



## Section 5 Declaration - Application Form

### Declaration as to whether development constitutes Exempted Development

**Please read "Guidance Notes" before completing this form**

#### Guidance Notes

1. The purpose of Section 5 of the Planning and Development Act 2000, as amended, is to establish if a particular development is or is not development and if it is or is not exempted development within the meaning of the Planning Act.
  - (a) A person seeking a determination must ensure under Question 7 (of the application form below) that a question is posed and that the question is clear, for example, is the construction of a shed development and is it or is it not exempted development. Details are then required of the shed so the planning authority can determine if the shed is exempt.
  - (b) The question to be determined should be clear as to whether it relates to an existing development or a proposed development. Details of the nature, size and location of the proposed development should be submitted and appropriate plans and elevations.
  - (c) If the question is not clear to the Planning Authority, the Section 5 application will be returned as invalid.
2. Any person may, on payment of the prescribed fee, currently €80.00 request in writing from the Planning Authority a declaration on a question as whether a particular type of development is exempt.
3. The Planning Authority is required to make a decision within 4 weeks of receipt of a valid Declaration Request however the Planning Authority can also request Additional Information if it is considered that insufficient information has been submitted.
4. Any person issued with a declaration may, on payment to the Board of such fee as may be prescribed, currently €220.00 refer a declaration for review by the Board within 4 weeks of the date of the issuing of the declaration.
5. A planning authority is required to consider whether the development or proposed development identified in the request would be likely to have significant effects on the environment by virtue, at the least, of the nature, size or location of such development.

An Comhairle Contae Lu  
Planála  
05 DEC 2025  
Fuarthas

## Section 5 Declaration - Application Form

**1. Name and address of person seeking the declaration:**

\_\_\_\_\_  
Nightpond Limited

Phone Number: \_\_\_\_\_ E-Mail: \_\_\_\_\_

**2. Name and address of agent (if any):**

\_\_\_\_\_  
Hughes Planning and Development Consultants, 85 Merrion Square, Dublin 2

Phone Number: [REDACTED] E-Mail: [REDACTED]

**3. Name and address for all correspondence (if not completed, correspondence will be sent to person seeking declaration)**

\_\_\_\_\_  
Hughes Planning and Development Consultants, 85 Merrion Square, Dublin 2

**4. Interest in site of the person seeking declaration:**

\_\_\_\_\_  
Lessee - [REDACTED]

(If applicant is not freehold owner of the property in question, please provide name and address of owner if known)

**5. Location and full address of development referred to in Question 7**

\_\_\_\_\_  
2 Stapleton Place, Dundalk, Co. Louth

**6. Eircode OR Grid Co-ordinates must be submitted. Grid references may be found on Google Maps or at <https://irish.gridreferencefinder.com>**

**7. Question for determination under Section 5 (See Note 1 above).**

The question must be framed in the following format, i.e. Is the construction of a shed development and is it or is it not exempted development:

“Whether the continued use of a residential building, where care is not provided, to house homeless persons, is or is not development?”

**8. Does the development consist of works to be carried out to an existing or proposed protected structure?      Yes       No**

If Yes, has a Declaration under Section 57 of the Planning and Development Act 2000 been requested or issued for the property by the Planning Authority?

No

I certify that the aforementioned is correct.

Signature of Applicant:  Date 03/12/2025

**Please include one copy of the following documents with this application form:**

- **Site Location Map:** (Scale 1:1000)
- **Site Layout Map:** (Scale 1:200 or 1:500)
- **Floor Plans & Elevations:** (Scale 1:50, 1:100 or 1:200)  
Existing & Proposed, where applicable
- **Application fee:** (€80)

**Completed Application Form & Fee of €80.00 may be sent to:**

**Planning Office, Louth County Council, Town Hall, Crowe Street,  
Dundalk, County Louth, A91W20C**

**OR**

**by email to [planninggroup@louthcoco.ie](mailto:planninggroup@louthcoco.ie) with contact details to arrange payment of fee.**

# PLANNING REPORT

Comhairle Chiondae Lughai  
Pleanála

05 DEC 2025

Fuarthas



## SECTION 5 APPLICATION – DECLARATION OF EXEMPTED DEVELOPMENT

No. 2 Stapleton Place, Dundalk, Co. Louth, A91 Y8K6

November 2025

SUBMITTED ON BEHALF OF:  
Nightpond Limited,

85 Merrion Square, Dublin 2, D02 FX60  
+353 (0)1 539 0710 info@hpdc.ie www.hpdc.ie

**HUGHES**  
**PLANNING**  
& DEVELOPMENT CONSULTANTS

## 1.0 Introduction

Hughes Planning and Development 9. Consultants, 85 Merrion Square, Dublin 2, have prepared this report to accompany an application for a Declaration of Exempted Development, on behalf of Nightpond Limited, 95 Dorset Street Upper, Dublin 1, concerning the use of No. 2 Stapleton Place, Dundalk, Co. Louth, A91 Y8K6. The subject site comprises a three-storey over basement period house which fronts the street and forms part of a terrace.

The property management and staff provision will solely be the responsibility of our client, the property owner. Staff will visit the site to carry out maintenance and cleaning works only. No element of care be it social, physical or emotional will be provided to residents at this property, nor will any non-governmental organisation or approved housing body be involved.

Therefore, the question before the planning authority is:

*"Whether the continued use of a residential building, where care is not provided, to house homeless persons, is or is not development?"*

## 2.0 Site Description

The subject property is located at No. 2 Stapleton Place, Dundalk, Co. Louth, A91 Y8K6, situated just off the R132 within Dundalk town centre. The site forms part of a historic terraced streetscape and comprises a two-storey-over-basement dwelling with attic accommodation, originally constructed in 1834. The house is positioned within a pair of symmetrical terraced properties and is set back slightly from the street behind a shared landscaped garden enclosed by cast-iron railings.

The property benefits from an exceptionally central location with a wide range of services and amenities within immediate walking distance, including retail units, cafés, restaurants, and public houses. Dundalk Grammar School is located approximately 250 metres to the south. Public transport connections are excellent, with a bus stop (Stop ID: 100521) situated less than 50 metres from the site, providing services on routes 100, 168, 174, and 174B.

Stapleton Place intersects with a number of key streets within the town centre and offers convenient pedestrian links to the wider urban area. The site therefore benefits from strong accessibility, established residential and community services, and proximity to major transport routes.



Figure 1.0 Aerial image showing the locational context of the subject site, outlined in red.

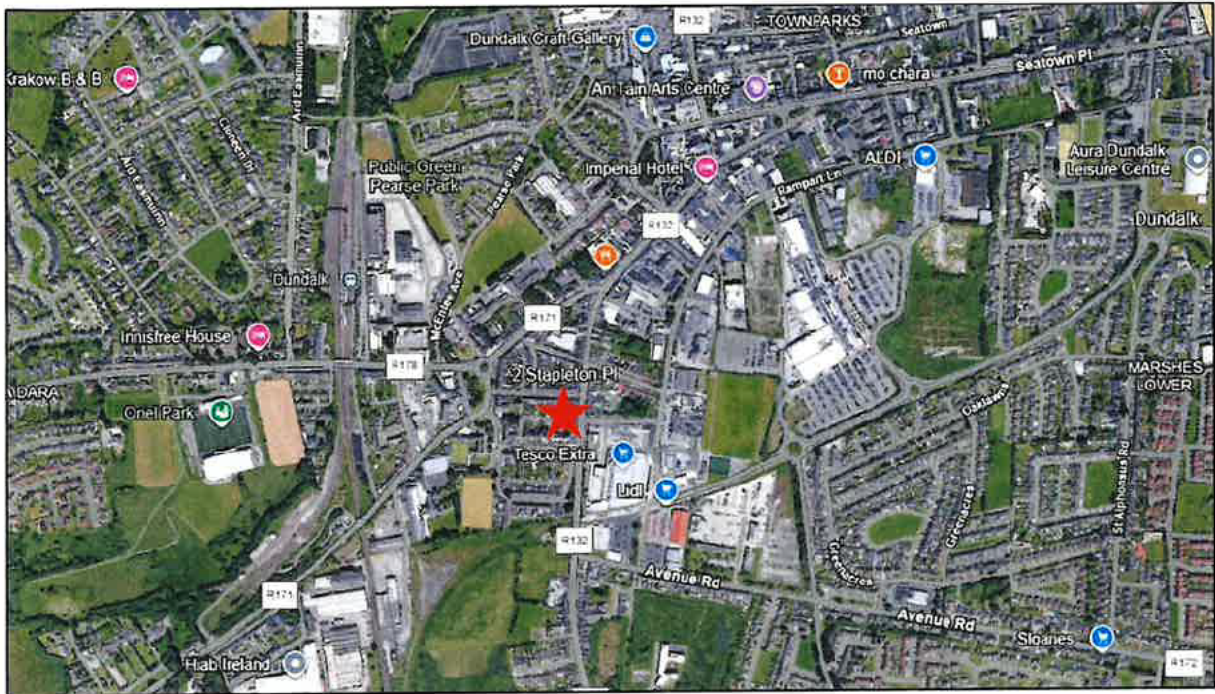


Figure 2.0 Wider locational context of the subject site (red star).



Figure 3.0 Street view image of the subject property as viewed from Stapleton Place, Dundalk (red shape).



Figure 4.0 Aerial image looking southeast towards the subject site (outlined in red).

### 3.0 Planning History

A review of the Louth County Council planning register identified no previous planning applications on file.

### 4.0 Planning Context

The Louth County Development Plan 2021-2027 is the relevant statutory development plan for the subject site. The following section is a brief zoning review and land use objective for the site.

#### 4.1 Zoning

The subject site is zoned Objective 'A1 –Existing Residential', under the County Development Plan, the statutory plan for the Dundalk Local Area Plan 2025-2031, with the objective 'To protect and enhance the amenity and character of existing residential communities.'

The guidance for development under this zoning designation is noted as follows:

*'The objective for this zoning is to conserve and enhance the quality and character of established residential communities and protect their amenities. Infill developments, extensions, and the refurbishment of existing dwellings will be considered where they are appropriate to the character and pattern of development in the area and do not significantly affect the amenities of surrounding properties. The strengthening of community facilities and local services will be facilitated subject to the design, scale and use of the building or development being appropriate for its location.'*

We note that whilst the subject site is not within an Architectural Conservation Area (ACA), nor is it listed as a protected structure in the Louth County 2021-2027.

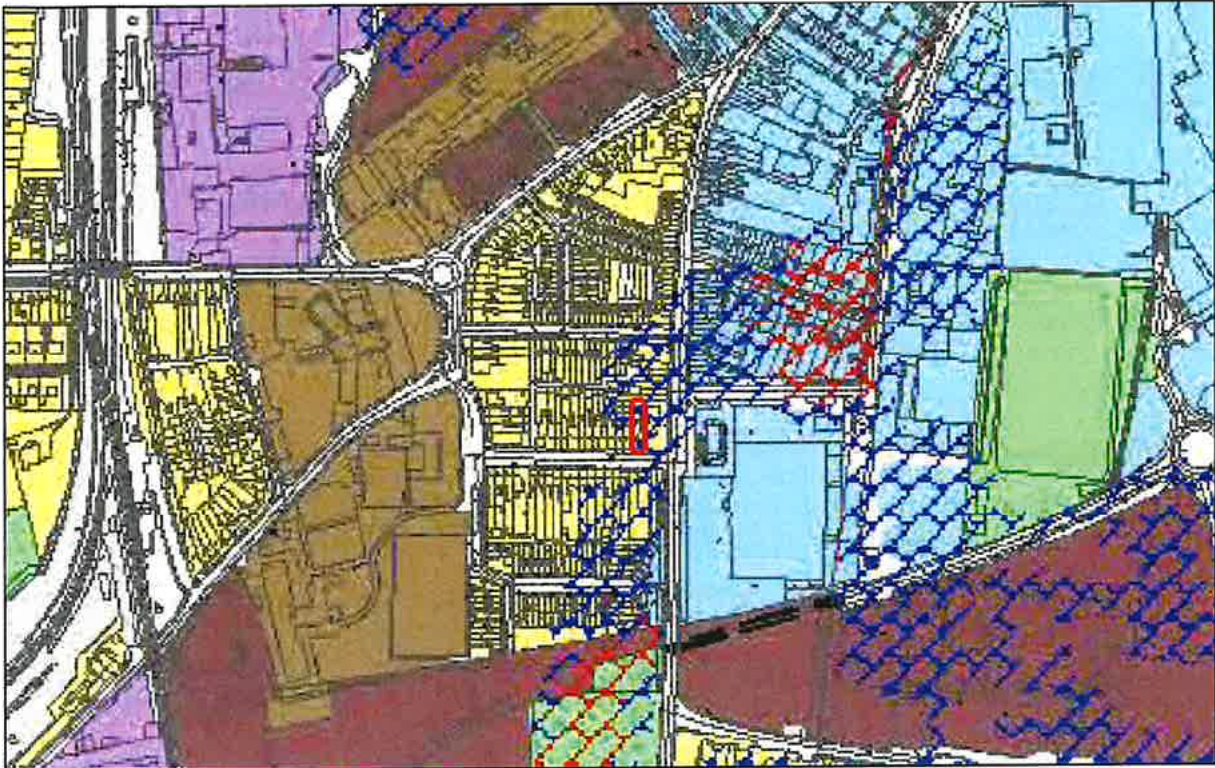


Figure 5.0 Extract from Dundalk LAP of the Louth County Development Plan illustrating the appraisal site (outlined in red) situated within lands zoned 'A1'.

