



Comhairle Contae
Dhún na nGall
Donegal County Council

Planning Services

RECEIVED DATE: 12/11/2025



Comhairle Contae
Dhún na nGall
Donegal County Council

SECTION 5 APPLICATION

FOR DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT

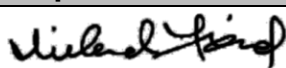
Completed application form & supporting documentation to be returned to the Planning Authority by email to planning@donegalcoco.ie

Name of Applicant(s):	Brimwood Limited
Agent Name: (if applicable)	Michael Friel
Location of Proposed Development / Works: (Townland or postal address as appropriate and Eircode if available)	Garvan Court, Main Street, Ballybofey, County Donegal F93 N526
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>The continued use of an existing residential property to provide accommodation for persons availing of International Protection.</p> <p>The Department of Justice intends to continue to utilize the property for the accommodation of International Protections Applicants.</p> <p>S.I No.582/2015 – Planning and development (amendment)(No.4) Regulations 2015 provides under Class 14(h), a “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” which will be deemed to be exempt development, thus not requiring Planning permission for the change of use.</p>	



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Is the development a Protected Structure or within the curtilage of a Protected Structure?	Yes	No
		X
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
		X
Applicant(s) Interest in the site:	Middlesex	
If not the Owner of the site, please provide the name of the Landowner:	Lease	
Please list types of plans, drawings etc. submitted with this application:	Floor Plans Site Location Map Site Layout Map	
Planning History - list any relevant planning application reference numbers:	97/304	
Are you aware of any enforcement proceedings connected to the site? If so, please supply details:	None	

I hereby certify that the information provided is true and accurate	
Signature of Applicant/Agent:	
Date:	12 th November 2025



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RIAI

Registered
Architect

2021

Architect
Accredited in
Conservation

G3

PSDP
Accreditation

P

BACK ROAD

Bank

North

West

East

South

To
Stanorlar

R-252-1

N-15-31

To
Donegal Town

Bank

L-3074-3

X-214038
Y-394564

Area under

Job Title:

Section 5 Application
at Garvan Court,
Ballybofey,
Co. Donegal,

Drawing Title:

Site Layout

Scale:

1:500

Job No.

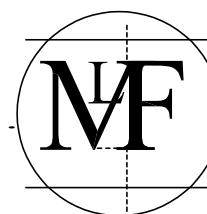
21239

Date:

Aug 2021

Drawing No.

01



Michael Friel
Architects & Surveyors Ltd
Creeslough,
Co. Donegal.
Tel - 074 91 38814
Mob - 087 2869658
E-mail:
michael@mfielarchitects.ie



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Dhún na nGall
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RECEIVED DATE: 13/11/2025

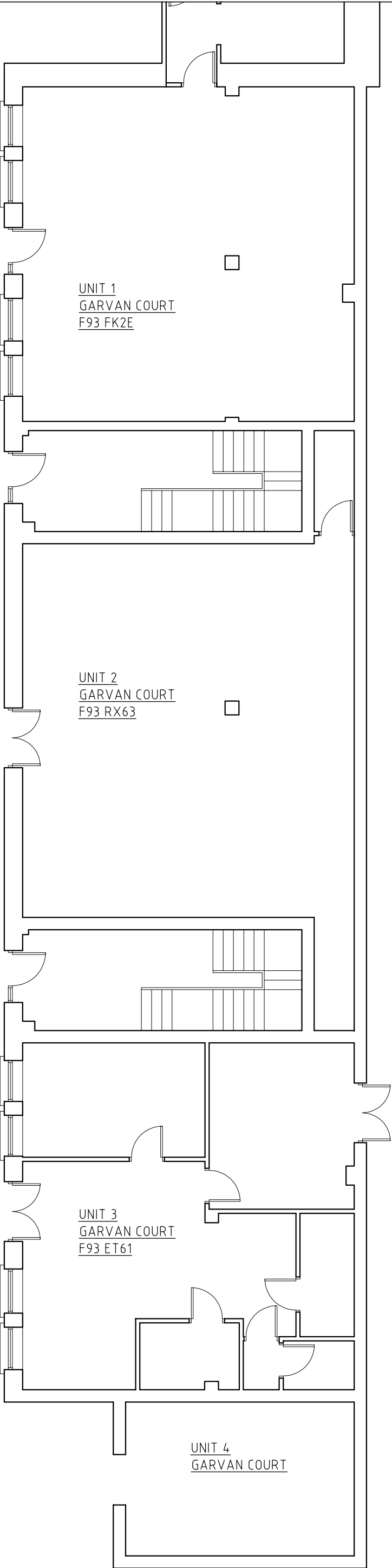
LOCATION :
GARVAN COURT
BALLYBOFEY
Co. DONEGAL

TITLE : Section 5 Application

SCALE : 1:100.

