



S5/24/137

Comhairle Contae Thiobraid Árann
Tipperary County Council



PLANNING & DEVELOPMENT ACT, 2000 (as amended)

**Application for a Section 5 Declaration
Development / Exempted Development**

Applicant's address/contact details:

<i>Applicant</i>	Margaret Widger & Graham Swanton
<i>Address</i>	Kilheffernan, Clonmel, Co Tipperary
<i>Telephone No.</i>	
<i>E-mail</i>	

2. Agent's (if any) address:

<i>Agent</i>	Aidan Kelly
<i>Address</i>	Molough, Newcastle, Clonmel, Co Tipperary
<i>Telephone No.</i>	[REDACTED]
<i>E-mail</i>	[REDACTED]
<i>Please advise where all correspondence in relation to this application is to be sent;</i>	
Applicant [<input type="checkbox"/>] Agent [<input checked="" type="checkbox"/>]	

3. Location of Proposed Development:

<i>Postal Address or Townland or Location (as may best identify the land or structure in question)</i>	Kilheffernan, Clonmel, Co Tipperary
--	-------------------------------------

SCANNED

4. Development Details:

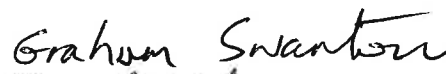
Please provide details of the proposed development for which an exemption under Section 5 of the Planning and Development Act is applied for.

(Note: only works and uses listed and described under this section will be assessed under this Section 5 Application. Use additional sheets if required.)

Is the building below exempt development	
Class 6 exemption Slatted shed with loose area 141m ²	
No other farm building in the area or within 100m of this area Consent letter from house within 100m of site	
Proposed floor area of proposed works/uses:	sqm see above

5. Legal Interest of Applicant in the Land or Structure:

<i>Please tick appropriate box to show applicant's legal interest in the land or structure</i>	A. Owner <input checked="" type="checkbox"/>	B. Occupier <input type="checkbox"/>
	C. Other <input type="checkbox"/>	
<i>Where legal interest is 'Other', please expand further on your interest in the land or structure</i>		
<i>If you are not the legal owner, please state the name and address of the owner</i>		


 Signature of Applicant(s) Maryann Widger Date: 10-11-2024

Note: If the proposed development consists of works to a (Proposed) Protected Structure and/or any structure within the curtilage of a (Proposed) Protected Structure, an application for a Section 57 Declaration may be more appropriate.

GUIDANCE NOTES

(1) All queries on the form must be completed and the form must be accompanied by the relevant fee. The amount of the fee is currently €80.00.

(2) This application should be accompanied by **TWO COPIES** of the following documentation

- OSI Site Location Map with the site outlined clearly – 1:1000 in urban areas and 1:2500 in rural areas
- Floor Plans & Elevations at a scale of not less than 1:200
- Site layout plan indicating position of proposed development relative to premises and adjoining properties
- Other details e.g. brochures, photographs if appropriate.

(All dimensions must be given in metric scale and drawings should be accompanied by a brief description outlining the use of the proposed development)

(3) Where a proper and complete application is received, a decision must be conveyed to the applicant within four (4) weeks except where additional necessary information is required.

This application form and relevant fee should be submitted to:

**Planning Section,
Tipperary County Council,
Civic Offices,
Limerick Road,
Nenagh,
Co. Tipperary**

OR

**Planning Section,
Tipperary County Council,
Civic Offices,
Emmet Street,
Clonmel,
Co. Tipperary**

Enquires:

Telephone 0761 06 5000

E-Mail planning@tipperarycoco.ie

FOR OFFICE USE ONLY

<i>"Pre Paid"</i>	DATE STAMP
Fee Recd. € <u>80</u>	
Receipt No <u>186957</u>	
Date <u>13-11-2024 - (14:00)</u>	
Received by _____	

Kilheffernan
Clonmel
Co Tipperary
01/11/2024

Letter of consent

I Joseph Probert give permission to my neighbour Margaret Widge & Graham Swanton, to apply for a section 5 application to build slatted shed on their adjacent Property at Kilheffernan, Clonmel, Co Tipperary.

Signed by Neighbour

Joseph Probert

Site Location Map



Tailte
Éireann

CENTRE COORDINATES:
ITM 626597,624358

ORDER NO.:
50432064_1

MAP SERIES:
6 Inch Raster TY077
6 Inch Raster TY078
6 Inch Raster TY083
6 Inch Raster TY084

COMPILED AND PUBLISHED BY:
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Phoenix Park,
Dublin 8,
Ireland.
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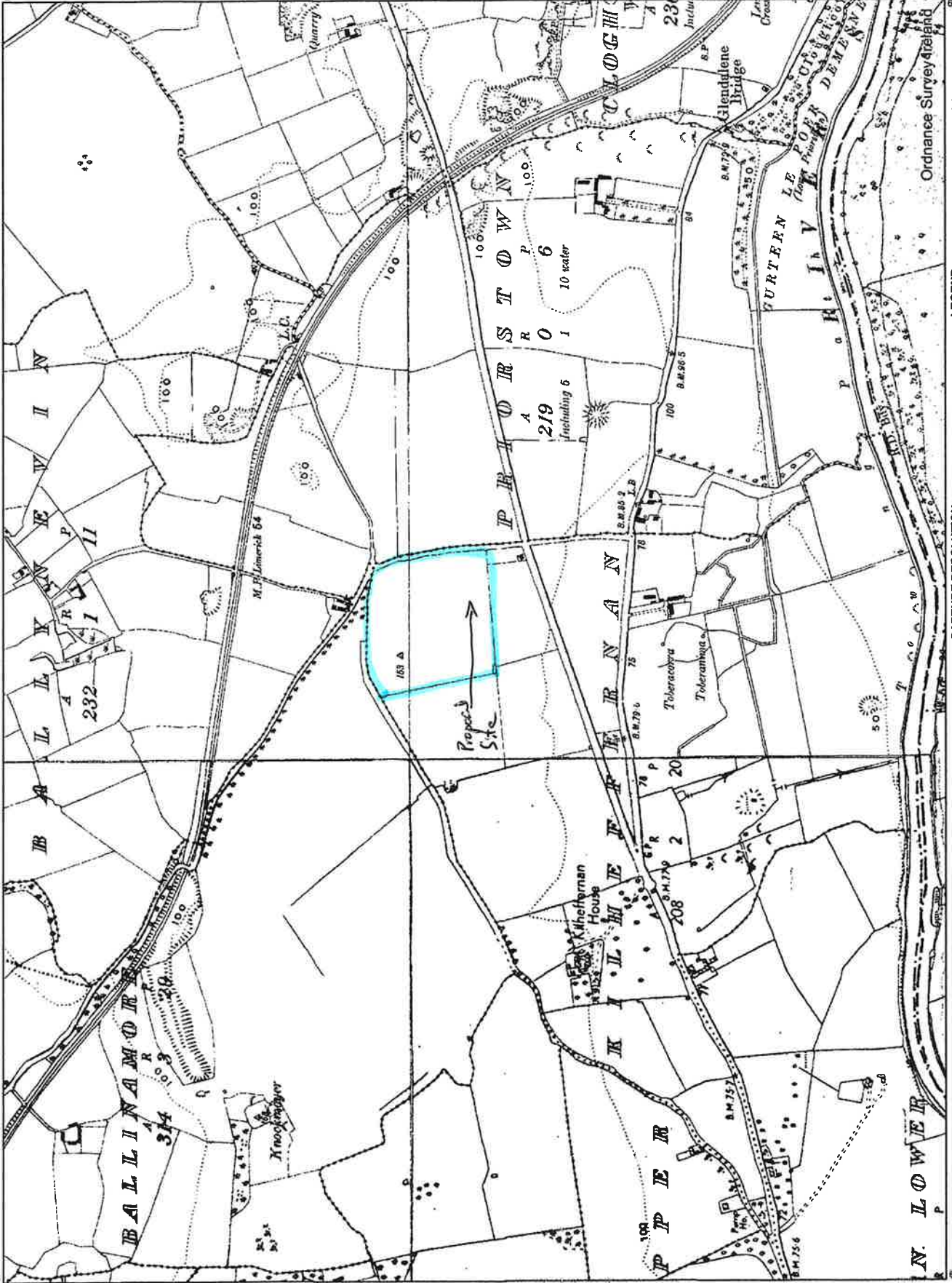
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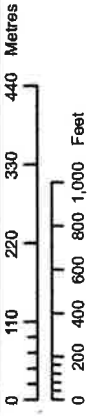
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CAPTURE RESOLUTION:
The map objects are only accurate to the resolution at which they were captured. Output scale is not indicative of data capture scale. Further information is available at: www.tailte.ie; search 'Capture Resolution'

