



An
Coimisiún
Pleanála

Inspector's Report ACP-323586-25

Questions

Whether the provision of temporary accommodation (small log cabin) for the use of the applicant during the period in which exempted works are being carried out is or is not development or is or is not exempted development.

Location

Kilmore, Lisronagh, Co. Tipperary

Declaration

Planning Authority

Tipperary County Council

Planning Authority Reg. Ref.

S5/25/106

Planning Authority Decision

Is not exempted development.

Referral

Referred by

Gerard Purcell Jnr

Landowner

Gerard Purcell Jnr

Occupier

Gerard Purcell Jnr

Date of Site Inspection

2nd December 2025

Inspector

Carol Hurley

1.0 Site Location and Description

- 1.1. The subject site is located at Kilmore, Lisronagh, Clonmel, Co. Tipperary which is to the southeast of the village of Lisronagh and northeast of Clonmel.
- 1.2. The area can be characterised as being established rural. The River Moyle is located to the north of the subject site. This river flows to the southeast and joins the Anner River which subsequently joins the River Suir.
- 1.3. The overall site consists of an existing dwelling and farmyard complex. The site has two vehicular accesses, one to the northwest and one to the south, located on Scotch Road.
- 1.4. The structure which is the subject of this referral is located to the northwest of the site and northwest of the main farm sheds and yard area. The structure addresses the road with a northeast facing orientation with views out towards Slievenamon.
- 1.5. The structure is described as a log cabin with a pitched roof and principal height of 3.75m and cantilevered roof over a veranda area to the front. The structure has a stated area of 26sqm. Access to the structure is via three steps. Internally the structure consists of open plan kitchen/lounge area, one bedroom and bathroom.
- 1.6. At time of site visit, there were potted plants and outside dining furniture on the veranda.
- 1.7. The structure is accessed via the northwestern vehicular access with a separate access internally to the southwest of the main access. The structure is positioned at the termination of a gravelled driveway lined with kerbs. The structure is surrounded by its own independent well-maintained garden with laurel hedging to the rear (southwest and southwest). The site layout plan indicates the presence of paving to the side (northwest) elevation. At time of site visit, this area appeared to be metal

sheets, akin to the top of a manhole. This area was enclosed with young planting and pot plants.

2.0 The Question

2.1. The question referred to the Commission by Gerard Purcell Jnr which was the one asked of the Planning Authority, in accordance with Section 5(4) of the Planning and Development Act 2000 (as amended), is as follows:

Whether the provision of temporary accommodation (small log cabin) for the use of the applicant during the period in which exempted works are being carried out is development and is so does it constitute exempted development at Kilmore, Lisronagh, Co. Tipperary.

3.0 Planning Authority Declaration

3.1. Declaration

A declaration of exempted development was refused for the following reasons;

- The on-site accommodation provided is not temporary in nature. It has been in place since late 2023.
- The works being undertaken on site are not of a sufficient scale or duration to require the provision of dedicated on site accommodation to deliver same.
- Accordingly, having considered the information received, the Planning Authority has determined that the provision of temporary accommodation (small log cabin) for the use of the applicant during the period in which exempted works are being carried out constitutes “development” and is not “exempted development).

3.2. Planning Report

The planning report reflects the decision above and can be summarised as follows-

- Sets out the description of the details of the query, site location, planning history of the site and relevant precedent from An Coimisiun Pleanala, Legislative Context and Environmental Assessments including EIA and Appropriate Assessment.
- The planning assessment concluded that the works constituted development. The assessment considered Class 17 of the Planning and Development Regulations 2001, as amended however raised concerns regarding the location of the structure, being placed in an area deliberately set aside for this use, the presence of potted plants at the porch area and that the structure had been in place since the enforcement proceedings commenced in January 2024. It was considered that having regard to the groundworks required to provide an area for the cabin, to the design of the structure and the long-standing nature of the structure, the Planning Authority was not satisfied that same can be considered to be temporary in nature. The Planning Authority considered the other works listed by the querist, which are contended by the Planning Authority to be minor in nature and would not appear to justify the need for the provision of specific onsite accommodation to deliver same.

The Planning Authority was not satisfied that the works being undertaken are of a sufficient scale or duration to require the provision of dedicated onsite accommodation for persons employed or otherwise engaged in connection with the carrying out of the development.

