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Briarlane Developments Ltd C/o Mark Tubridy Atlantic Building Consultants Ltd **Unit 1 Digital Hub** Merchants Quay Business Quarter Francis St. Kilrush Co. Clare

20th December 2024

Section 5 referral Reference R24-92 – Briarlane Developments Ltd

Is the regularisation of the current use of the existing Clare Lodge Hostel for use as emergency accommodation for persons seeking Internation protection applicable under Section 5(1) of the Planning and Development Act, 2000, as amended and specifically Part 1, Schedule 2, Class 14h of the Planning and Development (Exempted Development) (No. 4) Regulations, 2015?

A Chara,

I refer to your application received on 29th November 2024 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

The Planning Authority has considered the matter and I attach herewith the Council's findings in this matter.

Where a declaration is issued by the Planning Authority, any person issued with a declaration, may on payment to an Bord Pleanála of the required fee, refer a declaration for review by An Bord Pleanála within 4 weeks of the date of the issuing of the declaration. Details on making such appeal are available on the Board's website at www.pleanala.ie.

Mise, le meas

Anne O'Gorma Staff Officer

Planning Department

Economic Development Directorate

An Roinn Pleanála An Stiúrthóireacht Forbairt Gheilleagrach

Áras Contae an Chláir, Bóthar Nua, Inis, Co. an Chláir, V95 DXP2

Planning Department Economic Development Directorate

Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2













CLARE COUNTY COUNCIL

SECTION 5 OF THE PLANNING AND DEVELOPMENT ACT 2000 AS AMENDED DECLARATION ON DEVELOPMENT AND/OR EXEMPTED DEVELOPMENT

Chief Executive's Order No: 84714

Reference Number: R24-92

Date Referral Received: 29th November 2024

Name of Applicant: Briarlane Developments Ltd

Location of works in question: Clare Lodge Hostel, Carmody Street, Ennis,

Co. Clare

Section 5 referral Reference R24-92 – Briarlane Developments Ltd

Is the regularisation of the current use of the existing Clare Lodge Hostel for use as emergency accommodation for persons seeking Internation protection applicable under Section 5(1) of the Planning and Development Act, 2000, as amended and specifically Part 1, Schedule 2, Class 14h of the Planning and Development (Exempted Development) (No. 4) Regulations, 2015?

AND WHEREAS Clare County Council, in considering this referral, had regard in particular to –

- (a) Sections 2 and 3 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6, and 9 of the Planning and Development Regulations, 2001, as amended,
- (c) Class 14 (h) of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, as amended.

AND WHEREAS Clare County Council has concluded:

(a) The use of the Clare Lodge Hostel for the housing of protected persons is considered development which is exempted under Class 14 (h) of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, as amended.

ORDER:

Whereas by Chief Executive's Order No. HR 152 dated 9th April 2021, Pat Dowling, Chief Executive for Clare County Council, did, pursuant to the powers conferred on him by Section 154 of the Local Government Act 2001, delegate to Gareth Ruane, Senior Executive Planner, the powers, functions and duties as set out herein,

NOW THEREFORE pursuant to the delegation of the said powers, functions and duties and under Section 5(2)(a) of the Planning & Development Act 2000 (as amended) and having considered the various submissions and reports in connection with the referral described above, I, Gareth Ruane, Senior Executive Planner, hereby declare that the use of the Clare Lodge Hostel for the housing of

protected persons at Clare Lodge Hostel, Carmody Street, Ennis, Co. Clare is **considered development** which is **exempted development**.

Signed:

GARETH RUANE
SENIOR EXECUTIVE PLANNER

Date:

20th December 2024

DECLARATION ISSUED UNDER SECTION 5 OF THE PLANNING & DEVELOPMENT ACT 2000 (AS AMENDED)

Reference No.: R24-92



Section 5 referral Reference R24-92

Is the regularisation of the current use of the existing Clare Lodge Hostel for use as emergency accommodation for persons seeking Internation protection applicable under Section 5(1) of the Planning and Development Act, 2000, as amended and specifically Part 1, Schedule 2, Class 14h of the Planning and Development (Exempted Development) (No. 4) Regulations, 2015?

AND WHEREAS, Briarlane Developments Ltd has requested a declaration from Clare County Council on the said question.

AND WHEREAS Clare County Council, in considering this referral, had regard in particular to –

- (a) Sections 2 and 3 of the Planning and Development Act, 2000, as amended,
- (b)Articles 6, and 9 of the Planning and Development Regulations, 2001, as amended,
- (c) Class 14 (h) of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, as amended.

And whereas Clare County Council has concluded:

(a) The use of the Clare Lodge Hostel for the housing of protected persons is considered development which is exempted under Class 14 (h) of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 as amended.

THEREFORE: The Planning Authority in exercise of the powers conferred on it by Section 5 of the Planning and Development Act, 2000 (as amended), hereby decides that:

The proposed development consisting of the use of the Clare Lodge Hostel for the housing of protected persons at Clare Lodge Hostel, Carmody Street, Ennis, Co. Clare **constitutes development** which is **exempted development** as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.

Anne O'Gorman

Staff Officer

Planning Department

Economic Development Directorate

20th December 2024

CLARE COUNTY COUNCIL SECTION 5 DECLARATION OF EXEMPTION APPLICATION PLANNERS REPORT 1

FILE REF: R24-92

APPLICANT(S): Briarlane Developments Ltd

REFERENCE: Whether the regularisation of the current use of the existing Clare Lodge

Hostel for use as emergency accommodation for persons seeking International Protection is applicable under Section 5(1) of the Planning and Development Act 2000 (as amended) and specifically Part 1, Schedule 2, Class 14(h) of the Planning and Development (Exempted Development (No. 4) Regulations, 2015 is or is not development and is or

is not exempted development.

LOCATION: Clare Lodge Hostel, Carmody Street, Ennis, County Clare

DUE DATE: 20/12/2024

Site Context

The subject site comprises a former hostel, located in Ennis Town Centre, on the junction of Carmody Street and Summerhill. It is an existing 3.5 storey plus basement corner building, with a mixture of a stone facing and plaster façade.

It is located within the town centre and is zoned 'Mixed Use' in County Development Plan 2023-2029. It is within a Recoded Monument Zone of Notification for Ennis Town Centre, an Archaeological Complex, and the Ennis Architectural Conservation Area. The site is on the edge, but not within, a flood zone, and is approximately 125m south of the Lower River Shannon SAC.

The building was previously used as a hostel, however, it is stated that it has been used to provide emergency accommodation for persons seeking internation protection since 2019. The building is not a protected structure.

Recent Planning History

Onsite

98/21018 - Val Bredin – Erect a small staff room at the rear of the Clare Tourist Hostel and roof over existing refigeration unit in service yard area. Granted Permission.

North

18/11 – Society of St. Vincent de Paul – for a proposed development which consists of new external signage on an existing building with associated works. This building is within the Architectural Conservation Area (ACA) defined in the Ennis Municipal District Plan 2017-23. Granted Permission.

15/134 – Society of St. Vincent de Paul – for a proposed development which consists of change of use of existing building from residential to commercial/office: modification of rear of building, demolition of shed and construction of extension to the rear with frontage and

entrance to Carmody Street and vehicular set down area. The completed building will contain retail unit with cofeeshop, offices, meeting rooms and sorting room with all associated services, facilities and site works. This building is within the Ennis Historic Town Boundary and the ACA as defined in the Ennis and Environs Development Plan 2008-2014. Granted Permission.

23/443 – D Madigan Properties Ltd - for the following works, (A) Change the use, the layout / elevations, reduce the size, and sub-divide an existing commercial building used as a public house / guest house, which is a protected structure (RPS No 828), so as to create a terrace of 4 no. two storey dwellings, and 2 no. one bedroom apartments all with individual entrances, (B) Remove an existing extension to the side and a porch to the front of a detached dwelling to the rear of the site, construct a two storey extension to the rear; change the layout / elevations, and sub-divide the dwelling so as to create 2 no. two storey semi-detached dwellings, with individual entrances, and (C) Demolish existing shed, all with all associated site works. Granted Permission.

South

09/21001 – Niall Garvey – for partial change of use from residential to commercial. Granted Permission.

09/21024 – Startrail Properties Ltd – for development which will consist of (1) Change of use, alterations and extension of ground floor of dwelling at No. 6 Carmody Street to Retail Outlet with one No. 1 bedroom apartment over. (2) Construction of one No. 1 bedroom apartment in seperate 2 storey block to rear of No. 6 (3) Ancillary site works and connection to public services. Granted Permission.

24/60219 – Brian Barry – for the conversion of existing shop and accommodation to 2 No. two-bedroom apartments, and for permission to construct a two-storey extension to rear of building to comprise of two bedrooms with internal modifications and changes to the façade of the building including connection to public services and ancillary site works. Granted Permission.

08/21148 – James Kerins – for development which will consist of the change of use of existing ground floor office accommodation to traditional fish and chip take-away outlet. Refused Permission.

09/21099 – Kenny Hak Mau – Permission for a restaurant in addition to take-away as approved under P. Ref. 06/191. Granted Permission.

East

24/25 – Bridget Haren – to renovate and make change to the elevations and floor layout of the dwelling, and to extend the width of the existing vehicular entrance to provide an additional on-site parking space, with all associated site works. Granted Permission.

17/219 – Tony & Majella Cotgreave – for change of use of a vacant house to dental practice, the development to include internal works, the demolition of a rear extension and its replacement by a single-storey extension (on almost the same footprint), and all ancillary site works. Refused Permission.

16/986 – Sean Grogan – to demolish existing shed and to construct a ground floor extension to rear of existing dwelling house, with all associated site works. Granted Permission.

West

23/255 – Mary Collins – of the following development (a) of the existing temporary access gate at the side of dwellinghouse to provide off-street car parking. Granted Permission.

