



PLANNING & DEVELOPMENT ACT, 2000 (as amended)

Application for a Section 5 Declaration
Development / Exempted Development

1. Applicant's address/contact details:

<i>Applicant</i>	B&N Ventures Limited
<i>Address</i>	Doon, Tubber, Co. Clare
<i>Telephone No.</i>	
<i>E-mail</i>	

2. Agent's (if any) address:

<i>Agent</i>	Hughes Planning and Development Consultants
<i>Address</i>	85 Merrion Square South, Dublin 2
<i>Telephone No.</i>	01 539 0710
<i>E-mail</i>	hughesplanning@hpdc.ie
<i>Please advise where all correspondence in relation to this application is to be sent;</i>	
Applicant [<input type="checkbox"/>] Agent [<input checked="" type="checkbox"/>]	

3. Location of Proposed Development:

<i>Postal Address or Townland or Location (as may best identify the land or structure in question)</i>	Abbey House, Abbey Street, Cahir, Co. Tipperary, E21 K354
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4. Development Details:

Please provide details of the proposed development for which an exemption under Section 5 of the Planning and Development Act is applied for.

(Note: only works and uses listed and described under this section will be assessed under this Section 5 Application. Use additional sheets if required.)

Whether the use of residential apartments at Abbey House, Abbey Street, Cahir,
Co. Tipperary, E21 K354, where care is not provided, as long-term residential
accommodation for protected persons, is or is not development?
“Whether the use of three town houses at Abbey House, Abbey Street, Cahir, Co. Tipperary,
E21 K354, where care is not provided, as long-term residential accommodation for protected persons, is or is not development?”
Proposed floor area of proposed works/uses: 465 sqm

5. Legal Interest of Applicant in the Land or Structure:

<i>Please tick appropriate box to show applicant's legal interest in the land or structure</i>	A. Owner	B. Occupier <input checked="" type="checkbox"/>
	C. Other	
<i>Where legal interest is 'Other', please expand further on your interest in the land or structure</i>		
<i>If you are not the legal owner, please state the name and address of the owner</i>	Name: Brimwood Unlimited Company Address: Corcalley, Carrickmacross, Monaghan, Ireland	

Signature of Applicant(s)



Date: 18/12/2024

Note: If the proposed development consists of works to a (Proposed) Protected Structure and/or any structure within the curtilage of a (Proposed) Protected Structure, an application for a Section 57 Declaration may be more appropriate.

GUIDANCE NOTES

- (1) All queries on the form must be completed and the form must be accompanied by the relevant fee. The amount of the fee is currently **€80.00**.
- (2) This application should be accompanied by **TWO COPIES** of the following documentation
- OSI Site Location Map with the site outlined clearly – 1:1000 in urban areas and 1:2500 in rural areas
 - Floor Plans & Elevations at a scale of not less than 1:200
 - Site layout plan indicating position of proposed development relative to premises and adjoining properties
 - Other details e.g. brochures, photographs if appropriate.
- (All dimensions must be given in metric scale and drawings should be accompanied by a brief description outlining the use of the proposed development)
- (3) Where a proper and complete application is received, a decision must be conveyed to the applicant within four (4) weeks except where additional necessary information is required.

This application form and relevant fee should be submitted to:

Planning Section, Tipperary County Council, Civic Offices, Limerick Road, Nenagh, Co. Tipperary	<u>OR</u>	Planning Section, Tipperary County Council, Civic Offices, Emmet Street, Clonmel, Co. Tipperary
Enquires: Telephone 0818 06 5000 E-Mail planning@tipperarycoco.ie		

FOR OFFICE USE ONLY

DATE STAMP

Fee Recd. € _____
Receipt No _____
Date _____
Receipted by _____



Planning Department,
Tipperary County Council,
Civic Offices,
Emmet Street,
Clonmel,
County Tipperary.



18th December 2024

Re: Request for Section 5 Declaration of Exempted Development at Abbey House, Abbey Street, Cahir, Co. Tipperary, E21 K354

Dear Sir/Madam,

Hughes Planning and Development Consultants, 85 Merrion Square, Dublin 2, have been instructed by our client, B&N Ventures Limited, to submit this request in relation to a Declaration of Exempted Development for a site at Abbey House, Abbey Street, Cahir, Co. Tipperary, E21 K354.

The question before the planning authority is:

"Whether the use of residential apartments at Abbey House, Abbey Street, Cahir, Co. Tipperary, E21 K354, where care is not provided, as long-term residential accommodation for protected persons, is or is not development?"

To support this request, please find enclosed:

- 1 no. copy of Declaration of Exemption Planning Form;
- 2 no. copies of Site Location Map; and
- 2 no. copies of Planning Report, as prepared by Hughes Planning & Development Consultants.

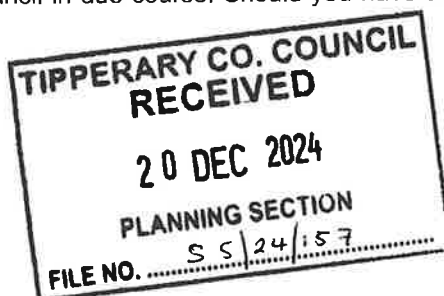
As this application relates to use only, no works are being proposed. Therefore, no drawings have been submitted as part of this Section 5 planning application.

A payment of €80.00 has been made to the Tipperary County Council under payment receipt number 188124.

We trust that the enclosed plans and particulars pertaining to this request are in order and look forward to a favourable decision from Tipperary County Council in due course. Should you have any questions, please do not hesitate to contact the undersigned.

Yours Sincerely,

Kevin Hughes MIPI MRTPI
Director For HPDC



PLANNING REPORT

REQUEST FOR SECTION 5 DECLARATION OF EXEMPTED DEVELOPMENT

Abbey House, Abbey Street, Cahir,
Co. Tipperary, E21 K354

PREPARED IN DECEMBER 2024 ON BEHALF OF:
B&N Ventures Limited

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, B&N Ventures Limited, Doon, Tubber, Co. Clare concerning Abbey House, Abbey Street, Cahir, Co. Tipperary, E21 K354.

The question before the Planning Authority is:

“Whether the use of residential apartments at Abbey House, Abbey Street, Cahir, Co. Tipperary, E21 K354, where care is not provided, as long-term residential accommodation for protected persons, is or is not development?”

“Whether the use of three town houses at Abbey House, Abbey Street, Cahir, Co. Tipperary, E21 K354, 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 residential apartments and dwellings houses 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

This Section 5 application relates to Abbey House, a semi-detached house, built c. 1835, with a four-bay three-storey front elevation, three-bay three-storey south side elevation, and three-bay four-storey rear elevation. The building is included on the County Tipperary Record of Protected Structures under RPS No. TRPS1346.



Figure 1.0 Street view image of Abbey House, located on Abbey Street, Cahir.

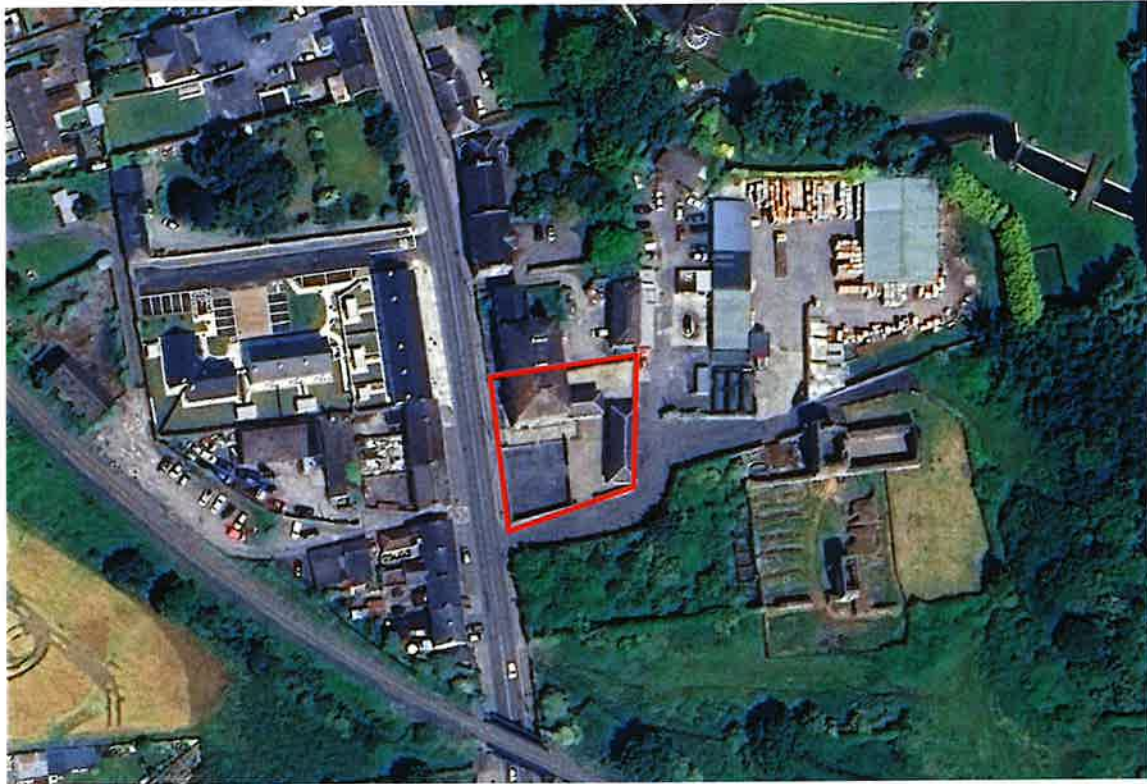


Figure 2.0 Aerial image showing Abbey House (red outline) and its immediate surroundings.

