

From: [TERESA CONWAY](#)
To: [MARTINA PARKE \(PLANNING\)](#)
Subject: FW: Section 5 - Oatlands, Ramelton Road, Letterkenny
Date: 29 January 2025 14:54:31
Attachments: [FINAL_Oatlands Section 5 220125 SL.pdf](#)
[Land Registry Compliant Map Oatlands House.pdf](#)
[EFT - Donegal - ERM Contracts Ltd -Oatlands, Ramelton Road, Letterkenny.pdf](#)
[Statutory Declaration re Property use Desmond Doherty.pdf](#)
[Sec 5 Application Form.pdf](#)

From: CARMEL KELLY <CKELLY@donegalcoco.ie> **On Behalf Of** planning mailbox
Sent: Wednesday, January 29, 2025 11:56 AM
To: TERESA CONWAY <TCONWAY@Donegalcoco.ie>
Subject: FW: Section 5 - Oatlands, Ramelton Road, Letterkenny

From: Sinead Lynch <[REDACTED]>
Sent: Wednesday, January 29, 2025 11:52 AM
To: planning mailbox <Planning@Donegalcoco.ie>
Cc: 'Christopher Browne' <[REDACTED]>; 'Tatiana Penton' <[REDACTED]>
Subject: Section 5 - Oatlands, Ramelton Road, Letterkenny

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Good morning,

I would like to submit the attached Section 5 application. The attached pack includes an OS Map, Planning Report, EFT Reference, Application Form, and pre-1963 Declaration.

Regards

Sinéad Lynch MIPI
Consultant Town Planner

Hughes Planning & Development Consultants
85 Merrion Square,
Dublin 2
D02 FX60

T 00 353 (0)1 539 0710
E [REDACTED]
W www.hpdc.ie

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**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

Name of Applicant(s):	ERM Contracts Limited
Agent Name: (if applicable)	Hughes Planning and Development Consultants
Location of Proposed Development / Works: (Townland or postal address as appropriate and Eircode if available)	Oatlands, Ramelton Road, Letterkenny, Co. Donegal, F92 V0DK
Description of Proposed Development including details of works (where applicable): (Only works listed below will be assessed under <u>this</u> section 5 application)	
<p>Whether the use of the guesthouse accommodation at Oatlands, Ramelton Road, Letterkenny, Co. Donegal, to provide accommodation for persons seeking international protection, constitutes exempted development or does not constitute exempt development?</p>	



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:	Owner	
If not the Owner of the site, please provide the name of the Landowner:		
Please list types of plans, drawings etc. submitted with this application:	OS Map, Planning Report, pre-1963 Declaration	
Planning History - list any relevant planning application reference numbers:	N/A	
Are you aware of any enforcement proceedings connected to the site? If so, please supply details:	N/A	

I hereby certify that the information provided is true and accurate	
Signature of Applicant/Agent:	
Date:	29/01/2025



Additional Contact Information

NOT TO BE MADE AVAILABLE WITH APPLICATION

Please note:

- 1) The applicant's address **must** be submitted on this page.

Applicant(s) Details	
Address:	
Eircode:	
Telephone No:	
Email Address:	

