Inspector's Report
ACP-324255-26

Question	Whether the subdivision of the former provincial flooring premises involving the severing of the rear external storage compound from the remainder of the premises & the extension of the adjoining Analog Devices International Complex (ADIC) by incorporating the fPFp external storage compound within the storage compound installing of 2 no. nitrogen storage tanks and associated vaporiser units & associated works at rear of the former Provincial Flooring premises at Ballycummin, Raheen Business Park, Limerick is or is not Development or is or is not Exempted Development.
Location	To the rear of the former Provincial Fooring premises at Ballycummin, Raheen Business Park, Limerick,

Declaration

Planning Authority	Limerick City and County Council
Planning Authority Reg. Ref.	EC/043/26

Applicant for Declaration	Tom Ryan.
Planning Authority Decision	Is exempted development

Referral

Referred by	Tom Ryan.
Owner/ Occupier	Analog Devices International
Observer(s)	None.

Date of Site Inspection	9th July 2026.
Inspector	Carol Smyth

Contents

1.0 Site Location and Description

1.1. The appeal site is located within the overall Analog Devices International (ADI) campus at the northeastern side of the Raheen Industrial Estate, which is situated approximately 4.5 km to the southwest of Limerick City centre.

1.2. The site comprises an existing industrial / manufacturing plant facility, associated administration buildings, stores and car parking areas. The Derrybeg Road adjoins the site to the east / southeast, Ballycummin Avenue is located to the north/ northeast and the Ballynoe Road adjoins the site to the north / northwest. The adjoining buildings surrounding the appeal site comprise the ADI Campus buildings.

1.3. The area which is the subject of this referral is an external compound positioned on the southern side of an existing building and an existing nitrogen generation facility area to the south.

2.0 The Question

2.1. Whether the subdivision of the former provincial flooring premises involving the severing of the rear external storage compound from the remainder of the premises & the extension of the adjoining Analog Devices International Complex (ADIC) by incorporating the fPFp external storage compound within the storage compound installing of 2 no. nitrogen storage tanks and associated vaporiser units & associated works at rear of the former Provincial Flooring premises at Ballycummin, Raheen Business Park, Limerick is or is not Development or is or is not Exempted Development.

3.0 Planning Authority Declaration

3.1. Declaration

Following a request by Tom Ryan, Limerick County Council issued a Notification of Declaration on Development and Exempted Development under Section 5 of the Planning and Development Act 2000 (as amended) on the 10th April 2026 as follows:

The works as described is Development and is Exempted Development.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Officers report refers to enforcement case DC-194-24 which noted that the contractors have established a secure compound which was wholly contained within the owners' folio and was therefore considered exempted development under exemption Class 17.

In addition, the Planning Officers report further refers to enforcement case DC-360-24. I note for the Commission's information that the description of development on the warning letter pertaining to enforcement case DC-360-24 is as follows:

'…2x large hydrogen storage tanks & associated tower structures have been placed on what seems to be recently installed support / concrete yard slabs. Galvanised steel pipe support structure / arbours have also been erected.'

The enforcement officer considered the works to be development and exempted development under exemption Class 21.

Having regard to the previous enforcement history on the site, the Planning Authority concluded that the works as set out in the Section 5 application are within the scope of Class 17 and Class 21 of Part 1 of Schedule 2 of the Planning and Development Regulations (as amended).

3.2.2. Other Technical Reports

None on file.

4.0 Planning History

4.1. Appeal Site:

4.1.1. ACP Ref: PL-501114-LK-26, PA Ref. 26/60069

Third Party Appeal – determination pending

Permission is sought for a new high purity liquid nitrogen (HPL) facility. It will consist of the construction/ installation of specialist equipment and associated pre-assembled, skid mounted packages, interconnected tanks, distillation columns, piping and other works to support High Purity Nitrogen (HPN) generation on site. The proposed development will comprise of the following elements:

- 2 no. 11.6 m (24.4 m per EIAR Section 3.2.2) 40 HPN backup tanks,
- 1 no. c. 17.4 m high distillation column,
- 2 no. 6.7m high absorber vessel tanks & associated plant and equipment,
- An electrical switch room building (4.93 m high),
- Cooling water skid,
- 1 no. HPN container process skid,
- Air compressor,
- 1 no. container (contractors office),
- Alterations to existing equipment on site,
- All associated services, drainage and site works.