3.3. Other Technical Reports

None on file

4.0 Planning History

4.1. Subject site

Enforcement TUD-23-218 – Current file open relating to alleged unauthorised development.

PL-500726 (PA Ref: 2560816) – Permission was sought for an agricultural shed for use for general farm storage, farmyards, alteration and extension to dwelling house, demolition works and retention of existing temporary log cabin for use as temporary accommodation during the construction of the aforementioned shed, yards and extension and all associated site works. The Planning Authority granted permission for agricultural shed for use for general farm storage, farmyards, alteration and extension to the dwelling house and demolition works. The Planning Authority **refused** permission for retention of the existing temporary log cabin for use as temporary accommodation during the construction of the aforementioned shed, yards and extension and all associated site works. The reason for refusal is as follows;

This application pertains to the retention of an existing log cabin (and associated waste water infrastructure) for use as temporary accommodation at a site in an un-serviced rural location. It is an objective of the Tipperary County Development Plan 2022 (Policy 15-2) that all new septic tanks be located and constructed in accordance with the EPA Code of Practice – Domestic Waste Water treatment systems (EPA, 2021) (and any amendment thereof).

The waste water treatment proposals for the temporary on site accommodation, which include the collection and landspreading of waste waters, are not in accordance with the EPA Code of Practice 2021 – Domestic Waste Water Treatment Systems publication and would therefore be contrary to a stated policy of the Tipperary County Development Plan 2022 (Policy 15-2).

The proposal to retain the temporary onsite accommodation would therefore be prejudicial to public health and contrary to the proper planning and sustainable development of the area.

A decision on this case is not yet available.

4.2. Relevant Referral History

RL.27.316125 – This referral related to the erection of temporary living accommodation on a construction site in Ballinatone Lower, Greenan, Co. Wicklow. The Board, now the Commission concluded that the use of the land for the purpose of human habitation constituted a material change of use and therefore was considered to be development. The erection of the structure predated the granting of permission

for a house on the site and the erection of temporary living accommodation does not constitute temporary on site accommodation pursuant to permission, consent, approval or confirmation granted and therefore did not come within the exempted development provisions under Class 17 of Part 1 Schedule 2 to the Planning and Development Regulations, 2001, as amended. It was also concluded that the erection of temporary living accommodation on a construction site does not come within any of the other exempted development provisions of the Act. or regulations. The provision of temporary living accommodation on a construction site was considered to be development and not exempt development.

RL22.RL.2848 – This referral related to the temporary placement of a mobile home on site and its habitable use while a house is being constructed at Graffin, Clonmore, Co. Tipperary. By virtue of the long-established placement of the mobile home on the site and in the absence of commencement works for the permitted dwellinghouse, the Board, now the Commission, was not satisfied that the development came within Class 17 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001. The provision of the temporary placement of a mobile home of the site and its habitable use was not considered to be exempt development.

RL92.RL3343 – This referral related to whether or not the temporary mobile home was or was not development or was or was not exempted development at Ballytarsna Castle, Cashel, Co. Tipperary. The Board, now the Commission concluded that temporary mobile home within the curtilage of a protected structure was development and was not exempted development as set out in Section 3(1) of the Planning and Development Act 2000, as amended. Class 17 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, is not operative as no permission was in place and the placing of a mobile home for employees would also materially contravene condition 1(b) of PA Ref 13/328 and accordingly Article 9(1)(a)(i) of the Planning and Development Regulations 2001, as amended. The installation of a temporary mobile home for an employee during construction works was considered to be development and was not exempted development.

ABP-304220-19: The Board determined that, inter alia, none of the structures referred to in the question come within the scope of Class 17 of Part 1 of the Second Schedule to the Planning and Development Regulations, 2001, as amended, as the referrer has not provided any evidence that they relate to the carrying out of any development that is being or is about to be carried out pursuant to any permission, consent, approval or confirmation, or how the works referred to are temporary in nature.

5.0 Policy Context

5.1 Tipperary County Development Plan 2022-2028

The Tipperary County Development Plan is the operative plan for the area. The Plan came into effect on 22nd August 2022.

The lands are unzoned but are located within an area designated as being 'Areas Under Urban Influence'.

The site is not subject to any specific designations, and it is removed from features of archaeological interest, designated scenic routes, views or and prospects.

