

**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 25-29  
**Referrer:** Cathy McVeigh  
**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 for use as residence for a respite care facility for persons with intellectual, physical or mental illness for a maximum of 6 residents and a maximum of 2 carers is or is not Development and whether it is or is not Exempted Development.

**Location:** Cordiver, Via Ballyshannon P.O., Co. Leitrim, F94 N677.  
**Date Received:** 26<sup>th</sup> June 2025 and on the 04<sup>th</sup> July 2025

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**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 for use as a residence for a respite care facility for persons with intellectual, physical or mental illness for a maximum of 6 residents and a maximum of 2 carers is or is not development and whether it is or is not exempted development. This Section 5 application was submitted under the name of Cathy McVeigh. A land map, site layout map together with floor plans have also been submitted with this application. The subject site is located in a rural area approximately 5 kilometres south of Ballyshannon, Co. Donegal, 1.5 kilometres north of Lough Melvin in an undulated and well screened landscape and set back approximately 250 metres to the western side of the L-2088 local road which continues and links further onto Garrison and on towards Rossinver. The subject site contains an existing two storey hipped roof dwelling house which is well screened and not visible from the public road together with an adjacent outbuilding to the side.



1.1 The subject site falls in the open countryside and does not lie within any visually sensitive designated landscape areas as identified in the Leitrim County Development Plan 2023-2029.

## 2. REFERRAL SUBMISSIONS

2.1 The subject application was received by the Planning Authority on the 26th June 2025 with additional details on the 04th July 2025 by the stated owner Cathy McVeigh.

2.2 The request seeks a determination as to whether the change of use from the current existing residence for use as residence for a respite care facility for persons with intellectual, physical or mental illness for a maximum of 6 residents and a maximum of 2 carers is or is not development and whether it is or is not exempted development.

## 3. PLANNING HISTORY

P. 06/689 (Granted) Permission to erect dwelling house, domestic garage and effluent treatment system to Sean & Cathy Maguire on the 07/11/2006.

## 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 change of use from the current existing residence 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. The details submitted includes elevational drawings and floor plans which identifies 4 no. 1<sup>st</sup> floor bedrooms with a double bed in each of these 4 no. bedrooms. As presented, the proposed change of use does not exceed the maximum threshold permitted by the conditions and limitations as set out in column 2. With this it is considered that the proposed change of use would be in accordance with the Planning and Development Regulations, 2001 (as amended) Class 14(f) 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.*

Having regard to the above, this change of use would not exceed the threshold identified and is therefore considered as exempt under Class 14 (f) of Schedule 2, Part 1 of the Planning & Development Regulations 2001 (as amended).

*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.

**YES. As presented, the proposed change of use does not exceed the maximum number of persons and carers allowable by the conditions and limitations as set out in column 2. With this it is considered that the proposed change of use would be in accordance with the above Class 14F.**

**6. 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 Lough Melvin SAC (Site Code: 000428), which is located approximately 1.2km northwest 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.

**7. 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 for use as residence for a respite care facility for persons with intellectual, physical or mental illness for a maximum of 6 residents and a maximum of 2 carers is development and is exempted development.

**RECOMMENDATION**

Having regard to the foregoing I recommend that the Planning Authority issue the following Declaration under Section 5 of the Planning and Development Act 2000 (as amended):

**WHEREAS** a question has arisen as to whether the change of use from the current existing residence 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 at Cordiver, Via Ballyshannon P.O., Co. Leitrim, F94 N677 and whether it is or is not development and whether it is or is not exempted development;

**AND WHEREAS** the said question was referred to Leitrim County Council by the Cathy McVeigh on the 26th June 2025 with additional details on the 04th July 2025;

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

- (a) Sections 2(1), 3(1) and 4(1) of the Planning and Development Act, 2000, as amended,
- (b) Articles 6(1) and 9(1) of the Planning and Development Regulations 2001, as amended,
- (c) Class 14(f) of Part 1, Schedule 2 of the Planning and Development Regulations 2001, as amended,
- (d) the documentation submitted as part of the referral;

**AND WHEREAS** Leitrim County Council has concluded that –

- a) The change of use from the current existing residence for use as residence for a respite care facility for persons with intellectual, physical or mental illness for a maximum of 6 residents and a maximum of 2

carers constitutes development which is exempted development with the provisions of Class 14(f) of Part 1, Schedule 2 of the Planning and Development Regulations 2001, as amended, applying in this instance.

