



An  
Coimisiún  
Pleanála

## Inspector's Report

**ACP-323846-25**

### Questions

1. Whether the change of use from commercial garage structure to residential dwelling is or is not development and is or is not exempted development.

2. Whether the carrying out of works for the maintenance, improvement or other alteration of the structure is or is not development and is or is not exempted development.

### Location

15A St. Kevin's Square, Bray, Co.  
Wicklow

### Planning Authority

Wicklow County Council

### Planning Authority Reg. Ref.

EX110/2025

### Type of Application

Referral

### Referred by

Noel Sweeney

**Planning Authority Decision**

Is development and is not exempted  
development

**Date of Site Inspection**

16<sup>th</sup> March 2026

**Inspector**

John Duffy

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## **1.0 Site Location and Description**

- 1.1. The subject site is located on an established residential street at No.15A St. Kevin's Square in Bray, Co. Wicklow, approximately 140m to the west of the Main Street. The area is characterised by modest two storey terraced housing. The subject site is occupied by a modestly sized single storey flat roofed structure, stated to have previously been used as a commercial garage and taxicab business office. The structure is built up to the shared boundary wall with No. 7 St. Kevin's Terrace to the east and it is accessible directly from the western side which adjoins the public footpath.
- 1.2. From the site inspection it is apparent that external works have been carried out to the structure in recent times, including installation of two new doors on its front (western) elevation, and new windows on its side (northern and southern) elevations. There is an ESB meter box affixed to the northern side of the structure.

## **2.0 The Questions**

- 2.1. Two questions have arisen pursuant to Section 5 of the Planning and Development Act 2000, as amended, as follows:
  1. Whether the change of use from a commercial garage structure to a residential dwelling is or is not development and is or is not exempted development.
  2. Whether the carrying out of works for the maintenance, improvement or other alteration of the structure is or is not development and is or is not exempted development.

## **3.0 Planning Authority Declaration**

- 3.1. The questions set out above were put to the planning authority by the current referrer who sought a Declaration on the matter. In determining the Declaration, the planning authority in its assessment, noted the following:
  - The change of use from 'commercial garage' for a 'taxi business' to residential use is outside the scope of exempted development with respect to Article 10 of the Planning and Development Regulations 2001, as amended.

- Proposed change of use would not comprise a change of use within any one of the classes of use specified in Part 4 of Schedule 2 of the Regulations.
- A 'commercial garage' for a 'taxi business' does not constitute a class of use that falls within Classes 1, 2, 3, 6 or 12 as per Article 10(2)(b).
- The carrying out of maintenance, improvement or other alterations to the structure falls outside the scope of section 4(1)(h) of the Planning and Development Act 2000, as these related to the continuation and completion of the works related to the conversion of the structure into a residential unit and are not related to the maintenance and repair of a 'commercial garage' for a 'taxi business.'

## 4.0 Planning History and Enforcement History

### Site Planning History

None / none available.

### Previous References / Referrals

Nothing of direct relevance to this case was found on the database.

### Site Enforcement History

PA Ref. UD5937 relates to alleged unauthorised development consisting of the carrying out of renovation works to some exterior structural parts of a stand-alone residential outbuilding and the potential material change of use of it on the western side of a dwelling house at No.15 Saint Kevin's Square, Bray, Co. Wicklow.

In July 2025, following investigation and assessment of the case, Planning Enforcement Section concluded the following (summarised below):

(a) The building remains in personal hobby type workshop uses and therefore for purposes incidental to the enjoyment of the dwelling house on the same site.

(b) Recent works are primarily of an internal nature for improvement/maintenance purposes and have not materially affected the external appearance of the structure so as to render its appearance inconsistent with its established character or that of its neighbouring structures. Such works are considered to fall within the scope of exempted development provisions of Section 4(1)(h) of the Planning and Development

Act 2000, as amended.

## 5.0 Policy Context

### 5.1. Development Plan

- 5.1.1. The operative Development Plan is the Wicklow County Development Plan 2022-2028. However, the site is zoned in the Bray Municipal District Local Area Plan 2018 as *RE – Existing Residential* with the objective ‘To protect, provide and improve residential amenities of existing residential areas’ in the Bray Municipal District Local Area Plan 2018.

