



Comhairle Contae  
Dhún na nGall  
Donegal County Council

Planning Services

RECEIVED DATE: 10/02/2025



Comhairle Contae  
Dhún na nGall  
Donegal County Council

## 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>                                                                                                                                                                                  | ERM Contracts Ltd.                          |
| <b>Agent Name:</b><br>(if applicable)                                                                                                                                                                         | Hughes Planning and Development Consultants |
| <b>Location of Proposed Development / Works:</b><br>(Townland or postal address as appropriate and Eircode if available)                                                                                      | Quay Road, Dungloe, Co. Donegal, F94 V52H   |
| <b>Description of Proposed Development including details of works (where applicable):</b><br>(Only works listed below will be assessed under <u>this</u> section 5 application)                               |                                             |
| “Whether the use of residential apartments at Quay Road, Dungloe, Co. Donegal, F94 V52H, where care is not provided, as long-term residential accommodation for protected persons, is or is not development?” |                                             |



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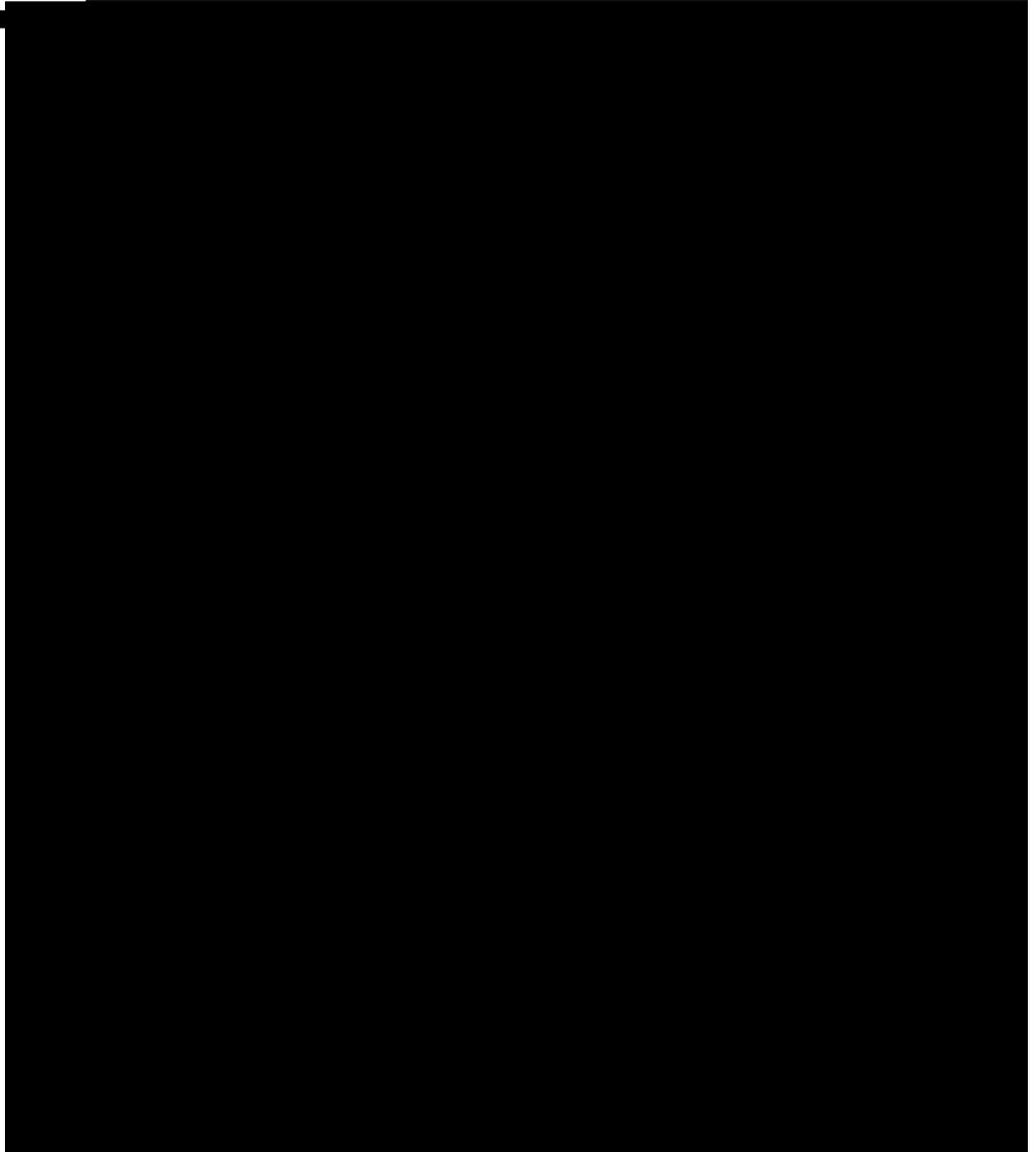
|                                                                                                                                                      |                                                                                   |           |
|------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------|-----------|
| <b>Is the development a Protected Structure or within the curtilage of a Protected Structure?</b>                                                    | <b>Yes</b>                                                                        | <b>No</b> |
|                                                                                                                                                      |                                                                                   | X         |
| <b>Has a declaration under Section 57 of the Planning and Development Act 2000 (as amended) been requested or issued in respect of the property.</b> | <b>Yes</b>                                                                        | <b>No</b> |
|                                                                                                                                                      |                                                                                   | X         |
| <b>Applicant(s) Interest in the site:</b>                                                                                                            | Owner                                                                             |           |
| <b>If not the Owner of the site, please provide the name of the Landowner:</b>                                                                       |                                                                                   |           |
| <b>Please list types of plans, drawings etc. submitted with this application:</b>                                                                    | OS Map, Planning Report, EFT Reference, Confirmation of Article 10(6) application |           |
| <b>Planning History - list any relevant planning application reference numbers:</b>                                                                  | See Planning Report Enclosed                                                      |           |
| <b>Are you aware of any enforcement proceedings connected to the site? If so, please supply details:</b>                                             |                                                                                   |           |

