Our Case Number: ACP-324562-26

Planning Authority Reference Number: S52026/35

An Coimisiún Pleanála

Louth County Council
County Hall
Millennium Centre
Dundalk
Co. Louth

Date: 12 August 2026

Re: Is the proposed activity of selling cooked food made on the premises, is development, and if so is it or is it not an exempted development within the meaning of the Planning & Development Act 2000?
Unit 3 & 4 Donore Industrial Estate, Donore Industrial Estate, Drogheda , Co Louth

Dear Sir / Madam,

Enclosed is a copy of a referral under the Planning and Development Act, 2000, (as amended).

In order to comply with section 128 of the Planning and Development Act, 2000, (as amended), please forward, within a period of 2 weeks beginning on the day on which a copy of the referral is sent to you, copies of any information in your possession which is relevant to the referral, including

(i) details of previous decisions affecting the site;

(ii) any correspondence that has taken place between the person(s) issued with a declaration under subsection (2)(a) of section 5 of the 2000 Act, (as amended), and the planning authority.

(iii) the name and address of the owner of the land in question and the name of the occupier of the said land, if different;

(iv) where no declaration was issued by you, indicate the date that the referral was due to be issued in accordance with subsection (2) of section 5 of the 2000 Act, (as amended)

In accordance with section 129 of the 2000 Act, (as amended), you may make submissions or observations in writing to the Commission in relation to the referral within a period of 4 weeks beginning on the date of this letter.

Any submissions or observations received by the Commission outside of that period shall not be considered and where none have been validly received, the Commission may determine the referral without further notice to you.

Please note when making a response/submission only to the referral it may be emailed to appeals@pleanala.ie and there is no fee required.

Teil	**Tel**	(01) 858 8100	64 Sráid Maoilbhríde	64 Marlborough Street
Glao Áitiúil	**LoCall**	1800 275 175	Baile Átha Cliath 1	Dublin 1
Láithreán Gréasáin	**Website**	www.pleanala.ie	D01 V902	D01 V902
Ríomhphost	**Email**	communications@pleanala.ie		

Please quote the above referral number in any further correspondence.

Yours faithfully,

Dillon Corcoran
Administrative Assistant
Direct Line: 01-8049313

BPRL07

Make a Planning Appeal

Direct URL: https://forms.gov.ie/en/68e6334b054d8f2739f8ad5b

Response ID	6a6bdbf543e8843d4eb4a1ae
Date submitted	31/07/2026

Check if you can appeal to An Coimisiún Pleanála

1. What type of appeal are you making?	First-party appeal (I lodged the original application to the planning authority)
2. Select the statement that applies to you	I am the appellant
3. Throughout the appeal process, we may issue correspondence to the appellant/agent as selected above by email. Please confirm that you are satisfied to receive correspondence by email	Yes

Appeal type

This section will determine the type of appeal you wish to make and calculate the fee involved. If you qualify for the reduced fee, only that amount will be charged.

4. Is your appeal solely under Section 48 and/or Section 49 of the Planning and Development Acts?	No
5. Are you appealing against a non-financial condition that has been attached to a permission by the planning authority?	No
6. Does your appeal include retention?	No
7. Does your appeal relate to commercial development?	No
8. Does your appeal or application include an Environmental Impact Assessment Report (EIAR) or Natura Impact Statement (NIS)?	No
9. Do you wish to request an oral hearing?	No
10. Please confirm the following fee details are correct:	Yes

Appellant/company details

This section is for details of the person/company who is making the appeal. If you are an agent submitting an appeal on behalf of a person/company, please include their details on this page. You can submit your agent details on the next page if applicable

11. Appellant's full name/Company name	Po Lamb
12. Is the appellant/company's address in the Republic of Ireland?	Yes
13. Address	Unit 3 & 4 Donore Industrial Estate Drogheda Louth Ireland
14. Is there more than one appellant associated with this appeal?	No

*Please be advised that An Coimisiún Pleanála will only correspond with one appellant throughout the appeal process. If you wish to include further appellants on the appeal you may do so in your grounds to appeal document.
If the appeal is a third party appeal, you must ensure that you have a planning authority submission acknowledgement letter for each appellant listed. This must be uploaded with your appeal documents.*

Details about the proposed development

This section asks for details about the planning authority decision you wish to appeal

15. Planning authority	Louth County Council

16. Planning authority register reference number	S5 2026/35
17. Address of proposed development	Unit 3 & 4 Donore Industrial Estate Drogheda Louth Ireland

Grounds for appeal

18. Attachment describing the grounds of your appeal (planning reasons and arguments)	S5 REVIEW REFERRAL 30JUL26.pdf - Virus scan flagged the file as clean

You can also attach further supporting materials on the next page

Supporting material

If you wish you can include supporting materials with your appeal. Supporting materials include photographs, plans, surveys, drawings, technical guidance documents and so on.

