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OUR REFERENCE
MC/7595

YOUR REFERENCE

DATE
14th. November, 2025

RE: TIPPERARY COUNTY COUNCIL SECTION 5 DECLARATION REFERRAL REF: S5/25/129
Application by Compass Child & Family Services CLG for Whether the change of use from a residential dwelling house to a care-in-the-community dwelling house is development or not development and, if it is development, whether it is exempted development at Gurtussa, Dundrum, Co. Tipperary E34YF65

Dear Sir or Madam,

We act on behalf of Compass Child and Family Services CLG and wish to lodge a first-party appeal against the decision of Tipperary County Council on the above Section 5 Declaration Referral application.

We enclose payment in the sum of €220.00 being the fee payable in respect of this appeal (R1) together with first party appeal submission.

Yours sincerely,

Mandy Coleman

Mandy Coleman, MIPI
P. Coleman & Associates.

Enc.

Appeal to Section 5 Referral Decision

Section 5 Application by Compass Child & Family Services CLG to Tipperary County Council

Whether the change of use from a residential dwelling house use to a care in the community dwelling house is development or not development and if development if it is exempted development?

Dwelling house at Gurtussa, Dundrum, Co. Tipperary, E34YF65.

Compass Child & Family Services CLG
Issue: A

Customer Project Number: 7595
Customer Document Number:

Document Sign Off

Appeal to Section 5 Referral Decision

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Dwelling house at Gurtussa, Dundrum, Co. Tipperary, E34YF65.

Issue A

File No: 7595

CURRENT ISSUE					
Issue No: A	Date: 14.11.25	Reason for issue: Section 5 Referral Appeal			
Sign Off	Originator	Checker	Reviewer	Approver	Customer Approval (if required)
Print Name	Mandy Coleman	Mandy Coleman		Mandy Coleman	
Signature	Authorised Electronically				
Date	14.11.25	14.11.25		14.11.25	

PREVIOUS ISSUES							
Issue No	Date	Originator	Checker	Reviewer	Approver	Customer	Reason for issue

1.0 Introduction

In accordance with Section 5(2) of the Planning and Development Act 2000 (as amended), a Referral Application was made to Tipperary County Council on 7th October 2025 on behalf of our client, Compass Child and Family Services CLG. The question to be determined was as follows:

Whether the change of use from a residential dwelling house to a care-in-the-community dwelling house is development or not development and, if it is development, whether it is exempted development.

The Section 5 Referral application refers to an existing dwelling house at Gurtussa, Dundrum, Co. Tipperary, E34YF65.

In considering this referral, Tipperary County Council had regard in particular to the following:

- a) Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended)
- b) Article 5, 6 & 9 of the Planning and Development Regulations 2000, as amended,
- c) Class 14 (f) of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended)
- d) Section 3 of Part I of Child Care (Standards in Children's Residential Centres) Regulations, 1996 (SI No. 397/1996),

Following its consideration of the matter, Tipperary County Council (TCC), in exercise of the powers conferred on it under Section 5(2)(a) of the Act, issued a declaration (Ref. S5/25/129, dated 22 October 2025) determining that:

"The change of use from an existing dwelling at Gurtussa, Dundrum, Co. Tipperary (E34 YF65) to use as a care-in-the-community dwelling house constitutes a material change of use and 'development' within the meaning of the Planning and Development Act 2000 (as amended), and is not 'exempted development' as it does not avail of an exemption under Class 14(f) of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended)."

On behalf of our Client, we hereby appeal this decision to An Coimisiún Pleanála (ACP) under Section 5(3) of the Planning and Development Act 2000 (as amended).

This appeal sets out the grounds on which the Planning Authority's determination is contested and provides a detailed analysis of the legislative intent, relevant case law, and recent determinations of the Commission, demonstrating that the proposed use at Gurtussa does not constitute a material change of use and therefore is not development within the meaning of the Act.

2.0 Appeal Details

Appellants Name & Address:	Compass Child & Family Services CLG Unit 8A Convent Hill, Killaloe Co. Clare.
Address for Correspondence:	Compass Child & Family Service CLG c/o P. Coleman & Associates, 5, Bank Place, Ennis, V95 HW27
Local Authority:	Tipperary County Council
Ref:	S5/25/129
Referral Question:	Whether the change of use from a residential dwelling house to a care-in-the-community dwelling house is development or not development and, if it is development, whether it is exempted development.
Location of Property:	Gurtussa, Dundrum, Co. Tipperary E34YF65
Decision:	Is Development and is not Exempted Development.

3.0 Site Location and Context

This Section 5 Referral application relates to a specific site at Gurtussa, Dundrum, Co, Tipperary approximately 0.7 km north of the settlement boundary of Dundrum (See Site Location Map in Appendix). The site comprises an existing dormer dwelling with an established residential use, served by the L-1291-0 Local Road.

The property is set within a semi-rural environment, characterised by a dispersed pattern of rural housing, while remaining in close proximity to Dundrum village and its amenities, schools, and community facilities. This locational balance reflects the Applicant's model of care, which seeks secure, low-arousal residential settings within reasonable reach of essential services and community supports.

The dwelling integrates into the surrounding rural settlement pattern, with no adverse impact on neighbouring amenity, landscape character, or local infrastructure.

4.0 Proposed Development and Nature of Proposed Use

The development consists of the change of use of an existing dwelling to provide accommodation for a maximum of four children in care, with staff present on a 24-hour basis acting *in loco parentis*. Staffing will comprise three carers during the day and two carers overnight, ensuring continuous supervision while maintaining a domestic household scale.

The model of care is explicitly non-institutional and is designed to replicate the routines and relationships of an ordinary household. The children share the home with staff in a way that mirrors family life: cooking, eating, recreation and household activities all take place within a shared living space. The approach is rooted in social pedagogy, which treats the child as a whole person and places emphasis on building relationships through everyday activities rather than through institutional structures.