|                                                                            |                                                                                      |
|----------------------------------------------------------------------------|--------------------------------------------------------------------------------------|
| <b>I hereby certify that the information provided is true and accurate</b> |                                                                                      |
| <b>Signature of Applicant/Agent:</b>                                       |  |
| <b>Date:</b>                                                               | 10th February 2025                                                                   |



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## Additional Contact Information





**Comhairle Contae  
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## **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/>



**HUGHES**  
**PLANNING**  
& DEVELOPMENT CONSULTANTS



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

**Planning Services**

**RECEIVED DATE: 10/02/2025**

# PLANNING REPORT

## REQUEST FOR SECTION 5 DECLARATION OF EXEMPTED DEVELOPMENT

Quay Road, Dungloe, Co. Donegal, F94 V52H

DONEGAL COUNTY COUNCIL

FEBRUARY 2025

SUBMITTED ON BEHALF OF:  
ERM Contracts Limited,  
45 Main Street,  
Letterkenny.

85 Merrion Square, Dublin 2, D02 FX60  
+353 (0)1 539 0710  
info@hpdc.ie  
www.hpdc.ie

## 1.0 Introduction

Hughes Planning and Development Consultants, 85 Merrion Square, Dublin 2, have prepared this report to accompany a request for a declaration pursuant to Section 5 of the Planning and Development Act, 2000, as amended, on behalf of our client, ERM Contracts Limited, concerning Quay Road, Dungloe, Co. Donegal, F94 V52H.

***The question before the Planning Authority is:***

***“Whether the use of residential apartments at Quay Road, Dungloe, Co. Donegal, F94 V52H, where care is not provided, as long-term residential accommodation for protected persons, is or is not development?”***

We would submit, that the use of an apartment building as temporary accommodation for displaced persons seeking international protection does not constitute development as no change of use has occurred, nor have any works been carried out to the property.

## 2.0 Site Description

The subject site is location on Quay Road, Dungloe, County Donegal. The site is bound on all sides by residential properties with the Main Street located c. 130 metres to the north east. There is an existing residential building on the subject site, which is currently used as 5 no. apartments, 2 no. 1-bedroom units and 3 no. 2-bedroom units. The site is accessed from Quay Road.