OUTPUT SCALE: 1:10,560



627827
625366
625366
623449

Planning Pack Map



Tailte
Éireann

Béal an Átha
Mhóir
Ballinamore

40.79

5.36

3.58

6.73

Baile an
Phrióra
Pristown

Proposal
Site
Cill Eithirneach
Kilheffernan

Little
of
Consent
Find enclosed

12.94

3.78

3.60

**CENTRE
COORDINATES:**
ITM 626597,624358

PUBLISHED:
04/11/2024 **ORDER NO.:**
50432064_1

MAP SERIES:
1:2,500 **MAP SHEETS:**
5370-D

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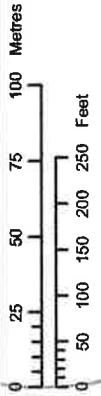
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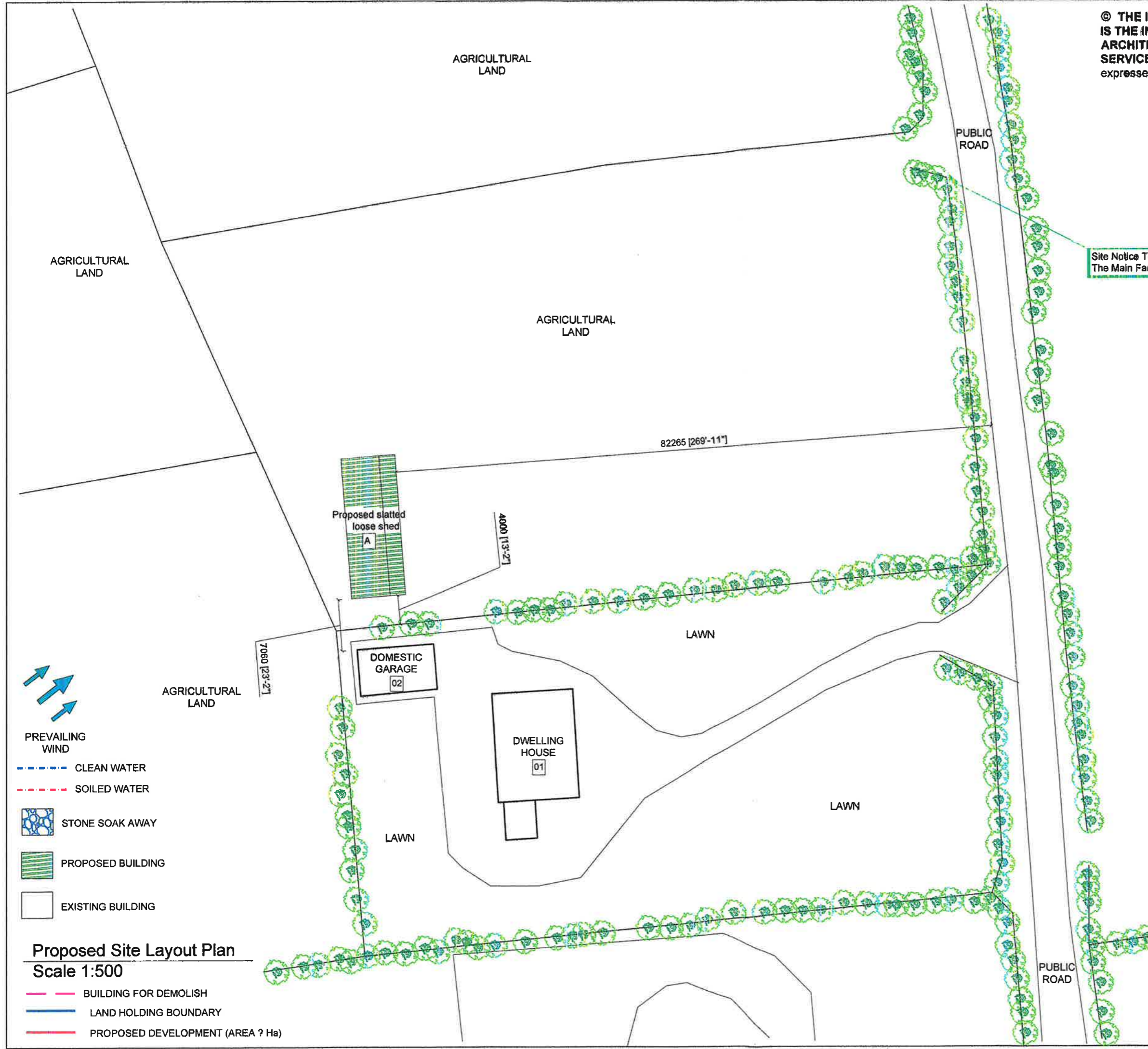
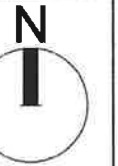
LEGEND:
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'Large Scale Legend'

OUTPUT SCALE: 1:2,500



626888 624573 626888 624143 626305 624573 626305 624143

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- PREVAILING WIND
- CLEAN WATER
- SOILED WATER
- STONE SOAK AWAY
- PROPOSED BUILDING
- EXISTING BUILDING

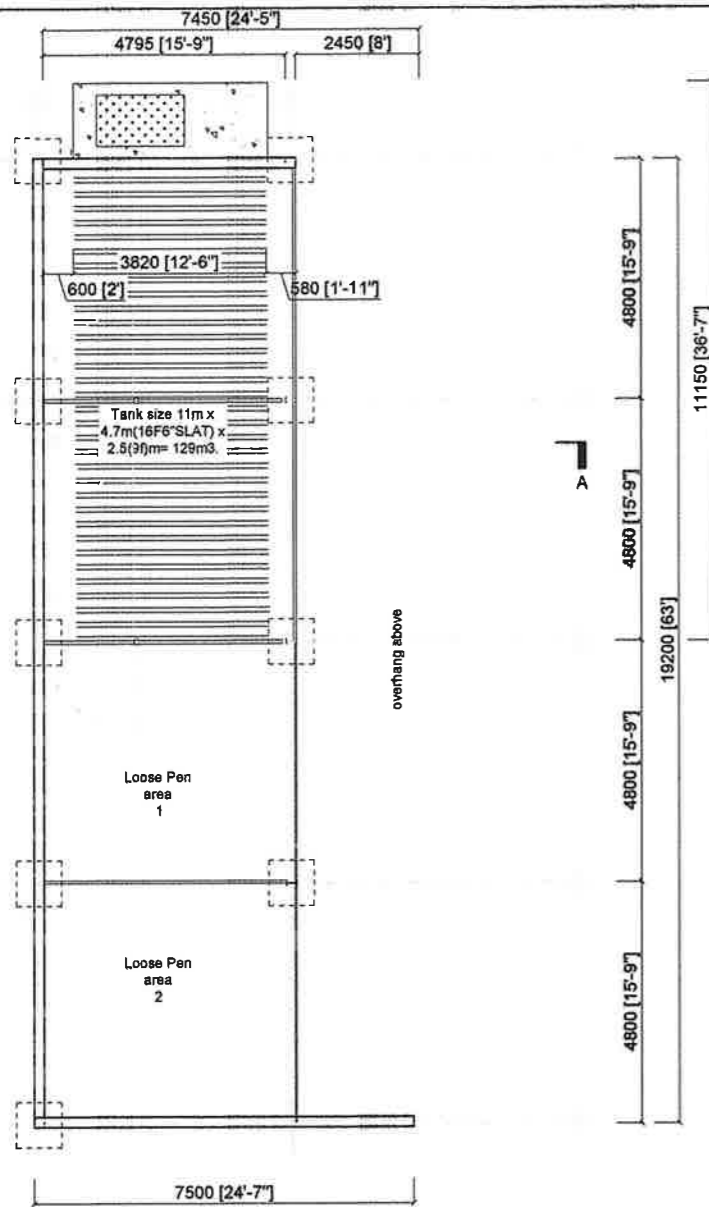
Proposed Site Layout Plan
Scale 1:500

- BUILDING FOR DEMOLISH
- LAND HOLDING BOUNDARY
- PROPOSED DEVELOPMENT (AREA ? Ha)

