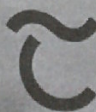


AN COIMISIÚN PLEANÁLA
LDG- 082617-25
ACP-
05 SEP 2025
Fee: € 220 Type: Recy Post
Time: 9:15 By: Cheque

 Comhairle Contae Thiobraid Árann
Tipperary County Council

Comhairle Contae Thiobraid Árann, Oifig Cathartha, Cluain Meala, Co. Thiobraid Árann
Tipperary County Council, Civic Offices, Clonmel, Co. Tipperary
E91 N51Z
Comhairle Contae Thiobraid Árann, Oifig Cathartha, An tAonach, Co. Thiobraid Árann
Tipperary County Council, Civic Offices, Nenagh, Co. Tipperary
E45 A099
t 0811 e cust @tipp- tipper

Date: 21st August 2025

Our Ref: S5/25/106

Civic Offices, Nenagh

Gerard Purcell Jnr
C/O Kevin T Finn
Potter & Finn Chartered Consulting Engineers
Kingston Close
Mitchelstown
Co Cork
P67 EY97

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

Dear Mr Purcell,

I refer to your application for a Section 5 Declaration received on 31st July 2025 in relation to the following proposed works:

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

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 –

- Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended),
- Article 9 of the Planning and Development Regulations 2001 (as amended)
- Class 17 of Schedule 2 Part 1 of the Planning and Development Regulations 2001 (as amended and
- the details pertaining to the development as set out by the querist.

Tipperary County Council has concluded that

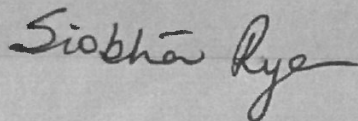
- The on site accommodation provided is not temporary in nature. It has been in place since late 2023.
- The works being undertaken on site are not of a sufficient scale or duration to require the provision of dedicated on site accommodation to deliver same.

Accordingly, having considered the information received, the Planning Authority has determined that the provision of temporary accommodation (small log cabin) for the use of the applicant during the period in which exempted works are being carried out constitutes "development" and is not "exempted development".

The development would not be likely to have significant effects on the environment and would not require an EIA or an AA.

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 sincerely



for **Director of Services**

POTTER & FINN
Chartered Consulting Engineers

Architects, Surveyors & Loss Assessors

Kevin T. Finn B.E., C.Eng., MBA., BCL

Kingston Close

Mitchelstown

Co. Cork P67 EY97

Mobile: 086-3822427

email: PotterAndFinn@gmail.com

Our Ref: PG 25-05

Your Ref:

Date: 04th September 2025

An Coimisiun Pleanala 64 Marlborough Street Dublin 1	Cc: Gerard Purcell Jnr. Kilmore Clonmel Co. Tipperary E91DK46	
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Re: Section 5 Application - Exempt development at site at Kilmore Lisronagh Clonmel Co. Tipperary E91DK46

Applicant: Gerard Purcell Jnr- site at Kilmore Lisronagh Clonmel Co. Tipperary.

Dear Sirs

I confirmed that I act for Gerard Purcell Jnr in this matter, who wishes to appeal/refer the decision of Tipperary County Council of 21st August 2025 regarding this Section 5 referral to An Coimisiun Pleanala, for the reasons already set out in the Referral letter dated 25th July 2025 and additionally as set out below.

I enclose a copy of the following: *TCC Decision of 21/8/25.*

- A. Signed authority/consent of 29th May 2025
- B. Section 5 Referral letter dated 25th July 2025.
- C. Letter of 27th March 2024 to TCC.
- D. Potter & Finn letter to TCC of 29th May 2025
- E. TCC validation letter for planning application Ref: 2560816 of 26th August 2025.
- F. Extract from Letter from TCC Solicitor of 2025.06.19.
- G. Warning Letter of 01st March 2024
- H. Enforcement Notice of 02nd December 2024
- I. Cheque for fee of €220.00

1.0 Reason for decision - Cabin considered not a temporary structure because of length of time in place.

- 1.1 Whereas the cabin shell/frame was in place from the end of November 2023, it was not finished out with internal 1st and 2nd fix finished, general fitting out, furnishings, surface water and foul water drainage, water supply connection, external finishes and grounds, most of which had to be and were completed by Mr Purcell.

- 1.2 All of these works were necessarily part of the works involved in “the provision of temporary accommodation” permitted under Class 17 of the P&D Regulations, and as such were themselves exempted works.
- 1.3 In addition to the works listed previously, the works also included clearing and drainage of wetland area to the west of the existing farm shed being demolished. (Refer to area identified on the map below.)
- 1.4 Mr Purcell was, with minor exception, the sole person carrying out these works and the various works set out in the Section 5 referral letter of 25th July 2025, in addition to organising and managing same, all of which took an extended time to complete.
- 1.5 Mr Purcell’s main employment is farming, and he could only attend to the exempted works on a part time basis, which again extended the amount of time it took to carry out the exempted works.
- 1.6 Farming necessarily involves regular if not continuous maintenance on farm machinery, buildings, yards etc, again all of which fell to Mr Purcell to do during this period.
- 1.7 In order to qualify under the criteria set out in the TCC Development Plan for the provision of a single dwelling house in a rural area, Mr Purcell was required to show connection to the area, I.e. involvement in local sports and social activity generally. Mr Purcell has now provided evidence of such involvement in the local GAA club, letter from school, local Rugby club and Agricultural Certificate/Herd number to TCC under planning application Reference: 2560816 made on 21st August 2025 for “PERMISSION for an agricultural shed for use for general farm storage, farm yards, alteration and extension to dwelling house, demolition works and PERMISSION FOR RETENTION of existing temporary log cabin for use as temporary accommodation during the construction of the aforementioned shed, yards and extension and all associated works at Kilmore, Lisronagh, Clonmel, Co. Tipperary, E91DK46.”

Involvement in social and sporting activities in the area, as a necessary requirement to obtain planning permission for the planned dwelling house or refurbishment and extension of the existing dwelling house, all takes up additional time to do, particularly as a sole farmer.