Children placed in the home are all from home environments whose parents are unable to care for them. Typically, the children will be aged between 13–17 years, though placements of younger children may occasionally be directed by the courts. All placements are made by Tusla, the Child and Family Agency, under the Child Care Act 1991. The length of stay varies depending on the needs of the child, ranging from short-term placements where family reunification is being explored to longer-term placements where a consistent home environment is needed through adolescence.

Education and community integration are central to the model. All children attend local schools within the surrounding area, ensuring continuity of education and full participation in community life. Young people are actively encouraged and supported to join local sports clubs, arts groups and youth organisations, with many taking part in football, GAA, and other local activities. This allows them to build connections and friendships beyond the home and to integrate naturally into the community.

Staffing is provided by a team of qualified social care workers managed locally and with access to professional supports as needed. These staff members are not medical or clinical professionals; their role is to provide day-to-day care, guidance and emotional support within a domestic family structure. Additional therapeutic supports, such as psychology or occupational therapy, can be accessed externally when required, but the home itself does not operate as a medical or institutional facility.

Overall, the proposed development represents the continued use of a dwelling as a private domestic household, where children in care can live in a stable, supportive and community-integrated setting. It is fundamentally distinct from healthcare or institutional facilities such as nursing homes, hospitals or residential treatment centres, and aligns instead with the principle of children being cared for in ordinary homes within their local communities.

Enclosed in Appendix D is Applicants Description of Location and Settings of Residences and Model of Care.

5.0 Planning History

25/60622 – Permission refused for the change of use from a residential dwelling to a care-in-the-community dwelling house, together with a modest front extension and elevational changes. This refusal is currently the subject of a first-party appeal to ACP.

2460389 – Permission granted for the construction of:

- a) single-storey extension to the side of the existing dwelling
- b) a domestic garage and carport to the rear of the existing dwelling; and
- c) the refurbishment and alterations of the existing dwelling and all associated works (not implemented).

20243 – Retention Permission granted for the roadside stone boundary wall with entrances as constructed to the dwelling.

P315392 – Permission granted for the erection of the dwelling house.

6.0 Statutory Provisions

Planning and Development Act, 2000

Section 2(1) of the Act states the following:

- development' has the meaning assigned to it by Section 3;
- *'works' includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal'*

Section 3(1) states that:

'development' means, except where the context otherwise requires, the carrying out of works on, in, over or under land or the making of any material change in the use of any structures or over land'.

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

Article 5(1) states that "care" means personal care, including help with physical, intellectual, or social needs.

Article 6(1) provide 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 of the said Part 1 opposite the mention of that class in the said column 1'.

Article 9 (1)(a) states that development to which article 6 relates shall not be exempted development for the purposes of the Act if the carrying out of the development would, inter alia:

Article 10 (1) states that 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 –

- involve the carrying out of any works other than works which are exempted development,
- contravene a condition attached to a permission under the Act,
- be inconsistent with any use specified or included in a permission, or
- 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.

Part 1 of Schedule 2 of the Regulations set out the classes of exempted development, including '**Class 14**' allowing for 'development consisting of a change of use': -

- (f) from use of a house, to use as a residence for persons with an intellectual or physical disability or mental illness and persons providing for care for such persons.

Conditions of exemption include:

- The number of persons with an intellectual or physical disability or mental illness in any such residence shall not exceed six.
- The number of resident carers shall not exceed two.

7.0 Is the Change of Use Development?

The central question in this appeal is whether the proposed use of the existing dwelling as a small-scale residential home for children in care constitutes a material change of use, and therefore "development" within the meaning of Section 3(1) of the Planning and Development Act 2000 (as amended).

7.1 Tipperary County Council's Determination

In its declaration (Ref. S5/25/129), TCC determined that the change of use is development and is not exempted development, relying primarily on:

- the description of the proposal as a “care-in-the-community dwelling house”;
- the absence of a specific exemption for children’s homes under Class 14(f); and
- the recent ACP decision RL05E.322247 (Letterkenny), which the Planner cited almost verbatim. The Letterkenny referral concerned a separate proposal for a children’s residential home in County Donegal, where the Inspector took the view that such a use constituted development and did not fall within Class 14(f).

While the Planner did address the “Is Development?” question, the assessment provides no substantive planning reasoning to support the conclusion reached. The report simply asserts:

“The change of use from use as a private dwelling house to use as a residential care home for children in social care represents a material change of use of the structure, and as such, I am satisfied that the proposal constitutes development.”

No analysis of scale, intensity, traffic, amenity, or physical works accompanies that statement. The declaration therefore lacks the evidential foundation required by Section 5(2) of the Act.

7.2 Domestic Character of the Use and Planning Evidence of Continuity

The proposal involves an existing dwelling house accommodating four children, with three carers during the day and two overnight. At any time, the number of persons living in the house will not exceed six. The dwelling will continue to function as a single household with shared kitchen, dining, living and recreation areas.

It is accepted that there has been some change in the purpose of occupation, in that the dwelling will now accommodate children in care under the supervision of Compass Child & Family Services. However, the critical issue is whether this change is material in planning terms.

A domestic dwelling can accommodate a wide variety of household forms:

- families with or without children;
- families with foster children;
- groups of unrelated adults living together;
- households where residents receive 24-hour care from live-in or visiting carers; and
- households engaged in small-scale ancillary activities such as home working, or part-time child-minding.

All of these arrangements may involve staff, carers or visitors coming and going and may generate additional movements or activity. Yet they are consistently accepted as remaining within the definition of a dwelling-house use and not amounting to a material change.