Please note An Coimisiún Pleanála will receive a complete copy of documents/drawings/maps that were submitted at planning authority stage. When submitting supporting material, please only include new documents. (This does not apply to third party appeals where we will always require a copy of your planning authority submission acknowledgement letter.)

If you have added attachments, submitting the form may take a few moments. Thanks for your patience.

REFERRAL TO AN COIMISIÚN PLEANÁLA UNDER SECTION 5(3)(a) PLANNING AND DEVELOPMENT ACT 2000 AS AMENDED

SUBMISSION OF THE APPLICANT

Po Lamb trading as Mr. Curry
Unit 3–4 Donore Industrial Estate, Donore Road, Drogheda, County Louth

Section 5 Application Ref. No. S5 2026/35
Review of Decision of Louth County Council dated 10th July 2026

1. INTRODUCTION

This is a referral to An Coimisiún Pleanála under Section 5(3)(a) of the Planning and Development Act 2000 as amended, seeking review of the decision of Louth County Council dated 10th July 2026 in which the Planning Authority determined that the proposed activity constitutes development within the meaning of the Act. Section 5(3)(a) provides that any person issued with a declaration under Section 5(2)(a) may, on payment of the prescribed fee, refer that declaration for review by An Coimisiún Pleanála within 4 weeks of the date of the issuing of the declaration. The declaration of Louth County Council was issued on 10th July 2026. This referral is made within the statutory four-week period and is accompanied by the prescribed fee.

The Applicant respectfully submits that the Council's determination is wrong in law and should be reversed on four specific grounds, each of which is independent and self-sufficient:

Ground 1 — The Council answered the wrong question. The Applicant's Further Information Response of 23rd June 2026 submitted a replacement question seeking a declaration that the proposed activity does not constitute development at all. The Council ignored this submission entirely and answered the original question only.

Ground 2 — The Council gave no reasons. The decision states in its entirety on the question of reasoning that "the activity as described constitutes a material change of use." No analysis, no reasoning and no engagement with the Applicant's detailed submissions were provided. This fails the obligation to give reasons established in Mulholland v An Bord Pleanála (No. 2) [2005] IEHC 306, [2006] 1 IR 453.

Ground 3 — The proposed activity is a use ordinarily incidental to the established use of the premises under Article 10(2)(a) of the Planning and Development Regulations 2001 as amended, and is therefore not excluded from that established use by the Regulations.

Ground 4 — Even if a change of use is found to exist, it is not material in planning terms. Applying the test confirmed in Monaghan County Council v Brogan [1987] IR 333, the proposed activity raises no planning concern of any substance whatsoever on any of the criteria a planning authority would normally consider.

The Applicant respectfully requests that An Coimisiún Pleanála declare that the proposed activity does not constitute development within the meaning of the Planning and Development Act 2000 as amended and that no planning permission is required. In the alternative, if An Coimisiún Pleanála finds that the activity constitutes development, the Applicant requests a declaration that it constitutes exempted development under the Planning and Development Regulations 2001 as amended.

2. THE PREMISES AND THE PROPOSED ACTIVITY

2.1 The Established Use

The premises at Unit 3–4 Donore Industrial Estate, Donore Road, Drogheda, County Louth has been in continuous lawful use as a food manufacturing and retail sales premises since 18th February 2013 — a period of over thirteen years. The business trades as Mr. Curry — Authentic Foods Ireland. The established use combines two elements:

First — the manufacture of food products at the premises, specifically curry sauces and Mr. Curry Black Bean Sauce, in a 120g retail-ready pouch.

Second — the direct retail sale of those manufactured products to the public and to trade customers at the premises and island-wide.

Both activities have been carried out continuously at the premises since 18th February 2013 without interruption and without any planning enforcement action. The established use is therefore a combined food manufacturing and retail sales use — spanning both Class 4 (light industrial, being an industrial process for the making of an article) and Class 1 (shop, being the retail sale of goods) under Part 4 of Schedule 2 of the Planning and Development Regulations 2001 as amended.

2.2 The Proposed Activity

The proposed activity is the preparation and direct sale of steamed pork ribs and steamed chicken wings with boiled rice, prepared using Mr. Curry Black Bean Sauce manufactured on the premises, to customers on Saturday evenings only between 5:00pm and 9:00pm. The activity is strictly limited in three material respects:

Time — four hours on one evening per week only, on Saturdays between 5:00pm and 9:00pm.

Scope — one dish only, prepared exclusively using the product manufactured on the premises.

Scale — between fifty and eighty customers per Saturday session.