**NOW THEREFORE** Leitrim County Council, in exercise of the powers conferred on it by Section 5(2)(a) of the Planning and Development Act 2000 Act, as amended, hereby declares that:

The change of use from the current existing residence for use as residence for a respite care facility for persons with intellectual, physical or mental illness for a maximum of 6 residents and a maximum of 2 carers at Cordiver, via Ballyshannon P.O., Co. Leitrim, F94 N677 is development that is exempted development.



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**Joe Duffy**  
**Assistant Planner**  
**Date: 16<sup>th</sup> July 2025**



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**Liam Flynn**  
**Senior Executive Planner**  
**Date: 17/07/2025**



## Appropriate Assessment Screening and Determination

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

|  |   |
|--|---|
| (a) File Reference No:   | ED25-29<br><b>Error! Reference source not found.</b><br><b>Error! Reference source not found.</b> |
| (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:<br>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 |
|---------------------------|---|---|---|-------------------------------------|
| Lough Melvin SAC (000428) | <a href="https://www.npws.ie/protected-sites/sac/000428">https://www.npws.ie/protected-sites/sac/000428</a> | 1.2 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. <ul style="list-style-type: none"> <li>Vegetation clearance</li> <li>Demolition</li> <li>Surface water runoff from soil excavation/infill/landscaping (including borrow pits)</li> <li>Dust, noise, vibration</li> <li>Lighting disturbance</li> <li>Impact on groundwater/dewatering</li> <li>Storage of excavated/construction materials</li> <li>Access to site</li> <li>Pests</li> </ul> | No significant potential impacts.                           |
| Operational phase e.g. <ul style="list-style-type: none"> <li>Direct emission to air and water</li> <li>Surface water runoff containing contaminant or sediment</li> <li>Lighting disturbance</li> <li>Noise/vibration</li> <li>Changes to water/groundwater due to drainage or abstraction</li> </ul>   | No significant potential impacts.                           |

|   |                                   |
|---|-----------------------------------|
| <ul style="list-style-type: none"> <li>• Presence of people, vehicles and activities</li> <li>• Physical presence of structures (e.g. collision risks)</li> <li>• Potential for accidents or incidents</li> </ul> |                                   |
| In-combination/Other  | No significant potential impacts. |

**(b) Describe any likely changes to the European site:**

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

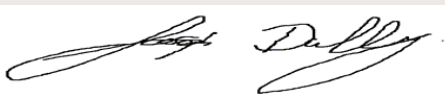
**Step 4. Screening Determination Statement**

**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:**

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

|   |  |                         |
|---|--|-------------------------|
| <b>Signature of Recommending Planner:</b> |  | <b>Date:</b> 16/07/2025 |
|---|--|-------------------------|



## Environmental Impact Assessment (EIA) Pre-Screening

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

|   |   |
|---|---|
| <b>File Reference No:</b>   | ED25-29 <b>Error! Reference source not found. Error! Reference source not found.</b>                                    |
| <b>Development Summary:</b>   | As per Planning Report  |
| <b>Was a Screening Determination carried out under Section 176A-C?:</b> | <input type="checkbox"/> Yes – No further action required<br><input checked="" type="checkbox"/> 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)

|   |  |
|---|--|
| <input type="checkbox"/> Yes – specify class: | <b>EIA is mandatory</b><br>No screening required |
| <input checked="" type="checkbox"/> No        | <b>Proceed to Part B</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)

|  |  |
|--|--|
| <input checked="" type="checkbox"/> No, the development is not a project listed in Schedule 5, Part 2  | <b>No screening required</b>                     |
| <input type="checkbox"/> Yes, the project is listed in Schedule 5, Part 2 <b>and</b> meets/exceeds the threshold, specify class (including threshold): | <b>EIA is mandatory</b><br>No screening required |
| <input type="checkbox"/> Yes, the project is of a type listed <b>but</b> is <i>sub-threshold</i> :   | <b>Proceed to Part C</b>                         |

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

|   |   |
|---|---|
| <input type="checkbox"/> Yes, Schedule 7A information/screening report has been submitted by the applicant    | <b>Screening Determination required</b> |
| <input type="checkbox"/> No, Schedule 7A information/screening report has not been submitted by the applicant | <b>Preliminary Examination required</b> |

### 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: |
|---|----------|-------------------|
| <b>Nature of the development:</b><br><i>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?

**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:**

Is the proposed development located on, in, adjoining or does it have the potential to impact on an ecologically sensitive site or location?

Does the proposed development have the potential to affect other significant environmental sensitivities in the area?

**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.

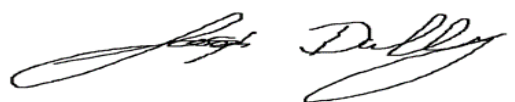
An **EIAR is required.**

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:** 16/07/2025