

Leitrim County Council
Section 5 Declaration of Exempted Development Report



To:	Mary Quinn - Director of Services
From:	Bernard Greene - Senior Planner
Reference No.:	ED 24-41
Referrer:	Goodwill Properties Ltd.
Subject Matter:	Determination under Section 5 of the Planning and Development Act 2000, as amended as to whether the change of use of Rossinver Convent, Gubalaun, Co Leitrim, F91 A718 from established use as a convent to use by or on behalf of the Minister for Children, Equality, Disability, Integration and Youth to accommodate protected persons is or is not exempt development and whether any minor works to the property to facilitate such use are exempted development.
Location	Gubalaun, Co Leitrim, F91 A718
Date FI Received:	03/04/2025
Date of Report	17/04/2025

1. Introduction

This is a request for a determination under Part 1, Section 5 of the Planning and Development Act 2000, as amended, as to whether a development is or is not exempted development. This referral case concerns the question as to whether the change of use of Rossinver Convent, Gubalaun, Co Leitrim, F91 A718 from established use as a convent to use by or on behalf of the Minister for Children, Equality, Disability, Integration and Youth to accommodate protected persons is or is not exempted development and whether any minor works to the property to facilitate such use are exempted development.

2. Previous Assessment

The subject application has been subjected to an initial assessment dated 10th December 2024, the outcome of which was to request further information from the applicants. This issued on 12th December 2024. A response was received on 3rd April 2025. The Planning Authority is afforded 3 weeks to make a final determination on this matter.

3. Response to the Further Information Request.

The request for Further Information followed a detailed preamble in which the considerations of the Planning Authority on this matter were outlined. This was to assist the requestor in gaining an understanding of the context for the individual items requested therein

Item No. 1

Having regard to the foregoing, the applicants were 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.

Response

The response from Reid Associates (Planning Development Consultants) is that Goodwill Properties Ltd. is the owner of the subject property. The matter has also been addressed in the Legal Opinion of Mr. Michael O'Donnell BL wherein he states, inter alia, that this information is not a current requirement for a section 5 Declaration.

Item No. 2

On the basis of the narrative provided in the Advice Note, the applicant was 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.

Response

The response from Reid Associates relies on the Legal Opinion of Mr. O'Donnell who sets out that the law in respect of abandonment of use and states that there are two tests to be satisfied for abandonment to occur, namely

1. There must be cessation of the use
2. There must be an intention not to resume the previous use.

In Mr. O'Donnell's opinion, neither of these requirements have arisen and some legal argument is presented to substantiate this view. In addition, Reid Associates submit the sworn affidavit from Ms. Paula Gallagher the previous owner of the subject property wherein she attests to the following:

"I Paula Gallagher lived in Rossinver Convent from 2005 to 2024. While I lived in the Convent, I never sought to formally change the use and maintained and respected the spiritual ethos of the Convent."

It is stated that the facts and the law support the case that the convent use has not been abandoned and therefore their client is entitled to rely on the established convent use as the basis of the Section 5 declaration for exemption.

Item No. 3

The applicants were 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)

Response

In Mr. O'Donnell's opinion *"there is no unauthorised development and no such finding has or could be made. It has been shown that the manner in which the structure was used did not amount to development and therefore the issue of precluding exempted development does not arise. Development can only arise where there has been a material change of use, and where no change of use much less a material change of use has occurred for the purpose of Section 3 there is no development. Article 9(1)(a) has therefore no application."*

Reid Associates state that it was further acknowledged by the Council that they were aware of the fact that Paula Gallagher was the owner of the convent and they refer to the planning history ref. P04/1708 wherein she was the applicant. It was noted that there is no question of unauthorized use of the convent at any time during this planning process and the established use as a convent remains in situ and was accepted for planning purposes by the Council. The decision in respect of P04/1708 grants planning permission for works to *"Rossinver Convent"*.

Item No. 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, the applicant was 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.