DATE : 18/10/2025

GARVAN COURT
GROUND FLOOR PLAN
Drawing No.
21239-05





Planning Services

RECEIVED DATE: 13/11/2025

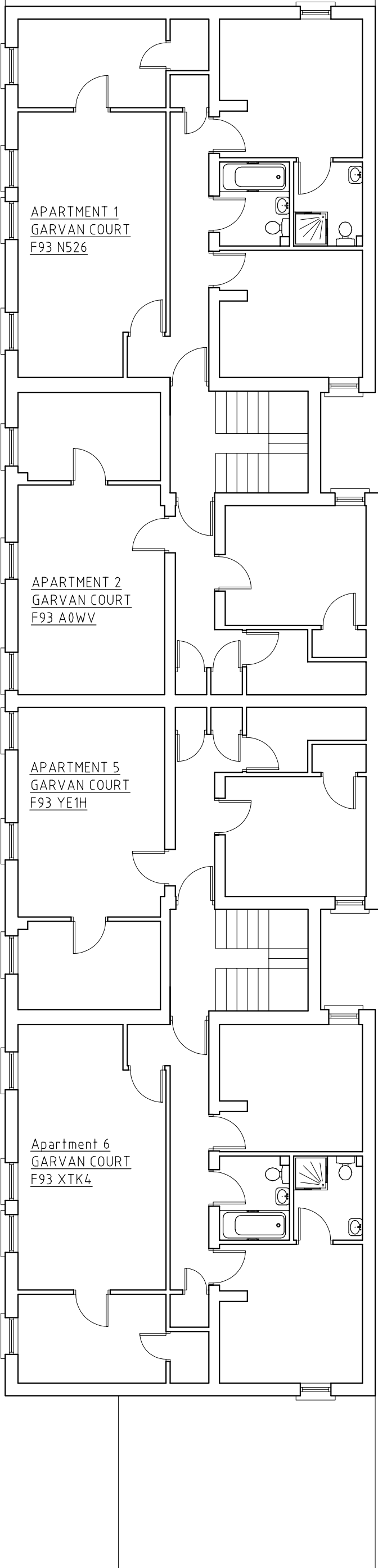
LOCATION :
GARVAN COURT
BALLYBOFEY
Co. DONEGAL

TITLE : SCHEME MAP FOR LAND
 REGISTRATION

SCALE : 1:100.

DATE : 18/10/2025

GARVAN COURT
FIRST FLOOR PLAN
Drawing No.
21239-06





Planning Services

RECEIVED DATE: 13/11/2025

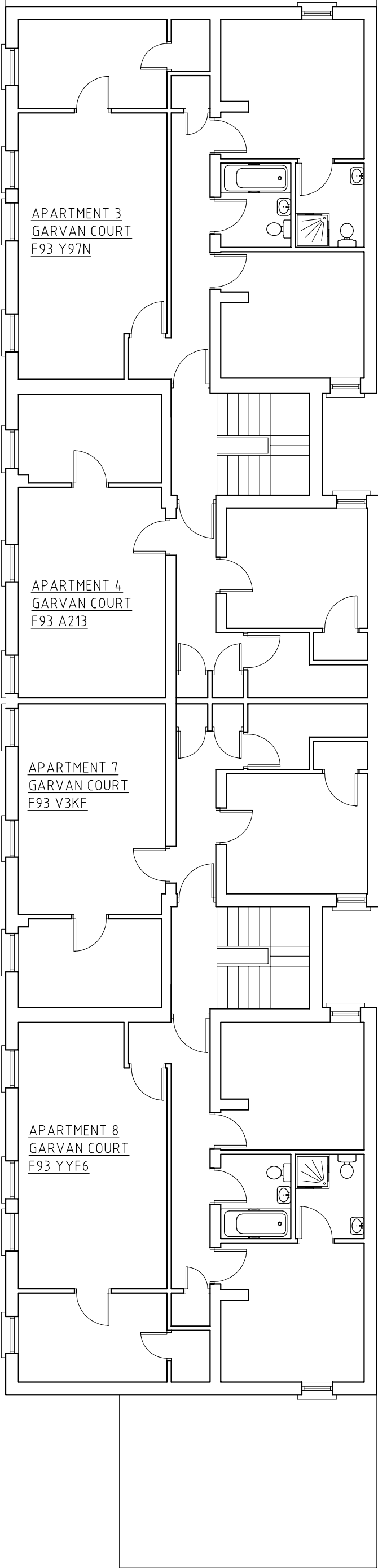
LOCATION:
GARVAN COURT
BALLYBOFEY
Co. DONEGAL