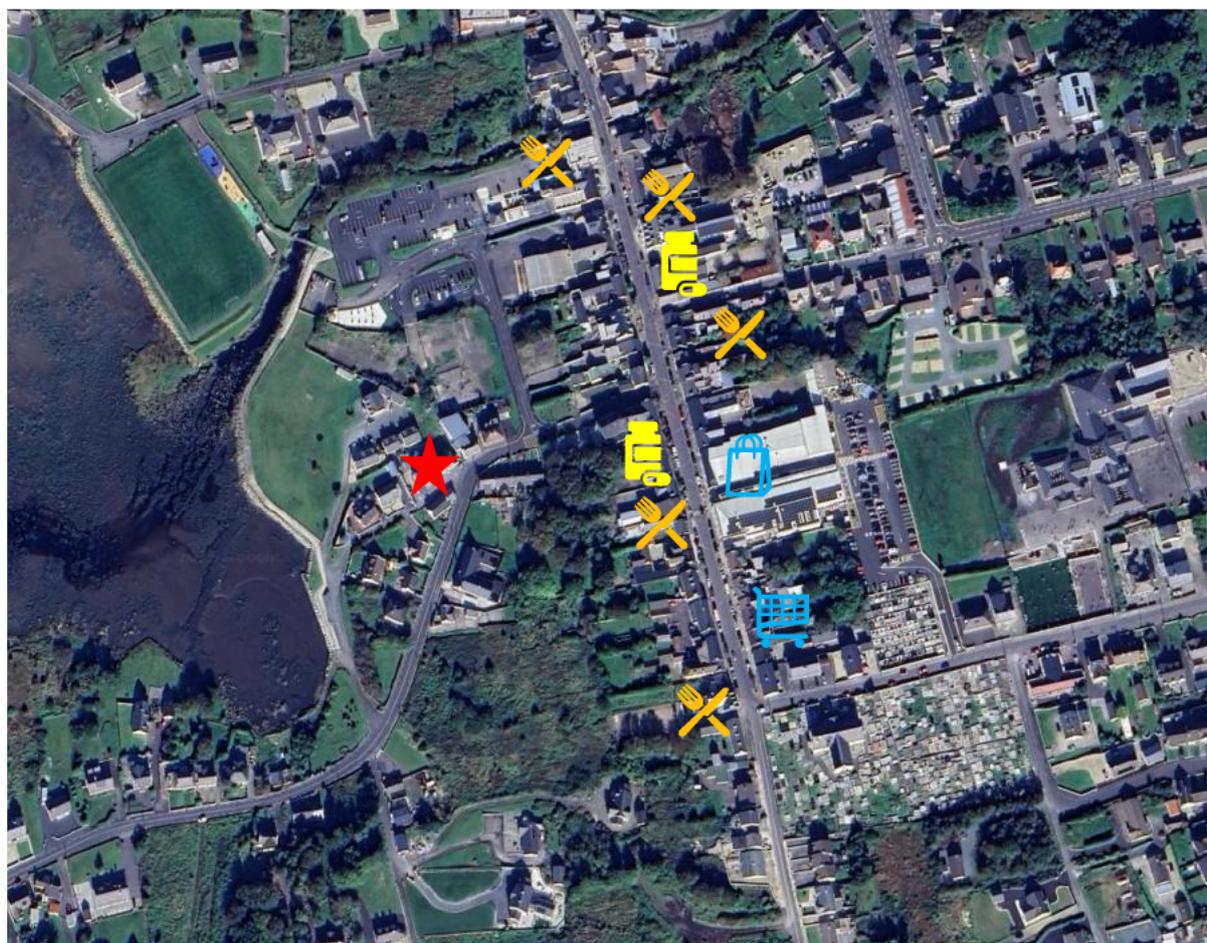


Figure 1.0 aerial image showing the locational context of the subject site (shown by the red star).



Figure 2.0 Streetview image of the subject site.

The site is located approximately 130 metres from the nearest bus stop, which is serviced by the 967 local bus and the 492 bus to Donegal.

### 3.0 Planning History

The Donegal planning registry contains the following permission relating to the current apartment development.

**Reg. Ref. 2151576** Planning permission granted by Donegal County Council on 11<sup>th</sup> November 2021 for the conversion of the former social welfare/dole office into new apartments (5 no. in total) consisting of (a) construction of (1) 1 no. 2-bedroom & 1 no. 1-bedroom apartments at ground floor level (b) 1 no. 2-bedroom & 1 no. 1-bedroom apartments at first floor level (3) minor extension (8.18m<sup>2</sup>) to existing building at first floor level to north east elevation (4) the adaption/conversion of existing roof level to provide 1 no. 2-bedroom penthouse apartment (5) resident storage areas and facilities at basement/lower ground level (6) communal garden & parking spaces (7) new entrance to building at ground floor level (8) changes to existing elevations namely new and amended windows & doors (b) installation of a drainage pumping station; along with associated siteworks and connection to existing services.

This permission was never implemented and instead, the applicant availed of an exemption under Article 10(6) of the Planning and Development Regulations 2001 (as amended) to convert the building from vacant office use to residential use. It should also be noted that a Class 20F notification was sent to Donegal County Council notifying their intention to provide accommodation to protected persons, however, this notification has not been acknowledged by the Council.

### 3.1 Planning Precedent

#### The Rock Centre, Ballinamore, Co. Leitrim

**Reg. Ref. 307077-20** Following a referral to An Bord Pleanála, it was declared that the use of apartments for protected persons and works to the apartments is no development.