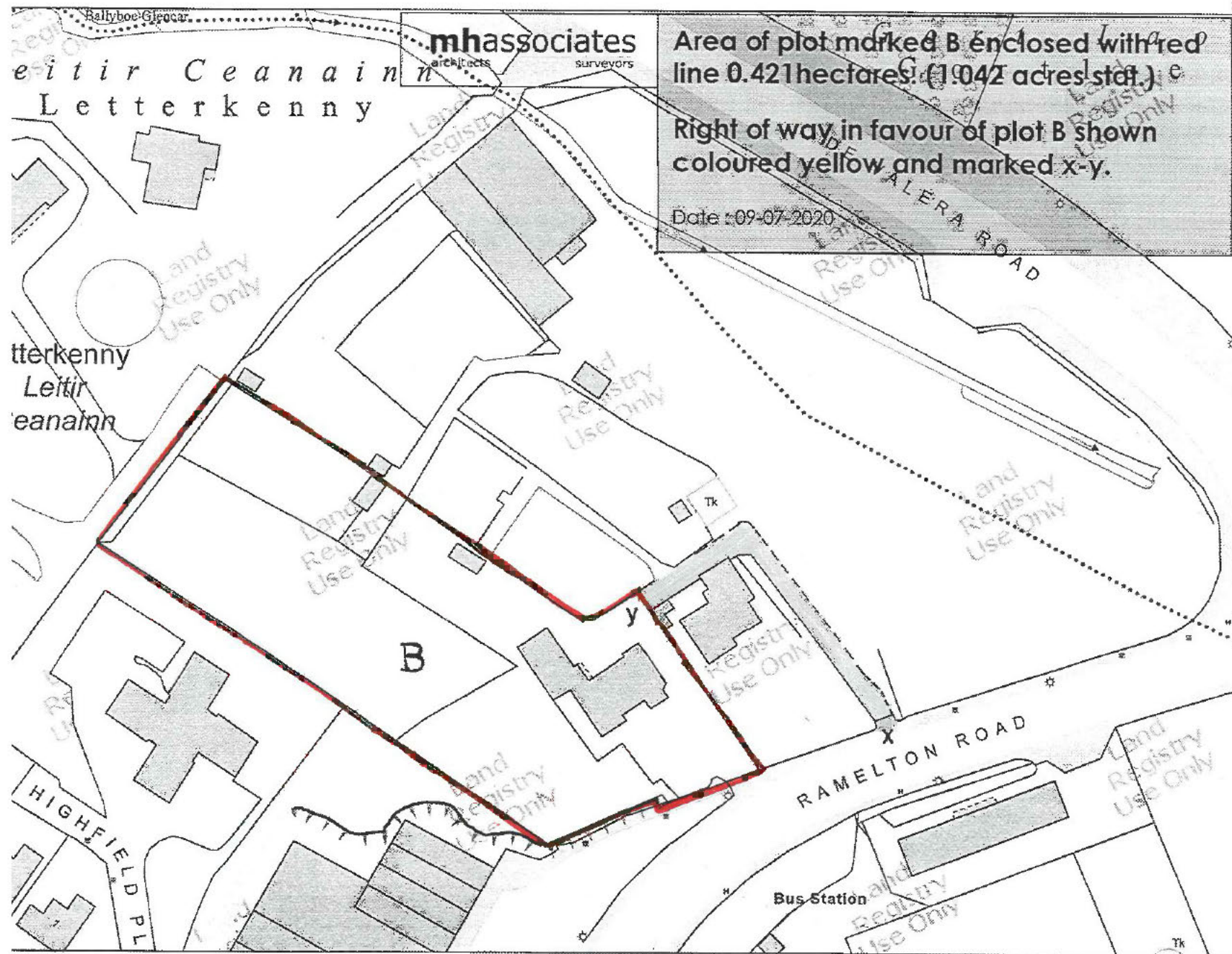
Agent Details (if applicable)	
Address:	
Eircode:	
Telephone No:	
Email Address:	

Landowner Details (if applicable)	
Address:	
Eircode:	
Telephone No:	
Email Address:	

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
- (d) More information on exempted development can be found on the OPR planning leaflets available at <https://www.opr.ie/planning-leaflets/>

Land Registry Compliant Map



OS
National Mapping

CENTRE
COORDINATES:
ITM 617372,911938

PUBLISHED: 09/07/2020
ORDER NO.: 50128488_1

MAP SERIES: 1:1,000
MAP SHEETS: 0260-22
1:1,000 0283-02

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Dublin 8,
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LEGEND:
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search 'Large Scale Legend'

10 20 30 40 metres
20 40 60 80 100 Feet

OUTPUT SCALE: 1:1,000

CAPTURE RESOLUTION:
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Further information is available at:
<http://www.osi.ie>; search 'Capture Resolution'



PLANNING REPORT

Section 5 Application – Declaration of Exempted Development

The accommodation for persons seeking international protection at Oatlands, Ramelton Road, Letterkenny, Co. Donegal, F92 V0DK

DONEGAL COUNTY COUNCIL

JANURARY 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 Oatlands, Ramelton Road, Letterkenny, Co. Donegal, F92 V0DK.

The question before the Planning Authority is:

“Whether the use of the guesthouse accommodation at Oatlands, Ramelton Road, Letterkenny, Co. Donegal, F92 V0DK, to provide accommodation for persons seeking international protection, constitutes exempted development or does not constitute exempt development?”

We note the term ‘Displaced Persons’ under Article 2 of Council Implementing Decision (EU) 2022-382 of 4th March 2022 means the following categories of persons displaced from Ukraine on or after 24th February 2022, as a result of the military invasion by Russian armed forces that began on that date:

- (a) Ukrainian nationals residing in Ukraine before 24 February 2022;
- (a) Stateless persons, and nationals of third countries other than Ukraine, who benefited from international protection or equivalent national protection in Ukraine before 24 February 2022; and,
- (a) Family members of the persons referred to in points (a) and (b).