The site is located on the north west side of Cahir, in the southern area of County Tipperary. It is directly adjacent to the River Suir and the Green Amenity Spine. Grocery stores, recreational facilities, religious institutions, community centres, pharmacies, and cafes/restaurants are all located within the town centre, c. 600 metres from the subject site.

The subject site is located c. 1 kilometre from the M8 highway, which extends from Cork city to the south and connects to Dublin in the north. Cahir town is serviced by a train station, which is located c. 600 metres from the subject site, providing a connection on the Waterford-Clonmel-Limerick Junction line. There is a bus stop located c. 600 metres from the site, which services the 245 Intercity bus, and the 245X, 855, and Expressway 55 routes.

3.0 Planning History

3.1 Subject Site

In review of the Tipperary County Council planning register the following planning applications are relevant to the subject site:

Reg. Ref. P39940 Planning permission was granted by Tipperary County Council on 27th June 1985 for the replacement of existing fence with a new concrete fence 6ft high on lands at Abbey House, Abbey Street.

Reg. Ref. 00773 Planning permission refused by Tipperary South Riding County Council on the 23rd November 2000 for the construction of two town houses to the rear of the property.

- Reg. Ref. 001132** Planning permission granted by Tipperary South Riding County Council on the 18th January 2001 for the retention of alterations to the existing coach house for the change of use from one no. three bedroom apartment and storage area to 3 no. town houses.
- Reg. Ref. 01153** Planning permission refused by Tipperary South Riding County Council on the 10th April 2001 for the retention of UPVC windows to existing coach house.
- Reg. Ref. 08258** Planning permission granted by South Tipperary County Council on the 23rd June 2008 for the construction of a parking area with new access and associated site works.

Abbey House was subdivided into apartments prior to 1963 (i.e. prior to the commencement of the Local Government (Planning and Development) Act, 1963 on 1st October 1964).

In accordance with the Planning and Development Act 2000 (as amended), development which took place before 1st October 1964, is exempted development, whereby an applicant is exempt from the obligation to obtain planning permission. Section 39(4) of the Planning and Development Act 2000, as amended, outlines the following in relation to pre-1963 development:

'(4) Notwithstanding anything in this Part, permission shall not be required under this Part, in the case of land which, on 1 October 1964, was normally used for one purpose and was also used on occasions, whether at regular intervals or not, for any other purpose, for the use of the land for that other purpose on similar occasions after 1 October 1964.'

3.2 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 not 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 services. 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.'

Abbey House will be 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

4.1 Cahir Local Area Plan 2021-2027

The subject site is zoned 'R - Existing Residential', the objective of which is *'to preserve and enhance existing residential development and residential amenity and provide for additional facilities where gaps are identified'*, under the current Cahir Local Area Plan 2021-2027.



Figure 3.0 Extract of the Land Use Zoning Map from the Cahir Local Area Plan 2021-2027 showing the subject site (white star) located in the 'R- Existing Residential' zone.

The zoning matrix included in the Local Area Plan indicates 'generally permitted' and 'open to consideration' uses in 'R - Existing Residential' zoned lands. 'Generally permitted' uses are generally acceptable subject to the normal planning process and compliance with the relevant policies objectives, standards and requirements set out in the Plan.

The land uses which are 'generally permitted' use classes related to the 'Existing Residential' zoning category are as follows:

Parks/Playgrounds, Residential

The following land uses are 'open to consideration':

Community Facility, Childcare, Doctor/Dentist/Healthcare practitioner, Educational/School, Health Centre (public), Hotel, Places of Worship, Sports/Leisure Facilities (Commercial), Restaurant, Retirement/Nursing Home, Self-Catering Tourism Accommodation, Shop – Neighbourhood, Veterinary Surgery

We note that residential use is a 'generally permitted' use on the subject lands.

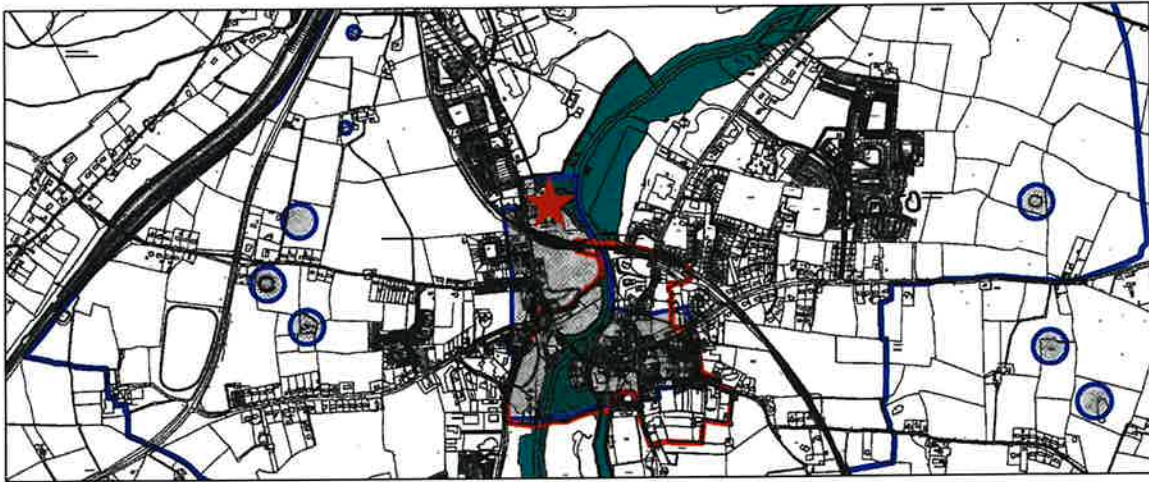


Figure 4.0 Extract of the Natural & Built Heritage map from the Cahir Local Area Plan 2021-2027 showing the subject site (red star) located in a 'Zone of Archaeological Potential'.

It is noted that the subject site is in an area zoned for archaeological importance. The following policy is included in the Cahir Local Area Plan 2021-2027 and relates to the subject site:

NBH4

Safeguard sites, features and objects of archaeological interest (in situ where practicable or as a minimum, preservation by record) included in the Record of Monuments and Places and sites.



Figure 5.0 Extract of the Spatial Development map from the Cahir Local Area Plan 2021-2027 showing the subject site (yellow star) located in the Urban Footprint and Residential Growth area.

Strategic Aim 2 of the Cahir Local Area Plan 2021-2027 states the following:

Sustainable Communities

To facilitate the development of sustainable and socially inclusive communities, where quality housing is provided and integrated with the delivery of community and social infrastructure to support a high quality of life for the residents of the town.

4.2 Tipperary County Council Development Plan 2022-2028

The following policies and objectives are considered relevant to the subject site and are included in the Tipperary County Council Development Plan 2022-2028:

Policy 5-1 *Have regard to the County Housing Strategy (or any amendment thereof), when implementing housing programmes, and when assessing proposals for both private and public residential development, to ensure that new housing is provided, and located in a manner that caters for the diverse housing needs of the community, suitable for households of a range of incomes and in tandem with the delivery of social and community infrastructure and amenity.*

Policy 5-4 *Support and encourage proposals for public and private sector housing involving the reuse and refurbishment of disused and derelict buildings in towns and villages.*

Objective 5-A *Support Government policy and targets under "Rebuilding Ireland: Action Plan for Housing and Homelessness" 'Housing for All', a New Housing Plan for Ireland, (Government of Ireland, 2021) (and any review thereof) and local authority actions that contribute to delivery of affordable housing and social housing, reduction of homelessness and building of homes on public lands.*

Objective 5-B *Actively support public and private sector housing delivery in towns, by engaging in collaborative placemaking and regeneration, using land activation measures in line with national policy.*

Objective 5-E *Progress the provision of social and affordable housing through partnership with approved housing bodies, voluntary and co-operative organisations, the HSE, and through agreements with private developers.*

The subject site contributes to the housing stock of Cahir, currently providing 3 no. individual apartments and previously a single dwelling. The proposed use of the site would continue to cater to the housing needs of the community.