4.2. **Adjoining site & building to north/northeast:**

4.2.1. ABP Ref. 318396-23, PA Ref. 23/60609

10-year planning permission granted for the regeneration of a building and site (an extension of the ADI campus). This comprised the partial demolition (2,505.8 m²) and redevelopment and construction of an extension (5,697,93 m²) to an existing warehousing structure (site of former Provincial Flooring) (19/02/2025).

4.3. **Adjoining area to the northwest and south of Derrybeg Rd:**

4.3.1. ACP Ref: PL-501093-LK-26, PA Ref. 26/60086

Permission sought for an additional scrubber adjacent to an existing similar scrubber plant within the existing utility compound of the AD campus (decision pending).

4.3.2. ABP Ref. 322557-25, PA Ref. 25/60174

Appeal dismissed (alterations to existing building replacement of cladding with glazing - 24/07/2025).

4.3.3. ACP Ref. 323395-25, PA Ref. 25/60508

Appeal dismissed (alterations to external envelope of existing manufacturing facility - 02/10/2025).

4.3.4. ABP Ref. 313700-22 & ABP Ref. 313740-22, PA Ref. 22/38

Permission granted for new liquid hydrogen storage tank, alterations to existing equipment, removal of existing liquid hydrogen storage tank (07/09/2023).

4.4. Similar Previous Referrals to the Commission

4.4.1. ABP Ref. 322656-25

Whether an internal reconfiguration of floor space to accommodate a new item of plant which augments the current permitted manufacturing process at this location and does not involve external works other than minor fenestration revisions to an internal courtyard is or is not development and is or is not exempted development.

Decision: Is development and is exempted development.

5.0 Policy Context

5.1. Limerick Development Plan 2022-2028

The site is governed by the policy and objectives of the Limerick Development Plan 2022-2028 (referred to hereafter as the Development Plan).

The site is zoned 'High Tech/Manufacturing Campus' with the land use zoning objective '*To provide for office, research and development, high technology, regional distribution/ logistics, manufacturing and processing type employment in a high quality built and landscaped campus style environment*.'

The Development sets out that the purpose of the land use zoning objective is to facilitate opportunities for high technology, advanced manufacturing including pharmaceutical and food production, major office, regional distribution/ logistics, and research and development-based employment, within high quality, highly accessible, campus style settings. The zoning is for high value-added businesses and corporate facilities that have extensive/specific land requirements, such as those located at Raheen Business Park and the National Technology Park. These businesses are generally not accessible to members of the public. Retail warehousing will not be acceptable in this zone.

5.1.1. Policy ECON P4 – Urban Economy

It is a policy of the Council to:

a) *Promote, facilitate and enable economic development and employment generating activities in Limerick City Centre, at Strategic Employment Locations and other appropriately zoned locations in a sustainable manner.*

b) *Facilitate the future sustainable economic development of Limerick City and Suburbs (in Limerick), Mungret and Annacotty to optimise the benefits of its strategic location in the Limerick Shannon Metropolitan Area, in accordance with the National Planning Framework and the Regional Spatial and Economic Strategy.*

5.1.2. Objective ECON O17 – Strategic Employment Locations City and Suburbs (in Limerick), Mungret and Annacotty

It is an objective of the Council to:

a) *Promote, facilitate and enable a diverse range of employment opportunities by facilitating appropriate development, improvement and expansion of enterprise and industry on appropriately zoned lands, accessible by public and sustainable modes of transport, subject to compliance with all relevant Development Management Standards and Section 28 Guidance at Strategic Employment Locations and other appropriately zoned locations in a sustainable manner.*

b) *Facilitate and support Limerick City Centre, University Hospital Limerick, Raheen Business Park, the National Technology Park, Higher Education Institutes, Public Hospitals, Dock Road, Northside Business Campus, Opera Centre and Cleeves Site as Strategic Employment Locations, identified in accordance with the Limerick Shannon Metropolitan Area Strategic Plan.*

5.1.3. Objective ECON O18 – Specific Site Requirements

Relates to the preparation of a comprehensive framework plan for agreement with the Planning Authority in advance of development on the ‘High Tech/ Manufacturing’ zoned lands to the west of Raheen Business Park.

