 5 Declaration Ref. No: S525/04**

---

Carl Rainey <[REDACTED]>  
Reply-[REDACTED]  
To: planning@donegalcoco.ie

24 February 2025 at 11:18

Dear Sir/Madam,

I refer to the above Section 5 Application received by you on 20th January 2025 and your subsequent letter to us of 17th February 2025.

We note you have written to the landowners affording them the opportunity to submit information. We would be obliged if you would please provide us with a copy of this correspondence.

Given the importance of this issue to us, the lack of any consultation on the part of the developer, the lack of provision for consultation within the Section 5 Declaration process itself insofar as it does not allow for any of us landowners living directly beside and in the same small housing estate as the proposed development to be consulted, the lack of any statutory appeal in respect of the Section 5 Declaration which issued to the developer in respect of the proposed development which meant we had to submit this Section 5 Declaration application ourselves, we must respectfully insist that we be afforded the opportunity to make observations in respect of any information you receive from the developer, in the interests of fairness and natural and constitutional justice.

Finally, we note you consider the question posed by us to be as follows: "Does the proposed use of the dwelling as a residential care facility for children under social care placements (as opposed to a residence for persons with an intellectual or physical disability or mental illness) constitute a material change of use that requires planning permission, and does it fall outside the scope of exempted development under Class 14(f) of the Planning and Development Regulations 2001 (as amended)." For clarity, please note that we require a separate answer to both of those questions: (a) is this use a material change of use such that planning permission is required and (b) is this use outside Class 14(f) exemption such that planning permission is required.

Many thanks in advance and we look forward to hearing from you.

Kind regards,

Carl Rainey  
for Cornagill Residents





**Comhairle Contae  
Dhún na nGall**  
Donegal County Council

Áras an Chontae,  
Leifear,  
Contae Dhún na nGall, F93 Y622

County House,  
Lifford,  
County Donegal, F93 Y622

**T:** 074 91 53900  
**E:** [info@donegalcoco.ie](mailto:info@donegalcoco.ie)  
**W:** [www.donegalcoco.ie](http://www.donegalcoco.ie)  
**W:** [www.ccdhunnangall.ie](http://www.ccdhunnangall.ie)

**Planning Services**  
**E:** [planning@donegalcoco.ie](mailto:planning@donegalcoco.ie)

Issued by email only: [REDACTED]

Our Reference S525/04

Patrick McQuade  
[REDACTED]

17 February 2025

**Re: A Declaration under Section 5 of the Planning & Development Act 2000 (as amended) sought on the carrying out of development on lands at Cornagill, Letterkenny, Co. Donegal F92P30R. The development posed by the applicant is considered by the planning authority to be: "Does the proposed use of the dwelling at Cornagill, Letterkenny, as a residential care facility for children under social care placements (as opposed to a residence for persons with an intellectual or physical disability or mental illness) constitute a material change of use that requires planning permission, and does it fall outside the scope of exempted development under Class 14(f) of the Planning and Development Regulations 2001 (as amended)"**

Dear Sir,

I am writing to you in relation to a Section 5 Declaration which has been sought on proposed changed of use referenced above and whether this use constitute development or exempted development under the Planning codes. Under Section 5(2)(c) Planning & Development Act 2000 (as amended) the planning authority may request persons in addition to those who requested the declaration to submit information to enable the authority to issue the declaration on the question. As it is understood that the development in question is on a subject site within your ownership, you are being afforded the opportunity to set out the nature and extent of the aforementioned development providing a rationale on why the development is considered either exempted development or provided for by a previous planning permission.

You are further advised that all information considered relevant to assist the planning authority in making a declaration on the matter shall be submitted within 4 weeks from the date of this letter, following which time the planning authority will proceed to make the declaration within the subsequent 3 weeks. Furthermore, all documentation the subject of the Section 5 declaration is available for public inspection at the Planning Office, County House, Lifford during the opening hours of 09.00 – 16.30.

If you have any queries on the above you are advised to contact Sean O'Neill on 074 91 53900 and to submit the relevant information by email to [planning@donegalcoco.ie](mailto:planning@donegalcoco.ie)

Yours sincerely,

**For Senior Ex. Planner  
Planning Services**

/jmcc

**From:** [Siobhan Wood](#)  
**To:** [planning mailbox](#)  
**Cc:** [Maebh Gogarty](#)  
**Subject:** [AST001/0005]/[Astoria Care Unlimited Company]/[Donegal Planning Matter]  
**Date:** 10 March 2025 15:50:58  
**Attachments:** [image001.png](#)  
[Email to Donegal County Council\\_1493688.pdf](#)

---

You don't often get email from [REDACTED] [why this is important](#)

**CAUTION:** This email originated from outside of Donegal County Council. Do not click links or open attachments unless you recognise the sender and are sure that the content is safe.