Response

In Mr. O'Donnell's opinion, in respect of compliance with conditions the issue raised dates back to development which took place over 50 years ago and improperly raises a question in respect of a potential breach of a planning permission which amounts to a criminal offence by the Franciscan Sisters of Atonement. The correct approach in his opinion is to consider whether there is any evidence that the conditions were not complied with. There is no evidence of any such non compliance and no evidence of any adverse effect on any recipient, no objection or any complaint.

He further states:

"It is to say the least; unlikely that a religious order would not as with all the other conditions have complied..... It was expressly to avoid these issues that the time limits of 7 years now applies to such issues and the legislation provides that "no proceedings may be brought after this period".

Reid Associates then refer back to information already submitted last December

"The question of Building Regulations and Fire Cert and any necessary upgrade to the septic tank will be addressed under separate codes.

Having considered the question of the upgrade of the septic tank with Michael O'Donnell B.L. it is considered that it did not form part of the reference which is concerned with use and that notwithstanding as it comprises a structure and as any upgrade of that structure would not materially alter the character of the structure, in so far as it appears that any works to be carried out will have no effect on the external appearance of the structure that prima facie it would fall within the provisions of Section 4(1)(h) of the Planning and Development Act as amended."

Reid Associates have replied that they have commissioned an Appropriate Assessment Screening of the established development and of the proposed upgrade in the wastewater treatment system by Mr. Roger Goodwillie, ecologist. This concludes that there is no requirement for an Appropriate Assessment arising from the on-site inspection of the ecologist of the existing site or of the proposed upgrading of the septic tank system. It is contended therefore there is no preclusion to exemption arising under Article 6(viiB) and any upgrade of the septic tank comprises exempt development as provided for within Section 4(i)(h) of the Planning and Development Act 2000 as consolidated. It does not comprise mitigation, as there is no effect on the SAC to be mitigated.

Item No. 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 were 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, the applicant was requested to submit a Screening Statement for Appropriate Assessment as prepared by a suitably qualified and experienced ecologist.

Response

As outlined above, Reid Associates have replied that they have commissioned an Appropriate Assessment Screening Statement of the established development and of the proposed upgrade to the wastewater treatment by Mr. Roger Goodwillie, ecologist. This concludes that there is no likelihood that this development as proposed will have significant

impacts on the integrity and functioning of the Natura 2000 site network; neither will there be any effects on achieving the conservation objectives. This is so by itself or in combination with other adjacent developments and is a finding of no significant effect. No additional mitigation is required.

It is also noted that the submission also includes a Site Characterisation & Assessment Report for a Wastewater Treatment System prepared by Mr. Frank Murphy of Wastewater Technical Services Ltd. This considered the use having 30 guests on the basis of 13 no. double bedrooms and 4 no. single bedrooms. (The proposed structure is shown with 14 no. bedrooms some of which are capable of accommodating multiple residents by virtue of their size). It is stated therein (Section 1.0) that an increased loading rate on 180 lts has been used as the dwelling is used as a 'bed and breakfast'. A design population of 38 is used. In Section 2.0 'General Details' (Comments), it is stated that "*Existing convent onsite which is served by a traditional style septic tank and percolation. There are no obvious signs of the percolation area.... Limited space available for a percolation area onsite.*" In Section 3.0 'On Site Assessment' (Comments), it states "*The raised hill area behind the house is the only suitable area for a percolation (sic)*". The site then failed the percolation tests results as the test holes remained filled with water (pre soaking) and did soak away with a 24 hour period. In Section 5.0 'Selected DWWS', the commentary stated

The site failed the percolation test. As there is an existing convent on site a practical solution has to be provided. The proposal in this report is a recommendation based on experience, best use of best available space and guidance from the EPA Code of Practice 2021.

Waste Water Treatment system - Based on a PE of 38, I propose to use a SEPCON BAF PE38 concrete sewage treatment system. This system is EN 12566-3 & SR66 certified. Only grey and foul water should enter the sewage treatment system.

Percolation Area - Based on a PE of 38 & a subsurface soakage test which failed. I propose to use a 95m² sand filter and minimum of 950m² infiltration bed. Willow trees should be planted all around the edge of the infiltration bed to assist with soakage. Separation distances should be maintained from the water ingress at 0.3m BGL

Site improvement works are required to ensure a level area for the infiltration bed. An infiltration drain must be installed on the higher part of the site to divert surface water away from the location of the percolation area.