No works are proposed to the building. No new equipment is required. All equipment is already on site. No new installations are proposed. The cooking method is steaming only — pork ribs and chicken wings are marinated in Mr. Curry Black Bean Sauce and steamed, producing water vapour rather than smoke, grease or strong odour. There is no deep frying, no charcoal cooking and no solid fuel cooking of any kind. No external alterations of any kind are proposed or required.

The dish sold at the Saturday kitchen is not a generic commercial product. It is the manufactured product of the premises — Mr. Curry Black Bean Sauce — served in its most direct retail form. Every customer who eats the dish is consuming the product manufactured at Unit 3–4 Donore Industrial Estate. The kitchen and the manufacturing activity are a single integrated commercial undertaking.

3. THE COUNCIL'S DECISION — WHAT IT SAYS AND WHAT IT OMITS

The decision of Louth County Council dated 10th July 2026 states, in its entirety on the question of reasoning:

"The activity as described constitutes a material change of use and would therefore constitute development as defined by the Planning and Development Act."

That is all. No analysis. No reasoning. No engagement with the Applicant's detailed submissions of 23rd June 2026. No reference to any regulatory provision. No explanation of why a Saturday evening kitchen operating for four hours per week within an established food manufacturing and retail sales premises constitutes a material change of use.

The decision's summary paragraph then refuses a "Declaration of Exemption." This framing is itself erroneous. The Applicant's Further Information Response of 23rd June 2026 clearly and explicitly stated that the declaration sought was not a declaration of exempted development but a declaration that the proposed activity does not constitute development at all. The Council appears to have failed to read or engage with that primary submission.

4. GROUND 1 — THE COUNCIL ANSWERED THE WRONG QUESTION

The original Section 5 question submitted on 19th May 2026 asked whether the proposed activity is development and, if so, whether it is exempted development. In the Further Information Response of 23rd June 2026 the Applicant submitted a replacement question — clearly headed "REPLACEMENT QUESTION" and stated to supersede the original in all respects — which sought a declaration that the proposed activity does not constitute development at all.

These are legally distinct positions. A declaration that an activity is "not development" is a fundamentally different and stronger legal position than a declaration that it is "exempted development." Exempted development presupposes that the activity is development but falls within a statutory exemption. "Not development" means that the activity does not cross the threshold of Section 3 of the Act in the first place.

The Council's decision of 10th July 2026 answers the original May question and ignores the replacement question entirely. It makes no reference to the replacement question, no reference to the legal distinction between "not development" and "exempted development," and its summary paragraph incorrectly characterises the application as one for a "Declaration of Exemption." The Council decided a question that had been formally superseded and withdrawn by the Applicant.

An Coimisiún Pleanála is therefore being asked to review a decision that did not address the question actually put to the Planning Authority. The Council cannot be said to have properly discharged its function under Section 5(2)(a) of the Act in these circumstances — that subsection requires the planning authority to issue its declaration on the question that has arisen and the main reasons and considerations on which its decision is based. The Council issued a declaration on a superseded question and gave no reasons. An Coimisiún Pleanála should conduct a fresh assessment of the replacement question and determine whether the proposed activity constitutes development at all.

The Council's misdirection of itself is further confirmed by its own recital of the considerations it had regard to in making its decision. The decision records that the Council had regard, among other things, to Article 9 of the Planning and Development Regulations 2001 as amended. Article 9 is headed "Restrictions on exemption." It is a provision which sets out the circumstances in which development that would otherwise qualify as exempted development under Article 6 of the Regulations loses its exempted status. Its opening words are unambiguous: "Development to which article 6 relates shall not be exempted development for the purposes of the Act —" followed by a list of restricting circumstances.

Article 9 is therefore a provision that operates entirely within the domain of exempted development. It presupposes that the activity in question is already development and is already claiming exempted status under Article 6. It has no application whatsoever to the prior and distinct question of whether an activity constitutes development in the first place. While consideration (a) of the decision records that the Council had regard to the definition of development, the Council gave no reasoning whatsoever explaining how it applied that definition to the facts before it. The citation of Article 9 — a provision that only becomes relevant after the development question is answered in the affirmative — alongside a bare conclusion on the development question with no intervening reasoning, strongly suggests that the Council conflated the two legally distinct questions rather than addressing them sequentially and separately as the law requires. The question of whether an activity is development must be answered first and independently. Only if it is answered affirmatively does the question of exempted development — and Article 9 — arise at all. The Council's decision gives no indication that this sequential analysis was carried out.

5. GROUND 2 — THE COUNCIL GAVE NO REASONS

The obligation on a planning authority to give reasons for its decisions is well established in Irish administrative law. In Mulholland v An Bord Pleanála (No. 2) [2005] IEHC 306, [2006] 1 IR 453 the High Court held that a decision-maker must give reasons sufficient to enable the applicant to:

"(1) give to an applicant such information as may be necessary and appropriate for him to consider whether he has a reasonable chance of succeeding in appealing or judicially reviewing the decision,
(2) arm himself for such hearing or review,
(3) know if the decision maker has directed its mind adequately to the issues which it has considered or is obliged to consider, and
(4) enable the courts to review the decision."