Sent for and on behalf of

Maebh Gogarty  
Smyth & Son Solicitors  
56/57 Rope Walk  
Drogheda  
Co. Louth

[REDACTED]  
[REDACTED]

The logo for Smyth & Son Solicitors features the firm's name in a serif font. 'Smyth' and 'Son' are in a dark blue color, while '&' and 'Solicitors' are in a lighter grey color. A large, stylized ampersand is positioned between 'Son' and 'Solicitors'.

This email and any files transmitted with it are confidential and privileged and intended solely for the use of the individual or entity to whom they are addressed. Any unauthorised direct or indirect dissemination, distribution or copying of this message and any attachments is strictly prohibited. This message has been scanned for viruses, however the sender accepts no responsibility for any loss or damage arising in any way from its use. If you have received this email in error please delete and notify [securemail@smythandson.ie](mailto:securemail@smythandson.ie) or telephone + 353 41 9838616.

Cyber crime is a real and very serious danger. If you are transferring money electronically to our Firm, you must first verbally verify the Bank Account details with the Solicitor you are dealing with or with our Accounts Department. Please note that our Firm accepts no responsibility or liability whatsoever or howsoever arising in the event that that any party suffers losses as a result of any type of cyber crime or online fraud, and particularly if you have not properly verbally verified the precise Bank Account details before each and every

transfer. If you ever receive an e-mail stating a change in Bank Account details purporting to be from our Firm, do not send any funds to the Account and telephone us immediately. We will never send you an e-mail telling you that we have changed our Bank Account details.

This email and any files transmitted with it are confidential and privileged and intended solely for the use of the individual or entity to whom they are addressed. Any unauthorised direct or indirect dissemination, distribution or copying of this message and any attachments is strictly prohibited. This message has been scanned for viruses, however the sender accepts no responsibility for any loss or damage arising in any way from its use. If you have received this email in error please delete and notify [securemail@smythandson.ie](mailto:securemail@smythandson.ie) or telephone + 353 41 9838616. Cyber crime is a real and very serious danger. If you are transferring money electronically to our Firm, you must first verbally verify the Bank Account details with the Solicitor you are dealing with or with our Accounts Department. Please note that our Firm accepts no responsibility or liability whatsoever or howsoever arising in the event that any party suffers losses as a result of any type of cyber crime or online fraud, and particularly if you have not properly verbally verified the precise Bank Account details before each and every transfer. If you ever receive an e-mail stating a change in Bank Account details purporting to be from our Firm, do not send any funds to the Account and telephone us immediately. We will never send you an e-mail telling you that we have changed our Bank Account details.



ATTN SEAN O'NEILL  
Donegal County Council  
County House  
Lifford  
Co. Donegal  
F93Y622

Our Ref: MG/SW/AST001/0005

Date: 10 March 2025

Email only: [planning@donegalcoco.ie](mailto:planning@donegalcoco.ie)

**RE: Cornagill, Letter Kenny, Co. Donegal F92P30R**  
**Our Client: Patrick Mc Quaid - Astoria Care Unlimited Company**  
**S5 Declaration Reference S525/04**

Dear Sirs,

Reference the above mentioned together with your letter dated 17 February affording our client the opportunity to set out the nature and extent of the development at Cornagill, Letterkenny, Co. Donegal F92P30R (the "Property").

On or about 28th of November our Client Mr. Patrick McQuade made an application to Donegal County Council under Section 5 of the Planning and Development Act, in relation to this property at Cornagill Letterkenny County Donegal F92 P30R- Folio DL86819F. The Declaration sought was as to whether Development consisting of a change in use of the property from use as a house, to use as a residence for persons with an intellectual or physical disability or mental illness and persons providing care for such persons was exempted development. The application confirmed that there would be no change to the structure or design of the property. The number of persons cared for with an intellectual or physical disability or mental illness would not exceed six and number of resident persons providing care for such persons would not exceed two.

On or about 6th of January 2025 Donegal County Council issued a Declaration (Ref. No. S5 24/93) that such Development was an Exempted Development.

Our Client is entitled to rely on Section 5 Declaration Ref. No S5 24/93 that the proposed change of use of the Property is exempted development. In reliance on said Section 5 Declaration our Client has purchased the property, carried out works internally to bring the

property in line with Tusla regulations, obtained Tusla permission's, recruited and trained a team of staff incurring significant expense,

The change of use remains the same. The Section 5 application made by Third Parties dated 17th January 2025 bearing your reference S5 24/04 is an impermissible collateral attack on Declaration Ref. No. S5 24/93. This position is supported by numerous Superior Court Decisions including inter alia the Court of Appeal in *Narconon Trust v An Bord Pleanála* [2021] IECA 307 and more recently in the High Court in *Sweetman v An Bord Pleanála* [2023] IEHC 89. The impermissible collateral attack by the making of Section 5 Application (S5 24/04) should not be considered further by Donegal County Council.