19/309 – Mary Collins – to a) Demolish existing shed and, b) Construct extension and carry out alterations and fenestration changes together with all associated site development works and services. Granted Permission.

23/351 – Patricia Collins – Retention of pvc windows to the front elevation which were fitted in lieu of timber sash windows and contrary to condition 3 (b) of planning reference P20-737. Granted Permission.

09/21005 – Pat Collins – to: a) Demolish 3 no. existing dwelling houses. b) Construct a new building consisting of 2 retail units at ground floor level. 1 no. office unit and 1 no. 2 bedroom apartment at first floor level. 1 no. 2 bedroom apartment and 1 no. 1 bedroom apartment at second floor level. Along with all associated site works and services. Refused Permission.

20/737 – Patricia Collins – to (a) Demolish 2 No. sub-standard single storey town houses (b) extend adjoining dwelling house (c) construct 2 No. two story town houses together with all ancillary site development works and services. Granted Permission.

Pre-planning History

None.

Drawings Received

 Site location map, site layout plan, as existing floor plans & elevations, isometric drawings of the front and rear of the building.

Background

Planning and Development Act, 2000 (as amended)

Section 2

'Works' are defined in Section 2 of the Planning and Development Act 2000, as amended as follows:

"works" includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

Section 3

In order to assess this proposal, regard has to be had to the Planning and Development Act 2000, as amended.

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

Section 4(1)(H)

Section 4 (1)(H) states that the following shall be exempted development for the purpose of the Act.-

'development consisting for the carrying out of works for maintenance, improvement or other alterations of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or neighbouring structures'.

Planning & Development Regulations, 2001, as amended

Part 2 Exempted Development

Article 6 (1) states

'Subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies

with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1'.

Article 9 -Restrictions on Exemptions states

'Under Article 9 (1) of the same Regulations, development to which Article 10 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 compromise 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,
- (iii)(a) endanger public safety by reason of hazardous glint and/or glare for the operation of airports, aerodromes or aircraft,
- (iv) 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 other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,
- (viiA) consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12(1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to and in accordance with a consent granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended,
- (viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,
- (viiC) consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000."
- (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.

Planning & Development Regulations, Schedule 2, Part 1, Class 14(h)

Development consisting of a change of use-

(h) 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

Conditions and Limitations for 14(h):

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

Class 14(i):

(i) 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(h) of the said premises or institution, or part thereof, *to use as an emergency reception and orientation centre for protected persons*, and

Class 14(j):

(j) from the change of use specified in paragraph (h) or (i) or both, to the permitted use of the premises immediately prior to the change of use specified in the said paragraph (h) or (i) or both

Conditions and Limitations for 14(j):

Class 14(j) shall not apply after a period of 3 years from the date of the commencement of the change of use specified in Class 14(h) or (i) or both, whichever date is the earliest.

Planning & Development Regulations, Schedule 2, Part 1, Class 20(f):

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.
- 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 2022¹ comes to an end in accordance with Article 6 of the Council Directive 2001/55/EC of 20 July 2001².
- 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.
- '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 <u>section 2</u> (1) of the <u>International Protection Act 2015</u> (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."

Assessment

The referrer has advised that the premises previously comprised a hostel use for the tourism sector in Ennis town centre. The property has been in use as a premises to provide emergency accommodation for persons seeking internation protection since 2019, and it is intended to continue with this use. No detail has been provided in respect of whether this is being carried out in association with the Dept of Children Equality, Disability, Integration and Youth.

The applicant has not specified that the use is temporary and as such Class 20(f) does not apply.

Primary Legislation

Planning and Development Act, 2000 (as amended), Section 3(1)

Having regard the details submitted it is considered that the proposal constitutes 'development' having regard to the definition of development which includes for making of any material change in the use of any structures.

Planning & Development Regulations, Schedule 2, Part 1, Class 14 (h)

Class 14 Development consisting of a change of use—

(h) 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,

(i) 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(h) of the said premises or institution, or part thereof, to use as an emergency reception and orientation centre for protected persons, and

(j) from the change of use specified in paragraph (h) or (i) or both, to the permitted use of the premises immediately prior to the change of use specified in the said paragraph (h) or (i) or both.

Having regard to the information received the development complies with the provisions of Class 14 (h) and Class 14 (i).

Conditions and Limitations for 14(h) and (j):

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

It is noted that this use relates to the accommodation of persons seeking international protection and therefore this condition/limitation does not apply.

(j) Class 14(j) shall not apply after a period of 3 years from the date of the commencement of the change of use specified in Class 14(h) or (i) or both, whichever date is the earliest.

This premises has been used for emergency accommodation of protected persons since 2019, for more than 3 years. This condition/limitation is noted.

Schedule 2, Part 1, Class 20(f)

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

The use is not temporary and as such class 20(f) does not apply.

1. The temporary use shall only be for the purposes of accommodating displaced persons or for the purposes of accommodating persons seeking international protection.

The temporary use is for the purposes of accommodating persons seeking international protection.

 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 2022¹ comes to an end in accordance with Article 6 of the Council Directive 2001/55/EC of 20 July 2001².

The expiration date of the change of use is not stated. In the instance where the works are deemed to constitute exempted development, the declaration issued to the applicant should state that the temporary exemption only applies up to the 31st December 2028.

3. The use for the purposes of accommodating persons seeking international protection shall be discontinued not later than 31 December 2028.

Noted. The applicant is not seeking temporary use.

Noted. * "international protection" means status in the State either—

- (a) as a refugee, on the basis of a refugee declaration, or
- (b) as a person eligible for subsidiary protection, on the basis of a subsidiary protection declaration;
 - 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.

Noted.

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

Noted. In this instance the applicant has advised of his intention to accommodate protected persons by making a section 5 query However the query relates only to Class 14 (h).

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.

Noted.

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

Noted.

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."

Noted.

Article 9 - Restrictions on Exemptions

'Under Article 9 (1) of the same Regulations, development to which Article 10 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.

No recent permission on the site.

(ii) consist of or compromise 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,

Not applicable.

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

Not applicable.

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

Not applicable.

(iv) 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.

Noted. No external works have been carried out or are proposed to be carried out and therefore there will be no interference with the character of the landscape, view or prospect of special amenity value or special interest.

(vii) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,

Not applicable.

(viiA) consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12(1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to and in accordance with a consent granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended,

Not applicable.

(viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,

The site is located approximately 125m from the Lower River Shannon SAC, with built development existing between the premises and the SAC and no external works proposed. There is no likely significant effects on the integrity of a European Site.

(viiC) consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000."

Not applicable.

(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,

Not applicable.

(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,

Not applicable.

(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,

Not applicable.

(xi) obstruct any public right of way,

Not applicable.

(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.

N/A, no external works are noted to have been proposed.

Article 9 has been considered and there are no provisions within same that restrict the availability of the above exemption regarding the use of the subject property.

Assessment

The applicant has specifically questioned whether the use of the Clare Lodge Hostel for emergency accommodation for persons seeking international protection is considered development and, if so, it is exempted development, having regard to Class 14 (h) of the Planning and Development Regulations 2001 as amended (Schedule 2, Part 1). Noting the definition of protected persons in S.I. No. 582/2015 - Planning and Development (Amendment) (No. 4) Regulations 2015, sets out that protected persons include persons seeking international protection, i.e. refugees and people seeking refuge. I consider this proposed use to encompass persons seeking shelter under these provisions.

Having regard to the details submitted, the development complies with the provisions of Class 14 (h). In this instance the provisions of Class 20 (f) do not apply because this particular relates to temporary use only and the applicant has not advised that the occupation will be temporary. It is therefore understood that the applicant is not relying on the provisions of Class 20 (f) but instead on Class 14 (h).

Conclusion

With reference to the above assessment, and the stated restrictions on exempted development, and Article 9 of the Planning and Development Regulations (as amended) that the proposed development can be considered exempted development as per Section 5.

Recommendation

Having regard to Articles 6, and 9 of the Planning and Development Regulations (as amended) and Class 14(h) of Part 1 of Schedule 2 of the Planning and Development Regulations, as amended

and WHEREAS a question has arisen as to whether the use of the Clare Lodge Hostel for the emergency housing of persons seeking international protection, which in this case I consider to be persons seeking refuge as defined in S.I. No. 582/2015 - Planning and Development (Amendment) (No. 4) Regulations 2015, is considered development and, if so, is it exempted development having regard to Class 14 (h) of the Planning and Development Regulations 2001 as amended (Schedule 2 Article 6 Part 1)

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

- (a) Sections 2 and 3 of the Planning and Development Act, 2000, as amended
- (b) Articles 6, and 9 of the Planning and Development Regulations, 2001-2011
- (c) Class 14 (h) of Part 1 of Schedule 2 of the Planning and Development Regulations, as amended:

AND WHEREAS Clare County Council has concluded that -

The use of the Clare Lodge Hostel for the housing of protected persons is considered development which is exempted under Class 14 (h) of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 as amended:

NOW THEREFORE Clare County Council, in exercise of the powers conferred on it by section 5(2) (a) of the 2000 Act, hereby decides:

The use of the Clare Lodge Hostel for the housing of protected persons is considered development which is exempted development.