### 5.2. Natural Heritage Designations

There are no European Sites in the immediate area. The nearest European Site is Bray Head SAC located c 1.7km to the south east. Bray Head is also designated as a proposed Natural Heritage Area. Bray Head is also subject to a Special Amenity Area Order (SAAO).

## 6.0 The Referral

### 6.1. Referrer’s Case

A referral was submitted to An Coimisiún Pleanála on the 6<sup>th</sup> of November 2025 seeking a further determination in respect of the questions detailed in section 2 above on behalf of Noel Sweeney, the owner of the structure, by BPS Planning and Development Consultants. The grounds of referral may be summarised below.

- The planning authority’s contention that the building does not come within any of the use classes set out in Part 4 of Schedule 2 of the Planning and Development Regulations 2001, as amended, is not justified.
- The site is clearly not in use as a garage. Its most recent and established and permitted use was that as the headquarters of a taxi business which served locals who would present at the premises, or would call for a taxi or to book a taxi. The referral includes a letter from the former owner of the structure confirming its use and site history.

- The planning authority's position is that, unless specifically listed, the taxi business office is not a use class within Classes 2 or 3 of Part 4. This is incorrect. Neither Class 2 nor 3 (or other use classes) are accompanied by a long list of uses. The Commission is required to interpret which box a given use falls into.
- The taxi business use is accepted by the planning authority. The building was used as the public office of a taxi firm for a long period. Therefore its use is either Class 2(c) or Class 3.
- Pursuant to an enforcement case (Ref. No. UD 5937 refers), the planning authority's Enforcement Section determined that works to the structure were exempt by way of section 4(1)(h) of the Planning and Development Act 2000 as amended. However, the Section 5 Declaration determination considers the works are not exempt on the basis that they relate to the continuation and completion of works related to the conversion of the structure into a residential unit, and not for the maintenance and repair of a commercial garage for a taxi business.
- The referrer understood that a change of use from commercial use to residential use was exempted development and this would allow the existing commercial taxi business unit to be brought into residential use, including by way of section 4(1)(h).
- The structure maintains a hybrid commercial office / garage and residential garage / office appearance. Enforcement Section considered the building was in use for personal hobby type workshop uses, for purposes incidental to the enjoyment of the dwellinghouse (No. 15 St. Kevin's Square, Bray, Co. Wicklow). This conclusion has however resulted in the planning status of the structure being unclear. While the referrer owns No. 15, the two properties are not physically connected; the subject structure is standalone, not within the curtilage of No. 15 and has its own electricity supply, Eircode, surface water drainage and is served by water and wastewater infrastructure.
- This Section 5 referral includes a site layout plan which would slightly alter the interior of the structure to provide for a studio unit with dining/living/kitchen/bedroom as required by the Apartment Guidelines 2025.

- The structure was clearly built as a commercial building however it could be argued it has no currently established use and that the use has essentially been abandoned.
- Request the Commission to take it (as the starting point) that the structure (No. 15A) is a standalone building/property where its most recent permitted use was a commercial office/garage for a taxi business.
- The referral submission assesses the change of use against the items outlined under Article 10(6) of the Planning and Development Regulations 2001 as amended and concludes that the proposed change of use meets the criteria therein.
- It is considered that the change of use from commercial office/garage structure to a studio apartment and the carrying out of works for maintenance, improvement or the alteration of the structure is development and is exempted development.

The referral includes the following:

- Internal and external photographs of the structure (within the body of the referral submission).
- A copy of the Section 5 Declaration issued by the planning authority dated 21<sup>st</sup> October 2025.
- A copy of a letter dated 29<sup>th</sup> October 2025 from Catherine Kerwin, the daughter of the former owner of No. 15A St. Kevin's Square to Wicklow County Council. This states that the garage was used by Ms. Kerwin's mother as an operational base and office for a taxi business and not simply as a storage space for a vehicle. All customer bookings, dispatches and business records were managed from the garage.
- Correspondence from Enforcement Section dated 9<sup>th</sup> June 2024, 27<sup>th</sup> June 2025 and 22<sup>nd</sup> July 2025.
- A copy of a letter from the planning authority to the referrer dated 1<sup>st</sup> September 2025 acknowledging notification of change of use of 15A St. Kevin's Square, Bray, Co. Wicklow to residential use.
- A site location map and plan/elevations of the structure.