The proposed model fits comfortably within this accepted range of domestic occupation. The planning evidence confirms this:

- (a) *Scale of Occupancy* – Six residents in total are within the norm of many family households. No increase in floor area or bedrooms is proposed. The dwelling remains within its original domestic capacity.
- (b) *Traffic and Access* – Vehicle movements will comprise ordinary school runs and two daily staff changeovers. This is comparable to a working family with several adults commuting and children attending school or activities. The existing entrance and local road network are fully adequate to accommodate this level of use. In the course of assessing Planning Application Ref. 25/60622, the Area Engineer raised no objection to the proposed use or intensity of access, confirming that the development would not give rise to any traffic safety or capacity concerns.
- (c) *Activity and Amenity* – Day-to-day routines will involve meals, homework, recreation and community participation. There will be no external signage, lighting or other institutional characteristics. The building's appearance and relationship to neighbouring dwellings will remain unchanged.
- (d) *Staffing Pattern* – Carers act *in loco parentis*, providing domestic supervision and guidance rather than institutional care. There is no office, reception or external management function. The relationship between residents and carers mirrors that of a normal household or foster-family environment.

Minor fire-safety related alterations were identified in Planning Application Ref. 25/60622 (now under appeal). These are technical compliance measures only, do not affect the land-use character of the dwelling, and will be addressed separately if planning permission is deemed necessary.

Summary of Continuity of Use

Planning Criterion	Existing Dwelling	Proposed Use	Material Change?
Occupancy	4–6 residents	4 children + 3 day / 2 night carers	No
Physical Works	None	None	No
Vehicle Movements	Typical domestic	School runs & shift changes	No
External Appearance	Detached house in rural setting	Unchanged	No
Amenity Impact	None	None	No
Nature of Activity	Family life, domestic routines	Family life, domestic routines	No

On any objective assessment, the proposed use remains domestic in scale and activity and cannot reasonably be regarded as a material change of use.

7.3 Misinterpretation of “Care-in-the-Community”

TCC report references the description “*care-in-the-community dwelling house*” as if it defines a separate planning use. This is a misunderstanding. The phrase reflects the social-care model employed by Compass Child & Family Services and Tusla—integrating young people into ordinary community life rather than isolating them in institutional facilities. It does not signify a distinct land-use class.

Planning assessments must be based on the functional reality of how the property operates. The activities proposed—cooking, schooling, recreation and family life—are indistinguishable from those of a typical household.

7.4 Why There Is No Specific Exemption for Children’s Homes

The Planning and Development Regulations include an explicit exemption under Class 14(f) for the use of a house as a residence for persons with an intellectual or physical disability or mental illness, together with persons providing care for such persons. This exemption applies regardless of age.

There is no equivalent exemption specifically for children in care who do not have a diagnosed disability or mental illness. However, the absence of such a provision does not mean that a small children’s residential home automatically requires planning permission. Instead, it reflects the long-established planning position that the care of children within an ordinary dwellinghouse is fundamentally residential in nature and does not normally constitute development at all.

Class 14(f) exists to address situations where the level of personal support required, whether for children or for adults, might otherwise be interpreted as approaching an institutional model. The exemption ensures that even those more intensive domestic care arrangements remain treated as residential uses.

A four-child domestic household with carers acting in loco parentis is significantly less intensive than many Class 14(f) scenarios. To suggest that this more modest, domestic-scale use requires permission while a potentially more intensive Class 14(f) arrangement does not would invert the logic of the Regulations. It would also run contrary to the principle that small-scale, family-type care environments operate within the residential domain.

7.5 An Comisiún Pleanála (ACP) Precedents

The preceding analysis demonstrates that the proposed use retains all of the physical and functional characteristics of a normal dwellinghouse and does not give rise to any material change of use. This interpretation is well established in planning practice. A review of relevant ACP decisions confirms a consistent planning principle that small-scale children’s residential homes, operating within a domestic environment, do not constitute development within the meaning of Section 3(1).

This position is supported by a consistent line of ACP referral decisions and local-authority declarations:

- **RL25.RL.2059** (Athlone, Westmeath): Residential care for four children. The Inspector concluded that the use was institutional and therefore development. The Board disagreed, holding that the change of use, by reason of its nature and scale, did not constitute a material change and was not development.
- **19.RL.2430** (Eiscir Meadows, Offaly): Care for two children. The Board accepted the Inspector's recommendation that no material change of use had occurred.
- **18.RL.2552** (Drumbenagh, Monaghan): Care for three children with staff accommodation. The Inspector noted that the house continued to resemble a family home, with domestic activity patterns, and concluded that the change of use was not material. The Board agreed.
- Cork County Council Ref. **R563/20** (Douglas, Cork): Change of use to a registered children's home determined to be not development.

These precedents establish a clear and settled planning principle: the use of a house as a small-scale children's home, accommodating up to four children, does not amount to development. Each decision was determined on detailed evidence of scale, activity and amenity—criteria that were absent from TCC's assessment.

The correct approach is set out most clearly in referral 18.RL.2552 (Monaghan), which dealt with a dwelling providing residential care for children with staff acting in loco parentis within an ordinary domestic environment. The Inspector structured the assessment in accordance with Section 5:

1. Determine whether a change of use has occurred.
2. If so, determine whether that change of use is material, having regard to the nature and scale of the use.
3. Only if material consider whether the use is exempted development.

This methodology was not followed by TCC. Although the Planner stated a conclusion that the change of use was material, the report contains no analysis of the nature or scale of the occupation, no examination of activity patterns, no comparison with a normal family home and no identification of land-use impacts. Instead, the report moved directly to an exemption analysis based on unrelated child-welfare legislation.

The ACP 18.RL.2552 Inspector, in contrast, examined the factual use of the dwelling in detail. The following elements of the reasoning in RL2552 are directly applicable to the present case:

- The dwelling remained a house in the ordinary sense, used as the permanent home of the children.