Without prejudice to the foregoing objection to the consideration of the Section 5 Application we say as follows;

1. The development at the Property consists of a change in use of the property from use as a house, to use as a residence for persons with an intellectual or physical disability or mental illness and persons providing care for such persons is an exempted development. There will be no change to the structure or design of the property. The number of persons cared for with an intellectual or physical disability or mental illness would not exceed six and resident persons providing care for such persons would not exceed two.
2. With respect to this development, on or about 6th of January 2025 Donegal County Council issued a Declaration (Ref. No. S5 24/93) that same was Development and was Exempted Development. Therefore this change of use is exempted development.
3. We further say that the property is a seven bedroomed property. In compliance with the limitations specified under Class of Exempted Development specified in Class 14(f) of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended) there will be five children ranging from the ages of 13-17 with varying degrees of intellectual or physical or mental illness who require full time care individually occupying each of five bedrooms. There will be two resident carers in the property occupying the two remaining bedrooms. These carers will provide care and support to the young people including help with physical, intellectual or social needs. The five children and two resident carers will be supported by a Centre Manager and Social Care Worker during the day.
4. Whilst our client has to hold the utmost confidentiality around the young people in their homes, we can confirm that our client will receive referrals from TUSLA for young people with an intellectual, physical disability or mental illness.



Rope Walk, Drogheda, Co. Louth, A92 F766

Tel: (041) 9838 616 / (041) 9810 224

Fax: (041) 9835 194

Dx No: 23004

Web: [securemail@smythandson.ie](mailto:securemail@smythandson.ie)

Email: [www.smythandson.ie](http://www.smythandson.ie)

As specified by Donegal County Council in Declaration Ref. No. S5 24/93 this change of use is Exempted Development, and falls under the Class of Exempted Development specified in Class 14(f) of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended).

Yours faithfully,

*Sent electronically so bears no signature*

---

Maebh Gogarty  
Smyth & Son, Solicitors

**From:** [FRANK SWEENEY \(PLANNING\)](#)  
**To:** [TERESA CONWAY](#)  
**Cc:** [planning mailbox](#)  
**Subject:** RE: FW: Cornagill Residents S525/04  
**Date:** 04 March 2025 16:04:51

---

T

There's nothing to advise him on. He seeking a S5 declaration – policies cited in his email are not a consideration on whether a development proposal is exempt or not

F

---

**From:** TERESA CONWAY <TCONWAY@Donegalcoco.ie>  
**Sent:** 04 March 2025 15:36  
**To:** FRANK SWEENEY (PLANNING) <FRANKSWEENEY@DONEGALCOCO.IE>  
**Subject:** FW: FW: Cornagill Residents S525/04

Please see below and advise accordingly

T

---

**From:** CARMEL KELLY <[CKELLY@donegalcoco.ie](#)> **On Behalf Of** planning mailbox  
**Sent:** 10 February 2025 15:42  
**To:** TERESA CONWAY <[TCONWAY@Donegalcoco.ie](#)>  
**Subject:** FW: FW: Cornagill Residents S525/04

---

**From:** Carl Rainey <[REDACTED]>  
**Sent:** 10 February 2025 15:36  
**To:** MICHAEL MC ELWAINE <[melwaine@donegalcoco.ie](#)>  
**Subject:** Re: FW: Cornagill Residents

You don't often get email from [REDACTED] [Learn why this is important](#)

CAUTION: This email originated from outside of Donegal County Council. Do not click links or open attachments unless you recognise the sender and are sure that the content is safe.

Dear Mr. Mc Elwaine,

I refer to Cornagill Residents application for a Section 5 Declaration (Ref. No: S525/04) lodged with you on 20th January. [REDACTED]

[REDACTED]

[REDACTED]

We would also like to draw your attention to the County Donegal Development Plan 2024-2030, Chapter 12 – Community Development and in particular Sections CC-P-1 and CC-P-2 and and would point out that this development is also contrary to this part (and other parts referred to in our Application) of the County Development Plan.

Looking forward to hearing from you.

Regards,

Carl Rainey  
For Cornagill Residents

[REDACTED]

[Recording of Meeting with Patrick McQuade 17 010 25.m4a](#)

On Wed, 22 Jan 2025 at 11:20, MICHAEL MC ELWAINE <[melwaine@donegalcoco.ie](mailto:melwaine@donegalcoco.ie)> wrote:

Ref No: **S525/04**

**Re: Written request pursuant to Section 5 of the Planning & Development Act 2000 (as amended) Declaration & Referral on development and exempted development.**

*Change of use as a house to use as a residence for persons with intellectual or physical disability or mental illness at Cornagill, Letterkenny, Co. Donegal*

A Chara,

I wish to acknowledge receipt of your application for a Section 5 Declaration which was received on 20 Jan 2025.

