

**Declaration under Section 5 of
Planning & Development Act, 2000 (as amended)**



To: Mary Quinn, Director of Services
From: Joe Duffy – Assistant Planner
Reference No.: ED 25-32
Referrer: Croga Care Partners Ltd.
Subject Matter: Declaration under Section 5 of the Planning and Development Act 2000 (as amended) as to whether the change of use from the current existing residence attached to an existing pub for use as residence for a respite care facility for persons with intellectual, physical or mental illness for maximum 6 residents and a maximum 2 carers together with a small rear bedroom extension of 11.16 square metres is or is not Development and whether it is or is not Exempted Development.

Location: Stranagress, Glenfarne, Co. Leitrim.
Date Received: 27th June 2025

1. INTRODUCTION

This is a request for a Declaration under Part 1, Section 5 of the Planning and Development Act 2000, as amended, as to whether the change of use from the current existing residence attached to an existing pub for use as residence for a respite care facility for persons with intellectual, physical or mental illness for maximum 6 residents and a maximum 2 carers together with a small rear bedroom extension of 11.16 square metres is or is not development and whether it is or is not exempted development. This Section 5 application was submitted under the name of Croga Care Partners Ltd with Dermot Harkin being named on the included cover letter attached with this application. A land map, site layout map together with floor plans have also been submitted with this application. The subject site is located in Glenfarne and lies within the settlement envelope as identified in the Leitrim County Development Plan 2023-2029 Book of maps (Map 38) on the south side of the N16 within the 50 kph speed restricted zone. The subject site contains an existing two storey terraced structure which was previously used as a public house. Indeed, it is noted that a very recent planning application has been received under planning reference P.25/60183 (received on the 15th July 2025) and validated with the development description described as *“To retain all elevational changes and extensions to an existing public house”*.





- 1.1 The subject site lies within the settlement envelope of Glenfarne as identified in the Leitrim County Development Plan 2023-2029 Book of maps (Map 38).

2. REFERRAL SUBMISSIONS

- 2.1 The subject application was received by the Planning Authority on the 27th June 2025 under the name of Croga Care Partners Ltd with Dermot Harkin being named on the associated cover letter.
- 2.2 The request seeks a determination as to whether the change of use from the current existing residence attached to an existing pub for use as residence for a respite care facility for persons with intellectual, physical or mental illness for maximum 6 residents and a maximum 2 carers together with a small rear bedroom extension of 11.16 square metres is or is not development and whether it is or is not exempted development.

3. PLANNING HISTORY

P. 11466 (Granted) Permission to erect an extension to a licensed premises for use as a guesthouse (1993)

P. 14398 (Granted) Permission to extend kitchen at the rear of the public house (1999). Planning Permission was not availed of as stated in the letter dated 02nd April 2025 received as part of the application documentation relating to the application submitted under P.25-60183.

P. 8058 (Granted) Retain workshop (1984).

P. 1846 (Granted) Permission to reconstruct and extend house (1971).

P. 147 (Granted) Permission to reconstruct premises (1965).

4. RELEVANT LEGISLATION

4.1 Planning and Development Act, 2000 (as amended)

S.2(1) defines structure as *'any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined'*.

S.3 (1) In this Act 'development' means, except where the context otherwise requires, the carrying out of any works on, in, or under land or the making of any material change in the use of any structures or other land.

S.4 (2) (a) The Minister may by regulations provide for any class of development to be exempted development for the purposes of this Act where he or she is of the opinion that—

(i) by reason of the size, nature or limited effect on its surroundings, of development belonging to that class, the carrying out of such development would not offend against principles of proper planning and sustainable development, or

(ii) the development is authorised, or is required to be authorised, by or under any enactment (whether the authorisation takes the form of the grant of a licence, consent, approval or any other type of authorisation) where the enactment concerned requires there to be consultation (howsoever described) with members of the public in relation to the proposed development prior to the granting of the authorisation (howsoever described).

(b) Regulations under paragraph (a) may be subject to conditions and be of general application or apply to such area or place as may be specified in the regulations.

(c) Regulations under this subsection may, in particular and without prejudice to the generality of paragraph (a), provide, in the case of structures or other land used for a purpose of any specified class, for the use thereof for any other purpose being exempted development for the purposes of this Act.