TITLE : Section 5 Application

SCALE : 1:100.

DATE : 18/10/2025

GARVAN COURT
SECOND FLOOR PLAN
Drawing No.
21239-07

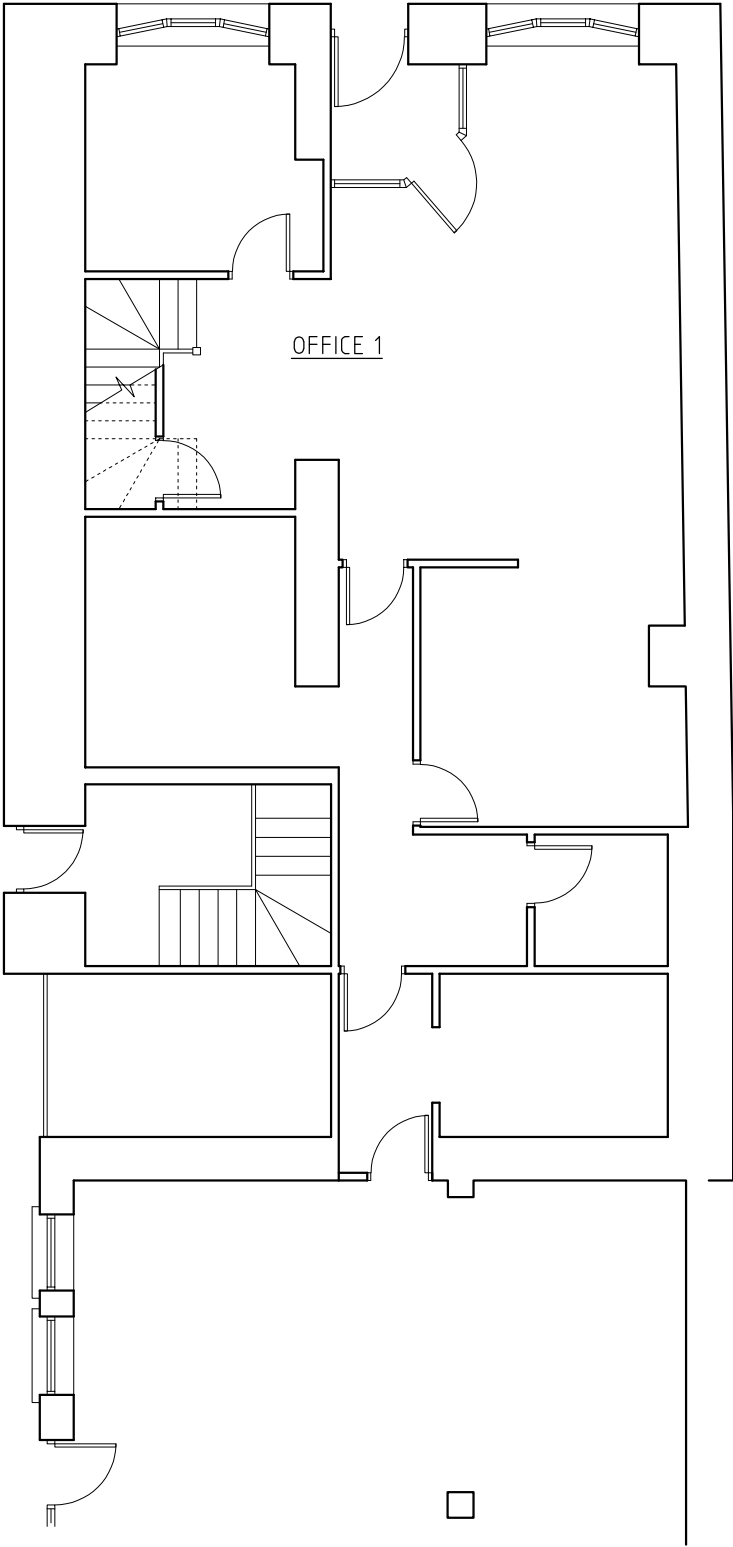




Planning Services

RECEIVED DATE: 13/11/2025

Access Road



LOCATION :
GARVAN COURT
BALLYBOFEY
Co. DONEGAL

TITLE : Section 5 Application

SCALE : 1:100.