- 1.8 Mr Purcell received the first Warning Letter dated 1st March 2024 on 4th or 5th March 2024, and wrote back to TCC on 27th March 2024 explaining that the cabin was a temporary cabin accommodation in anticipation of carrying out works at a later date and then only for the duration of the intended works. Such works included the exempted development works set out in the Section 5 referral letter of 25th July 2025, and also set out in my letter to TCC of 29th May 2025.
- 1.9 On foot of the Warning Letter, Mr Purcell reduced and all but stopped carrying out significant work on the exempted works.

- 1.10 By letter of 15th April 2024 TCC extended the time allowed to Mr Purcell to make a planning application.
- 1.11 On foot of receiving a second Warning Letter Mr Purcell engaged the services of an Engineering Technician Mr Liam Buttler to make the planning application for a new dwelling or refurbishment of the existing house and he contacted TCC on 25th October 2024 re same (Refer to extract from Letter from TCC Solicitor of 2025.06.19). However Mr Buttler suffered some illness and Mr Purcell lost contact with him and no planning application was made.
- 1.12 All of the foregoing took an extended time to carry out, and during which time Mr Purcell was making efforts to comply with planning requirements for development of a new dwelling house, or extension to the existing dwelling house, separately from the works involved in the exempted works, including arranging two pre planning meetings. Again, all of this took additional time, extending the time that could be devoted to the exempted works during that period.
- 1.13 An Enforcement Notice was issued on 02nd December 2024 and enforcement proceedings were heard at Clonmel District Court on 26th June 2025, and have since been appealed.
- 1.14 Effectively Mr Purcell had only from the end of November 2023 to 4th March 2024 to carry out the development works set out in the Section 5 referral letter of 25th July 2025, a period of a little over three months. This is the time period in which the issue of the time the cabin has been in place should be considered, not the period from the end of November 2023 to the date of the Section 5 Referral to TCC (25th July 2025), or any later date.
- 1.15 Under Section 40(3) of the Planning and Development Act as amended, a planning permission in normal course lasts for a period of five years from the date of grant of permission.
- 1.15.1 However under Section 42(1)(a) this time may be extended by a further period of five years, subject to certain conditions, I.e. a period of up to 10 years.
- 1.15.2 Planning Authorities frequently extend the period in which the permitted development works may be completed for various and numerous reasons including legitimate delay, legal matters, change of circumstances of the applicant and hardship, in addition to the size and complexity of the development.

- 1.15.3 One example of such complexity is the children's hospital permission for which was obtained in April 2016 and the development will not be completed for occupation until approximately June 2026, if then, a period of in excess of 10 years.
- 1.15.4 This then is the period which should be considered as the time period applying to temporary accommodation under Class 17, i.e. up to 10 years. In this context, the effective period of three months in which Mr Purcell had to carry out the exempted works involved, must be considered as very short and by that criteria temporary.
- 1.15.5 Even the longer period of the end of November 2023 to the date of the Enforcement Notice of 02nd December 2024, a period of just one year must still be considered a very short period and temporary, particularly in light of the fact that the exempted works being carried out were in preparation for the later erection for a farm shed and extension to the existing dwelling or a new dwelling, which was under discussion with TCC, and work on such exempted works necessarily stopped completely on the date of receipt of the Enforcement Notice.
- 1.16 Planning permission has now been applied for for the farm shed, and extension to the existing dwelling and retention of the log cabin in light of the Enforcement proceedings, notwithstanding the provisions of Class 17, and there is no valid reason why permission would not be granted for the works subject to the usual conditions.
- 1.16.1 Had Mr Purcell waited and erected the cabin on the date of the presumed grant of permission for the works now applied for under application Ref: 2560816, there would be no issue with it in light of the provisions of Class 17 permitting such accommodation on foot of a grant of permission.
- 1.16.2 The issue then comes down to whether Class 17 allows construction of such temporary accommodation to carry out exempted works such as those set out in the Section 5 referral letter of 25th July 2025 and those set out in addition above, in advance of such exempted works being carried out.
- 1.16.3 However this does not arise as clearly the exempted works were carried out during and period involved from the end of November 2023 when log cabin was commenced, as can be seen in situ and as verified by TCC's own Warning letters, notwithstanding that those letters do not include reference to the demolition and other works which were clearly also being carried out during the period in question (end of November 2023 to receipt of the Enforcement Notice on 16th May 2025.)
- 1.16.4 Clearly TCC failed to carry out a proper investigation of the works being carried out as required under Section 153 of the P&D Act 2000 as amended, and subsequently failed to carry out a proper investigation on foot of my letter to TCC of 29th May 2025.

1.17 Invariably, post a grant of permission, a lot of preparation works, must be done off-site/in-office before any physical work on the permitted development can commence on site, other than the provision of the temporary accommodation under Class 17 and works under Class 16. Such preparation works include preparation of construction drawings, legal matters, tender documents, award of contracts, access provisions, finance, provide for Health and Safety planning, appointment of Engineers and other supervisory personnel, etc, etc, all of which can take a considerable amount of time.

1.17.1 Hence Class 17 permits the temporary works to be commenced prior to and in preparation for the permitted works where such permitted works (including exempted works) are “**about to be carried out**”.

1.17.2 This issue therefore comes down to how long before the permitted works are commenced can the Class 16 and Class 17 works be carried out.

1.17.3 Given that in normal course a planning permission for development lasts for five years and can be extended for another five years, the period in advance of the commencement of the permitted works must be a period of years and not merely weeks or months.

1.17.4 In Mr. Purcell’s case planning permission for the planned development now applied for under application 2560816 on 21st August 2025 is likely to be granted on or about 24th October 2025, a period of one year and 10 months.

1.18 I therefore submit that the period of time, from the time the log cabin works were commenced to the effective date when the works were fully stopped on foot of the Enforcement Notice, just one year, taking into consideration the particular circumstances involved, other works, delays etc, as outlined above, and Mr. Purcell’s letter of 27th March 2024 stating that the cabin was intended as a temporary structure in anticipation of planned works, is very short and comes within the period of time works can be considered as temporary, and that the log cabin was and is therefore a temporary structure.