The zoning matrix included in the development plan indicates 'permitted' uses in all designated zones. Permitted in principle uses are generally acceptable subject to the normal planning process and compliance with the relevant policies and objectives, standards and requirements set out in the Development Plan.

#### Permitted in Principle

Land uses which are classified as 'Permitted in Principle' will normally be permitted, subject to compliance with relevant policies, standards and requirements contained in the Plan. According to the Development Plan, uses which are 'Permitted in Principle' on land zoned 'A1' are as follows:

*'Allotments, B&B/ Guest House, Community Facility, E-Charging Facility, Home Based Economic Activities, Nursing Home, Park/Playgrounds, Place of Worship, Recreational /Amenity Open Space, Recreational /Sports Facility, **Residential**, Residential Institution, Retirement Village, Sheltered Accommodation, Traveller Accommodation, Utilities.'*

#### Open for Consideration

An 'open for consideration' use is one which may or may not be acceptable depending on the size or extent of the proposal and to the particular site location. Proposals in this category will be considered on their individual merits and may be permitted only if not materially in conflict with the policies and objectives of the Development Plan and if they are consistent with the proper planning and development of the area. Uses which are 'Open for Consideration' on designated 'A1' are as follows:

*'Coffee Shop/Tea Room, Childcare Facility, Healthcare Practitioner, Restaurant, Shop ≤200m<sup>2</sup>, Telecommunications Structures, Veterinary Surgery.'*

We note that residential use is a permissible use on subject lands. As such, the proposed use of the house is in accordance with 'A1' zoning object of the Louth County Development Plan 2022-2028.

## 5.0 Development

Under Section 2(1) of the Planning and Development Act 2000 (as amended), 'development' is assigned the meaning set out under Section 3 (1) as follows: -

*"In this Act, 'development' means, except where the context otherwise requires, the carrying out of works on, in, over or under land or the making of any material change in the use of any structures or other land."*

This declaration seeks clarification on the continued use of No. 2 Stapleton Place, Dundalk, Co. Louth, A91 Y8K6 as a dwelling that provides accommodation to homeless persons but does not provide care. From the outset, it is contended that this does not constitute development as no change of use has occurred.

It is noted that legislation does not define the phrase 'material change of use' as used in Section 2(1) of the Act. To determine the materiality of the change, the practical impacts and effects of the proposed change of use and whether it would have led to materially different planning considerations by the Planning Authority are considered in this determination.

It is submitted that there will be no discernible change to the use of the building other than the socio-economic class associated with the inhabitants occupying the building which should not be taken into consideration when having regard to whether a material change of use has occurred as evidenced by the Supreme Court *Dublin Corporation v Moore* [1984] ILRM 339 in which the judge stated:

*"I can well understand the objection voiced by Mr Heneghan in his affidavit, to which I have referred - the residents of a quiet suburb naturally resent the presence of what may well be out of keeping with what they conceive to be the standards appropriate to the neighbourhood. There cannot, however, be one law for Cabra and another for Clondalkin - yet others for Finglas and Foxrock. Considerations of this kind are not appropriate to planning law - if they were, they might well offend against rights of equality."*

It is considered that if this were a planning application for a dwelling, the planning authority would not include conditions prohibiting accommodation to people of particular socioeconomic backgrounds.

The subject site is a residential house which has 7 no. bedrooms. Residents of the building share a kitchen, living room, and dining room. An outdoor amenity area is provided at the rear of the property for use by residents. Residents are free to enter and exit the house throughout the day like any tenant renting from a private landlord. Staff employed by our client will be present in the property, with their duties comprising the cleaning and maintenance of the property. This building will provide long-term accommodation with residents living there for a minimum of 12 months, with most living there for 18 months or more. It is submitted that the continued use of the property to provide residential accommodation is not development as no material change of use has occurred.

This application is supported by a recent decision by Dublin City Council regarding a similar declaration issued under **Reg. Ref. 0298/25**. In that case, the Planning Authority declared that the continued use of a residential building to provide accommodation to homeless persons and where care was not provided did not constitute a material change of use and, therefore, did not constitute development for the purpose of the Act.

In considering the above, it is submitted that the use of No. 2 Stapleton Place, Dundalk as a long-term residential building to house homeless persons, which does not provide care, does not constitute a change of use and therefore, does not constitute development in accordance with the Planning and Development Act 2000 (as amended).

## 6.0 Conclusion

It is proposed to use the subject site at No. 2 Stapleton Place, Dundalk, Co. Louth, A91 Y8K6, as a dwelling house to provide accommodation to homeless persons. This facility will not provide care to residents. The building has been in use as a residential building since its construction and the continued

use of the building to provide residential accommodation does not constitute development as no change of use has occurred, nor have any works been carried out to the property.

Therefore, the question before the planning authority is:

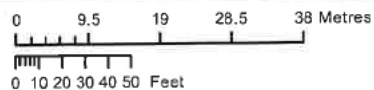
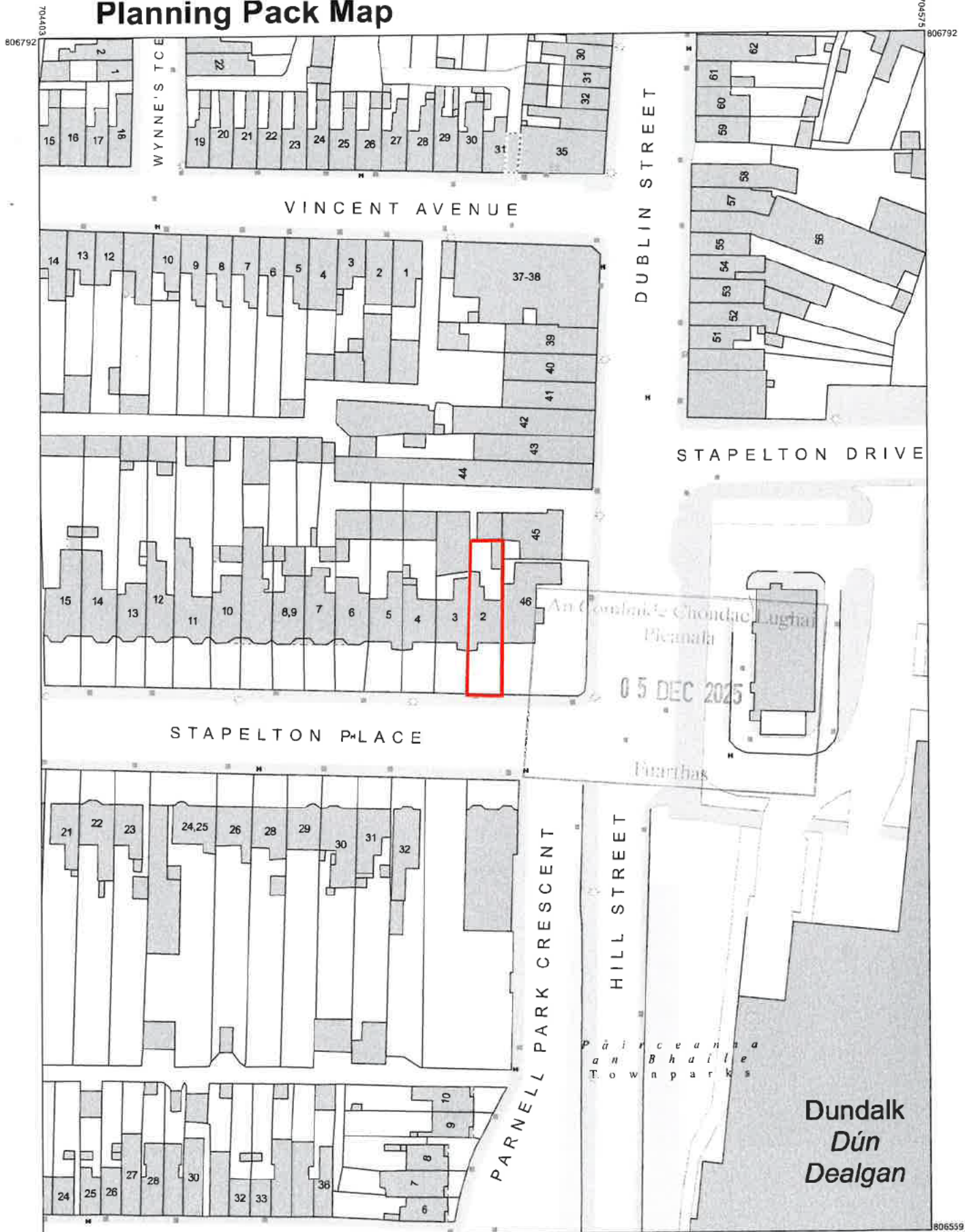
*"Whether the continued use of a residential building, where care is not provided, to house homeless persons, is or is not development?"*

Accordingly, we request a declaration to this effect from Louth County Council under Section 5 of the Planning and Development Act 2000 (as amended). Should you have any queries or require any further information including access to the building, please do not hesitate to contact the undersigned.



Kevin Hughes MIPI MRTPI  
Director for HPDC

# Planning Pack Map



OUTPUT SCALE: 1:1,000



**COMPILED AND PUBLISHED BY:**  
 Tailte Éireann,  
 Phoenix Park,  
 Dublin 8,  
 Ireland.  
 08F6E4

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 ITM 704489,806676  
**PUBLISHED:**  
 02/12/2025  
**MAP SERIES:**  
 1:1,000

**ORDER NO.:**  
 50505972\_1  
**MAP SHEETS:**  
 1702-01

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**Tailte Éireann**

**Louth County Council**  
**Section 5 Declaration**

**Planning Ref:** S5 2025/92

**Applicant's Name:** Nightpond Limited

**Type of Application:** Section 5 Declaration

**Development:** Whether the continued use of a residential building, where care is not provided, to homeless persons, is or is not development.

**Site Location:** 2 Stapleton Place, Dundalk, Co. Louth, A91 Y8K6

**Site Inspection** 16<sup>th</sup> December 2025

**Report Date** 16<sup>th</sup> December 2025

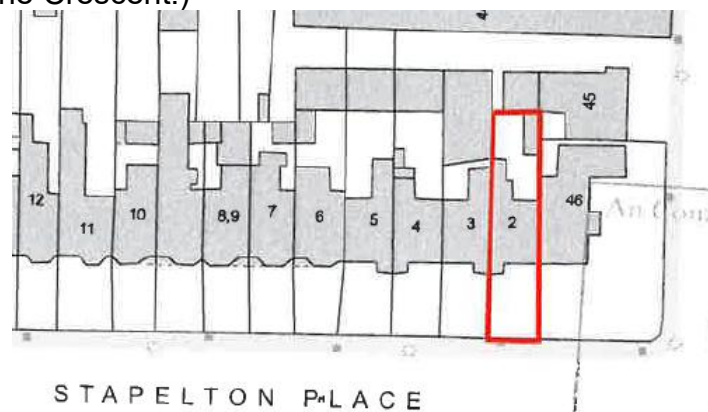
**Due Date:** 6<sup>th</sup> January 2026

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**1.0 SITE LOCATION AND DESCRIPTION**

The site is located in close proximity to Dundalk Town Centre (c.30m west from the town centre boundary,) on lands zoned '**A1 Existing Residential**' whereby the objective is "to protect and enhance the amenity and character of existing residential communities." (as per the Louth County Development Plan 2021-2027, as varied.)