- A copy of the completed application form for a Declaration made to the planning authority by the referrer.

## 6.2. Planning Authority Response

None.

## 7.0 Relevant Planning Legislation

### 7.1. Planning and Development Act 2000, as amended

#### 7.1.1. Section 2(1) – Interpretation

**‘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.’

**structure** means –

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

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

(b) in relation to a protected structure or proposed protected structure includes

(i) the interior of the structure,

(ii) the land lying within the curtilage of the structure,

(iii) any other structures lying within that curtilage and their interiors and

(iv) all fixtures and features which form part of the interior or exterior of any structure or structures referred to in subparagraphs (i) or (iii)’

#### 7.1.2. Section 3(1) - **Development**

In this, except where the context otherwise requires, ‘development’ means –

(a) the carrying out of any works in, on, over or under land, or the making of any material change in the use of any land or structures situated on land, or

(b) development within the meaning of Part XXI (inserted by section 171 of the Maritime Area Planning Act 2021).

7.1.3. Section 4(1) sets out various forms and circumstances in which development is exempted development for the purposes of the Act and this includes:

*(h) development consisting of the carrying out of works for the maintenance, improvement or other alteration 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 of neighbouring structures*

Section 4(4) '**Exempted development**'

*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*

## 7.2. **Planning and Development Regulations 2001, as amended**

7.2.1. Part 2, Exempted Development, Changes of Use

### Article 10(1)

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

(a) involve the carrying out of any works other than works which are exempted development,

(b) contravene a condition attached to a permission under the Act,

(c) be inconsistent with any use specified or included in such a permission, or

(d) be development where the existing use is an unauthorised use, save where such change of use consists of the resumption of a use which is not unauthorised and which has not been abandoned.

Article 10(2)

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

(b) Nothing in any class in Part 4 of the Schedule 2 shall include any use—

(i) as an amusement arcade,

(ii) as a motor service station,

(iii) for the sale or leasing, or display for sale or leasing, of motor vehicles,

(iv) for a taxi or hackney business or for the hire of motor vehicles,

(v) as a scrap yard, or a yard for the breaking of motor vehicles,

(vi) for the storage or distribution of minerals,

(vii) as a supermarket, the total net retail sales space of which exceeds 3,500 square metres in the greater Dublin Area and 3,000 square metres in the remainder of the State,

(viii) as a retail warehouse, the total gross retail sales space of which exceeds 6,000 square metres (including any ancillary garden centre), or

(ix) as a shop, associated with a petrol station, the total net retail sales space of which exceeds 100 square metres.

Article 10(6)

(a) In this sub-article—

‘habitable room’ means a room used for living or sleeping purposes but does not include a kitchen that has a floor area of less than 6.5 square metres;

‘relevant period’ means the period from 8 February 2018 until 31 December 2028.

(b) This sub-article relates to a proposed development, during the relevant period, that consists of a change of use to residential use from Class 1, 2, 3, 6 or 12 of Part 4 to Schedule 2.

(c) Notwithstanding sub-article (1), where in respect of a proposed development referred to in paragraph (b)—

(i) the structure concerned was completed prior to the making of the Planning and Development (Amendment) (No. 2) Regulations 2018,

(ii) the structure concerned has at some time been used for the purpose of its current use class, being Class 1, 2, 3, 6 or 12, and

(iii) the structure concerned, or so much of it that is the subject of the proposed development, has been vacant for a period of 2 years or more immediately prior to the commencement of the proposed development, then the proposed development for residential use, and any related works, shall be exempted development for the purposes of the Act, subject to the conditions and limitations set out in paragraph (d).

(d) (i) The development is commenced and completed during the relevant period.

(ii) Subject to sub-paragraph (iii), any related works, including works as may be required to comply with sub-paragraph (vii), shall –

(I) primarily affect the interior of the structure,

(II) retain 50 per cent or more of the existing external fabric of the building, and

(III) not materially affect the external appearance of the structure so as to render its appearance inconsistent with the character of the structure or of neighbouring structures.