Regards

Michael McElwaine



---

**From:** Carl Rainey [REDACTED] >  
**Sent:** Monday, January 20, 2025 2:38 PM  
**To:** planning mailbox <[Planning@Donegalcoco.ie](mailto:Planning@Donegalcoco.ie)>  
**Subject:** Cornagill Residents

You don't often get email from [REDACTED] [Learn why this is important](#)

CAUTION: This email originated from outside of Donegal County Council. Do not click links or open attachments unless you recognise the sender and are sure that the content is safe.

Dear Sirs,

We refer to your purported Section 5. Declaration in the name of Patrick McQuade dated 6th January 2025 (your reference S5 24/93, Chief Executive's Order No: 2025PH0009). We now, on legal advice, submit our own Section 5 Application in respect of the same property with a lot of additional and different information. We are firmly of the view this proposed development does not qualify for a Section 5 Exemption.

The fee of €80 has been paid - receipt number 663950.

We look forward to hearing from you in due course.

Regards,

Carl Rainey  
On behalf of Cornagill Residents

[Email Disclaimer](#)

[Clásal Séanta Ríomhphoist](#)



Carl Rainey &lt;[REDACTED]&gt;

## New Residential Care Centre (Commercial Premises) for Children

Carl Rainey &lt;[REDACTED]&gt;

10 March 2025 at 15:49

Draft To: fireservice@donegalcoco.ie

Dear Sirs,

On behalf of residents of Cornagill, Letterkenny we would like to bring a matter of concern to your attention.

A private dwelling house at Cornagill, Letterkenny is being converted to a New Residential Care Centre (Commercial Premises) for Children and has bypassed the normal Planning Permission process by availing of a Section 5 Exemption which the new owners obtained from Donegal County Council, reference S524/93 on 6th January 2025. We are of the belief a Section 5 Exemption does not exempt the owner/developer of the requirement to obtain a Fire Certificate before receiving vulnerable children from Tusla into their care.

Furthermore we are aware the owners/developers have used an electrical contractor who is not registered with Safe Electric, <https://safeelectric.ie/find-an-electrician> as required by law, and is not on their register. The electrical works involved were extensive and include a fire alarm system and emergency lighting. This has been reported as an Illegal Electrical Works to Safe Electric and The Commission for Regulation of Utilities (CRU) who, we understand, are investigating the matter from their perspective.

Finally, at the moment they are moving in furniture and beds etc. so one can only assume it is their intention to open shortly. Contact details for myself, the property owner/developer and the electrical contractor are below.

### Illegal Electrical Works Report

My contact details:

Name Carl Rainey  
Address As Above  
Email [REDACTED]  
Mobile No. [REDACTED]

Details:

An electrical contractor from Northern Ireland, A Hunt Electrical & Plumbing Contractor, has started work in renovating a private dwelling house into a commercial enterprise for a children's residential care facility which will be used as accommodation for children referred by Tusla to this private contractor. Extensive work has started and the electrical first and second fix is complete. This electrical contractor is not on the register of electrical contractors.

Property address	Cornagill, Letterkenny, Co. Donegal F92P30R
Property Owner	Astoria Unlimited/Danu Unlimited/Anns Home Care
Director and General Manager	Patrick McQuade jnr,
Address	[REDACTED]
Phone	[REDACTED]

Electrical Contractor	A Hunt Electrical & Plumbing Contractor. I have a photo of their
van outside the house if required.	
Address	Limavady, Northern Ireland
Phone	[REDACTED]
Email	[REDACTED]
Website	[REDACTED]

We would appreciate it if you could acknowledge receipt of this email.

Looking forward to hearing from you.

Yours sincerely,

Carl Rainey  
For Cornagill Residents

P.S. Having taken legal advice we are applying for our own Section 5 Exemption (DCC Reference S525/04) challenging the original Section 5 Exemption and are awaiting a determination from Donegal County Council.



**03 03 25 Screenshot of Electrical Contractor.docx**  
508K

**From:** [REDACTED]  
**Cc:** [planning mailbox](#)  
**Subject:** FW: Section 5 Declaration Ref. No. S525/04  
**Date:** 12 March 2025 15:38:00  
**Attachments:** [12.01.03.25 Email sent to Fire Service.pdf](#)

---

A Chara

The planning authority acknowledges receipt of your correspondence. It is not within the remit of the planning authority to disclose if a development has obtained a Fire Certificate for a proposed intended use, this is a matter for the fire service. In any event, the requirement for a fire safety certificate is not pertinent in a Section 5 determination which determines whether or not a proposed development is, or is not exempted development.