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 Abbey House 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 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 is a residential building constructed in c. 1835 and has been in continuous use as a residential property. Residents of the building have their own apartments, in addition to the three town houses located to the rear, 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 Abbey House as long-term residential accommodation 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 Abbey House, Abbey Street, Cahir, Co. Tipperary, E21 K354, where care is not provided, as long-term residential accommodation for protected persons, is or is not development?"

"Whether the use of three town houses at Abbey House, Abbey Street, Cahir, Co. Tipperary, E21 K354, where care is not provided, as long-term residential accommodation for protected persons, is or is not development?"

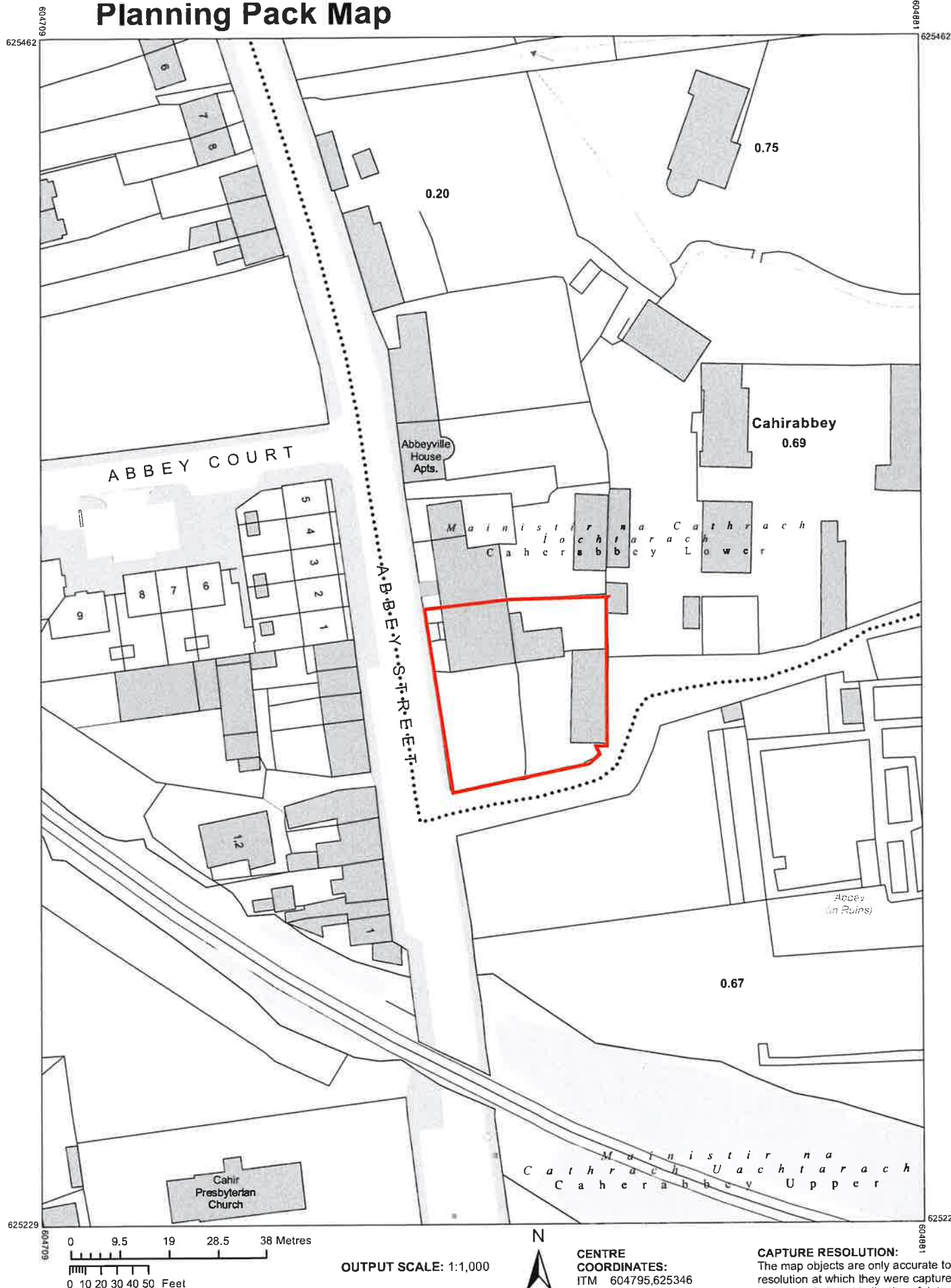
This Section 5 application clarifies that the use of residential apartments and town houses as temporary accommodation for displaced persons seeking international protection does not constitute development.

Accordingly, we request a declaration to this effect from Tipperary 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.

Planning Pack Map



COMPILED AND PUBLISHED BY:

Tailte Éireann,
hoenix Park,
Dublin 8,
Ireland.
08F6E4

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18/12/2024

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ORDER NO.:
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MAP SHEETS:
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Date: 02/01/2025

Our Ref: S5/24/157

Civic Offices, Clonmel

**Hughes Planning & Development
Consultants,
85 Merrion Square South,
Dublin 2,
Co. Dublin.**

**Re: Application for a Section 5 Declaration – The use of three town
houses, where care is not provided to long term residential
accommodation at Abbey House, Abbey Street, Cahir, Co. Tipperary**

A Chara,

I acknowledge receipt of your application for a Section 5 Declaration received
on 20th December, 2024, in connection with the above.

I wish to advise that you will be notified of a decision on your application in
due course.

Mise le meas,

For Director of Services

TIPPERARY COUNTY COUNCIL

Application for Declaration under Section 5

Planning & Development Act 2000, as amended
Planning & Development Regulations 2001, as amended

Planning Ref.: S5/24/157

Applicant: B&N Ventures Limited

Development Address: Abbey House, Abbey Street, Cahir, Co. Tipperary.

Proposed Development: Whether the use of residential apartments at Abbey House, Abbey Street, Cahir, Co. Tipperary, where care is not provided, as long term residential accommodation for protected persons, is or is not development.

1. GENERAL

On the 20th of December 2024 a request was made for a declaration under Section 5 of the Planning and Development Act, 2000 as amended as to whether the following is “development”;

- the use of residential apartments at Abbey House, Abbey Street, Cahir, Co. Tipperary, where care is not provided, as long term residential accommodation for protected persons.

2. STATUTORY PROVISION

The following statutory provisions are relevant to this referral case;

Planning and Development Act 2000, as amended

Section 2(1)

‘development’ has the meaning assigned to it by Section 3.

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

Section 3 (1)

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

Section 4(2) of the Act provides that the Minister may, by regulations, provide for any class of development to be exempted development. The main regulations made under this provision are the Planning and Development Regulations 2001-2020.

Planning and Development Regulations 2001, as amended

Article 5 defines a “protected person”, for the purposes of Schedule 2, means—

- (a) a person who has made an application to the Minister for Justice and Equality under the Refugee Act of 1996 or the Subsidiary Protection Regulations 2013 (S.I. No. 426 of 2013),
- (b) a person who falls to be considered or has been considered under section 3 of the Immigration Act of 1999, or
- (c) a programme refugee within the meaning of section 24 of the Refugee Act of 1996;

Article 6(1) of the aforementioned Regulations provide that ‘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 10 (1) Changes of Use

(1) Development which consists of a change of use within any one of the classes of use specified in Part 4 of Schedule 2, shall be exempted to development for the purposes of the Act, provided that the development, if carried out would not –

- (a) involve the carrying out of any works other than works which are exempted development,
- (b) contravene a condition attached to a permission under the act,
- (c) be inconsistent with any use specified or included in such a permission, or
- (d) be a development where the existing use is an unauthorized use, save where such change of use consists of the resumption of a use which is not unauthorized and which has not been abandoned.

Part 1 of Schedule 2 of the Regulations set out the classes of exempted development, including ‘Class 14’ allowing for ‘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,

(i) 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

(h) of the said premises or institution, or part thereof, to use as an emergency reception and orientation centre for protected persons’.

Class 20F of the same Part exempts the following:

Temporary use by or on behalf of the Minister for Children, Equality, Disability, Integration and Youth to accommodate or support 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.

This is subject to the following conditions and limitations

1. The temporary use shall only be for the purposes of accommodating displaced persons or for the purposes of accommodating persons seeking international protection.
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.
3. The use for the purposes of accommodating persons seeking international protection shall be discontinued not later than 31 December 2028.
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.
5. The relevant local authority must be notified of locations where change of use is taking place prior the commencement of development.
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.
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).
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.

Part 4 of Schedule 2

"Exempted Development – Classes of Use"

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

Class 9(a) – Use for the provision of residential accommodation and care to people in need of care (but not the use of a house for that purpose).

Article 9 (1) (a) of the Planning and Development Regulations 2001, as amended sets out the instances where development, to which Article 6 relates, shall not be exempted development for the purposes of the Act.