The Inspector's Report noted:

*I am satisfied that the subject block of apartments can therefore be considered under the term 'other premises' for the purposes of Class 14, providing residential or overnight accommodation. Accordingly, I consider that the use of the apartments for the reception and care of protected persons or as accommodation for protected persons comes within the scope of the exempted development provided for under Classes 14(h) and (i) of Part 1 of Schedule 2 to the Regulations.*

The Inspector further noted that *'having visited the referral site, it is clear that the residential accommodation is being operated in a manner similar to other apartment developments, with gated access and servicing by a management and security suite. Facilities beyond those that would normally form part of an apartment complex were not in evidence and the facility does not feature any particular additional reception, orientation or care serviced. The facility is not operating as an emergency reception for the care of protected persons, it is being operated as residential accommodation, as per the permitted use and the status or personal circumstances of the apartment residents is not a material planning issue. I am satisfied that the current use of the apartments is not as a facility for the reception and care of protected persons and does not constitute a change of use from the permitted use and, therefore, does not constitute development.'*

The Quay Road apartment block is currently being operated on a similar basis with no care facilities being provided. This decision by An Bord Pleanála sets a clear and strong precedent for the use of apartments to house persons seeking international protection.

### 4.0 Planning Context

The Donegal County Development Plan 2024-2030 and the Seven Strategic Towns Local Area Plan 2018-2024 is the relevant statutory development plan for the subject site. The following section is a brief zoning review and land use objective for the site.

The subject site is zoned 'Established Development' under the Seven Strategic Towns Local Area Plan (2018-2024), with objective *'to conserve and enhance the quality and character of the area, to protect residential amenity and to allow for development appropriate to the sustainable growth of the settlement.'*