Regards

Michael McElwaine  
SO Planning Donegal County Council  
074 91 53900

---

**From:** Carl Rainey [REDACTED]  
**Sent:** 11 March 2025 15:43  
**To:** planning mailbox <[Planning@Donegalcoco.ie](mailto:Planning@Donegalcoco.ie)>  
**Subject:** Section 5 Declaration Ref. No. S525/04

You don't often get email from [REDACTED]. [Learn why this is important](#)

**CAUTION:** This email originated from outside of Donegal County Council. Do not click links or open attachments unless you recognise the sender and are sure that the content is safe.

Dear Mr. O'Neill,

Further to our email of 24th February and registered letter of 26th February 2025, we attach a copy of an email sent to The Fire Service dated 10th March 2025. The issues contained therein have also been brought to the attention of Safe Electric and The Commission for Regulation of Utilities.

Can you please confirm Mr. Patrick McQuade has obtained a Fire Certificate for the proposed intended use and in the absence of this confirmation, that Donegal County Council has brought it to his attention, that a Fire Certificate is required before he can open for business.

I would appreciate it if you could confirm receipt of this email

otherwise I will have no option but to also send this by registered post.

Looking forward to hearing from you.

Regards,

Carl Rainey  
for Cornagill Residents



**From:** [CARMEL KELLY](#) on behalf of [planning mailbox](#)  
**To:** [TERESA CONWAY](#); [MICHAEL MC ELWAIN](#)  
**Subject:** FW: Section 5 Declaration Ref. No. S525/04  
**Date:** 12 March 2025 15:26:20  
**Attachments:** [12.01.03.25 Email sent to Fire Service.pdf](#)

---

---

**From:** SEAN O'NEILL <[seanoneill@Donegalcoco.ie](mailto:seanoneill@Donegalcoco.ie)>  
**Sent:** 12 March 2025 15:24  
**To:** planning mailbox <[Planning@Donegalcoco.ie](mailto:Planning@Donegalcoco.ie)>  
**Subject:** FW: Section 5 Declaration Ref. No. S525/04

Please Respond the following.

The planning authority acknowledges receipt of your correspondence. It is not within the remit of the planning authority to disclose if a development has obtained a Fire Certificate for a proposed intended use, this is a matter for the fire service. In any event, the requirement for a fire safety certificate is not pertinent in a Section 5 determination which determines whether or not a proposed development is, or is not exempted development.

---

**From:** CARMEL KELLY <[CKELLY@donegalcoco.ie](mailto:CKELLY@donegalcoco.ie)> **On Behalf Of** planning mailbox  
**Sent:** 11 March 2025 15:47  
**To:** TERESA CONWAY <[TCONWAY@Donegalcoco.ie](mailto:TCONWAY@Donegalcoco.ie)>; SEAN O'NEILL <[seanoneill@Donegalcoco.ie](mailto:seanoneill@Donegalcoco.ie)>  
**Subject:** FW: Section 5 Declaration Ref. No. S525/04

---

**From:** Carl Rainey [REDACTED]  
**Sent:** 11 March 2025 15:43  
**To:** planning mailbox <[Planning@Donegalcoco.ie](mailto:Planning@Donegalcoco.ie)>  
**Subject:** Section 5 Declaration Ref. No. S525/04

You don't often get email from [REDACTED]. [Learn why this is important](#)

CAUTION: This email originated from outside of Donegal County Council. Do not click links or open attachments unless you recognise the sender and are sure that the content is safe.

Dear Mr. O'Neill,

Further to our email of 24th February and registered letter of 26th February 2025, we attach a copy of an email sent to The Fire Service dated 10th March 2025. The issues contained therein have also been brought to the attention of Safe Electric and The Commission for

Regulation of Utilities.

Can you please confirm Mr. Patrick McQuade has obtained a Fire Certificate for the proposed intended use and in the absence of this confirmation, that Donegal County Council has brought it to his attention, that a Fire Certificate is required before he can open for business.

I would appreciate it if you could confirm receipt of this email otherwise I will have no option but to also send this by registered post.

Looking forward to hearing from you.

Regards,

Carl Rainey  
for Cornagill Residents

## **SECTION 5 SUBSEQUENT REFERRAL REPORT – Ref. No: S525/04**

Donegal County Council

### **1.0 INTRODUCTION**

This report follows the initial Section 5 Referral Report (S525/04), in which the Planning Authority sought further information from the owners of the subject site to clarify whether the proposed change of use at Cornagill, Letterkenny is exempted development under Class 14(f) of the Planning and Development Regulations 2001 (as amended).

A previous Section 5 Declaration (S5 24/93) confirmed that a change of use of the dwelling to a residence for persons with an intellectual or physical disability or mental illness was exempted development. The landowner has provided further confirmation that all residents will meet the criteria outlined in Class 14(f). As a result, the validity of the original Section 5 Declaration (S5 24/93) remains unaffected.