The Council's decision in this case satisfies none of these requirements. A single bare assertion that the activity "constitutes a material change of use" — with no analysis, no regulatory reference, no engagement with the Applicant's detailed submissions and no explanation of why the Saturday kitchen is materially different in character from the established food manufacturing and retail sales use — does not constitute reasons in any meaningful sense.

The Applicant submitted a detailed Further Information Response of twenty-three pages addressing the established use, the proposed activity, traffic impact, cooking methods, equipment and the legal basis for the declaration sought. The Council engaged with none of it. An Coimisiún Pleanála is entitled — and indeed required — to conduct a de novo assessment of the question referred and to substitute its own determination for a decision that is wholly unreasoned on its face.

The failure to give reasons is made more acute by the Council's own recital of its considerations. Consideration (b) of the decision records that the Council had regard to "plans and particulars forwarded to the Planning Authority on 19th May 2026 and 23rd June 2026." The particulars of 23rd June 2026 are the Applicant's detailed Further Information Response — twenty-three pages of factual and legal submissions addressing every aspect of the proposed activity, including the replacement question, the Article 10(2)(a) incidental use argument, the combined Class 1 and Class 4 established use, the traffic assessment, the cooking methods and the legal basis for the declaration sought. By acknowledging those submissions as a consideration it had regard to, the Council accepted that it received and considered them. Yet its decision contains not a single word engaging with any of those submissions. A planning authority that acknowledges receipt of detailed legal and factual submissions, records them as a consideration it had regard to, and then produces a single sentence conclusion with no reasoning whatsoever has not genuinely engaged with those submissions. Nominal receipt is not substantive engagement. The obligation to give reasons established in Mulholland v An Bord Pleanála (No. 2) [2005] IEHC 306 requires that the decision-maker demonstrate that it directed its mind adequately to the issues it was obliged to consider. The Council's decision fails that test entirely.

6. THE COUNCIL'S OWN STATED CONSIDERATIONS SUPPORT THE APPLICANT'S CASE

Before addressing the substantive legal grounds, the Applicant wishes to draw An Coimisiún Pleanála's attention to two further considerations recited by the Council in its decision which, when properly analysed, actively support the Applicant's case rather than the Council's conclusion.

6.1 Consideration (d) — The Use of the Lands

The Council recorded that it had regard to "the use of the lands." This is the consideration that goes directly to the heart of the material change of use finding — and it is the consideration on which the Council's failure to give reasons is most acutely felt.

If the Council genuinely had regard to the use of the lands it must have considered the established use of Unit 3–4 Donore Industrial Estate — food manufacturing and retail sales continuously since 18th February 2013, spanning both Class 4 light industrial and Class 1 retail use under the Planning and Development Regulations 2001. Having considered that established use, the Council was then required to assess whether the proposed Saturday evening kitchen represents a material departure from it. That assessment required the

Council to engage with the Applicant's detailed submissions on the integrated and ancillary nature of the kitchen activity, the Article 10(2)(a) incidental use argument, the combined Class 1 and Class 4 established use and the three strict limitations on the proposed activity in time, scope and scale.

The Council gave no indication whatsoever of how its consideration of the use of the lands led to a finding of material change of use. It stated no analysis of the relationship between the established use and the proposed activity. It made no reference to the Class 1 and Class 4 combined use. It made no reference to the Article 10(2)(a) argument. It made no reference to the integrated and ancillary nature of the kitchen within the manufacturing operation. The bare conclusion that the activity "constitutes a material change of use" is not a finding supported by any reasoning on the use of the lands — it is an assertion that substitutes for such reasoning. Consideration (d), far from supporting the Council's decision, exposes the absence of any genuine analysis underlying it.

6.2 Consideration (e) — The Location of the Premises Within the Settlement

The Council recorded that it had regard to "the location of the premises within the settlement." This consideration is also relevant — but when properly applied to the facts it strongly supports the Applicant's case, not the Council's conclusion.

Unit 3–4 Donore Industrial Estate is located in an industrial estate on the Donore Road, Drogheda. It is not located in a town centre. It is not located in a retail area. It is not located in a residential neighbourhood. It is not located on a mixed-use commercial street. It is located in an industrial estate in which the predominant uses are commercial and industrial in character.