- Care staff acting in loco parentis did not alter the essential residential character of the use.
- Domestic routines, day-to-day patterns of activity and household behaviours remained consistent with the upbringing of children in any family home.
- No physical works or institutional characteristics were introduced.
- Occupancy numbers (three children and two staff overnight) were within the range normally associated with a domestic dwelling.
- The scale of use was not sufficient to represent a significant change from its use as a conventional house.
- Any additional staff visits did not materially alter the land-use effects of the dwelling.
- The house continued to resemble, internally and externally, a family home.
- The residential care being provided was not of an institutional scale.

Importantly, the Inspector in RL2552 emphasised that the presence of carers acting in loco parentis did not alter the domestic character of the dwelling, as day-to-day activity patterns remained those of an ordinary household.

The Inspector was also clear that the mere presence of care services does not transform a house into an institution. Institutional character arises from factors such as scale, staffing intensity or physical form—none of which were present in RL2552 or in the current proposal.

These considerations in RL2552 equally applicable here:

- Four children living together is entirely typical of a family dwelling.
- The presence of two resident carers and daytime supervisory staff is consistent with the functioning of a household receiving support.
- All activity remains domestic in nature: school runs, meals, recreation and household routines.
- There are no external indicators of institutional use, such as signage, lighting, car parking arrangements, gates or clinical facilities.
- The house continues to function as a normal home within the community.
- The Area Engineer, in assessing planning application 25/60622, raised no concerns regarding traffic, access or intensity of use.

Unlike the structured, evidence-based approach applied in RL2552, TCC's assessment did not examine the nature or scale of the use, did not identify any planning consequences and provided no factual basis for its conclusion that the change was material.

The Monaghan referral demonstrates that the need for care does not alter the planning character of a domestic residence. Children in any family environment require care, guidance and supervision; the fact that the adults providing such care are employees rather than parents does not create a different planning use.

Taken together, the ACP precedents confirm that the proposed use falls entirely within the category of a domestic residential use and does not constitute development within the meaning of Section 3(1).

7.6 Legislative Context

Two statutory provisions clarify how small-scale residential care homes within ordinary dwellings are treated for planning purposes: the Class 9 exclusion under the Planning and Development Regulations and the Child Care (Standards in Children's Residential Centres) Regulations 1996.

(a) Class 9 Exclusion

Part 4, Class 9 of Schedule 2 of the Planning and Development Regulations groups institutional uses such as hospitals and nursing homes but expressly excludes the use of a house for those purposes. This confirms a deliberate legislative distinction between domestic dwellings where care is provided in a home environment and true institutional facilities. Care provided within an ordinary dwelling does not reclassify the use as institutional; it remains residential in nature.

(b) Legislative Context – S.I. No. 397/1996

The Child Care (Standards in Children's Residential Centres) Regulations 1996 define a children's residential centre as any home or other institution for the residential care of children who are not receiving adequate care and protection. The Regulations expressly exclude hospitals and institutions for persons with disabilities or mental illness. These Regulations form part of the child-welfare licensing framework administered by Tusla. They regulate the standard of care, staffing and governance; they do not define planning use classes or determine whether a material change of use has occurred.

The Regulations acknowledge that a residential centre may be either a home or an institution depending on its nature, scale and operation. This mirrors the planning test under Section 3(1), which requires an assessment of the actual functioning of the dwelling. Properly understood, the Regulations reinforce that small-scale domestic children's homes operate as homes in the ordinary residential sense and should not be treated as institutional facilities.

TCC misapplied these Regulations by treating their welfare definitions as determinative for planning purposes and by relying solely on the Letterkenny ACP Inspector's reasoning in RL05E.322247 without examining the actual nature and scale of the use proposed in this case.

7.7 Tipperary County Council's Assessment and Misapplication of Precedent

The TCC assessment does not apply the statutory tests required under Section 5 and does not engage with the planning evidence specific to this case. Instead of examining the nature and scale of the proposed use, the Council relied on the welfare definitions in the 1996 Child Care Regulations and on the Inspector's reasoning in ACP Ref. RL05E.322247 (Letterkenny). Those Regulations, as outlined above, serve a child-welfare licensing function and do not define planning uses. Their application to this referral was therefore misplaced.

The reliance on RL05E.322247 reasoning was similarly inappropriate. That case reflects the conclusions of one Inspector but does not establish a binding planning principle, nor does it override the detailed and consistent line of ACP decisions—particularly RL2552, RL2059 and RL2430—that demonstrate how domestic-scale children's homes must be assessed. In this case, the Tipperary report contains no assessment of occupancy scale, activity patterns, amenity impact, traffic levels or physical form. No planning consequences of the use are identified.

While earlier ACP referrals can offer guidance, each case must be determined on its own merits. The present use comprises a conventional dwelling accommodating six persons, with no intensification, no change in residential character and no identifiable impact on adjoining properties or the wider area. The conclusion that a material change of use has occurred is therefore unsupported by planning evidence and does not follow the statutory methodology required under Section 5

7.7 Conclusion on Development

In light of the foregoing, the continued use of the dwelling as a home for four children in care, supported by staff acting in loco parentis, does not constitute a material change of use. The property remains a domestic dwelling in every practical and physical sense. The number of occupants, the pattern of activity and the relationship with adjoining properties all fall within the range of normal residential occupation.

TCC's declaration is based on assertion rather than planning evidence and relies on an incorrect application of non-planning legislation and an over-reliance on a single ACP Inspector's report. No analysis was undertaken of the nature or scale of the use, nor were any land-use effects identified.

When the statutory test under Section 3(1) is properly applied—having regard to occupancy, activity patterns, physical form and amenity—the only reasonable conclusion is that no material change of use has occurred.