The site boundary relates to the curtilage of No. 2 Stapleton Place, a Protected Structure of Regional Importance (RPS ID: D336) which is also on the National Inventory of Architectural Heritage (Reg no. 13707002.) The existing building comprises a terraced one-and-a-half-bay two-storey over basement with attic house, dated 1834 and the building benefits from an enclosed linear rear garden. The site adjoins a residential property to the west and a commercial properties to the east and north (rear.) The building directly east appears to be under construction at the time of inspection. The property is also located within an Architectural Conservation Area (ACA No. 21 – The Crescent.)



STAPELTON PLACE  
*Figure 1: Site Location Plan*



Figure 2: Existing dwelling (taken 16/12/2025.)

## 2.0 PLANNING HISTORY

**File ref 55523121** (William Murphy): Flats at 2 Stapleton Place, Dundalk – Application finalised 09/11/1979.

Enforcement Records:

None

## 3.0 DECLARATION SOUGHT

The applicant's submitted question for determination within Section 7 of the submitted application form relates to the following:

*“Whether the continued use of a residential building, where care is not provided, to house homeless persons, is or is not development?”*

The applicant has submitted the following supporting details:

- Section 5 Declaration Application Form.
- Planning Report (Hughes Planning & Development Consultants, dated November 2025)
- Site Location Map (OS Map sheet No. 1702-01)

## 4.0 EIA SCREENING AND DETERMINATION

Council Directive 85/337/EEC (as amended) on the assessment of the effects of certain public and private projects on the environment ('the EIA Directive') is designed to ensure that projects likely to have significant effects on the environment are subject to a comprehensive assessment of their environmental effects prior to development

consent being granted. The latest amendments to the EIA Directive are provided under Directive 2014/52/EU and Circular letter PL 1/2017.

Based on information provided and having considered the nature, size and location of the development, I am satisfied that there is no real likelihood of significant effects on the environment and as such, an EIAR is not required.

## **5.0 APPROPRIATE ASSESSMENT**

No screening report has been provided with this application. Having regard to the nature and scale of the proposed development and the nature of the receiving environment, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site (Special Area of Conservation or Special Protected Area) and as such an Appropriate Assessment (Stage 2 AA) is not required.

## **6.0 LEGISLATIVE CONTEXT**

### **S.I. No. 662/2024 - The Planning and Development Act 2024 (Commencement) Order 2024**

**The Planning and Development Act 2024 (Commencement) Order 2024 states:**

*“The 2<sup>nd</sup> day of December 2024 is appointed as the day on which the following provisions of the Planning and Development Act 2024 (No. 34 of 2024) shall come into operation:*

- (a) Sections 1 to 5;*
- (b) Part 26*

### **The Planning and Development Act 2024**

**Section 2 states:**

*“development” means—*

- (a) the carrying out of works—*
  - (i) on, in, over or under land, or*
  - (ii) on, in, over or under the maritime area,*

*or*

- (b) the making of a material change in the use of—*
  - (i) land or any structure on land, or*
  - (ii) the sea, seabed or any structure, in the maritime area, and includes the reclamation of land in the nearshore area;*

*“exempted development” means—*

- (a) development of a class prescribed under section 9 , or*
- (b) development that is exempted development by virtue of section 152;*

“structure” means—

- (a) a building, edifice, construction, excavation, or other thing constructed or made on, in or under any land, or a maritime site, or any part thereof, or
- (b) the land or maritime site on, in or under which such building, edifice, construction, excavation, other thing or part is situated;

“protected structure” means a structure, or part of a structure, specified in a record of protected structures, and includes—

- (a) the interior of the structure,
- (b) the land lying within the curtilage of the structure,
- (c) any other structure, and their interiors, lying within that curtilage, and
- (d) any feature of the structure that—
  - (i) is within the attendant grounds of the structure, and
  - (ii) is specified in a record of protected structures;

“Works” includes an act or operation—

- (a) of construction, excavation, demolition, extension, alteration, repair or renewal (including in relation to a protected structure, a proposed protected structure or a structure situated in an architectural conservation area), on, in, over or under land or a maritime site,
- (b) consisting of the application of plaster, paint, wallpaper, tiles or other material to the surface of a protected structure or proposed protected structure or the removal of plaster, paint, wallpaper, tiles or other material from such surface, and
- (c) consisting of the application of plaster, paint, wallpaper, tiles or other material to the exterior of a structure situated in an architectural conservation area or the removal of plaster, paint, wallpaper, tiles or other material from such exterior.

## **The Planning and Development Act, 2000 (as amended)**

### **Section 4:**

Section 4(1) provides a list of statutory exempted development.

Section 4(2) further provides for the making of regulations by the Minister relating to exempted development. The Planning & Development Regulations (PDR) 2001 (as amended) give effect to Section 4(2).

### **Section 5 states:**

- (1) If any question arises as to what, in any particular case, is or is not development or is or is not exempted development within the meaning of this Act, any person may, on payment of the prescribed fee, request in writing from the relevant planning authority a declaration on that question, and that person shall provide to the planning authority any information necessary to enable the authority to make its decision on the matter.

(2) (a) Subject to *paragraph (b)*, a planning authority shall issue the declaration on the question that has arisen and the main reasons and considerations on which its decision is based to the person who made the request under *subsection (1)*, and, where appropriate, the owner and occupier of the land in question, within 4 weeks of the receipt of the request.

(b) A planning authority may require any person who made a request under *subsection (1)* to submit further information with regard to the request in order to enable the authority to issue the declaration on the question and, where further information is received under this paragraph, the planning authority shall issue the declaration within 3 weeks of the date of the receipt of the further information.

(c) A planning authority may also request persons in addition to those referred to in *paragraph (b)* to submit information in order to enable the authority to issue the declaration on the question.

### **Section 32:**

Section 32 sets out a general obligation to obtain planning permission in respect of any development of land, not being exempted development, and in the case of development, which is unauthorised, for the retention of that unauthorised development.

### **The Planning and Development Regulations, 2001 (as amended)**

#### **Article 6:**

Article 6 of the Planning & Development Regulations, 2001 (as amended) provides (subject to the restrictions in article 9 PDR 2001) for the classes of exempted development under column 1 of Parts 1, 2 and 3 of Schedule 2, subject, where applicable, to the conditions and limitations imposed upon such classes as set out in column 2.

#### **Article 9:**

*Article 9(1) provides detailing on restrictions on exemption as follows:*

*9. (1) Development to which article 6 relates shall not be exempted development for the purposes of the Act—*

*(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,*

*(ii) consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,*

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

*(iia) endanger public safety by reason of hazardous glint and/or glare for the operation of airports, aerodromes or aircraft,*

*(iv) except in the case of a porch to which class 7 specified in column 1 of Part 1 of Schedule 2 applies and which 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, comprise the construction, erection, extension or renewal of a building on any street so as to bring forward the building, or any part of the building, beyond the front wall of the building on either side thereof or beyond a line determined as the building line in a development plan for the area 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,*

*(v) consist of or comprise the carrying out under a public road of works other than a connection to a wired broadcast relay service, sewer, water main, gas main or electricity supply line or cable, or any works to which class 25, 26 or 31 (a) specified in column 1 of Part 1 of Schedule 2 applies,*

*(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,*

*(vii) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or 13 other objects of archaeological, geological, historical, scientific or ecological 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, save any excavation, pursuant to and in accordance with a licence granted under section 26 of the National Monuments Act, 1930 (No. 2 of 1930),*

*(viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,*

*(ix) consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area 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,*

*(x) consist of the fencing or enclosure of any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility,*

*(xi) obstruct any public right of way,*

*(xii) further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area 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 and the development would materially affect the character of the area.*

## **Article 10:**

### Change of use.

10. (1) Development which consists of a change of use within any one of the classes of use specified in Part 4 of Schedule 2, shall be exempted development for the purposes of the Act, provided that the development, if carried out would not—

- (a) involve the carrying out of any works other than works which are exempted development,
- (b) contravene a condition attached to a permission under the Act,
- (c) be inconsistent with any use specified or included in such a permission, or
- (d) be a development where the existing use is an unauthorised use, save where such change of use consists of the resumption of a use which is not unauthorised, and which has not been abandoned.

### **The Planning and Development (Amendment) (No. 4) Regulations 2015 (S.I. No. 582 of 2015)**

Provides an exemption under Class 14(h) of the P & D Regs, 2001, as amended, as a measure for the change of use, and related works, for the purpose of providing the necessary accommodation facilities for protected persons.

In order to avail of this exemption under Class 14(h) the premises subject to the intended change of use under must be in *“use as a hotel, motel, hostel, guesthouse, holiday accommodation, convent, monastery, Defence Forces barracks or other premises or residential institution providing overnight accommodation, or part thereof, or from the change of use specified in paragraph (i) of the said premises or institution, or part thereof, to use as accommodation for protected persons.”*

### **European Union (Planning and Development) (Displaced Persons from Ukraine Temporary Protection) Regulations 2022 (S.I. 306 of 2022)**

S.I 306 of 2022 sets out that the provision of the Planning Act will not apply to certain classes of development by or on behalf of a State Authority, for the purposes of providing temporary protection to displaced persons as specified in the Regulations. The Schedule in Article 3 of S.I. 306/2022 lists the relevant classes of development for the purposes of providing temporary protection to displaced persons, as follows:

Schedule:

Article 3:

1. Reception and integration facilities.
2. Residential accommodation, including ancillary recreational and sporting facilities.
3. Medical and other health and social care accommodation.
4. Education and childcare facilities, including ancillary recreational and sporting facilities.
5. Emergency management coordination facilities.
6. Structures or facilities ancillary to development referred to in paragraphs 1 to 5, including administration and storage facilities.
7. Infrastructure and other works ancillary to development referred to in paragraphs 1 to 6.

**Class 20(f) of Part 1, Schedule 2 of the Planning and Development Regulations 2001 (as amended)**

Provides an exemption for the following:

Temporary use by or on behalf of the Minister for Children, Equality, Disability, Integration and Youth to accommodate or support displaced persons or persons seeking international protection of any structure or part of a structure used as a school, college, university, training centre, social centre, community centre, non-residential club, art gallery, museum, library, reading room, sports club or stadium, gymnasium, hotel, convention centre, conference centre, shop, office, Defence Forces barracks, light industrial building, airport operational building, wholesale warehouse or repository, local authority administrative office, play centre, medical and other health and social care accommodation, event and exhibition space or any structure or part of structure normally used for public worship or religious instruction.

Conditions and Limitations

1. The temporary use shall only be for the purposes of accommodating displaced persons or for the purposes of accommodating persons seeking international protection.
2. Subject to paragraph 4 of this class, the use for the purposes of accommodating displaced persons shall be discontinued when the temporary protection introduced by the Council Implementing Decision (EU) 2022/382 of 4 March 2022<sup>1</sup> comes to an end in accordance with Article 6 of the Council Directive 2001/55/EC of 20 July 2001<sup>2</sup>.
3. The use for the purposes of accommodating persons seeking international protection shall be discontinued not later than 31 December 2028.
4. Where the obligation to provide temporary protection is discontinued in accordance with paragraph 2 of this class, on a date that is earlier than 31 December 2028, the temporary use of any structure which has been used for the accommodation of displaced persons shall continue for the purposes of accommodating persons seeking international protection in accordance with paragraph 3 of this class.

5. The relevant local authority must be notified of locations where change of use is taking place prior the commencement of development.

6. 'displaced persons', for the purpose of this class, means persons to whom temporary protection applies in accordance with Article 2 of Council Implementing Decision (EU) 2022/382 of 4 March 2022.

7. 'international protection', for the purpose of this class, has the meaning given to it in section 2(1) of the International Protection Act 2015 (No. 66 of 2015).

8. 'temporary protection', for the purpose of this class, has the meaning given to it in Article 2 of Council Directive 2001/55/EC of 20 July 2001.

### **Class 14(h) Part 1, Schedule 2 of the Planning and Development Regulations 2001 (as amended)**

Provides an exemption for the following:

Development consisting of a change of use from use as a from use as a hotel, motel, hostel, guesthouse, holiday accommodation, convent, monastery, Defence Forces barracks or other premises or residential institution providing overnight accommodation, or part thereof, or from the change of use specified in paragraph (i) of the said premises or institution, or part thereof, to use as accommodation for protected persons.

## **7.0 ASSESSMENT**

### ***Does the proposal constitute development?***

An external site inspection was undertaken on 16<sup>th</sup> December 2025 whereby it was unapparent whether the property is currently occupied. In having regard to the question presented, the Planning Authority shall assess whether the continued use of the subject building as residential accommodation for homeless persons would constitute a 'material change of use' and subsequently, 'development.'