(iii) Any related works for the alteration of existing ground floor shop fronts shall be consistent with the fenestration details and architectural and streetscape character of the remainder of the structure or of neighbouring structures.

(iv) No development shall consist of or comprise the carrying out of works to the ground floor area of any structure which conflicts with any objective of the

relevant local authority development plan or local area plan, pursuant to the Part 1 of the First Schedule to the Act, for such to remain in retail use, with the exception of any works the purpose of which is to solely provide on street access to the upper floors of the structure concerned.

(v) No development shall consist of or comprise the carrying out of works which exceeds the provision of more than 9 residential units in any structure.

(vi) Dwelling floor areas and storage spaces shall comply with the minimum floor area requirements and minimum storage space requirements of the “Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities” issued under section 28 of the Act or any subsequent updated or replacement guidelines.

(vii) Rooms for use, or intended for use, as habitable rooms shall have adequate natural lighting.

(viii) No development shall consist of or comprise the carrying out of works to a protected structure, as defined in section 2 of the Act, save where the relevant planning authority has issued a declaration under section 57 of the Act to the effect that the proposed works would not materially affect the character of the structure or any element, referred to in section 57(1)(b) of the Act, of the structure.

(ix) No development shall contravene a condition attached to a permission under the Act or be inconsistent with any use specified or included in such a permission.

(x) No development shall relate to any structure in any of the following areas:

(I) an area to which a special amenity area order relates;

(II) an area of special planning control;

(III) within the relevant perimeter distance area, as set out in Table 2 of Schedule 8, of any type of establishment to which the Major Accident Regulations apply.

(xi) No development shall relate to matters in respect of which any of the restrictions set out in sub-paragraph (iv), (vii), (viiA), (viiB), (viiC), (viii) or (ix) of article 9(1)(a), or paragraph (c) or (d) of article (9)(1), would apply.

(xii) No development shall consist of or comprise the carrying out of works for the provision of an onsite wastewater treatment and disposal system to which the code of practice made by the Environmental Protection Agency pursuant to section 76 of the Environmental Protection Agency Act 1992 relates and entitled Code of Practice – Wastewater Treatment and Disposal Systems Serving Single Houses together with any amendment to that Code or any replacement for it.

(e)(i) Where a person proposes to undertake development to which paragraph (b) relates, then he or she shall in the case of development relating to Class 1, 2, 3, 6 or 12 of Part 4 to Schedule 2, notify in writing the planning authority in whose functional area that the change of use will occur not less than 14 days prior to the commencement of the works related to the proposed change of use and any related works;

(ii) Details of each notification under subparagraph (i), which shall include information on—

(I) the location of the structure,

(II) the number of residential units involved, including the unit sizes and number of bedrooms in each unit, and

(III) the Eircode for the relevant property, shall be entered in a record by the planning authority maintained for this purpose and the record shall be available for inspection at the offices of the planning authority during office hours and on the planning authority's website.

(iii) During the years 2019, 2020, 2021, 2022, 2023, 2024, 2025 and 2026 each planning authority shall provide information to the Minister on the number of notifications received by it under this paragraph during the preceding calendar year, including details of the information so received for the purposes of subparagraph (ii).

## 7.2.2. **Schedule 2, Part 4, Exempted Development – Classes of Use**

CLASS 1 Use as a shop.

CLASS 2 Use for the provision of—

(a) financial services,

(b) professional services (other than health or medical services),

(c) any other services (including use as a betting office), where the services are provided principally to visiting members of the public.

CLASS 3 Use as an office, other than a use to which class 2 of this Part of this Schedule applies.

CLASS 6 Use as a residential club, a guest house or a hostel (other than a hostel where care is provided).

CLASS 12 Use as a Public House, meaning a premises which has been licensed for the sale and consumption of intoxicating liquor on the premises under the Licensing Acts 1833 to 2018.