A series of schematic drawings are included. The following is an excerpt from the Site Layout (page 42 of 54 in the pdf document submitted). It shows a tertiary treatment system being provided adjoining the existing septic tank. From the tertiary treatment system, a rising main will pump waste to a 95 m² polishing filter with 950 m² area provided (50 m x 19 m) of an infiltration bed. A surface water interceptor drain is shown in a blue hatched line outside of the south eastern and southern extremity of this infiltration bed. As stated above, this will divert surface water away from the location of the percolation area. It is not evident where this drain is discharged to.



Figure 1: Proposed Site Layout Plan

4. Final Assessment

I have considered carefully the response received on 3rd March 2025 and again considered the original documentation submitted on 18th November 2024 along with the supplementary information submitted on 10th December 2024. In the response to the Further Information request received, it is clear that the response that the Reid Associates relies greatly on, and indeed defers to, the legal opinion of Mr. O'Donnell BL.

I accept that it is not a requirement for a submitter to be the legal owner of a property. However, the Planning Authority were entitled under the provisions of section 5(2)(b) of the Act to request clarification with regard to the ownership of the property noting that the registered owner remains Ms. Gallagher. The response is duly noted.

I note Mr. O'Donnell's response to the matter of abandonment. I simply cannot accept the legal argument presented. The concept of '*abandonment*' is used in a planning context to describe a situation where the established or permitted use of a premises has ceased. In this instance, it was an established rather than a permitted use. This is not a matter of a hotel or a shop being sold to another entity where the use can be readily and easily transferred. The building was used as a convent since the 1930's in which nuns (members of a female religious order) lived. The convent building was sold by the religious order in 2005 when the order terminated their mission to Ireland and returned to the United States. The Order only ever had one convent in Ireland at Rossinver. It is not credible to suggest that a single private individual who is not a member of a religious congregation or community could continue the use of a convent for a period of 19 years thereafter and that a new owner (the submitter) could then avail of an exemption to change the use of the building from that of a convent to

provide accommodation to protected persons without having to obtain planning permission.

1. There must be cessation of the use
2. There must be an intention not to resume the previous use.

I would argue to the contrary that both tests of abandonment have been met. The property was sold by the religious order (The Franciscan Sisters of the Atonement) to Ms. Gallagher in or around 2005 at which time they discontinued their presence in this country due to falling numbers. The subject property has been confirmed in Ms. Gallagher's affidavit to have been lived in by her for 19 years until 2024 when it was sold to Goodwill Properties Ltd. I form the view that when the The Franciscan Sisters of the Atonement sold the property to Ms. Gallagher, they abandoned their use of the convent and it was not possible for Ms. Gallagher to continue the pre 1963 use of a convent as a lay person. The use of the convent therefore ceased in 2005 and the sale of the property from the religious order to a private individual amounted to a clear decision to renounce the use of the property as a convent permanently and not to resume its previous use. There is clear evidence of an intention to abandon by that religious order and of another use being adopted and undertaken, namely the use as a private residential use. The length of time since the property was used as a convent is also a material consideration for the Planning Authority and one which Mr. O'Donnell does not discuss in his Legal Opinion. I find the carefully worded affidavit by Ms. Gallagher to have no relevance or bearing to the matter in hand. That a building maintains the layout and some furnishings associated with a former use does not infer that the use has continued uninterrupted. I am sure that the former chapel had other furnishings in place such as pews, religious iconography, etc. which are no longer present in the room.

I do accept that the planning permission which was granted by this Planning Authority pursuant to planning register ref. P04/1708 to Ms. Gallagher did not confer a change of use from convent use. Ms. Gallagher at that time was the prospective purchaser. She did however indicate that the existing use of the structure was 'dwelling' with the land let to a local person for grazing whilst with respect to applications for a dwelling and the proposed occupancy of same, Ms. Gallagher ticked 'for the applicant's own use'. I also note that in relation to an application for a material change of use, Ms. Gallagher indicated to all 3 questions, that they were not applicable. I accept that all of these were Ms. Gallagher's interpretation of the use and occupancy rather than a definitive consideration by the Planning Authority. They did however present Ms. Gallagher's intention at that time.