DATE : 18/10/2025

GARVAN HOUSE
GROUND FLOOR PLAN
Drawing No.
21239-01



Comhairle Contae
Dhún na nGall
Donegal County Council

Planning Services

RECEIVED DATE: 13/11/2025

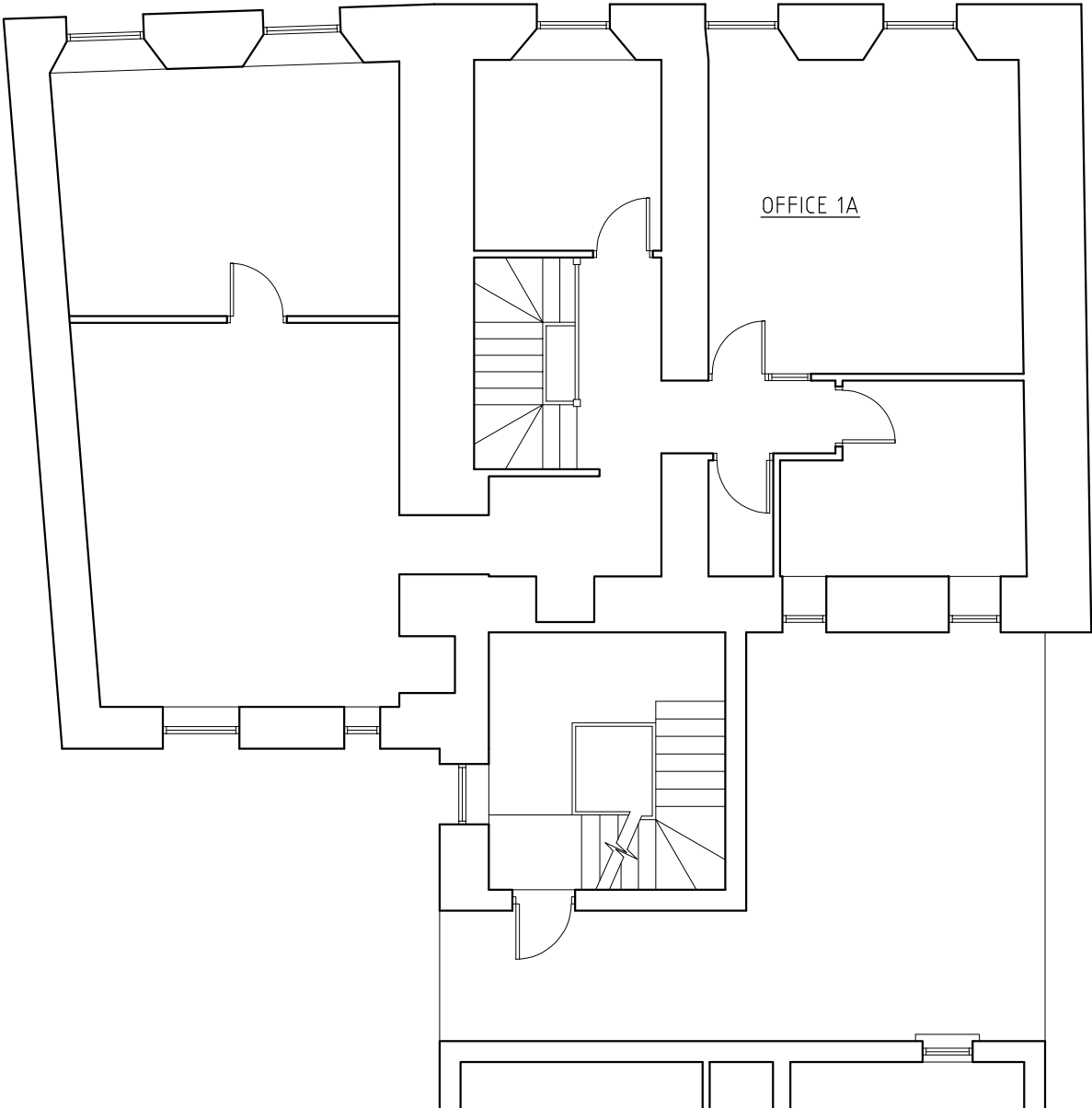
LOCATION :
GARVAN COURT
BALLYBOFEY
Co. DONEGAL

TITLE : Section 5 Application

SCALE : 1:100.