2.0 The Nature of the Log cabin.

2.1 The Log cabin in question is very small, having an area of just 24 square meters, and not of sufficient size to realistically be considered other than temporary.

2.2 The accommodation provided in the cabin comprises on small bedroom, one small shower room and one small kitchen/lounge, and is sufficient for just one person on a temporary basis, i.e, Mr Percell himself.

2.3 The materials used to construct the log cabin are of a temporary nature, have a limited life and not designed for longterm accommodation.

- 2.4 The cabin does not comply with minimum standards for permanent housing, including Building Regulations and space and storage requirements etc.
- 2.5 The log cabin by its very nature must therefore be considered as a temporary structure.

3.0 The Works being carried out not of sufficient scale or duration to justify provision of dedicated on-site accommodation.

- 3.1 The issue of duration has been addressed at points 1 - 3 above.
 - 3.1.1 Given that the works were being carried out by one person on an intermittent and part time basis, the duration of the planned exempted works were necessarily extended over a considerable time period.
- 3.2 Unlike temporary amenity etc works exempted under Class 16, which requires that the temporary works be necessity, Class 17 does not require that the temporary accommodation provided be in any way necessary or justified for the works being undertaken.
- 3.3 Neither is there any restriction or limitation on the type and extent/size of the accommodation provided under Class 17.
 - 3.3.1 In any case the size of the log cabin in question is suitable for one person only, i.e, Mr Purcell who was, with minor exception, the only person carrying out the works on an intermittent and part time basis.
- 3.4 Class 17 does not set any restriction or requirement on the scale of the works for which the temporary accommodation is being carried out, only that (in this case) exempted works are being or are about to be carried out.
 - 3.4.1 The presumption and practice would be that inevitably only accommodation of an economic size and type would be provided in any particular case.
 - 3.4.2 In this case the size of the log cabin in question is suitable for one person only, i.e, Mr Purcell who is, with minor exception, the only person carrying out the works on an intermittent and part time basis.
 - 3.4.3 Part of the planned works was alteration of the existing dwelling house (or a new dwelling) which would necessarily involve moving out of the existing dwelling in advance of and while such works were being carried out, thereby necessitating the provision of alternate accommodation for both Mr Purcell and the (other) occupants of the dwelling.
- 3.5 The extent of the exempted works being undertaken are set out in the Section 5 referral letter of 25th July 2025, with further particulars set out at paragraph 1.0

above, and are considerable in light of the fact that it is just one person, with minor exception, who was carrying out the exempted works and then only on an intermittent and part time basis. The exempted works will of necessity take much longer to complete in this scenario.

- 3.6 Class 17 does not require that the works being undertaken, in this case exempted works, be carried out on a full time or a continuous basis, only that the works be being carried out “during the period”, as distinct from ‘at the time’ the works are being carried out.
- 3.6.1 This allows flexibility where the works are carried out and then stopped for a period to allow other works to be carried out or down time or weekends or holiday time etc.
- 3.6.2 It also allows flexibility where one specialist accommodation contractor may construct the temporary accommodation but different contractors are employed or engaged in carrying out the planned and permitted works, and the accommodation is provided in advance of the planned and permitted works being commenced on site.
- 3.7 The requirement is therefore that the planned and/or permitted works be carried out at some point or some points during the period.
- 3.8 The period referred to here, I would submit is the period of five years permitted for the development to be carried out under section 40.3 of the Act and/or 10 years under section 42(1)(a), plus any reasonable period in advance.
- 3.9 Where works are being carried out or about to be carried out on an intermittent and part time basis they will necessarily take much longer, particularly when you take into account stop start times which are a feature of such a work method.
- 3.10 I submit therefore that the issue of the sufficiency of the scale of the, in this case, exempted development being carried out, is not a requirement of the legislation and is not relevant.
- 3.11 Class 17 does not set out that the persons employed in the permitted or exempted works be engaged either full time or solely or exclusively on the permitted development/ exempted development in question, only that the persons be “employed, or otherwise engaged, in connection with the carrying out of the development, during the period in which it is being carried out.”
- 3.11.1 It may be for instance that consultants, or supervision staff etc, employed for the development in question may also be engaged in other works other than those on the site in question.

3.11.2 In that sense therefore there is no requirement that the accommodation provided be solely dedicated to the planned permitted /exempted development.

3.11.3 In Mr Purcell's case he was engaged in the exempted works on an intermittent and part time basis and also in farming on the same site

3.12 I submit in any case that the exempted works being undertaken were and are of a substantial nature and extent, in the circumstances in which Mr. Purcell found himself, to justify provision of (dedicated) on-site accommodation.

The question posed is as follows: whether the erection on land, part of a farm adjoining which exempted development is being or is about to be carried out, of temporary on-site accommodation comprising a small log cabin and associated works, for the person employed or otherwise engaged in connection with the carrying out of exempted development works, during the period in which it is being carried out, is or is not exempted development. It is accepted that the provision of a small log cabin constitutes development.

Refer to maps below.

Yours faithfully



Kevin T. Finn.

Tipperary County Council and Gerard Purcell Jnr

Location of Log Cabin

Location of completed fencing/hedging.



Fencing/hedging to be replaced
Area of wetland being cleared/drained

Location of planned extension to dwelling.
Location of demolition of shed

Location of fencing/hedging to be replaced

Location of Entrance gateway.



PRIVATE AND CONFIDENTIAL

Kilmore
Clonmel
Co. Tipperary
E91DK46

Date:29th..... May 2025

Letter of Consent

Re: TUD -23-218 - Alleged unauthorised development at Kilmore Clonmel Co. Tipperary E91DK46 .

