



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Registered Post

Whiteland Inn Ltd
C/o Brian Foudy
Brian Foudy & Associates Ltd
Osprey House, Carmody Street
Ennis
Co. Clare
V95 F720

29th January 2025

Section 5 referral Reference R25-1 – Whiteland Inn Ltd

1. Is the use of Burren Castle Hotel to accommodate or support displaced persons or persons seeking International Protection considered exempted development under class 20F or class 14H? 2. Can a temporary school structure be erected on the grounds of the Burren Castle under 20D?

A Chara,

I refer to your application received on 3rd January 2025 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

The Planning Authority has considered the matter and I attach herewith the Council's findings in this matter.

Where a declaration is issued by the Planning Authority, any person issued with a declaration, may on payment to an Bord Pleanála of the required fee, refer a declaration for review by An Bord Pleanála within 4 weeks of the date of the issuing of the declaration. Details on making such appeal are available on the Board's website at www.pleanala.ie.

Mise, le meas

Anne O'Gorman
Staff Officer
Planning Department
Economic Development Directorate

An Roinn Pleanála
An Stiúrthóireacht Forbairt Gheilleagrach

Áras Contae an Chláir, Bóthar Nua, Inis, Co. an Chláir, V95 DXP2

Planning Department
Economic Development Directorate

Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2



CLARE COUNTY COUNCIL

SECTION 5 OF THE PLANNING AND DEVELOPMENT ACT 2000 AS AMENDED

DECLARATION ON DEVELOPMENT AND/OR EXEMPTED DEVELOPMENT

Chief Executive's Order No: 84833

Reference Number: R25-1

Date Referral Received: 3rd January 2025

Name of Applicant: Whiteland Inn Ltd

Location of works in question: Burren Castle Hotel, Aughiska More,
Lisdoonvarna, Co. Clare

Section 5 referral Reference R25-1 – Whiteland Inn Ltd

1. Is the use of Burren Castle Hotel to accommodate or support displaced persons or persons seeking International Protection considered exempted development under class 20F or class 14H? 2. Can a temporary school structure be erected on the grounds of the Burren Castle under 20D?

AND WHEREAS Clare County Council, in considering this referral, had regard in particular to –

- (a) Sections 2 and 3 of the Planning and Development Act, 2000, as amended.
- (b) Articles 6, and 9 of the Planning and Development Regulations, 2001-2011.
- (c) Class 14 (h) and Class 20 (f) and Class 20 (d) of Part 1 of Schedule 2 of the Planning and Development Regulations, as amended.

AND WHEREAS Clare County Council has concluded:

- (a) The use of the Burren Castle Hotel to accommodate or support displaced persons or persons seeking international protection is development and is considered exempted development under Class 14(h) of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 as amended:

ORDER: Whereas by Chief Executive's Order No. HR 46 dated 1st January 2025, Carmel Kirby, Interim Chief Executive for Clare County Council, did, pursuant to the powers conferred on him by Section 154 of the Local Government Act 2001, delegate to Gareth Ruane, Senior Executive Planner, the powers, functions and duties as set out herein,

NOW THEREFORE pursuant to the delegation of the said powers, functions and duties and under Section 5(2)(a) of the Planning & Development Act 2000 (as amended) and having considered the various submissions and reports in connection with the referral described above, I, Gareth Ruane, Senior Executive Planner, hereby declare that 1. The use of the Burren Castle Hotel to accommodate or support displaced persons or persons seeking

international protection is **considered development** which is **exempted development** under Class 14(h) of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 as amended at Burren Castle Hotel, Aughiska More, Lisdoonvarna, Co. Clare.

2. The erection of a temporary classroom within the curtilage of the Burren Castle Hotel is **considered development** which is **not exempted development** under class 20 (d) & Part 1, Schedule 2 of the Planning and Development Regulations as this class relates specifically to the erection on land on which a school is already situated of a structure to facilitate the continued delivery of education. In this instance the existing structure is a hotel and therefore the exemption does not apply.