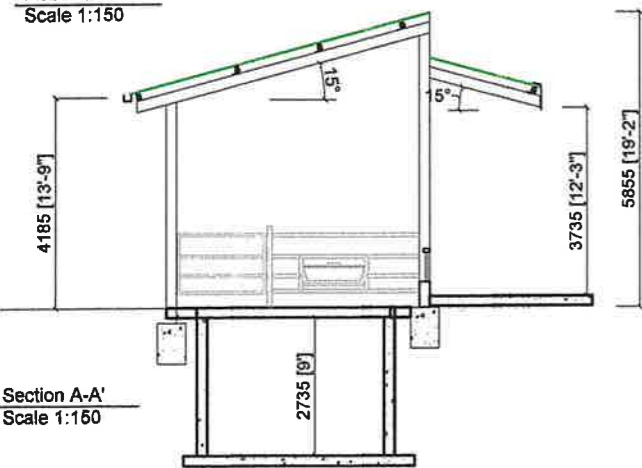
AGRICULTURAL LAND

Proposed

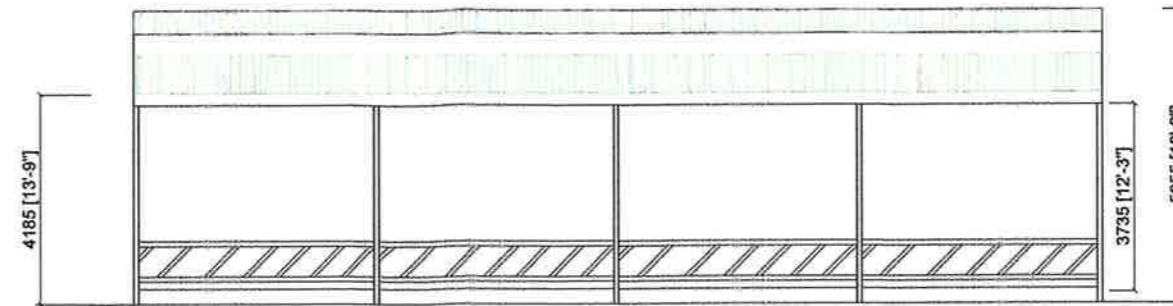
PLANNING				
AIDAN KELLY		B.Arch. B.Sc Arch Tech		
ARCHITECTURE & AGRICULTURAL DESIGN SERVICES				
MOLOUGH, NEWCASTLE, CLONMEL, CO. TIPPERARY.		TEL: 052 7462844 MOB: 085 7466211		
EMAIL: AIDANKELLY2000@YAHOO.IE		WEBSITE: WWW.ADPS.IE		
PROJECT: Proposed building for Margaret Widger & Graham Swanton at Kilheffernan, Clonmel, Co Tipperary				
DRAWING TITLE: Proposed Site Layout				
DRAWN BY	DATE	SCALE	DWG NO.	JOB NO.
A KELLY	Oct 2024	1:500	02	115



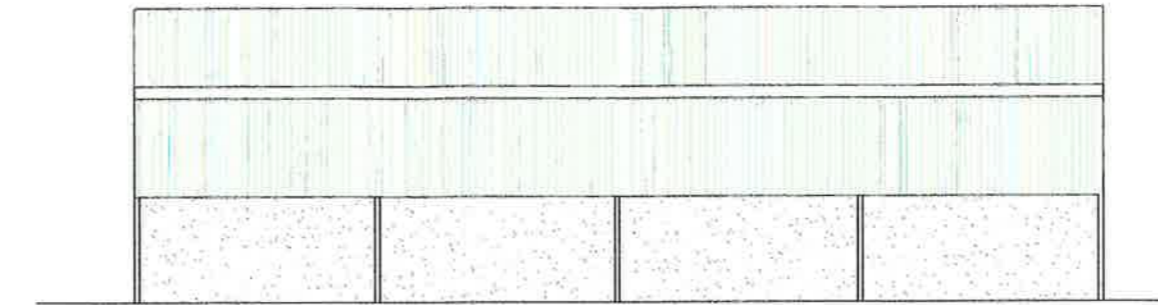
Floor Plan
Scale 1:150



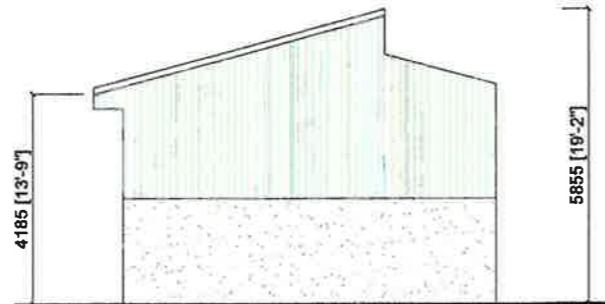
Section A-A'
Scale 1:150



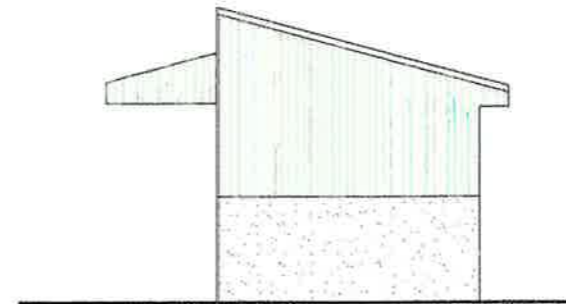
East Elevation
Scale 1:150



West Elevation
Scale 1:150



South Elevation
Scale 1:150



North Elevation
Scale 1:150

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SLATTED HOUSE WITH CANOPY : 141m2
SLATTED HOUSE WITH OUT CANOPY : 95m2

PLANNING

AIDAN KELLY

B.Arch. B.sc Arch Tech

ARCHITECTURE & AGRICULTURAL DESIGN SERVICES

MOLOUGH,
NEWCASTLE,
CLONMEL,
CO. TIPPERARY.
EMAIL: AIDANKELLY2000@YAHOO.IE
WEBSITE : WWW.ADPS.IE

TEL: 052 7462844
MOB: 085 7466211



PROJECT: Proposed building for Margaret Widger & Graham Swanton at Kilheffernan, Clonmel, Co Tipperary

DRAWING TITLE:
Plan, section and elevations

DRAWN BY A KELLY	DATE Sep 2024	SCALE 1:150	DWG NO. 02	JOB NO. 115
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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 tAonach,
Co. Thiobraid Árann**
Tipperary County Council,
Civic Offices, Nenagh,
Co. Tipperary
E45 A099

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

Date: 22nd November, 2024

Our Ref: S5/24/137 Civic Offices, Clonmel

Margaret Widger & Graham Swanton
C/o Aidan Kelly
Molough
Newcastle
Clonmel
Co. Tipperary

Re: Application for a Section 5 Declaration – Class 6 exemption. Slatted shed with loose area 141m² at Killeffernan, Clonmel, Co. Tipperary

Dear Mr. Kelly

I acknowledge receipt of your application for a Section 5 Declaration received on 15th November, 2024, in connection with the above.

I wish to advise that you will be notified of a decision on your application in due course.

Yours sincerely

for **Director of Services**

TIPPERARY COUNTY COUNCIL

Application for Declaration under Section 5

Planning & Development Act 2000, as amended

Planning & Development Regulations 2001, as amended

Planning Ref.:	S5/24/137
Applicant:	Margaret Widger and Graham Swanton
Development Address:	Kilheffernan, Clonmel, Co. Tipperary
Query:	Is the construction of a roofed structure for the housing of animals exempted development under Class 6 of the Planning and Development Regulations 2001, as amended.

1. GENERAL

On the 15th of November 2024, a request was made for a declaration under Section 5 of the Planning and Development Act, 2000 (as amended) by Aidan Kelly, acting on behalf of Margaret Widger and Graham Swanton, as to whether or the construction of slated shed with loose area, 141 sqms, on the farm holding (5.7 hectares) is exempted development under Class 6 of the Planning and Development Regulations 2001, as amended.

2. STATUTORY PROVISIONS

The following statutory provisions are relevant to this referral case;

Section 3 (1) of the Planning and Development Act 2000, as amended, states as follows:-

“In this Act, ‘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 other land.”

Section 2(1) of the Planning and Development Act, 2000, as amended, defines “works” as:-

“works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

Article 6 of the **Planning and Development Regulations 2001**, as amended states:

Exempted Development.

6. (1) 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 of the Planning and Development Regulations 2001, as amended sets out restrictions on exemptions and states:

9. (1) Development to which article 6 relates shall not be exempted development for the purposes of the Act—

- (a) if the carrying out of such development would—
- (ii) endanger public safety by reason of traffic hazard or obstruction of road users,
- (viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,

Schedule 2 Part 3 CLASS 6 Planning and Development Regulations 2001

Works consisting of the provision of a roofed structure for the housing of cattle, sheep, goats, donkeys, horses, deer or rabbits, having a gross floor space not exceeding 200 square metres (whether or not by extension of an existing structure), and any ancillary provision for effluent storage.