TO WHOM IT CONCERNS

I Gerard Purcell Jnr. Of Kilmore Clonmel Co. Tipperary E91DK46 confirm that I give Mr. Kevin T Finn Chartered Consulting Engineer with address at Muntervary, Kingston Close Mitchelstown Co. Cork P67EY97, email: PotterAndFinn@Gmail.com, Tel: 086-3822427, full authority to act on my behalf in this matter and to make all inquiries and access my full file, records and information including all personal records, all general records and all connected matters, and to correspond with and communicate with **WHOMEVER including Tipperary County Council and/or any of its representatives, officers and staff** and with all other connected parties until further notice from me in writing. Accordingly, I give **WHOMEVER including Tipperary County Council and/or any of its representatives, officers and staff** permission to correspond with and furnish all such records and information to Mr. Kevin T. Finn on my behalf.

Thank you.

Signed:  _____

Gerard Purcell

29 May 2025

Signed:  _____

Kevin T. Finn

_____ May 2025

POTTER & FINN
Chartered Consulting Engineers
Architects, Surveyors & Loss Assessors

Kevin T. Finn B.E., C.Eng., MBA., BCL

Kingston Close

Mitchelstown

Co. Cork P67 EY97

Mobile: 086-3822427

email: PotterAndFinn@gmail.com

Our Ref: PG 25-05
Your Ref:

Date: 25th July 2025

Planning Section, Tipperary County Council, Civic Offices, Emmet Street, Clonmel, Co. Tipperary E: customerservices@tipperarycoco.ie Cc planning@tipperarycoco.ie ,	Cc: Gerard Purcell Jnr. Kilmore Clonmel Co. Tipperary E91DK46 purcellger@gmail.com ;	
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Re: Section 5 Application - Exempt development at site at Kilmore Lisronagh Clonmel Co. Tipperary E91DK46

Applicant: Gerard Purcell Jnr- site at Kilmore Lisronagh Clonmel Co. Tipperary.

Dear Sirs

Background.

01. In or about September 2023 the Applicant constructed a small log cabin on the site of his farm complex at **Kilmore Lisronagh Clonmel Co. Tipperary**, in anticipation of carrying out certain exempted works on the property, and with a view to making a planning application for later construction of a farm shed and either an extension and refurbishment of the existing dwelling or construction of a new dwelling house on a separate site on the farm property.
02. The exempted works proposed to be carried out at the property comprised the following:
 - a) The demolition of a farm shed with floor area 99 m2..
 - b) The rebuilding of concrete block walls and plastering and cap same, all less than 2.0m high.
 - c) The refurbishment of the rear entrance gateway to the property.
 - d) The alteration and replacement of fencing about the rear entrance to the property.
 - e) The construction of the temporary accommodation and associated works.
 - f) The painting of the rear part of the farm shed replaced and the other existing sheds on the property.
 - g) The refurbishment of the existing dwelling internally, (Internal insulation, rearrangement of internal walls, plumbing, electrics, replacement windows, decoration etc, necessitating the evacuate action of the dwelling by the applicant during the works,
 - h) The construction of drainage within the property associated with the above works.

03. Work commenced on these from September 2023, and is continuing.
04. The exempted works are being carried out by the applicant himself assisted by his partner when present, along with and at the same time as his regular farm work, and it is therefore taking time to complete the work.
05. I refer to the planning and development act and regulations, consolidated edition and note the following.
06. The cabin structure comprises temporary onsite accommodation for persons employed, or otherwise engaged, in connection with the carrying out of the exempted works listed above.
07. The Cabin accommodation is exempted development under Class 17 “Temporary structures and Uses” of “Exempted Development General” of Part 1 of Schedule 2, (Article 6), of the Planning and Development Regulations 2001-2024. Class 17 exemption encompasses two scenarios, as follows:
- a) The construction of a temporary onsite accommodation for persons employed, or otherwise engaged, in connection with the carrying out of **development (other than mining) which is being, or is about to be carried out, pursuant to any permission**, consent, approval or confirmation granted under the Act or any other enactment, during the period in which it is being carried out, is exempt development under class 17 of the regulations.”
- b) The construction of temporary onsite accommodation for persons employed, or otherwise engaged, in connection with the carrying out of **exempted development**, during the period in which it is being carried out, is exempt development under class 17 of the regulations.”
- “CLASS 17 The erection, construction or placing on land on, in, over or under which, or on land adjoining which, development (other than mining) is being, or is about to be carried out, pursuant to any permission, consent, approval or confirmation granted under the Act or any other enactment or as exempted development, of temporary onsite accommodation for persons employed, or otherwise engaged, in connection with the carrying out of the development, during the period in which it is being carried out.”
08. The development for which the accommodation is provided, must be either:
- a) Being carried out
- i. On foot of a planning permission, or
- ii. Is itself exempted works.
- b) About to be carried out.
- i. On foot of a planning permission, or
- ii. Is itself exempted works.

I submit the following:

09. Case 4(a)(i) above.

Where planning permission is in existence, temporary on site accommodation erected in respect of those planned development works would be exempted development.

10. Case 4(b)(i) above.

a) Where planning permission has been granted, then exempted works not part of the planned works for which planning permission has been obtained may be carried out in advance of the planned development works itself. Under Class 17, such works include the accommodation for the planned development works. In many projects such work is carried out by a specialist contractor expert in carrying out such (temporary) accommodation works.

b) This situation includes where a development has a grant of permission and:

- i. There are no conditions precedent to the carrying out of the planned/permitted works, and on-site accommodation is constructed in advance of commencing the planned development works.
- ii. There are conditions precedent which require that the permitted works shall not commence until A, B or C condition has been complied with.

11. Case 4(a)(ii) above.

a) In the case of planned development comprising exempted development (which may be carried out at any time,) the accommodation for those exempted works may be provided while the exempted works are being carried out.

12. Case 4(b)(ii) above.

a) In the case of development comprising planned exempted development (which may be carried out at any time,) the accommodation for those planned exempted works may be provided in advance of the planned exempted works which have not started but which are about to be carried out.

b) Such planned exempted works may also include other structures permitted under Class 16, and are necessary for the completion of the works. Search buildings may include utility buildings, amenity buildings, tool sheds etc.