DATE : 18/10/2025

GARVAN HOUSE
FIRST FLOOR PLAN
Drawing No.
21239-02





Comhairle Contae
Dhún na nGall
Donegal County Council

Planning Services

RECEIVED DATE: 13/11/2025

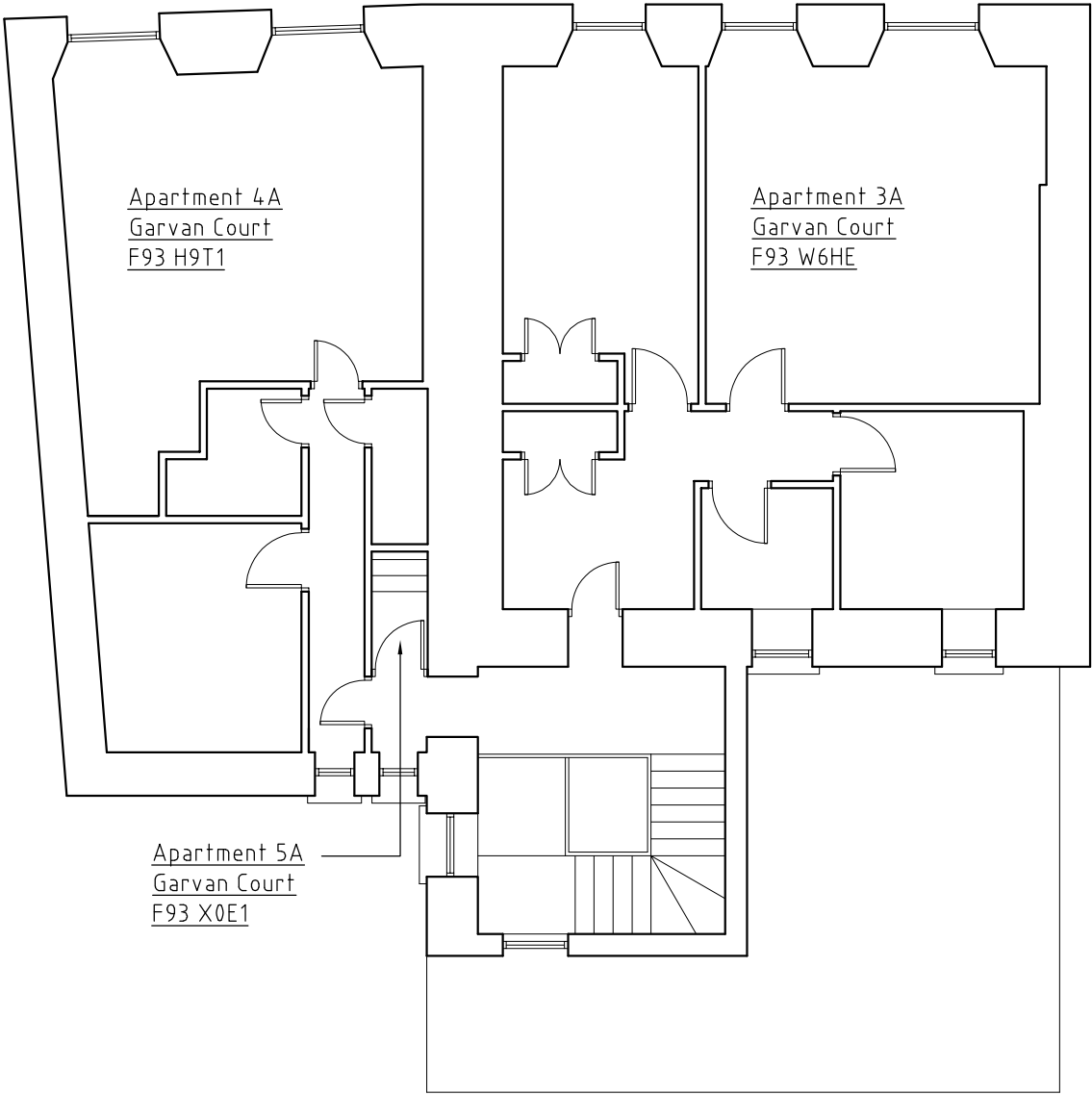
LOCATION :
GARVAN COURT
BALLYBOFEY
Co. DONEGAL

TITLE : Section 5 Application

SCALE : 1:100.