## 7.3. **Relevant Case Law**

### 7.3.1. Dublin County Council v. Tallaght Block Co. Ltd (1982/766/HC)

This case determined that a use of land can be abandoned and that a change of use will occur when an abandoned use is recommenced. Hederman J in the Supreme Court stated: “Where a previous use of land has been not merely suspended for a temporary period and determined period, but has ceased for a considerable time, with no evidenced intention of resuming it at any particular time, the tribunal of fact was entitled to find that the previous use had been abandoned, so that the resumption constituted a material change of use.”

### 7.3.2. Cork County Council v. Ardfert Quarries Ltd. (2021/189/JR)

In this case a site had been used as an animal food processing plant from 1953 – 1966, it had been vacant from 1966 to 1970 and it had been used to manufacture and store tyres from 1970 to 1974. The High Court held that the use of the premises as a general industrial building from 1953-1956 had been abandoned by its non-use from 1966-1970. Murphy J stated: “Having regard to the elapse of time and the absence of any satisfactory explanation therefore, I must conclude that the use as of the operative date was subsequently abandoned.”

#### 7.3.3. Meath County Council v. Daly (1987 WJSC-HC 1975)

The High Court held that the resumption of the use of premises which had been used for car repairs and petrol sales pre 1964, after that use had been abandoned since 1964 from time to time by the user of the premises for other purposes, and particularly by its user from 1969 for some years by a double glazing company, was a material change of use.

## 8.0 **Assessment**

8.1.1. It should be stated at the outset of this assessment that the purpose of the referral is not to determine the acceptability or otherwise of the change of use of No. 15A St. Kevin’s Square, Bray, Co. Wicklow to residential use. I note the planning enforcement history, as set out in the referral, relating to the structure along with the outcome of the associated enforcement investigation. Planning enforcement is, however, a matter for the planning authority and this report shall not consider enforcement matters relating to the subject structure.

### 8.2. **Former use of the structure**

8.2.1. The questions put forward by the referrer relate firstly to whether the change of use from commercial garage structure to residential dwelling is or is not development and is or is not exempted development, and secondly, whether the carrying out of works for the maintenance, improvement or other alteration of the structure is or is not development and is or is not exempted development.

8.2.2. The referrer’s agent notes that the site is not presently in use as a commercial garage, but contends that the most recent and established use of the structure was that as the headquarters as a taxi business which served locals who would present at the

premises, or would call for a taxi or to book a taxi. In my view, a commercial garage relates to a premises from which car/vehicle sales would occur and/or a premises where vehicles would be fixed or serviced; these uses are not applicable to the subject structure or the site. In my opinion, the former use of the structure, as described in the referral, would more accurately align with that of a commercial taxicab office/business rather than a commercial garage.

8.2.3. Having regard to the foregoing, I consider it appropriate to replace the term 'commercial garage' in the submitted questions with the term 'commercial taxicab office/business.'

### **8.3. Is or is not development**

8.3.1. The first question to consider is whether or not the proposed development constitutes development under the definitions contained in the 2000 Act. Section 3(1) of the Act defines 'development' as 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.

8.3.2. To determine whether development would occur, the relevant tests to apply are to establish whether 'works' would be carried out and / or whether there would be a material change in the use of the structures or land.

8.3.3. 'Works' are defined in section 2(1) of the Act as any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal. 'Structure' is also defined in section 2(1) of the Act (see section 7.0 of this report, above). Following a review of the particulars in the case file and my site inspection, I confirm the building at the subject site is a structure as so defined.

8.3.4. From the site inspection and also a review of the floor plan and elevation drawing submitted with the referral case, the proposal involves activities of construction, alteration, repair or renewal. Further, the nature of the proposed change of use from the former commercial taxicab office/business use to residential use would give rise to different levels of activity, different times of activity, different vehicular and pedestrian movements, different service requirements and would, in my opinion, constitute a material change in use.