Signed:



GARETH RUANE
SENIOR EXECUTIVE PLANNER 

Date:

29th January 2025

**DECLARATION ISSUED UNDER SECTION 5 OF THE
PLANNING & DEVELOPMENT ACT 2000 (AS AMENDED)**

Reference No.: R25-1



Section 5 referral Reference R25-1

1. Is the use of Burren Castle Hotel to accommodate or support displaced persons or persons seeking International Protection considered exempted development under class 20F or class 14H? 2. Can a temporary school structure be erected on the grounds of the Burren Castle under 20D?

AND WHEREAS, Whiteland Inn Ltd has requested a declaration from Clare County Council on the said question.

AND WHEREAS Clare County Council, in considering this referral, had regard in particular to –

- (a) Sections 2 and 3 of the Planning and Development Act, 2000, as amended.
- (b) Articles 6, and 9 of the Planning and Development Regulations, 2001-2011.
- (c) Class 14 (h) and Class 20 (f) and Class 20 (d) of Part 1 of Schedule 2 of the Planning and Development Regulations, as amended.

And whereas Clare County Council has concluded:

- (a) The use of the Burren Castle Hotel to accommodate or support displaced persons or persons seeking international protection is development and is considered exempted development under Class 14(h) of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 as amended:

THEREFORE: The Planning Authority in exercise of the powers conferred on it by Section 5 of the Planning and Development Act, 2000 (as amended), hereby decides that:

1. The proposed development consisting of the use of the Burren Castle Hotel to accommodate or support displaced persons or persons seeking international protection under Class 14(h) of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 as amended at Burren Castle Hotel, Aughiska More, Lisdoonvarna, Co. Clare **constitutes development** which is **exempted development**.

2. The erection of a temporary classroom within the curtilage of the Burren Castle Hotel **constitutes development** which is **not exempted development** under class 20 (d) & Part 1, Schedule 2 of the Planning and Development Regulations as this class relates specifically to the erection on land on which a school is already situated of a structure to facilitate the

continued delivery of education. In this instance the existing structure is a hotel and therefore the exemption does not apply.



Anne O'Gorman
Staff Officer
Planning Department
Economic Development Directorate

29th January 2025

**SECTION 5 DECLARATION OF EXEMPTION APPLICATION
PLANNERS REPORT**

FILE REF:	25/ 1
APPLICANT(S):	Whiteland Inn Ltd.
REFERENCE:	1) Whether the use of the Burren Castle Hotel to accommodate or support displaced persons or persons seeking international protection considered exempted development under Class 20 (f) or class 14 (h) is considered development and if so it is exempted development
	2) Whether the erection of a temporary school structure on the grounds of the Burren Castle Hotel under Class 20 (d) can be considered exempted development and if so it is exempted development.
LOCATION:	Burren Castle Hotel, Aughiska More , Lisdoonvarna County Clare.
DUE DATE:	29/ 01/25

Site Location

The subject site is occupied by the Burren Castle Hotel and associated out buildings and car park .

Designations and Zonings

The site is not zoned .

Recent Planning History on Site.

Xx/25867 James White, Permission granted to construct an extension to the hotel comprising bedrooms , new laundry, and new staff quarters.

90/ 480 Mr. Jim White. Permission granted to retain laundry building as a store.

90/ 1295 James White. Permission granted to construct the west wing of the hotel.

91/ 776 James White (White Castle Hotel) Permission granted to delete conditions 16 & 54 of planning permission P8/23193

95/ 955 Mr Jame White- Planning permission granted to build on extra bedrooms.

Background to Referral

This Referral under Section 5(3)(a) of the Planning and Development Act 2000 (as amended) has been made by Whiteland Inn Ltd. which is the registered owner of the hotel.

The applicant is seeking a Section 5 Declaration as to whether:

1. Whether the use of the Burren Castle Hotel to accommodate or support displaced persons or persons seeking international Protection considered exempted development under Class 20 (f) or Class 14 (h)

2. Whether the erection of a temporary school structure on the grounds of the Burren Castle Hotel under Class 20 (d) can be considered exempted development and if so it is exempted development

DETAILS SUBMITTED

Site location map scale 1: 2500 outlining the subject site in red.