DATE : 18/10/2025

GARVAN HOUSE
SECOND FLOOR PLAN
Drawing No.
21239-03

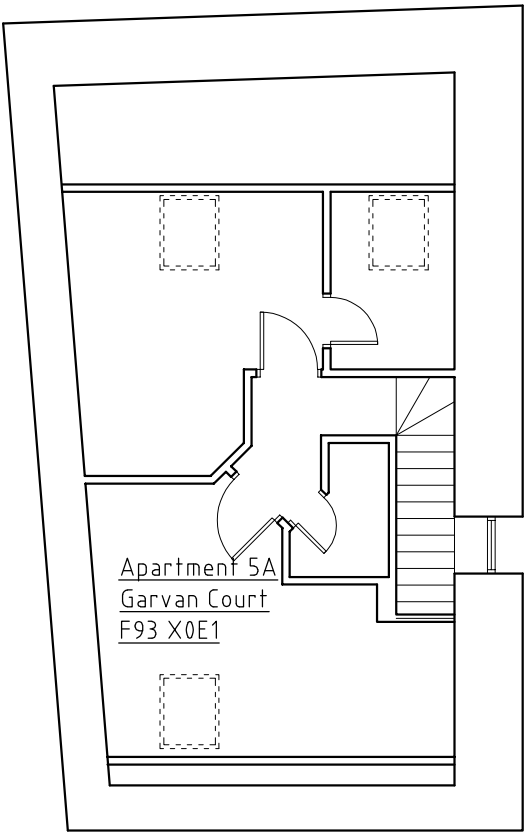




Planning Services

RECEIVED DATE: 13/11/2025

LOCATION :
GARVAN COURT
BALLYBOFEY
Co. DONEGAL



TITLE : Section 5 Application

SCALE : 1:100.

DATE : 18/10/2023

Sites for Registration
GARVAN HOUSE
THIRD FLOOR PLAN
Drawing No. 21239-04



**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

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W: www.donegalcoco.ie
W: www.ccdhunnangall.ie

Planning Services
E: planning@donegalcoco.ie

E-mail: office@mfrielarchitects.ie

Our Ref: S525/101

13th November, 2025

Brimwood Ltd.
C/o Michael Friel Architects & Surveyors Ltd.

Re: Section 5 - Application for continued use of an existing residential property to provide accommodation for persons availing of International Protection at Garvan Court, Main Street, Ballybofey, Co Donegal, F93 N526.

A Chara,

I wish to acknowledge receipt of your application received on 12th November, 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 25/101

1.0 BACKGROUND

1.1 Location:

The subject site is located @ Garvan Court, Main Street Co Donegal, **F93 N526**.

Applicant: Brimwood Ltd.,

1.2 Site Description:

The site is located within Urban Core of the Plan of Ballybofey/Stranorlar Area Plan under the current County Donegal Development Plan, 2024-30.

The building comprises of office/retail units at ground floor with apartments on the upper floors and is located thereon located along the Main Street of Ballybofey.

The site is not located within any designated Natura 2000 sites.

The existing building is not listed on the Council's Record of Protected Structures or as a NIAH.

1.3 Planning History

97/304: permission Granted for the erection of 3 no. commercial units and 9 no. apartments to rear of premises

08/60079: permission Granted for: change of use of existing retail unit to turf accountants office, alterations to existing front facade to incorporate new signage at ground floor, together with associated site works and utilisation of all existing connections to public services

2.0. THE QUESTION

The agent, Michael Friel, on behalf of Brimwood Ltd., has made a submission to Donegal County Council seeking a Declaration of Exemption as to whether or not the following is exempt from planning permission:

The continued use of an existing residential property to provide accommodation for persons availing of International Protection.

The Department of Justice intends to continue to utilize the property for the accommodation of International Protections Applicants.