5.1.4. Objective EH O15 Ground Water, Surface Water Protection and River Basin Management Plans

This objective relates to the protection of ground and surface water resources taking account of the requirement of the Water Framework Directive, implementing the provisions of the River Basin Management Plan 2022-2028, the Limerick Groundwater Protection Plan.

5.1.5. <u>Objective IN O12 Surface Water and SuDS</u>

In summary, it is an objective to reduce water pollution, protect surface waters and prevent flooding by ensuring separation of foul and surface water discharges, maintaining and improving drainage infrastructure, promoting and requiring SuDS and Nature Based Solutions, and encouraging green roofs. In particular, the following is noted:

a) *Maintain, improve and enhance the environmental and ecological quality of surface waters and groundwater, including reducing the discharges of pollutants or contaminants to waters, in accordance with the National River Basin Management Plan for Ireland 2018-2021 (DHPLG) and the associated Programme of Measures and any subsequent River Basin Management Plan.*

b) *Ensure adequate storm water infrastructure to accommodate the planned levels of growth within the Plan area and to ensure that appropriate flood management measures are implemented to protect property and infrastructure.*

f) Address the issue of disposal of surface water generated by existing development in the area, through improvements to surface water infrastructure, including for example attenuation ponds, the application of sustainable urban drainage techniques, or by minimising the amount of hard surfaced areas, or providing porous surfaces as the opportunity arises.

h) Require all planning applications to include surface-water design calculations to establish the suitability of drainage between the site and the outfall point and require all new developments to include SuDS, to control surface water outfall and protect water quality in accordance with the requirements of Chapter 11: Development Management Standards of the Plan.

j) Require SuDS schemes to be designed to incorporate the four pillars of water quality, water quantity, biodiversity and amenity to the greatest extent possible within the constraints of a given site.

5.1.6. Section 8.7.8 SEVESO Sites

Map 8.2 SEVESO Sites – Analog Devices International identified as a 'Lower Tier SEVESO Site

This section notes that the Health and Safety Authority provide advice where appropriate, in respect of planning applications within a certain distance of the perimeter of such sites. Seveso Site Consultation Distances are specified in the Planning and Development Regulations 2001 (as amended) (SI No 600 of 2001). Distances vary depending on the nature of activity at the site. Such technical advice will be taken into account when considering applications for planning permission, on and within the vicinity of Seveso sites.

5.1.7. Objective IN O24 SEVESO Sites Objectives

It is an objective of the Council to:

a) Inform the Health and Safety Authority of any development proposals within the thresholds of the Seveso II Directive (96/82 EC) and the EC (Control of Major Accident Hazards Involving Dangerous Substances) Regulations 2000 (S.I. No. 476 of 2000), including modifications to existing Seveso establishments.

b) Have regard to potential adverse impacts on public health and safety, including maintaining appropriate safe distances between Seveso sites and residential areas, areas of public use and areas of environmental sensitivity.

c) Ensure in addition to normal planning criteria, that new developments such as transport links, locations frequented by the public and residential areas in the vicinity of existing Seveso sites, comply with the requirement of the Seveso Directive, including the consultation distances surrounding establishments designated as containing hazardous substances.

5.1.8. Section 11.3.11 SuDS (Sustainable Drainage Systems)

In summary, the following is noted:

- Previously developed sites which are being redeveloped should aim to achieve greenfield run off rates.
- Storm Water Management Plans should have regard to Department of the Environment, Heritage and Local Government - The Planning System and Flood Risk Management (Nov 2009 – Guidelines for Planning Authorities); CIRIA Manual C753 – The SuDS Manual (2015); Greater Dublin Strategic Drainage Study - GDSDS (2005) and current best practise.
- A list of criteria will be considered in assessing proposals for surface water and SuDS schemes as part of planning applications.