The planning concerns typically associated with hot food operations — odour affecting residential neighbours, litter on residential streets, late night noise disturbing residents, inappropriate clustering in a retail area, conflict with residential amenity — simply do not arise in this location. There are no residential neighbours to be affected. There is no retail street character to be protected. There is no clustering concern in an industrial estate. The location of the premises within the settlement, properly considered under the Brogan materiality test, confirms that the proposed activity raises no planning concern of any substance whatsoever arising from its location. Consideration (e) actively supports a finding that no material change of use occurs.

Furthermore the presence of a large Lidl supermarket directly across the road from the premises is highly relevant to the location consideration. The road network serving Donore Industrial Estate already accommodates the very substantial traffic generated by a major national grocery retailer. The modest and time-limited traffic generated by the Saturday kitchen — three to five additional vehicles per hour on Saturday evenings — is entirely negligible by comparison. The location of the premises within the settlement, in the context of the existing uses and traffic patterns in the immediate vicinity, provides no basis whatsoever for a finding of material change of use.

7. GROUND 3 — THE ACTIVITY IS ORDINARILY INCIDENTAL TO THE ESTABLISHED USE UNDER ARTICLE 10(2)(a) OF THE 2001 REGULATIONS

7.1 The Regulatory Framework

Article 10(1) of the Planning and Development Regulations 2001 as amended provides that a change of use within any one of the use classes specified in Part 4 of Schedule 2 constitutes exempted development. Article 10(2)(a) provides — and this is the critical provision:

"A use which is ordinarily incidental to any use specified in Part 4 of Schedule 2 is not excluded from that use as an incident thereto merely by reason of its being specified in the said Part of the said Schedule as a separate use."

This provision establishes a clear and important principle. Where an activity is ordinarily incidental to an established use class, it does not require separate planning permission merely because it could also be described as falling within a different use class. The incidental activity remains within the established use.

7.2 The Established Use Classes of the Premises

The established use of Unit 3–4 Donore Industrial Estate combines two use classes under Part 4 of Schedule 2 of the 2001 Regulations:

Class 4 — Light industrial building. The manufacture of food products — curry sauces and black bean sauce — is an industrial process for the making of an article within the definition of "industrial process" in Article 5(1) of the Regulations. The premises is a light industrial building in which those processes are carried on.

Class 1 — Shop. The retail sale of those manufactured food products directly to members of the public and to trade customers has been part of the established use since 18th February 2013. The definition of "shop" in Article 5(1) of the Regulations includes use for the retail sale of goods to visiting members of the public. The retail sale of the manufactured product is expressly within this class.

The established use of the premises is therefore a combined Class 1 and Class 4 use — manufacturer and direct retailer of its own food product — continuously established since 18th February 2013.

7.3 The Saturday Kitchen Is Ordinarily Incidental to That Combined Use

The proposed Saturday kitchen is not a new or separate commercial activity. It is the direct retail sale of the food product manufactured on the premises prepared in its most immediate and consumable form. The sauce manufactured at Unit 3–4 is applied to raw pork ribs and chicken wings which are then steamed and served to customers. The customer is consuming the manufactured product.

This activity is ordinarily incidental to the established combined Class 1 and Class 4 use of the premises in the following respects:

It uses only the product manufactured at the premises. There is no other ingredient manufactured off-site.

It is a direct extension of the retail sales element of the established use — the product being sold in its most direct consumable form rather than in a sealed pouch.

It promotes and validates the manufactured product to consumers in the same way that a food manufacturer's market stall, tasting counter or product demonstration event promotes and validates the product manufactured at its premises.

It does not alter the primary character of the premises as a food manufacturing and retail sales operation.

Applying Article 10(2)(a), the Saturday kitchen is a use ordinarily incidental to the established Class 1 and Class 4 use of the premises. It is not excluded from those uses merely because it might also be characterised as falling within another class. The activity remains within and is an expression of the established use.

7.4 The Activity Is Not a Standalone Takeaway

The Applicant anticipates that the Council's finding may have been influenced by the view that the Saturday kitchen is in character a takeaway food business, which would constitute a separate use outside the established use classes of the premises. The Applicant submits that this characterisation is incorrect for the following reasons.

A standalone takeaway business is an independent commercial operation. It purchases ingredients from third-party suppliers, prepares dishes using commercially available products and sells food to the public as a primary commercial purpose in its own right. It has no connection to a manufacturing use at the same premises.

The Saturday kitchen at Unit 3–4 is the opposite of this in every material respect. It uses a single ingredient — the sauce manufactured on the premises. It operates for four hours on one evening per week. It is directly and inseparably integrated with the manufacturing activity. Without the manufacturing use, the kitchen cannot exist. The kitchen is the manufacturing use expressed in retail form.

Furthermore, the definition of "shop" in Article 5(1) of the 2001 Regulations explicitly provides that a shop includes use for "the sale of sandwiches or other food for consumption off the premises, where the sale of such food is subsidiary to the main retail use." The sale of food prepared using the manufactured product is within the existing retail use of the premises where it remains subsidiary to that main use — as it plainly does, operating for four hours on Saturday evenings only.