S.I No.582/2015 – Planning and development (amendment)(No.4) Regulations 2015 provides under Class 14(h), a “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” which will be deemed to be exempt development, thus not requiring Planning permission for the change of use

- Note original permitted drawing only submitted, no clarification -as to whether commercial units have been converted to accommodation but given drawings for same have been submitted it is assumed they are also included.

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".

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

Article 6(1)

Subject to Article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development 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.

Article 9

Restrictions on Exemption include inter alia:- .

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,
 - (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 other objects of archaeological, geological, historical, scientific or ecological 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, save any excavation, pursuant to and in accordance with a licence granted under section 26 of the National Monuments Act, 1930 (No. 2 of 1930),
 - (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.

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

- Permits 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, 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.

**Schedule 2 Part 1 Exempted Development - General Temporary Structures and Uses
Class 20F**

<p>CLASS 20F</p> <p>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.</p>	<p>1. The temporary use shall only be for the purposes of accommodating displaced persons or for the purposes of accommodating persons seeking international protection.</p> <p>2. Subject to paragraph 4 of this class, the use for the purposes of accommodating displaced persons shall be discontinued when the temporary protection introduced by the Council Implementing Decision (EU) 2022/382 of 4 March 2022¹ comes to an end in accordance with Article 6 of the Council Directive 2001/55/EC of 20 July 2001².</p> <p>3. The use for the purposes of accommodating persons seeking international protection shall be discontinued not later than 31 December 2028.</p> <p>4. Where the obligation to provide temporary protection is discontinued in accordance with paragraph 2 of this class, on a date that is earlier than 31 December 2028, the temporary use of any structure which has been used for the accommodation of displaced persons shall continue for the purposes of accommodating persons seeking international protection in accordance with paragraph 3 of this class.</p> <p>5. The relevant local authority must be notified of locations where change of use is taking place prior the commencement of development.</p> <p>6. ‘displaced persons’, for the purpose of this class, means persons to whom temporary protection applies in accordance with Article 2 of Council Implementing Decision (EU) 2022/382 of 4 March 2022.</p>
	<p>7. ‘international protection’, for the purpose of this class, has the meaning given to it in section 2(1) of the International Protection Act 2015 (No. 66 of 2015).</p> <p>8. ‘temporary protection’, for the purpose of this class, has the meaning given to it in Article 2 of Council Directive 2001/55/EC of 20 July 2001.</p>

3.0 ASSESSMENT

3.1 Consideration of Proposed Development

1. Existing Use:

The property currently consists of a recently renovated building (use as a residential property to provide accommodation for persons availing of International Protection had not been established under the previous S5 declaration) within an existing unused building comprising of former shop and office(estate agent) with accommodation on the upper floors. No details accompany the application regarding proposed works (if any). From recent photographs, it would appear that works had taken plans to the former building.

2. Proposed Use:

--A change of use (note: no definition of use for the present building has been stated) is proposed to accommodate protected persons seeking International Protection.

Protected persons are defined in Section 2(1) of the International Protection Act 2015.

3. Analysis of Development:

- (i) The current permitted use of the building on site is retail /office units at ground floor with residential apartments on upper two sfloors.
- (ii) No information has been submitted with regard to a floor plan illustrating the number of rooms and occupancy numbers proposed in each room to be used for accommodation purposes.
- (iii) The proposed change constitutes a material change of use, as it involves altering the nature of occupancy from an apartment and office/retail use to accommodation for protected persons, fulfilling the statutory definition of "development" under Section 3(1) of the Act.
- (iv) However, such a change is explicitly not exempted under Class 14(h).
- (v) The Planning Authority is satisfied that the change of use to an emergency provision centre for IPAS accommodation would constitute 'development' as defined in Sections 2 & 3 of the Act.
- (vi) The Planning Authority do not consider Class 14 (h) and (i) of the Planning and Development Regulations is applicable in this instance the development is not listed as a use under Class 14 (h) or (i) of the Planning & Development Regulations, 20012(as amended).
- (vii) In terms of Class 20F of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 (as amended), no evidence that the temporary use is either by or on behalf of the Minister for Children, Equality, Disability, Integration and Youth accompanies application which would be required in order to be considered within the scope of Class 20F of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 (as

amended). No information has therefore been submitted to determine whether the development can be considered exempted development. The development does not therefore accord with the conditions and limitations with respect to this Class 20F exemption of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 (as amended).