5.2 Natural Heritage Designations

The proposed development is not located within or immediately adjacent to any Natural Heritage Site.

The referral site is located c. 4.3km to the southwest of Slievenamon Bog, NHA (002388), c. 3.6km to the northwest of Templetney Quarry, pNHA (001982), c.5.1km to the south of Groove Wood, pNHA (001982), c. 7km to the south of Moneypark, Fethard, pNHA (000966), c. 10.5km to the southwest of Lizzy Smyths Bog, pNHA (001980) and c. 17km to the southeast of Rockwell College Lake, pNHA (000970).

The referral site is located c. 1.6km to the west of the Special Area of Conservation for Lower River Suir 002137, c. 14km to the northwest of the Special Area of Conservation for Comeragh Mountains (001952) and c. 26km to the north of east of the Special Area of Conservation for Galtee Mountains (000646).

The referral site is located c. 25km to the southwest of the Special Protected Area for River Nore (004233) and c. 33km to the north of the Special Protected Area for Dungarvan Harbour (004032).

5.3 The Referral

5.1.1. Referrer's Case

The issues raised by the referrer, Gerard Purcell, can be summarised as follows;

In respect of the cabin not being considered a temporary structure due to the length of time in place, the referrer contends the following;

- The cabin structure was in place from the end of November 2023 it was not finished out with internal 1st and 2nd fix and general fit out, the majority of which were completed by the referrer. It is contended that all of these works were necessarily part of the works involved in the 'provision of temporary accommodation' permitted under Class 17.
- In addition to the works listed previously, the works also included clearing and drainage of wetland area to the west of the existing farm shed being demolished.
- The referrer was the sole person carrying out these works which included the organising and managing of same and took an extended time to complete.
- The referrers main employment is farming. The exempted works could only be undertaken on a part time basis.
- Reference is made to the requirements of the Tipperary County Development Plan in respect of qualification for a single dwelling in the rural area. It is set out that such evidence within PA Ref 2560816 on 21st August 2025. It is contended that involvement in social and sporting activities in the area, as a necessary requirement to obtain planning permission for the planning house or refurbishment and extension of the existing dwelling house, all takes up additional time to do, particularly as a sole farmer.
- In response to the first Warning Letter issued from Tipperary County Council, the referrer submitted that the cabin was temporary in anticipation of carrying

out works at a later date and then only for the duration of the intended works. These works are listed in the Section 5 Referral letter of 25th July and in letter dated 29th May 2025 to Tipperary County Council.

- An extension of time was provided to the referrer to enable a planning application to be made. During this time, the engagement with professionals to prepare the planning application took time, extending the time that could be devoted to the exempted works during that period.
- An Enforcement Notice was served on 2nd December 2024 with proceedings held in Clonmel District Court on 26th June 2025 and have been subsequently appealed.
- Contends that the referrer only had from the end of November 2023 to 4th March 2024 to carry out the development works set out in the Section 5 referral letter of 25th July 2025, this is the time period in which the issue of the time the cabin has been in place should be considered, not the period from the end of November 2023 to the date of the Section 5 Referral to Tipperary County Council (25th July 2025) or any later date.
- Refers to the timelines available under Section 40(3) of the Planning and Development Act 2000, as amended, in relation to a normal planning application.
- The referrer contends that this is the period which should be considered as the time period applying to temporary accommodation under Class 17, i.e. up to 10 years.
- The exempted works being carried out were in preparation for the later erection of a farm shed and extension to the existing dwelling or a new dwelling.
- Planning permission has now been sought by the referrer.
- It is contended that if the referrer had waited and erected the cabin on the date of the presumed grant of permission, there would be no issue in light of Class 17.
- The issue comes down to whether Class 17 allows construction of such temporary accommodation to carry out exempted development such as those set out in the referral letter, *in advance* of such exempt works being undertaken.

- Contends that this issue does not arise as clearly the exempted works were carried out during the period involved from the end of November 2023 when the log cabin was commenced.
- Tipperary County Council failed to carry out a proper investigation of the works being undertaken in accordance with Section 153 of the Planning and Development Act 2000, as amended.
- Refers to the preparation works that are required post grant of permission, before any physical works commence, e.g. construction drawings, legal matters, award of contracts, all of which can take a considerable amount of time.
- Therefore Class 17 permits temporary works to be commenced prior to and in preparation for the permitted works where such permitted works (including exempt works) are 'about to be carried out'
- The issue comes down to how long before the permitted works are commenced can Class 16 or 17 works be carried out.