3. ASSESSMENT

a. Site Location

The site comprises an end of terrace, four bay, three storey building (Abbey House) located on Abbey Street, Cahir, Co. Tipperary. The structure is listed on the Record of Protected Structures (1346) and is included on the National Inventory of Architectural Heritage (Ref 22111008). The site is also located within a Zone of Archaeological Potential.

The site is located to the north of the town on lands zoned “Existing residential” in the Cahir Local Area plan 2021.

b. Relevant Planning History

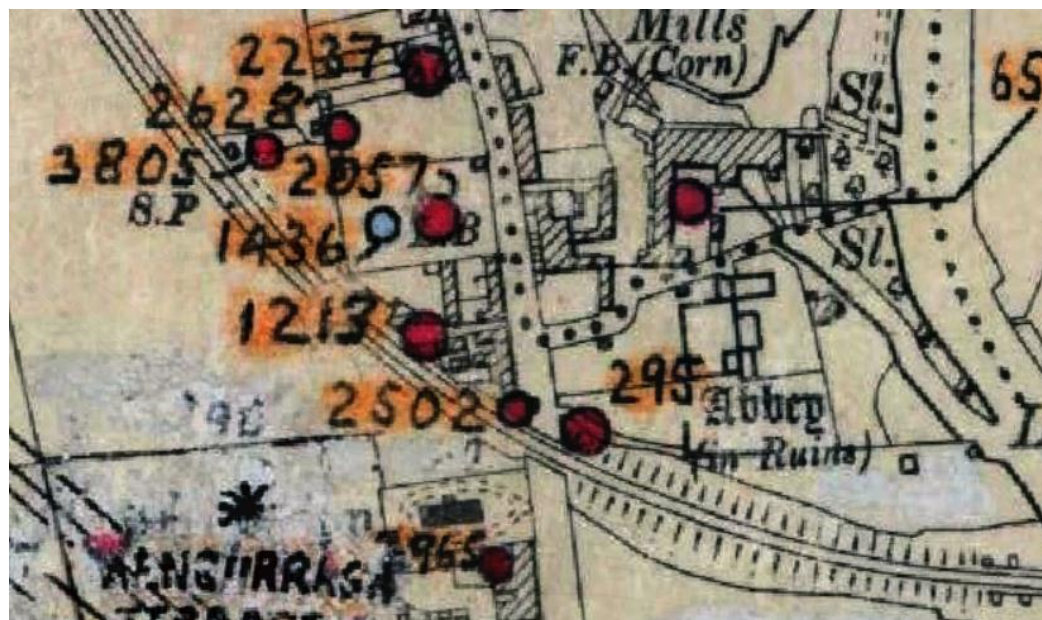
On site

None recorded. Submission by applicant states that the main house was subdivided into apartments prior to 1963.

Adjacent

00773	construction of two town houses to the rear of property -Refused
001132	retention of alterations to existing coach house which is a protected structure and for change from one no. three bedroom apartment and storage area to 3 no. town houses
	Granted
01/153	for retention of UPVC windows to existing coach house which is a protected structure
	Refused
08/258	construction of two town houses to the rear of property – Granted

Figure 1 Planning history



determined the use of the dwelling in this instance to provide residential accommodation for protected persons, constituted a material change of use by virtue of the fact that the intensity of the use proposed was more akin to a congregated setting or residential institution and not a residential property.

Applying the same logic to this query, in order to determine if the use proposed would result in a material change of use (ie a change from an apartment to a residential institution), the applicant will be required to provide a comprehensive breakdown of the number of independent apartments within the building, the typology of the apartments and quantify the number of persons to be accommodated on site.

B) "Is or is not Exempted Development"

There is insufficient information submitted to enable the Planning Authority determine if the proposal constitutes development.

C) Restrictions under Article 9

Not applicable.

D) Requirement for Appropriate Assessment (AA) and Environmental Impact Assessment (EIA)

Further information is required in order to complete the AA and EIA screening process.

4. RECOMMENDATION

A question has arisen as to whether the use of residential apartments at Abbey House, Abbey Street, Cahir, Co. Tipperary, where care is not provided, as long term residential accommodation for protected persons, is or is not development.

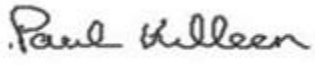
In considering this declaration, the Planning Authority had regard to:

- (a) Sections 2, 3 & 4 of the Planning and Development Act 2000 (as amended)
- (b) Articles 5, 6, 9, and 10 of the Planning and Development Regulations, 2001, as amended;
- (c) Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended;
- (d) Relevant case law;
- (e) the planning history of the site,
- (f) previous referrals to the Board, including referral ABP-307077-20 and ABP-320031-24
- (g) the submissions of the referrer,

Having considered the information received, the Planning Authority is not in a position to determine if the proposal constitutes development and it is recommended that Further Information is requested as set out below;

Further Information Request

1. The details submitted with the declaration are noted. In considering this application for a Section 5 Declaration the Planning Authority has also had regard to recent precedent cases determined by An Bord Pleanála (ABP-320031-24). In order to determine if the subject proposal constitutes a material change of use, the applicant is requested to clarify the number and typology of the existing apartment on site. The response should include floor plans detailing same. In addition, the applicant is requested to clarify the number of persons to be accommodated within each of the existing apartments on site.

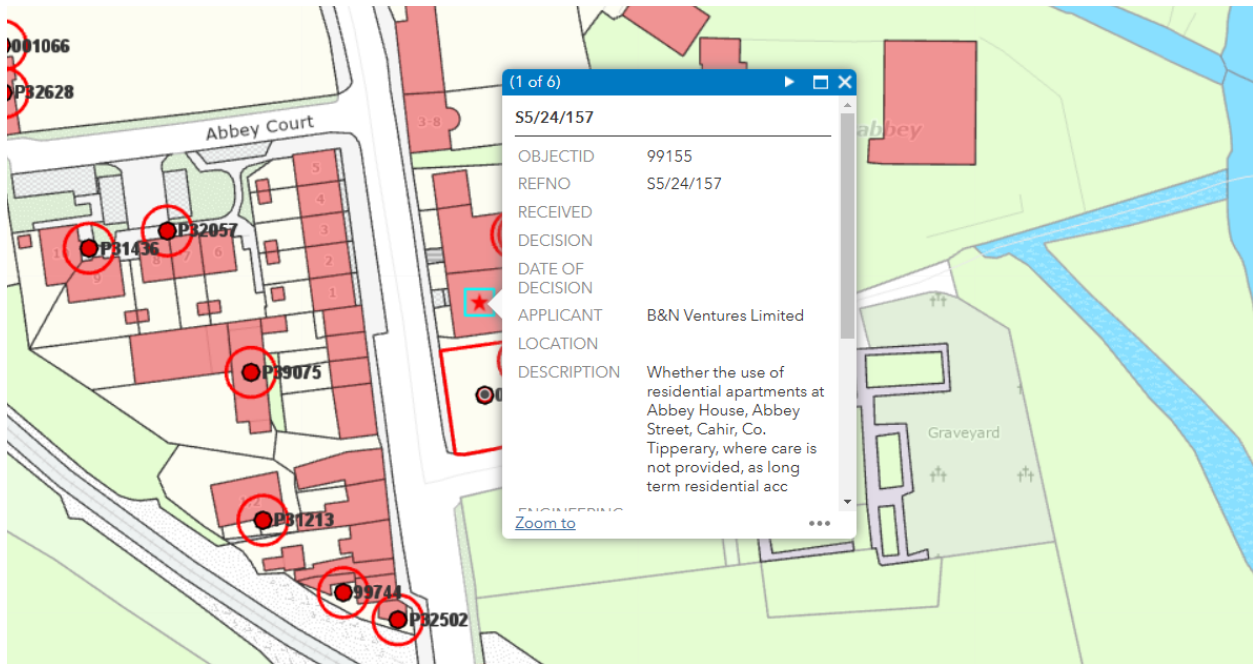
Signed: 
District planner

Date: 28/01/25

Signed: 
Senior Executive Planner

Date: 29.1.2025

Figure 2 Site entered on Planning register





Comhairle Contae Thiobraid Árann
Tipperary County Council

Comhairle Contae
Thiobraid Árann,
Oifigí Cathartha,
Cluain Meala,
Co. Thiobraid Árann

Tipperary County Council,
Civic Offices, Clonmel,
Co. Tipperary

E91 N512

Comhairle Contae
Thiobraid Árann,
Oifigí Cathartha,
An tAonach,
Co. Thiobraid Árann

Tipperary County Council,
Civic Offices, Nenagh,
Co. Tipperary

E45 A099

t 0818 06 5000
e customerservice
@tipperarycoco.ie

tipperarycoco.ie

Date: 29th January, 2025 Our Ref: S5/24/157

Civic Offices, Nenagh

B & N Ventures Ltd
Hughes Planning & Development Consultants
85 Merrion Square South
Dublin 2
Co. Dublin

Re: Application for a Section 5 Declaration – Whether the use of residential apartments at Abbey House, Abbey Street, Cahir, Co. Tipperary, where care is not provided, as long term residential accommodation for protected persons, is or is not at Abbey House, Abbey Street, Cahir, Co. Tipperary

A Chara,

I refer to an application received from you on 20th December, 2024 requesting a Declaration from this Planning Authority as to whether or not certain works constitute development within the meaning of the Planning and Development Act 2000, as amended.