<p>CLASS 16</p> <p>The erection, construction or placing on land on, in, over or under which, or on land adjoining which, development consisting of works (other than mining) is being or is about to be, carried out pursuant to a permission under the Act or as exempted development, of structures, works, plant or machinery needed temporarily in connection with that development during the period in which it is being carried out.</p>	<p>Such structures, works, plant or machinery shall be removed at the expiration of the period and the land shall be reinstated save to such extent as may be authorised or required by a permission under the Act.</p>
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13. The exempted development being carried out at the site referred to at paragraph 8(b) above are those listed at paragraph 02 (a) to 02 (h) above, and are exempt development under the Regulations as follows:

a) The demolition of a shed on the property, part of the farm complex, is exempt development under Class 50 of Part 1 “Exempted Development General”, of the said regulations.

<p>CLASS 50</p>	
<p>(a) The demolition of a building, or buildings, within the curtilage of—</p> <p>(i) a house,</p> <p>(ii) an industrial building,</p> <p>(iii) a business premises, or</p> <p>(iv) a farmyard complex.</p>	<p>1. No such building or buildings shall abut on another building in separate ownership.</p> <p>2. The cumulative floor area of any such building or buildings, shall not exceed:</p> <p>(a) in the case of a building, or buildings within the curtilage of a house, 40 square metres, and</p> <p>(b) in all other cases, 100 square metres.</p> <p>3. No such demolition shall be carried out to facilitate development of any class</p>
<p>(b) The demolition of part of a habitable house in connection with the provision of an extension or porch in accordance with Class 1 or 7, respectively, of this Part of this Schedule or in accordance with a permission for an extension or porch under the Act.</p>	<p>prescribed for the purposes of section 176 of the Act.</p>

b) The work will involve the rebuilding of a concrete block walls and plastering of same (see also Class 11 below).

<p>CLASS 10</p> <p>The plastering or capping of any wall of concrete blocks or mass concrete.</p>	
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c) The refurbishment of the rear entrance to the property.

<p><i>Sundry Works</i></p> <p>CLASS 9</p> <p>The construction, erection, renewal or replacement, other than within or bounding the curtilage of a house, of any gate or gateway.</p>	<p>The height of any such structure shall not exceed 2 metres.</p>
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d) The alteration and replacement of fencing about the rear entrance to the property.

<p>CLASS 11</p> <p>The construction, erection, lowering, repair or replacement, other than within or bounding the curtilage of a house, of—</p> <p>(a) any fence (not being a hoarding or sheet metal fence), or</p> <p>(b) any wall of brick, stone, blocks with decorative finish, other concrete blocks or mass concrete.</p>	<ol style="list-style-type: none"> 1. The height of any new structure shall not exceed 1.2 metres or the height of the structure being replaced, whichever is the greater, and in any event shall not exceed 2 metres. 2. Every wall, other than a dry or natural stone wall, constructed or erected bounding a road shall be capped and the face of any wall of concrete or concrete blocks (other than blocks of a decorative finish) which will be visible from any road, path or public area, including a public open space, shall be rendered or plastered.
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e) The construction of the temporary accommodation and associated works.

<p>CLASS 17</p> <p>The erection, construction or placing on land on, in, over or under which, or on land adjoining which, development (other than mining) is being, or is about to be carried out, pursuant to any permission, consent, approval or confirmation granted under the Act or any other enactment or as exempted development, of temporary on-site accommodation for persons employed, or otherwise engaged, in connection with the carrying out of the development, during the period in which it is being carried out.</p>	<p>Such accommodation shall be removed at the expiration of the period and the land shall be reinstated save to such extent as may be authorised or required by the permission, consent, approval or confirmation granted under the Act or any other enactment.</p>
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- f) The painting of the rear part of the farm structure replaced and the remaining parts of the existing sheds.

<p>CLASS 12</p> <p>The painting of any external part of any building or other structure.</p>	<p>Such painting may not, except in the case of a hoarding or other temporary structure bounding land on which development consisting of works is being or will be carried out in pursuance of a permission granted under Part III of the Act or as exempted development, be for the purposes of creating a mural.</p>
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Part 3 Exempted Development Rural:

- g) The construction of drainage within the property associated with the above works.

<p><i>Minor works and structures</i></p> <p>CLASS 3</p> <p>Works relating to the construction or maintenance of any gully, drain, pond, trough, pit or culvert, the widening or deepening of watercourses, the removal of obstructions from watercourses and the making or repairing of embankments in connection with any of the foregoing works.</p>	
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- h) The refurbishment of the existing dwelling internally, (Wall, floor, & roof insulation, heating, electrics, central heating, decoration etc, necessitating the evacuate action of the dwelling by the applicant during the works. Under Section 4(1)(h) of the Planning And development acts 2001 to 2024, general, repair, refurbishment and maintenance works are exempted development, as follows

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

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

- i) Under Section 4(1)(a) of the Planning And development acts 2001 to 2024, the use of land and buildings for the purposes of agriculture are exempted development, as follows

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

(a) development consisting of the use of any land for the purpose of agriculture and development consisting of the use for that purpose of any building occupied together with land so used;

14. The log cabin has no permanent foundations and is instead constructed using ground screws supports and are easily removed and the land reinstatedd.
15. I note the following in relation to Class 17 works:
- a) There is no requirement that the accommodation be “necessary” for the development being carried out, only that the accommodation is for persons engaged in the development works during the period in which it is being carried out. Class 16 on the other hand does have the requirement that buildings such as utility buildings, amenity buildings, machinery buildings etc be necessary for the works involved.
 - b) The reference to “during the period in which it is being carried out” at the end of class 17 wording, in my view refers to the persons engaged in the development works (during the period in which they are engaged in the works being carried out), as opposed to any period outside the period those persons are engaged in the development works.
 - c) There is no requirement that the person carrying out the works be engaged in carrying out the works on a full time basis, only that they be engaged in the works “during the period”. The reference is to a “period” of time the works are being carried out as opposed to “at the time” the works are being carried out, which would be a more restrictive requirement. However the reference is to a ”during the period”, which allows a wider and more flexible time period.
16. The question posed is as follows: whether the erection on land part of a farm adjoining which exempted development is being or is about to be carried out, of temporary on-site accommodation comprising a log cabin and associated works, for persons employed or otherwise engaged in connection with the carrying out of the exempted development, during the period in which it is being carried out, is or is not exempted development.