8. GROUND 4 — EVEN IF A CHANGE OF USE EXISTS, IT IS NOT MATERIAL IN PLANNING TERMS

8.1 The Legal Test for Materiality

Even if An Coimisiún Pleanála were to conclude that the Saturday kitchen represents a change of use — which the Applicant does not accept — that change must also be "material" in order to constitute development requiring planning permission under Section 3 of the Planning and Development Act 2000.

The Supreme Court confirmed in Monaghan County Council v Brogan [1987] IR 333 that the term "material" means material in planning terms — that is, whether the issues raised by the change of use would raise matters that would normally be considered by a planning authority if it were dealing with an application for planning permission, such as residential amenity, traffic safety or policy issues in relation to statutory plans.

Applying this test to the facts of this application, the proposed Saturday kitchen raises no planning concern of any substance whatsoever on any criterion a planning authority would normally consider.

8.2 Application of the Materiality Test to This Case

Residential amenity.

The premises is located in Donore Industrial Estate, an industrial estate. There are no residential properties in the immediate vicinity. The Saturday kitchen operates between 5:00pm and 9:00pm on Saturday evenings only. No residential amenity impact of any kind arises.

Traffic safety.

The Applicant estimates between fifty and eighty customers per Saturday session. Approximately half are expected to walk from the Lidl supermarket car park directly across the road, having completed their weekly shopping. Estimated vehicle movements are three to five additional vehicles per hour over a four-hour period. Lidl directly across the road generates customer vehicle traffic conservatively estimated at twenty to fifty times that volume. The road network already accommodates this without difficulty. The additional traffic generated by the Saturday kitchen is entirely negligible by any planning standard.

Noise and odour.
The cooking method is steaming only. Pork ribs and chicken wings are marinated in Mr. Curry Black Bean Sauce and steamed in a commercial steaming pot. Rice is cooked separately. Steaming produces water vapour. There is no deep frying, no open flame grilling, no charcoal and no solid fuel cooking of any kind. The odour and fume impact of a steaming-only operation is minimal and is fundamentally different in character from the frying, grilling and charcoal cooking that typically generate the odour concerns associated with hot food takeaway businesses. No material noise or odour impact arises.

Policy issues in relation to statutory plans.
The premises is located in an industrial estate zoned for commercial and industrial activity. A food manufacturer conducting direct retail sales of its own product on Saturday evenings is entirely consistent with the zoning and raises no policy conflict of any kind.

Hours of operation.
Four hours on one evening per week. The shared car park at Donore Industrial Estate has fully cleared by 1:00pm on Saturdays when the neighbouring business at Unit 1 and 2 closes. The proposed kitchen opens at 5:00pm — four hours after the car park has cleared. No conflict with any neighbouring use arises.

On every criterion the Brogan materiality test identifies, the proposed Saturday kitchen raises no planning issue of any substance. There is nothing for a planning authority to assess. The change — if it is a change at all — is not material in planning terms.

9. THE SCOPE OF THE DECLARATION — THE APPLICANT DOES NOT SEEK A BLANK CHEQUE

The Applicant wishes to address directly a concern that planning authorities sometimes raise in the context of limited activities of this nature — namely that granting a declaration that a restricted activity does not constitute development might open the door to a progressive expansion of that activity beyond what was originally contemplated, with no planning control available to address that expansion.

The Applicant respectfully submits that this concern, while understandable in principle, does not arise on the facts of this application and does not provide a valid basis for refusing the declaration sought. The Applicant does not seek and does not claim any entitlement beyond the precise and strictly limited activity as described in this application. Four points are made.

First, the declaration sought is specifically and narrowly defined. It is limited to Saturday evenings only between 5:00pm and 9:00pm, one dish only prepared using the product manufactured on the premises, and the existing physical infrastructure of Unit 3–4 Donore Industrial Estate without any new works, equipment or installations. Those limitations are not mere assurances given to the Planning Authority. They define and constitute the activity in respect of which the declaration is sought. They are built into the declaration itself. Any activity that departs from those parameters falls outside the scope of the declaration entirely and remains subject to the full planning control regime.

Second, a declaration that the precisely described Saturday evening kitchen does not constitute development does not immunise any expanded version of it. If in the futurc the activity were to expand — whether in hours, in days of operation, in the number or nature of dishes offered, or in scale — that expanded activity would represent a fresh factual situation. It would require its own separate assessment by the Planning Authority under Section 5 of the Act or, if development were found to have occurred, a planning application. The Applicant acknowledges this position fully.