5.2. Relevant National or Regional Plans/Policies

5.2.1. Spatial and Economic Strategy for the Southern Region 2019-2031

Raheen Business Park is recognised as a key employment location in the Regional Economic and Spatial Strategy (RSES) for the Southern Region.

5.2.2. Climate Action Plan 2025

The Climate Action Plan 2025 (CAP25) is the third annual update to Ireland's Climate Action Plan. It should be read in conjunction with Climate Action Plan 2024. The purpose of the Climate Action Plan is to lay out a roadmap of actions which will ultimately lead us to meeting our national climate objective of pursuing and achieving, by no later than the end of the year 2050, the transition to a climate resilient, biodiversity rich, environmentally sustainable and climate neutral economy. It aligns with the legally binding economy-wide carbon budgets and sectoral emissions ceilings that were agreed by Government in July 2022.

5.2.3. National Biodiversity Action Plan 2023 – 2030

Ireland's 4th National Biodiversity Action Plan (NBAP) sets the national biodiversity agenda for the period 2023-2030 and aims to deliver the transformative changes required to the ways in which we value and protect nature.

5.3. **Natural Heritage Designations**

- Lower River Shannon SAC 002165 – c. 2.15 km to the north and c. 7.2 km to the west.
- River Shannon & River Fergus SPA 00407 – c. 2.7 km to the north and c. 7.02 to the west.

6.0 The Referral

6.1. Referrer's Case

6.1.1. The following provides a summary of the main issues raised:

- The referral site was not part of the Analog Campus up to the time it carried out the works set out in the Referral.
- Contends that Analog Devices cannot expand its industrial operations without planning permission.
- Refers to Planning Application ABP Ref: 318396-23 (PA Ref. 23/60609) granted on the 19th February 2025, which did not include the compound (the referral site). This permission permitted the use of the former Provincial Flooring Business by Analog but not the compound.
- Contends that the works were carried out prior to the permission granted under ABP Ref: 318396-23 (PA Ref. 23/60609) and at the time Analog Devices did not have permission to carry out its industrial undertaking from the former Provincial Flooring premises.
- Notes that the PA refers to the Councils Enforcement Inspectors Report (DC-194-24, dated 20th June 2024) which considered that the works were exempt under Class 17 Temporary Structures and Uses category. Contends that temporary use was only permitted for the refurbishment works.
- Notes that the PA considered that the works are exempted development under Class 21 of the Planning and Development Regulations (as amended).

- Refers to Enforcement Case Ref. DC-360-24 and contends that at the time there was no industrial processes going on within the curtilage of the works. The development is therefore not exempt.
- Contends that the PA's AA screening is not in accordance with Article 6(3) of the Habitats Directive
- Contends that during construction services were diverted and drainage isolated.
- Considers that a stage 2 AA should have been carried out which would have de-exempted the development.
- The EIA Screening should have considered the development to be sub-threshold.

6.2. **Planning Authority Response**

None on file.

6.3. **Owner/ occupier's response**

6.3.1. The following provides a summary of the main issues raised:

- ADI acquired the former Provincial Flooring premises in 2022.
- States that ADI does not rely on permission granted under ABP Ref: 318396-23 (PA Ref. 23/60609) which did not include the rear storage compound to carry out works as set out in the third party referral.

<u>Primary Submission</u>

- Requests that ACP dismisses the Referral on the basis that it constitutes a challenge to matters already determined by the PA.
- The Referral is not a lawful basis to reopen matters already determined.
- ACP should determine that the works and uses described are development and exempted development.
- The HPN Plant (the subject works) was examined under the Council's Enforcement Case Ref. DC-360-24 and it was determined that the works constituted development and exempted development. That determination remains valid and unchallenged.