1. No such structure shall be used for any purpose other than the purpose of agriculture.
2. The gross floor space of such structure together with any other such structures situated within the same farmyard complex or within 100 metres of that complex shall not exceed 300 square metres gross floor space in aggregate.
3. Effluent storage facilities adequate to serve the structure having regard to its size, use and location shall be constructed in line with Department of Agriculture, Food and Rural Development and Department of the Environment and Local Government requirements and shall have regard to the need to avoid water pollution.
4. No such structure shall be situated, and no effluent from such structure shall be stored, within 10 metres of any public road.
5. No such structure within 100 metres of any public road shall exceed 8 metres in height.
6. No such structure shall be situated, and no effluent from such structure shall be stored, within 100 metres of any house (other than the house of the person providing the structure) or other residential building or school, hospital, church or building used for public assembly, save with the consent in writing of the owner and, as may be appropriate, the occupier or person in charge thereof.
7. No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.

3. ASSESSMENT

a. *Site Location*

The site is located c. 2.1 kms to the north west of the village of Kilsheelan, Co. Tipperary. It comprises of a single agricultural field that is set at the roadside (L -6507-0 east of site). There are a number of third party properties in the immediate vicinity of the site. The closest property is less than 100 metres (c.98 metres) to the south of the subject structures.

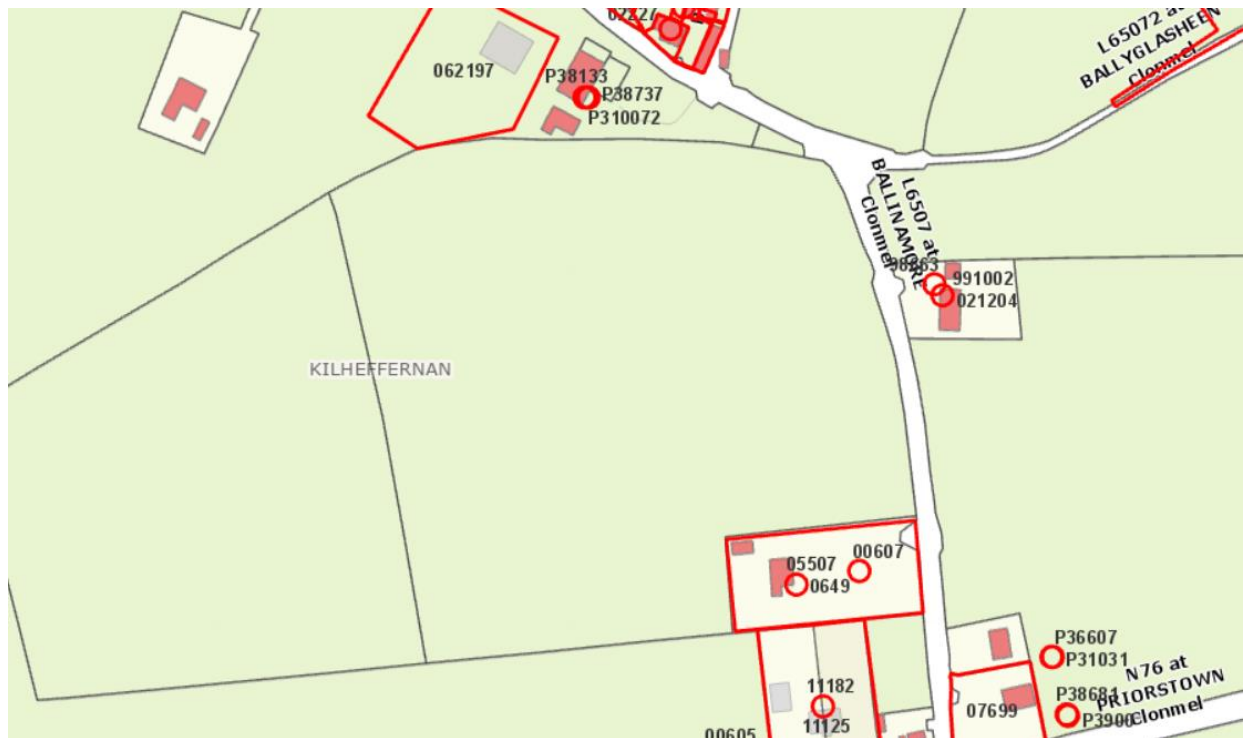
b. *Relevant Planning History*

00/607 – outline permission single house – Granted

05507 - two-storey dwelling house, septic tank, percolation area, entrance, driveway and all associated site development works - granted

06/49 - Domestic garage - granted

Figure 1 Planning history



c. **Assessment**

The query relates to the construction of a roofed structure for the housing of animals, measuring a 141sqms. The shed has a width of 7.4 metres (including canopy), a length of 19.2 metres and a height of 5.8 ms.

Figure 2 Site Layout



A) "Is or is not Development"

Having considered all of the details and documentation on file with regards the question asked the Planning Authority is satisfied that the proposals involve "works" and such works would constitute "development" within the meaning of Section 3 of the 2000 Act.

B) "Is or is not Exempted Development"

Having regard to the conditions and limitations associate with Class 6, the following is noted;

- The structure will be used for agricultural purposes.
- The 300 sqm threshold for agricultural structure has not yet been exceeded (this will be the first structure on the landholding).
- A slatted tank 129 m3 is proposed. It is not clear if this tank has sufficient capacity. Further information is required.
- The structure is not within 10 metres of any public road (set c 82 ms from road).
- The structure is within 100ms of a third party property. A letter of consent from the owner of this property allowing for the development was submitted.
- The structure will not be finished in unpainted sheet metal.

C) Is the exemption restricted under Article 9

The farm complex is served by an existing entrance onto the L -6507-0. As set out above, there are no farm structures on this landholding. The provision of a new structure will intensify the use of the entrance. Details of the sightlines from this entrance ought to be provided to demonstrate that the entrance is safe and that the works will not give rise to a traffic concern.

Environmental Restrictions

Environmental Impact Assessment

Proposal has been screened as required for EIA and it has been determined that same is not required (See screening report attached).

Appropriate Assessment

Proposal has been screened as required for AA and it has been determined that same is not required (See screening report attached).

4. RECOMMENDATION

A question has arisen as to whether the following;

The construction of a roofed structure for the housing of animals, constitutes development and if so does it constitutes exempted development. The works are located on an agricultural landholding in Kilheffernan, Clonmel, Co. Tipperary.

Part 5 of the Planning and Development Act 2000 (as amended) requires a Planning Authority to make a declaration on any question that arises as to what is or is not development. In determining this query, the Planning Authority had regard to;

- Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended),
- Article 9 and 9 of the Planning and Development Regulations 2001, (as amended)
- Class 6, Schedule 2 Part 3 of the Planning and Development Regulations, 2001,
- the details pertaining to the development as set out by the querist.

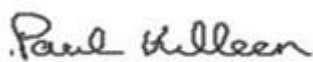
Determination

Accordingly, having considered the information received, the Planning Authority has determined that insufficient details has been provided to enable the Planning Authority determine this Declaration.

The following further information is required;

1. The applicant is requested to confirm that the effluent storage facilities are adequate to serve the structure having regard to its size, use and location and are in line with Department of Agriculture, Food and Rural Development and Department of the Environment and Local Government requirements.
2. Having regard to the restrictions on exempted development as set out under Article 9 of the Planning and Development Regulations 2001, as amended, the applicant is requested to submit a revised Site Layout Plan to a scale of 1:500, indicating the sightlines available at the entrance to the landholding and serving the proposed shed. The sightlines are required to be shown from a setback of 4.5m, at the centre of the entrance from the road edge, to the nearside road edge in each direction. The Planning Authority will need to be satisfied that the proposal will not endanger public safety by reason of traffic hazard or obstruction of road users.

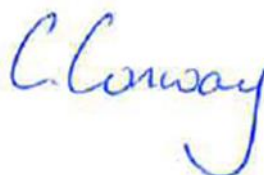
District Planner:



Paul Killeen
Paul Killeen

Date: 09/12/24

Senior Executive Planner:



Date: 9.12.2024

Appendix 1

HABITATS DIRECTIVE APPROPRIATE ASSESSMENT (AA) SCREENING REPORT

STEP 1. Description of the project/proposal and local site characteristics:

(a) File Reference No:	S5/24/137
(b) Brief description of the project or plan:	Construction of proposed roofed shed
(c) Brief description of site characteristics:	Within an agri landholding
(d) Relevant prescribed bodies consulted: e.g. DHLGH (NPWS), EPA, OPW	N/A
(e) Response to consultation:	N/A

STEP 2. Identification of relevant Natura 2000 sites using Source-Pathway-Receptor model and compilation of information on Qualifying Interests and conservation objectives.