Statutory Provisions

Planning and Development Act, 2000 (as amended)

In order to assess this proposal, regard has to be had to the *Planning and Development Act 2000, as amended*.

Section 2(1) – Interpretation

In this Act, except where the context otherwise requires –

“structure” as any building, structure, excavation or other thing constructed or made on, in or under any land, or part of a structure so defined, and where the context so admits, includes the land on, in or under which the structure is situate

“use”, in relation to land, does not include the use of the land by the carrying out of any works thereon.

‘works’ are defined in Section 2 of the Planning and Development Act 2000, as amended as follows:

“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 any works on, in, over or under land or the making of any material change in the use of any structures or other land.

Exempted Development

4.—(1) *The following shall be exempted developments for the purposes of this Act—*

(h) development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures;

Planning & Development Regulations, 2001, as amended

Article 6 refers to Exempted Development and states that subject to Article 9, development of a class specified in column 1 of Part 3 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 3 opposite the mention of that class in the said column 1.

Class 14 of Part 1, Schedule 2, of the Planning and Development Regulations 2001, as amended, which provides for the following Exempted Development provision;

Class 14 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, and

(j) from the change of use specified in paragraph (h) or (i) or both, to the permitted use of the premises immediately prior to the change of use specified in the said paragraph (h) or (i) or both

Subject to the following condition and limitation

Class 14(j) shall not apply after a period of 3 years from the date of the commencement of the change of use specified in Class 14(h) or (i) or both, whichever date is the earliest.

Schedule 2, Part 1, Class 20(f)

Note; Class 20F is inserted by article 2 of S.I. No. 605 Planning and Development (Amendment)(No. 4) Regulations 2022

Class 20(f)

Temporary use by or on behalf of the Minister for Children, Equality, Disability, Integration and Youth to accommodate or support displaced persons or persons seeking international protection of any structure or part of a structure used as a school, college, university, training centre, social centre, community centre, non-residential club, art gallery, museum, library, reading room, sports club or stadium, gymnasium, hotel, convention centre, conference centre, shop, office, Defence Forces barracks, light industrial building, airport operational building, wholesale warehouse or repository, local authority administrative office, play centre, medical and other health and social care accommodation, event and exhibition space or any structure or part of structure normally used for public worship or religious instruction.

Conditions 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."*

Class 20 (d)

CLASS 20D states

Development consisting of – The erection on land on which a school is situated of a structure to facilitate the continued delivery of education.

No such structure shall be erected for a period exceeding 5 years.

2. The gross floor area of such structure shall not exceed 30% of the gross floor area of the existing school.

3. No such structure shall exceed two storeys.

4. Distance to party boundary –

(a) any single storey structure shall be a distance of not less than 2 metres from any party boundary,

(b) any two-storey extension facing an existing dwelling shall be a distance no less than 22 metres from the main part of the dwelling,

or (c) any two-storey extension closer than 12.5m to a party boundary, or facing and closer than 22 metres to the dwelling shall - (i) have no windows overlooking, or (ii) have obscure glass.

5. Such structure shall comply with the Department of Education Primary and Post Primary Technical Guidance Documents for the time being in force.

Article 9 of the Planning and Development Regulations 2001, as amended, relates to restrictions on exemptions.

Under Article 9 (1) of the same Regulations, 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 compromise 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,

(iv) 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, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,

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

(viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,

(viiC) consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000.”

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

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

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

(xi) obstruct any public right of way,

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

Assessment

The agent has advised the following in the documents submitted:

Particulars of the Development

- Site location map.
- Completed Application form.
- In relation to query no. 1 the agent has advised that the Buren Castle Hotel has recently been dedicated to accommodating and supporting displaced persons and permission seeking international protection. In order to renew the contract the Dept has requested the provider to submit a Section 5 application to the Local Authority confirming that the Buren Castle Hotel meets the Dept. requirements for exempted development under Class 20 (f) or 14 (h) .
- In relation to query no. 1 the agent has advised that the premises provides part of the hotel for English classes, however this is considered too small. The bar area is used for English classes. The hotel wishes to erect a temporary class room within the curtilage of the property and is specifically requesting whether such a facility is exempted under Class 20 (d) .There are no drawing of the classroom and no detail of floor area/ dimensions.