It is further noted that for the purposes of paragraph 1, point (c), the following persons shall be considered to be part of a family, in so far as the family was already present and residing in Ukraine before 24 February 2022:

- (i) The spouse of a person referred to above, point (a) or (b), or the unmarried partner in a stable relationship, where the legislation or practice of the Member State concerned treats unmarried couples in a way comparable to married couples under its national law relating to aliens;
- (i) the minor unmarried children of a person referred to above, point (a) or (b), or of his or her spouse, without distinction as to whether they were born in or out wedlock or adopted;
- (i) Other close relatives who lived together as part of the family unit at the time of the circumstances surrounding the mass influx of displaced persons, and who were wholly or mainly dependent on a person referred to in paragraph 1, point (a) or (b) at the time.

Thereafter, for the purposes of this exemption, ‘Displaced Persons’ shall be defined based on the above.

We note that the definition of ‘international protection’ is as follows:

1. *‘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).*

Consequently, ‘International Protection’ is defined under the 2015 Act as:

- as a refugee, on the basis of a refugee declaration, or
- as a person eligible for subsidiary protection, on the basis of a subsidiary protection declaration;

Thereafter, for the purposes of this exemption, people under international protection shall be defined based on the above.

We would submit that the use of a guesthouse 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 located at Oatlands, Ramelton Road, Letterkenny, Co. Donegal, F92 V0DK. The subject site comprises a two-storey dwelling which is currently being used as guest accommodation.



Figure 1.0 Aerial image showing the Oatlands Guesthouse (red marker).

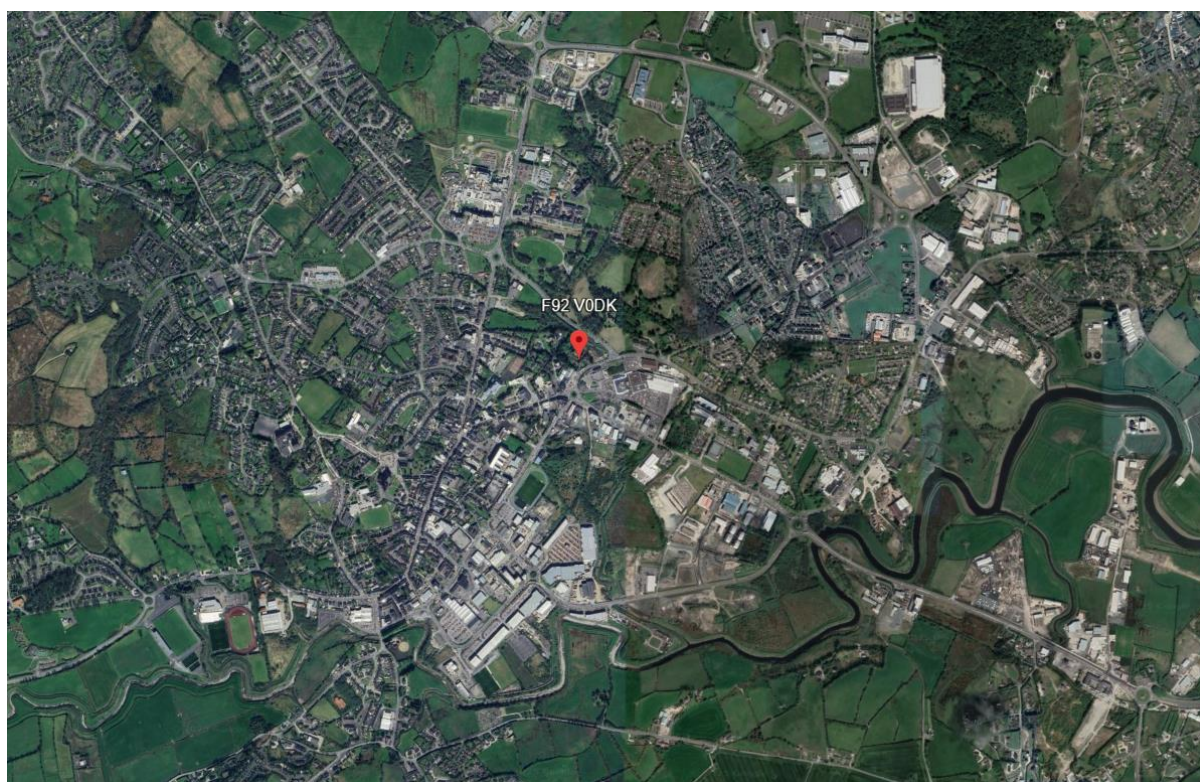


Figure 2.0 Aerial image of the subject site (red marker) in the context of Letterkenny.