### **8.4. Is or is not exempted development**

- 8.4.1. Article 10(6) of the Planning and Development Regulations 2001, as amended, provides exemption, subject to specific conditions, for a change of use from Use Classes 1, 2, 3, 6 or 12 as set out in Schedule 2 Part 4 (Exempted Development – Classes of Use) of the Planning and Development Regulations 2001, as amended, to residential use.
- 8.4.2. Having examined the descriptions of the uses associated with Classes 1, 2, 3, 6 and 12 as outlined in Schedule 2 Part 4, it is apparent that a commercial taxicab office/business does not fall within the scope of Use Classes 1, 2, 3, 6 or 12.
- 8.4.3. Furthermore, I note the content of Article 10(2)(b)(iv) of the Planning and Development Regulations 2001, as amended, which confirms that nothing in any class in Part 4 of Schedule 2 includes any use *for a taxi or hackney business or for the hire of motor vehicles*. Having regard to the foregoing, I am satisfied that there is no planning exemption in the Planning and Development Regulations 2001 as amended which provides for change of use from commercial taxicab business use to residential use. As such, I conclude that this development is not exempted development.
- 8.4.4. In terms of the second question posed relating to the carrying out of works for the maintenance, improvement or other alteration of the subject structure, I consider these works directly relate to the proposal to change the use into a residential unit which itself is considered to be development and is not exempted development. As such, I conclude that these works are not exempted development.

#### **8.5. Planning status of the structure and use / Restrictions on exempted development**

- 8.5.1. Notwithstanding my findings above under section 8.4 of this Inspector's Report and although I note the content of the correspondence submitted from the family of the former owner of the structure regarding its previous use as an operational base / office for a previous taxi business in Bray, there is a lack of information on file and in the referral regarding the planning status of the subject structure and also the period and duration of its stated prior use as a commercial taxicab office/business.
- 8.5.2. I note the referral indicates there is no planning history for the structure. The planning authority has confirmed that no evidence has been found of planning permission relating to the operation of a taxicab office/business from the structure, or indeed any

commercial operation relating to the site. The referrer's agent notes that the structure is not in current use as a commercial building, and suggests that the former use has essentially been abandoned, and that it has no established use.

8.5.3. In this context I note the provisions of Article 10(6)(d)(xi) of the Planning and Development Regulations 2001, as amended, which states that 'No development shall relate to matters in respect of which any of the restrictions set out in sub-paragraph (iv), (vii), (viiA), (viiB), (viiC), (viii) or (ix) of article 9(1)(a), or paragraph (c) or (d) of article (9)(1), would apply.'

8.5.4. Article 9(1)(a)(viii) states:

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—

*(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*

8.5.5. The onus is on the referrer to supply appropriate information to enable consideration and assessment of the referral. Given the absence of details relating to structure's planning status coupled with the lack of information regarding the periods and durations of previous uses relating the site/structure, along with the information in the referral noting that the former commercial use has been abandoned, I consider that the structure has not been utilised as a commercial taxicab business/office for a considerable and prolonged period of time. In these circumstances, there are no exemptions available for the development/change of use of the structure to residential use. While legislation does not define a time limit for abandonment of use, there is case law dealing with this issue. In the outcome of Dublin City Council v's Tallaght Block Co. Ltd, Mr. Justice Costello stated that "*where a previous use of land has been not merely suspended for a temporary period and determined period, but has ceased for a considerable time, with no evidenced intention of resuming it at any particular*

*time, the tribunal of fact was entitled to find that the previous use had been abandoned, so that the resumption constituted a material change of use.”*

- 8.5.6. In the absence of a record of planning permission, it would appear possible that the structure itself, which has been in place for a significant period of time and clearly in excess of seven years, is statute barred and immune from prosecution. However, as there is no record of planning permission for the structure and its stated former use as a commercial taxicab business/office, there are no exemptions available for development and/or change of use of the structure, having regard to the provisions of Article 6(a)(viii), as set out above.

## 8.6. **Conclusion**

- 8.6.1. Having regard to the assessment set out above, I consider the change of use from commercial taxicab office/business to a residential dwelling is development and is not exempted development on the basis that (a) the proposal does not fall within the scope of Use Classes 1, 2, 3, 6 or 12 of Schedule 2 Part 4 of the Planning and Development Regulations 2001 as amended, (b) having regard to Article 10(2)(b) of the Regulations which confirms that nothing in any class in Part 4 of Schedule 2 includes any use *(iv) for a taxi or hackney business or for the hire of motor vehicles*, (c) the provisions of Article 9(1)(a)(viii) which are activated on foot of Article 10(6)(d)(xi) of the Regulations, and finally on the basis that it is apparent that the commercial taxicab office/business use has been abandoned for a considerable period. Further, I consider the carrying out of works for the maintenance, improvement or other alteration of the structure is development and is not exempted development on the basis that these works directly relate to the proposal to change the use of the structure into a residential unit which itself is considered to be development and is not exempted development.