Section.3.(1)In this Act,

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

The definition of development includes the making of any material change in the use of a structure and as such the proposal constitutes the making of a material change in the use of the hotel and associated holiday homes.

Schedule 2, Part 1, Class 14 (h)

Class 14 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,

Having regard to the information received the development complies with the provisions of Class 14 (h) because the information submitted by the applicant has not advised that the use is temporary. Class 20 (f) relates to temporary use whereas Class 14 (h) does not specify this.

Schedule 2, Part 1, Class 20(f)

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.

1. The temporary use shall only be for the purposes of accommodating displaced persons or for the purposes of accommodating persons seeking international protection.

The use is not temporary and as such class 20 (f) does not apply.

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.

Noted.

3. The use for the purposes of accommodating persons seeking international protection shall be discontinued not later than 31 December 2028.

Noted. The applicant is not seeking temporary use.

*Noted. * "international protection" means status in the State either—*

(a) as a refugee, on the basis of a refugee declaration, or

(b) as a person eligible for subsidiary protection, on the basis of a subsidiary protection declaration;

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.

Noted.

5. The relevant local authority must be notified of locations where change of use is taking place prior the commencement of development.

In this instance it is understood that the use is already in operation .

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."

The definitions of limitation 6,7, and 8 above are noted.

Under Article 9 (1) of the same Regulations, development to which Article 6 relates shall not be exempted development for the purposes of the Act:

(b) 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*

N/A

(ii) *consist of or compromise 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,*

N/A

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

N/A

(iv) *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.*

N/A

(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, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,*

N/A

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

N/A

(viiB) *comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,*

N/A- The hotel is served by an existing wwtp. No adverse impact on the integrity of the nearby SACs and SPAs are envisaged.

(viiC) consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000."

N/A

(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,

N/A

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

N/A

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

N/A

(xi) obstruct any public right of way,

N/A

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

N/A

Article 9 has been considered and there are no provisions within same that restrict the availability of the above exemption regarding the use of the subject property.

Assessment

1. The applicant has specifically questioned whether the use of the Burren Castle Hotel to accommodate or support displaced persons or persons seeking international protection considered exempted development under Class 20 (f) or class 14 (h) of the Planning and Development Regulations 2001 as amended (Schedule 2 Article 6 Part 1). Having regards to the details submitted the development complies with the provisions of Class 14 (h). In this instance the provisions of Class 20 (f) do not apply because this particular ^{use} relates to temporary use only and the applicant has not advised that the occupation will be temporary. It is therefore understood that the applicant is not relying on the provisions of Class 20 (f) but instead on Class 14 (h) .

2. In relation to the query regarding the temporary school facility, Class 20 (d) relates specifically to the erection on land on which a school is already situated of a structure to facilitate the continued delivery of education. In this instance the existing structure is a hotel. I do not consider that the use of the bar in the hotel constitutes a school in the sense and meaning intended by Class 20 (d) .

Conclusion

With reference to the above assessment, and the stated restrictions on exempted development, and Article 9 of the Planning and Development Regulations (as amended) that the proposed use of the hotel for accommodating displaced persons can be considered exempted development as per Section 5. The erection of a school building is not exempted under Class 20 (d).

Recommendation

Having regard to Articles 6, and 9 of the Planning and Development Regulations (as amended) and Class 14 (h) of Part 1 of Schedule 2 of the Planning and Development Regulations, as amended

and WHEREAS a question has arisen as to whether:

1. The use of the Burren Castle Hotel to accommodate or support displaced persons or persons seeking international protection is development and is considered exempted development under Class 14(h) or Class 20 (f)

and

2. The erection of a temporary school structure on the grounds of the Burren Castle Hotel under Class 20 (d) can be considered exempted development and if so it is exempted development

AND WHEREAS Clare County Council in considering this referral, had regard particularly to -

(a) Sections 2 and 3 of the Planning and Development Act, 2000, as amended

(b) Articles 6, and 9 of the Planning and Development Regulations, 2001-2011

(c) Class 14 (h) and Class 20 (f) and Class 20 (d) of Part 1 of Schedule 2 of the Planning and Development Regulations, as amended:

AND WHEREAS Clare County Council has concluded that –

The use of the Burren Castle Hotel to accommodate or support displaced persons or persons seeking international protection is development and is considered exempted development under Class 14(h) of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 as amended:

NOW THEREFORE Clare County Council, in exercise of the powers conferred on it by section 5(2) (a) of the 2000 Act, hereby decides :

1.The use of the Burren Castle Hotel to accommodate or support displaced persons or persons seeking international protection is development and is considered exempted development under Class 14(h) of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 as amended:

2.The erection of a temporary classroom within the curtilage of the Burren Castle Hotel is development and is not exempted development under ~~Class 20 (d)~~ as ~~Class 20 (d)~~ relates specifically to the erection on land on which a school is already situated of a structure to facilitate the continued delivery of education. In this instance the existing structure is a hotel. *and therefore the exemption does not apply.*

*of Part 1, Schedule 2 of the
P+D Regulations*

this class

Ellen Carey.

Ellen Carey

Executive Planner

Date: 22/01/25.

Garreth Ruane

Garreth Ruane

Senior Executive Planner

28/01/25.

Appropriate Assessment & Determination

STEP 1. Description of the project/proposal and local site characteristics:	
(a) File Reference No:	R25/1
(b) Brief description of the project or plan:	
(c) Brief description of site characteristics:	Buildings and artificial surface
(d) Relevant prescribed bodies consulted: e.g. DHLGH (NPWS), EPA, OPW	None
(e) Response to consultation:	None

STEP 2. Identification of relevant Natura 2000 sites using Source-Pathway-Receptor model and compilation of information on Qualifying Interests and conservation objectives.				
European Site (code)	List of Qualifying Interest/Special Conservation Interest ¹	Distance from proposed development ² (km)	Connections (Source-Pathway-Receptor)	Considered further in screening Y/N
Cliffs of Moher SPA	Fulmar <i>Fulmarus glacialis</i> [A009] breeding <input checked="" type="checkbox"/> Kittiwake <i>Rissa tridactyla</i> [A188] breeding <input checked="" type="checkbox"/> Guillemot <i>Uria aalge</i> [A199] breeding <input checked="" type="checkbox"/> Razorbill <i>Alca torda</i> [A200] breeding <input checked="" type="checkbox"/> Puffin <i>Fratercula arctica</i> [A204] breeding <input checked="" type="checkbox"/> Chough <i>Pyrrhocorax pyrrhocorax</i>	4km	None	No

	[A346] breeding			

¹ Short paraphrasing and/or cross reference to NPWS is acceptable – it is not necessary to reproduce the full text on the QI/SCI.

² If the site or part thereof is within the European site or adjacent to the European site, state here.

STEP 3. Assessment of Likely Significant Effects	
(a) Identify all potential direct and indirect impacts that may have an effect on the conservation objectives of a European site, taking into account the size and scale of the project under the following headings:	
Impacts:	Possible Significance of Impacts: (duration/magnitude etc.)
Construction phase e.g. <ul style="list-style-type: none"> ● Vegetation clearance ● Demolition ● Surface water runoff from soil excavation/infill/landscaping (including borrow pits) ● Dust, noise, vibration ● Lighting disturbance ● Impact on groundwater/dewatering ● Storage of excavated/construction materials ● Access to site ● Pests 	None
Operational phase e.g. <ul style="list-style-type: none"> ● Direct emission to air and water ● Surface water runoff containing contaminant or sediment ● Lighting disturbance ● Noise/vibration 	None

<ul style="list-style-type: none"> • Changes to water/groundwater due to drainage or abstraction • Presence of people, vehicles and activities • Physical presence of structures (e.g. collision risks) • Potential for accidents or incidents 	
In-combination/Other	None

(b) Describe any likely changes to the European site:	
<p>Examples of the type of changes to give consideration to include:</p> <ul style="list-style-type: none"> • Reduction or fragmentation of habitat area • Disturbance to QI species • Habitat or species fragmentation • Reduction or fragmentation in species density • Changes in key indicators of conservation status value (water or air quality etc.) • Changes to areas of sensitivity or threats to QI • Interference with the key relationships that define the structure or ecological function of the site 	None