European Site (code)	List of Qualifying Interest/Special Conservation Interest ¹	Distance from proposed development ² (km)	Connections (Source-Pathway-Receptor)	Considered further in screening Y/N
Lower River Suir	https://www.npws.ie/protected-sites/sac/002137	627 ms	None	N
Nier Valley Woodlands	https://www.npws.ie/protected-sites/spa/000668	9.2 kms	None	N
Comeragh Mountains	https://www.npws.ie/protected-sites/spa/001952	9.5 kms	None	N

STEP 3. Assessment of Likely Significant Effects

(a) Identify all potential direct and indirect impacts that may have an effect on the conservation objectives of a European site, taking into account the size and scale of the project under the following headings:

Impacts:	Possible Significance of Impacts: (duration/magnitude etc.)
<p>Construction phase e.g.</p> <ul style="list-style-type: none"> • Vegetation clearance • Demolition • Surface water runoff from soil excavation/infill/landscaping (including borrow pits) • Dust, noise, vibration • Lighting disturbance • Impact on groundwater/dewatering • Storage of excavated/construction materials • Access to site • Pests 	<p>During the construction phase, the site will be cleared and topsoil removed.</p>
<p>Operational phase e.g.</p> <ul style="list-style-type: none"> • Direct emission to air and water • Surface water runoff containing contaminant or sediment • Lighting disturbance • Noise/vibration • Changes to water/groundwater due to drainage or abstraction • Presence of people, vehicles and activities • Physical presence of structures (e.g. collision risks) • Potential for accidents or incidents 	<p>there is no likelihood of any significant effects on European Sites in the wider catchment area</p>
<p>In-combination/Other</p>	<p>No significant in-combination effects are identified.</p>

(b) Describe any likely changes to the European site:

Examples of the type of changes to give consideration to include:

- Reduction or fragmentation of habitat area
- Disturbance to QI species
- Habitat or species fragmentation
- Reduction or fragmentation in species density
- Changes in key indicators of conservation status value (water or air quality etc.)
- Changes to areas of sensitivity or threats to QI
- Interference with the key relationships that define the structure or ecological function of the site

None.

(c) Are 'mitigation' measures necessary to reach a conclusion that likely significant effects can be ruled out at screening?

Yes No

STEP 4. Screening Determination Statement

The assessment of significance of effects:

Describe how the proposed development (alone or in-combination) is/is **not likely** to have **significant** effects on European site(s) in view of its conservation objectives.

The proposed development is not likely to have significant effects.

Conclusion:

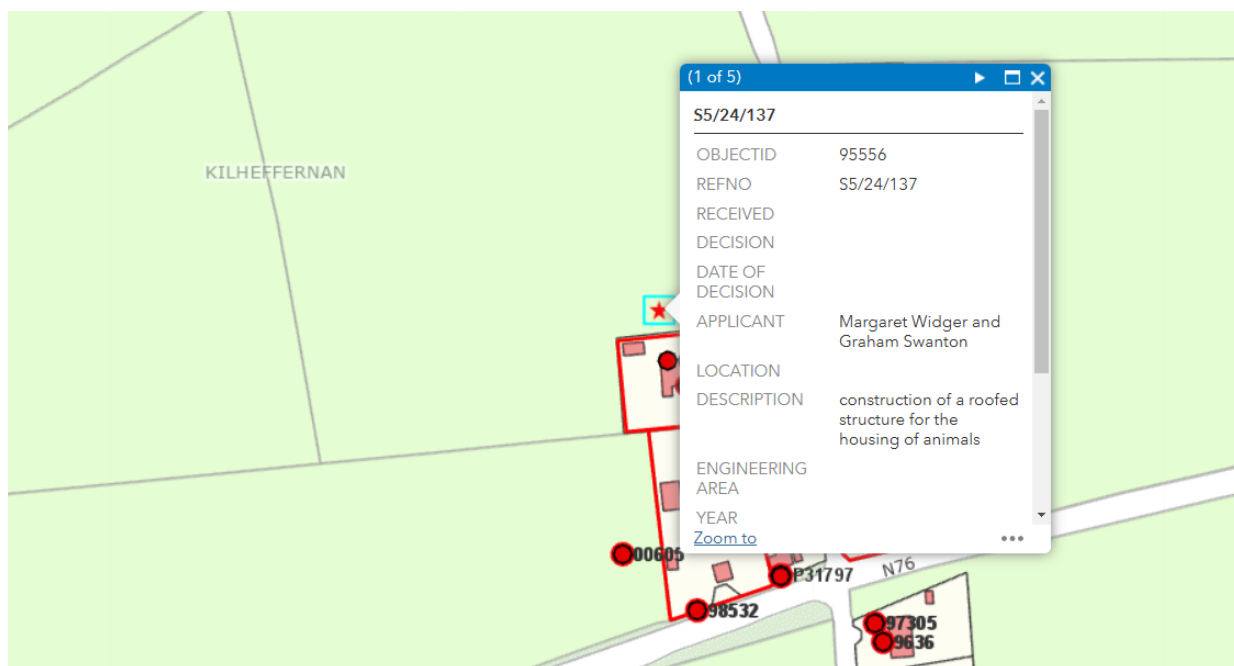
	Tick as Appropriate:	Recommendation:
(i) It is clear that there is no likelihood of significant effects on a European site.	<input checked="" type="checkbox"/>	The proposal can be screened out: Appropriate assessment not required.
(ii) It is uncertain whether the proposal will have a significant effect on a European site.	<input type="checkbox"/>	<input type="checkbox"/> Request further information to complete screening <input type="checkbox"/> Request NIS <input type="checkbox"/> Refuse planning permission
(iii) Significant effects are likely.	<input type="checkbox"/>	<input type="checkbox"/> Request NIS <input type="checkbox"/> Refuse planning permission
Signature and Date of Recommending Officer:	Paul Killeen	Date: 09/12/24

APPENDIX 2

EIA Pre-Screening	
Establishing a development is a 'sub-threshold development'	
File Reference:	S5/24/137
Development Summary:	Construction of a proposed roofed shed
Was a Screening Determination carried out under Section 176A-C?	<input type="checkbox"/> Yes, no further action required <input checked="" type="checkbox"/> No, Proceed to Part A
A. Schedule 5 Part 1 - Does the development comprise a project listed in Schedule 5, Part 1 , of the Planning and Development Regulations 2001 (as amended)? (Tick as appropriate)	
<input type="checkbox"/> Yes, specify class _____	EIA is mandatory No Screening required
<input checked="" type="checkbox"/> No	Proceed to Part B
B. Schedule 5 Part 2 - Does the development comprise a project listed in Schedule 5, Part 2 , of the Planning and Development Regulations 2001 (as amended) and does it meet/exceed the thresholds? (Tick as appropriate)	
<input checked="" type="checkbox"/> No, the development is not a project listed in Schedule 5, Part 2	No Screening required
<input type="checkbox"/> Yes the project is listed in Schedule 5, Part 2 and meets/exceeds the threshold, specify class (including threshold): _____	EIA is mandatory No Screening required
<input type="checkbox"/> Yes the project is of a type listed but is <i>sub-threshold</i> : _____	Proceed to Part C
C. If Yes , has Schedule 7A information/screening report been submitted?	
<input type="checkbox"/> Yes, Schedule 7A information/screening report has been submitted by the applicant	Screening Determination required
<input type="checkbox"/> No, Schedule 7A information/screening report has not been submitted by the applicant	

		Preliminary Examination required	
Signature and Date of Recommending Officer:	Paul Killeen	Date:	09/12/24

Figure 3 Site entered on Planning register





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
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An tAonach,
Co. Thiobraid Árann

Tipperary County Council,
Civic Offices, Nenagh,
Co. Tipperary

E45 A099

t 0818 06 5000
e customerservice
@tipperarycoco.ie

tipperarycoco.ie

Date: 11th December, 2024

Our Ref: S5/24/137

Civic Offices, Nenagh

Margaret Widger & Graham Swanton
C/O Aidan Kelly
Molough
Newcastle
Clonmel
Co. Tipperary

Re: Application for a Section 5 Declaration – Is the construction of a roofed structure for the housing of animals exempted development under Class 6 of the Planning and Development Regulations 2001, as amended at Kilheffernan, Clonmel, Co. Tipperary

Dear Mr Widger & Mr Swanton,

I refer to an application received from you on 15th November, 2024 requesting a Declaration from this Planning Authority as to whether or not certain works constitute development within the meaning of the Planning and Development Act 2000, as amended.