- Refers to case law Narconon Trust v An Bord Pleanála [2021] IECA 307 where the Court of Appeal confirmed that any planning decision, including Section 5 declarations, cannot be challenged indirectly outside the statutory judicial review process.
- Considers that the present Referral raises the same issues, namely whether the HPN plant is development and /or exempted development, notwithstanding that it is now reframed by reference to the location of the rear storage compound and its incorporation into the campus.
- The referral seeks to revisit a concluded determination.
- There has been no material change in circumstance, and the Referral does not raise a new planning question, therefore the appropriate route is to challenge the enforcement decision by judicial review.
- <u>Alternative Submission</u>
- <u>Not Development</u>
  - In terms of severance and incorporation of the rear storage compound the works are not development.
  - The administrative or operational separation of the rear storage compound does not of itself constitute development where it involves no material works or change of use.
  - The incorporation of the compound into the ADI campus does not alter the planning character of the land.
- <u>Development which is Exempted development</u>
  - Should the Commission consider an element to be development, then it is exempt development under Class 21 with no applicable Article 9 restriction.

6.4. Further Responses

None on file.

7.0 Statutory Provisions

7.1. Planning and Development Act, 2000

The following statutory provisions are relevant in this instance

Section 2(1): In this Act, except where the context otherwise requires

"works" includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal;

“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 this context so admits, includes the land on, in or under which the structure is situated”.

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

Section 4(1): sets out developments that shall be exempted development for the purposes of this Act.

Section 4(1)(h): The following shall be exempted developments for the purposes of this Act— 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(2): sets out that the Minister may, by regulations, provide for any class of development to be exempted development. The main regulations made under this provision are the Planning and Development Regulations 2001-2026.

Section 4(4) (Environmental Impact Assessment or Appropriate Assessment) Sets out 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.

Section 177U (9) (Appropriate Assessment)

In deciding upon a declaration or a referral under Section 5 of this Act a Planning Authority or the Board, as the case may be, shall where appropriate, conduct a screening for appropriate assessment in accordance with the provisions of this section.

7.2. **Planning and Development Regulations**

Article 5(1) within Part 2 referring to 'exempted development' provides the following definitions that are relevant:

'industrial building'' means a structure (not being a shop, or a structure in or adjacent to and belonging to a quarry or mine) used for the carrying on of any industrial process;

"industrial process" means any process which is carried on in the course of trade or business, other than agriculture, and which is-

(a) for or incidental to the making of any article or part of an article, or for or incidental to the altering, repairing, ornamenting, finishing, cleaning, washing, packing, canning, adapting for sale, breaking up or demolition of any article, including the getting, dressing or treatment of minerals, and for the purposes of this paragraph, "article" includes-

i. a vehicle, aircraft, ship or vessel, or

ii. a sound recording, film, broadcast, cable programme, publication and computer program or other original database;

Article 6(1) 'Subject to Article 9, development of a class specified in column 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) Development to which article 5 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.

Article 10(1) of the Regulations states that development, which consists of a change of use within 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, inter alia –

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

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

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

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

Schedule 2, Part 1 Exempted Development, Class 21 – Development for Industrial Purposes

Description of Development	**Conditions and Limitations**
(a) Development of the following descriptions, carried out by an industrial undertaker on land occupied and used by such undertaker for the carrying on, and for the purposes of, any industrial process, or on land used as a dock, harbour or quay for the purposes of any industrial undertaking— (i) the provision, rearrangement, replacement or maintenance of private ways or private railways, sidings or conveyors, (ii) the provision, rearrangement, replacement or maintenance of	1. Any such development shall not materially alter the external appearance of the premises of the undertaking. 2. The height of any plant or machinery, or any structure in the nature of plant or machinery, shall not exceed 15 metres above ground level or the height of the plant, machinery or structure replaced, whichever is the greater.

sewers, mains, pipes, cables or other apparatus, (iii) the installation or erection by way of addition or replacement of plant or machinery, or structures of the nature of plant or machinery. (b) Any works for the provision within the curtilage of an industrial building of a hard surface to be used for the purposes of or in connection with the industrial process carried on in the building.	