Figure 3.0 Aerial image of the subject site, showing the existing dwelling currently used as guesthouse accommodation.

3.0 Planning History

A review of the Donegal County Council Planning register revealed no planning history on the subject site.

4.0 Proposed Use

The proposal seeks the change of use from guesthouse to use as accommodation for refugees and asylum seekers. We note that no works are being sought with regard to this declaration and the determination of the planning authority is only sought in respect of a change of use as set out above under Class 14(h) of Planning and Development Regulations 2001-2024.

5.0 Legislative Provisions

In respect of the legislative provisions, we refer to Class 14(h) contained within the Planning and Development Regulations 2001 – 2024 Schedule 2, Article 6, Part 1. We note that Class 14(h) is contained within S.I. No. 582 of 2015 of the Planning And Development (Amendment) (No. 4) Regulations 2015. We refer to the provisions of exempted development Class 14(h) which states that;

‘Development consisting of a change of use:

*(h) 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, or from the change of use specified in paragraph (i) of the said premises or institution, or part thereof, to use as accommodation for protected persons’*

Class 14(h) is inserted by Article 4 of S.I. No. 582/2015 Planning and Development (Amendment)(No. 4) Regulations 2015.

Article 4 of these Regulations inserts 4 new classes of exempted development into the Planning and Development Regulations 2001 (“the Principal Regulations”), which has the effect that the changes of use specified in the new classes are exempted from the requirement to obtain planning permission. The new classes of exempted development are as follows:

‘Class 14(h): Change of use of various forms of premises providing residential or overnight accommodation to specific use as accommodation for refugees and asylum seekers, as defined in legislation. This class of exempted development will assist in implementing the Government’s Irish Refugee Protection Programme (IRPP), which was established on 10 September 2015 in response to the migration crisis in central and southern Europe.’

As per Class 14(h) as noted above, a variety of premises providing residential or overnight accommodation can be used for the purpose of accommodating refugees and asylum seekers, we confirm that the property to which this Section 5 application relates is a guesthouse. It is considered the definition of a ‘guesthouse’ falls under the umbrella of ‘*premises providing residential or overnight accommodation*’. On this basis, it is submitted that the subject site can avail of the exemption afforded under Class 14(h).

6.0 Planning Context

6.1 Letterkenny Plan and Local Transport Plan 2023-2029

The Letterkenny Plan and Local transport Plan 2023-2029 governs land use on the subject site in conjunction with the Donegal County Development Plan 2024-2030. The subject site is zoned ‘Opportunity Site’ under the Letterkenny Plan 2023-2029, with the objective ‘*To reserve lands for specific development opportunities that are appropriate in terms of mix of use and compatibility with the wider area*’. The subject site is located within Opportunity Site 11, which has the following policy:

Policy LK-OPP-11: *It is a policy of the Council to –*

- (i) Support the principle of the following development types on Opportunity Site 11, subject to compliance with all relevant policies and standards contained in this Plan and the CDP.
 - Residential,
 - Commercial use,
 - Retail (subject to the provisions of the retail strategy of the CDP); and
 - Recreational use.
- (ii) Require the submission of an appropriately detailed Flood Risk Assessment with all proposals for development on Opportunity Site 11.