Further information is requested as follows;

It is recommended to request the following further information pursuant to Section 5 (2) (b) of the Planning and Development Act 2000, as amended

1. The applicant is requested to confirm that the effluent storage facilities are adequate to serve the structure having regard to its size, use and location and are in line with Department of Agriculture, Food and Rural Development and Department of the Environment and Local Government requirements.
2. Having regard to the restrictions on exempted development as set out under Article 9 of the Planning and Development Regulations 2001, as amended, the applicant is requested to submit a revised Site Layout Plan to a scale of 1:500, indicating the sightlines available at the entrance to the landholding and serving the proposed shed. The sightlines are required to be shown from a setback of 4.5m, at the centre of the entrance from

the road edge, to the nearside road edge in each direction. The Planning Authority will need to be satisfied that the proposal will not endanger public safety by reason of traffic hazard or obstruction of road users

Further consideration of your request for a declaration cannot be considered until the above information is received.

Yours sincerely

Geraldine Quinn

for **Director of Services**

Breen, Mark

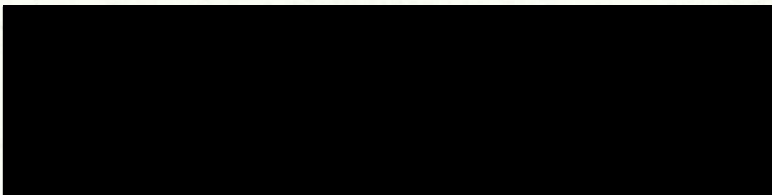
From: Breen, Mark
Sent: 23 December 2024 11:07
To: Killeen, Paul
Cc: Dowling, Jacqui
Subject: S5/24/137
Attachments: Scan_from_mark_breen_on_TCC-CLON-FF-C5550_5_0417_001.pdf

Hi Paul,

FI Received the 23/12/2024.

Kind regards.

Mark.





Section 5
S5/24/137

Client:

Margaret Widger & Graham Swanton

Address;

Kilheffernan, Clonmel, Co Tipperary

Proposal;

Permission to construct slatted shed with loose area and all associated site works

1.

I can confirm the proposed shed will be inline with all department of agriculture, food and rural development regulation. There will be more that adequate slurry storage in proposed building

2.

Please find attached site plan with sight line drawing. There are safe sight line achieved at existing dwelling house entrance

Regards

A handwritten signature in black ink that reads 'Aidan Kelly' with a long horizontal flourish extending to the right.

Aidan Kelly B.Arch B.sc Arch Tech B.Agr

PLANNING

AIDAN KELLY

B.Arch. B.sc Arch Tech

ARCHITECTURE & AGRICULTURAL DESIGN SERVICES

MOLOUGH,
NEWCASTLE,
CLONMEL,
CO. TIPPERARY.
EMAIL: AIDANKELLY2000@YAHOO.IE
WEBSITE: WWW.ADPS.IE

TEL: 052 7462844
MOB: 085 7466211



PROJECT: Proposed building for Margaret Widger & Graham Swanton at Kilheffernan, Clonmel, Co Tipperary

DRAWING TITLE:
Proposed Site Layout

DRAWN BY	DATE	SCALE	DWG NO.	JOB NO.
A KELLY	Dec 2024	1:500	01	115

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Proposed including 70 m Sightlines



- PREVALING WIND
- CLEAN WATER
- SOILED WATER
- STONE SOAK AWAY
- PROPOSED BUILDING
- EXISTING BUILDING

- Proposed Site Layout Plan**
Scale 1:500
- BUILDING FOR DEMOLISH
 - LAND HOLDING BOUNDARY
 - PROPOSED DEVELOPMENT (AREA 1.08 Ha)
 - SIGHT LINES



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tipperarycoco.ie

Date: 23rd December 2024

Our Ref: S5/24/137 Civic Offices, Clonmel

Mr Aidan Kelly
Agri Design & Planning Services
Molough
Newcastle
Clonmel
Co. Tipperary

**Re: Application for a Section 5 Declaration re Kilheffernan, Clonmel,
Co Tipperary.**

Dear Sir,

I acknowledge receipt of Further Information received on 23rd December 2024 in connection with the above.

I wish to advise that you will be notified of a decision on your application in due course.

Yours sincerely

for **Director of Services**

TIPPERARY COUNTY COUNCIL

Application for Declaration under Section 5

Planning & Development Act 2000, as amended

Planning & Development Regulations 2001, as amended

Planning Ref.:	S5/24/137
Applicant:	Margaret Widger and Graham Swanton
Development Address:	Kilheffernan, Clonmel, Co. Tipperary
Query:	Is the construction of a roofed structure for the housing of animals exempted development under Class 6 of the Planning and Development Regulations 2001, as amended.

1. GENERAL

On the 15th of November 2024, a request was made for a declaration under Section 5 of the Planning and Development Act, 2000 (as amended) by Aidan Kelly, acting on behalf of Margaret Widger and Graham Swanton, as to whether or the construction of slated shed with loose area, 141 sqms, on the farm holding (5.7 hectares) is exempted development under Class 6 of the Planning and Development Regulations 2001, as amended.

2. STATUTORY PROVISIONS

The following statutory provisions are relevant to this referral case;

Section 3 (1) of the Planning and Development Act 2000, as amended, states as follows:-

“In this Act, ‘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 other land.”

Section 2(1) of the Planning and Development Act, 2000, as amended, defines “works” as:-

“works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

Article 6 of the **Planning and Development Regulations 2001**, as amended states:

Exempted Development.

6. (1) 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 of the Planning and Development Regulations 2001, as amended sets out restrictions on exemptions and states:

9. (1) Development to which article 6 relates shall not be exempted development for the purposes of the Act—

- (a) if the carrying out of such development would—
- (ii) endanger public safety by reason of traffic hazard or obstruction of road users,
- (viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,

Schedule 2 Part 3 CLASS 6 Planning and Development Regulations 2001

Works consisting of the provision of a roofed structure for the housing of cattle, sheep, goats, donkeys, horses, deer or rabbits, having a gross floor space not exceeding 200 square metres (whether or not by extension of an existing structure), and any ancillary provision for effluent storage.

1. No such structure shall be used for any purpose other than the purpose of agriculture.
2. The gross floor space of such structure together with any other such structures situated within the same farmyard complex or within 100 metres of that complex shall not exceed 300 square metres gross floor space in aggregate.
3. Effluent storage facilities adequate to serve the structure having regard to its size, use and location shall be constructed in line with Department of Agriculture, Food and Rural Development and Department of the Environment and Local Government requirements and shall have regard to the need to avoid water pollution.
4. No such structure shall be situated, and no effluent from such structure shall be stored, within 10 metres of any public road.
5. No such structure within 100 metres of any public road shall exceed 8 metres in height.
6. No such structure shall be situated, and no effluent from such structure shall be stored, within 100 metres of any house (other than the house of the person providing the structure) or other residential building or school, hospital, church or building used for public assembly, save with the consent in writing of the owner and, as may be appropriate, the occupier or person in charge thereof.
7. No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.

3. ASSESSMENT

a. *Site Location*

The site is located c. 2.1 kms to the north west of the village of Kilsheelan, Co. Tipperary. It comprises of a single agricultural field that is set at the roadside (L -6507-0 east of site). There are a number of third party properties in the immediate vicinity of the site. The closest property is less than 100 metres (c.98 metres) to the south of the subject structures.