Signed

Áine Bourke

Executive Planner

Date: 20/12/2024

Garreth Ruane

Senior Executive Planner

Date:

Jun 1240

Appropriate Assessment & Determination

STEP 1. Description of the project/proposal and local site characteristics:			
(a) File Reference No: R24/92			
(b) Brief description of the project or plan:	Change of use of for the housing of asylum seekers		
(c) Brief description of site characteristics:	Buildings and artificial surface in town centre		
(d) Relevant prescribed bodies consulted: e.g. DHLGH (NPWS), EPA, OPW	None		
(e) Response to consultation:	None		

STEP 2. Identification of relevant Natura 2000 sites using Source-Pathway-Receptor model and compilation of information on Qualifying Interests and conservation objectives.				
European Site (code)	List of Qualifying Interest/Special Conservation Interest ¹	Distance from proposed development ² (km)	Connections (Source- Pathway- Receptor)	Considered further in screening Y/N
Lower River Shannon SAC (002165)	Annex I habitats: Sandbanks which are slightly covered by sea water all the time [1110] Estuaries [1130] Mudflats and sandflats not covered by seawater at low tide [1140] *Coastal lagoons [1150] Large shallow inlets and bays [1160] Reefs [1170] Perennial vegetation of stony banks [1220] Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] Salicornia and other annuals colonizing mud and sand [1310] Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330] Mediterranean salt meadows (Juncetalia maritimi) [1410] Water courses of plain to montane	125m	None	No

levels with the Ranunculion fluitantis	
and Callitricho-Batrachion vegetation [3260]	
 Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae) [6410] 	
 *Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0] 	
Annex II species:	
Freshwater Pearl Mussel Margaritifera margaritifera [1029]	
• Sea Lamprey Petromyzon marinus [1095]	
Brook Lamprey Lampetra planeri [1096]	
River Lamprey Lampetra fluviatilis [1099]	
Atlantic Salmon Salmo salar (only in fresh water) [1106]	
Bottlenose Dolphin <i>Tursiops</i> truncates [1349]	

- ¹ Short paraphrasing and/or cross reference to NPWS is acceptable it is not necessary to reproduce the full text on the QI/SCI.
- ² If the site or part thereof is within the European site or adjacent to the European site, state here.

STEP 3. Assessment of Likely Significant Effects (a) Identify all potential direct and indirect impacts that may have an effect on the conservation objectives of a European site, taking into account the size and scale of the project under the following headings: Impacts: **Possible Significance of Impacts:** (duration/magnitude etc.) Construction phase e.g. None Vegetation clearance Demolition Surface water runoff from soil excavation/infill/landscaping (including borrow pits) Dust, noise, vibration Lighting disturbance

· Impact on groundwater/dewatering Storage of excavated/construction materials Access to site Pests Operational phase e.g. None · Direct emission to air and water Surface water runoff containing contaminant or sediment Lighting disturbance Noise/vibration Changes to water/groundwater due to drainage or abstraction Presence of people, vehicles and activities Physical presence of structures (e.g. collision risks) Potential for accidents or incidents In-combination/Other None

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

Examples of the type of changes to give consideration to include:

- Reduction or fragmentation of habitat area
- Disturbance to QI species
- Habitat or species fragmentation
- Reduction or fragmentation in species density
- Changes in key indicators of conservation status value (water or air quality etc.)
- Changes to areas of sensitivity or threats to QI

None

 Interference with the key relations define the structure or ecological for of the site 					
(c) Are 'mitigation' measures necess can be ruled out at screening?	ary to reach a	conclusion that likely significant effects			
☐ Yes ⊠ No					
Step 4. Scre	ening Determin	ation Statement			
The assessment of significance of effe	ects:				
Describe how the proposed developm significant effects on European site(s)					
	The query relates to the change of use of existing buildings for the housing of asylum seekers. No new development is proposed. No significant effects are envisaged on the European sites in view of their conservation objectives.				
Conclusion: The change of use is not likely to have significant effects on European site(s) in view of its conservation objectives.					
	Tick as Appropriate:	Recommendation:			
(i) It is clear that there is no likelihood of significant effects on a European site.		The proposal can be screened out: Appropriate assessment not required.			

(ii) It is uncertain whether the proposal will have a significant effect on a European site.	Request further information to complete screening Request NIS Refuse planning permission
(iii) Significant effects are likely.	Request NIS
	Refuse planning permission
Signature and Date of Recommending Officer:	Ane Bouche 20/12/24
Signature and Date of the Decision Maker:	



Briarlane Developments Ltd C/o Mark Tubridy **Atlantic Building Consultants Ltd Unit 1 Digital Hub Merchants Quay Business Quarter** Francis St, Kilrush Co. Clare

29/11/2024

Section 5 referral Reference R24-92 - Briarlane Developments Ltd

Is the regularisation of the current use of the existing Clare Lodge Hostel for use as emergency accommodation for persons seeking Internation protection applicable under Section 5(1) of the Planning and Development Act, 2000, as amended and specifically Part 1, Schedule 2, Class 14h of the Planning and Development (Exempted Development) (No. 4) Regulations, 2015?

A Chara,

I refer to your application received on 29th November 2024 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

Please note that the Planning Authority is considering the matter and a reply will issue to you in due course.

Mise, le meas

Brian Fahy

Planning Department

Economic Development Directorate

An Roinn Pleanála An Stiúrthóireacht Forbairt Gheilleagrach

Áras Contae an Chláir, Bóthar Nua, Inis, Co. an Chláir, V95 DXP2

Planning Department **Economic Development Directorate**

Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2













Clare County Council
Aras Contae an Chlair
New Road

HARLE
Ennis
Co Clare

29/11/2024 12:47:51 A

Receipt No.: L1CASH/0/372520

BRIARLANE DEVELOPMENTS LTD
C/O MARK TUBRIDY
ATLANTIC BUILDING CONSULTANTS LTD
UNIT 1 DIGITAL HUB
MERCHANTS QUAY BUSINESS QUARTER
FRANCIS ST
KILRUSH CO. CLARE R24-92

PG A P

SECTION 5 REFERENCES
GOODS 80.00
VAT Exempt/Non-vatable

Total: 80.00 EUR

Tendered: MONEY ORDER

80.00

80 00

Change: OMHA0.00 LE

Issued By: L1CASH - DEIRDRE FRENCH From: MAIN CASH OFFICE LODGEMENT AF Vat reg No.0033043E P07

CLARE COUNTY COUNCIL COMHAIRLE CONTAE AN CHLÁIR

Planning Department, Economic Development Directorate, Clare County Council, New Road, Ennis, Co. Clare. V95DXP2 Telephone No. (065) 6821616 Fax No. (065) 6892071 Email: planoff@clarecoco.ie Website: www.clarecoco.ie



R24-92

REQUEST FOR A DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT (Section 5 of the Planning & Development Act 2000 (as amended))

FEE: €80

This following form is a non-statutory form which has been prepared by Clare County Council for the purpose of obtaining the necessary information required for a declaration to be made under Section 5 by the Planning Authority

1.	CORRESPONDENCE DETA	ILS.
(a)	Name and Address of person	BRIARLANE DEVELOPMENTS LTD
	seeking the declaration	ORANMORE HOUSE
		MAIN STREET, ORANMORE
		GALWAY
(b)	Telephone No.:	
(c)	Email Address:	
(d)	Agent's Name and address:	Mark Tubridy
		Atlantic Building Consultants Ltd
		Unit 1 Digital Hub. Merchants Quay Business Quarter
		Francis St
		Kilrush, Co Clare

2. DETAILS REGARDING DECLARATION BEING SOUGHT

(a) PLEASE STATE THE SPECIFIC QUESTION FOR WHICH A DECLARATION IS SOUGHT Note: only works listed and described under this section will be assessed.

Sample Question: Is the construction of a shed at 1 Main St., Ennis development and if so is it exempted development?

Is the regularisation of the current use of the existing Clare Lodge Hostel for use as emergency accommodation for persons seeking international protection applicable under Section 5(1) of the Planning

and Development Act, 2000, as amended and specifically Part 1, Schedule 2, Class 14h of the Planning and Development (Exempted Development) (No. 4) Regulations, 2015

(b) Provide a full description of the question/matter/subject which arises wherein a declaration of the question is sought.

The existing premises comprises the following

a) Hostel type Accommodation and Common Areas

The property is currently used to provide emergency accommodation for persons seeking international protection since 2019

The previous use of the property was as a hostel for the tourism sector.

This exemption declaration request for change of use is made under Part 1, Schedule 2, Class 14h of the Planning and Development (Exempted Development) (No. 4) Regulations, 2015 to regularise the current use of the premises as emergency accommodation for persons seeking international protection

(c) List of plans, drawings etc. submitted with this request for a declaration:

(Note: Please provide a site location map to a scale of not less than 1:2500 based on Ordnance Survey map for the areas, to identify the lands in question)

Cover Letter
Site Location Map
Site Layout Map
Floor Plans
Elevations
Section

(a)	Postal Address of the Property/Site/Building for	Clare Lodge Hostel
	which the declaration sought:	Carmody St Ennis
		Co Clare
(b)	Do the works in question affect a Protected Structure or are within the curtilage of a Protected	Not Applicable – Building is not a protected structure
	Structure? If yes, has a Declaration under Section 57 of the Planning & Development Act 2000 (as	
	amended) been requested or issued for the property by the Planning Authority?	
	-y	
(c)	Legal interest in the land or structure in question of	Briarlane Developments Ltd – Full Owner
	the person requesting the declaration (Give Details):	
(d)	If the person in (c) above is not the owner and/or	N/A
	occupier, state the name and address of the owner of the property in question:	
	Note: Observations in relation to a referral may be	
	requested from the owner/occupier where appropriate.	
(e)	Is the owner aware of the current request for a	
	Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?:	YES
(f)	Are you aware of any enforcement proceedings	
\ - /	connected to this site? If so please supply details:	NO
(g)	Were there previous planning application/s on this	YES – Refer Cover letter for planning applications
	site? If so please supply details:	found for the site
	Date on which 'works' in question were	

SIGNED:	<i>(</i>)	DATE:	27-11-24

GUIDANCE NOTES

This following are non-statutory advice notes prepared by Clare County Council for the purpose of advising people what information is required for a decision to be made under Section 5 by the Planning Authority

- (i) The request for a declaration under Section 5 must be accompanied by 2 copies of site location map based on the Ordnance Survey map for the area of a scale not less than 1:1000 in urban areas and 1:2500 in rural areas and should clearly identify the site in question.
- (ii) The request for a declaration under Section 5 must be accompanied by the required fee of €80.00.
- (iii) If submitting any additional plans/reports etc. as part of the request for a declaration, please submit 2 copies.
- (iv) The request for a declaration should be sent to the following address:

Planning Department,
Economic Development Directorate,
Clare County Countil
Aras Contae an Chlair,
New Road,
Ennis,
Co. Clare
V95DXP2

- (v) Notwithstanding the completion of the above form, the Planning Authority may require the submission of further information with regard to the request in order to enable the Authority to issue a declaration on the question.
- (vi) The Planning Authority may also request other persons to submit information on the question which has arisen and on which the declaration is sought

FOR OFFICE USE ONLY			
Date Received:		Fee Paid:	
Date Acknowledged:	***************************************	Reference No.:	
Date Declaration made:		CEO No.:	
Decision:		***************************************	

Atlantic Building Consultants

Incorporating PND Building Consultancy & Tubridy Engineering
Unit 1 Digital Hub, Merchants Quay Business Quarter, Frances Street, Kilrush,
Co. Clare, Ireland V15 FN53 & Main St Cooraclare Co Clare

e:mark.tubridy@atlanticbc.ie m: 083 4167097

28/11/2024

Planning Dept Clare County Council Ennis Co Clare

Applicant: Briarlane Developments Ltd

Our Reference: P_24_301_01

Address: Clare Lodge Hostel, Carmody St, Ennis, Co Clare

Re: Request for a declaration on development and exempted development

Dear Sirs/Madam

1. Introduction

1.1. Section 5 Declaration

Briarlane Developments Ltd, has retained Atlantic Building Consultants of Kilrush, Co Clare to seek a Section 5 Declaration from Clare County Council in respect of a proposed change of use at the Clare Lodge Hostel, Carmody St, Ennis, Co Clare

This Declaration is made in accordance with the provisions of Section 5(1) of the Planning and Development Act, 2000, as amended and specifically Part 1, Schedule 2, Class 14h of the Planning and Development (Exempted Development) (No. 4) Regulations, 2015.

The Declaration seeks to establish whether the 'change of use' of the building from Hostel Accommodation to use of the building for temporary accommodation for the support of persons seeking international protection is or is not 'exempted development' within the meaning of the Planning and Development Acts, 2000 2021.

1.2. Use of the Premises

The following outlines the current and previous use of the premises

Period Description	
Up to 2019	Hostel
2019 - Present	Emergency Accommodation for persons seeking
	international protection







2 9 NOV 2024

Incorporating PND Building Consultancy & Tubridy Engineering
Unit 1 Digital Hub, Merchants Quay Business Quarter, Frances Street, Kilrush,
Co. Clare, Ireland V15 FN53 & Main St Cooraclare Co Clare

e:mark.tubridy@atlanticbc.ie m: 083 4167097

2. Planning History

Planning Reference	Description	Material Change of Use Application Made to Clare County Council	Approved Use
9821018	Erect a small staff room at the rear of the Clare Tourist Hostel and roof over existing refrigeration unit in service yard area	No	Hostel

3. Exempted Development.

It is our professional planning opinion that the change of use to accommodation for protected persons is 'exempted development' in accordance with Part 1, Schedule 2, Class 14 (h) of the Planning and Development (Exempted Development) (No. 4) Regulations, 2015

"Class 14(h)" classifies the change of use 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 to use as accommodation for protected persons as Exempted Development.

4. Supporting Documentation

Reference	Description	Quantity
Application Form	Completed Section 5 Declaration of Exemption Form	1
Postal Order payment	€80 Postal order for fee payment	1
Location Map	Ordinance Survey Map	2
Site Layout Plans	Site Layout Plan	2
Floor Plans and	Existing Floor Plans & Elevations	2
Elevations		

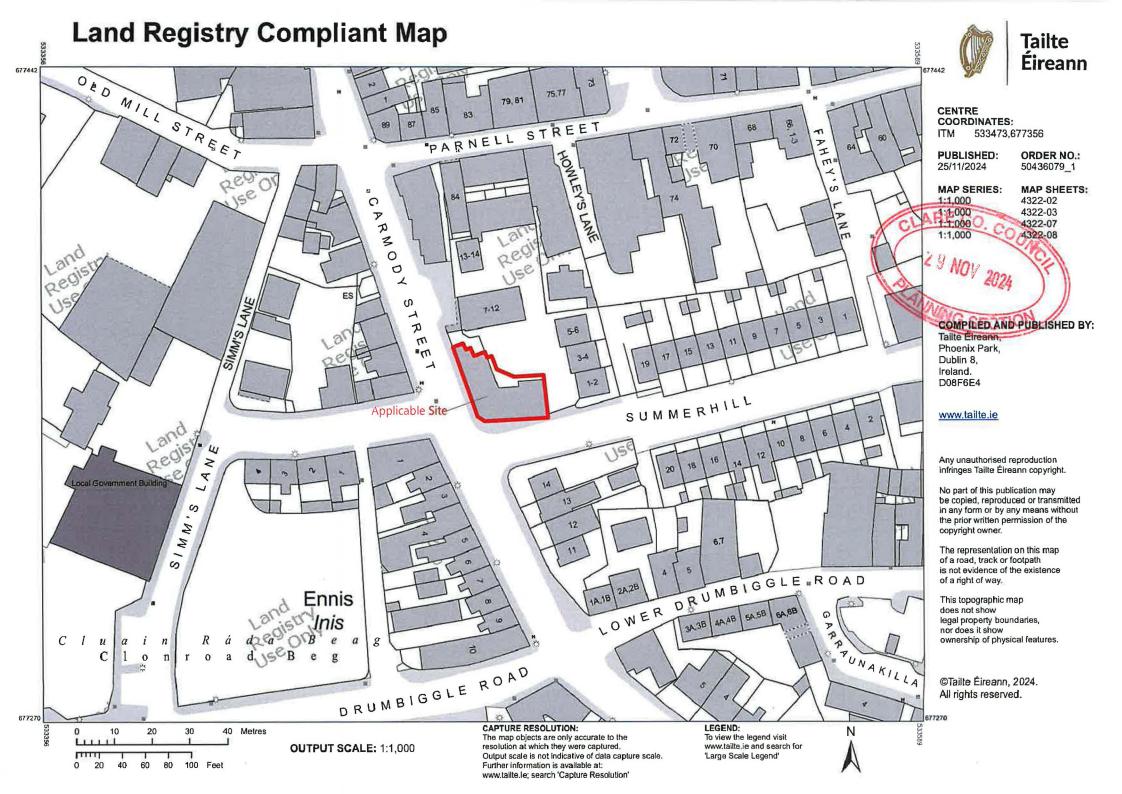
For all queries or clarifications in relation to the information provided in this letter, please contact the undersigned.