7.2.1. Schedule 2 Part 4 of to the Regulations specifies that Class 4 refers to use as a light industrial building.

8.0 Assessment

8.1. Introduction

8.1.1. The owner of the site ADI requests that the Commission dismisses this Referral on the basis that it constitutes an impermissible collateral challenge to matters already determined by the PA and considers the Referral not a lawful basis to reopen matters already determined by the PA.

8.1.2. In this regard I note that the subject works was examined by the Council under Planning Enforcement Case Ref. DC-360-24 and a Decision on Enforcement was issued, where it was determined that the works constituted development and exempted development. The Council's Enforcement Decision report is not on file and in this regard, I note for the Commission's information that an Enforcement Decision report does not form part of a public record. Notwithstanding, I refer the Commission to the PA's Section 5 report on file which provides a summary of the Enforcement Decision. The PA's Section 5 report further outlines that the Enforcement Inspector assessed the works under Class 21 schedule 2, Part 1 of the

Planning and Development Regulations (as amended) and determined the works to be development and exempted development.

8.1.3. Having regard to the description of the works in relation to the Enforcement Case Ref. DC-360-24 as set out above in Section 3.2 - Planning Authority Reports, and to the question asked by the third party Refer, I am satisfied that apart from the issue raised regarding the incorporation of the rear storage compound into the ADI campus, the Referral raises the same issues, namely whether the works undertaken i.e. the installation of the plant is development and /or exempted development.

8.1.4. ADI considers that the referral should be dismissed having regard to Narconon Trust v An Bord Pleanála [2021] IECA 307, where the Court of Appeal confirmed that any planning decision cannot be circumvented or challenged indirectly outside the statutory judicial review process. I do not consider that the enforcement action is a PA decision for the purpose of Narconon Trust v An Bord Pleanála [2021] IECA 307.

8.2. Is or is not Development

8.2.1. Firstly, I will consider the severance of the rear storage compound and its incorporation into the ADI campus and secondly, I will consider the installation and operation of the plant.

8.2.2. <u>The severance of the rear storage compound and its integration into the ADI campus</u>

8.2.3. The Referrer contends that the subject site was not part of the ADI Campus and that ADI had not operated as an industrial undertaker up to the time it carried out the works (the installation of the plant) set out in the Referral. The referrer further contends ABP Ref: 318396-23 (PA Ref. 23/60609) granted on the 19th February 2025, which did not include the compound (the referral site), permitted the use of the former Provincial Flooring Business by ADI but not the compound.

8.2.4. In response to the third-party referral the owner ADI contends that the administrative and operational separation of the rear storage compound which was within their ownership does not constitute development as there was no material works nor did a change of use occur. It is further contended that the incorporation of the compound into the ADI campus does not alter the character of the land in planning terms. The referral site remains in industrial use within an industrial estate and within a zoning designation where such use is generally permissible.

8.2.5. Section 3(1) of the Planning and Development Act 2000 (as amended) sets out that development means, except where the context otherwise requires, the carrying out of any works on, in, or under land or the making of any material change in the use of any such structures or other land. There is no definition of 'material change of use' in the Act, or any other statute. The question of whether a change of use is a material one was addressed by Keane J in the case of Monaghan County Council v Brogan [1987] I. R. 333. He stated that the issues of relevance to the question are …'*the matters which the planning authority would take into account in the event of a planning application being made for its use. If these matters are materially different (from the original use), then the nature of the use must equally have been materially different.'*

8.2.6. Having regard to the location of the site within an established industrial estate and the 'High Tech/Manufacturing Campus' land use zoning for the site and surrounding lands with the objective '*To provide for office, research and development, high technology, regional distribution/ logistics, manufacturing and processing type employment in a high quality built and landscaped campus style environment*' and to the prior use of the site as a storage compound for an industrial unit and the existing use as a plant area for an industrial unit, I am satisfied that the storage compound yard remains in industrial use and a material change of use has not occurred. Furthermore, I do not consider the incorporation of the storage compound yard into the ADI campus to represent material works. Therefore, in terms of the severance and incorporation of the rear storage compound yard into the ADI Campus I am satisfied that the works does not constitute development no material works or a change of use has occurred.

