

OFFALY COUNTY COUNCIL

DECLARATION UNDER SECTION 5 OF THE  
PLANNING & DEVELOPMENT ACT 2000, AS AMENDED

REFERENCE: DEC 24/93

NAME OF APPLICANT: Emmet Lynch,  
ADDRESS FOR CORRESPONDENCE: C/o Kenneth Byrne, Project Design Architects,  
Unit 1, Beech Court, Kilcoole,  
Co. Wicklow, A63 E5D0.

NATURE OF APPLICATION: Request for declaration under section 5 of the planning & development act 2000, as amended as to whether or not the change of use of existing Ukraine temporary protection (social care accommodation) to temporary use for purpose of accommodating persons seeking international protection under class 20f no material works envisioned is or is not development and is or is not exempted development.

LOCATION OF DEVELOPMENT: Hugh Lynch's Pub, Kilbride Street, Tullamore, Co. Offaly, R35 RW31.

WHEREAS a question has arisen as to whether or not the change of use of existing Ukraine temporary protection (social care accommodation) to temporary use for purpose of accommodating persons seeking international protection under Class 20f (no material works envisioned) is or is not development and is or is not exempted development at Hugh Lynch's Pub, Kilbride Street, Tullamore, Co. Offaly, R35 RW31.

AS INDICATED on the particulars received by the Planning Authority on the 28th August 2024 Further Information received on the 30th September 2024.

AND WHEREAS Emmet Lynch, C/O Kenneth Byrne, Project Design Architects, Unit 1, Beech Court, Kilcoole, Co. Wicklow, A63 E5D0 requested a declaration on the said question from Offaly County Council;

AND WHEREAS Offaly County Council, in considering this declaration request, had regard particularly to:

- (a) Sections 2(1) & 3(1) of the Planning & Development Act 2000, as amended.
- (b) Section 4(2)(a)(i) of the Planning & Development Act 2000, as amended.
- (c) Class 14, in Part 1, of Schedule 2 of the Planning and Development Regulations 2001 (as amended),
- (d) Class 20F, in Part 1, of Schedule 2 of the Planning and Development Regulations 2001 (as amended),
- (e) European Union (Planning and Development) (displaced persons from Ukraine temporary protection) Regulations 2022.

AND WHEREAS Offaly County Council has concluded that the proposed change is **development and is not exempted development**.

NOW THEREFORE Offaly 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 structure on site did not have consent to be used as a Ukraine temporary protection centre and therefore the last authorized use or the subject structure was as a public house. No exemption exists for change of use of a public house to use as a temporary structure for accommodating persons seeking international protection.

MATTERS CONSIDERED In making its decision, the Planning Authority had regard to those matters to which, by virtue of the Planning and Development Acts and regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

  
\_\_\_\_\_  
Administrative Officer

17/10/24  
\_\_\_\_\_  
Date

Note: Any person issued with a Declaration may on payment to An Bord Pleanála, 64 Marlborough Street Dublin 2 of such fees as may be described refer a declaration for review by the board within four weeks of the issuing of the Declaration.



OFFALY COUNTY COUNCIL

Planning Report  
Section 5 Declaration

<b>File Reference:</b>	DEC 24/93
<b>Question:</b>	WHETHER OR NOT THE CHANGE OF USE OF EXISTING UKRAINE TEMPORARY PROTECTION (SOCIAL CARE ACCOMMODATION) TO TEMPORARY USE FOR PURPOSE OF ACCOMMODATING PERSONS SEEKING INTERNATIONAL PROTECTION UNDER CLASS 20F NO MATERIAL WORKS ENVISIONED IS OR IS NOT DEVELOPMENT AND IS OR IS NOT EXEMPTED DEVELOPMENT.
<b>Applicant:</b>	EMMET LYNCH C/O KENNETH BYRNE PROJECT DESIGN ARCHITECTS UNIT 1, BEECH COURT, KILCOOLE CO. WICKLOW A63 E5D0
<b>Location:</b>	HUGH LYNCH'S PUB, KILBRIDE STREET, TULLAMORE, CO. OFFALY R35 RW31
<b>Date FI Received:</b>	30 <sup>th</sup> September 2024

*Second Report on File*

**1. Introduction**

The question has arisen as to whether or not the change of use of existing Ukraine temporary protection (social care accommodation) to temporary use for purpose of accommodating persons seeking international protection under class 20F (no material works envisioned) is or is not development and is or is not exempted development

**2. Review of Further Information**

Further information (FI) was sought by the Planning Authority on 24<sup>th</sup> September 2024 and subsequently received by the Planning Authority on the 30<sup>th</sup> September 2024.

This report should be read in conjunction with the previous planner's report dated 18<sup>th</sup> September 2024. The following FI was sought, and the response is as follows:

1. The Applicant is requested to submit documentary evidence from a relevant state authority that Hugh Lynch's Pub of Kilbride Street, Tullamore, Co. Offaly with an eircode of R35 RW31 was converted in accordance with European Union (Planning and Development)(Displaced Persons from Ukraine Temporary Protection) Regulations 2022 to house displaced persons.

The applicant should note that if no such conversion was authorised the use of the structure on site is as a public house. The provisions of Class 14 and Class 20F of Part 1, of Schedule 2 of the planning regulations would therefore not appear to be relevant.