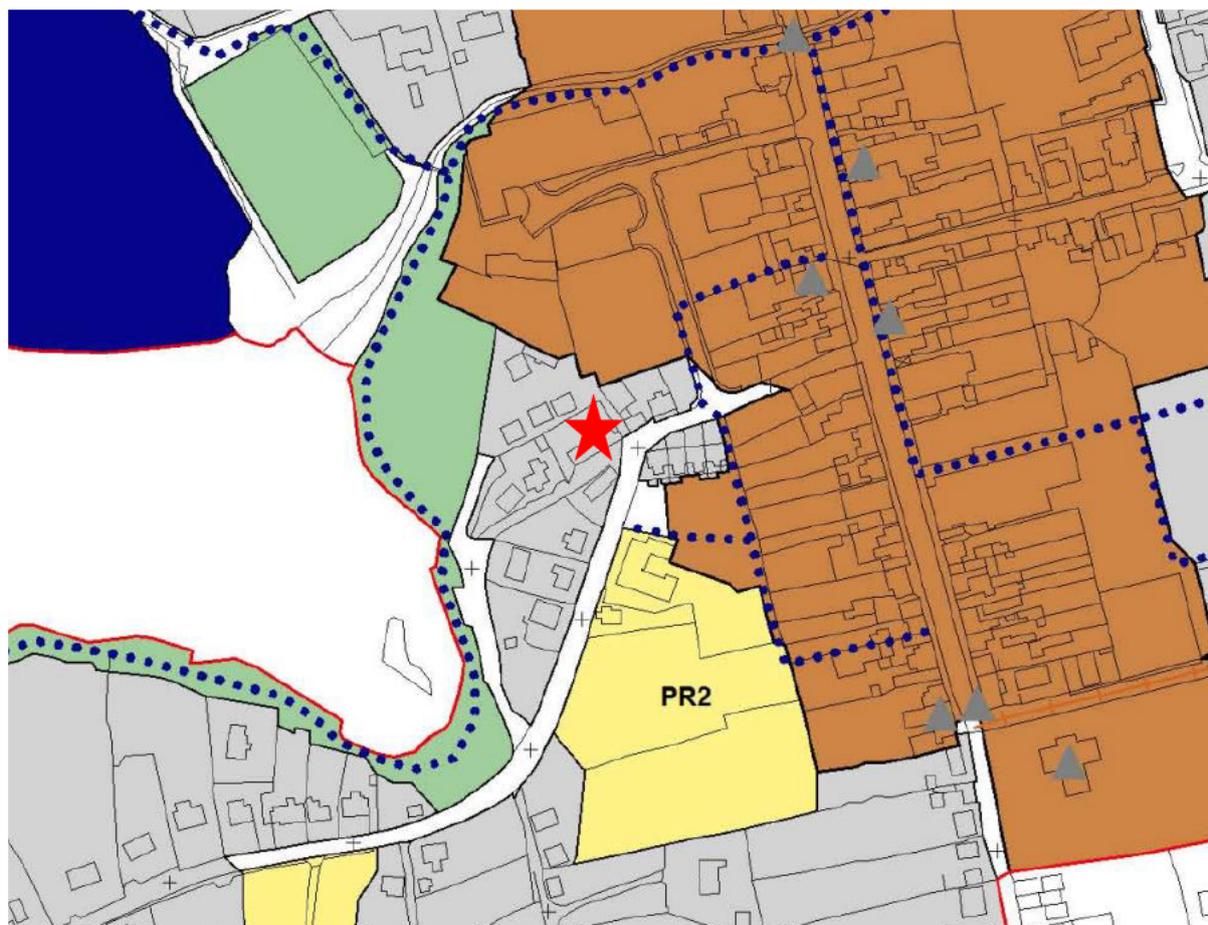


Figure 3.0 Extract from Map No. 2 Land Use Zoning Map (An Clochán Liath – Dungloe) of the Seven Strategic Towns Local Area Plan (2018-2024), with the subject site indicated by a red star.

The proposal seeks to use the building to provide accommodation for refugees and asylum seekers. We would consider that the exempted use is consistent with the zoning objective, and it is therefore submitted that the proposed use is appropriate for the subject site.

### 5.0 Development

Under Section 2(1) of the Planning and Development Act 2000 (as amended), ‘development’ is assigned the meaning set out under Section 3(1) as follows:-

*“In this Act, ‘development’ means, except where the context otherwise requires, the carrying out of works on, in, over or under land or the making of any material change in the use of any structures or other land.”*

The Applicant does not intend to carry out works to the property, therefore, this declaration seeks clarification on the continued use of the apartments at Quay Road, Dungloe, as a residential building that provides accommodation to protected persons comprising families, women and children but does not provide care. From the outset, it is contended that this does not constitute development as no change of use has occurred.

It is noted that legislation does not define the phrase ‘material change of use’ as used in Section 2(1) of the Act. To determine the materiality of the change, the practical impacts and effects of the proposed change of use and whether it would have led to materially different planning considerations by the Planning Authority are considered in this determination.

It is submitted that there will be no discernible change to the use of the building other than the socio-economic class associated with the inhabitants occupying the building which should not be taken into consideration when having regard to whether a material change of use has occurred as evidenced by the Supreme Court *Dublin Corporation v Moore* [1984] ILRM 339 in which the judge stated:

*“I can well understand the objection voiced by Mr Heneghan in his affidavit, to which I have referred – the residents of a quiet suburb naturally resent the presence of what may well be out of keeping with what they conceive to be the standards appropriate to the neighbourhood. There cannot, however, be one law for Cabra and another for Clondalkin – yet others for Finglas and Foxrock. Considerations of this kind are not appropriate to planning law – if they were, they might well offend against the rights of equality.”*

It is considered that if this were a planning application for a residential building, the planning authority would not include conditions prohibiting accommodation to people of particular socioeconomic backgrounds.

The subject site has a pub at the ground floor and is a residential building on the first and second floor levels. Residents of the building have their own apartments and there are no communal facilities. Residents are free to enter and exit the building complex throughout the day like any tenant renting from a private landlord. A management company maintains the building as is common with most apartment complexes. This building provides long-term accommodation with residents living there for a minimum of 12 months. It is submitted that the continued use of the property to provide residential accommodation is not development as no material change of use has occurred.

In considering the above, it is submitted that the use of the apartments at Quay Road, Dungloe, as a long-term residential apartments to house protected persons, which does not provide care, does not constitute a change of use and therefore, does not constitute development in accordance with the Planning and Development Act 2000 (as amended).

In addition to this, we would refer to An Bord Pleanála Ref. 307077 for a Section 5 Declaration on whether the use of apartments to house protected persons was considered to be development and, in this case, considered to be exempted development.

It is considered that residential apartments may be used for temporary accommodation for protected persons.

## 6.0 Conclusion

The question before the planning authority is as follows:

***“Whether the use of residential apartments at Quay Road, Dungloe, Co. Donegal, F94 V52H, where care is not provided, as long-term residential accommodation for protected persons, is or is not development?”***

This Section 5 application clarifies that the use of residential apartments as temporary accommodation for displaced persons seeking international protection does not constitute development.

Accordingly, we request a declaration to this effect from Donegal County Council under Section 5 of the Planning and Development Act 2000 (as amended). Should you have any queries or require any further information, please do not hesitate to contact the undersigned.