However, the specific question asked in the current Section 5 referral (S525/04) differs from the previous determination, and while not explicitly stated in the Section 5 Application was distilled as

**Does the proposed use of the dwelling at Cornagill, Letterkenny, as a residential care facility for children under social care placements (as opposed to a residence for persons with an intellectual or physical disability or mental illness) constitute a material change of use that requires planning permission, and does it fall outside the scope of exempted development under Class 14(f) of the Planning and Development Regulations 2001 (as amended)?**

### **3.0 REASSESSMENT OF SUBMISSIONS**

#### 3.1 Landowner's Submission

The landowner maintains that:

The previously approved Section 5 Declaration (S5 24/93) remains valid and correctly determined that the change of use was exempted development under Class 14(f).

The property will exclusively accommodate persons with an intellectual or physical disability or mental illness, not general social care placements.

The number of residents will not exceed six, and the number of resident carers will not exceed two, fully complying with Class 14(f) exemption criteria.

The landowner has now provided further details, confirming that all residents placed at the facility by Tusla will meet the Class 14(f) requirements (i.e., they will have an intellectual or physical disability or mental illness). This reaffirms the validity of the original Section 5 Declaration (S5 24/93) and does not invalidate that decision

#### 3.2 Applicant's Counterarguments

The applicants challenge the exemption, arguing that:

The facility is primarily operating as a general Tusla residential care home rather than one limited to residents with intellectual or physical disabilities or mental illness.

Job descriptions and recruitment materials suggest that the facility functions as a general social care home, not a specialized residence for persons with disabilities or mental illness.

No medical or therapeutic evidence has been provided to confirm that all residents meet the Class 14(f) criteria.

The facility may exceed the Class 14(f) occupancy limits at certain times.

#### **4.0 ANALYSIS AND FINDINGS**

The original Section 5 determination (S5 24/93) remains valid based on the landowner's confirmation that all residents will meet the Class 14(f) conditions.

However, the specific details of the proposed use in S525/04 differ from the previous application, and this new submission raises a different question.

##### **4.1 Is a Tusla Care Home Automatically Exempt Under Class 14(f)?**

A Tusla residential care home is not automatically considered exempted development under Class 14(f). The classification depends on the nature of care provided and the needs of the residents.

##### **Key Factors in Determining Exemption:**

##### **A. Resident Profile:**

Class 14(f) applies only if all residents have an intellectual or physical disability or mental illness requiring specialized care.

If the facility is serving a mix of children with general social care needs and those with disabilities, it does not qualify for exemption.

##### **B. Care Model & Staffing Structure:**

The presence of additional social care staff (beyond the permitted two resident carers) could indicate that the facility is operating as a general residential care home rather than a specialized disability care residence.

##### **C. Tusla's General Residential Services vs. Class 14(f) Residences:**

Most Tusla facilities cater to a broad range of children in state care, including those with behavioural or social needs, not just disabilities.

If the primary purpose of this residence is general child welfare placements, rather than the care of children specifically with an intellectual or physical disability or mental illness, Class 14(f) does not apply.

#### **5.0 FINAL CONCLUSION**

The original Section 5 Declaration (S5 24/93) remains valid, as the landowner has confirmed that residents will meet the Class 14(f) criteria.

However, the specific details of the current Section 5 referral (S525/04) do not align with the conditions set out in Class 14(f).

The proposed use, as described in this application, constitutes development but does not qualify as exempted development.

## **6.0 FINAL RECOMMENDATION**

It is hereby recommended that a declaration be made that the subject matter of the request as above:

IS DEVELOPMENT

&

IS NOT EXEMPTED DEVELOPMENT within the meaning of the above Act.

The Planning Authority, in considering this referral, had regard particularly to:

- Sections 2, 3, 4, and 177U of the Planning and Development Act, 2000 (as amended).
- Articles 6(3), 9(1), and Class 14(f) of Part 1 of Schedule 2 of the Planning & Development Regulations 2001 (as amended).
- The planning history, current use of the subject site, and relevant Section 5 declarations.

And concluded that:

The proposal is development but is not exempted development, as it does not meet the scope of Class 14(f) of Part 1 of Schedule 2 of the Planning & Development Regulations 2001 (as amended).

## **Advice**

Notwithstanding the declaration made above on the referred question by Carl Rainey on behalf of the Cornagill Residents the planning authority wishes to advise that following a request for information from the property owner in accordance with Section 5(2)(c) of the Planning & Development Act 2000 (as amended) the authority received a letter from the property owner's legal representative confirming that the proposed change of use of the property remains the same as that set out in the Section 5 referral considered under Reference No. S5 24/93, that is "from use as a house, to use as a residence for persons with an intellectual or physical disability or mental illness and persons providing care for such persons" which is exempted development under Class 14(f) of Schedule 2 Part 1 of the Planning & Development Regulations 2001 (as amended). The question posed under the current referral relates to a different proposed change of use from a house to "a residential care facility for children under social care placements (as opposed to a residence for persons with an intellectual or physical disability or mental illness) and whether the same constitutes a material



change of use that requires planning permission, and does it fall outside the scope of exempted development under Class 14(f) of the Planning and Development Regulations 2001 (as amended)" and in this regard you are advised that the original Section 5 Declaration (S5 24/93) remains valid, given the clarification provided by the property owners on the intended change of use being consistent with that exempted by Class 14(f) of Schedule 2 Part 1 of the Planning & Development Regulations 2001 (as amended).