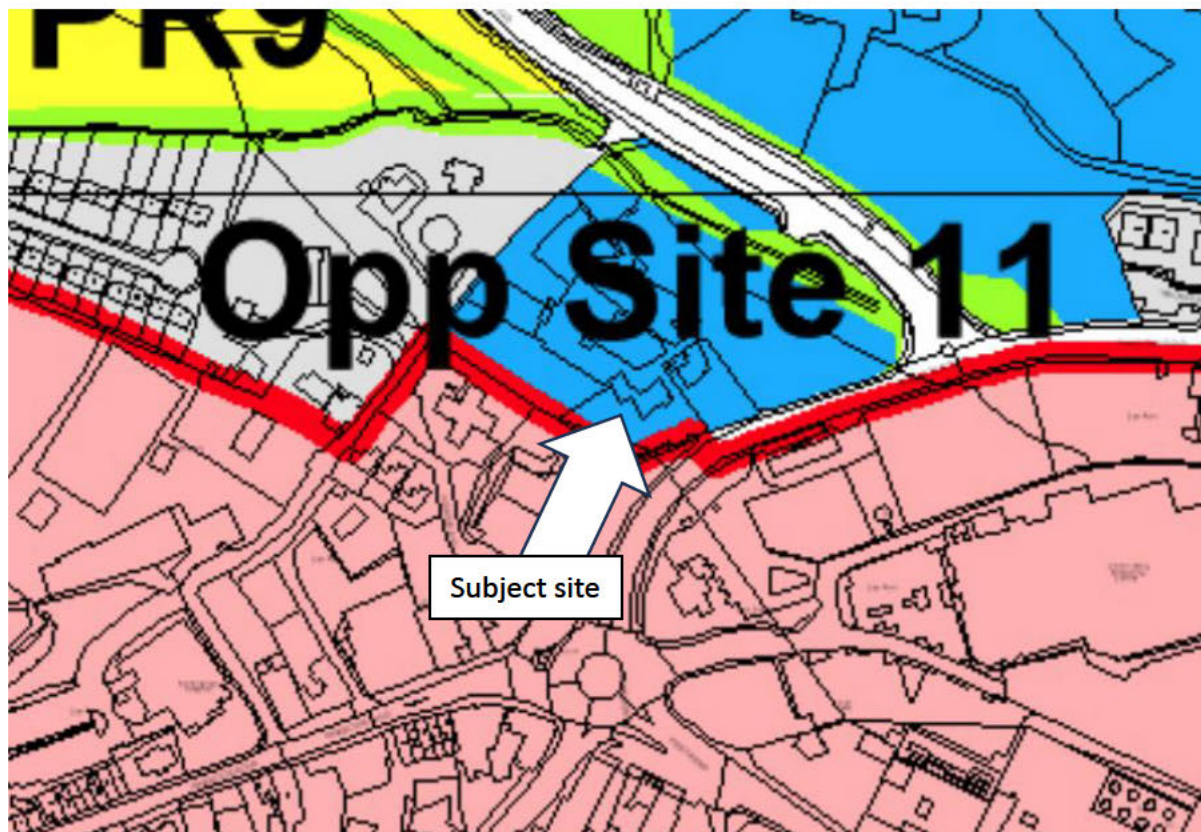


Figure 4.0 Extract from Map 7.1 Land Use Zoning Map of the Letterkenny Plan and Local Transport Plan 2023-2029, with the subject site indicated by an arrow.

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.

7.0 Conclusion

The subject site at Oatlands, Ramelton Road, Letterkenny, Co. Donegal, F92 V0DK, is intended to provide accommodation for persons seeking international protection. This facility will not provide care to residents.

Therefore, the question before the planning authority is:

“Whether the use of the guesthouse accommodation at Oatlands, Ramelton Road, Letterkenny, Co. Donegal, F92 V0DK, to provide accommodation for persons seeking international protection, constitutes exempted development or does not constitute exempt development?”

As such, we would ask Donegal County Council to make a declaration as to whether the proposed use of the building as outlined in the body of this report is exempt development or does not constitute exempt

development at Oatlands, Ramelton Road, Letterkenny, Co. Donegal, F92 V0DK. It is noted that no works are being sought as part of this declaration.

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 including access to the building, please do not hesitate to contact the undersigned.



Kevin Hughes (MIPI MRTPI)
Director
For HPDC Ltd.



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

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

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W: www.ccdhunnangall.ie

Planning Services
E: planning@donegalcoco.ie

E-mail: [REDACTED]

Our Ref: S525/11

30th January, 2025

ERM Contracts Limited
C/o Hughes Planning & Development Consultants
85 Merrion Square
Dublin 3
D02 FX60

**Re: Section 5 - Application for proposed development at
Oatlands, Ramelton Road, Letterkenny, Co Donegal**

A Chara,

I wish to acknowledge receipt of your application received on 29th January, 2025 in relation to the above.

Yours sincerely,

Martina Parke

Donegal County Council
Planning Services



Donegal County Council

SECTION 5 REFERRAL REPORT – Ref. No: S5 25/11

1.0 BACKGROUND

1.1 Location:

The subject site is located in Oatlands, Ramelton Road, Co. Donegal. F92 V0DK.



1.2 Site Description:

The site is located within the settlement framework of Letterkenny on land zoned as 'Opportunity site 11'. An existing 2 storey building is located on the subject site.

1.3 Planning History

No recent planning history.