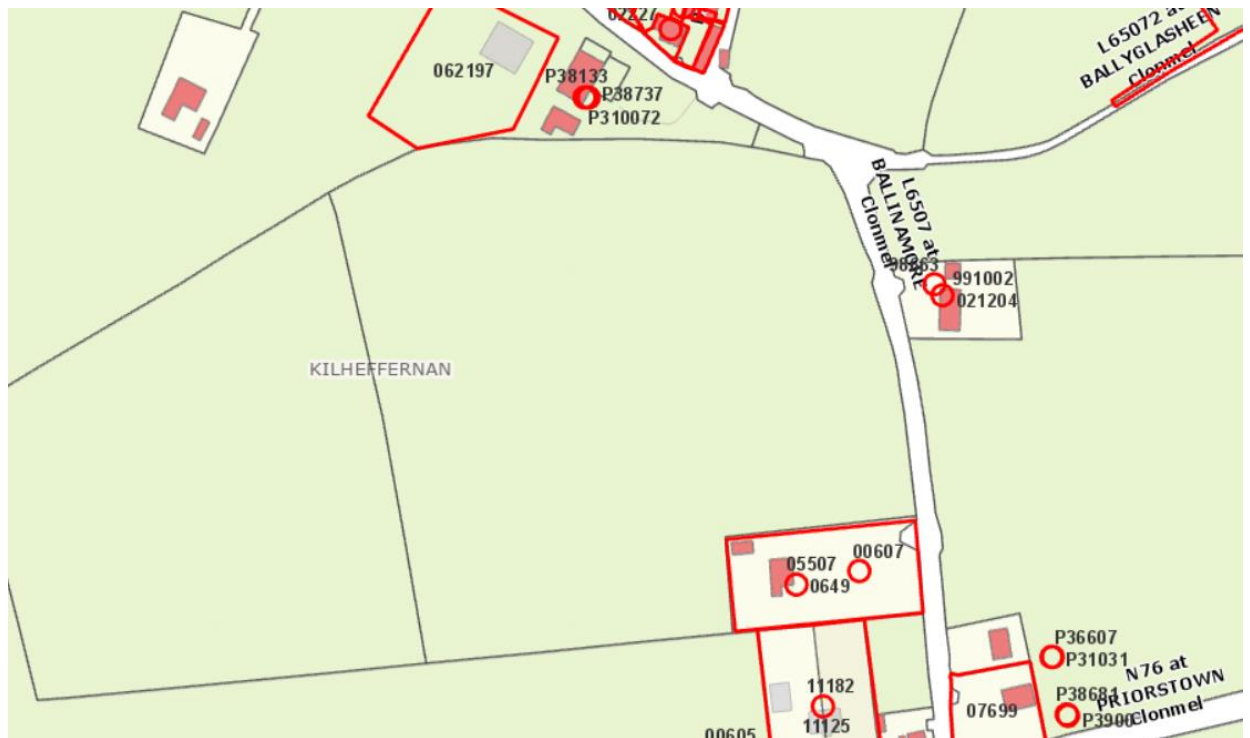
b. *Relevant Planning History*

00/607 – outline permission single house – Granted

05507 - two-storey dwelling house, septic tank, percolation area, entrance, driveway and all associated site development works - granted

06/49 - Domestic garage - granted

Figure 1 Planning history



c. **Assessment**

The query relates to the construction of a roofed structure for the housing of animals, measuring a 141sqms. The shed has a width of 7.4 metres (including canopy), a length of 19.2 metres and a height of 5.8 ms.

Figure 2 Site Layout



A) "Is or is not Development"

Having considered all of the details and documentation on file with regards the question asked the Planning Authority is satisfied that the proposals involve "works" and such works would constitute "development" within the meaning of Section 3 of the 2000 Act.

B) "Is or is not Exempted Development"

Having regard to the conditions and limitations associate with Class 6, the following is noted;

- The structure will be used for agricultural purposes.
- The 300 sqm threshold for agricultural structure has not yet been exceeded (this will be the first structure on the landholding).
- A slatted tank 129 m3 is proposed. It is not clear if this tank has sufficient capacity. Further information is required.
- The structure is not within 10 metres of any public road (set c 82 ms from road).
- The structure is within 100ms of a third party property. A letter of consent from the owner of this property allowing for the development was submitted.
- The structure will not be finished in unpainted sheet metal.

C) Is the exemption restricted under Article 9

The farm complex is served by an existing entrance onto the L -6507-0. As set out above, there are no farm structures on this landholding. The provision of a new structure will intensify the use of the entrance. Details of the sightlines from this entrance ought to be provided to demonstrate that the entrance is safe and that the works will not give rise to a traffic concern.

Environmental Restrictions

Environmental Impact Assessment

Proposal has been screened as required for EIA and it has been determined that same is not required (See screening report attached).

Appropriate Assessment

Proposal has been screened as required for AA and it has been determined that same is not required (See screening report attached).

4. FURTHER INFORMATION

The following further information was requested on the 11th of December 2024;

1. The applicant is requested to confirm that the effluent storage facilities are adequate to serve the structure having regard to its size, use and location and are in line with Department of Agriculture, Food and Rural Development and Department of the Environment and Local Government requirements.
2. Having regard to the restrictions on exempted development as set out under Article 9 of the Planning and Development Regulations 2001, as amended, the applicant is requested to submit a revised Site Layout Plan to a scale of 1:500, indicating the sightlines available at the entrance to the landholding and serving the proposed shed. The sightlines are required to be shown from a setback of 4.5m, at the centre of the entrance from the road edge, to the nearside road edge in each direction. The Planning Authority will need to be satisfied that the proposal will not endanger public safety by reason of traffic hazard or obstruction of road users.

The applicant replied on the 23rd of December 2024.

Point 1

the applicant confirmed that the shed would be in line with Department of Agriculture, Food and Rural Development and Department of the Environment and Local Government requirements.

Point 2

The applicant submitted a site layout drawing illustrating that the entrance to the shed would be taken from the exiting entrance serving the applicant family home.



The applicant is proposing to cut back part of the hedge to improve sightlines (70 ms in both directions from a 4.5m setback).

This is a relatively minor proposal. The structure will not result in a significant intensification of the use of the existing entrance. It is not considered that the additional shed will result in a traffic hazard.

5. RECOMMENDATION

A question has arisen as to whether the following;

The construction of a roofed structure for the housing of animals at Killeffernan, Clonmel, Co. Tipperary, constitutes development and if so does it constitutes exempted development.

Part 5 of the Planning and Development Act 2000 (as amended) requires a Planning Authority to make a declaration on any question that arises as to what is or is not development.

In determining this query, the Planning Authority had regard to;

- Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended),
- Article 9 and 9 of the Planning and Development Regulations 2001, (as amended)
- Class 6 of Schedule 2 of Part 3 of the Planning and Development Regulations, 2001,
- the details pertaining to the development as set out by the querist.

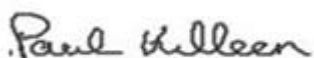
Determination

Accordingly, having considered the information received the Planning Authority has determined that

the construction of a roofed structure for the housing of animals at Kilheffernan, Clonmel, Co. Tipperary

constitutes development and is considered to be “exempted development”.

District Planner:



Paul Killeen

Date: 16/01/25

Senior Executive Planner:



Date: 22.1.2025

Appendix 1

HABITATS DIRECTIVE APPROPRIATE ASSESSMENT (AA) SCREENING REPORT

STEP 1. Description of the project/proposal and local site characteristics:

(a) File Reference No:	S5/24/137
(b) Brief description of the project or plan:	Construction of proposed roofed shed
(c) Brief description of site characteristics:	Within an agri landholding
(d) Relevant prescribed bodies consulted: e.g. DHLGH (NPWS), EPA, OPW	N/A
(e) Response to consultation:	N/A

STEP 2. Identification of relevant Natura 2000 sites using Source-Pathway-Receptor model and compilation of information on Qualifying Interests and conservation objectives.

European Site (code)	List of Qualifying Interest/Special Conservation Interest ¹	Distance from proposed development ² (km)	Connections (Source-Pathway-Receptor)	Considered further in screening Y/N
Lower River Suir	https://www.npws.ie/protected-sites/sac/002137	627 ms	None	N
Nier Valley Woodlands	https://www.npws.ie/protected-sites/spa/000668	9.2 kms	None	N
Comeragh Mountains	https://www.npws.ie/protected-sites/spa/001952	9.5 kms	None	N

STEP 3. Assessment of Likely Significant Effects

(a) Identify all potential direct and indirect impacts that may have an effect on the conservation objectives of a European site, taking into account the size and scale of the project under the following headings:

Impacts:	Possible Significance of Impacts: (duration/magnitude etc.)
<p>Construction phase e.g.</p> <ul style="list-style-type: none"> • Vegetation clearance • Demolition • Surface water runoff from soil excavation/infill/landscaping (including borrow pits) • Dust, noise, vibration • Lighting disturbance • Impact on groundwater/dewatering • Storage of excavated/construction materials • Access to site • Pests 	<p>During the construction phase, the site will be cleared and topsoil removed.</p>
<p>Operational phase e.g.</p> <ul style="list-style-type: none"> • Direct emission to air and water • Surface water runoff containing contaminant or sediment • Lighting disturbance • Noise/vibration • Changes to water/groundwater due to drainage or abstraction • Presence of people, vehicles and activities • Physical presence of structures (e.g. collision risks) • Potential for accidents or incidents 	<p>there is no likelihood of any significant effects on European Sites in the wider catchment area</p>
<p>In-combination/Other</p>	<p>No significant in-combination effects are identified.</p>

(b) Describe any likely changes to the European site:

Examples of the type of changes to give consideration to include:

- Reduction or fragmentation of habitat area
- Disturbance to QI species
- Habitat or species fragmentation
- Reduction or fragmentation in species density
- Changes in key indicators of conservation status value (water or air quality etc.)
- Changes to areas of sensitivity or threats to QI
- Interference with the key relationships that define the structure or ecological function of the site

None.