I do possibly concede to part of Mr. O'Donnell's argument as to whether the use of the former convent by Ms. Gallagher for 19 years as her principal private residence would constitute a material change of use in a planning sense. I do accept that a convent would include a residential use and it could be argued that such a residential use may be the primary use of a convent. However, the use of convent is included within Class 7 in the Part 4, Article 10 Exempted Development – Classes of Use, Planning and Development Regulations, 2001, as amended. Article 10 states that "*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 development for the purposes of the Act, provided that the development...*". The change of use from a convent to a private residential use is not provided for within Class 7 and therefore, Article 10. An argument could therefore be constructed that such a change of use to a private dwelling could require planning permission.

However, I do not consider that a determination is required as to whether or not the change of use from a convent to a private residence is a material change of use or not. What I am satisfied with is that the use of the property as a convent had been abandoned and that the language used in the relevant class of exemption (Class 14(h)) refers to 'use' which is present tense and clearly different from that in Class 20F which refers to 'used' which is both present and past tense. I do not therefore accept that the exempted development provisions of Class 14(h) can 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 (20 years at this stage).

I would rely on the Supreme Court determination by Henderman J. in the case of *Dublin City Council v Tallaght Block Company* [1985] I.L.R.M. 512 as follows:

"where a previous use of land has not been merely suspended for a temporary and determined period, but has ceased for a considerable period of time with no evidenced intention of resuming it at any particular time, the tribunal of fact was entitled to find that the previous use had been abandoned, so that the resumption constituted a material change in use".

As the use as a convent was a pre 1963 use, there is also a question as to whether or not the 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'. If the use of the building as a private residence was considered an unlawful act for instance, the resumption of the former use as a convent may not constitute development.

However, for an exemption to change the use from a convent to provide accommodation persons to be exempted development to be in play, it would first have to be brought back into use as a convent.

The irony of Mr. O'Donnell's comments is not lost on me whereby he appears critical of the contention of the Planning Authority in questioning whether or not a religious order would not comply with the conditions attached to a grant of planning permission. The condition in question was included in a permission which granted retention of planning permission which would equate to seeking forgiveness rather than permission and demonstrated that a significant breach of planning had actually occurred by the same religious order.

Mr. O'Donnell seems confused with regard to our reference to a condition seeking the carrying out of works pursuant to this permission (post September 2002) rather than referring to development which had occurred some 50 years ago. There is clear evidence on the planning file that condition no. 3 was complied with but no such evidence in relation to condition no. 2 which required the upgrading or replacement of the septic tank, if necessary.

This could be regarded potentially to be an important consideration with regard to the latter part of the submitted question, namely whether "*any minor works to the property to facilitate such use are exempted development*". Reid Associates had outlined in their cover letter that the extent of such minor works being generally confined to works to the interior of the property except for minor changes to door and window openings to the rear elevation and side elevation, which are not visible externally from the public road. The matter of the septic tank was not included in the initial submission which included a series of drawings and maps. It was raised for the first time in the supplementary information which was submitted

to the Planning Authority on December 10th 2024. This was on the basis of it been unsolicited by the Planning Authority. Reid Associates stated therein *“The question of Building Regulations and Fire Cert and any necessary upgrade to the septic tank will be addressed under separate codes.”* To support this, the following was included:

“Having considered the question of the upgrade of the septic tank with Michael O’Donnell B.L. it is considered that it did not form part of the reference which is concerned with use and that notwithstanding as it comprises a structure and as any upgrade of that structure would not materially alter the character of the structure, in so far as it appears that any works to be carried out will have no effect on the external appearance of the structure that prima facie (sic) it would fall within the provisions of Section 4(1)(h) of the Planning and Development Act as amended.”