Third, planning law decides the question before it, not hypothetical future variations of it. The question referred is whether the activity as precisely described constitutes development. An Coimisiún Pleanála is required to answer that question on its facts. Speculative concern about what might happen if the activity were expanded in the future is not a valid reason to answer the question incorrectly. If the activity as described does not constitute development — and the Applicant submits that it does not — then the declaration should say so. Any future expansion remains fully within the control of the Planning Authority.

Fourth, the Applicant has every commercial reason to maintain the activity within the parameters described. The Saturday evening kitchen exists to promote and validate the manufactured product — Mr. Curry Black Bean Sauce — as a market-facing expression of a food manufacturer's export ambition. It is not and has never been intended as a standalone commercial food business. The Applicant has no scope to operate a restaurant, a café or a takeaway — the proposed activity involves one dish only and operates for a limited few hours on one evening per week. The commercial purpose of the kitchen is inseparable from the manufacturing use and is served by operating on the limited and focused basis described. Expansion beyond those parameters would not serve that commercial purpose.

An Coimisiún Pleanála can and should answer the question before it on the basis of the activity as described. The declaration sought is precise, limited and self-contained. Any expansion of the activity beyond its defined parameters — whether in hours, days, dishes or scale — would require either a fresh Section 5 assessment or a full planning application, both of which remain entirely within the Planning Authority's control. The granting of this declaration does not diminish that control in any respect.

10. FALLBACK SUBMISSION — IN THE ALTERNATIVE, THE ACTIVITY IS EXEMPTED DEVELOPMENT

The Applicant advances the following submission in the alternative only. This submission arises for consideration if and only if An Coimisiún Pleanála finds, contrary to the Applicant's primary submission, that the proposed Saturday evening kitchen constitutes development within the meaning of Section 3 of the Planning and Development Act 2000 as amended. In that event the Applicant submits that the activity constitutes exempted development and does not require planning permission.

The basis for this fallback submission is as follows.

10.1 Article 10(1) — Change of Use Within the Same Use Class

Article 10(1) of the Planning and Development Regulations 2001 as amended provides that a change of use of any structure or other land from one use specified in a class set out in Part 4 of Schedule 2 of those Regulations to another use within the same class constitutes exempted development for the purposes of the Act.

The established use of the premises as a combined Class 1 and Class 4 use has been set out in detail in Section 7 of this submission. If the Saturday kitchen is found to constitute a change of use, that change — on the Applicant's analysis — remains within the combined Class 1 and Class 4 use already established at the premises. The activity is the direct retail sale of the food product manufactured on the premises. It is a Class 1 retail sales activity carried on within a premises whose established use includes Class 1 retail sales. Any change within the Class 1 use class is exempted development under Article 10(1).

10.2 Article 10(2)(a) — Ordinarily Incidental Uses

Article 10(2)(a) of the Planning and Development Regulations 2001 as amended provides that a use which is ordinarily incidental to any use specified in Part 4 of Schedule 2 is not excluded from that use as an incident thereto merely by reason of its being specified in the said Part as a separate use. The Applicant has advanced this provision as a primary argument in Section 7 above. In the context of this fallback submission, Article 10(2)(a) also provides an alternative basis for a finding of exempted development — if the Saturday kitchen is found to be a separate use, it is a use ordinarily incidental to the established combined Class 1 and Class 4 use and is therefore not excluded from the exempted development provisions applicable to those use classes.

10.3 Article 9 — Restrictions on Exemption Do Not Apply

As set out in Section 4 of this submission, Article 9 of the Planning and Development Regulations 2001 sets out the circumstances in which development that would otherwise qualify as exempted development loses its exempted status. The Applicant has examined each of the restrictions in Article 9(1) and submits that none of them applies to the proposed Saturday evening kitchen:

Article 9(1)(a)(i) — The activity would not contravene any condition attached to a planning permission, nor is it inconsistent with any use specified in any planning permission. The premises has no planning permission with relevant conditions attached.

Article 9(1)(a)(iii) — The activity would not endanger public safety by reason of traffic hazard or obstruction of road users. As demonstrated in Section 8 of this submission, the traffic impact of the Saturday kitchen is entirely negligible — three to five additional vehicles per hour on Saturday evenings in a location served by a Lidl supermarket generating twenty to fifty times that volume.

Article 9(1)(a)(viii) — The activity does not consist of the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use. The established use of the premises since 18th February 2013 is fully authorised. It has never been the subject of planning enforcement action.

All remaining provisions of Article 9 — concerning archaeological sites, road widening lines, landscape views, architectural conservation areas and special amenity areas — are wholly irrelevant to this industrial estate premises.

No restriction in Article 9 applies to strip away the exempted development status of the proposed Saturday evening kitchen. If An Coimisiún Pleanála finds that the activity constitutes development, it should find that it constitutes exempted development and that no planning permission is required.