Kevin Hughes MIPI MRTPI  
Director For HPDC Ltd.

# Land Registry Compliance Map



Tailte Éireann



Comhairle Contae  
Dhún na nGall  
Donegal County Council

Planning Services

RECEIVED DATE: 10/02/2025

QUAY ROAD  
DUNGLOE  
F94 V52H

An Clochán  
Liath

An Clochán  
Liath

**CENTRE COORDINATES:**  
ITM 576782,911321

**PUBLISHED:** 10/07/2023  
**ORDER NO.:** 50344991\_1

**MAP SERIES:** 1:2,500  
**MAP SHEETS:** 0273-A

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

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

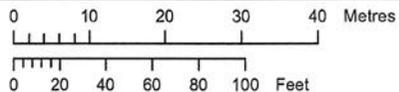
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**From:** [planning\\_mailbox](#)  
**To:** ["sinead.lynch@hpdc.ie"](mailto:sinead.lynch@hpdc.ie)  
**Subject:** Section 5 - McClures House, Lky; Quay Road, Dungloe & Fairleigh House, Lky  
**Date:** 12 February 2025 10:14:00  
**Attachments:** [image001.png](#)

---

A Chara

I wish to acknowledge receipt of your applications for a Section 5 Declaration which was received on 10<sup>th</sup> February 2025 regarding:

McClures House, Letterkenny - Ref.No: S525/12 refers.

Quay Road, Dungloe - Ref.No: S525/13 refers.

Fairleigh House, Letterkenny - Ref.No: S525/14 refers.

Regards

Teresa

Teresa Conway

Staff Officer

Planning

0749153900



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

## Donegal County Council

### SECTION 5 REFERRAL REPORT – Ref. No: S5 25/13

#### 1.0 BACKGROUND

##### 1.1 Location:

The subject site is located in Quay Road, Dungloe, Co. Donegal. F94 V52H.



##### 1.2 Site Description:

The site is located within the settlement framework of Dungloe on land zoned as 'Established Development' within the Seven Strategic Towns Local Area Plan 2018-2024. An existing 2 storey building is located on the subject site.

##### 1.3 Planning History

- 21/51576 CONVERSION OF THE FORMER SOCIAL WELFARE / DOLE OFFICE INTO NEW APARTMENTS (5 NO. IN TOTAL) CONSISTING OF (A) CONSTRUCTION OF (1) 1 NO. 2-BEDROOM & 1 NO. 1-BEDROOM APARTMENTS AT GROUND FLOOR LEVEL (2) 1 NO. 2-BEDROOM & 1 NO. 1-BEDROOM APARTMENTS AT FIRST FLOOR LEVEL (3) MINOR EXTENSION (8.18M<sup>2</sup>) TO EXISTING BUILDING AT FIRST FLOOR LEVEL TO NORTH EAST ELEVATION (4) THE ADAPTION / CONVERSION OF EXISTING ROOF LEVEL TO PROVIDE 1 NO. 2-BEDROOM PENTHOUSE APARTMENT (5) RESIDENT STORAGE AREAS AND FACILITIES AT BASEMENT / LOWER GROUND LEVEL (6) COMMUNAL GARDEN & PARKING SPACES (7) NEW ENTRANCE TO BUILDING AT GROUND FLOOR LEVEL (8) CHANGES TO EXISTING ELEVATIONS NAMELY NEW AND AMENDED WINDOWS & DOORS (B) INSTALLATION OF A DRAINAGE PUMPING STATION; ALONG WITH ASSOCIATED SITEWORKS AND CONNECTION TO EXISTING SERVICES granted in 2021 subject to conditions.
- 06/30312 CEAD PLEANALA LE IONAD GNO DE DHA STOR DE ACHAIR DE TUARIM AGUS 432M<sup>2</sup> A THOGAIL LE AIT STORAIL FAOIN TALAMH AGUS

CARR CLOS (Construction of a two storey business centre with underground storage and car park) granted in 2006 subject to conditions.

The applicant has stated in their submission that permission ref.21/51576 was never implemented, and instead the applicant availed of an exemption under Article 10(6) of the Planning and Development Regulations 2001 (as amended) to convert the building from vacant office use to residential use. The applicant further states in their submission that 'It should also be noted that a Class 20F notification was sent to Donegal County Council notifying their intention to provide accommodation to protected persons, however, this notification has not been acknowledged by the Council.'