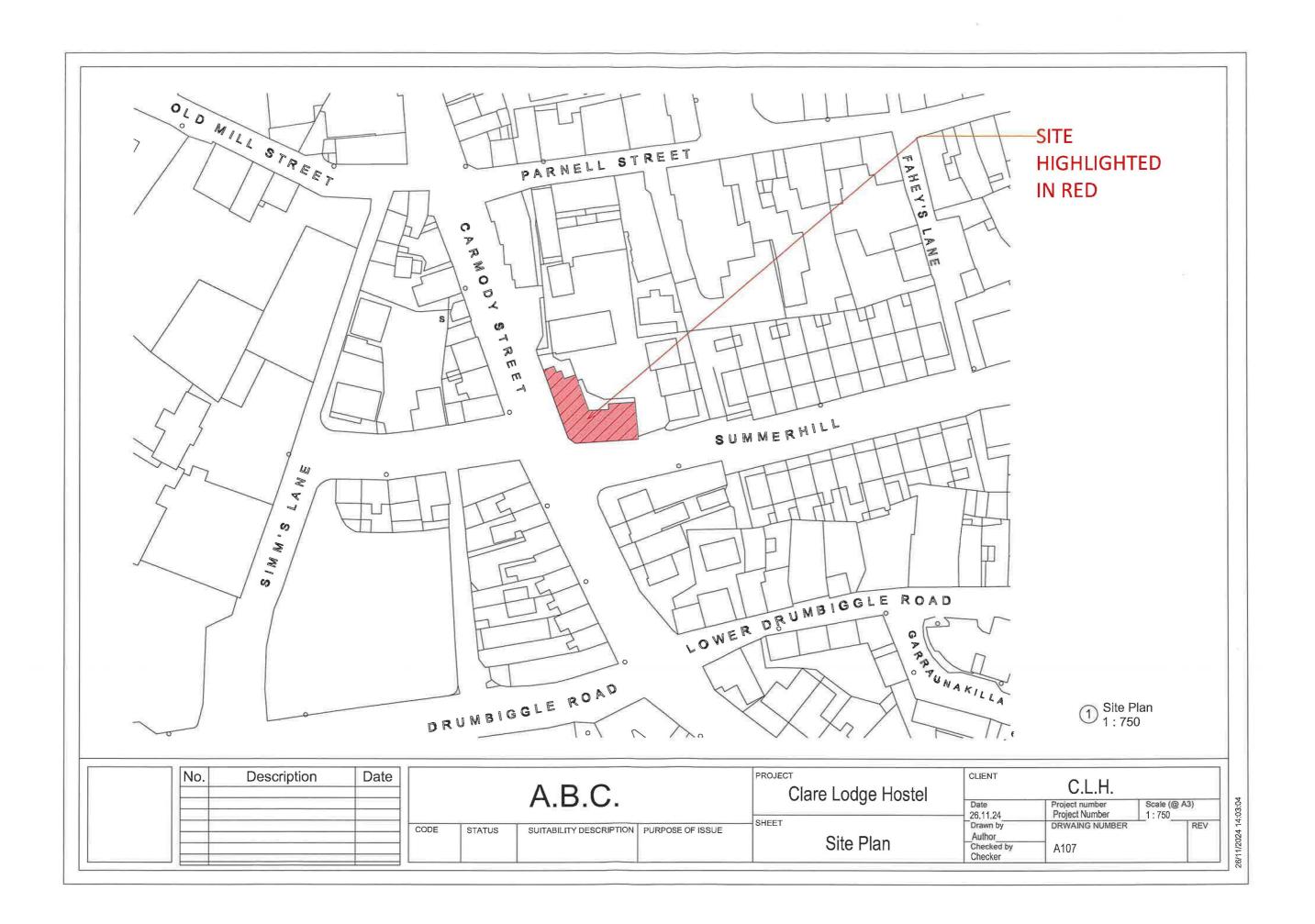
Yours sincerely

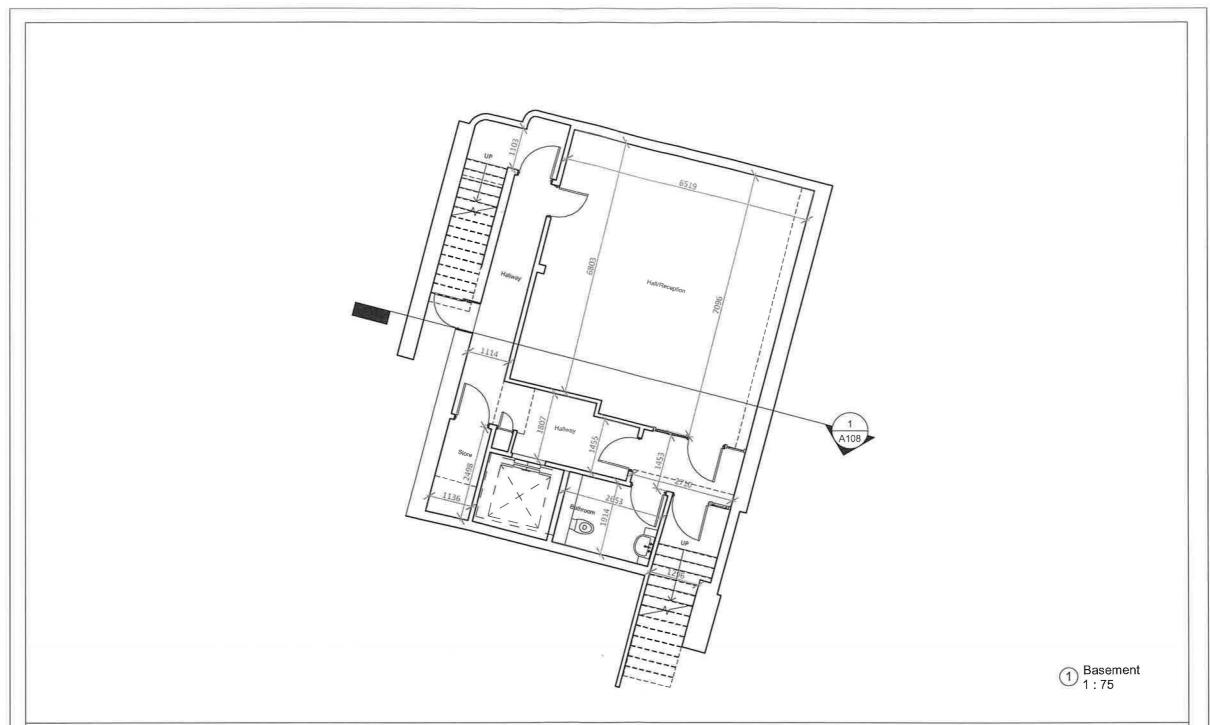
Mark Tubridy C.Eng MIEI, B.Eng. Atlantic Building Consultants Ltd