In respect of the nature of the log cabin;

- The structure is limited in size and not of sufficient size to be considered anything other than temporary and sufficient for just one person.
- Materials used for construction are of a temporary nature with a limited lifespan.
- The cabin does not comply with minimum standards for permanent housing, including building regulations, space and storage requirements.

In respect of the works being carried out not being of sufficient scale or duration to justify the provision of dedicated on site accommodation;

- As the works were being undertaken by one person intermittently the duration of the planned exempted works were extended over a considerable period.
- Contends unlike Class 16, Class 17 does not require that the temporary accommodation provided be in anyway necessary or justified for the works being undertaken. Furthermore, there is no limitation on the type and size of the accommodation provided under Class 17.

- Class 17 does not set any restriction or requirement on the scale of the works for which the temporary accommodation is being carried out, only that (in this case) exempted works are being or are about to be carried out.
 - In this instance, the log cabin is suitable for one person, carrying the works out intermittently.
 - Part of the planned works was the alteration of the existing dwelling house (or a new dwelling) which would necessarily involve moving out of the existing dwelling in advance of and while such works were being carried out, thereby necessitating the provision of alternative accommodation for the referrer and the (other) occupants of the dwelling.
- The referrer set out the extent of the exempt works being undertaken in the referral letter of the 25th of July with further particulars set out including the clearing and drainage of wetland area to the west of the existing farm shed being demolished. These works are considerable as it is just one person undertaking them.
- Class 17 does not require that works be undertaken on a full time or continuous basis which the referred contends enables flexibility, with the requirement being that the planned and/or permitted works be carried out at some point(s) during the period.
- The referrer submits that the period being that of five years for development to be carried out under Section 40.3 of the Planning and Development Act 2000, as amended and/or 10 years under Section 42(1)(a), plus any reasonable period in advance.
- Contends that the issue of sufficiency of the scale (exempted development) is not a requirement of the legislation and is not relevant.
- Class 17 does not set out that the persons employed in the permitted or exempted works be engaged either full time or solely or exclusively on the permitted development/ exempted development in question, only that the persons be 'employed' or otherwise engaged in connection with the carrying out of the development, during the period in which it is being carried out.

- Therefore, there is no requirement that the accommodation provided be solely dedicated to the planned permitted / exempted development.
- In the subject case, the referred was engaged in the exempted works on an intermittent and part time basis and also in farming on the same site.
- The works being undertaken, in the context of the circumstances of the referrer were of a substantial nature and extent, to justify the provision of dedicated on-site accommodation.

The submission is accompanied by:

- Signed authority/consent of 29th May 2025.
- Section 5 Referral letter dated 25th July 2025.
- Letter of 27th March 2024 to Tipperary County Council.
- Potter and Finn letter to Tipperary County Council of 29th May 2025.
- Tipperary County Council Validation Letter for planning application Ref. 2560816 of 26th August 2025.
- Extract letter from Tipperary County Council Solicitor dated 19th June 2025.
- Warning Letter dated 1st March 2024.
- Enforcement Notice dated 2nd December 2024.

5.2. Planning Authority Response

By letter dated 15th September 2025, Tipperary County Council advised An Coimisiun Pleanala that the Planning Authority had no further comments to make with respect to this appeal, outside of those already made in the planning report on the file.

5.3. Further Responses

None

6.0 Statutory Provisions

6.1. Planning and Development Act, 2000, as amended

Section 2(1): Interpretation

“works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal...

“alteration” includes—

(a) plastering or painting or the removal of plaster or stucco, or

(b) the replacement of a door, window or roof,

that materially alters the external appearance of a structure so as to render the appearance inconsistent with the character of the structure or neighbouring structures.

“structure” means any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined, and –

(a) where the context so admits, includes the land on, in or under which the structure is situate...