Refer to photographs below.

Yours faithfully



Kevin T. Finn.

Tipperary County Council and Gerard Purcell Jnr



Log Cabin in adjoining field.



Entrance/gateway and New fencing.

Tipperary County Council and Gerard Purcell Jnr



Shed in the process of being demolished



**Yard in front of shed
Side wall to shed to be erected.**

We have teamed up with Bayo-s Ground Screws Ireland to provide the ultimate solution for concrete free foundations at an affordable cost!
 Bayo-s Ground Screws are forged out of steel and hot dip galvanized. Just like a traditional screw-in put into wood to withstand big loads, the ground screw is put into soil as a foundation for various kinds of construction applications. Foundations with ground screws are stable for decades, but environmentally friendly and removable if necessary.

Bayo-s Ground Screws Ireland

The ground screws are low impact on the environment, do not disturb the landscape, and are easily removable and reusable.
 Bayo-s Ground Screws are available in various sizes and adapters to suit any log cabins size or layout.

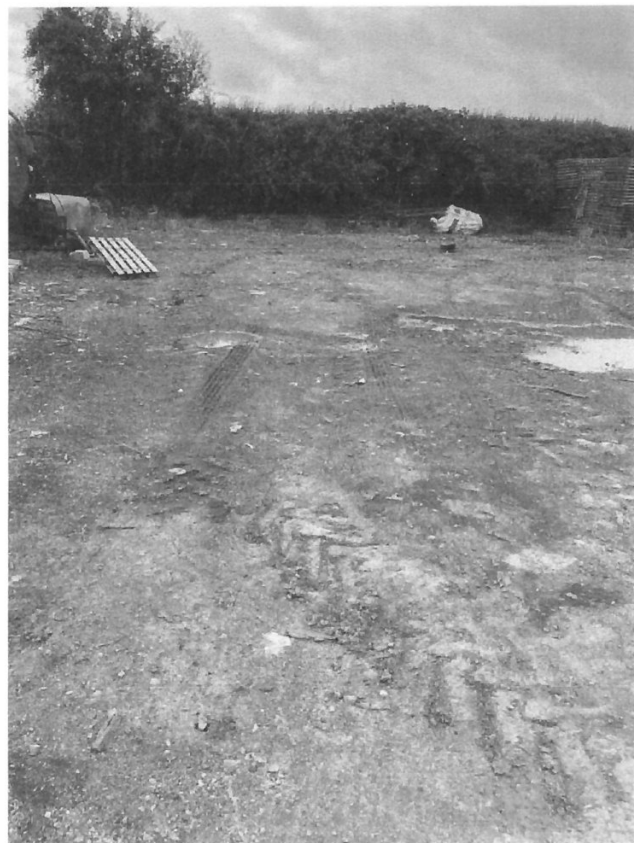
Benefits include:

- Cost and time saving
- No digging, no concreting
- Structurally tested repeatedly
- Proven high pressures, pulling-out force and lateral pressure loads
- Almost stability and durability
- Instantly loadable, no waiting period
- Sustainable and environmentally friendly
- Soil sealing
- Foundations not impacted
- Easy deconstruction allows instant relocation

BAYO-S GROUND SCREWS IRELAND

Priced from €90 per m
(subject to site survey)

**Ground anchors used in the construction
Of the log cabin (instead of concrete or
Similar foundations).**



**Existing area in front of farm shed,
and fencing/hedging to be replaced.**

Tipperary County Council and Gerard Purcell Jnr



Existing area at side of farm shed, with fencing/hedging to be replaced.



Length of fencing completed



Length of fencing completed

Tipperary County Council and Gerard Purcell Jnr

Location of Log Cabin

Location of completed fencing/hedging.



Fencing/hedging to be replaced

Location of demolition of shed.

Location of fencing/hedging to be replaced

Location of Entrance gateway.



POTTER & FINN
Chartered Consulting Engineers
Architects, Surveyors & Loss Assessors

Kevin T. Finn B.E., C.Eng., MBA., BCL

Kingston Close

Mitchelstown

Co. Cork P67 EY97

Mobile: 086-3822427

email: PotterAndFinn@gmail.com

Our Ref: PR 25-05
Your Ref: TUD 23-218

Date: 29th May 2025

Tipperary County Council (TCC) Planning Department Civic Offices Clonmel Co. Tipperary customerservices@tipperarycoco.ie	Cc: Gerard Purcell Jnr. Kilmore Clonmel Co. Tipperary E91DK46	
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**Re: Alleged unauthorised development at site at Kilmore Clonmel Co. Tipperary E91DK46
Co. Tipperary.**

My Client: Gerard Purcell Jnr- site at Kilmore Clonmel Co. Tipperary E91DK46

Dear Sirs

I refer to your correspondence of 02nd December 2024 enclosing an Enforcement Notice in re this matter, which Client has passed to me to address, ie:

The construction of a timber log cabin for habitation and associated site works i. e. hardcore area, water and waste water infrastructure resulting in a material change of use.

I enclose herewith a copy of consent for me to access Clients files and records in this regard.

Please confirm how it is asserted that the log cabin and associated works has or would result in a change of use.

I refer to Client's letter to TCC of 27th March 2024 outlining the reason for the development, as for a temporary structure comprising "a timber log cabin for use as a farm office and a short-term dwelling while awaiting a pre-planning meeting, (already in application) and while preparing for application of planning permission for a permanent structure located on this site on my farm property."

My understanding is that a date pre planning meeting was noted but Client related that he could not attend on that date and requested an alternative date, which client did not receive notice of and one was apparently not arranged or advised to him. However please note that a pre-planning application

was located today in respect of the proposed construction of a dwelling house and all associated works at this site, and we await confirmation of a proposed date for same.