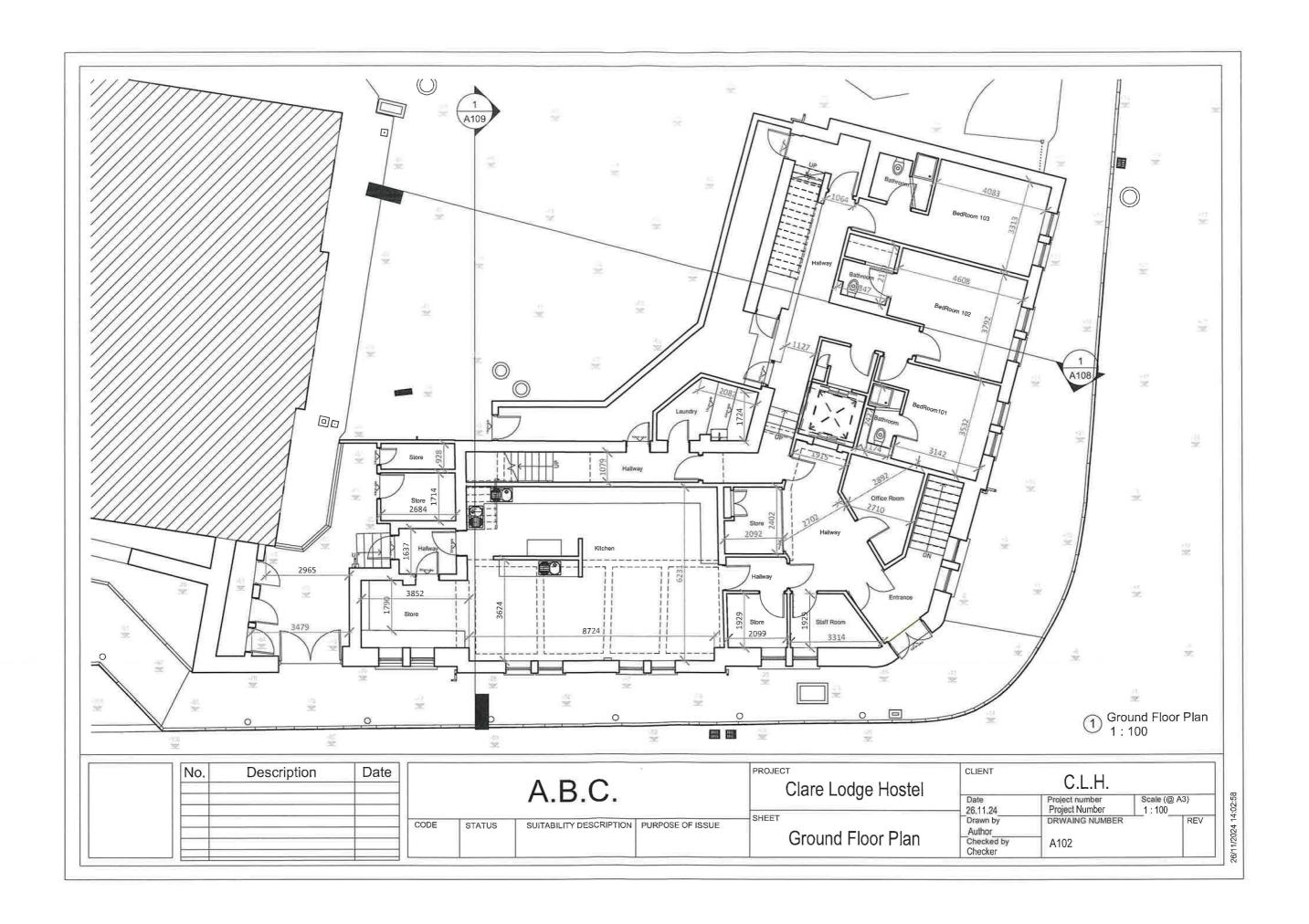


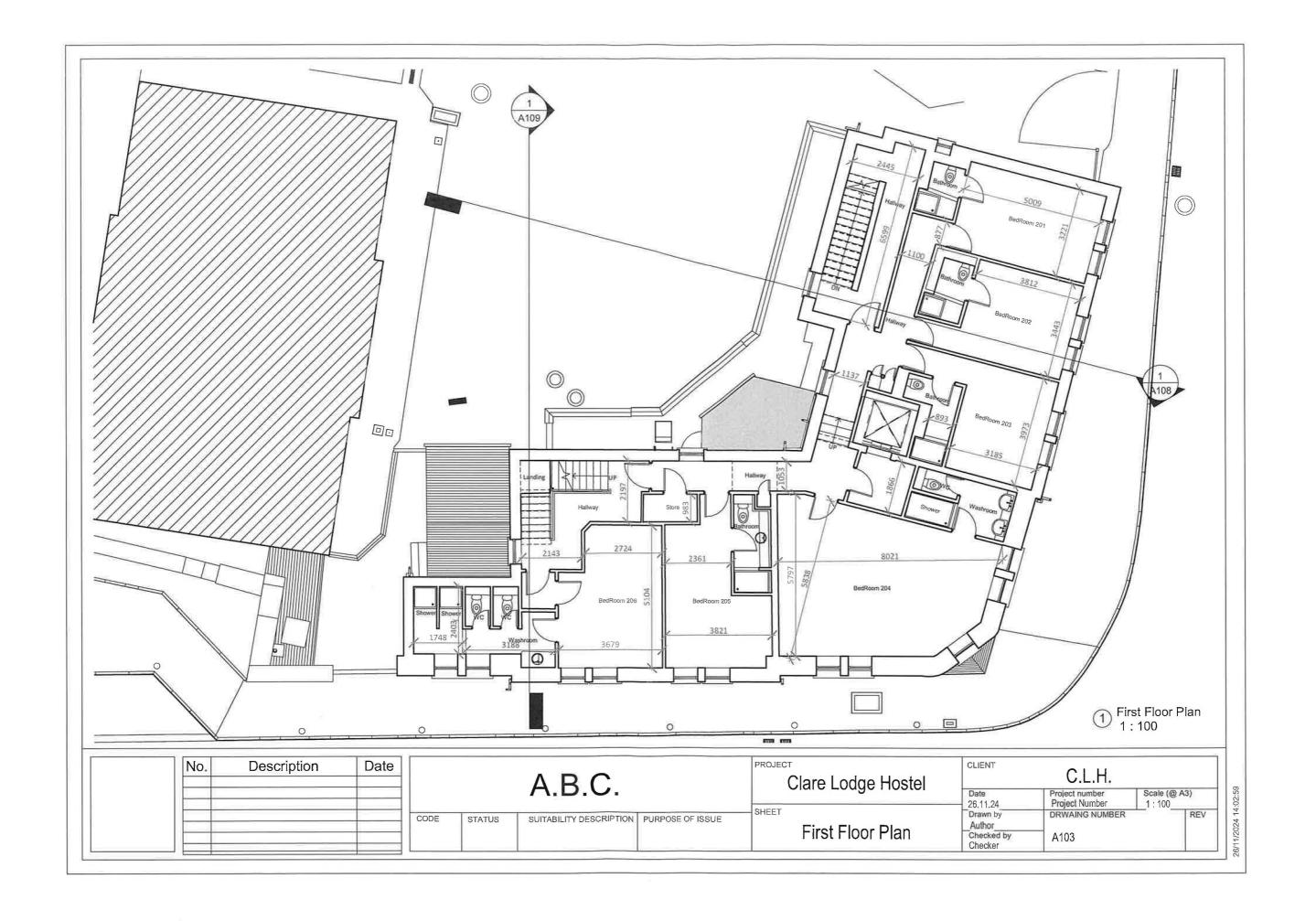


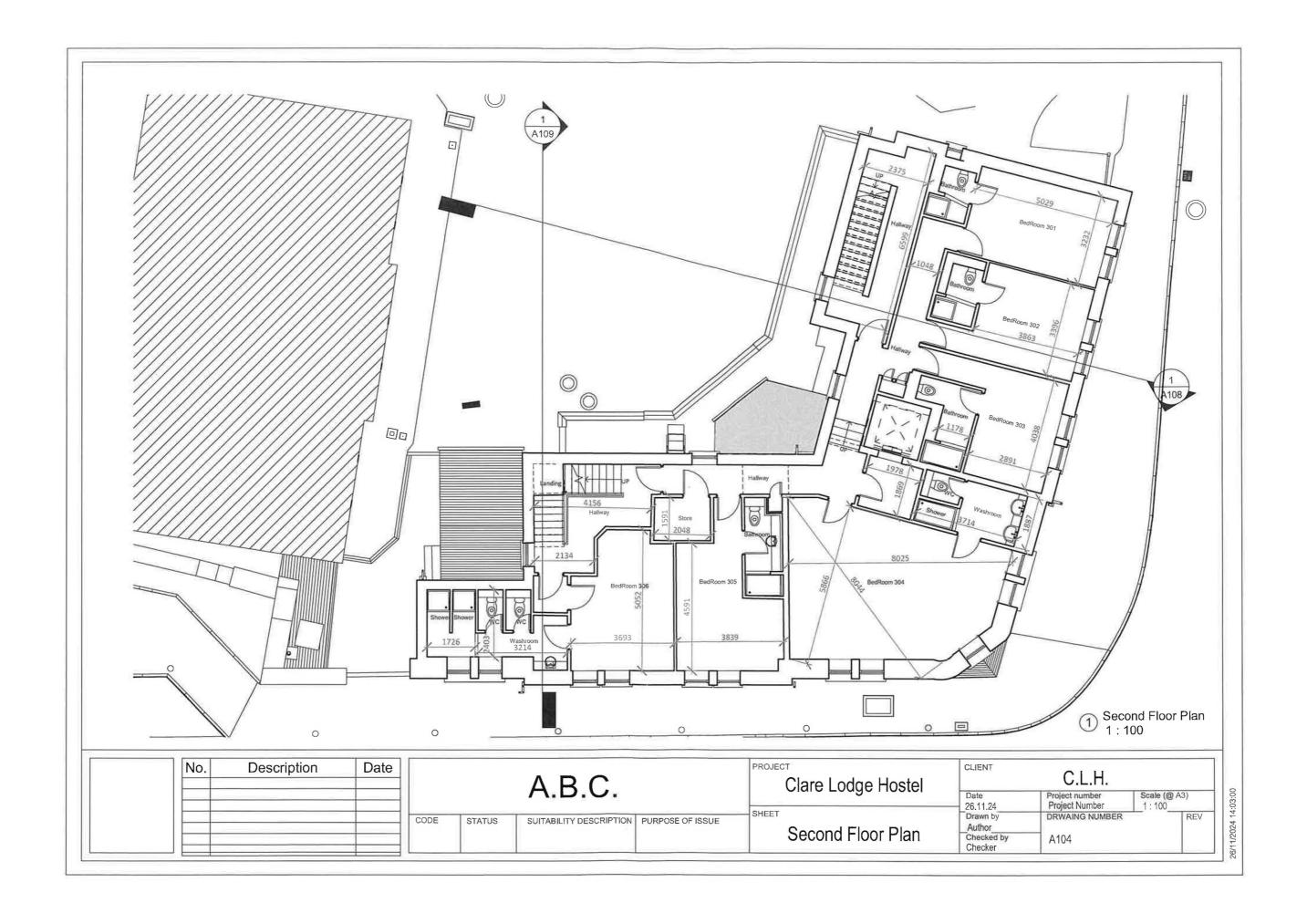
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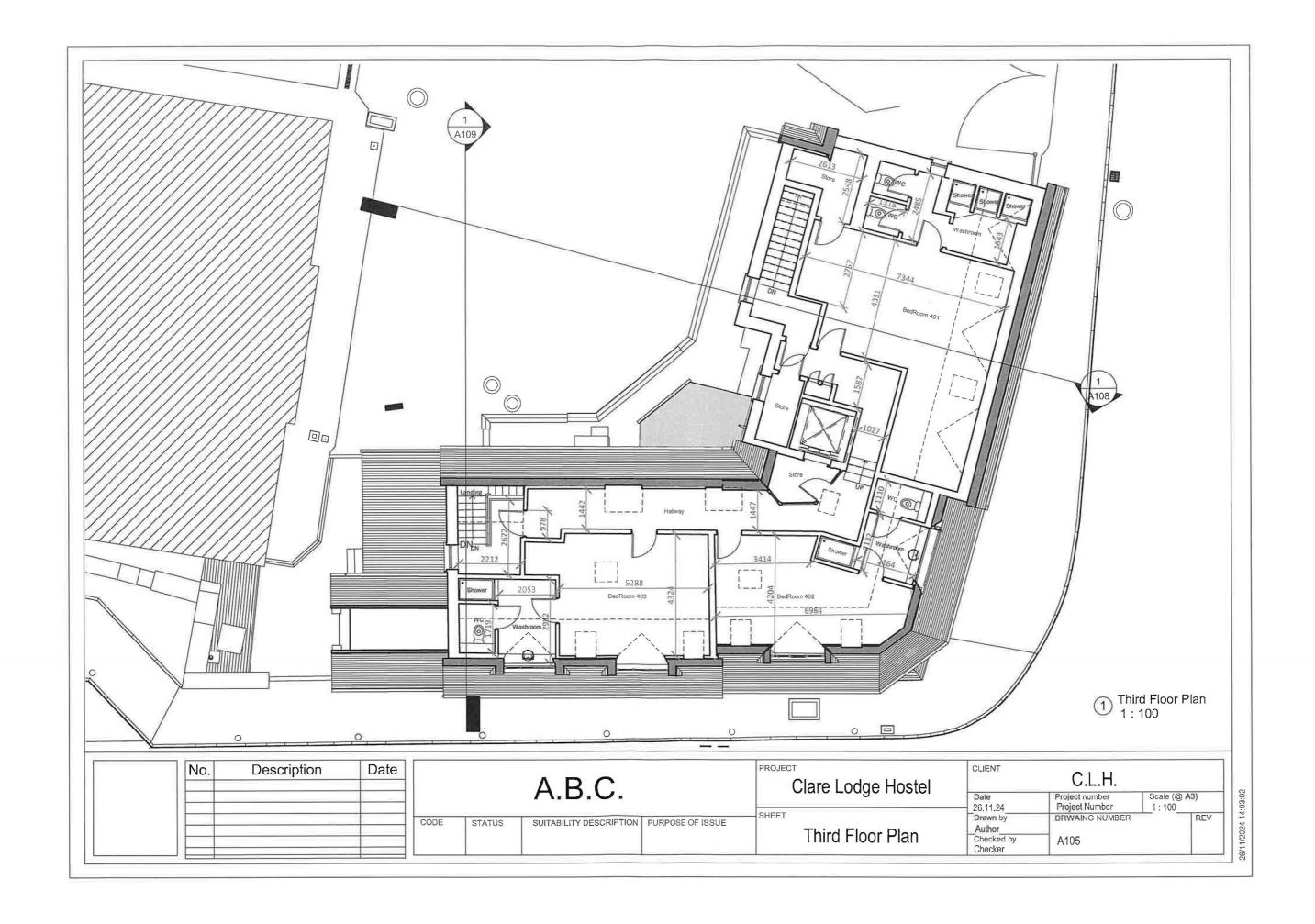
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A.D.C.				Date 26,11,24	Project number Project Number	Scale (@ A3) 1:75		
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					Checked by Checker	A101		