“Unauthorised development” means, in relation to land, the carrying out of any unauthorised works (including the construction, erection or making of any unauthorised structure) or the making of any unauthorised use;

“Unauthorised structure” means a structure other than—

(a) a structure which was in existence on 1 October 1964, or

(b) a structure, the construction, erection or making of which was the subject of a permission for development granted under Part IV of the Act of 1963 or deemed to be such under section 92 of that Act (or under section 34 , 37G or 37N or 293 of this Act), being a permission which has not been revoked, or which exists as a result of the carrying out of exempted development (within the meaning of section 4 of the Act of 1963 or section 4 of this Act);

“Unauthorised works” means any works on, in, over or under land commenced on or after 1 October 1964, being development other than—

(a) exempted development (within the meaning of section 4 of the Act of 1963 or section 4 of this Act), or

(b) development which is the subject of a permission granted under Part IV of the Act of 1963 F26 (or under section 34, 37G, 37N or 293 of this Act), being a permission which has not been revoked, and which is carried out in compliance with that permission or any condition to which that permission is subject;

Section 3(1): Development

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 3(2): For the purposes of subsection 1 and without prejudice to the generality of that subsection – (b) where the land becomes used for any of the following purposes – (i) the placing or keeping of any vans, tents or other objects, whether or not moveable and whether or not collapsible, for the purpose of caravanning or camping or habitation or the sale of goods, the use of the land shall be taken as having materially changed.

Section 4: Exempted development

(1) The following shall be exempted developments for the purposes of this Act—

(j) development consisting of the use of any structure or other land within the curtilage of a house for any purpose incidental to the enjoyment of the house as such;

(2) The Minister may by regulations provide for any class of development to be exempted development for the purposes of this Act. The primary regulations in this regard are the Planning and Development Regulations 2001, as amended.

(4) Notwithstanding paragraphs (a), (i), (ia) and (l) of subsections (1) and any regulations under subsection (2), development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required.

6.2. Planning and Development Regulations 2001, as amended

Article 6: Exempted Development

‘Subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1.’

Article 9 (1): Restrictions on exemption:

(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,

(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.

Class 17 of Part 1, Schedule 2 of the Planning and Development Regulations 2001, as amended, states;

The erection, construction or placing on land on, in, over or under which, or on land adjoining which, development (other than mining) is being, or is about to be carried out, pursuant to any permission, consent, approval or confirmation granted under the Act or any other enactment or as exempted development, of temporary on site accommodation for persons employed, or otherwise engaged, in connection with the carrying out of the development, during the period in which it is being carried out.

Conditions and Limitations

Such accommodation shall be removed at the expiration of the period and the land shall be reinstated save to such extent as may be authorised or required by the permission, consent, approval or confirmation granted under the Act or any other enactment.

7.0 **Assessment**

7.1. Introduction

- 7.1.1. The purpose of this referral is not to determine the acceptability or otherwise of temporary accommodation in respect of the proper planning and sustainable development of the area, but rather whether or not the matter in question constitutes development, and if so, falls within the scope of exempted development within the meaning of the relevant legislation.
- 7.1.2. For the purposes of clarity, the scope of the question before the Commission solely relates to the provision of temporary accommodation (small log cabin) and does not relate to the provision of drainage or entrance works. I note that at time of site visit, the temporary accommodation was in situ and appeared lived in.
- 7.1.3. I have examined all the documentation on the file, inspected the site and have had regard to the legislative provisions set out in both the Planning and Development Act, 2000, as amended and the Planning and Development Regulations, 2001, as amended.

7.2. Is or is not development

- 7.2.1. The initial question that arises is, whether the provision of temporary accommodation (small log cabin) for the use of the applicant during the period in which the exempted works are being carried out is or is not development and is or is not exempted development at Kilmore, Lisronagh, Co. Tipperary.
- 7.2.2. Section 2 of the Planning and Development Act 2000, as amended, defines works as 'any act or operation or construction, excavation, demolition, extensions, alteration or renewal'.
- 7.2.3. Section 3(1)(a) of the Act, defines development as the carrying out of any works, in on over or under land or the making of any material change in use of any land or structures situated on land...'
- 7.2.4. I consider that the placing of this temporary accommodation (small log cabin) on lands constitutes works and would therefore constitute development under Section 3(2)(b)(i) of the Planning and Development Act 2000, as amended.