It is denied that any breach of planning has occurred at this location.

The structure comprises temporary onsite accommodation for persons employed, or otherwise engaged, in connection with the carrying out of development being pursued in anticipation of planning and other exempted works, which are exempted works under Class 17 "Temporary structures and Uses" of "Exempted Development General" of Part 1 of Schedule 2, (Article 6), of the Planning and Development Regulations 2021-2024.

"CLASS 17 The erection, construction or placing on land on, in, over or under which, or on land adjoining which, development (other than mining) is being, or is about to be carried out, pursuant to any permission, consent, approval or confirmation granted under the Act or any other enactment or as exempted development, of temporary onsite accommodation for persons employed, or otherwise engaged, in connection with the carrying out of the development, during the period in which it is being carried out."

The exempted works are those under Class 9 - 12 and Class 50 of "Exempted Development General" of Part 1 of Schedule 2, (Article 6), of the Planning and Development Regulations 2021-2024.

Please note that Client intends to comply with the provisions of the Planning and Development Act and Regulations made thereunder at all times, and where necessary and proper, to cooperate with Tipperary County Council in that endeavour.

Failing hearing from you within 10 days or by 09th June 2025 in response to this correspondence, Client will take it that TCC accepts that no unauthorised development has been or is being carried out at this site. Please note that his correspondence will be used in evidence in any proceedings regarding this matter.

Please acknowledge receipt.

Yours faithfully



Kevin T. Finn.

Date: 27 March 2024

Gerard Purcell (JNR)
Kilmore,
Clonmel,
Co. Tipperary.

To Whom it may Concern,

Ref: TUD-23-218

Re: Development at Kilmore, Clonmel.

I write to you in response to a letter received 1st March 2024 regarding concerns of the construction of a timber log cabin and ground works. The timber log cabin in question on this site is a temporary structure, erected on studs and no ground works were undertaken to install this cabin. It is temporarily in use as both a farm office and a short-term dwelling while awaiting a pre-planning meeting, (already in application) and while preparing for application of planning permission for a permanent structure located on this site on my farm property.

Please do not hesitate to contact me should you require further information.

Yours faithfully,

Gerard Purcell Jnr.



Ref. No. 2560816

Date 26/08/2025

Gerard Purcell Jnr.,
C/o Kevin T. Finn,
1, Kingston Close,
Muntervary,
Kingston Close, Mitchelstown,
P67EY97.

A Chara,

In accordance with the provisions of Article 26 (2) of the Planning and Development Regulations, 2001 (as amended), I hereby acknowledge receipt of an application for PERMISSION for an agricultural shed for use for general farm storage, farm yards, alteration and extension to dwelling house, demolition works and PERMISSION FOR RETENTION of existing temporary log cabin for use as temporary accommodation during the construction of the aforementioned shed, yards and extension and all associated works at Kilmore, Lisronagh, Clonmel, Co. Tipperary, E91DK46 which was received on 21/08/2025.

The validity of this planning application is subject to the Site Notice complying with the requirements of Article 17(1)(b), 19 and 20 of the Regulations. An inspection of the site **will** be carried out within the minimum period of five weeks (24/09/2025) for deciding on this application. In the event that your Site Notice does not comply, your application will be declared invalid and returned to you.

Mise le meas,

Geraldine Quinn

For Director of Services

Tipperary County Council

M E M O

To: Jonathan Flood, Senior Executive Planner

From: Naomi Scully, Executive Planner

Re: Alleged Unauthorised Development of a timber log cabin for habitation an associated site works

Location: Kilmore, Clonmel, Co. Tipperary E91DK46

Recommendation: Instigate Legal Proceedings

Ref: TUD-23-218

Date of Report: 23rd April 2025

Summary

The Planning Authority became aware of the alleged unauthorised development via an internal/external complaint received on 4/12/2023.

The 1st Site inspection was carried out by Naomi Scully, Executive Planer on 9th January 2024 who reported on 17th January 2024 that unauthorised development may have been carried out on the site at Kilmore, Clonmel, Co. Tipperary E91DK46

A Warning Letter (see Appendix 1) in respect of the above requesting a response within 4 weeks was issued to¹;

- GERARD PURCELL (Jnr.), Kilmore, Clonmel, Co. Tipperary.

A response was received by the person listed in the Warning Letter on 28th march 2024 advising the timber cabin was a temporary structure and used as a far office and temporary residence while awaiting a pre-planning meeting and preparing an application for planning permission.

A reply issued by the Planning Authority on 15th April 2024 confirming that a preplanning meeting has been scheduled and that the Planning Authority was agreeable to allow until 17th May 2024 for the making of a valid planning application.

¹ The Land Registry, Company Search and Site History details as set out in the initial report sets out the source for those issued with the Warning Letter.

The 2nd Site inspection was carried out by Naomi Scully, Executive Planner on 6th August 2024 who reported on 8th August 2024 that unauthorised development may have been carried out on the site at Kilmore, Clonmel, Co. Tipperary E91DK46

A Warning Letter (see Appendix 2) in respect of the above requesting a response within 4 weeks was issued to²;

- GERARD PURCELL (Jnr.), Kilmore, Clonmel, Co. Tipperary.

No Warning Letters were returned by the postal service and the Planning Section retains proof of postage and receipt in the event of a Court case.

A response was received by Liam Butler, Civil and Architectural technician on 25th October 2024 advising that same had been engaged by the recipient of the Warning Letter to prepare a planning application to regularise matters.

The 3rd Site inspection was carried out by Naomi Scully, Executive Planner on 29th October 2024 who reported on 30th October 2024 that unauthorised development remained on site and recommended that an Enforcement Notice issue.

An Enforcement Notice (see Appendix 3) in respect of the above requiring specified steps to be undertaken by 5PM on 8th April 2025 was issued to:

- GERARD PURCELL (Jnr.), Kilmore, Clonmel, Co. Tipperary.