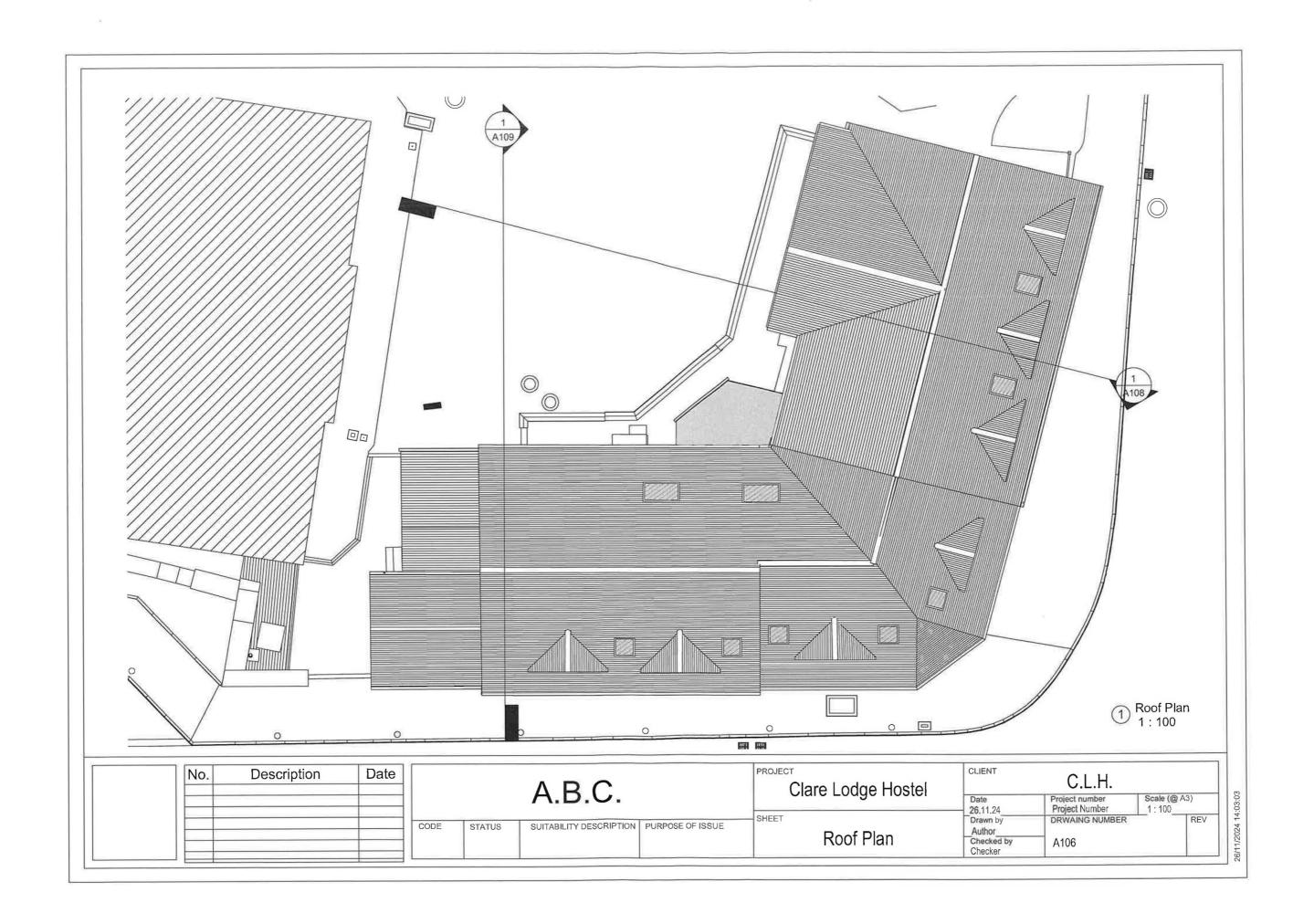
2011/2021 14:0

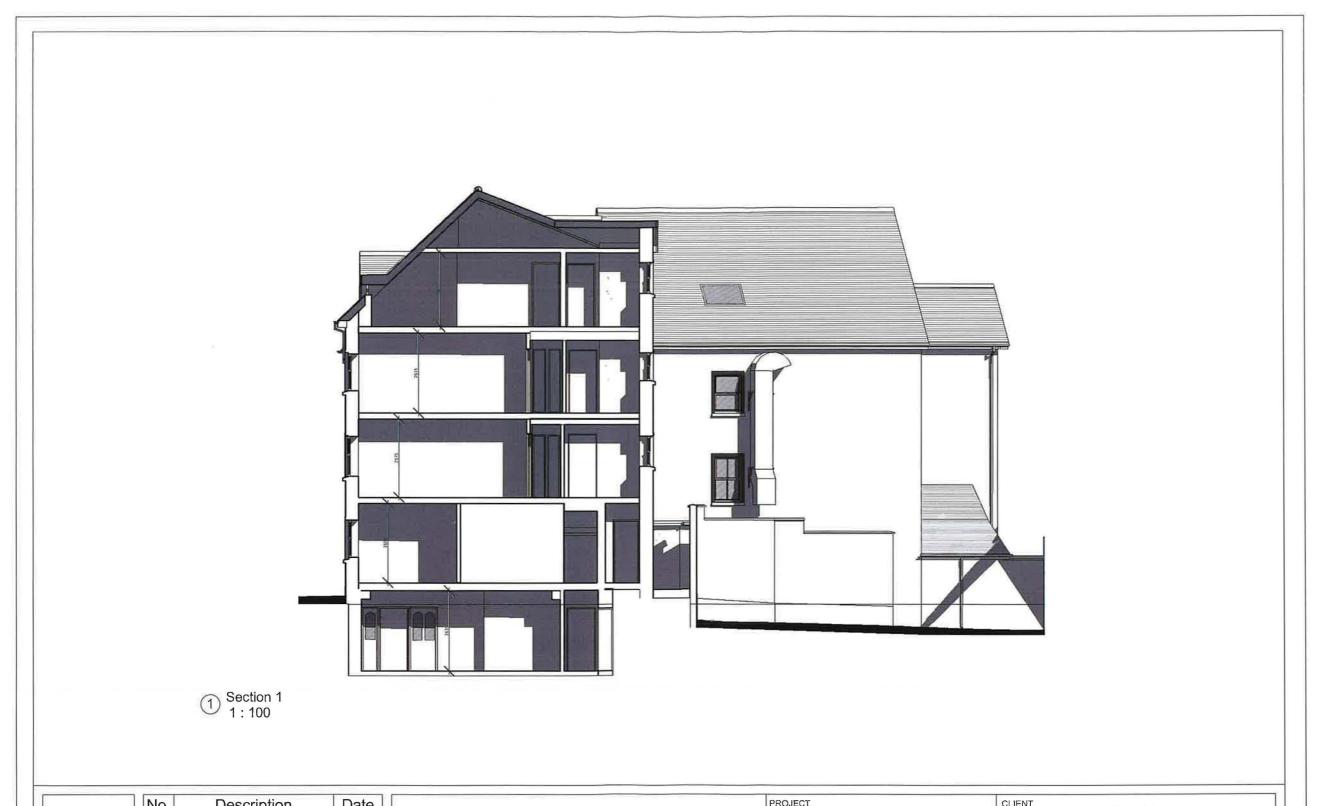












Description	Date
	Description

		A.B.C.		CI
CODE	STATUS	SUITABILITY DESCRIPTION	PURPOSE OF ISSUE	SHEET

PROJECT
Clare Lodge Hostel
SHEET
Section 1

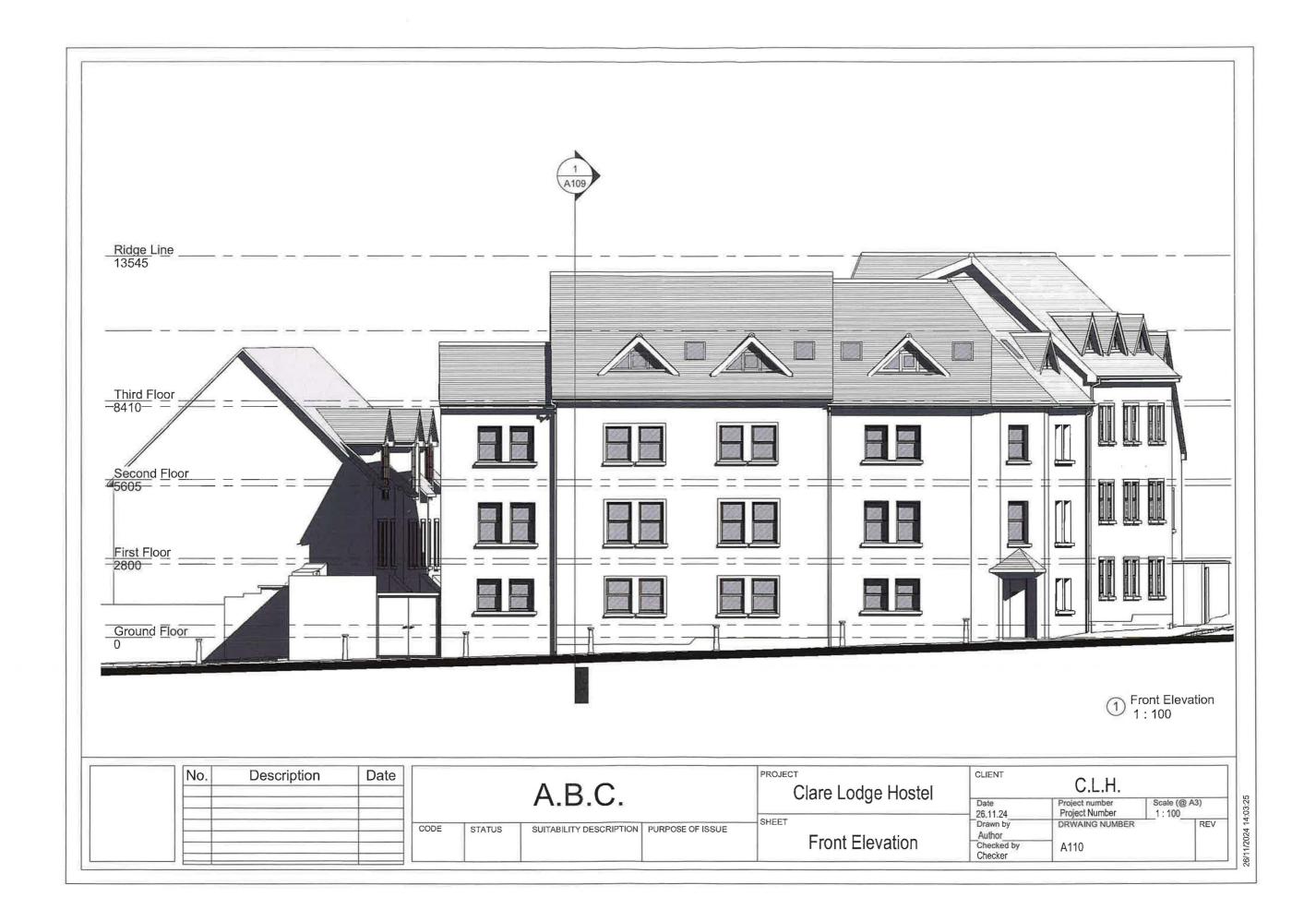
Date	Project number	Scale (@ A3)
26.11.24	Project Number	1:100
Drawn by Author	DRWAING NUMBER	RE
Checked by Checker	A108	

26/11/2024 14:03:09



① Section 2 1:100

No.	Description	Date		A D C		Clare Lodge Hostel	CLIENT	C.L.H.		
					A.D.C.			Date 26.11.24	Project number Project Number	Scale (@ A3) 1:100
			CODE	STATUS	SUITABILITY DESCRIPTION	PURPOSE OF ISSUE	Section 2	Author Checked by Checker	A109	Ri





C.L.H.