The applicant has made reference in their submission to a Supreme Court ruling (Dublin Corporation v Moore (1994)) in addition to a recent decision by Dublin City Council (reference 0298/25 whereby Dublin City Council concluded the continued use of a residential building to accommodate homeless persons where care was not provided, did not constitute a material change of use.

I shall also have regard to the former ABP decision reference ABP 307077-20, whereby it was determined that the change of use of apartments, as a facility for the reception and care of protected persons, did not constitute a material change of use from the permitted use as apartments and therefore did not constitute development. The reasoning within this decision hinged on the fact that the 25 no. apartments in that case would house 25 no. families and were to be used as an own door, independent living units, with no additional communal living facilities and that the accommodation was being operated in a manner comparable to standard apartment developments in

residential use, with gated access and serviced by a management company and security suite. Key to the reasoning in ref. ABP-307077-20 was that any facilities beyond those that would normally form part of an apartment complex were not in evidence and no additional reception, orientation or care services were provided for. In essence, the only difference was the personal circumstances of the apartment residents, which An Bord Pleanála concluded was not a material planning consideration.

In this case, an internal assessment of the property was not available at the time of inspection and no floor plans have been provided in relation to the internal makeup of the property and whether this has been altered.

The supporting planning statement submitted with this application indicates that the subject building is a residential house with 7 no. bedrooms and with residents within the building sharing a kitchen, dining and living room and an outdoor amenity area is located to the rear. The statement indicates that residents are free to come and go as they please, like any tenant would. Whilst staff are employed by the building owner, their duties are indicated as being cleaning and maintenance and the statement confirms no care is provided to the subject residents. No floor plans or elevational details have been provided to confirm whether any works have been carried out to the building further to the historical permission ref. 55523121, nor have details in relation to the number of residents occupying the property and their background, been provided.

On the basis of information available therefore, the Planning Authority is unable to determine whether there has been any intensification in the residential use as a result of the subject use, to determine whether there has been a material change in the use or not and / or whether the use would fall within the meaning of exempted development as defined by Article 10 of Part 2, Schedule 1 of The Planning and Development Regulations, 2001 (as amended.) Nor is it clear whether the use would engage Class 14 (f) of Part 2, Schedule 2 of the Planning and Development Regulations, 2001, as amended and / or Statutory Instruments 582 of 2015 and 306 of 2022.

Therefore I consider that further information should be sought to clarify these details.

***Does the proposal constitute exempt development?***

In light of the preceding paragraph, the Planning Authority is unable at this juncture and on the basis of the information provided, to determine whether or not the continued use of the subject dwelling as a residence for homeless persons compared to the former use as a private residential property constitutes development (and consequently exempted development if applicable,) as it is unclear how many people are living in the property and the internal makeup of the residential property, to determine the degree of intensification of use and any associated works, if any.

Furthermore, it is noted that the subject building is a Protected Structure (RPS ID: D336) as identified by the Louth County Development Plan 2021-2027, as varied and is also located within an Architectural Conservation Area (ACA No. 21 – The Crescent.) The submitted question does not refer to any works that have been undertaken or that are proposed to be carried out to the building, nor has a Section 57

application been made, though it is noted that the Planning Statement refers that the subject building is not a Protected Structure nor is it within an ACA, which is inaccurate.

As further information is required to assess whether the use constitutes development, I consider that clarification should also be sought in relation to whether any existing or proposed works have been carried out or are proposed to be carried out to the property, to determine whether the use of the building would or would not, contravene the restrictions to exempted development, including Article 9(1)(a)(xii) of Part 2, Schedule 1 of the Planning and Development Regulations, 2001, as amended.

## **8.0 CONCLUSION**

In having regard to the foregoing, it is unclear to the Planning Authority:

1. The numbers of persons living in the subject property to determine whether there has been an intensification of the approved residential use.
2. The background of persons living in the property i.e. to determine whether they fall within the definition of 'displaced' or 'protected persons', as defined in the relevant legislation outlined in Section 6.0 of this report.
3. Whether the existing / continued use of the property as specified involves any existing or proposed alterations to the subject building, which is a Protected Structure (RPS ID: D336) within an Architectural Conservation Area (ACA No. 21-The Crescent,) as identified by the Louth County Development Plan 2021-2027, as varied.

as the submitted details fail to show sufficient detail to enable a comprehensive assessment of the above matters to be undertaken, in order to provide a sound determination on the question submitted.

## **7.0 RECOMMENDATION:**

It is therefore recommended that **Further Information** is provided, as outlined below.

### **Further Information**

The applicant is requested to provide the following further details:

1. A detailed breakdown of the existing and proposed numbers of persons living in the subject property. This is required to determine the use in accordance with Article 9 of Part 2, Schedule 1 of the Planning and Development Regulations, 2001 as amended and Article 10 (1) of Part 2, Schedule 1 of the Planning and Development Regulations, 2001, as amended.
2. A detailed breakdown of the persons living in the property and clarification whether they fall within the definitions of displaced persons or persons seeking international or temporary protection, as defined under Class 20(f) of Part 1, Schedule 2 of the Planning and Development Regulations 2001 (as amended.)

3. A detailed breakdown of the existing internal layout of the property, including provision of existing floor plans and elevations drawn to scale. These plans and particulars shall clearly demonstrate the current layout of the property in relation to the historical planning permission on the site (permission reference 55523121) and whether there have been any alterations made to the building since this permission. Photographs of the internal layout would assist in confirming the layout of the building. These details are required to determine whether there is an intensification of the established residential use.
4. The subject property is a Protected Structure RPS ID: D336) and is located within an Architectural Conservation Area (ACA No. 21- The Crescent,) as identified by the Louth County Development Plan 2021-2027, as varied. Details are therefore required of all existing and / or proposed works (if any) carried out or to be carried out to the subject property to facilitate the subject use. Internal photographs of the building detailing any works carried out shall be included as part of your response to this item.



**Orla Rooney**  
**Assistant Planner**  
**Date: 17/12/2025**



**Turlough King**  
**A/Senior Planner**  
**Date: 17/12/2025**



## **LOUTH COUNTY COUNCIL**

Nightpond Ltd  
c/o Hughes Planning & Development Consultants  
85 Merrion Square  
Dublin 2

Planning Section  
Town Hall  
Crowe Street  
Dundalk  
Co. Louth  
Tel: 042-9335457

**Date: 17<sup>th</sup> December 2025**

### **SECTION 5 FURTHER INFORMATION REQUEST**

**Re: Application for Declaration of “Exempted Development” Part 1 Section 5, Planning & Development Act 2000 (as amended):- as to whether the continued use of a residential building, where care is not provided, to house homeless persons, is or is not development’**

**APPLICANT – Nightpond Ltd**

**REF. NO. S5 2025/92**

Dear Sir/Madam,

Further to your application received on 05<sup>th</sup> December 2025 the Planning Authority will not be in a position to determine whether the works constitute Exempted Development until such time as the following further information is submitted: -

1. A detailed breakdown of the existing and proposed numbers of persons living in the subject property. This is required to determine the use in accordance with Article 9 of Part 2, Schedule 1 of the Planning and Development Regulations, 2001 as amended and Article 10 (1) of Part 2, Schedule 1 of the Planning and Development Regulations, 2001, as amended.
2. A detailed breakdown of the persons living in the property and clarification whether they fall within the definitions of displaced persons or persons seeking international or temporary protection, as defined under Class 20(f) of Part 1, Schedule 2 of the Planning and Development Regulations 2001 (as amended.)

3. A detailed breakdown of the existing internal layout of the property, including provision of existing floor plans and elevations drawn to scale. These plans and particulars shall clearly demonstrate the current layout of the property in relation to the historical planning permission on the site (permission reference 55523121) and whether there have been any alterations made to the building since this permission. Photographs of the internal layout would assist in confirming the layout of the building. These details are required to determine whether there is an intensification of the established residential use.
4. The subject property is a Protected Structure RPS ID: D336) and is located within an Architectural Conservation Area (ACA No. 21- The Crescent,) as identified by the Louth County Development Plan 2021-2027, as varied. Details are therefore required of all existing and / or proposed works (if any) carried out or to be carried out to the subject property to facilitate the subject use. Internal photographs of the building detailing any works carried out shall be included as part of your response to this item.

This matter is being dealt with by **Orla Rooney, Assistant Planner, Louth County Council** who can be contacted on 042-9335457.

Yours faithfully,



---

Brian Duffy  
Planning Section



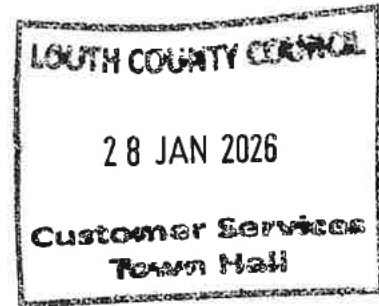
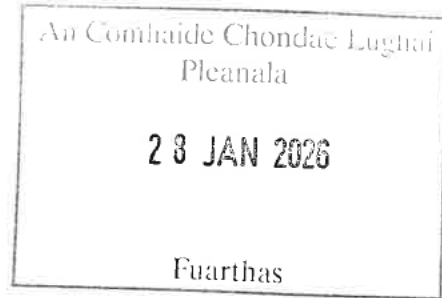
85 Merrion Square, Dublin 2, D02 FX60

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Planning Department,  
Louth County Council,  
Town Hall,  
Crowe Street,  
Dundalk,  
Co. Louth.



28<sup>th</sup> January 2026

**Re: Response to Request for Additional Information for the Section 5 Application Pertaining to No. 2 Stapleton Place, Dundalk, Co. Louth, A91 Y8K6**

Dear Sir/Madam,

Hughes Planning and Development Consultants, 85 Merrion Square, Dublin 2, have prepared this response on behalf of Nightpond Limited, in response to the Council's request for Additional Information pertaining to the Section 5 application submitted under Reg. Ref. S5 2025/92. This request for Additional Information was received from Louth County Council dated 17<sup>th</sup> December 2025. The Section 5 application seeks a declaration for the following proposal, the description being as per the statutory notices:

*"Whether the continued use of a residential building, where care is not provided, to house homeless persons, is or is not development?"*

This letter sets out the following items to take into account, our responses are reflected below:

#### **Item No. 1 – Occupancy**

*A detailed breakdown of the existing and proposed numbers of persons living in the subject property. This is required to determine the use in accordance with Article 9 of Part 2, Schedule 1 of the Planning and Development Regulations, 2001 as amended and Article 10(1) of Part 2, Schedule 1 of the Planning and Development Regulations, 2001, as amended.*

#### **Applicant's Response**

In response to Item No. 1, the house is currently vacant. The following table has been prepared showing the number of occupants proposed for the residential dwelling on the subject site.

It is considered a normal level of occupancy for a residential dwelling, given the size of the house, number of bedrooms, and the facilities provided. It is noted that planning legislation does not prohibit a certain number of persons from inhabiting a dwelling. It is not considered a material change of use.

Room Number	Number of Persons
Ground Floor Room 1	4
First Floor Room 2	4
First Floor Room 3	4
First Floor Room 4	2
Second Floor Room 5	4
Second Floor Room 6	2

Table 1.0 Table showing the number of people accommodated in each room.

The property was previously used to house Ukrainian refugees in compliance as per the provisions set out under S.I. 306/2022, *European Union (Planning and Development) (Displaced Persons from Ukraine Temporary Protection) Regulations 2022*, however it has remained vacant for two years prior to the lodgement of a Section 5 application.

The residential dwelling contains 1 no. large kitchen / dining room and 1 no. bathroom at the basement level, 1 no. kitchenette, 1 no. bedroom and 1 no. living room at the ground floor level, 3 no. bedrooms and 1 no. bathroom at the first floor level, and 2 no. bedrooms and 1 no. bathroom at the second floor level. It is considered that 20 no. persons can be comfortably accommodated in the subject property, with suitable facilities and amenities.

The subject site is a residential building and has been in continuous use as a residential property. Residents of the building will avail of the facilities provided on each floor. Residents are free to enter and exit the building throughout the day like any tenant renting from a private landlord. A management company maintains the building, as is common with most rental houses. This building provides long-term accommodation with residents living there for a minimum of 12 months and no element of care will be provided.

It is submitted that the continued use of the property to provide residential accommodation is not development as no material change of use will have occurred.

### Item No. 2 – Persons Living in the Property

*A detailed breakdown of the persons living in the property and clarification whether they fall within the definitions of displaced persons or persons seeking international or temporary protection, as defined under Class 20(f) of Part 1, Schedule 2 of the Planning and Development Regulations 2001 (as amended).*

### Applicant's Response

This Section 5 application seeks a declaration from Louth County Council regarding the use of the subject site to provide accommodation to homeless persons. These people are currently on **the Louth County Council Homeless Register** and are in need of urgent accommodation. This property will not be housing displaced persons or persons seeking international or temporary protection.