7.3. Is or is not exempted development

- 7.3.1. Section 4 of the Planning and Development Act, 2000, as amended sets out certain forms of development which shall be exempted development. Additionally, Schedule

2 of the Planning and Development, Regulations, 2001, as amended sets out forms of development which are exempted development within specific context.

- 7.3.2. Section 6(1) of the Planning and Development Regulations 2001, as amended states that subject to article 9, development of a class specified in Column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in Column 2.
- 7.3.3. Class 17 of Schedule 2 deals with temporary structures and uses in particular to provide accommodation for persons employed or otherwise engaged, in connection with the carrying out of a development being carried out or about to be carried out pursuant to a permission/consent/approval or is exempted development.
- 7.3.4. I consider that when read in its entirety, the wording of Class 17 implies a connection between the accommodation to be provided and a specific development being/to be carried out, whether permitted or exempted. The requirement for the removal of the accommodation at the expiry of the period during which the development is being carried out is relevant in this regard.
- 7.3.5. I do not interpret Class 17 as providing an open-ended exemption for the placement of a structure on lands, associated with an ongoing programme of exempted development works of varying scope of scale.
- 7.3.6. Class 17 refers to 'development' that is 'being, or is about to be carried out...' The submission refers to the applicant's response, dated 27th March 2024, to the first Warning Letter received from Tipperary County Council which reasoned the temporary cabin in anticipation of carrying out works at a later date and then would only be for the duration of the intended works. These works are stated to include the exempt development works set out in the Section 5 Referral Letter to the PA dated 25th July 2025. A copy of this letter is included with the submission to the Commission. however this letter sets out that the structure is in use as both a farm office and short-term dwelling while awaiting a pre-planning meeting, while preparing the application for planning permission for a permanent structure located on this site at the farm property.
- 7.3.7. The structure has been in place on the site since c. November 2023. The referrer sets out a suite of works which have been undertaken within the existing farmyard complex. I note that this list of works has also been updated within the documentation accompanying the referral relative to the list as set out within the Section 5 application

form submitted to the Planning Authority. Overall, these works do not form part of the scope of the question, and no specific details have been provided in relation to same. I would concur with the Planning Authority that based on the description, such works appear to be in the order of general maintenance associated with an operational farm. In this regard, based on the information before me and various stated 'developments' I would contend that there is no defined 'development' or 'project' to substantiate the erection of the log cabin under, Class 17.

- 7.3.8. Section 1.16.2 of the referrers submission contends that the issue comes down to whether Class 17 allows for construction of such temporary accommodation to carry out exempt works such as those listed. It is then submitted however that this issue does not arise as clearly the exempted works were carried out from the end of November 2023 when the log cabin was commenced. The referrer is effectively querying how long before the permitted / exempted works are commenced can Class 16 or Class 17 works be carried out.
- 7.3.9. Class 17 refers to development which is 'being' or 'is about to be' carried out. I submit that this refers to works which are current and ongoing and / or that are imminent, suggesting an immediacy of action.
- 7.3.10. While certain works are referenced in the referral submissions, the referrer has not established "the development" being or about to be carried out with which the subject structure is associated. Nor has it been established that such development is being or about to be commenced. Where works have been completed, then the requirement for removal would arise under the Class. It is not clear therefore that the structure clearly falls within Class 17. The referrers own correspondence of 4th September 2025 refers to the use of the structure as both a farm office and a short-term dwelling. I note that PL-500726-26 (PA Ref. 2560816) was lodged with the Planning Authority on 21st August 2025 and received by An Coimisiun Pleanala on 4th of February 2026. At the time of writing this report, the case has yet to be decided by An Coimisiun Pleanala. I would submit that the works which form part of the application are therefore not 'about to be' carried out.

Furthermore, I would contend that there is no interrelationship with future planning applications and structures already in situ on the lands. In this regard, the structure cannot be exempt in anticipation of a future grant of planning permission.