Mr. O’Donnell did not deal with this issue in his first Legal Opinion in which he correctly made reference to the distinction between use and works and that his opinion related primarily to use. The works he then makes reference to are to the structure itself. Reid Associates made an inference or association to Mr. O’Donnell’s advice in relation to the septic tank which the advices did not actually mention or refer to at any stage. I also consider that the suggestion that the upgrade of the septic tank being addressed under a separate code to planning being erroneous. It is also noted that Mr. O’Donnell does not refer to the matter of the septic tank in his more recent Legal Opinion.

The proposed upgrade and improvement works to the septic tank which is presumed to discharge to a soakway rather than a percolation area (as outlined by Mr. Murphy in the submitted Site Characterisation report) are considered ‘development’ within the meaning of the Act and which are not considered to be exempted development. The issue of the adequacy of the actual septic tank itself has not been clarified. Nonetheless, it is proposed to provide a new tertiary treatment system from which treated wastewater will be pumped to a new percolation area to include polishing filter which extends to 950 m² in extent. It is not credible to contend that such works relate to the improvement of an existing structure and that the provisions of section 4(1)(h) in the Act can be relied upon.

Under the provisions of Class 41, Part 1 of the Second Schedule of the 2001 Planning Regulations, as amended works consisting of, or incidental to, the carrying out of development in compliance with a notice under Section 12 of the Local Government (Water Pollution) Act 1977, as amended, is an exempted development. No such notice was served by the Local Authority. If the upgrade of a wastewater treatment system was exempted development in its own right, no such class of exemption would have been required. It is also considered that a Discharge License would be required on the basis of the expected loading exceeding 5m³ per day.

I would also point out that the incorrect Code of Practice is being relied on in that the submitted assessment was carried out on the basis of the EPA Practice Code of Practice for Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10) (March 2021) when this is not a domestic dwelling. The correct Code of Practice is EPA Code of Practice for Small Communities.

I consider the subject works to the building, in and of themselves, as outlined in the drawings submitted to satisfy the requirements of section 4(1)(h) of the Act in that they do not materially affect the external appearance of the structure and largely are contained

within the structure itself. The building is not a Protected Structure and is not included in the National Inventory of Architectural Heritage as having any particular significance or special interest. However, as the works are required to give effect to a change of use which is not exempted development, the works are not therefore exempted development in the manner in which the question has been submitted.

5 Screening for Appropriate Assessment (AA) under Natura 2000 Sites

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 existing 13 no. bedroom property / proposed 14 no. bedroom property. The occupancy of the property is likely to intensify considerably and it is considered having regard to the proximity of the development to a Natura 2000 site that the adequacy of the wastewater treatment system is relevant to our considerations of whether the change of use could give rise, without mitigation measures, to affect the qualifying interests and conservation objectives of Lough Melvin Special Area of Conservation. It is noted that an Appropriate Assessment Screening Statement has been submitted by Roger Goodwillie as previously referenced. This conclusion is dependent on the upgrade of the wastewater treatment system which requires planning permission. As such, it would be necessary for the Planning Authority to undertake the required assessment as competent authority in the assessment of said planning application. As the substantive matter is not considered exempted development, no further consideration in this regard is considered necessary.

6. Recommendation

Having examined the planning history associated with the structure indicating the pre 1st October 1964 use of the structure been that of a convent, to the subsequent sale of the convent by the religious order to a private individual who lived within the structure as their principal private residence for 19 years between 2005-2024, to the definitions and provisions of Planning & Development Act 2001, as amended and the Planning & Development Regulations 2001, as amended, to the documents submitted with this referral request, I consider that the use of this structure as a convent was abandoned in and around 2005 and as such the proposed change of use to provide accommodation to protected persons is development and is not exempted development. I consider the subject works, in and of themselves, as outlined in the drawings submitted to satisfy the requirements of section 4(1)(h) of the Act in that they do not materially affect the external appearance of the structure. However, as the works are required to give effect to a change of use which requires planning permission, the works are therefore development within the context of the question submitted which is not exempted development. The issue of the septic tank was not included in the initial referral but was included thereafter by Reid Associates. For clarity, I will deal with this matter by the inclusion of an Advice Note to accompany this determination.