## 8.7. **Screening for Appropriate Assessment**

Having regard to the nature and scale of the development and the nature of the receiving environment and the distance and lack of connections to the nearest European sites, no Appropriate Assessment issues arise, and it is not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## 8.8. **Environmental Impact Assessment**

8.8.1. The development relates to the change of use of an existing structure to residential use. In terms of EIA, I consider the development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended. No mandatory requirement for EIA therefore arises and there is also no requirement for a preliminary examination or screening assessment.

## 9.0 Recommendation

I recommend that the Commission issue a determination as follows:

**WHEREAS** a question has arisen as to whether

(a) the change of use of a structure from commercial taxicab business to residential dwelling and

(b) the carrying out of works for the maintenance, improvement or other alteration of the structure

at number 15A Saint Kevin's Square, Bray, Wicklow, is or is not development and is or is not exempted development,

**AND WHEREAS** Noel Sweeney, care of BPS Planning and Development Consultants, PO Box 13659, Dublin requested a declaration on the said questions from Wicklow County Council and the Council issued a declaration on the 21<sup>st</sup> day of October 2025 stating that:

(a) the change of use of a structure from commercial garage to residential dwelling and

(b) the carrying out of works for the maintenance, improvement or other alteration of the structure

is development and is not exempted development

**AND WHEREAS** Noel Sweeney, care of BPS Planning and Development Consultants referred the declaration for review to An Coimisiún Pleanála on the 6<sup>th</sup> day of November 2025,

**AND WHEREAS** An Coimisiún Pleanála, in considering this referral, had regard particularly to –

- (a) Sections 2(1), 3(1) and 4(1)(h) of the Planning and Development Act 2000, as amended,
- (b) Articles 10(1), 10(2) and 10(6) of the Planning and Development Regulations 2001, as amended,
- (c) Schedule 2 Part 4 ‘Exempted Development – Classes of Use’ of the Planning and Development Regulations 2001, as amended,
- (d) the provisions of the Wicklow County Development Plan 2022-2028, and
- (e) the pattern of development in the area,

**AND WHEREAS** An Coimisiún Pleanála has concluded that

- (a) The change of use of a structure from commercial taxicab office/business to residential dwelling is development and is not exempted development, and
- (b) the carrying out of works for the maintenance, improvement or other alteration of the structure is development and is not exempted development.
- (c) The development does not fall within the scope of Use Classes 1, 2, 3, 6 or 12 of Schedule 2 Part 4 of the Planning and Development Regulations 2001 as amended.
- (d) Article 10(2)(b)(iv) of the Planning and Development Regulations 2001, as amended, confirms that nothing in any class in Part 4 of Schedule 2 includes any use *for a taxi or hackney business or for the hire of motor vehicles*.
- (e) Works for the maintenance, improvement or other alteration of the structure is directly related to the proposal to change the use of the structure into a residential unit, which itself is considered to be development and is not exempted development.
- (f) The previous stated use of the structure as a commercial taxicab office/business is considered to be abandoned for a considerable time period, and the absence of evidence on file of any permitted previous use relating to the structure, which would now constitute a change of use that is material.

(g) The development would fall within the Restrictions on Exemption as provided by Article 9(1)(viii) of the Planning and Development Regulations 2001 (as amended).

**NOW THEREFORE** An Coimisiún Pleanála, in exercise of the powers conferred on it by section 5(3)(a) of the Planning and Development Act 2000, as amended, hereby decides that:

(a) the change of use of a structure from commercial taxicab business to residential dwelling is development and is not exempted development, and

(b) the carrying out of works for the maintenance, improvement or other alteration of the structure is development and is not exempted development.

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

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John Duffy

Planning Inspector

18<sup>th</sup> May 2026