(c) Are 'mitigation' measures necessary to reach a conclusion that likely significant effects can be ruled out at screening?	
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

Step 4. Screening Determination Statement

The assessment of significance of effects:

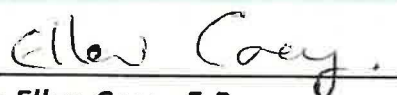
Describe how the proposed development (alone or in-combination) is/is **not likely** to have **significant** effects on European site(s) in view of its conservation objectives.

The query relates to the use of the hotel for the accommodation/support of displaced persons or persons seeking international protection. The development is served by an on-site wwts. There are no hydrological pathways linking the subject site to the SPA.

Conclusion: The change of use is not likely to have significant effects on European site(s) in view of its conservation objectives.

	Tick as Appropriate:	Recommendation:
(i) It is clear that there is no likelihood of significant effects on a European site.	<input checked="" type="checkbox"/>	The proposal can be screened out: Appropriate assessment not required.
(ii) It is uncertain whether the proposal will have a significant effect on a European site.	<input type="checkbox"/>	<input type="checkbox"/> Request further information to complete screening <input type="checkbox"/> Request NIS <input type="checkbox"/> Refuse planning permission
(iii) Significant effects are likely.	<input type="checkbox"/>	<input type="checkbox"/> Request NIS <input type="checkbox"/> Refuse planning permission

Signature and Date of Recommending Officer:


Name: Ellen Carey E.P.

22/ 01/25

**Signature and Date of the
Decision Maker:**



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Whiteland Inn Ltd
C/o Brian Foudy
Brian Foudy & Associates Ltd
Osprey House, Carmody Street
Ennis
Co. Clare
V95 F720

03/01/2025

Section 5 referral Reference R25-1 – Whiteland Inn Ltd

1. Is the use of Burren Castle Hotel to accommodate or support displaced persons or persons seeking International Protection considered exempted development under class 20F or class 14H? 2. Can a temporary school structure be erected on the grounds of the Burren Castle under 20D?

A Chara,

I refer to your application received on 3rd January 2025 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

Please note that the Planning Authority is considering the matter and a reply will issue to you in due course.

Mise, le meas

Brian Fahy
Planning Department
Economic Development Directorate

An Roinn Pleanála
An Stiúthóireacht Forbairt Gheilleagrach

Áras Contae an Chláir, Bóthar Nua, Inis, Co. an Chláir, V95 DXP2

Planning Department
Economic Development Directorate

Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2



P07

**CLARE COUNTY COUNCIL
COMHAIRLE CONTAE AN CHLÁIR**

Planning Department,
Economic Development Directorate,
Clare County Council,
New Road, Ennis,
Co. Clare.
V95DXP2

Telephone No. (065) 6821616
Fax No. (065) 6892071
Email: planoff@clarecoco.ie
Website: www.clarecoco.ie



R25-1

**REQUEST FOR A DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT
(Section 5 of the Planning & Development Act 2000 (as amended))**

FEE: €80

This following form is a non-statutory form which has been prepared by Clare County Council for the purpose of obtaining the necessary information required for a declaration to be made under Section 5 by the Planning Authority

1. CORRESPONDENCE DETAILS.	
(a) Name and Address of person seeking the declaration	Whiteland Inn Ltd <hr/> White Hotel Group <hr/> Abbeylands <hr/> Ballyshannon <hr/> Co. Donegal
(b) Telephone No.:	
(c) Email Address:	
(d) Agent's Name and address:	Brian Foudy <hr/> Brian Foudy & Associates Ltd <hr/> Osprey House, Carmody Street <hr/> Ennis, Co. Clare <hr/> V95 F720 info@foudyconsulting.ie

2. DETAILS REGARDING DECLARATION BEING SOUGHT

(a) PLEASE STATE THE SPECIFIC QUESTION FOR WHICH A DECLARATION IS SOUGHT
Note: only works listed and described under this section will be assessed.