WHEREAS a question has arisen as to whether the change of use of Rossinver Convent, Gubalaun, Co Leitrim, F91 A718 from established use as a convent to use by or on behalf of the Minister for Children, Equality, Disability, Integration and Youth to accommodate protected persons is or is not exempt development and whether any minor works to the property to facilitate such use are exempted development.

AND WHEREAS Goodwill Properties Ltd. requested a declaration on this question from Leitrim County Council on the 18th day of November 2024 with unsolicited additional information submitted on 10th December 2024 and with further information having been submitted to the Planning Authority on 3rd April 2025 following a request for further information by the Planning Authority

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

- a) Sections 2(1), 3(1), 4(1)(h) and 4(2) of the Planning and Development Act, 2000, as amended,
- b) Article 6(1), 9(1) and 10(1) of the Planning and Development Regulations, 2001, as amended,
- c) Class 14H of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- d) the planning history and established use of the building,
- e) the submissions on file,
- f) the report of the Senior Planner:

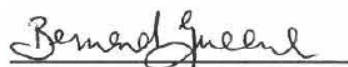
AND WHEREAS Leitrim County Council has concluded that

The change of use of Rossinver Convent, Gubalaun, Co Leitrim, F91 A718 from established use as a convent to use by or on behalf of the Minister for Children, Equality, Disability, Integration and Youth to accommodate protected persons and any minor works to the property to facilitate such use

- a) would constitute development under Section 3(1) of the Planning and Development Act 2000, as amended as the use of the subject property as a convent was abandoned in 2005, and
- b) the proposed change of use from use from that of a convent to use by or on behalf of the Minister for Children, Equality, Disability, Integration and Youth to accommodate protected persons would not constitute exempt development and would not therefore fall within the scope of Class 14H of Schedule 2 of Part 1 of the Planning and Development Regulations 2001 (as amended), and
- c) the proposed minor works to the property to facilitate such use would be considered exempted development in and of themselves, as outlined in the drawings submitted and would satisfy the requirements of section 4(1)(h) of the Act in that they do not materially affect the external appearance of the structure. However, as the works are required to give effect to a change of use which requires planning permission, the works are therefore development within the context of the question submitted and are not exempted development..

NOW THEREFORE Leitrim County Council, in exercise of the powers conferred on it by section 5 of the Planning and Development Act 2000, as amended, hereby decides that the

change of use of Rossinver Convent, Gubalaun, Co Leitrim, F91 A718 from established use as a convent to use by or on behalf of the Minister for Children, Equality, Disability, Integration and Youth to accommodate protected persons is development and is not exempted development and that any minor works to the property to facilitate such use is similarly development and is not exempted development.



Bernard Greene
Senior Planner
Date: 17/04/2025

Advice Note to Submitter

The Planning Authority would contend with the advice of Reid Associates (Planning Development Consultants) that the proposed upgrade of the existing septic tank serving this property is exempted development. It is not. Equally, the statement that such upgrade is covered under a code distinct from that of the Planning code is misguided. It is covered primarily within the Planning code.

It is proposed to provide a new tertiary treatment system from which treated wastewater will be pumped to a new percolation area to include polishing filter which extends to 950 m² in extent. It is not credible to contend that such works relate to the improvement of an existing structure as they require the installation of additional structures (tertiary treatment system inclusive of pump and rising main) along with works comprising the laying out of a percolation area and infiltration drain) and that the provisions of section 4(1)(h) of the Planning & Development Act 2000, as amended, can be relied upon.

Under the provisions of Class 41, Part 1 of the Second Schedule of the 2001 Planning Regulations, as amended works consisting of, or incidental to, the carrying out of development in compliance with a notice under Section 12 of the Local Government (Water Pollution) Act 1977, as amended by the Local Government (Water Pollution) Amendment Act 1990 is an exempted development. No such notice was served by the Sanitary Services Authority on the current or former owners of the building.

The wastewater discharge from the wastewater treatment system is anticipated as exceeding 5m³ per day. As such, a discharge license would also be required pursuant to Section 4 of the Local Government (Water Pollution) Act 1977 as amended by the Local Government (Water Pollution) Amendment Act 1990.