It is also noted that the applicant has submitted a copy of a letter dated 14 July 2023, issued by DCC Planning confirming that the change of use of the property from commercial development to 2 no. residential units is exempted development (subject to conditions) under Article 10 of the Planning and Development Regulations 2001-2020 and Planning and Development Act (Exempted Development) Regulations 2022 (S.I. 75 of 2022).

## **2.0. THE QUESTION**

The agent, Hughes Planning and Development Consultants, on behalf of the applicant, ERM Contracts Limited, have made a submission to Donegal County Council seeking a Declaration of Exemption as to whether or not the following is exempt from planning permission:

Whether the use of residential apartments at Quay Road, Dungloe, Co. Donegal, F94 V52H, where care is not provided, as long-term residential accommodation for protected persons, is or is not development?

## **3.0 EVALUATION**

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

#### *Section 2(1)*

In this Act, except where the context otherwise requires –

"structure" means 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

(a) where the context so admits, includes the land on, in or under which the structure is situate ...

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

#### *Section 3(1)*

"Development" in this Act 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 177U(9)*

“In deciding upon a declaration for the purposes of Section 5 of this Act a planning authority or the Board, as the case may be, shall where appropriate, conduct screening for appropriate assessment in accordance with the provisions of this section”.

**Article 10 (6):**

(a) In this sub-article—

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

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

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

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

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

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

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

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

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

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

(I) primarily affect the interior of the structure,

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

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

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

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

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

(vi) Dwelling floor areas and storage spaces shall comply with the minimum floor area requirements and minimum storage space requirements of the “Sustainable

Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities” issued under section 28 of the Act or any subsequent updated or replacement guidelines.

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

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

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

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

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

(II) an area of special planning control;

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

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

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

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

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

(I) the location of the structure,

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

(III) the Eircode for the relevant property,

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

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

**Class 14(h) of Schedule 2, Part 1 of the Planning & Development Regulations 2001 (as amended):**

- Permits a change of use “from use as a hotel, motel, hostel, guesthouse, holiday accommodation, convent, monastery, Defence Forces barracks or other premises or residential institution providing overnight accommodation, or part thereof... to use as accommodation for protected persons.”
- Protected persons are defined under the International Protection Act 2015.
- Conditions of exemption include:
  - Compliance with the definition and purpose of "protected persons."
  - No contravention of planning conditions or zoning regulations.

### **Class 20F of Schedule 2, Part 1:**

- Permits temporary use by or on behalf of the Minister for Children, Equality, Disability, Integration and Youth to accommodate or support displaced persons or persons seeking international protection of any structure or part of a structure used as a school, college, university, training centre, social centre, community centre, non-residential club, art gallery, museum, library, reading room, sports club or stadium, gymnasium, hotel, convention centre, conference centre, shop, office, Defence Forces barracks, light industrial building, airport operational building, wholesale warehouse or repository, local authority administrative office, play centre, medical and other health and social care accommodation, event and exhibition space or any structure or part of structure normally used for public worship or religious instruction.
- Conditions of exemption include:
  - The temporary use shall only be for the purposes of accommodating displaced persons or for the purposes of accommodating persons seeking international protection
  - The relevant local authority must be notified of locations where change of use is taking place prior the commencement of development.
  - ‘displaced persons’, for the purpose of this class, means persons to whom temporary protection applies in accordance with Article 2 of Council Implementing Decision (EU) 2022/382 of 4 March 2022.
  - ‘international protection’, for the purpose of this class, has the meaning given to it in section 2(1) of the International Protection Act 2015 (No. 66 of 2015).
  - ‘temporary protection’, for the purpose of this class, has the meaning given to it in Article 2 of Council Directive 2001/55/EC of 20 July 2001.

## **3.0 ASSESSMENT**

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

#### **1. Existing Use:**

- The property currently consists of an existing building within the settlement framework of Dungloe.

#### **2. Proposed Use:**

- Change of use of existing residential apartments to residential accommodation for protected persons.
- Protected persons are defined in Section 2(1) of the International Protection Act 2015.

### **3. Analysis of Development:**

- The existing building on the site (formerly the social welfare/dole office) comprises 5 no. apartments- 2no. 1 bedroom units and 3 no. 2 bedroom units. The applicant states that they have previously availed of the exemption under Article 10(6) of the Planning and Development Regulations 2001 (as amended) to convert the building from vacant office use to residential use. The applicant also states that the building is currently operating as residential accommodation for protected persons and that it is their opinion that the use does not constitute development as no change of use has occurred.