8.2.7. <u>Installation and Operation of the Plant</u>

8.2.8. Section 2 of the Planning and Development Act 2000, as amended, defines "works" as including any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal.

8.2.9. I am satisfied that the works outlined which comprises the installation of plant comes within the scope of works as defined by Section 2 of the Planning and Development Act 2000, as amended.

8.3. Is or is not exempted development

8.3.1. The third-party referrer contends that at the time there was no industrial processes going on within the curtilage of the works and that the development is therefore not exempt.

8.3.2. The question to be addressed is whether those development works constitute exempted development or not. Class 21 (a), Schedule 2, Part 1 of the Planning and Development Regulations (as amended) provides for an exemption for such works described in the referral.

Class 21 provides for development as follows:

> *(i) the provision, rearrangement, replacement or maintenance of private ways or private railways, sidings or conveyors,*
>
> *(ii) the provision, rearrangement, replacement or maintenance of sewers, mains, pipes, cables or other apparatus,*
>
> *(iii) the installation or erection by way of addition or replacement of plant or machinery, or structures of the nature of plant or machinery.*

to be carried out by an industrial undertaker on land occupied and used by such undertaker for the carrying on, and for the purposes of, any industrial process. Class 21 (b) further provides for any works for the provision within the curtilage of an industrial building of a hard surface to be used for the purposes of or in connection with the industrial process carried on in the building.

8.3.3. In terms of limitations or conditions Class 21 requires that that the development shall not materially alter the external appearance of the premises of the undertaking and that the height of any plant or machinery, or any structure in the nature of plant or machinery, shall not exceed 15 metres above ground level or the height of the plant, machinery or structure replaced, whichever is the greater.

8.3.4. Having visited the site, and on the basis of the information on the file including the submitted drawings, I note that the plant does not exceed 15 metres in height. Furthermore, having visited the site and having regard to the surrounding plant I am satisfied that the development does not alter the external appearance of the premises. I am therefore satisfied that the works is exempt development under

Class 21 of Part 1, Schedule 2 of the Planning and Development Regulations (as amended).

8.3.5. **Restrictions on Exempted Development**

8.3.6. The restrictions on exemptions provided in Article 9 of the Planning and Development Regulations (as amended) relate exclusively to Article 6 of the Planning and Development Regulations (as amended) which refers to classes of development specified in Part 1, Schedule 2 of the Planning and Development Regulations (as amended). Therefore, it is not applicable in this case.

8.3.7. Article 10(1) of the Planning and Development Regulations (amended) is not applicable in this case, as no change of use occurs within any one of the classes of use specified in Part 4 of Schedule 2.

8.3.8. I note that there is no provision in the Planning and Development Act 2000 (as amended) or the Planning and Development Regulations (as amended) which places a restriction on exempted development under Section 4 of the Act. Exempted development under Section 4 of the Act is not subject to restrictions on exemption under Article 9 of the Planning and Development Regulations (as amended).

8.3.9. I note for the Commission's information that the requirement for Appropriate Assessment or Environmental Impact Assessment would de-exempt an otherwise exempted development. In this regard, the Appropriate Assessment Screening and the EIA Screening carried out as part of this report are addressed in Section 9.5 and 9.6 of this report.

9.0 AA Screening

9.1. I have considered the proposed development in light of the requirements S177U of the Planning and Development Act 2000 as amended.

9.2. The referral appeal site is located within an existing manufacturing building in the Raheen Business Park. The closest European sites relative to the appeal site lie approximately as follows:

- Lower River Shannon SAC (Site Code 002165) – lies approx. 2.2 km to the north of the site.

- River Shannon and River Fergus Estuaries (Site Code 004077) – lies approx. 2.6 km north of the site.

9.3. The subject application relates to a Section 5 Referral seeking a declaration on specific works as set out in Section 2.0 above. The planning authority considered that the proposed development should not have a significant effect on the conservation status of any SAC or SPA, and Appropriate Assessment is not necessary. No watercourses are noted to be shown located at or in the immediate vicinity of the appeal site.