Project number
Project Number
DRWAING NUMBER Date
- 26.11.24
Drawn by
Author
Checked by
Checker Scale (@ A3) 1:100 CODE SUITABILITY DESCRIPTION PURPOSE OF ISSUE STATUS Rear Elevation A111



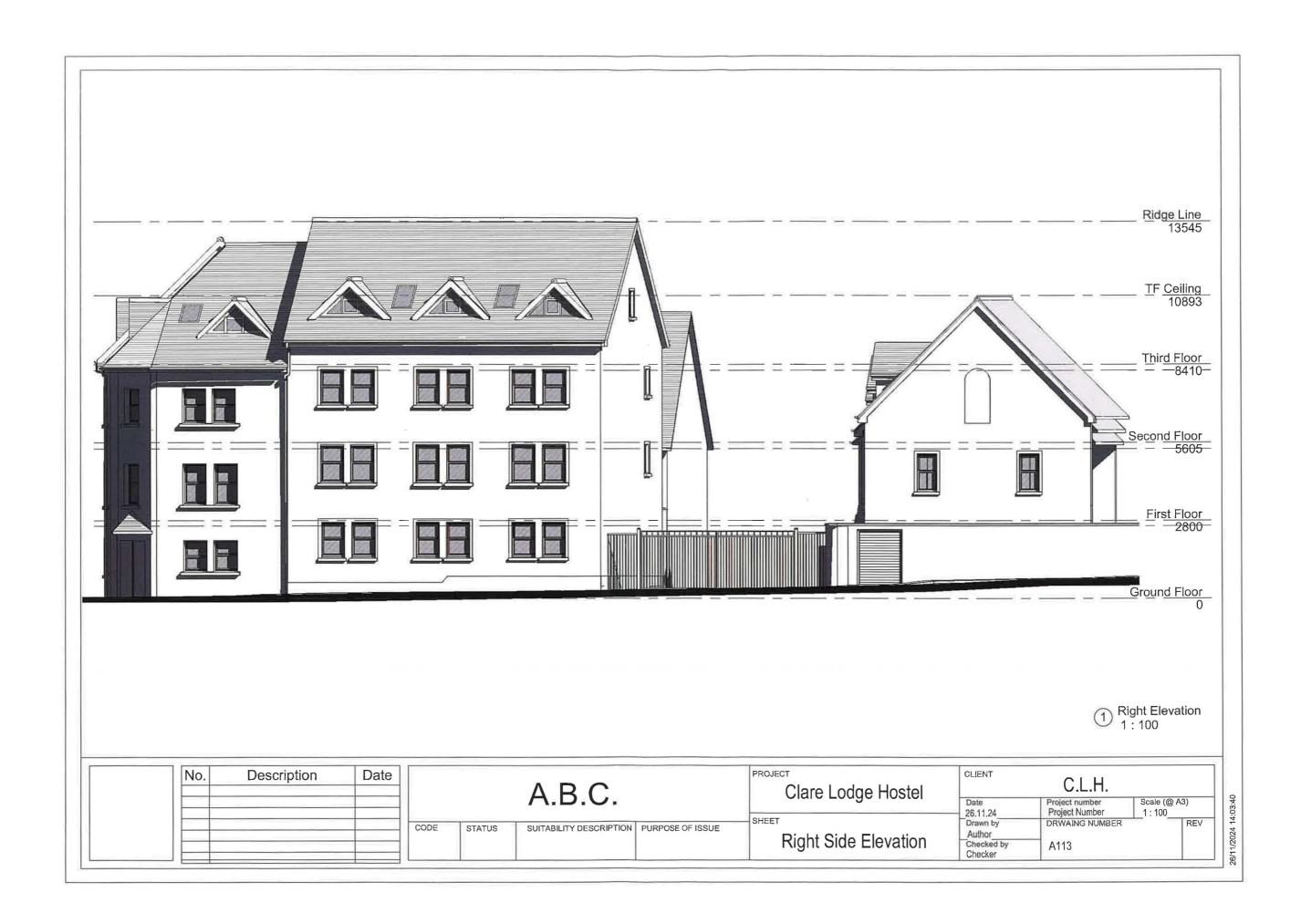
CODE

STATUS SUITABILITY DESCRIPTION PURPOSE OF ISSUE Left Side Elevation

C.L.H.

Project number
Project Number

DRWAING NUMBER Date 26.11.24 Drawn by Author Checked by Checker A112





No.	Description	Date

A.B.C.

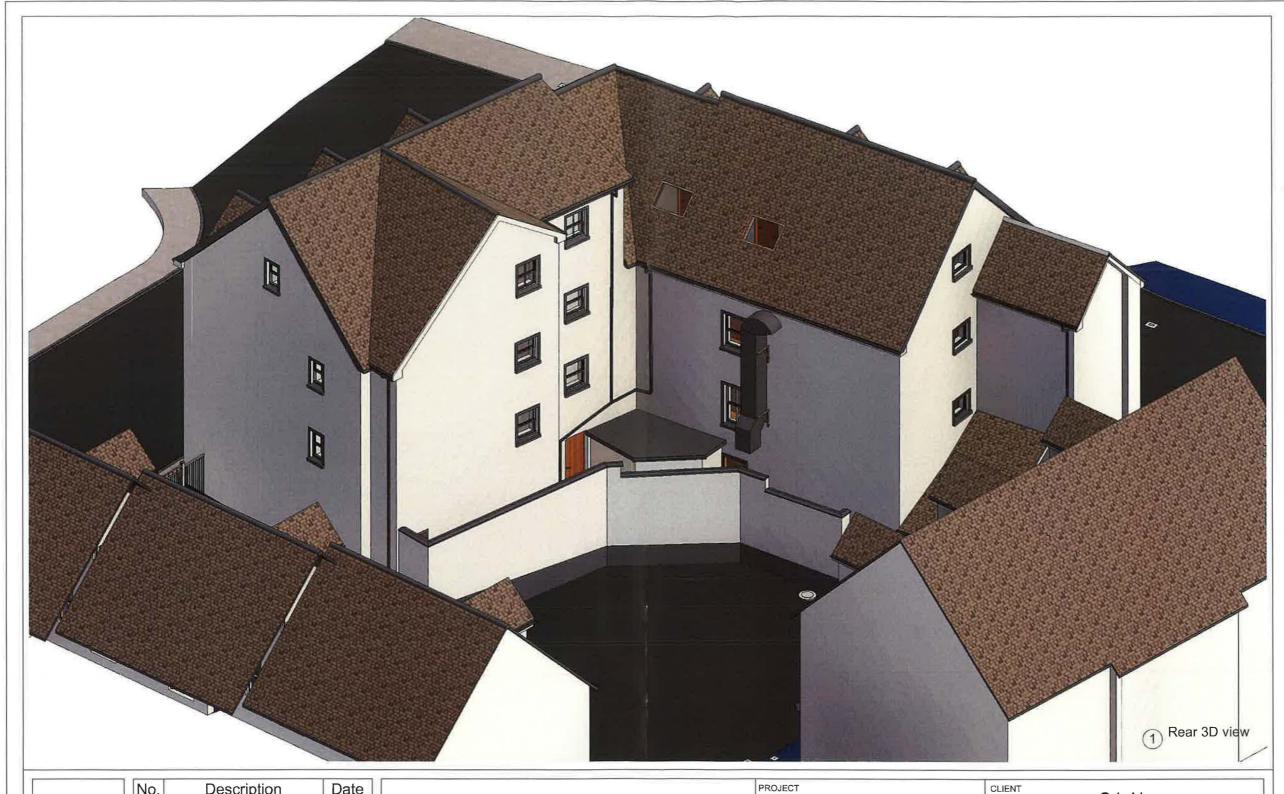
CODE STATUS SUITABILITY DESCRIPTION PURPOSE OF ISSUE Clare Lodge Hostel

Isometric Front

CLIENT C.L.H.

Project number
Project Number
DRWAING NUMBER Scale (@ A3)

Date
26.11.24
Drawn by
Author
Checked by
Checker A114



No.	Description	Date

		A.B.C.	
CODE	STATUS	SUITABILITY DESCRIPTION	PURPOSE OF ISSUE

PROJECT
Clare Lodge Hostel
SHEET
Isometric Rear

Date 26,11,24	Project number Project Number	Scale (@ A3)
Drawn by Author	DRWAING NUMBER	RE
Checked by Checker	A115	

26/11/2024 14:03:49