Accordingly, the proposed use is not development within the meaning of the Planning and Development Act 2000 (as amended).

8.0 If Development – Exempted Development

Without prejudice to the foregoing, should ACP consider that a material change of use has occurred, it is submitted that the use qualifies as exempted development under Class 14(f) of Part 1, Schedule 2 of the *Planning and Development Regulations 2001* (as amended). Class 14(f) provides for:

“The use of a house as a residence for persons with an intellectual or physical disability or mental illness and persons providing care for such persons.”

The conditions and limitations associated with this Class restrict the number of persons with an intellectual or physical disability or mental illness living in any such residence to not more than six, and the number of resident carers to not more than two.

8.1 Application to the Present Case

- The dwelling will accommodate four children, well below the six-person threshold.
- Carers will be present on a shift basis, with three during the day and two at night, ensuring that no more than two staff reside in the house at any one time.
- The household functions in every practical sense as a domestic family unit, with the children attending local schools and participating fully in community and sporting activities.
- There is no signage, or institutional features, and the dwelling remains visually and functionally indistinguishable from any other home in the area.

The proposal therefore satisfies the scale and form envisaged by Class 14(f): a small household of residents and carers living together within an ordinary domestic dwelling.

Criterion	Requirement under Class 14(f)	Proposed Use	Complies?
Number of residents	Not more than 6	4 children	✓
Resident carers	Not more than 2	2 carers (max.)	✓
Form of residence	Ordinary dwelling	Existing 4-bedroom house	✓
Nature of care	Domestic setting; personal support	Day-to-day residential care in a normal home environment	✓

8.2 Application of Class 14(f) and Error in the Tipperary Approach

Class 14(f) applies to houses used as residences for persons with an intellectual or physical disability or mental illness, together with persons providing care for such persons. In this case, the young people placed in the Compass home present with trauma, anxiety, depression and stress arising from adverse family circumstances and previous experiences.

These conditions are widely recognised as mental-health difficulties within the ordinary meaning of “mental illness”, even where not formally diagnosed. The dwelling therefore accommodates persons who fall within the Class 14(f) categories, together with carers who reside in loco parentis to provide day-to-day personal support.

In referral 18.RL.2552, the Inspector expressly noted that Class 14(f) does *not* distinguish between degrees or types of disability or illness, and accepted that children experiencing emotional or behavioural difficulties (including those attending mental-health support services) could fall within the ordinary meaning of “mental illness” for the purposes of the exemption. The Inspector concluded that *if* the use were development, it would fall within Class 14(f). This is directly comparable to the present case.

TCC’s Report rejected the applicability of Class 14(f) by relying solely on the Inspector’s reasoning in ACP Ref. RL05E.322247. That report, and the Tipperary decision that followed it, referred to the Child Care (Standards in Children’s Residential Centres) Regulations 1996 (S.I. No. 397 of 1996) to draw a distinction between children’s homes and institutions for persons with disabilities or mental illness. On that basis, Tipperary concluded that a children’s residential home for social-care placements could not fall within Class 14(f).

This reasoning is misplaced. The 1996 Regulations are welfare-licensing provisions under child-care legislation; they regulate service standards for Tusla-registered centres and have no role in determining planning exemptions. Their exclusion of specialist hospitals or institutions does not mean that domestic children’s homes are outside the scope of “residences for persons with a mental illness” in Class 14(f).

Furthermore, TCC carried out no assessment of the information submitted demonstrating that the children in this case experience emotional and mental-health needs consistent with the intent of the exemption. Instead, it simply repeated ACP Ref. RL05E.322247. reasoning without evaluating the actual circumstances of this proposal. By importing welfare definitions into a planning decision, the Council applied the wrong legal test and reached an unsound conclusion.

The Inspector in RL2552 confirmed that small-scale residential care provided within a normal house is consistent with the domestic environment envisaged by Class 14(f), and that the exemption makes no distinction between children and adults, nor between different forms of mental-health difficulty.

8.3 Restrictions on Exempted Development

Article 9(1) of the *Planning and Development Regulations 2001* specifies circumstances in which otherwise-exempted development would cease to be exempt—for example, where it would contravene a planning condition or endanger public safety. None of these restrictions arise here. The dwelling is an authorised structure; no planning conditions limit its use; there are no traffic-safety issues; and the use will have no material impact on residential amenity. TCC’s report itself confirms that the dwelling and access are acceptable in these respects. There is therefore no restriction under Article 9 that would disqualify the exemption.

8.5 Conclusion on Exemption

On the proper application of Class 14(f), the proposed use of the dwelling as a small, domestic-scale residence for children experiencing mental-health difficulties—supported by live-in carers—complies fully with the exemption criteria. The reasoning adopted by Tipperary County Council, based on welfare-licensing definitions from unrelated legislation, was misplaced and unsupported by planning law or factual assessment. The use therefore constitutes exempted development, and planning permission is not required.

Accordingly, even if the ACP were to determine that the proposal constitutes “development,” it falls fully within the scope of Class 14(f) and is exempted development.

9.0 Conclusion

It is respectfully submitted that the continued use of the subject dwelling as a small-scale residential home for four children in care does not constitute a material change of use. The property remains in use as a house, with activity patterns that are entirely consistent with ordinary domestic living arrangements. This position is reinforced by established ACP precedent, the express exclusion of houses from Class 9 of the Regulations, and the statutory treatment of children’s residential centres as homes rather than institutions under S.I. No. 397/1996. On this basis, the proposal is not development within the meaning of Section 3(1) of the Planning and Development Act 2000 (as amended).