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:

- (i) The proposed use constitutes development under Section 3(1) of the Planning and Development Act 2000, as it represents a material change of use.
- (ii) The proposed use does not qualify as exempted development, as it does not align with the intended use under Class 14(h) of the Planning and Development Regulations 2001 (as amended). The development does not, therefore, accord with the restrictions under Article 9(1)(a)(viii) in respect of Class 20F of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 (as amended).

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:

Whether the continued use of an existing residential property to provide accommodation for persons availing of International Protection?

The Department of Justice intends to continue to utilize the property for the accommodation of International Protections Applicants.

S.I No.582/2015 – Planning and development (amendment)(No.4) Regulations 2015 provides under Class 14(h), a “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” which will be deemed to be exempt development, thus not requiring Planning permission for the change of use constitutes exempted development or does not constitute exempt development?

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 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) of Part 1 of Schedule 2 of the Planning & Development Regulations 2001 (as amended) and Class 20F of Part 1 of Schedule 2 of the Planning & Development Regulations 2001 (as amended) in accordance with Article 9(1)(a)(viii) having regard to the Protected Structure status of the building.



Executive Planner
27/11/2025



Frank Sweeney
Senior Executive Planner
Community Development & Planning Services
02/12/2025

Chief Executive's Order No: 2025PH3573

Planning and Development Acts 2000 (as amended)

SECTION 5:-

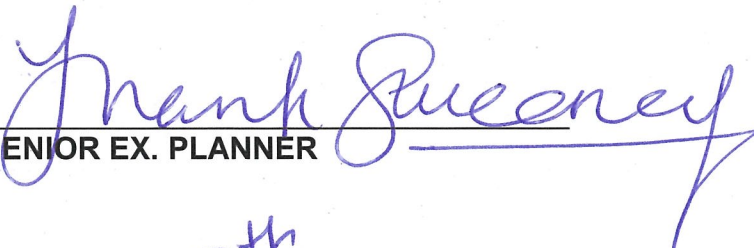
Request received 12th November 2025 from Brimwood Limited C/o Michael Friel Architects & Surveyors Ltd, Creeslough, Letterkenny, Co. Donegal F92 TF60 in relation to the continued use of an existing residential property to provide accommodation for persons availing of International Protection at Garvan Court, Main Street, Ballybofey, Co. Donegal F93 N526.

SUBMITTED:-

Written request received 12th November 2025 as above and report dated 27th November 2025 from the Executive Planner (Ref. No: S5 25/101 refers).

ORDER:-

Having considered the said request, the report of the Executive Planner, and the record forwarded to the Council by An Coimisiún 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 8th DAY OF DECEMBER 2025

L.M.C.

Chief Executive's Order No: 2025PH3573

Ref.No: S5 25/101

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 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 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) and Class 20F of Part 1 of Schedule 2 of the Planning & Development Regulations 2001 (as amended) in accordance with Article 9(1)(a)(viii) having regard to the Protected Structure status of the building.

ys 08/12

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

DECLARATION

Chief Executive's Order No: 2025PH3573

Reference No: S525/101

Name of Requester: BRIMWOOD LIMITED
C/O MICHAEL FRIEL ARCHITECTS & SURVEYOR LTD
CREESLOUGH
LETTERKENNY
CO. DONEGAL
F92 TF60

Summarised Description of development the subject matter of request:

The continued use of an existing residential property to provide accommodation for persons availing of International Protection

Location: Garvan Court, Main Street, Ballybofey, Co. Donegal F93 N526.

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 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 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) and Class 20F of Part 1 of Schedule 2 of the Planning & Development Regulations 2001 (as amended) in accordance with Article 9(1)(a)(viii) having regard to the Protected Structure status of the building.


For Senior Ex. Planner
Planning Services

Dated this 8th day of December 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: S525/101

8th December 2025

BRIMWOOD LIMITED
C/O MICHAEL FRIEL ARCHITECTS & SURVEYOR LTD
CREESLOUGH
LETTERKENNY
CO. DONEGAL
F92 TF60

Re: The continued use of an existing residential property to provide accommodation for persons availing of Internation Protection at Garvan Court, Main Street, Ballybofey, Co. Donegal F93 N526.

A Chara,

I refer to your request received on 12th November 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 Coimisiún Pleanála of such fee as may be prescribed, refer a Declaration for review by the Coimisiún within 4 weeks of the date of issuing of the Declaration.

Mise, le meas,

**For Senior Planner
Planning Services**

/jmcc