### Item No. 3 – Floor Plans

*A detailed breakdown of the existing internal layout of the property, including provision of existing floor plans and elevations drawn to scale. These plans and particulars shall clearly demonstrate the current layout of the property in relation to the historical planning permission on the site (permission reference 55523121) and whether there have been any alterations made to the building since this permission. Photographs of the internal layout would assist in confirming the layout of the building. These details are required to determine whether there is an intensification of the established residential use.*

**Applicant’s Response**

The internal layout of the property is shown in the floor plans included below and attached at full scale to this Request for Further Information response. Photographs of the internal layout of the property are included in the Appendix.

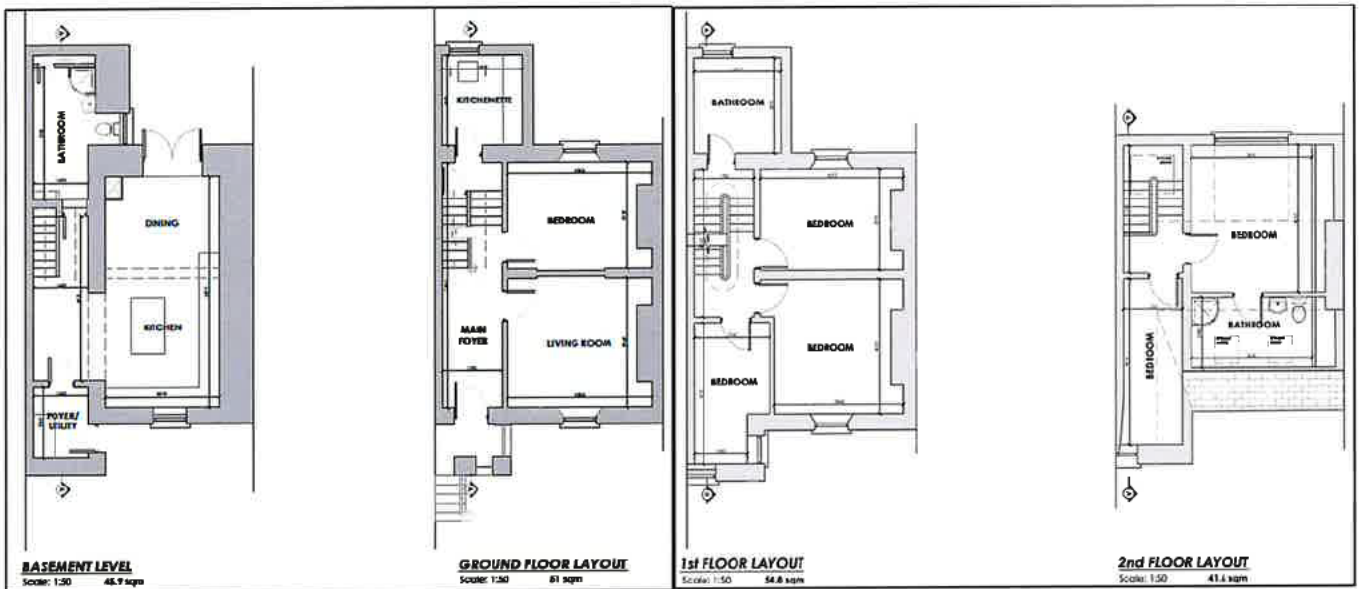


Figure 1.0 Floor plans of the subject site, showing the existing internal layout of the property.

In order to respond to this Further Information item in full, we contacted Louth County Council to gather information on planning permission reference no. 55523121. As per correspondence with the Council, we understand this is an enforcement file, regarding the subdivision of the subject building into bedsits in the 1970s. The file could not be shared with this office, but based on the current layout of the property, it can be assumed that, the owner of the property at the time reverted the use of the building to a single dwelling, which is considered to be exempted development under Class 14(e) of the Planning and Development Regulations 2001 which states:

*“Development consisting of a change of use -  
 (e) from use as 2 or more dwellings, to use as a single dwelling, of any structure previously used as a single dwelling.”*

The most recent works carried out at the property comprised fire safety upgrade works. These works did not affect any original features remaining in the house and are considered minor in nature.

It is considered that there is not an intensification of the subject property, as it was previously used to house Ukrainian refugees. As stated previously, planning legislation does not prohibit a certain number of persons from inhabiting a dwelling. Therefore, the number of persons proposed for this subject property is suitable.

**Item No. 4 – Protected Structure**

*The subject property is a Protected Structure RPS ID: D336) and is located within an Architectural Conservation Area (ACA No. 21 – The Crescent) as identified by the Louth County Development Plan 2021-2027, as varied. Details are therefore required of all existing and / or proposed works (if any) carried out or to be carried out to the subject property to facilitate the subject use. Internal photographs of the building detailing any works carried out shall be included as part of your response to this item.*

**Applicant's Response**

There are no works proposed to be carried out on the property to facilitate the use which is subject to this Section 5 application. The most recent works carried out at the property comprised fire safety upgrade works. These works did not affect any original features remaining in the house and are considered minor in nature.

It is important to note that many of the original features of the building have been preserved, which is shown in the photos contained in the Appendix.

In summary, the building will function as a residential dwelling, and the proposed use is consistent with its established residential function. The additional services provided are administrative in nature, ensuring the maintenance and security of the building without constituting personal care services.

We trust that the enclosed responses are in order and look forward to a decision from Louth County Council in due course.

Should you have any questions, please do not hesitate to contact the undersigned.