The assessment undertaken by Tipperary County Council did not provide any substantive analysis to support its conclusion that a material change of use had occurred. The Planner’s Report focused almost exclusively on whether the proposal could fall within Class 14(f), on the basis that the children are not clinically diagnosed with an intellectual, physical or mental illness. In doing so, the report did not meaningfully examine the nature or scale of the proposed use, the domestic pattern of activity, or any identifiable planning impacts. Although a conclusion was stated, no planning evidence was provided to demonstrate that the essential residential character of the dwelling would change. As a result, the determination rests largely on an exemption analysis rather than on the required assessment of whether development has occurred in the first instance.

Without prejudice to the main argument presented in this appeal, and only in the event that ACP were to consider the proposal to be development, it is further submitted that it qualifies as exempted development under Class 14(f), Part 1, Schedule 2 of the Planning and Development Regulations 2001 (as amended). The number of residents will remain below the statutory threshold, no more than two carers will reside in the dwelling at any time, and the children’s needs—arising from trauma, stress and anxiety—fall within the ordinary meaning of “mental illness” for the purposes of the exemption.

Accordingly, the proper conclusion is that the proposed use of the property does not require planning permission, as it is not development in the first place. However, if ACP take a different view, it is exempt development in any event and does not require planning permission

Appendix A

Appeal Form



An
Bord
Pleanála

Planning Appeal Form

Your details

1. Appellant's details (person making the appeal)

Your full details:

(a) Name

Compass Child & Family Services CLG

(b) Address

Unit 8A Convent Hill, Kilieloe, Co. Clare.

Agent's details

2. Agent's details (if applicable)

If an agent is acting for you, please **also** provide their details below. If you are not using an agent, please write "Not applicable" below.

(a) Agent's name

P. Coleman & Associates

(b) Agent's address

5 Bank Place, Ennis, Co. Clare V95 HW27

Postal address for letters

3. During the appeal we will post information and items to you or to your agent. For this appeal, who should we write to? (Please tick ✓ one box only.)

You (the appellant) at the address in Part 1

☐

The agent at the address in Part 2

☒

Details about the proposed development

4. Please provide details about the planning authority decision you wish to appeal. If you want, you can include a copy of the planning authority's decision as the appeal details.

(a) Planning authority

(for example: Ballytown City Council)

Tipperary County Council

(b) Planning authority register reference number

(for example: 18/0123)

S5/25/129

(c) Location of proposed development

(for example: 1 Main Street, Baile Fearainn, Co Ballytown)

Gurtussa, Dundrum, Co. Tipperary.

Appeal details

5. Please describe the grounds of your appeal (planning reasons and arguments). You can type or write them in the space below or you can attach them separately.

See First Party Appeal Document

Supporting material

6. If you wish you can include supporting materials with your appeal.

Supporting materials include:

- photographs,
- plans,
- surveys,
- drawings,
- digital videos or DVDs,
- technical guidance, or
- other supporting materials.

Acknowledgement from planning authority (third party appeals)

7. If you are making a third party appeal, you **must** include the acknowledgment document that the planning authority gave to you to confirm you made a submission to it.

Fee

8. You **must** make sure that the correct fee is included with your appeal. You can find out the correct fee to include in our Fees and Charges Guide on our website.

Oral hearing request

9. If you wish to request the Board to hold an oral hearing on your appeal, please tick the "yes, I wish to request an oral hearing" box below.

Please note you will have to pay an **additional non-refundable fee of €50**. You can find information on [how to make this request](#) on our website or by contacting us.

If you do not wish to request an oral hearing, please tick the "No, I do not wish to request an oral hearing" box.

Yes, I wish to request an oral hearing

☐

No, I do not wish to request an oral hearing

☒

NALA has approved this document its Plain English Mark
Last updated April 2019



Planning Appeal Form
April 2019

Page 5 of 5

Appendix B

Tipperary County Council decision



Comhairle Contae Thiobraid Árann
Tipperary County Council

Comhairle Contae
Thiobraid Árann,
Oifigi Cathartha,
Cluain Meala,
Co. Thiobraid Árann
Tipperary County Council,
Civic Offices, Clonmel,
Co. Tipperary
E91 N512

Comhairle Contae
Thiobraid Árann,
Oifigi Cathartha,
An tIonach,
Co. Thiobraid Árann
Tipperary County Council,
Civic Offices, Nenagh,
Co. Tipperary
E45 A000

t 0818 06 5000/6200
e customerservice
@tipperarycoco.ie
tipperarycoco.ie

Date: 22nd October 2025

Our Ref: S5/25/129

Civic Offices, Nenagh

Compass Child & Family Services CLG
C/O P. Coleman & Associates
5 Bank Place
Ennis
Co. Clare



Re: Declaration under Section 5 of the Planning and Development Act 2000, as amended.

Dear Sir/Madam,

I refer to your application for a Section 5 Declaration received on 7th October 2025 in relation to the following proposed works:

To change the use from a residential dwelling house to a care-in-the-community dwelling house at Gurtussa, Dundrum, Co. Tipperary E34YF65.

WHEREAS a question has arisen as to whether the proposed development is or is not exempted development:

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

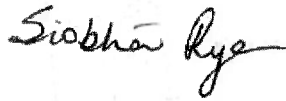
- a) Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended)
- b) Article 5, 6 & 9 of the Planning and Development Regulations 20001, as amended,
- c) Class 14 (f) of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended)
- d) Section 3 of Part I of Child Care (Standards in Children's Residential Centres) Regulations, 1996 (SI No. 397/1996)

Tipperary County Council, in exercise of the powers conferred on it by section 5(2)(a) of the 2000 Act, as amended, it is hereby decided that the change of use from an existing dwelling at Gurtussa, Dundrum, Co. Tipperary E34YF65 to use as a care-in-the-community dwelling house constitutes a material change

of use and "development" within the meaning of the Planning and Development Act 2000, as amended and is **NOT "exempted development"** as it does not avail of an exemption under Class 14(f) of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended).