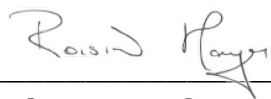
Further information is requested as follows;

It is recommended to request the following further information pursuant to Section 5 (2) (b) of the Planning and Development Act 2000, as amended

1. The details submitted with the declaration are noted. In considering this application for a Section 5 Declaration the Planning Authority has also had regard to recent precedent cases determined by An Bord Pleanála (ABP-320031-24). In order to determine if the subject proposal constitutes a material change of use, the applicant is requested to clarify the number and typology of the existing apartment on site. The response should include floor plans detailing same. In addition, the applicant is requested to clarify the number of persons to be accommodated within each of the existing apartments on site.

Further consideration of your request for a declaration cannot be considered until the above information is received.

Yours sincerely

A handwritten signature in cursive script, appearing to read "Rosalyn Hays", positioned above a horizontal line.

for **Director of Services**



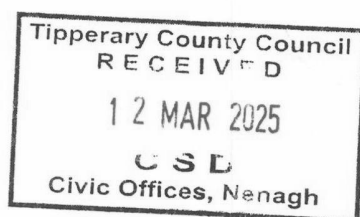
85 Merrion Square, Dublin 2, D02 FX60

T +353 (0)1 539 0710

E info@hpdc.ie

www.hpdc.ie

Senior Executive Officer,
Planning Department,
Tipperary County Council,
Civic Offices,
Nenagh,
County Tipperary.



11th March 2021

Re: Response to Request for Additional Information for the Section 5 Application Pertaining to Abbey House, Abbey Street, Cahir, Co. Tipperary

Dear Sir/Madam,

Hughes Planning and Development Consultants, 85 Merrion Square, Dublin 2, have prepared this response on behalf of B&N Ventures Limited, in response to the Council's request for Additional Information pertaining to the Section 5 application submitted under Reg. Ref. S5/24/157. This request for Additional Information was received from Tipperary County Council dated 29th January 2025. The Section 5 application seeks a declaration for the following proposal, the description being as per the statutory notices:

'Whether the use of residential apartments at Abbey House, Abbey Street, Cahir, Co. Tipperary, E21 K354, where care is not provided, as long-term residential accommodation for protected persons, is or is not development?

'Whether the use of three town houses at Abbey House, Abbey Street, Cahir, Co. Tipperary, E21 K354, where care is not provided, as long-term residential accommodation for protected persons, is or is not development?'

This letter sets out the following items to take into account, our responses are reflected below:

Item No. 1 – Floor Plans and Clarification of Persons Accommodated

'The details submitted with the declaration are noted. In considering this application for a Section 5 Declaration the Planning Authority has also had regard to recent precedent cases determined by An Bord Pleanála (ABP-320031-24). In order to determine if the subject proposal constitutes a material change of use, the applicant is requested to clarify the number and typology of the existing apartment on site. The response should include floor plans detailing same. In addition, the applicant is requested to clarify the number of persons to be accommodated within each of the existing apartments on site.'

Applicant's Response

In response to Item No. 1, floor plan drawings are enclosed with this response letter. It is submitted that, in its existing form the development provides for ten self-contained apartments within the front building on the site. The proposal seeks to house 76 no. persons, distributed between the apartments as shown below:

Lower Ground Floor		
Apartment 1	Room 1	3 Persons
Apartment 2	Room 1	3 Persons
	Room 2	2 Persons
Upper Ground Floor		
Apartment 1	Room 1	2 Persons
Apartment 2	Room 1	2 Persons
Apartment 3	Room 1	2 Persons
First Floor		
Apartment 1	Room 1	2 Persons
Apartment 2	Room 1	2 Persons
	Room 2	3 Persons
Apartment 3	Room 1	2 Persons
Second Floor		
Apartment 1	Room 1	2 Persons
	Room 2	3 Persons
Apartment 2	Room 1	3 Persons
	Room 2	4 Persons
Outside Townhouse 1		
Room 1		3 Persons
Outside Townhouse 2		
Room 1		2 Persons
Room 2		3 Persons
Outside Townhouse 3		
Room 1		3 Persons

Table 1.0 Accommodation schedule

In addition, there are several community kitchen, living areas, and laundry facilities throughout the main building, which are available for access by all residents of the apartments.

It is important to clarify that no personal care services will be provided to residents. All occupants are independent individuals, and management's role is strictly administrative and operational, ensuring the smooth running of the facility. The provision of shared amenities and on-site management does not constitute a care facility but rather supports the effective operation of a communal residential development.

It is noted that the exemptions provided by Cass 14(h) of the Planning and Development Regulations do not provide limitations on the number of residents in a property. The above numbers comply with IPAS guidelines on accommodation standards.

In summary, the building will function as multiple self-contained residential apartments with additional shared communal spaces, and the proposed use is consistent with its established residential function. The additional services provided are administrative in nature, ensuring the maintenance and security of the building without constituting personal care services.

Hughes Planning and Development Consultants

We trust that the enclosed responses are in order and look forward to decision from Tipperary County Council in due course.

Should you have any questions, please do not hesitate to contact the undersigned.

Yours sincerely,

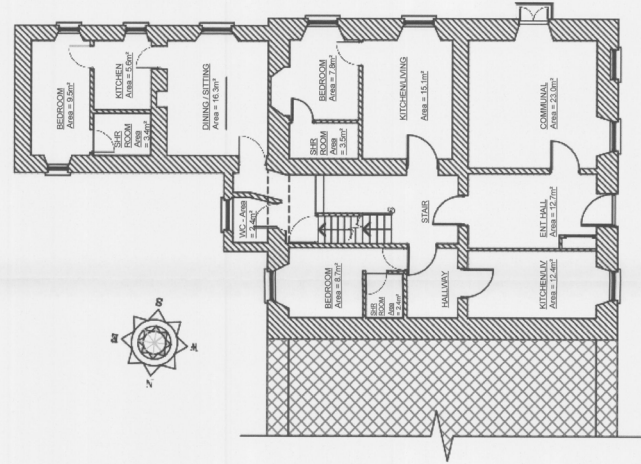
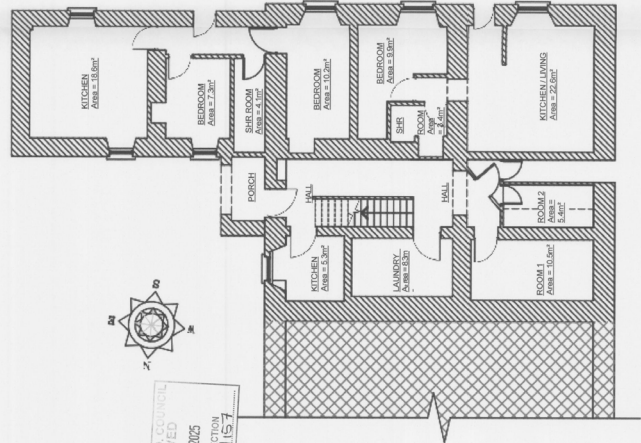
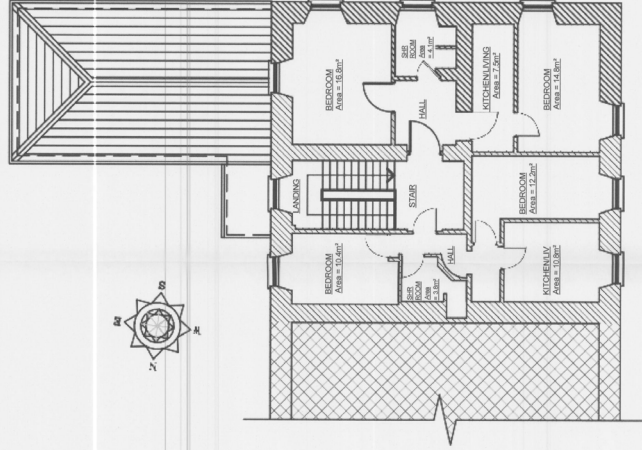
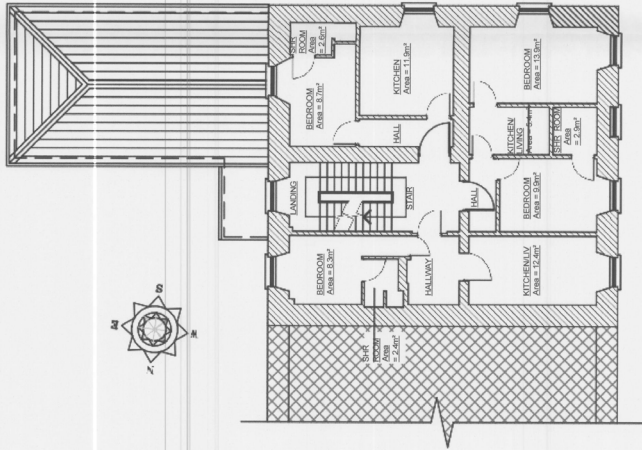
A handwritten signature in dark ink, appearing to read 'KH', with a horizontal line extending to the right.