Sample Question: *Is the construction of a shed at 1 Main St., Ennis development and if so is it exempted development?*

No.1 Is the use of the Burren Castle Hotel to accommodate or support displaced persons or persons seeking international protection considered exempt development under class 20F or class 14H

No.2 Can a temporary school structure be erected on the grounds of the Burren Castle under Class 20D

(b) Provide a full description of the question/matter/subject which arises wherein a declaration of the question is sought.

No.1 The Burren Castle Hotel has recently been dedicated to accomodating and supporting displaced persons and persons seeking international protection. In order to renew the contract, the department has requested the provider to submit a Section 5 application to the Local Authority confirming that the Burren Castle meets the Departments requirments for exempted development under class 20F or 14H

No.2 The premises provides part of the hotel for English classes however this is considered too small. The hotel wishes to erect a temporary classroom within the curtilage of the property under Class 20D

(c) List of plans, drawings etc. submitted with this request for a declaration:
(Note: Please provide a site location map to a scale of not less than 1:2500 based on Ordnance Survey map for the areas, to identify the lands in question)

Please find OSI Map attached showing the location of the Hotel

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT	
(a) Postal Address of the Property/Site/Building for which the declaration sought:	Burren Castle _____ Aughiska More _____ Lisdoonvarna _____ Co. Clare _____ V95 C838
(b) Do the works in question affect a Protected Structure or are within the curtilage of a Protected Structure? If yes, has a Declaration under Section 57 of the Planning & Development Act 2000 (as amended) been requested or issued for the property by the Planning Authority?	No _____ _____ _____
(c) Legal interest in the land or structure in question of the person requesting the declaration (Give Details):	Applicant is registered owner under Folio CE1020F _____ _____
(d) If the person in (c) above is not the owner and/or occupier, state the name and address of the owner of the property in question: <i>Note: Observations in relation to a referral may be requested from the owner/occupier where appropriate.</i>	N / A _____ _____ _____
(e) Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?:	No
(f) Are you aware of any enforcement proceedings connected to this site? <i>If so please supply details:</i>	No
(g) Were there previous planning application/s on this site? <i>If so please supply details:</i>	P95/955
(h) Date on which 'works' in question were completed/are likely to take place:	February 2025

SIGNED: _____


Agent

DATE: 03 - 01 - 25

GUIDANCE NOTES

This following are non-statutory advice notes prepared by Clare County Council for the purpose of advising people what information is required for a decision to be made under Section 5 by the Planning Authority

- (i) The request for a declaration under Section 5 must be accompanied by 2 copies of site location map based on the Ordnance Survey map for the area of a scale not less than 1:1000 in urban areas and 1:2500 in rural areas and should clearly identify the site in question.
- (ii) The request for a declaration under Section 5 must be accompanied by the required fee of €80.00.
- (iii) If submitting any additional plans/reports etc. as part of the request for a declaration, please submit 2 copies.
- (iv) The request for a declaration should be sent to the following address:

Planning Department,
Economic Development Directorate,
Clare County Council
Aras Contae an Chlair,
New Road,
Ennis,
Co. Clare
V95DXP2

- (v) Notwithstanding the completion of the above form, the Planning Authority may require the submission of further information with regard to the request in order to enable the Authority to issue a declaration on the question.
- (vi) The Planning Authority may also request other persons to submit information on the question which has arisen and on which the declaration is sought