NOTE: Any person issued with a Declaration of a Planning Authority may refer the Declaration for review to An Coimisiún Pleanála, 64 Marlborough Street, Dublin 1, within four (4) weeks of the date of issue of the Declaration and on payment of the prescribed fee.

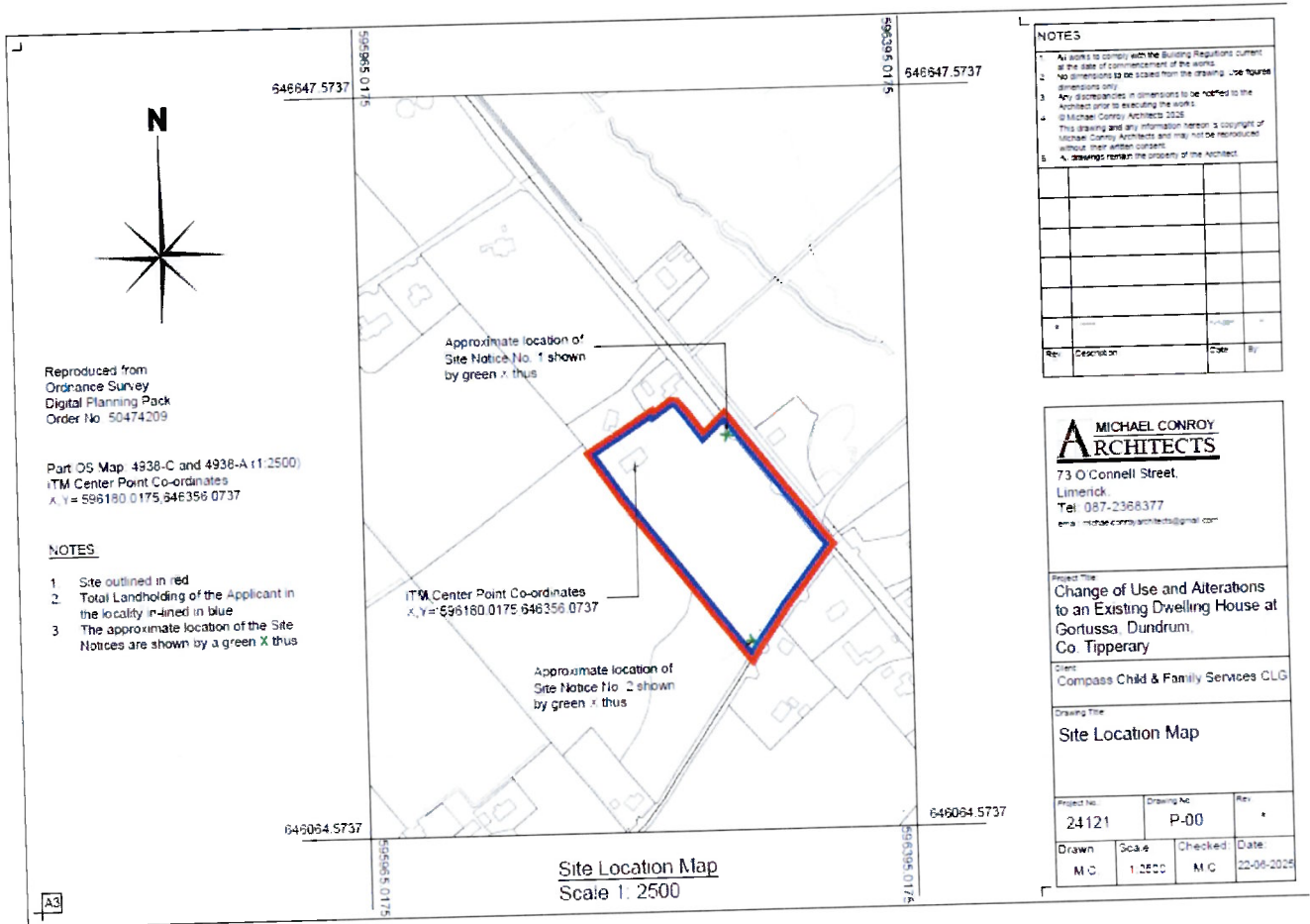
Yours faithfully

A handwritten signature in black ink, appearing to read 'Siobhán Rye', is written over a faint rectangular stamp.

for **Director of Services**

Appendix C

Site Location Map



Appendix D

Location & Setting of Residences and Applicants Model of Care

Location and Settings of Residences

At Compass Child & Family Services, the location and setting of each residence are carefully and deliberately chosen to align with our therapeutic model of care. Our mission is to provide safe, supportive, and nurturing environments where young people who have experienced trauma can heal, grow, and thrive. The balance between access to community resources and the therapeutic benefits of a peaceful environment is central to this vision.

We seek out properties that are in close proximity to local schools, services and amenities, as this ensures young people have the opportunity to engage in everyday community life. Proximity to educational placements, therapeutic supports, recreational activities, and sports clubs is a cornerstone of our practice, allowing young people to integrate into the local community in a safe and meaningful way. Community integration is not only encouraged but prioritised, as it helps young people build social networks, develop independence, and cultivate a sense of belonging (McGregor, 2018).

At the same time, the setting of our homes reflects our recognition that young people who have experienced trauma require a calm and therapeutic environment in which to recover. Research consistently highlights the positive impact of nature and natural views on mental health and wellbeing. Ulrich's seminal study (1984) found that even passive exposure to natural views accelerates recovery from stress. More recent evidence demonstrates that children with access to green space experience reduced symptoms of anxiety, improved emotional regulation, and stronger cognitive development (Tillmann et al., 2018; Wells & Evans, 2003). For young people with experiences of adversity, the ability to access outdoor space, observe natural scenery, and enjoy tranquillity is particularly therapeutic, providing a counterbalance to the challenges they have faced (Bratman et al., 2015).