- 7.3.11. The referrer seeks to rationalise a longer period with reference to Section 42(1)(a) of the Planning and Development Act, 2000, as amended. I submit that this relates to the appropriate period for permitted developments under Section 34 of the Planning and Development Act 2000 and not for developments under Section 5 of the Act.
- 7.3.12. The referrer contends that the nature of the structure by virtue of the size and materials used are by their nature temporary. I note the referrers contention in this regard, however following site visit, I do not agree that the setting of the structure with gravel driveway, kerbs, planting and placement of ornamental farm machinery within well maintained gardens is reflective of a temporary setting.
- 7.3.13. In relation to the scale of works, the referrer contends that the sufficiency of scale of the works is not a requirement of the legislation and therefore not relevant. I would agree that the Conditions and Limitations of Class 17 do not set out specific parameters for the scale of works but as I have noted above, would require to be related to a specific project.
- 7.3.14. Section 3.11.2 of the referrer's submission contends that there is no requirement that the accommodation provided be solely dedicated to the planned permitted/exempted development. I would disagree with the referrer in this instance as Class 17 explicitly states that such structure be 'for persons employed or otherwise engaged, in connection with the carrying out of the development, during the period in which it is being carried out'.
- 7.3.15. I acknowledge that the submission sets out that the referrer with minor exception, has been the sole person carrying out the works. The submission also sets out that the referrers main employment is that of farming and as such could only attend to the exempted works on a part time basis. It is further set out that farming involves regular if not continuous maintenance on farm machinery, buildings, yards etc. I am not satisfied that the referrer has satisfactorily demonstrated the required connection between the need for the structure relative to the works being undertaken. Class 17 refers to the 'temporary accommodation for persons 'employed, or otherwise engaged, in connection with the carrying out of the development'.
- 7.3.16. To conclude, having regard to the above assessment, I do not consider that the temporary accommodation (small log cabin) can be construed as coming within the provisions of Class 17.

7.3.17. I confirm that there are no other relevant exempted development provisions in the Act or Regulations by which the development would be classified as exempted development.

8.0 EIA Screening

8.1. The development has been subject to preliminary examination for environmental impact assessment. Having regard to the characteristics and location of the proposed development and the types and characteristics of potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The proposed development, therefore, does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.

See completed Form 1 and 2 on file.

9.0 Restrictions on Exempted Development

9.1. Appropriate Assessment (AA) Screening : Under Section 177U(9) of the Planning and Development Act, 2000, as amended, it is stated that in deciding upon a declaration or a referral under Section 5 of this Act, a planning authority or the Board, as the case maybe, shall where appropriate, conduct screening for appropriate assessment in accordance with the provisions of this section.

9.2. Section 4(4) of the Act also states that “notwithstanding paragraphs (a), (i), (ia) and (l) of subsection (1) and any regulations under subsection (2), development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required.

9.3. I have considered case ACP-323586-25 in light of the requirements S177U of the Planning and Development Act, 2000, as amended. The development consists of the provision of temporary accommodation (small log cabin) for the use of the application during the period in which exempted works are being carried out.

The referral site is located c. 1.6km to the west of the Special Area of Conservation for Lower River Suir 002137, c. 14km to the northwest of the Special Area of

Conservation for Comeragh Mountains (001952) and c. 26km to the north of east of the Special Area of Conservation for Galtee Mountains (000646).

The referral site is located c. 25km to the southwest of the Special Protected Area for River Nore (004233) and c. 33km to the north of the Special Protected Area for Dungarvan Harbour (004032).

9.4. Having considered the nature, scale and location of the development which is the subject of the referral, I am satisfied that it can be eliminated from further assessment because it could not have any appreciable effect on a European Site. The reason for this conclusion is as follows:

- Due to the distance of the site from any SAC and SPA,.
- The absence of identifiable hydrological/ecological connector pathways between the development which is the subject of the referral and the SAC or SPA.

9.5. I conclude that on the basis of objective information, that the development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

10.0 Recommendation

I recommend that the Commission should decide this referral in accordance with the following draft order.

WHEREAS a question has arisen as to whether the provision of temporary accommodation (small log cabin) for the use of the applicant during the period in which exempted works are being carried out at Kilmore, Lisronagh, Co. Tipperary is or is not development or is or is not exempted development

AND WHEREAS: Gerard Purcell Jnr requested a declaration on this question from Tipperary County Council, and the Council issued a

declaration on 21st August 2025 stating that the matter was development and was not exempted development:

AND WHEREAS: Gerard Purcell of Kilmore, Lisronagh referred this declaration for review to An Coimisiun Pleanála on the 5th September 2025.

