



12th December, 2024

Our ref: E.D-24-41

Goodwill Properties Ltd,
C/o Ann Mulcrone Reid Associates,
Planning & Development Consultants,
2 Connaught Place,
Crofton Road,
Dun Laoghaire,
Co. Dublin.

**Re: Request for Declaration Regarding Development/Exempted Development at
Rossinver Convent, Gubalaun, Rossinver, Co. Leitrim, F91 A718.**

A Chairde,

In accordance with the provisions of Section 5(2)(b) of the Planning & Development Act 2000, as amended, the following further information is required to enable the Planning Authority to issue a determination:

Advice Note

From the basis of information available to the Planning Authority in the documents submitted with your application and information held on planning application files ref. no. P02/758 and P04/1708, the Planning Authority are not convinced that the use of the building as a convent has not been abandoned. The Planning Authority is not in dispute with the use of the convent by the religious order up to its sale to a private individual, Ms. Paula P. Gallagher, who remains the registered owner of the subject property and adjoining lands on Land Direct, ref. LM 345, Plan No. 7345. To assist the Planning Authority in making as informed a decision as possible, the following considerations are shared with the submitter.

There is no definition provided in the Planning and Development Act 2000, as amended, or Planning and Development Regulations 2001, as amended, in relation to a '*convent*'. The Cambridge dictionary defines it as a building in which nuns (members of a female religious order) live. The Collins dictionary defines it as a building in which a community of nuns live. The Geddes & Grosset Dictionary defines it as a house of a religious order, especially an establishment of nuns. What is clear is that such a use is predicated on it being used by a community of nuns as their place of residence.

It is clear from a planning history and Land Registry search that the property was sold by the religious order - The Franciscan Sisters of the Atonement - to Ms. Gallagher in or around 2005. The property was registered in Ms. Gallagher's sole name in 2009. The subject property is understood to have been used as a private residence for the past 18-19 years.



It is noted from the planning application form of the P04/1708 application that Ms. Gallagher indicated that the existing use of the structure was that of '*dwelling*' with the land let to a local person for grazing whilst with respect to questions on the form pertaining to applications for a dwelling and the proposed occupancy of same, Ms. Gallagher ticked '*for the applicant's own use*'. It is also noted that in relation to questions pertaining to an application for a material change of use on the form, Ms. Gallagher indicated to all 3 questions, that they were not applicable. It is accepted that all of these answers was Ms. Gallagher's interpretation of the use and occupancy rather than a definitive consideration by the Planning Authority. It is also noted that Ms. Gallagher submitted a valid Commencement Notice on 29th March 2005 but only in respect to the replacement of flat roofs with pitched roofs with the remainder of the approved development not having been proceeded with.

Whilst the use of the property as a private residence was brought to the attention of the Planning Authority in the 2004 planning application by Ms. Gallagher (as prospective purchaser), the use as a private dwelling if considered an unauthorised use would be immune from prosecution by reference to the statute of limitations which would apply. The Planning Authority do form the view that a change of use occurred from use as a dwelling for members of a religious order to become a building occupied as a private dwelling house. There is clear evidence of another use having been adopted and undertaken.

The Planning Authority would also form the view that the sale of the subject property by The Franciscan Sisters of the Atonement to Ms. Gallagher did demonstrate a clear intent to abandon the use of the subject property by this religious order as a convent. It is contended by the Planning Authority that it would not be possible for Ms. Gallagher, as an individual, to maintain such a use (i.e. that of a convent) as all definitions of a convent clearly require a community of a religious order to reside in the building or series of buildings. Ms. Gallagher could not do so on her own.

In this instance, there is clear evidence of an intention to abandon the use by the religious order and of another use being adopted and undertaken, namely the use as a private residential use. On that basis, the Planning Authority has reservations that the exempted development provisions of Class 14h would apply as the property is not in '*use*' as a convent and has not been used as a convent for a considerable period of time.

However, the provisions of Class 20F would also include a building which was no longer in use as a convent but was '*used*' as a convent which this building clearly was. As the use was a pre 1963 use, there is a question as to whether or not this use as a convent could be reinstated without first obtaining a grant of planning permission. Whilst the layout of the building may remain as it was when it was last used as a convent, this does not necessarily infer that the use '*remains de facto as a convent*' as set out in the documents submitted.



Further Information Request

1. Having regard to the foregoing, you are requested to demonstrate that Goodwill Properties Ltd. have sufficient legal interest in the subject property to submit the section 5 declaration or to submit the legal consent of the owner of the property to the making of same.
2. On the basis of the narrative provided in the Advice Note above, you are requested to demonstrate to the Planning Authority through further legal submissions that the use of the convent was not abandoned by the sale of the subject property by the religious order to a private individual and that it has not been used as a private residence for at least the past 18-19 years which would be considered a change of use of the subject property and could possibly be considered an unauthorised use. As the convent use was a pre 1963 use, there is also an argument that the reinstatement of the convent use would require planning permission.
3. You are requested to demonstrate to the Planning Authority through further legal submissions whether or not the works proposed, primarily consisting of internal works/reconfigurations, are subject to, and affected by, the provisions of Article 9(1)(a) of the Planning and Development Regulations 2001, as amended, which relates to '*Restrictions on Exemption*'. This outlines that the following development to which Article 6 relates, shall not be exempted development, if the carrying out of such development would, inter alia:
 - (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. (Emphasis added)
4. The last record of a planning application by a religious order was in 2002, ref. P02/758. Planning permission was granted to Sr. Ita Flynn, The Franciscan Sisters of the Atonement to retain a 6 bedroom extension that had been constructed between 1974-1976. This was permitted subject to 4 no. conditions. This included condition no. 2 which required that the septic tank was to be upgraded or replaced as the original on-site system did not have adequate capacity to cater for the extra loading generated by use of the additional bedrooms. The planning file does not indicate if this condition was ever complied with.

Having regard to the nature of the change of use now proposed, you are requested to submit a report by a suitably qualified engineer indicating the nature of wastewater treatment and disposal which currently serves the subject property and the capacity of said system. This requirement is relevant to the final item of further information.



**Comhairle Chontae Liatroma
Leitrim County Council**

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- 5 Article 9(1)(a) of the Planning and Development Regulations 2001, as amended, which relates to 'Restrictions on Exemption'. This outlines that the following development to which Article 6 relates, shall not be exempted development, if the carrying out of such development would, inter alia:

- (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,

The nearest Natura 2000 site is Lough Melvin Special Area of Conservation (SAC Site Code: 000428) which is located approximately 700 metres north of the subject site. As outlined above, there is uncertainty with regard to the adequacy of the wastewater treatment system to serve the 11 no. bedroom property, the occupancy of which is likely to intensify considerably as outlined in this application. Having regard to the proximity of the property to a Natura 2000 site and to uncertainty with regard to the adequacy of the wastewater treatment system to cater for projected loadings which would arise from the proposed change of use, without mitigation measures being undertaken, the Planning Authority are not satisfied that the proposed change of use would not affect the qualifying interests and conservation objectives of Lough Melvin Special Area of Conservation. To assist the Planning Authority in these considerations, you are requested to submit a Screening Statement for Appropriate Assessment as prepared by a suitably qualified and experienced ecologist.

Upon receipt of the further information as requested above, your application will be considered further.

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**Administrative Officer
Planning Department**