4.2 Planning and Development Regulations, 2001 (as amended)

Article 6(1) of the Planning and Development Regulations 2001, as amended, states that:

Subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1.

Article 9(1) of the Planning and Development Regulations 2001, as amended, identifies restrictions on exemptions. Of relevance in this case would be the following:

(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

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

(vi), interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan.

(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,

Class 14 (f) of Schedule 2, Part 1 of Exempted Development of the Planning and Development Regulations 2001, as amended allows for the following exemption subject to conditions and limitations as set out in column 2:

Change of use

CLASS 14 (f)

Development consisting of a change of use from use as a house, to use as a residence for persons with an intellectual or physical disability or mental illness and persons providing care for such persons.

Conditions and limitations as set out in column 2;

The number of persons with an intellectual or physical disability or a mental illness living in any such residence shall not exceed 6 and the number of resident carers shall not exceed 2.

5. ASSESSMENT

- 5.1** It is considered that the proposed works constitute development as defined in Section 3 of the Planning and Development Act 2000 (as amended).
- 5.2** I have considered all relevant exemptions available under the Planning and Development Act 2000 (as amended) and the Planning and Development Regulations 2001 (as amended).
- 5.3** The description submitted as part of this section 5 application is very unclear and refers to a change of use from the domestic dwelling which was attached to a pub to use as a residence under Class 14F. However, it is unclear which part of this overall premises relates to the stated domestic dwelling with the associated 7 no. bedrooms. No clear distinction is apparent from the drawings received with this subject section 5 application to distinguish the existing differing elements or uses associated with this property from the proposed or indeed the intended change of use of this subject section 5 application. It is also unclear whether this change of use application includes the floor area of the former bar/lounge area and/or whether this change of use includes the ground floor only or whether some of this change of use includes any of the 1st floor area where a significant number of bedrooms are already stated. Additionally, and which further complicates matters with this section 5 application, an application has been received to seeking retention permission for some unauthorised elements of this subject premises. A planning application has been received on the 15/07/2025 under planning reference P. 25/60183. This retention application for additional floor area appears to form part of this section 5 application and as presented is not fully authorised in accordance with S.4 (2) (a) (ii) of the Planning and Development Act 2000, as amended. It is therefore considered to be premature prior to a formal decision on same. Furthermore, the drawings included with this section 5 application are not clear, colour coded or easily readable with no clear distinction between the stated domestic dwelling area associated with the bar lounge, the bar-lounge area itself and which of these uses are forming part of this subject application. In any case, the unauthorised elements as stated above of this premises needs first to be regularised prior to any determination being made with this section 5 application. Therefore, it is considered that the applicant submit Further Information to clarify all of the above with revised colour coded floor plans and drawings in order to correctly distinguish which parts relate to this section 5 application. This Further Information request should also allow sufficient time for the unauthorised elements to be fully regularised which will allow this section 5 application to proceed further.
- 5.4** From the unclear details submitted with this section 5 application it is not known whether this proposal would be in accordance with the Planning and Development Regulations, 2001 (as amended) Class 14F of Schedule 2, Part 1 of Exempted Development as follows:

Development consisting of a change of use from use as a house, to use as a residence for persons with an intellectual or physical disability or mental illness and persons providing care for such persons.

6. It is noted from the details submitted that this premises includes a Bar/Lounge and a number of rooms associated with a domestic residence including unauthorised elements. However, the floor area and bedrooms associated with this section 5 application are unknown and are not provided with this application. As such, further details including appropriately scaled colour coded drawings are required in order to fully assess and determine whether this proposal can be considered under Class 14F of Schedule 2, Part 1 of the Planning & Development Regulations 2001 (as amended). It is considered that this section 5 proposal, subject to further clarification, will need to be assessed further subject to compliance with the conditions and limitations as outlined below.

7. ENVIRONMENTAL IMPACT ASSESSMENT AND APPROPRIATE ASSESSMENT

Section 4(4) of the Act sets out that development shall not be exempted development if an Environmental Impact Assessment (EIA) or an Appropriate Assessment (AA) of the development is required.