AND WHEREAS: An Coimisiun Pleanála, in considering this referral, had regard particularly to –

- a) section 2(1), 3(1), 4(1)(j), 4(4) of the Planning and Development Act, 2000, as amended,
- b) article 6(1) and article 9(1) of the Planning and Development Regulations 2001, as amended
- c) Class 17 of Part 1 Schedule 2 of the Planning and Development Regulations 2001, as amended,
- d) the planning and development history of the site,
- e) the submission of the Planning Authority,
- f) the report of the Planning Inspector:

AND WHEREAS An Coimisiún Pleanála has concluded that:

- (a) The referral concerns the construction of temporary accommodation (small log cabin), therefore comes within the scope of the definition of development as set out in Section 3 of the Planning and Development Act 2000, as amended.
- (b) The structure referred to in the question does not come within the scope of Class 17 of Part 1 of the Second Schedule to the Planning and Development Regulations, 2001, as amended, as the Commission is not satisfied that it relates to the carrying out of any development that is being or is about to be carried out pursuant to any permission, consent, approval or confirmation, or as exempted

development, or how the works referred to are temporary in nature, having regard to its long presence on the site, and the onus of proving that such works are exempted development lies on the person seeking to come within any exemption.

- (c) There are no other exemptions in the Planning and Development Act, 2000, as amended, or in the Planning and Development Regulations, 2001, as amended, whereby the provision of temporary accommodation (small log cabin) would constitute exempted development.

NOW THEREFORE: An Coimisiun Pleanála, in exercise of the powers conferred on it by section 5 (4) of the 2000 Act, hereby decides that the provision of temporary accommodation (small log cabin) for the use of the applicant during the period in which exempted works are being carried out is development and is not exempted development.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Carol Hurley
Planning Inspector
5th June 2026

EIA Pre Screening

Case Reference	ACP-323586-25
Proposed Development Summary	Whether the provision of temporary accommodation (small log cabin) for the use of the applicant during the period in which exempted works being carried out is or is not development or is or is not exempted development.
Development Address	Kilmore, Lisronagh, Co. Tipperary.
	In all cases check box /or leave blank
1. Does the proposed development come within the definition of a ‘project’ for the purposes of EIA? (For the purposes of the Directive, “Project” means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<input checked="" type="checkbox"/> Yes, it is a ‘Project’. Proceed to Q2.
	<input type="checkbox"/> No, No further action required.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input type="checkbox"/> Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	

<input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994. No Screening required.	
<input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold. EIA is Mandatory. No Screening Required	
<input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold. Preliminary examination required. (Form 2) OR If Schedule 7A information submitted proceed to Q4. (Form 3 Required)	S. 5 P.2 10(b)(i) construction of more than 500 dwelling units.

4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?

Yes <input type="checkbox"/>	Screening Determination required (Complete Form 3)
No <input checked="" type="checkbox"/>	Pre-screening determination conclusion remains as above (Q1 to Q3)

Inspector: _____ Date: _____

Form 2 - EIA Preliminary Examination

Case Reference	ACP-323586-25
Proposed Development Summary	Whether the provision of temporary accommodation (small log cabin) for the use of the applicant during the period in which exempted works are being carried out is or is not development or is or is not exempted development.
Development Address	Kilmore, Lisronagh, Co. Tipperary.
This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
Characteristics of proposed development (In particular, the size, design, cumulation with existing/ proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).	The structure is temporary in nature. No demolition works are proposed. Undue use of natural resources will not arise nor will undue pollution or nuisance. The development seeking permission will not give rise to risk of accident / disasters or to human health or create a flood risk.
Location of development (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).	No water courses traverse the site. The application site is not proximate to any protected sites. There are no protected structures or designated sites of archaeological potential in proximity to the subject site. The site is not within a designated primary or secondary amenity area.
Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	The development would not have the potential to significantly impact on any ecologically sensitive sites or locations. There are no direct hydrological connections present which would give rise to significant impact on nearby watercourses (whether linked to any European Site or other sensitive receptor) or any drinking water source.
Conclusion	
Likelihood of Significant Effects	Conclusion in respect of EIA

<p>There is no real likelihood of significant effects on the environment.</p>	<p>EIA is not required.</p>
<p>There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</p>	
<p>There is a real likelihood of significant effects on the environment.</p>	

Inspector: _____ **Date:** _____

DP/ADP: _____ **Date:** _____

(only where Schedule 7A information or EIAR required)