### **4. Compliance with Class 14(h) and Class 20F Conditions:**

- Class 14(h) and Class 20F refer to provision of accommodation for displaced and protected persons.
  - The uses stated within Class 14(h) does not include existing residential accommodation. 'other premises' is used in the wording of the class, however, it is not considered that this includes residential apartments, which do not fit into the same category as the other uses mentioned, which include hotel, hostel, holiday accommodation, barracks and residential institutions.
  - The uses stated within Class 20F do not include existing residential accommodation.
  - On the basis of the information submitted, the proposal does not meet the descriptions of Class 14(h) nor Class 20F.
- 

### **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:

1. The proposed use of the building for accommodation for protected persons constitutes development under Section 3(1) of the Planning and Development Act 2000 (as amended).
  2. The proposed development is not exempted development under Class 14(h) nor Class 20F of the Planning and Development Regulations 2001 (as amended), as it does not satisfy the descriptions of these classes.
- 

## 5.0 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 proposal to:

(i) change the use of the residential apartments at Quay Road, Dungloe, Co. Donegal to provide accommodation for persons seeking international protection, as provided for under Schedule 2, Part 1 Class 14(h) and Class 20F of the Planning & Development Regulations 2001 (as amended).

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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), Class 14(H) and Class 20F of Part 1 of Schedule 2 of the Planning & Development Regulations 2001 (as amended).
- Section 5 declarations by An Bord Pleanála.

And concluded that:

The proposal IS DEVELOPMENT and IS NOT EXEMPTED DEVELOPMENT, as the development does not fall within the scope of Class 14(h) and Class 20F of Part 1 of Schedule 2 of the Planning & Development Regulations 2001 (as amended).



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**Executive Planner**  
07/03/2025



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Frank Sweeney  
Senior Executive Planner  
Community Development & Planning Services  
07/03/2025

**Chief Executive's Order No: 2025PH0626**

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

**SECTION 5:-**

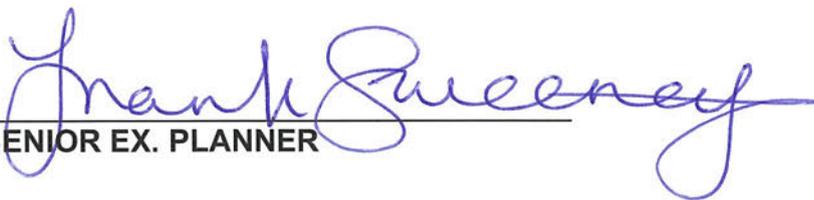
Request received 10<sup>th</sup> February 2025 from ERM Contracts Limited C/o Hughes Planning & Development Consultants in relation to the use of residential apartments to provide long-term residential accommodation for protected persons at Quay Road, Dungloe, Co. Donegal F94 V52H

**SUBMITTED:-**

Written request received 10<sup>th</sup> February 2025 as above and report dated 7<sup>th</sup> March 2025 from the Executive Planner (Ref. No: S5 25/13 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 7<sup>th</sup> DAY OF MARCH 2025

AME

Chief Executive's Order No: 2025PH0626

Ref.No: S5 25/13

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), Class 14(H) and Class 20F 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 the development does not fall within the scope of Class 14(h) and Class 20F of Part 1 of Schedule 2 of the Planning & Development Regulations 2001 (as amended).

JS 07/03

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

**DECLARATION**

**Chief Executive's Order No:** 2025PH0626

**Reference No:** S525/13

**Name of Requester:** ERM Contracts LTD  
C/o Hughes Planning & Development Consultants  
85 Merrion Square  
Dublin 2  
D02 FX60

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

The use of residential apartments to provide long-term residential accommodation for protected persons.

**Location:** Quay Road. Dungloe, Co. Donegal F94 V52H

**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), Class 14(H) and Class 20F of Part 1 of Schedule 2 of the Planning & Development Regulations 2001 (as amended).

The proposal **IS DEVELOPMENT** within the meaning of the Planning and Development Act, 2000 (as amended) and **IS NOT EXEMPTED DEVELOPMENT**, as the development does not fall within the scope of Class 14(h) and Class 20F of Part 1 of Schedule 2 of the Planning & Development Regulations 2001 (as amended).



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

**Dated this 7<sup>th</sup> day of March 2025**



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

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

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Ref. No: S525/13

25<sup>th</sup> February 2025

ERM CONTRACTS LTD  
C/O HUGHES PLANNING & DEVELOPMENT CONSULTANTS  
85 MERRION SQUARE  
DUBLIN 2  
D02 FX60

**Re: The use of residential apartments to provide long-term residential accommodation for protected persons. at Quay Road. Dungloe, Co. Donegal F94 V52H**

A Chara,

I refer to your request received on 10<sup>th</sup> February 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**

/jmcc