Kevin Hughes MIPI MRTPI
Director of HPDC

Hughes Planning and Development Consultants

Appendix A

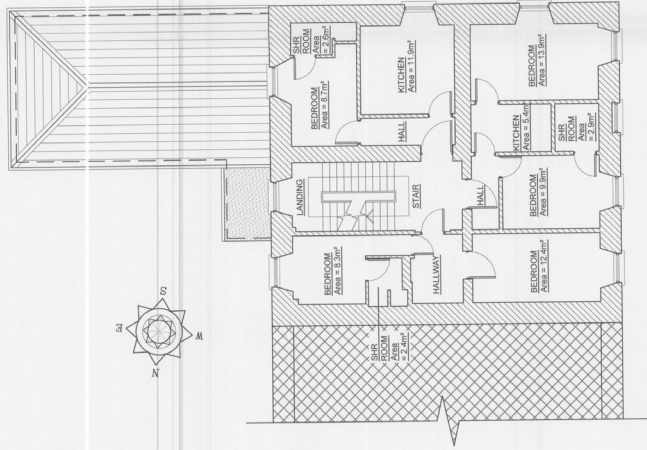
Floor plans of the subject site.



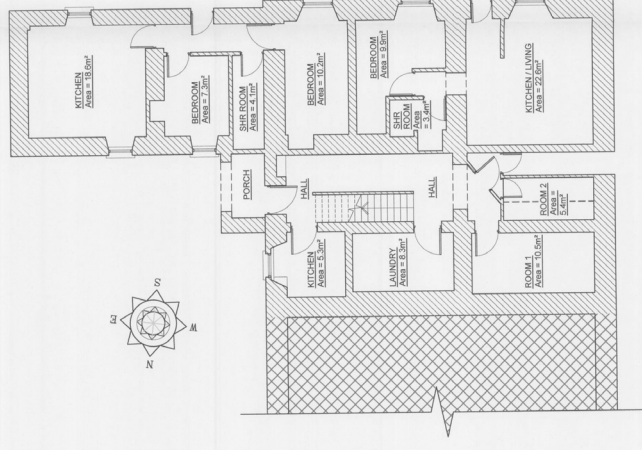
17.2 PLANARY CO. COUNCIL
RECEIVED
12 MAR 2025
PLANNING SECTION
FILE NO. 2024/157

SCALE : 1/100 @ A1

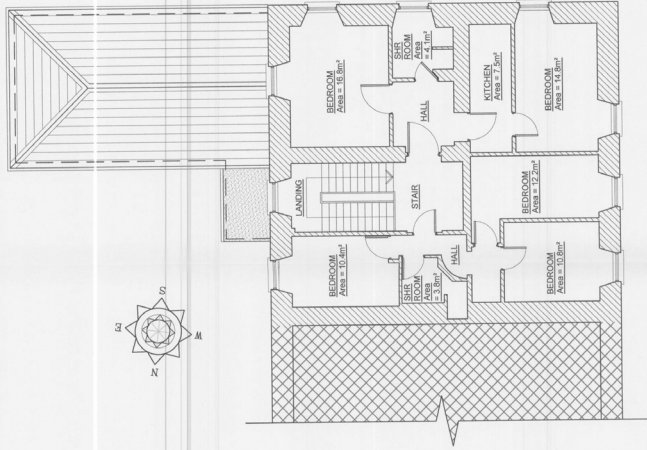
SCALE : 1/100 @ A1



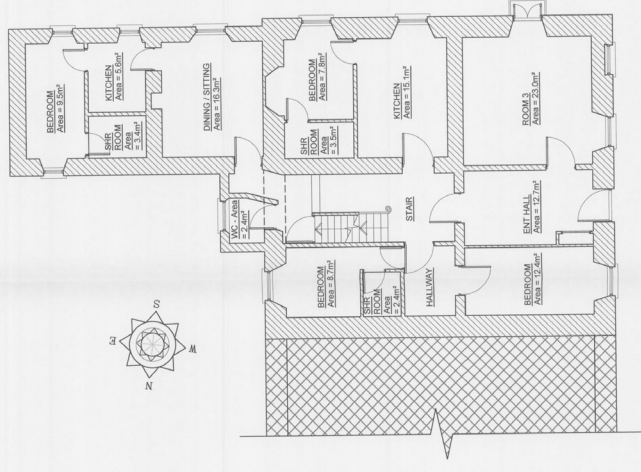
EXISTING FIRST FLOOR PLAN
SCALE : 1/100 @ A1
AREA = 121m²



EXISTING LOWER GROUND FLOOR PLAN
SCALE : 1/100 @ A1
AREA = 159m²



EXISTING SECOND FLOOR PLAN
SCALE : 1/100 @ A1
AREA = 121m²



EXISTING UPPER GROUND FLOOR PLAN
SCALE : 1/100 @ A1
AREA = 169m²

TIPPERARY COUNCIL
RECEIVED
12 MAR 2025
PLANNING SECTION
FILE NO. 25/24/167

DISCUSSION	
IMPORTANT NOTE This drawing is for information only and is not to be used for any other purpose without the written consent of the author. The author is not responsible for any errors or omissions in the drawing or for any consequences arising therefrom. The drawing is the property of the author and is not to be reproduced in any way without the prior WRITTEN consent of the author.	
REV.	DISCUSSION
1	Jan 2025
REV.	Description
1	Jan 2025
HOWICK, O'BRIEN & COLTD CONSULTING ENGINEERS	
14 College Court, Cahir, Tipperary (E21 P44), Co. Tipperary Email: howicko@me.com Mobile: 0870 240 5278	
Job description: Existing Survey of Floor Plans for the existing apartment building.	
Location: Abbey House, Abbey Street, Cahir, Co. Tipperary.	
Client: JMA Ventures.	
Drawing title: Existing Floor Plans.	
Date: Jan 2025	
Scale: 1/100 @ A1	
Drawing No: J07	
Job No: J07-01	



Comhairle Contae Thiobraid Árann
Tipperary County Council

Comhairle Contae
Thiobraid Árann,
Oifigi Cathartha,
Cluain Meala,
Co. Thiobraid Árann
Tipperary County Council,
Civic Offices, Clonmel,
Co. Tipperary
E91 N512

Comhairle Contae
Thiobraid Árann,
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An tAonach,
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Civic Offices, Nenagh,
Co. Tipperary
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e customerservice
@tipperarycoco.ie
tipperarycoco.ie

Date: 12th March, 2025

Our Ref: S5/24/157

Civic Offices, Nenagh

**B & N Ventures Ltd.,
C/o Hughes Planning and Development Consultants,
85 Merrion Square South,
Dublin 2.**

**Re: Application for a Section 5 Declaration re: use of residential
apartments, where care is not provided, as long term residential
accommodation for protected persons at Abbey House, Abbey Street,
Cahir, Co. Tipperary.**

Dear sir/madam,

I acknowledge receipt of Further Information received today in connection with
the above.

I wish to advise that you will be notified of a decision on your application in due
course.

Yours sincerely

for **Director of Services**

uploaded

TIPPERARY COUNTY COUNCIL

Application for Declaration under Section 5

Planning & Development Act 2000, as amended
Planning & Development Regulations 2001, as amended

Planning Ref.: S5/24/157

Applicant: B&N Ventures Limited

Development Address: Abbey House, Abbey Street, Cahir, Co. Tipperary.

Proposed Development: Whether the use of residential apartments at Abbey House, Abbey Street, Cahir, Co. Tipperary, where care is not provided, as long term residential accommodation for protected persons, is or is not development.

1. GENERAL

On the 20th of December 2024 a request was made for a declaration under Section 5 of the Planning and Development Act, 2000 as amended as to whether the following is “development”;

- the use of residential apartments at Abbey House, Abbey Street, Cahir, Co. Tipperary, where care is not provided, as long term residential accommodation for protected persons.

2. STATUTORY PROVISION

The following statutory provisions are relevant to this referral case;

Planning and Development Act 2000, as amended

Section 2(1)

‘development’ has the meaning assigned to it by Section 3.

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

Section 3 (1)

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

Section 4(2) of the Act provides that the Minister may, by regulations, provide for any class of development to be exempted development. The main regulations made under this provision are the Planning and Development Regulations 2001-2020.