2.0. THE QUESTION

The agent, Hughes Planning and Development, on behalf of the applicant, ERM Contracts Limited, have made a submission to Donegal County Council seeking a Declaration of Exemption under Schedule 2, Part 1 Class 14(h) of the Planning and Development Regulations 2001 (as amended) as to whether or not the following is exempt from planning permission:

Whether the use of the guesthouse accommodation at Oatlands, Ramelton Road, Letterkenny, Co. Donegal, to provide accommodation for persons seeking international protection, constitutes exempted development or does not constitute exempt 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".

Class 14(H) of Schedule 2, Part 1:

- 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.
-

3.0 ASSESSMENT

3.1 Consideration of Proposed Development

1. **Existing Use:**
 - The property currently consists of an existing building within the town centre of Letterkenny.
2. **Proposed Use:**
 - The change of use is proposed to accommodate protected persons under Class 14(h).
 - Protected persons are defined in Section 2(1) of the International Protection Act 2015.
3. **Analysis of Development:**
 - There is no recent planning history on this site however a statutory declaration has been submitted which states that the building on site has been used as a guesthouse before 1963. There is insufficient evidence and documentation submitted with this section 5 application to demonstrate this.
4. **Compliance with Class 14(h) Conditions:**

- On the basis of the information submitted, the proposal does not align with Class 14(h), as it cannot be demonstrated that the existing building has been in operation as a guesthouse since before 1963.
-

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) 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 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 guesthouse accommodation at Oatlands, Ramelton Road, Letterkenny, Co. Donegal, to provide accommodation for persons seeking international protection, as provided for under Schedule 2, Part 1 Class 14(h) of the Planning & Development Regulations 2001 (as amended).

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(H) 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) of Part 1 of Schedule 2 of the Planning & Development Regulations 2001 (as amended).



Assistant Planner

19/02/2025



Frank Sweeney

Senior Executive Planner

Community Development & Planning Services

24/02/2025

Chief Executive's Order No: 2025PH0514

Planning and Development Acts 2000 (as amended)

SECTION 5:-

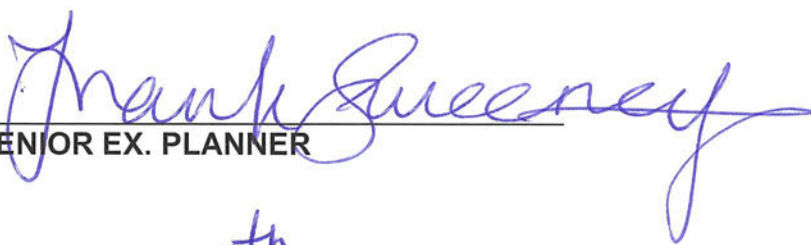
Request received 29th January 2025 from ERM Contracts Limited C/o Hughes Planning & Development Consultants in relation to the change of use of guesthouse accommodation to provide accommodation of protected persons at Oatlands, Ramelton Road, Letterkenny, Co. Donegal F92 V0DK

SUBMITTED:-

Written request received 29th January 2025 as above and report dated 19th February 2025 from the Assistant Planner (Ref. No: S5 25/11 refers).

ORDER:-

Having considered the said request, the report of the Assistant 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 25th DAY OF FEBRUARY 2025

PH0514

Chief Executive's Order No: 2025PH0514

Ref.No: S5 25/11

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(H) 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) of Part 1 of Schedule 2 of the Planning & Development Regulations 2001 (as amended).

JS 25/02

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

DECLARATION

Chief Executive's Order No: 2025PH0514

Reference No: S525/11

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:

Change of use of guesthouse accommodation to provide accommodation of protected persons

Location: Oatlands, Ramelton Road, Letterkenny, Co. Donegal F92 V0DK

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

IS Development

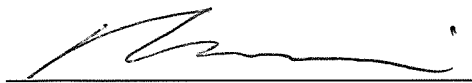
IS Not Exempted Development

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(H) 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) of Part 1 of Schedule 2 of the Planning & Development Regulations 2001 (as amended).



For Senior Ex. Planner
Planning Services

Dated this 25th day of February 2025



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

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

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Planning Services

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Ref. No: S525/11

25th February 2025

ERM Contracts LTD
C/o Hughes Planning & Development Consultants
85 Merrion Square
Dublin 2
D02 FX60

Re: Change of use of *guesthouse accommodation* to provide accommodation of protected persons at Oatlands, Ramelton Road, Letterkenny, Co. Donegal F92 V0DK.

A Chara,

I refer to your request received on 29th 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**

/jmcc