---

Executive Planner  
Development Applications Unit  
13/03/2025



---

Frank Sweeney  
Senior Executive Planner  
Community Development & Planning Services  
13/03/2025

**Chief Executive's Order No: 2025PH0690**

**Planning and Development Acts 2000 (as amended)**

**SECTION 5:-**

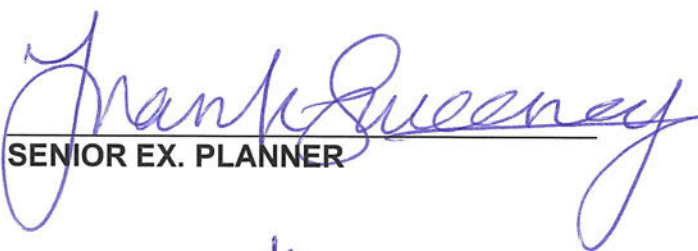
Request received 20<sup>th</sup> January 2025 from Cornagill Residents C/O Carl Rainey, [REDACTED] in relation to the change of use as a house to use as a residential care facility for children under social care placements (as opposed to a residence for persons with an intellectual or physical disability or mental illness) at Cornagill, Letterkenny, Co. Donegal

**SUBMITTED:-**

Written request received 20<sup>th</sup> January 2025 as above and report dated 13<sup>th</sup> March 2025 from the Executive Planner (Ref. No: S525/04 refers).

**ORDER:-**

Having considered the said request, the report of the Executive Planner, and the record forwarded to the Council by An Bord Pleanála in compliance with Sub-Section 6(c) of the said Section I have concluded that a declaration on the questions in the said request should be made in the terms of that in the Schedule to this Order, the main reasons and considerations therefore being detailed therein. I therefore Order that the declaration issue to the said requester and the owners/occupiers of the land concerned and, further, that it be entered in the Council's Planning Register in compliance with Sub-Section (5) of the said Section.

  
SENIOR EX. PLANNER

DATED THIS 14<sup>th</sup> DAY OF MARCH 2025

**Chief Executive's Order No: 2025PH0690**

**Ref.No: S525/01**

**SCHEDULE**

**IT IS HEREBY DECLARED THAT THE SUBJECT MATTER OF THE REQUEST AS ABOVE -**

**IS** Development

**IS NOT** Exempted Development

**WITHIN THE MEANING OF THE ABOVE ACT**

**The Planning Authority, in considering this referral, had regard particularly to:**

- Sections 2, 3, 4, and 177U of the Planning and Development Act, 2000 (as amended).
- Articles 6(3), 9(1), and Class 14(f) of Part 1 of Schedule 2 of the Planning & Development Regulations 2001 (as amended).

**And concluded that:**

The proposal **IS DEVELOPMENT** within the meaning of the Planning and Development Act 2000 (as amended) and **IS NOT EXEMPTED DEVELOPMENT** as it does not meet the scope of Class 14(f) of Part 1 of Schedule 2 of the Planning & Development Regulations 2001 (as amended).

**Advice**

Applicants are advised that notwithstanding the declaration made above on the referred question by Carl Rainey on behalf of the Cornagill Residents the planning authority wishes to advise that following a request for information from the property owner in accordance with Section 5(2)(c) of the Planning & Development Act 2000 (as amended) the authority received a letter from the property owner's legal representative confirming that the proposed change of use of the property remains the same as that set out in the Section 5 referral considered under Reference No. S5 24/93, that is "from use as a house, to use as a residence for persons with an intellectual or physical disability or mental illness and persons providing care for such persons" which is exempted development under Class 14(f) of Schedule 2 Part 1 of the Planning & Development Regulations 2001 (as amended). The question posed under the current referral relates to a different proposed change of use from a house to "a residential care facility for children under social care placements (as opposed to a residence for persons with an intellectual or physical disability or mental illness) and whether the same constitutes a material change of use that requires planning permission, and does it fall outside the scope of exempted development under Class 14(f) of the Planning and Development Regulations 2001 (as amended)" and in this regard you are advised that the original Section 5 Declaration (S5 24/93) remains valid, given the clarification provided by the property owners on the intended change of use being consistent with that exempted by Class 14(f) of Schedule 2 Part 1 of the Planning & Development Regulations 2001 (as amended).