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

- The nature, scale and location of the development.
- The distance between the appeal site and the nearest European sites and the weak indirect connections to the European site.
- Taking into account the screening report by the PA,

9.5. I conclude, on the basis of objective information, that the proposed 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 (under Section 177V of the Planning and Development Act 2000) is not required.

10.0 EIA Screening

10.1. The proposed 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 (or Part V of the 1994 Roads Regulations). No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination. Refer to Form 1 in Appendix 1 of report.

11.0 **Recommendation**

11.1. 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 subdivision of the former provincial flooring premises involving the severing of the rear external storage compound from the remainder of the premises & the extension of the adjoining Analog Devices International Complex (ADIC) by incorporating the fPFp external storage compound within the storage compound installing of 2 no. nitrogen storage tanks and associated vaporiser units & associated works at rear of the former Provincial Flooring premises at Ballycummin, Raheen Business Park, Limerick is or is not development or is or is not exempted development:

AND WHEREAS Tom Ryan requested a declaration on this question from Limerick County Council and the Council issued a declaration on the 10th day of April, 2026 stating that the matter was development and was exempted development:

AND WHEREAS referred this declaration for review to An Coimisiún Pleanála on the 30th day of April, 2026:

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

(a) Section 2(1) of the Planning and Development Act, 2000, as amended,

(b) Section 3(1) of the Planning and Development Act, 2000,

(c) article 5, article 6(1) and article 9(1) of the Planning and Development Regulations, 2001, as amended,

(d) Part 1, Schedule 2 of the Planning and Development Regulations 2001, as amended,

(e) the planning history of the site,

(f) the pattern of development in the area:

(g) the nature of the current use of the site

(h) the provisions of the Limerick City and County Development Plan 2022-2028.

AND WHEREAS An Coimisiún Pleanála has concluded that:

(a) the subdivision of the former provincial flooring premises involving the severing of the rear external storage compound from the remainder of the premises & the extension of the adjoining Analog Devices International Complex (ADIC) by incorporating the fPFp external storage compound within the storage compound is not development

(b) installation of 2 no. nitrogen storage tanks and associated vaporiser units & associated works at rear of the former Provincial Flooring premises at Ballycummin, Raheen Business Park, Limerick is development and is exempted development as set out under Class 21, Schedule 2, Part 1 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 2000 Act, hereby decides that the

the subdivision of the former provincial flooring premises involving the severing of the rear external storage compound from the remainder of the premises & the extension of the adjoining Analog Devices International Complex (ADIC) by incorporating the fPFp external storage compound within the storage compound is not development

Installation of 2 no. nitrogen storage tanks and associated vaporiser units & associated works at rear of the former Provincial Flooring premises at Ballycummin, Raheen Business Park, Limerick is development and qualifies as 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 me, directly or indirectly, following my professional assessment and recommendation set out in my report in an improper or inappropriate way.

Carol Smyth
Planning Inspector

31st July 2026

Form 1 - EIA Pre-Screening

Case Reference	ACP 324255-26
Proposed Development Summary	Whether the subdivision of the former provincial flooring premises involving the severing of the rear external storage compound from the remainder of the premises & the extension of the adjoining Analog Devices International Complex (ADIC) by incorporating the fPFp external storage compound within the storage compound installing of 2 no. nitrogen storage tanks and associated vaporiser units & associated works at rear of the former Provincial Flooring premises at Ballycummin, Raheen Business Park, Limerick is or is not Development or is or is not Exempted Development
Development Address	The rear of the former Provincial Fooring premises at Ballycummin, Raheen Business Park, Limerick,
	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)	☒ Yes, it is a 'Project'. Proceed to Q2. ☐ 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)?	
☐ Yes, it is a Class specified in Part 1. **EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.**	
☒ 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?	
☒ 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.**	
☐ Yes, the proposed development is of a Class and meets/exceeds the threshold. **EIA is Mandatory. No Screening Required**	**State the Class and state the relevant threshold**
☐ 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)**	

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 ☐	
No ☒	**Pre-screening determination conclusion remains as above (Q1 to Q3)**

Inspector: ______________________________ Date: ________________