Planning and Development Regulations 2001, as amended

Article 5 defines a “protected person”, for the purposes of Schedule 2, means—

- (a) a person who has made an application to the Minister for Justice and Equality under the Refugee Act of 1996 or the Subsidiary Protection Regulations 2013 (S.I. No. 426 of 2013),
- (b) a person who falls to be considered or has been considered under section 3 of the Immigration Act of 1999, or
- (c) a programme refugee within the meaning of section 24 of the Refugee Act of 1996;

Article 6(1) of the aforementioned Regulations provide that ‘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 10 (1) Changes of Use

(1) Development which consists of a change of use within any one of the classes of use specified in Part 4 of Schedule 2, shall be exempted to development for the purposes of the Act, provided that the development, if carried out would not –

- (a) involve the carrying out of any works other than works which are exempted development,
- (b) contravene a condition attached to a permission under the act,
- (c) be inconsistent with any use specified or included in such a permission, or
- (d) be a development where the existing use is an unauthorized use, save where such change of use consists of the resumption of a use which is not unauthorized and which has not been abandoned.

Part 1 of Schedule 2 of the Regulations set out the classes of exempted development, including ‘Class 14’ allowing for ‘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,

(i) 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

(h) of the said premises or institution, or part thereof, to use as an emergency reception and orientation centre for protected persons’.

Class 20F of the same Part exempts the following:

Temporary use by or on behalf of the Minister for Children, Equality, Disability, Integration and Youth to accommodate or support 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.

This is subject to the following conditions and limitations

1. The temporary use shall only be for the purposes of accommodating displaced persons or for the purposes of accommodating persons seeking international protection.
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.
3. The use for the purposes of accommodating persons seeking international protection shall be discontinued not later than 31 December 2028.
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.
5. The relevant local authority must be notified of locations where change of use is taking place prior the commencement of development.
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.
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).
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.

Part 4 of Schedule 2

"Exempted Development – Classes of Use"

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

Class 9(a) – Use for the provision of residential accommodation and care to people in need of care (but not the use of a house for that purpose).

Article 9 (1) (a) of the Planning and Development Regulations 2001, as amended sets out the instances where development, to which Article 6 relates, shall not be exempted development for the purposes of the Act.

3. ASSESSMENT

a. Site Location

The site comprises an end of terrace, four bay, three storey building (Abbey House) located on Abbey Street, Cahir, Co. Tipperary. The structure is listed on the Record of Protected Structures (1346) and is included on the National Inventory of Architectural Heritage (Ref 22111008). The site is also located within a Zone of Archaeological Potential.

The site is located to the north of the town on lands zoned “Existing residential” in the Cahir Local Area plan 2021.

b. Relevant Planning History

On site

None recorded. Submission by applicant states that the main house was subdivided into apartments prior to 1963.

Adjacent

00773 construction of two town houses to the rear of property -Refused

001132 retention of alterations to existing coach house which is a protected structure and for change from one no. three bedroom apartment and storage area to 3 no. town houses Granted

01/153 for retention of UPVC windows to existing coach house which is a protected structure Refused

08/258 construction of two town houses to the rear of property – Granted

Figure 1 Planning history



determined the use of the dwelling in this instance to provide residential accommodation for protected persons, constituted a material change of use by virtue of the fact that the intensity of the use proposed was more akin to a congregated setting or residential institution and not a residential property.

Applying the same logic to this query, in order to determine if the use proposed would result in a material change of use (ie a change from an apartment to a residential institution), the applicant will be required to provide a comprehensive breakdown of the number of independent apartments within the building, the typology of the apartments and quantify the number of persons to be accommodated on site.

B) "Is or is not Exempted Development"

There is insufficient information submitted to enable the Planning Authority determine if the proposal constitutes development.

C) Restrictions under Article 9

Not applicable.

D) Requirement for Appropriate Assessment (AA) and Environmental Impact Assessment (EIA)

Further information is required in order to complete the AA and EIA screening process.

4. FURTHER INFORMATION

The following further information was requested on the 29th of January 2025;

1. The details submitted with the declaration are noted. In considering this application for a Section 5 Declaration the Planning Authority has also had regard to recent precedent cases determined by An Bord Pleanála (ABP-320031-24). In order to determine if the subject proposal constitutes a material change of use, the applicant is requested to clarify the number and typology of the existing apartment on site. The response should include floor plans detailing same. In addition, the applicant is requested to clarify the number of persons to be accommodated within each of the existing apartments on site.

The querist replied on the 12th of March 2025.

Appraisal

The applicant has queried whether the use of residential apartments at Abbey House, Abbey Street, Cahir, Co. Tipperary, where care is not provided, as long term residential accommodation for protected persons, is or is not development.

As set out in the accompanying documentation, the applicant has indicated that the subject structure was subdivided into apartments prior to October 1964 (commencement of planning legislation in Ireland).

In the further information received, the applicant clarified the floor plan for the subject structure. The structure is divided into 10 apartments, (seven, one bed units and three, two bed units). there are two additional rooms and a laundry room at the lower ground floor level, with a communal room at the upper ground floor level. The floor areas for the exiting units is deficient

when compared to the standards set out in the most recent Apartment design Guidelines. Assuming a maximum occupancy of 2 persons per 1 bed unit and 3 persons per 2 bed unit, the maximum existing occupancy of the apartments is 23 (7×2 (14) + 3×3 (9)).

The applicant has indicated that accommodation will also be provided in the adjoining townhouse. The floor plans for the townhouse were not provided.

The applicant has indicated that 76 people are to be accommodated on site. This however may be a typographical error as Table 1 Accommodation Schedule (pg 2 of report submitted the 12th of March 2025) indicates 46 people are to be accommodated on site (35 within Abbey House and 11 within the Outside townhouse).

The applicant has indicated that no personal care will be provided to residents and community kitchens and laundry spaces simply supports the effective operation of the facility. The applicant further notes that the exemption provided by Class 14 (h) does not limit the number of residents to be accommodated.

In the details submitted with the original query, the applicant contented that the use of the apartments within Abbey House to provide accommodation for protected persons was not development as there was no discernible change in the use of the building other than the socio-economic class of the occupants of the apartments.

In the details submitted by way of further information, the applicant references the exemption provided for under Class 14(h) of the Planning and Development Regulations 2001, as amended. It is noted by the applicant that this exemption relates to changes 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.

This is confusing. On one hand the applicant has opined that the proposal does not constitute development, while on the other hand it is suggested that the exemption for change of use does not restrict the number of occupants. To refer to the exemption implies that a change of use has occurred and that change of use is not limited by the conditions associated with Class 14 (h).

When considering this declaration, the Planning Authority had regard to previous declarations issued by An Bord Pleanála (ABP-320031-24 and ABP-307077-20). The first case (ABP-320031-24) queried whether the use of a dwelling house, where care is not provided, as longterm private residential accommodation for protected persons comprising families, women and children, is or is not development or is or is not exempted development. The dwelling would accommodate 56 residents. An Bord Pleanála determined that this proposal constituted development and was not exempted development. This determination was based on the conclusion that the change of use from the established use as a dwelling house to the proposed use as accommodation for protected persons constitutes a material change of use for which there was no exemption.

The second case (ABP-307077-20) queried whether use of incomplete apartments as apartments or as apartments for protected persons and works to the apartments was or was not development and if so was or was not exempted development. In this case, An Bord Pleanála Determined that, inter alia, the current use of the premises as apartments, and not as a facility for the reception and care of protected persons, does not constitute a change of use from the permitted use as apartments and, therefore, does not constitute development.

A critical distinction between these cases is the use of communal facilities and the provision of on site management. In the first case, it was determined that a change of use had occurred as the structure was providing accommodation for multiple families that resided in private bedrooms and had the use of shared facilities. The facility was also to be managed. Such an arrangement was more akin to a hostel rather than a residential dwelling. Under the second declaration, families were to be accommodated within self contained units. As such, this did not constitute a change of use and was not deemed to be development.

The applicant has acknowledged that shared amenities (kitchens and laundry facility) and on site management will be provided on site.

Figure 2 Extract from FI reply

In addition, there are several community kitchen, living areas, and laundry facilities throughout the main building, which are available for access by all residents of the apartments.

It is important to clarify that no personal care services will be provided to residents. All occupants are independent individuals, and management's role is strictly administrative and operational, ensuring the smooth running of the facility. The provision of shared amenities and on-site management does not constitute a care facility but rather supports the effective operation of a communal residential development.

Given the provision of shared facilities, on site management staff and the uplift in occupancy levels from an unknown number (max of 23 based on current apartment standards) to 35 for Abbey House, the Planning Authority considers that the works proposed constitute a material change of use from apartments to use as long term residential accommodation for protected persons. As such, the proposal constitutes development.