This approach also ensures that integration into the community is achieved progressively and supportively, rather than placing young people directly into busy urban centres where they may feel overwhelmed. By locating homes in rural or semi-rural areas, yet within close reach of schools, services and amenities, we offer young people the opportunity to benefit from both the tranquillity and healing power of a natural environment, alongside the essential developmental opportunities of community participation.

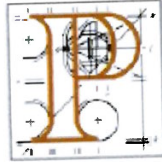
The proposed residence, located just 0.7km outside the village of Dundrum, exemplifies this balance. While situated in a peaceful rural setting with expansive outdoor space ideal for exploration, play, and reflection, it remains within walking distance of the village. Local primary schools are close by, with secondary education available in nearby Tipperary Town. The home's location therefore combines the benefits of outdoor space and rural life with convenient access to educational and community resources, supporting the holistic development of the young people in our care.

Derek Byrne
CEO, Compass Child & Family Services

Appendix E

Referral Decisions

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS, 2000 TO 2002

Westmeath County

An Bord Pleanála Reference Number: 25M.RL.2059

WHEREAS a question has arisen as to whether the use of a dwellinghouse at Ories, Fardrum, Athlone, County Westmeath to provide residential care is or is not development or exempted development:

AND WHEREAS the said question was referred to An Bord Pleanála by Westmeath County Council on the 9th day of April, 2003:

AND WHEREAS An Bord Pleanála, in considering this referral, had regard particularly to sections 2 and 3 of the Planning and Development Act, 2000:

AND WHEREAS An Bord Pleanála has concluded that the change of use of the said dwellinghouse does not constitute a material change in the use of the said dwellinghouse, which would come within the scope of section 3(1) of the Planning and Development Act, 2000:

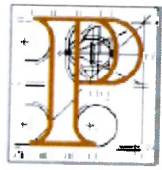
NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5 (4) of the 2000 Act, hereby decides that the use of the said dwellinghouse at Ories, Fardrum, Athlone, County Westmeath to provide residential care is not development.

In arriving at its decision the Board disagreed with the conclusion of the Inspector and considered that the change of use, by reason of its nature and scale, did not constitute a material change of use.

Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.

Dated this day of 2003.

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2006

Offaly County

Register Reference Number: 07/3

An Bord Pleanála Reference Number: 19/RL2430

WHEREAS a question has arisen as to whether the use of an existing house for the care of children at 11 Eiscir Circle Road, Eiscir Meadows, Tullamore, County Offaly is or is not development or is or is not exempted development;

AND WHEREAS FreshStart care of David Durney of Raffeen House, Monkstown, Cork requested a declaration on the said question from Offaly County Council and the said Council issued a declaration on the 27th day of March, 2007 stating that the said development was development and was not exempted development;

AND WHEREAS the said Fresh Start care of David Durney of Raffeen House, Monkstown, Cork referred the declaration for review to An Bord Pleanála on the 18th day of April, 2007;

AND WHEREAS An Bord Pleanála, in considering this referral, had regard particularly to -

- (a) sections 2 and 3 of the Planning and Development Act, 2000;
- (b) class 14 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, and
- (c) the nature and scale of the use of the house;

AND WHEREAS An Bord Pleanála has concluded that the change of use of the said house does not constitute a material change in the use of the said house, which would come within the scope of section 3 (d) of the Planning and Development Act, 2000;

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5 (3) (a) of the 2000 Act, hereby decides that the said use of the existing house for the care of children at 11 Eiscir Circle Road, Eiscir Meadows, Tullamore, County Offaly is not development.

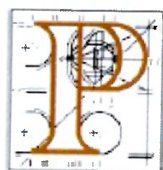
MATTERS CONSIDERED

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

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this day of 2007.

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2007

Monaghan County

An Bord Pleanála Reference Number: 18.RL.2552

WHEREAS a question has arisen as to whether the change of use of a dwellinghouse to a childcare facility at Drumbnagh, County Monaghan is or is not development or is or is not exempted development;

AND WHEREAS the said question was referred to An Bord Pleanála by Monaghan County Council on the 7th day of July, 2008;

AND WHEREAS An Bord Pleanála, in considering this referral, had regard particularly to -

- (a) sections 2 and 3 of the Planning and Development Act, 2000,
- (b) class 14 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, and
- (c) the nature and state of the use of the house;

AND WHEREAS An Bord Pleanála has concluded that the change of use of the said dwellinghouse does not constitute a material change in the use of the said dwellinghouse, which would come within the scope of section 3(1) of the Planning and Development Act 2000;

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5 (4) of the 2000 Act, hereby decides that the said change of use of a dwellinghouse to a childcare facility at Drumbenagh, County Monaghan is not development.

MATTERS CONSIDERED

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

Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.

Dated this day of 2009.



Comhairle Cathrach Cork
Cork City Council

Hall na Cathrach, Corcaigh - City Hall, Cork - T12 T997

Attuned Programmes Ireland Ltd.
T/A FutureScape,
4 Rogan's Court,
Patrick Street,
Dublin Laogháire,
Co. Dublin

19th March, 2020

RE: R563/20 - Section 5 Declaration
Property: 5 Silverlands, Maryborough Woods, Douglas, Cork

Dear Sir/Madam,

With reference to your request for a section 5 Declaration at the above named property, I am asked to advise as follows:

Having regard to:

- Sections 4(4), 4(4A) and 177U(9) of the Planning and Development Act 2000 (as amended)

the Planning Authority considers that -

the change of use of the dwelling house to a registered children's residential home **IS NOT**
DEVELOPMENT.

Yours faithfully,


A/Assistant Staff Officer
Community, Culture and Placemaking
Cork City Council