No Enforcement Notices were returned by the postal service and the Planning Section retains proof of postage and receipt in the event of a Court case.

No response was received by those listed above to the Enforcement Notice.

The 4th site inspection was carried out by Naomi Scully, Executive Planner on 16th April 2025 who observed that unauthorised development remained on site (see image 1 below). The requirements of the Enforcement Notice have not been complied with despite the date for compliance now having passed.

² The Land Registry, Company Search and Site History details as set out in the initial report sets out the source for those issued with the Warning Letter.

To: Gerard Purcell (Jnr)
Kilmore
Clonmel
Co. Tipperary

Ref: TUD-23-218

ENFORCEMENT NOTICE

pursuant to Section 154 of the Planning and Development Act 2000 (as amended).

WHEREAS it appears to Tipperary County Council, the Planning Authority for the functional area of County Tipperary, that an unauthorised development, within the meaning of the Planning and Development Act 2000 (as amended), namely:

- The construction of a timber log cabin for habitation and associated site works i.e. hardcore area, water and waste water infrastructure resulting in a material change of use

has been and is being carried out by you at **Kilmore, Clonmel, Co. Tipperary.**

TAKE NOTICE that Tipperary County Council requires that you shall **cease** the said development within the period from the date of service upon you of this notice to **5 pm on 5th February, 2025.**

And further take notice that you are hereby required to carry out the works listed below within the period of service upon you of this notice to **5 pm on 8th April, 2025.**

1. Disconnect the timber log cabin from all utilities and services.
2. Deconstruct the timber log cabin and remove same from the site.
3. Undertake works to restore the lands occupied by the timber log cabin driveways to agricultural use through spreading a layer of topsoil (150mm) deep on the ground surface occupied by said areas, rake and remove unsuitable debris and seed with grass.

TAKE NOTICE that, if within the period specified above, or within such extended period (not being more than six months) as the Planning Authority may allow, the steps specified in the Notice to be taken are not taken, the Planning Authority may enter on the land and take such steps including the removal, demolition or alteration of any structure, and may recover any expenses reasonably incurred by the Planning Authority.


AND FURTHER TAKE NOTICE that you are required to refund to the Planning Authority the costs and expenses reasonably incurred by the Authority in relation to the investigation, detection and issue of this Enforcement Notice and the Warning Letter served by the Planning Authority on you under Section 152 of the Planning and Development Act 2000 (as amended) including costs incurred in respect of the remuneration and other expenses of employees, consultants and advisors amounting to date to the sum of €448.48.

FURTHER TAKE NOTICE if within the period specified by this Notice or such extended period, not being more than six months, as the Planning Authority may allow, the steps specified in the Notice to be taken are not taken, you may be guilty of an offence and be liable to prosecution under Section 157 of the Planning and Development Act 2000 (as amended) the penalties for which are:

- On conviction on indictment, to a fine not exceeding €12,700,000 or to imprisonment for a term not exceeding 2 years, or to both and to a fine not exceeding €12,700 or to imprisonment for a term not exceeding 2 years or both for each day on which the offence so continues.
- On summary conviction to a fine not exceeding €5,000, or to imprisonment for a term not exceeding 6 months, or to both and to a fine not exceeding €1,500 or to imprisonment for a term not exceeding 6 months or both, for each day on which the offence so continues.
- On conviction on indictment of the construction of an unauthorised structure, to a fine of €12,700 or the cost of construction of the structure, whichever is the lesser.
- On summary conviction of the construction of an unauthorised structure, to a fine of €2,500 or the cost of construction of the structure, whichever is the lesser.

Dated this 2nd day of December 2024

Signed


For Director of Services



Comhairle Contae Thiobraid Árann
Tipperary County Council

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

Comhairle Contae
Thiobraid Árann,
Oifigí Cathartha,
An tAsnach,
Co. Thiobraid Árann
Tipperary County Council,
Civic Offices, Nenagh,
Co. Tipperary
E45 A099

+353 18 05 500
e customerserv
@tipperarycoco
tipperarycoco.ie

Date: 1st March 2024

Reference: TUD-23-218

GERARD PURCELL (Jnr.)
Kilmore,
Clonmel,
Co. Tipperary.

PLANNING AND DEVELOPMENT ACT 2000 (as amended)

WARNING LETTER

SECTION 152 PLANNING AND DEVELOPMENT ACT 2000 (as amended)

Re: Development at Kilmore, Clonmel, Co. Tipperary E91DK46

Dear Sir,

It has come to the attention of the Planning Authority that unauthorised development consisting of:-

the construction of a timber log cabin for habitation and associated site works, resulting in a material change of use,

may have been, is being or may be carried out by you at at **Kilmore, Clonmel, Co. Tipperary E91DK46.**

Please note that in accordance with Section 152, subsection 4 (b) of the Planning and Development Act 2000 (as amended), you may make submissions or observations in writing to the Planning Authority regarding the above, not later than 4 weeks from the date of service of this Warning Letter.

This letter is a Warning Letter issued under Section 152 of the Planning and Development Act 2000 (as amended) and a decision in relation to enforcement under Section 153 will be taken in due course having due regard to any representations made by you within the 4 week period specified above.

Please note that an Enforcement Notice requiring the cessation, demolition or discontinuance of the development may be issued if the Planning Authority considers that unauthorised development may have been, is being, or may be carried out.

Date: 27 March 2024

Gerard Purcell (JNR)
Kilmore,
Clonmel,
Co. Tipperary.

To Whom it may Concern,

Ref: TUD-23-218

Re: Development at Kilmore, Clonmel.

I write to you in response to a letter received 1st March 2024 regarding concerns of the construction of a timber log cabin and ground works. The timber log cabin in question on this site is a temporary structure, erected on studs and no ground works were undertaken to install this cabin. It is temporarily in use as both a farm office and a short-term dwelling while awaiting a pre-planning meeting, (already in application) and while preparing for application of planning permission for a permanent structure located on this site on my farm property.

Please do not hesitate to contact me should you require further information.

Yours faithfully,

Gerard Purcell Jnr.