**Applicants Response:** The Applicant has stated that no contract was in place prior to works being completed and accepted by the department, however the Applicant has attached copies of emails dated 19<sup>th</sup> September 2023 and 14<sup>th</sup> November 2023

seeking updates on the progress of the conversion works from the Department of Children, Equality, Disability, Integration and Youth.

**Planners Appraisal:** The further information received in relation to item 1 was accessed by the Planning Authority, who note that the Applicant has not submitted any evidence that that subject site was ever used for the housing of Displaced Persons from Ukraine in accordance with European Union (Planning and Development)(Displaced Persons from Ukraine Temporary Protection) Regulations 2022 to house displaced persons.

2. Please indicate if this declaration applies to protected persons where protected persons is defined as:
  - (a) a person who has made an application to the Minister for Justice and Equality under the Refugee Act of 1996 or the Subsidiary Protection Regulations 2013 (S.I. No. 426 of 2013),
  - (b) a person who falls to be considered or has been considered under section 3 of the Immigration Act of 1999, or
  - (c) a programme refugee within the meaning of section 24 of the Refugee Act of 1996.

**Applicants Response:** The Applicant has stated that he has submitted a copy of confirmation from Protection Procurement service that the Protected persons are defined as – A- A person who has made an application to the Minister for Justice and Equality under the Refugee Act of 1996 or subsidiary Protection Regulations 2013 (S.I. No 426 of 2013)

### 3. Conclusion:

The Applicant has sought confirmation on whether or not the change of use of existing Ukraine temporary protection (social care accommodation) to temporary use for purpose of accommodating persons seeking international protection under class 20F (no material works envisioned) is or is not development and is or is not exempted development.

Having assessed the Further Information received and the previous planning report on file, it is considered the Applicant has not submitted any evidence that that subject site was ever used or authorised for use for the housing of Displaced Persons from Ukraine in accordance with European Union (Planning and Development)(Displaced Persons from Ukraine Temporary Protection) Regulations 2022. The correspondence submitted indicates that a property on Arden Road did get the necessary consent:

An Roinn Leanaí, Comhionannais,  
Míchumais, Lánpháirtíochta agus Óige  
Department of Children, Equality,  
Disability, Integration and Youth



21/06/2024

Emmet Lynch  
Kilbride Street Accommodation Services Limited  
Kilbride Street, Tullamore, Offaly, Ireland

**Re Accommodation of Beneficiaries of Temporary Protection (BOTPs) in  
Lynch's Townhouse Tullamore at Arden Rd, Tullamore, , R35 C950**

Dear Emmet Lynch

I refer to agreement CON-003164 between the Department of Children, Equality, Disability, Integration and Youth and Kilbride Street Accommodation Services Limited for the accommodation of beneficiaries of temporary protection (BOTPs), fleeing the war in Ukraine.

Regretfully, it is not possible to continue this agreement for Lynch's Townhouse Tullamore.

It is therefore considered that last permitted use of the subject site was a Public House and it was never authorised for the housing of people under Ukraine temporary protection (social care accommodation) Regulations 2022.

It is recommended that the Applicant be advised that the proposed development is **development and is not exempted development.**

**Declaration on Development and Exempted Development**  
**Section 5 of the Planning and Development Act 2000 (as amended)**

**WHEREAS** a question has arisen as to whether or not the change of use of existing Ukraine temporary protection (social care accommodation) to temporary use for purpose of accommodating persons seeking international protection under Class 20f (no material works envisioned) is or is not development and is or is not exempted development at Hugh Lynch's Pub, Kilbride Street, Tullamore, Co. Offaly R35 RW31

**AS INDICATED** on the particulars received by the Planning Authority on the 28<sup>th</sup> August 2024 Further Information received on the 30<sup>th</sup> September 2024.

**AND WHEREAS** Emmet Lynch, C/O Kenneth Byrne, Project Design Architects , Unit 1, Beech Court, Kilcoole, Co. Wicklow A63 E5D0 requested a declaration on the said question from Offaly County Council;

**AND WHEREAS** Offaly County Council, in considering this declaration request, had regard particularly to:

- (a) Sections 2(1) & 3(1) of the Planning & Development Act 2000, as amended.
- (b) Section 4(2)(a)(i) of the Planning & Development Act 2000, as amended.
- (c) Class 14, in Part 1, of Schedule 2 of the Planning and Development Regulations 2001 (as amended),
- (d) Class 20F, in Part 1, of Schedule 2 of the Planning and Development Regulations 2001 (as amended),
- (e) European Union (Planning and Development) (displaced persons from Ukraine temporary protection) Regulations 2022.

**AND WHEREAS** Offaly County Council has concluded that the proposed change is development and is not exempted development.

**NOW THEREFORE** Offaly 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 structure on site did not have consent to be used as a Ukraine temporary protection centre and therefore the last authorized use of the subject structure was as a public house. No exemption exists for change of use of a public house to use as a temporary structure for accommodating persons seeking international protection.

*Please note that any person issued with a declaration under subsection 2(a) of the Planning and Development Act 2000 (as amended) may on payment to the Board of the prescribed fee, refer a declaration to An Bord Pleanála within 4 weeks of the issuing of the decision.*

Michael Duffy

---

*Michael Duffy*

*Executive Planner*

*16<sup>th</sup> October 2024*

*Ed Kelly*

---

*Ed Kelly*

*ASEP*

*17<sup>th</sup> October 2024*