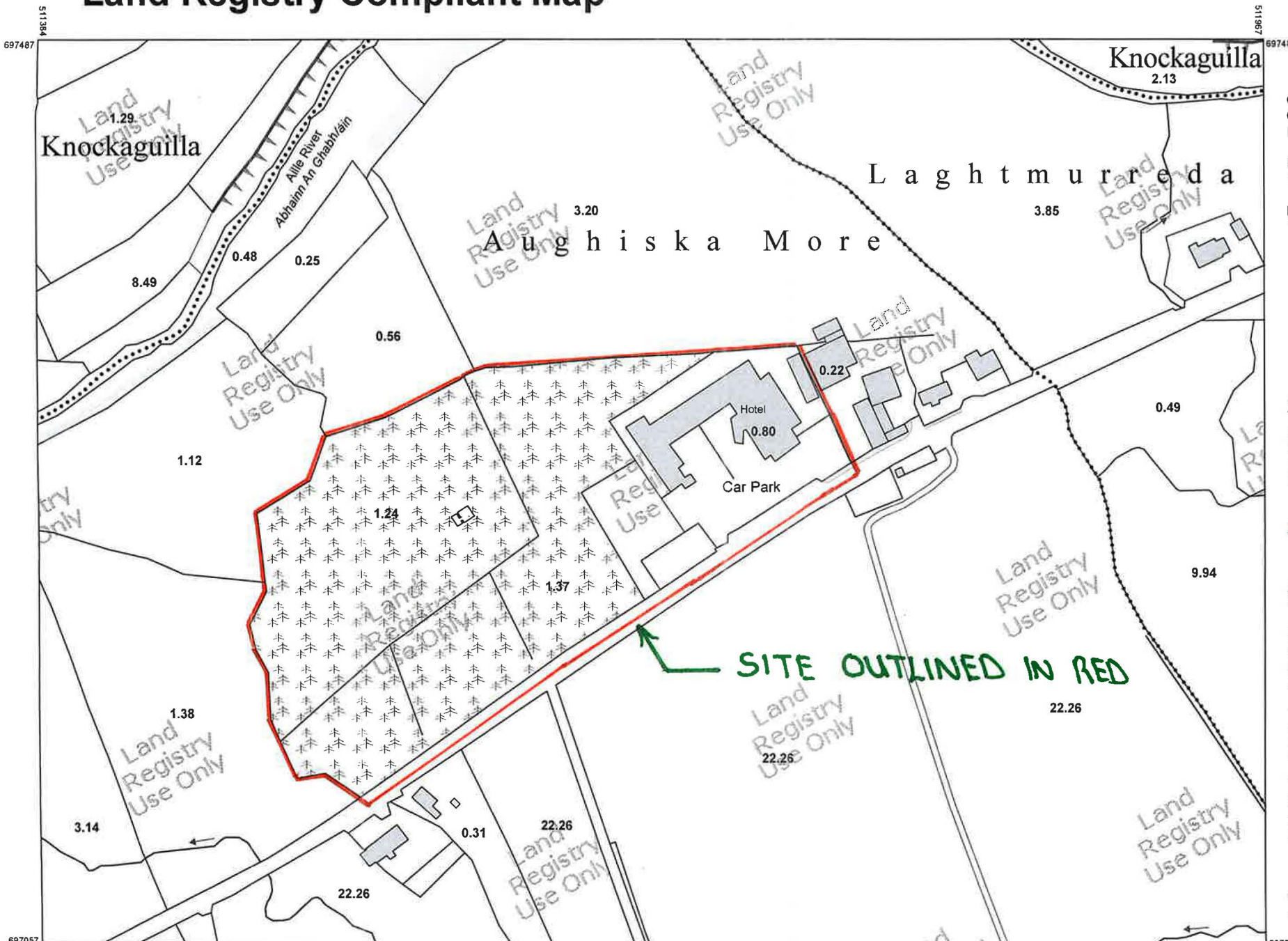
FOR OFFICE USE ONLY

Date Received:	.....	Fee Paid:	.....
Date Acknowledged:	.....	Reference No.:	.....
Date Declaration made:	.....	CEO No.:	.....
Decision:	.....	

Land Registry Compliant Map



Tailte Éireann



CENTRE COORDINATES:
ITM 511676,697272

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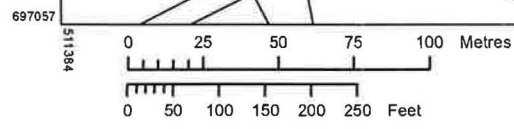
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OUTPUT SCALE: 1:2,500

CAPTURE RESOLUTION:
The map objects are only accurate to the resolution at which they were captured. Output scale is not indicative of data capture scale. Further information is available at: www.tailte.ie, search 'Capture Resolution'

LEGEND:
To view the legend visit www.tailte.ie and search for 'Large Scale Legend'