Yours sincerely,



Kevin Hughes MIPI MRTPI  
Director of HPDC



85 Merrion Square, Dublin 2, D02 FX60

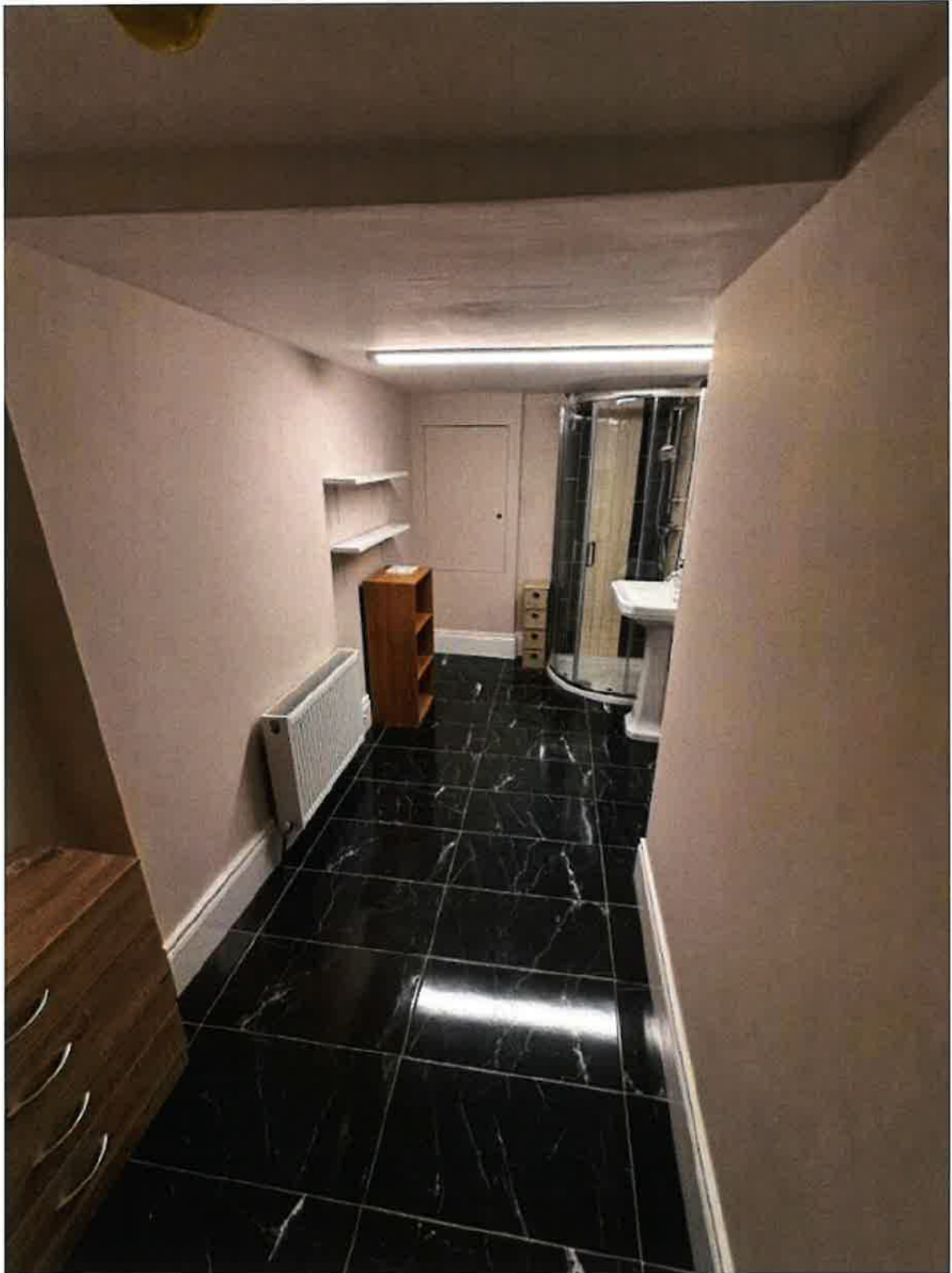
T +353 (0)1 539 0710

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www.hpdc.ie

### Appendix 1 – Photographs of the Internal









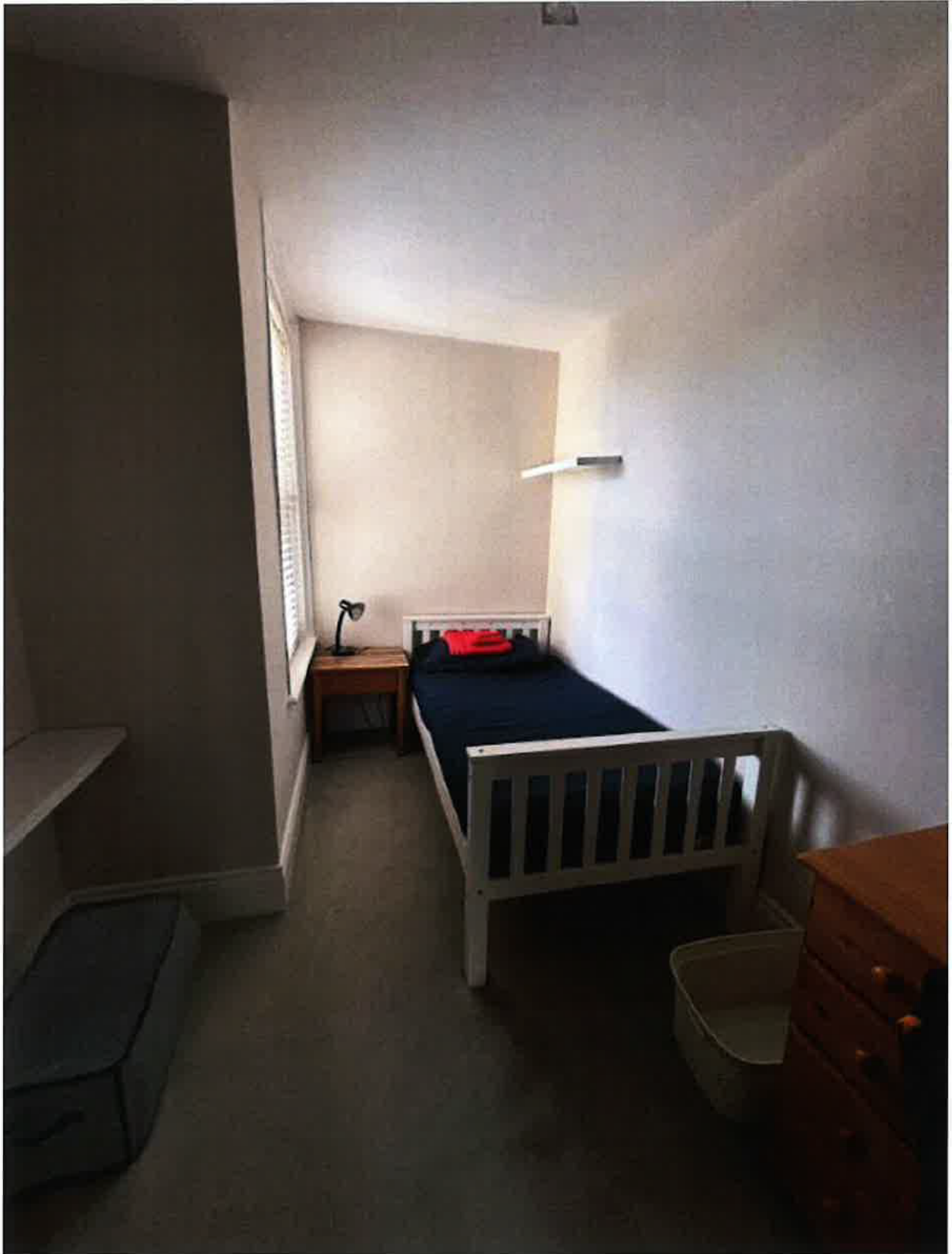








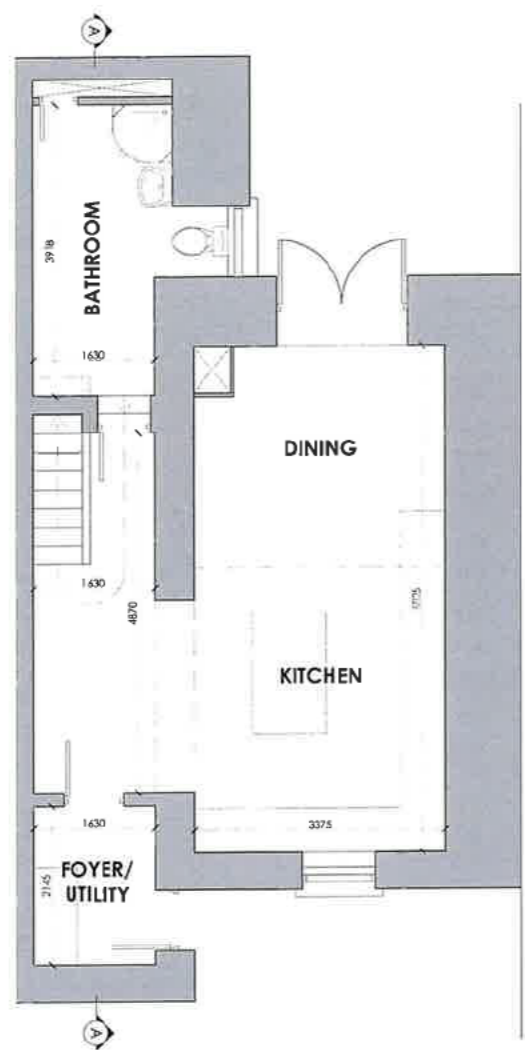










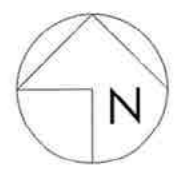


**BASEMENT LEVEL**  
Scale: 1:50      **45.9 sqm**



**GROUND FLOOR LAYOUT**  
Scale: 1:50      **51 sqm**

24010/001 - niondaic Lughai  
Pleanala  
**28 JAN 2026**  
Fuarthas

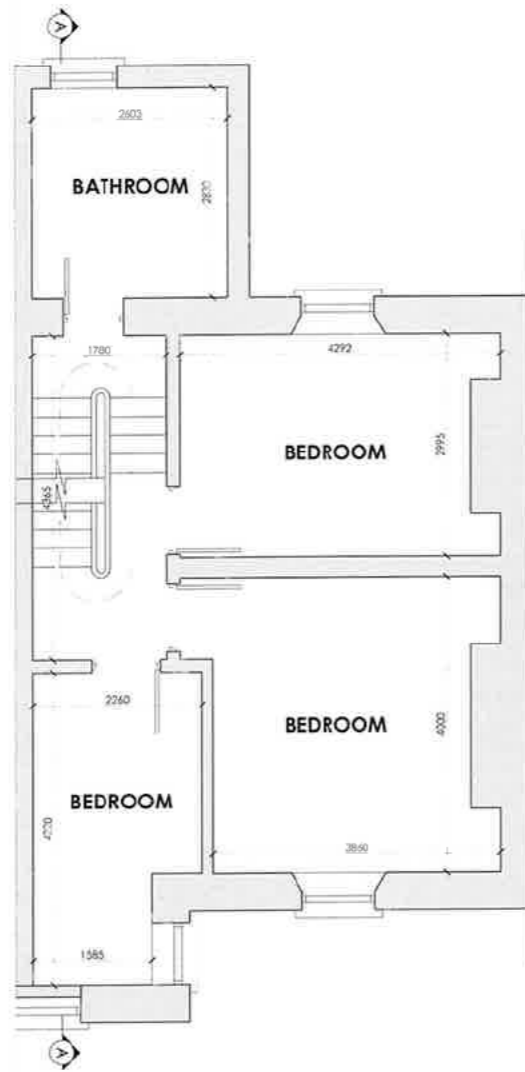


**INFORMATION**

It should be noted that this drawing is for **INFORMATION** only and therefore is limited in its capacity to convey the total information, details and specification necessary to complete the works. Any work carried out which is not covered here will be the responsibility of the person carrying it out. As these drawings are prepared as **INFORMATION** drawings only, it is strongly recommended that before any work commences, the Surveyor be consulted, in order that full working drawings, details and specifications be prepared.



CLIENT	EAMON BISHOP	
PROJECT	2 STAPLETON PLACE, DUNDALK, CO. LOUTH - A91 Y8K6 - CHANGE OF USE TO 2B	
DRAWING TITLE	<b>BASEMENT &amp; GROUND FLOOR LAYOUT</b>	
FIRST ISSUE	1st FEBRUARY 2024	SHEET SIZE A1
DRAWING NUMBER	24010/001	REV -

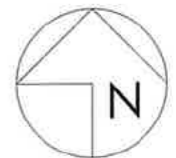


**1st FLOOR LAYOUT**  
Scale: 1:50    54.8 sqm



**2nd FLOOR LAYOUT**  
Scale: 1:50    41.6 sqm

Mr Colman, Chondae Lughai  
Pleanala  
28 JAN 2026  
Farrthas



**INFORMATION**

It should be noted that this drawing is for **INFORMATION** only and therefore is limited in its capacity to convey the total information, details and specification necessary to complete the works. Any work carried out which is not covered here will be the responsibility of the person carrying it out. As these drawings are prepared as **INFORMATION** drawings only, it is strongly recommended that before any work commences, the Surveyor be consulted, in order that full working drawings, details and specifications be prepared.

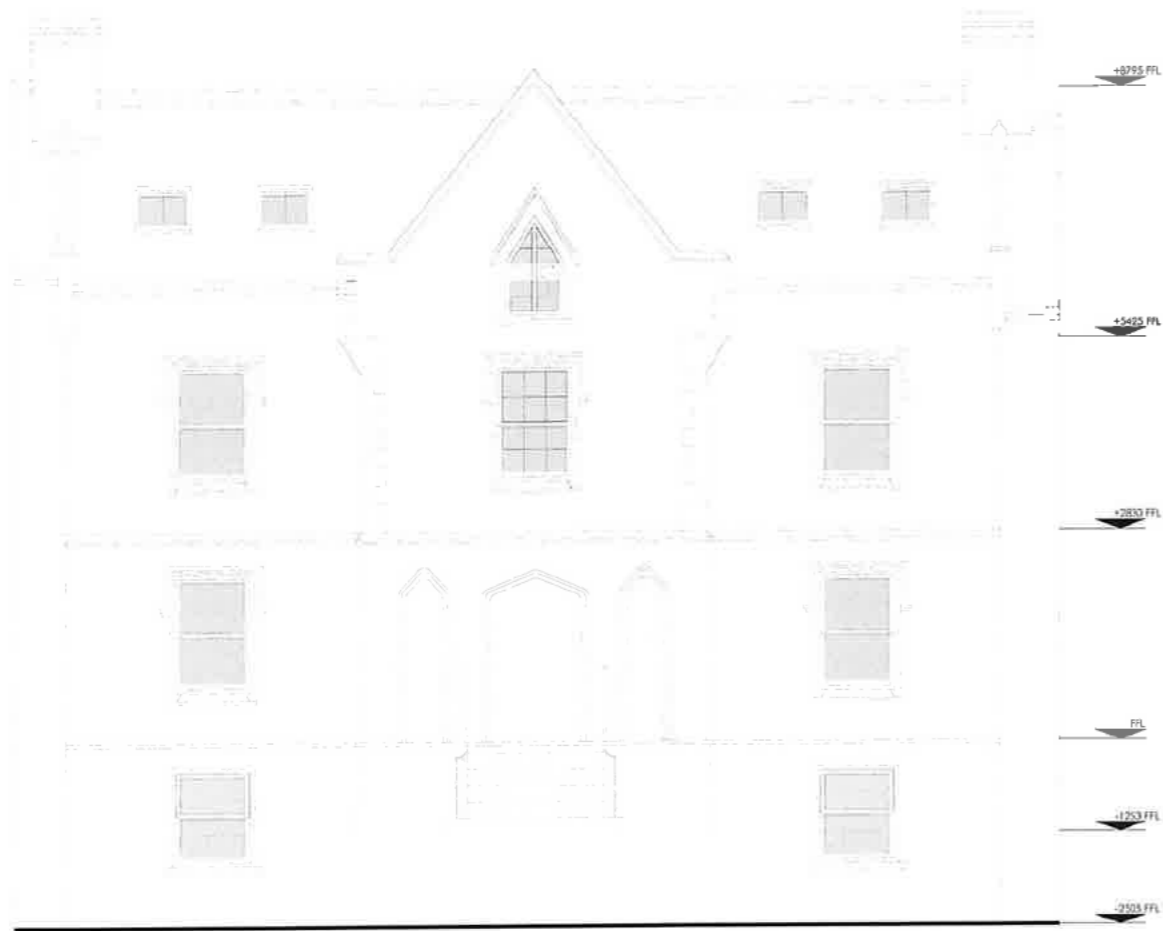


CLIENT  
EAMON BISHOP

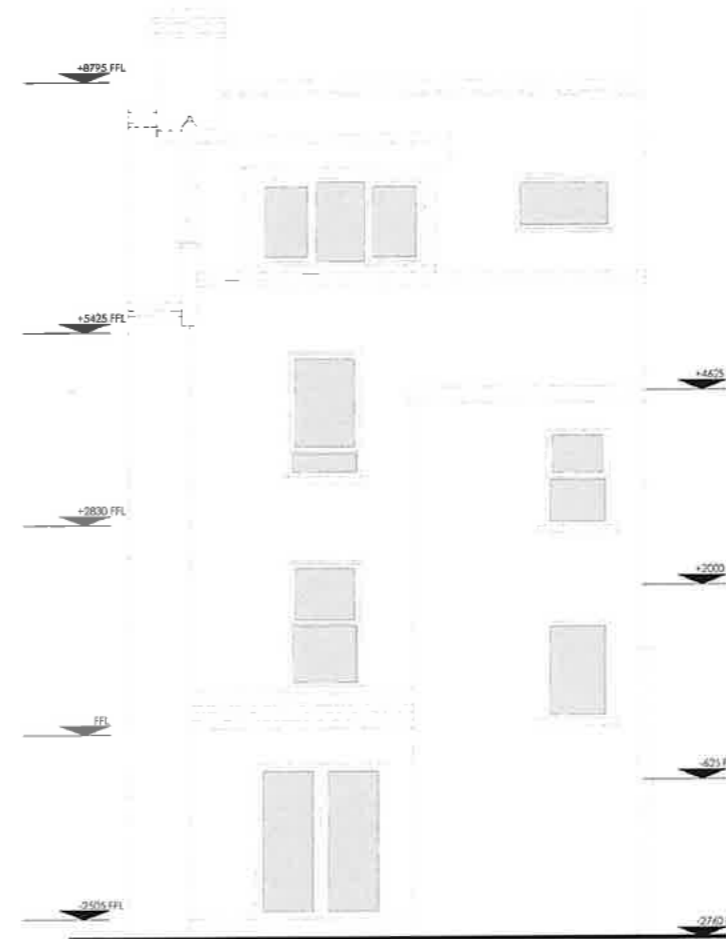
PROJECT  
2 STAPLETON PLACE, DUNDALK, CO.  
LOUTH - A91 Y8K6 -  
CHANGE OF USE TO 2B

DRAWING TITLE  
1st & 2nd FLOOR LAYOUT

FIRST ISSUE	SHEET SIZE
1st FEBRUARY 2024	A1
DRAWING NUMBER	REV
24010/002	-



**FRONT ELEVATION**  
Scale: 1:50



**REAR ELEVATION**  
Scale: 1:50

An *Archtúir* Chonclúe Lughai  
Pleanála  
28 JAN 2026  
Earrthas

**INFORMATION**

It should be noted that this drawing is for **INFORMATION** only and therefore is limited in its capacity to convey the total information, details and specification necessary to complete the works. Any work carried out which is not covered here will be the responsibility of the person carrying it out. As these drawings are prepared as **INFORMATION** drawings only, it is strongly recommended that before any work commences, the Surveyor be consulted, in order that full working drawings, details and specifications be prepared.