11. SUMMARY AND DECLARATION SOUGHT

The Applicant respectfully summarises the grounds of this referral as follows. The analysis of the Council's own stated considerations and how they support the Applicant's case is addressed in Section 6 above. The scope of the declaration sought and the Applicant's response to any concern about future expansion of the activity are addressed in Section 9 above. The fallback submission on exempted development in the alternative is set out in Section 10 above.

Ground 1 — The Council answered the original May question and ignored the replacement question of 23rd June 2026 which sought a declaration that the proposed activity is not development at all. The Council decided a question that had been superseded and withdrawn. Furthermore the Council's own recital of its considerations — specifically its citation of Article 9 of the Planning and Development Regulations 2001, a provision concerned exclusively with restrictions on exempted development — confirms that the Council applied the wrong legal framework throughout, addressing the exempted development question rather than the prior and distinct question of whether the activity constitutes development at all.

Ground 2 — The Council gave no reasons for its determination. A single bare assertion that the activity "constitutes a material change of use" does not satisfy the obligation to give reasons established in Mulholland v An Bord Pleanála (No. 2) [2005] IEHC 306. An Coimisiún Pleanála should conduct a de novo assessment.

Ground 3 — The proposed activity is a use ordinarily incidental to the established combined Class 1 and Class 4 use of the premises under Article 10(2)(a) of the Planning and Development Regulations 2001 as amended. It is not excluded from the established use merely because it could be described as falling within another use class.

Ground 4 — Even if a change of use exists, it is not material in planning terms. Applying the test in Monaghan County Council v Brogan [1987] IR 333, the proposed activity raises no planning concern of any substance on any criterion a planning authority would normally consider — residential amenity, traffic safety, noise, odour or policy.

The Applicant respectfully requests that An Coimisiún Pleanála reverse the decision of Louth County Council dated 10th July 2026 and issue a declaration under Section 5 of the Planning and Development Act 2000 as amended that:

The proposed activity of preparing and selling cooked food dishes using products manufactured at the Premises, conducted on Saturday evenings only between 5:00pm and 9:00pm — amounting to four hours on one day per week — being an activity limited in scale and hours and ordinarily incidental to the established and lawful use of the Premises at Unit 3–4 Donore Industrial Estate, Donore Road, Drogheda, County Louth for food manufacturing and retail sales since 18th February 2013, and involving no structural alterations, no external works, no new equipment installations and no change to the external appearance of the building,

does not constitute development within the meaning of the Planning and Development Act 2000 as amended and does not require planning permission.

In the alternative, if An Coimisiún Pleanála finds that the proposed activity constitutes development within the meaning of the Act, the Applicant respectfully requests a declaration that:

The proposed activity of preparing and selling cooked food dishes using products manufactured at the Premises, conducted on Saturday evenings only between 5:00pm and 9:00pm — amounting to four hours on one day per week — being an activity limited in scale and hours and ordinarily incidental to the established and lawful use of the Premises at Unit 3–4 Donore Industrial Estate, Donore Road, Drogheda, County Louth for food manufacturing and retail sales since 18th February 2013, and involving no structural alterations, no external works, no new equipment installations and no change to the external appearance of the building,

constitutes exempted development within the meaning of the Planning and Development Act 2000 and the Planning and Development Regulations 2001 as amended and does not require planning permission.

Po Lamb
Trading as Mr. Curry
Unit 3–4 Donore Industrial Estate, Donore Road, Drogheda, County Louth.

Date: 30th July 2026

AUTHORITIES CITED

Planning and Development Act 2000 as amended — Section 3 (definition of development), Section 5(1) (declaration request to planning authority), Section 5(2)(a) (declaration by planning authority), Section 5(3)(a) (referral of declaration to An Coimisiún Pleanála for review)
Planning and Development Regulations 2001 as amended — Article 5(1) (definitions of "shop", "industrial process", "light industrial building"), Article 10(1) (change of use exemption), Article 10(2)(a) (ordinarily incidental uses), Part 4 of Schedule 2 (use classes)
Monaghan County Council v Brogan [1987] IR 333 — Supreme Court — materiality test for change of use
Mulholland v An Bord Pleanála (No. 2) [2005] IEHC 306, [2006] 1 IR 453 — High Court — duty to give reasons

Payments

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Payment details

Payment request title	Planning Appeal Fee
Amount	€220.00
External description	Planning Appeal Fee
Last update	30/07/2026
Status	Successful
Provider name	stripe
Provider type	Stripe
Payment reference code	pi_3Tz3EIB1CW0EN5FC0Cvpqc68
Stripe charge ID	ch_3Tz3EIB1CW0EN5FC0xVew6bm
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Journey ID	4fa76910-55b7-42a1-b1eb-af5a4c5ddedd
Journey title	Online Planning Appeal

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