With respect to the question of exempted development, the provisions of Class 14(h) are noted. The Planning Authority considers that apartments are not covered under Class 14(H) which relates to the following types of structures; hotel, motel, hostel, guesthouse, holiday accommodation, convent, monastery, Defence Forces barracks or other premises or residential institution providing overnight accommodation.

The Planning Authority is not of the opinion that apartments are covered by other premises as referenced in Class 14(h). There is no exemption under the Act or under the Regulations that can be availed of in this instance.

RECOMMENDATION

A question has arisen as to whether the use of residential apartments at Abbey House, Abbey Street, Cahir, Co. Tipperary, where care is not provided, as long term residential accommodation for protected persons, is or is not development.

In considering this declaration, the Planning Authority had regard to:

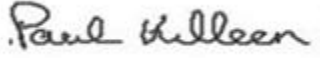
- (a) Sections 2, 3 & 4 of the Planning and Development Act 2000 (as amended)
- (b) Articles 5, 6, 9, and 10 of the Planning and Development Regulations, 2001, as amended;
- (c) Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended;
- (d) Relevant case law;
- (e) the planning history of the site,
- (f) previous referrals to the Board, including referral ABP-307077-20 and ABP-320031-24
- (g) the submissions of the referrer,
- (h) the number of people to be accommodated on site

- (i) the requirement for on site management and
- (j) the provision of shared facilities on site.

Having considered the information received, the Planning Authority has concluded that

- a) the works proposed constitute development as there is a material change in the use of the premises from that as residential to managed accommodation for protected persons,
- b) there is no exemption allowing for the material change of use of apartments to accommodation for protected persons.

The Planning Authority has decided that the use of Abbey House, Abbey Street, Cahir, Co. Tipperary to accommodate protected persons is development and **is not** exempted development.

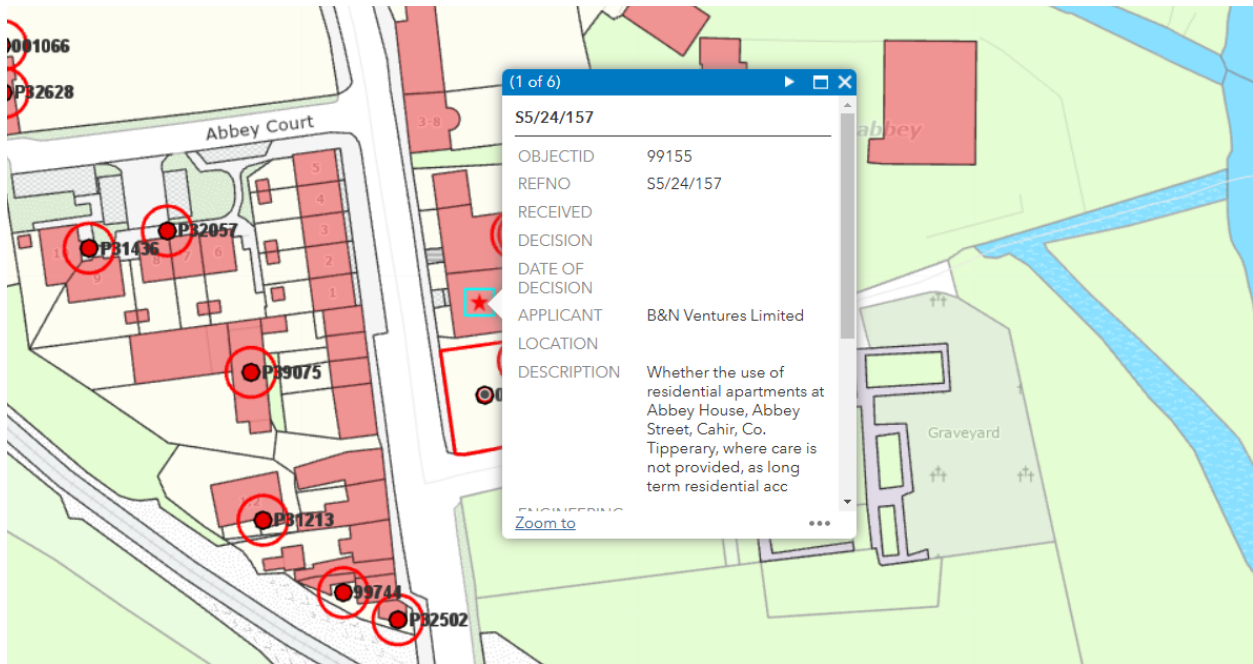
Signed: 
District planner

Date: 04/04/25


Signed: Senior Executive Planner

Date: 8.4.2025

Figure 3 Site entered on Planning register





Date: 8th April, 2025

Our Ref: S5/24/157

Civic Offices, Nenagh

B&N Ventures Ltd
C/O Hughes Planning & Development Consultants
85 Merrion Square South
Dublin 2

Re: Declaration under Section 5 of the Planning and Development Act 2000

Dear sir/madam,

I refer to your application for a Section 5 Declaration received on 20th December, 2024, and Further Information Received on 12th March, 2025 in relation to the following proposed works:

Whether the use of residential apartments at Abbey House, Abbey Street, Cahir, Co. Tipperary, where care is not provided, as long term residential accommodation for protected persons, is or is not **at** Abbey House, Abbey Street, Cahir, Co. Tipperary

WHEREAS a question has arisen as to whether the proposed development is or is not exempted development:

AND WHEREAS Tipperary County Council, in considering this referral, had regard particularly to –

- (a) Sections 2, 3 & 4 of the Planning and Development Act 2000 (as amended)
- (b) Articles 5, 6, 9, and 10 of the Planning and Development Regulations, 2001, as amended;
- (c) Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended;
- (d) Relevant case law;
- (e) the planning history of the site,
- (f) previous referrals to the Board, including referral ABP-307077-20 and ABP-320031-24
- (g) the submissions of the referrer,
- (h) the number of people to be accommodated on site
- (i) the requirement for on site management and
- (j) the provision of shared facilities on site.

Having considered the information received, the Planning Authority has concluded that

- a) the works proposed constitute development as there is a material change in the use of the premises from that as residential to managed accommodation for protected persons,
- b) there is no exemption allowing for the material change of use of apartments to accommodation for protected persons.

The Planning Authority has decided that the use of Abbey House, Abbey Street, Cahir, Co. Tipperary to accommodate protected persons is development and **is not** exempted development.

NOTE: Any person issued with a Declaration of a Planning Authority may refer the Declaration for review to An Bord Pleanála, 64 Marlborough Street, Dublin 1, within four (4) weeks of the date of issue of the Declaration and on payment of the prescribed fee.

Yours sincerely

Geraldine Quinn

for **Director of Services**

Original

TIPPERARY COUNTY COUNCIL

DELEGATED EMPLOYEE'S ORDER

File Ref: **S5/24/157**

Delegated Employee's Order No: _____

SUBJECT: Section 5 Declaration

I, Dave Carroll, A/Director of Services, Tipperary County Council, by virtue of the powers delegated to me in accordance with the provisions of Section 154 of the Local Government Act 2001, as amended by Schedule 1, Part 1 of the Local Government Reform Act 2014 under Chief Executive's Order No. 40781 dated 2nd January, 2025, hereby order that pursuant to the provisions of the Planning and Development Act 2000, as amended, that an application under Section 5 from B&N Ventures Ltd., C/O Hughes Planning & Development Consultants, 85 Merrion Square South, Dublin 2, re: Whether the use of residential apartments at Abbey House, Abbey Street, Cahir, Co. Tipperary, where care is not provided, as long term residential accommodation for protected persons, is or is not development at Abbey House, Abbey Street, Cahir, Co. Tipperary is development and is exempted development.

AND WHEREAS Tipperary County Council, in considering this referral, had regard particularly to –

- (a) Sections 2, 3 & 4 of the Planning and Development Act 2000 (as amended)
- (b) Articles 5, 6, 9, and 10 of the Planning and Development Regulations, 2001, as amended;
- (c) Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended;
- (d) Relevant case law;
- (e) the planning history of the site,
- (f) previous referrals to the Board, including referral ABP-307077-20 and ABP-320031-24
- (g) the submissions of the referrer,
- (h) the number of people to be accommodated on site
- (i) the requirement for on site management and
- (j) the provision of shared facilities on site.

Having considered the information received, the Planning Authority has concluded that

- a) the works proposed constitute development as there is a material change in the use of the premises from that as residential to managed accommodation for protected persons,
- b) there is no exemption allowing for the material change of use of apartments to accommodation for protected persons.

The Planning Authority has decided that the use of Abbey House, Abbey Street, Cahir, Co. Tipperary to accommodate protected persons is development and **is not** exempted development.

Signed:  Date: 08/04/2025

Dave Carroll

A/Director of Services

**Planning and Development (including Town Centre First),
Emergency Services and Emergency Planning and
Tipperary/Cahir/Cashel Municipal District**