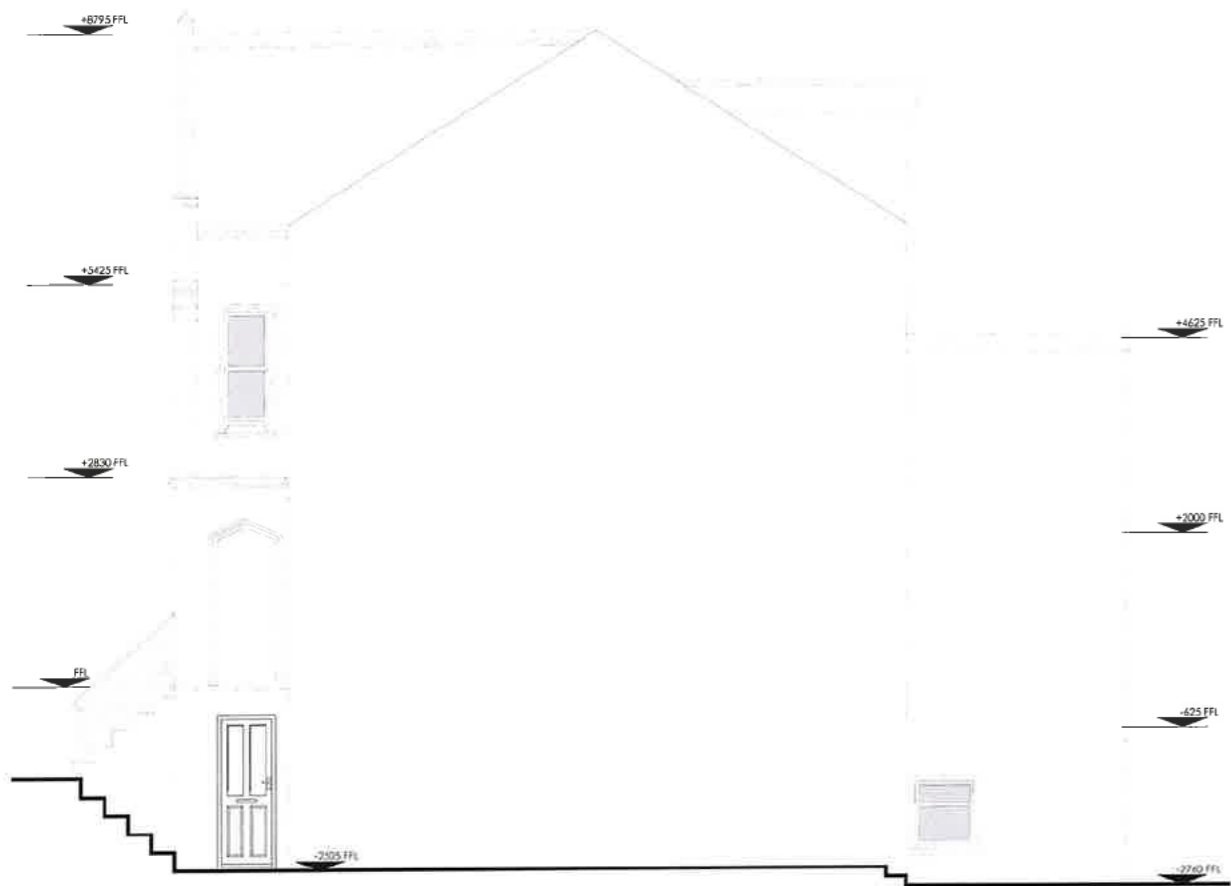


CLIENT  
EAMON BISHOP

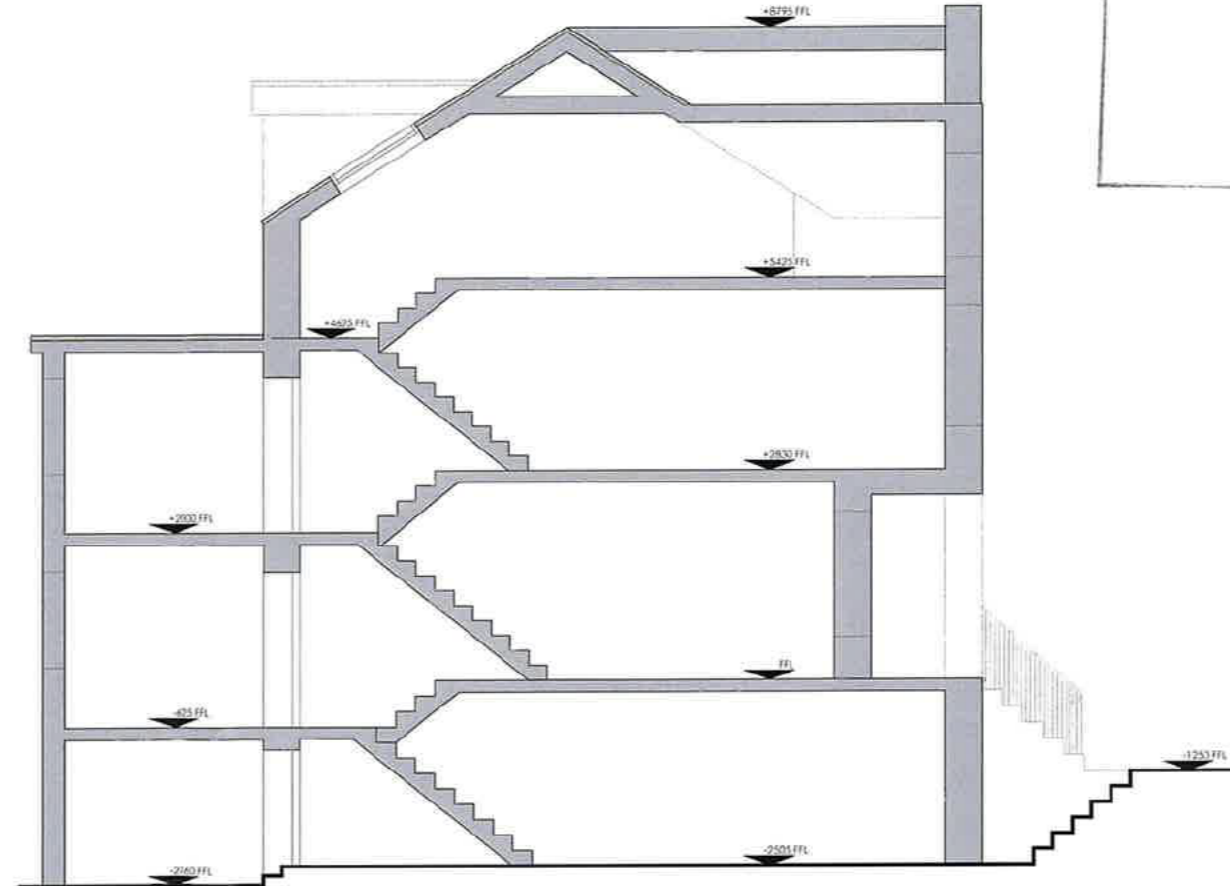
PROJECT  
2 STAPLETON PLACE, DUNDALK, CO.  
LOUTH - A91 Y8K6 -  
CHANGE OF USE TO 2B

DRAWING TITLE  
FRONT & REAR ELEVATION

FIRST ISSUE	SHEET SIZE
1st FEBRUARY 2024	A1
DRAWING NUMBER	REV
24010/003	-



**SIDE ELEVATION**  
Scale: 1:50



**SECTION**  
Scale: 1:50

Comair Chondac Lughai  
Pleamala  
28 JAN 2026  
Fuarthas

**INFORMATION**

It should be noted that this drawing is for **INFORMATION** only and therefore is limited in its capacity to convey the total information, details and specification necessary to complete the works. Any work carried out which is not covered here will be the responsibility of the person carrying it out. As these drawings are prepared as **INFORMATION** drawings only, it is strongly recommended that before any work commences, the Surveyor be consulted, in order that full working drawings, details and specifications be prepared.



CLIENT  
EAMON BISHOP

PROJECT  
2 STAPLETON PLACE, DUNDALK, CO.  
LOUTH - A91 Y8K6 -  
CHANGE OF USE TO 2B

DRAWING TITLE  
SIDE ELEVATION & SECTION

FIRST ISSUE	SHEET SIZE
1st FEBRUARY 2024	A1
DRAWING NUMBER	REV
24010/002	-

## Louth County Council

### Section 5 Declaration

**Planning Ref:** S5 2025/92

**Applicant's Name:** Nightpond Limited

**Type of Application:** Section 5 Declaration

**Development:** Whether the continued use of a residential building, where care is not provided, to homeless persons, is or is not development.

**Site Location:** 2 Stapleton Place, Dundalk, Co. Louth, A91 Y8K6

**Site Inspection** 16<sup>th</sup> December 2025

**Report Date** 3<sup>rd</sup> February 2026

**Due Date:** 17<sup>th</sup> ~~January~~ <sup>February</sup> 2026 *Amckeison*

---

#### 1. Summary of Previous Report:

Having considered the declaration, the following details were requested from the applicant:

1. *A detailed breakdown of the existing and proposed numbers of persons living in the subject property. This is required to determine the use in accordance with Article 9 of Part 2, Schedule 1 of the Planning and Development Regulations, 2001 as amended and Article 10 (1) of Part 2, Schedule 1 of the Planning and Development Regulations, 2001, as amended.*
2. *A detailed breakdown of the persons living in the property and clarification whether they fall within the definitions of displaced persons or persons seeking international or temporary protection, as defined under Class 20(f) of Part 1, Schedule 2 of the Planning and Development Regulations 2001 (as amended.)*
3. *A detailed breakdown of the existing internal layout of the property, including provision of existing floor plans and elevations drawn to scale. These plans and particulars shall clearly demonstrate the current layout of the property in relation to the historical planning permission on the site (permission reference 55523121) and whether there have been any alterations made to the building since this permission. Photographs of the internal layout would assist in confirming the layout*

of the building. These details are required to determine whether there is an intensification of the established residential use.

4. The subject property is a Protected Structure RPS ID: D336) and is located within an Architectural Conservation Area (ACA No. 21- The Crescent,) as identified by the Louth County Development Plan 2021-2027, as varied. Details are therefore required of all existing and / or proposed works (if any) carried out or to be carried out to the subject property to facilitate the subject use. Internal photographs of the building detailing any works carried out shall be included as part of your response to this item.

## **2. Response from Applicant:**

The applicant has provided a detailed response to the FI request, in the form of a response letter (prepared by Hughes Planning and Development Consultants, dated 28<sup>th</sup> January 2026,) together with additional drawings, including:

- Drawing No. 24010/001 – Basement and Ground Floor Layout
- Drawing No. 24010/002 – 1<sup>st</sup> & 2<sup>nd</sup> Floor Layout
- Drawing No. 24010/003 – Front & Rear Elevation
- Drawing No. 24010/002 – Side Elevation & Section

The submitted particulars responds in detail to the requested items separately and the following comments are noted in relation to the 4 no. points as outlined above.

### Item 1 – Occupancy

The submitted details indicate that the property is currently vacant and that is proposed to occupy 20 no. persons within 6 no. bedrooms within the property (with a maximum of 4 persons per room.) The details note that the property was previously used to house Ukrainian Refugees (in compliance with S.I. 206/2022) however it has remained vacant for two years prior to the submission of this declaration. The submitted details indicate that the proposed occupancy is normal given the size of the dwelling including no. of bedrooms and residents would live there for a minimum of 12 months with no level of care to be provided and as such, it is submitted that the proposed occupancy would not constitute a material change of use.

### Item 2 – Person's Living in the Property.

The submitted details clarify that this declaration relates to accommodation for homeless persons who are currently on the Louth County Council Homeless Register and are in need of urgent accommodation. It stipulates that the property will not house displaced persons or persons seeking international or temporary protection.