The Planning Authority is satisfied that the subject development would not give rise to significant environmental effects and would therefore not require EIA.

The nearest Natura 2000 site is Boleybrack Mountain SAC (Site Code: 000428), which is located approximately 2km south of the subject site. Given the nature of the project, it is considered that the subject development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8. CONCLUSION

Having examined the proposal and reviewed all of the documents relating to this development, along with the relevant legislation, I conclude that the change of use from the current existing residence attached to an existing pub for use as residence for a respite care facility for persons with intellectual, physical or mental illness for maximum 6 residents and a maximum 2 carers together with a small rear bedroom extension of 11.16 square metres is development but it cannot be determined at this time whether this is exempted development. Further Information is required from the applicant.

Having regard to the above, Further Information is necessary to facilitate an assessment of the referred question as the details submitted are limited and incomplete.

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 declaration:

1. Insufficient information has been submitted with this application to allow the Planning Authority to make a determination on this matter. You are therefore required to submit clearly colour coded and easily readable floor plans (Scale 1:100) for this overall premises identifying the domestic dwelling that relates to this section 5 application together with the associated 7 no. bedrooms and identify and number which rooms and bedrooms relate to the change of use application. It is also unclear whether this change of use application includes the floor area of the former Bar/Lounge area and/or whether this change of use includes the ground floor only or whether some of this change of use includes any of the 1st floor area where a significant number of bedrooms are already stated. Please clarify and address.
2. Having regard to item 1 above, the Planning Authority note some unauthorised elements are included with this subject premises for which retention is now being sought. However, an assessment or decision for this retention application has not been made at this time and as such this section 5 application is considered premature prior to a formal decision on same being made. In any case, the unauthorised elements as stated above of this premises are unauthorised and first need to be regularised prior to any determination being made with this section 5 application. Therefore, you are required to submit revised drawings with retention permission being fully acquired for all of the unauthorised elements as above. Please address.

This Further Information request should also allow sufficient time for the unauthorised elements to be fully regularised which will allow this section 5 application to proceed further.



Joe Duffy
Assistant Planner
Date: 23rd July 2025



Liam Flynn
Senior Executive Planner
Date: 23/07/2025



Appropriate Assessment Screening and Determination

STEP 1. Description of the project/proposal and local site characteristics:

(a) File Reference No:	ED25-32Error! Reference source not found.Error! Reference source not found.
(b) Brief description of the project or plan:	As per planning report
(c) Brief description of site characteristics:	As per planning report
(d) Relevant prescribed bodies consulted: e.g. DHLGH (NPWS), EPA, OPW	No
(e) Response to consultation:	N/A

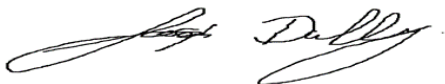
STEP 2. Identification of relevant Natura 2000 sites using Source-Pathway-Receptor model and compilation of information on Qualifying Interests and conservation objectives.

European Site (code)	List of Qualifying Interest/Special Conservation Interest	Distance from proposed development (km)	Connections (Source- Pathway- Receptor)	Considered further in screening Y/N
Boleybrack Mountain SAC (002032)	https://www.npws.ie/protected-sites/sac/002032	2 kilometres	None	No
Please Select				

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. - 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	No significant potential impacts.
Operational phase e.g. - Direct emission to air and water - Surface water runoff containing contaminant or sediment - Lighting disturbance - Noise/vibration	No significant potential impacts.