JB 14/03



**Comhairle Contae  
Dhún na nGall**  
Donegal County Council

Áras an Chontae,  
Leifear,  
Contae Dhún na nGall, F93 Y622

County House,  
Lifford,  
County Donegal, F93 Y622

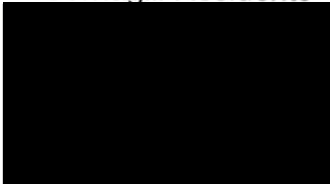
**T:** 074 91 53900  
**E:** info@donegalcoco.ie  
**W:** www.donegalcoco.ie  
**W:** www.ccdhunnangall.ie

**Planning Services**  
**E:** planning@donegalcoco.ie

**Ref. No: S525/04**

14<sup>th</sup> March 2025

Cornagill Residents



**Re: Change of use as a house to use as a residential care facility for children under social care placements (as opposed to a residence for persons with an intellectual or physical disability or mental illness) at Cornagill, Letterkenny, Co. Donegal**

A Chara,

I refer to your request received on 20<sup>th</sup> January 2025 under Section 5 of the Planning and Development Act, 2000 (as amended). Same has now been decided and I now issue to you herewith the Council's Declaration thereon. You are now advised that, in accordance with Section 5 (3) (a) of the Planning & Development Act, 2000 (as amended) where a Declaration is issued, any person issued with such a Declaration may, on payment to An Bord Pleanála of such fee as may be prescribed, refer a Declaration for review by the Board within 4 weeks of the date of issuing of the Declaration.

Mise, le meas,

  
\_\_\_\_\_  
**For Senior Ex/Planner**  
**Planning Services**  
/RMcC

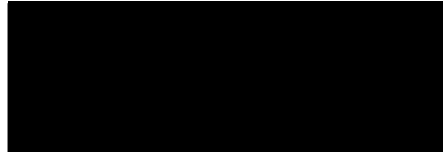
***Planning and Development Acts, 2000 (as amended)***  
***(Declaration and Referral on Development and Exempted Development)***

**DECLARATION**

**Chief Executive's Order No:** 2025PH0690

**Reference No:** S525/04

**Name of Requester:** Cornagill Residents  
C/O Carl Rainey,



**Summarised Description of development the subject matter of request:**

Change of use as a house to use as a residential care facility for children under social care placements (as opposed to a residence for persons with an intellectual or physical disability or mental illness)

**Location:** Cornagill, Letterkenny, Co. Donegal

**IT IS HEREBY DECLARED THAT THE SUBJECT MATTER OF THE REQUEST AS ABOVE**

**IS** Development

**IS NOT** Exempted Development

**WITHIN THE MEANING OF THE ABOVE ACT**

**The Planning Authority, in considering this referral, had regard particularly to:**

- Sections 2, 3, 4, and 177U of the Planning and Development Act, 2000 (as amended).
- Articles 6(3), 9(1), and Class 14(f) of Part 1 of Schedule 2 of the Planning & Development Regulations 2001 (as amended).

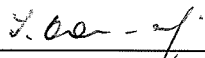
**And concluded that:**

The proposal **IS DEVELOPMENT** within the meaning of the Planning and Development Act 2000 (as amended) and **IS NOT EXEMPTED DEVELOPMENT** as it does not meet the scope of Class 14(f) of Part 1 of Schedule 2 of the Planning & Development Regulations 2001 (as amended).

**Advice**

Applicants are advised that notwithstanding the declaration made above on the referred question by Carl Rainey on behalf of the Cornagill Residents the planning authority wishes to advise that following a request for information from the property owner in accordance with Section 5(2)(c) of the Planning & Development Act 2000 (as amended) the authority received a letter from the property owner's legal representative confirming that the proposed change of

use of the property remains the same as that set out in the Section 5 referral considered under Reference No. S5 24/93, that is "from use as a house, to use as a residence for persons with an intellectual or physical disability or mental illness and persons providing care for such persons" which is exempted development under Class 14(f) of Schedule 2 Part 1 of the Planning & Development Regulations 2001 (as amended). The question posed under the current referral relates to a different proposed change of use from a house to "a residential care facility for children under social care placements (as opposed to a residence for persons with an intellectual or physical disability or mental illness) and whether the same constitutes a material change of use that requires planning permission, and does it fall outside the scope of exempted development under Class 14(f) of the Planning and Development Regulations 2001 (as amended)" and in this regard you are advised that the original Section 5 Declaration (S5 24/93) remains valid, given the clarification provided by the property owners on the intended change of use being consistent with that exempted by Class 14(f) of Schedule 2 Part 1 of the Planning & Development Regulations 2001 (as amended).



**For Senior Ex. Planner  
Planning Services**

**Dated this 14<sup>th</sup> day of March 2025**