### Item 3 – Floor Plans

The applicant has provided floor plans to demonstrate the existing internal layout of the property together with photographs and has attempted to obtain historical planning records in relation to permission ref. 55523121 however has been unable to obtain these file details, noting this is an enforcement file. Notwithstanding this, the details indicate that based on the current layout, it is assumed that the owner of the property at the time, reverted the use of the building to a single dwelling, which is exempted development (Class 14(e) of the Planning and Development Regulations, 2001, as amended.) The details indicate that the most recent works carried out comprised minor fire safety upgrade works. As such, it is contended that there would be no intensification of the use of the subject property.

#### Item 4 – Protected Structure

The submitted details confirm that there are no proposed works to be carried out to the property to facilitate the proposed use and that the most recent works have been minor fire safety upgrade works, which did not affect any original features remaining in the dwelling. The submitted photos seek to demonstrate that the original features of the property have been preserved.

### **3. Assessment:**

#### ***Does the proposal constitute development?***

In the initial assessment, the Planning Authority was unable to determine, on the basis of the submitted details, whether the subject use would result in the intensification of the residential use of the property and consequently whether it would constitute 'development' by virtue of a 'material change of use,' as defined within Section 2 of the Planning and Development Act, 2024.

The submitted Planning Statement refers to a decision by Dublin City Council (ref. ref. 0298/25) as an example case, whereby the Planning Authority declared that the continued use of a residential building to provide accommodation to homeless persons and where care was not provided did not constitute a material change of use and as such, did not constitute development. In this case, notably the subject building appears to have been subdivided, which is not directly comparable to this case.

On the basis of the further information provided, including the internal floor plans of the building (6 no. bedrooms), the no. of proposed occupants (20) and their socio-economic status (homeless persons,) the level and nature of the proposed occupancy (i.e. individuals,) with up to 4 persons per bedroom, it is considered that this would represent an intensification of the established residential use, having regard to the overall size and layout of the building.

Whilst the socio-economic circumstances of the tenants is not a material consideration in assessing whether there would be a material change of use of the property, the

accommodation of up to 20 individuals within the existing building would give rise to planning considerations pertaining to residential amenity, potential substandard living conditions for occupants, servicing and utilities issues, overdevelopment and impacts upon the amenities of surrounding residents.

It is therefore considered that the scale and intensity of the intended use would constitute a material change from the established and historical use of the building as a single residential property and as such, **would constitute development.**

***Does the proposal constitute exempted development?***

As indicated, the proposed accommodation would not be used in a manner comparable to the established residential use of the property (akin to that of a house in multiple occupation,) and as such, would constitute a material change in the established use. The proposed use is akin to that of a House in Multiple Occupancy and as such, does not fall within the exemptions under Articles 6 or 10 of Part 4, Schedule 2 of the Planning and Development Regulations, 2001, as amended, nor does it fall within the exemptions within Class 14(h) and 20(f) of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, as amended.

Accordingly, the Planning Authority concludes that the proposal is **development that is not exempted development**, within the meaning of Section 2 of the Planning and Development Act, 2024.

It is noted that this Section 5 declaration relates solely to the use of the building and the correct mechanism to determine whether any associated works to the Protected Structure are exempt, is through a Section 57 declaration. Notwithstanding this, the submitted details (including photographic records) clarify that no works are proposed to the Protected Structure to facilitate the proposed use.

**4. Conclusion**

Having considered the established use of the building as a residential property and having regard to the further information submitted, including the use of the subject property for the accommodation of 20 homeless persons, the proposed accommodation would result in the intensification of the established use having regard to the overall size and layout of the building and would give rise to planning considerations pertaining to residential amenity, potential substandard living conditions for occupants, servicing and utilities issues, overdevelopment and impacts upon the amenities of surrounding residents.

It is therefore considered that the scale and intensity of the intended use would constitute a material change from the established and historical use of the building as

a residential property, which does not fall within the definition of 'exempted development' within the meaning of Section 2 of the Planning and Development Act, 2024.

It can be concluded that, based on the foregoing, and having regard to the relevant provisions of the Planning and Development Act, 2024, the Planning and Development Act 2000, as amended and the Planning and Development Regulations, 2001 (as amended,) that the proposed use **is development that is not exempted development.**

#### **5. Recommendation:**

Accordingly, it is recommended that an order along the following lines is issued: -

**WHEREAS** a question has arisen pursuant to Section 5 of the Planning and Development Act 2000 (as amended) as to whether the following is or is not development and is or is not exempted development.

*'the continued use of a residential building, where care is not provided, to homeless persons'*

**AND WHEREAS** the said question was referred to Louth County Council by Nightpond Limited on 5<sup>th</sup> December 2025

**AND WHEREAS** Louth County Council, in consideration of this question has had regard particularly to:

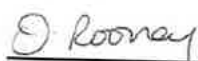
- (a) The definition of "development", in Section 2 of the Planning and Development Act 2000 (as amended.)
- (b) The plans and particulars submitted to the Planning Authority on 5<sup>th</sup> December 2025 and the further plans and particulars submitted to the Planning Authority on 28<sup>th</sup> January 2026.
- (c) Section 4 of the Planning and Development Act, 2000 (as amended.)
- (d) Articles 6, 9 and 10 of the Planning and Development Regulations, 2001, as amended.
- (e) The Planning history of the site.

**AND WHEREAS** Louth County Council has concluded that on the basis of the information available that:

- (i) The existing building has an established use as a private residential property.
- (ii) This Section 5 declaration relates to the intended residential use of the subject property (to accommodate 20 no. homeless persons) and there are no associated building works proposed.

- (iii) The proposed use of the building as a residence for (20. No.) homeless persons would not be used in a manner comparable to the established use of the building as a dwelling and would constitute a material change in the established use of the building.

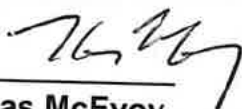
**NOW THEREFORE** Louth County Council in exercise of the powers conferred on it by Section 5(2)(a) of the Planning and Development Act 2000 (as amended), hereby decides that *'the continued use of the premises where care is not provided, to accommodate homeless persons'* at No. 2 Stapleton Place, Dundalk, Co. Louth, A91 Y8K6, **is development and is not exempted development.**



**Orla Rooney**  
**Assistant Planner**  
**Date: 11/02/2026**



**Turlough King**  
**A/Senior Planner**  
**Date: 12/02/2026**



**Thomas McEvoy**  
**Director of Services**  
**Date: 13/02/2026**

**LOUTH COUNTY COUNCIL**

**CHIEF EXECUTIVE'S ORDER**

**PLANNING & DEVELOPMENT ACT 2000 (as amended)**

**Section 5 Exempted Development**

<b>Chief Executive's Order No:</b>	130/2026
<b>Reference No:</b>	S5 2025/92
<b>Date Application Received:</b>	05/12/2025 & Further Information on 28/01/2026
<b>Description of Development:</b>	Whether the continued use of a residential building, where care is not provided, to homeless persons, is or is not development and is or is not exempted development.
<b>Name of Applicant:</b>	Nightpond Limited
<b>Location of Development</b>	No. 2 Stapleton Place, Dundalk, Co. Louth, A91 Y8K6

**WHEREAS** a question has arisen pursuant to Section 5 of the Planning and Development Act 2000 (as amended) as to whether the following is or is not development and is or is not exempted development.

*"the continued use of a residential building, where care is not provided, to homeless persons"*

**AND WHEREAS** the said question was referred to Louth County Council by Nightpond Limited on 5<sup>th</sup> December 2025

**AND WHEREAS** Louth County Council, in consideration of this question has had regard particularly to:

- (a) The definition of "development", in Section 2 of the Planning and Development Act 2000 (as amended.)
- (b) The plans and particulars submitted to the Planning Authority on 5<sup>th</sup> December 2025 and the further plans and particulars submitted to the Planning Authority on 28<sup>th</sup> January 2026.
- (c) Section 4 of the Planning and Development Act, 2000 (as amended.)
- (d) Articles 6, 9 and 10 of the Planning and Development Regulations, 2001, as amended.
- (e) The Planning history of the site.

**AND WHEREAS** Louth County Council has concluded that on the basis of the information available that:

- (i) The existing building has an established use as a private residential property.
- (ii) This Section 5 declaration relates to the intended residential use of the subject property (to accommodate 20 no. homeless persons) and there are no associated building works proposed.
- (iii) The proposed use of the building as a residence for (20. No.) homeless persons would not be used in a manner comparable to the established use of the building as a dwelling and would constitute a material change in the established use of the building.

**NOW THEREFORE** Louth County Council in exercise of the powers conferred on it by Section 5(2)(a) of the Planning and Development Act 2000 (as amended), hereby decides that *'the continued use of the premises where care is not provided, to accommodate homeless persons'* at No. 2 Stapleton Place, Dundalk, Co. Louth, A91 Y8K6, **is development and is not exempted development.**

PP  
**SIGNED:** Orla Rooney  
Orla Rooney  
Assistant Planner

**Date: 12/02/2026**

**ORDER:** In pursuance of the powers conferred upon the Council by the above Act, I concur with the above recommendation and I hereby direct that a **Declaration of Exemption be REFUSED** for development as described above.

**Signed:** Thomas McEvoy  
Thomas McEvoy  
Director of Service

**Date: 13/02/2026**

To whom this function has been delegated in accordance with the provisions of Section 154 of the Local Government Act, 2001 by Order No. CE.S. 201/25 dated the 14<sup>th</sup> day of May 2025.



Comhairle Contae Lú  
Louth County Council

**REGISTERED POST**

Nightpond Limited  
c/o Hughes Planning & Development Consultants  
85 Merrion Square  
Dublin 2

13<sup>th</sup> February 2026

**Re: Ref. S5 2025/92**

**Application for Declaration of “Exempted Development” Part 1, Section 5 Planning & Development Act, 2000 (as amended) as to ‘Whether the continued use of a residential building, where care is not provided, to homeless persons, is or is not development and is or is not exempted development’.**

Dear Sir/Madam,

I wish to acknowledge receipt of your application received on 05<sup>th</sup> December 2025 and further information received on 28<sup>th</sup> January 2026 in relation to the above. Having assessed all information and enclosures received with the application, the Planning Authority wishes to advise as follows: -

**WHEREAS** a question has arisen pursuant to Section 5 of the Planning and Development Act 2000 (as amended) as to whether the following is or is not development and is or is not exempted development.

*‘the continued use of a residential building, where care is not provided, to homeless persons’*

**AND WHEREAS** the said question was referred to Louth County Council by Nightpond Limited on 5<sup>th</sup> December 2025

**AND WHEREAS** Louth County Council, in consideration of this question has had regard particularly to:

- (a) The definition of “development”, in Section 2 of the Planning and Development Act 2000 (as amended.)
- (b) The plans and particulars submitted to the Planning Authority on 5<sup>th</sup> December 2025 and the further plans and particulars submitted to the Planning Authority on 28<sup>th</sup> January 2026.

Comhairle Contae Lú  
Halla an Bhaile  
Sráid Crowe  
Dún Dealgan  
Contae Lú  
A91 W20C

Louth County Council  
Town Hall  
Crowe Street  
Dundalk  
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Cuirfear fáilte roimh chomhfhreagras Gaeilge - Correspondence in Irish is welcome  
Féach foláirimh faoi Lú ón gComhairle ag [www.mapalserter.ie/Louth](http://www.mapalserter.ie/Louth)  
View Council alerts for Louth at [www.mapalserter.ie/Louth](http://www.mapalserter.ie/Louth)

- (c) Section 4 of the Planning and Development Act, 2000 (as amended.)
- (d) Articles 6, 9 and 10 of the Planning and Development Regulations, 2001, as amended.
- (e) The Planning history of the site.

**AND WHEREAS** Louth County Council has concluded that on the basis of the information available that:

- (i) The existing building has an established use as a private residential property.
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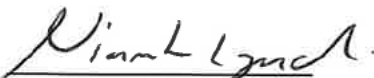
**NOW THEREFORE** Louth County Council in exercise of the powers conferred on it by Section 5(2)(a) of the Planning and Development Act 2000 (as amended), hereby decides that *'the continued use of the premises where care is not provided, to accommodate homeless persons'* at No. 2 Stapleton Place, Dundalk, Co. Louth, A91 Y8K6, **is development and is not exempted development.**

#### **In Summary**

**A Declaration of Exemption is hereby REFUSED for the works as detailed on the plans and particulars submitted on 05<sup>th</sup> December 2025 and further information on 28<sup>th</sup> January 2026.**

**This decision may be referred by you to An Coimisiún Pleanála for review within 4 weeks of the date of this letter subject to the payment of the appropriate fee.**

Yours faithfully,



Niamh Lynch  
Planning Section