• 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	No significant potential impacts.												
(b) Describe any likely changes to the European site:													
• Examples of the type of changes to give consideration to include: • 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	No significant potential impacts.												
(c) Are 'mitigation' measures necessary to reach a conclusion that likely significant effects can be ruled out at screening? ☐ Yes ☒ 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.													
Having regard to the information on file, the nature and scale of the subject development, its distance from European sites, the lack of direct connections with regard to the Source-Pathway-Receptor model, it is concluded that the proposed development, either alone or in-combination with other developments, is not likely to have any significant effects on any European site in view of its conservation objectives.													
Conclusion:													
	<table border="1"> <thead> <tr> <th></th> <th>Tick as Appropriate:</th> <th>Recommendation:</th> </tr> </thead> <tbody> <tr> <td>(i) It is clear that there is no likelihood of significant effects on a European site.</td> <td>☒</td> <td>The proposal can be screened out: Appropriate assessment not required.</td> </tr> <tr> <td>(ii) It is uncertain whether the proposal will have a significant effect on a European site.</td> <td>☐</td> <td> ☐ Request further information to complete screening ☐ Request NIS ☐ Refuse planning permission </td> </tr> <tr> <td>(iii) Significant effects are likely.</td> <td>☐</td> <td> ☐ Request NIS ☐ Refuse planning permission </td> </tr> </tbody> </table>		Tick as Appropriate:	Recommendation:	(i) It is clear that there is no likelihood of significant effects on a European site.	☒	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.	☐	☐ Request further information to complete screening ☐ Request NIS ☐ Refuse planning permission	(iii) Significant effects are likely.	☐	☐ Request NIS ☐ Refuse planning permission
	Tick as Appropriate:	Recommendation:											
(i) It is clear that there is no likelihood of significant effects on a European site.	☒	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.	☐	☐ Request further information to complete screening ☐ Request NIS ☐ Refuse planning permission											
(iii) Significant effects are likely.	☐	☐ Request NIS ☐ Refuse planning permission											
Signature of Recommending Planner:													
Date:	18/07/2025												



Environmental Impact Assessment (EIA) Pre-Screening

Establishing if the proposal is a 'sub-threshold development'

File Reference No:

ED25-32
Error! Reference source not found.
Error! Reference source not found.

Development Summary:

As per Planning Report

Was a Screening Determination carried out under Section 176A-C?:

- ☐ Yes – No further action required
- ☒ No – Proceed to Part A

Part A - Schedule 5 Part 1 - Does the development comprise a project listed in Schedule 5, Part 1, of the Planning and Development Regulations 2001 (as amended)? (Tick as appropriate)

☐ Yes – specify class:

EIA is mandatory
No screening required

☒ No

Proceed to Part B

Part B - Schedule 5 Part 2 - Does the development comprise a project listed in Schedule 5, Part 2, of the Planning and Development Regulations 2001 (as amended) and does it meet/exceed the thresholds? (Tick as appropriate)

☒ No, the development is not a project listed in Schedule 5, Part 2

No screening required

☐ Yes, the project is listed in Schedule 5, Part 2 **and** meets/exceeds the threshold, specify class (including threshold):

EIA is mandatory
No screening required

☐ Yes, the project is of a type listed **but** is *sub-threshold*:

Proceed to Part C

Part C – If yes, has Schedule 7A information/screening report been submitted?

☐ Yes, Schedule 7A information/screening report has been submitted by the applicant

Screening Determination required

☐ No, Schedule 7A information/screening report has not been submitted by the applicant

Preliminary Examination required

EIA Preliminary Examination:

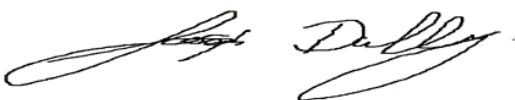
The Planning Authority shall carry out a preliminary examination of, at the least, the nature, size or location of the development.

Comment:

Yes/No/Uncertain:

Nature of the development:

Is the nature of the proposed development exceptional in the context of the existing environment?

<i>Will the development result in the production of any significant waste, or result in significant emissions or pollutants?</i>		
Size of the development: Is the size of the proposed development exceptional in the context of the existing environment? Are there cumulative considerations having regard to other existing and/or permitted projects?		
Location: <i>Is the proposed development located on, in, adjoining or does it have the potential to impact on an ecologically sensitive site or location?</i> <i>Does the proposed development have the potential to affect other significant environmental sensitivities in the area?</i>		
Preliminary Examination Conclusion:		
Based on a preliminary examination of the nature, size or location of the development. (Tick as appropriate)		
☒ There is no real likelihood of significant effects on the environment. EIA is not required.	☐ There is real likelihood of significant effects on the environment. An EIAR is required.	☐ There is significant and realistic doubt regarding the likelihood of significant effects on the environment. Request the applicant to submit the Information specified in Schedule 7A for the purposes of a screening determination. Proceed to Screening Determination.
Signature of Recommending Planner:		
	Date: 18/07/2025	