(c) Are 'mitigation' measures necessary to reach a conclusion that likely significant effects can be ruled out at screening?

Yes No

STEP 4. Screening Determination Statement

The assessment of significance of effects:

Describe how the proposed development (alone or in-combination) is/is **not likely** to have **significant** effects on European site(s) in view of its conservation objectives.

The proposed development is not likely to have significant effects.

Conclusion:

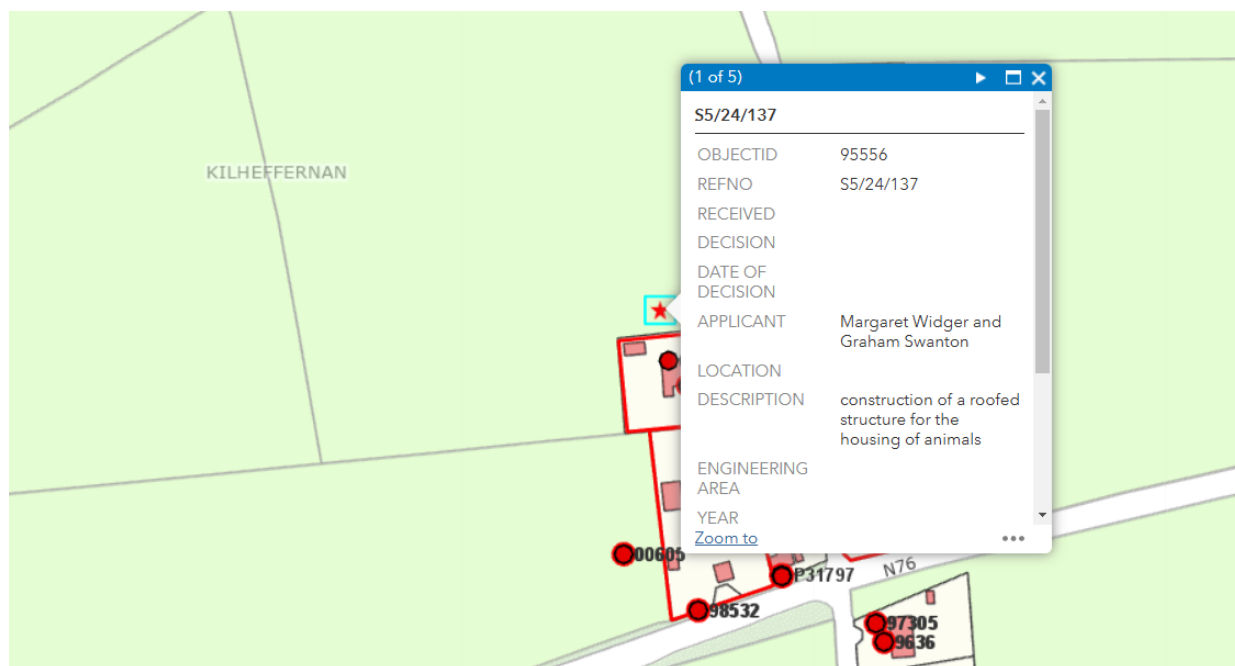
	Tick as Appropriate:	Recommendation:
(i) It is clear that there is no likelihood of significant effects on a European site.	<input checked="" type="checkbox"/>	The proposal can be screened out: Appropriate assessment not required.
(ii) It is uncertain whether the proposal will have a significant effect on a European site.	<input type="checkbox"/>	<input type="checkbox"/> Request further information to complete screening <input type="checkbox"/> Request NIS <input type="checkbox"/> Refuse planning permission
(iii) Significant effects are likely.	<input type="checkbox"/>	<input type="checkbox"/> Request NIS <input type="checkbox"/> Refuse planning permission
Signature and Date of Recommending Officer:	Paul Killeen	Date: 09/12/24

APPENDIX 2

EIA Pre-Screening	
Establishing a development is a 'sub-threshold development'	
File Reference:	S5/24/137
Development Summary:	Construction of a proposed roofed shed
Was a Screening Determination carried out under Section 176A-C?	<input type="checkbox"/> Yes, no further action required <input checked="" type="checkbox"/> No, Proceed to Part A
A. Schedule 5 Part 1 - Does the development comprise a project listed in Schedule 5, Part 1, of the Planning and Development Regulations 2001 (as amended)? (Tick as appropriate)	
<input type="checkbox"/> Yes, specify class _____	EIA is mandatory
<input checked="" type="checkbox"/> No	No Screening required
<input type="checkbox"/> Yes, specify class _____	Proceed to Part B
B. Schedule 5 Part 2 - Does the development comprise a project listed in Schedule 5, Part 2, of the Planning and Development Regulations 2001 (as amended) and does it meet/exceed the thresholds? (Tick as appropriate)	
<input checked="" type="checkbox"/> No, the development is not a project listed in Schedule 5, Part 2	No Screening required
<input type="checkbox"/> Yes the project is listed in Schedule 5, Part 2 and meets/exceeds the threshold, specify class (including threshold): _____	EIA is mandatory
<input type="checkbox"/> Yes the project is of a type listed but is <i>sub-threshold</i> : _____	No Screening required
<input type="checkbox"/> Yes the project is of a type listed but is <i>sub-threshold</i> : _____	Proceed to Part C
C. If Yes, has Schedule 7A information/screening report been submitted?	
<input type="checkbox"/> Yes, Schedule 7A information/screening report has been submitted by the applicant	Screening Determination required
<input type="checkbox"/> No, Schedule 7A information/screening report has not been submitted by the applicant	

		Preliminary Examination required	
Signature and Date of Recommending Officer:	Paul Killeen	Date:	09/12/24

Figure 3 Site entered on Planning register





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Date: 22nd January, 2025

Our Ref: S5/24/137

Civic Offices, Nenagh

Mr Aidan Kelly
Agri Design & Planning Services
Molough
Newcastle
Clonmel
Co. Tipperary

Re: Declaration under Section 5 of the Planning and Development Act 2000

Dear Mr Kelly,

I refer to your application for a Section 5 Declaration received on 15th November, 2024 and Further Information received on 23rd December, 2024, in relation to the following proposed works:

The construction of a roofed structure for the housing of animals at Kilheffernan, Clonmel, 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 –

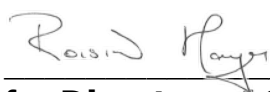
- Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended),
- Article 9 and 9 of the Planning and Development Regulations 2001, (as amended)
- Class 6 of Schedule 2 of Part 3 of the Planning and Development Regulations, 2001,
- the details pertaining to the development as set out by the querist.

Determination

Accordingly, having considered the information received the Planning Authority has determined that the construction of a roofed structure for the housing of animals at Kilheffernan, Clonmel, Co. Tipperary constitutes development and is considered to be "**exempted development**".

NOTE: Any person issued with a Declaration of a Planning Authority may refer the Declaration for review to An Bord 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**

Original

TIPPERARY COUNTY COUNCIL

DELEGATED EMPLOYEE'S ORDER

File Ref: **S5/24/137** **Delegated Employee's Order No:** _____


SUBJECT: Section 5 Declaration

I, Sharon Kennedy, Director of Services, Tipperary County Council, by virtue of the powers delegated to me in accordance with the provisions of Section 154 of the Local Government Act 2001, as amended by Schedule 1, Part 1 of the Local Government Reform Act 2014 under Chief Executive's Order No. 40781 dated 2nd January, 2025, hereby order that pursuant to the provisions of the Planning and Development Act 2000, as amended, that an application under Section 5 from Mr Aidan Kelly, Agri Design & Planning Services, Molough, Newcastle, Clonmel, Co. Tipperary re: the construction of a roofed structure for the housing of animals at Kilheffernan, Clonmel, Co. Tipperary is development and is 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 and 9 of the Planning and Development Regulations 2001, (as amended)
- Class 6 of Schedule 2 of Part 3 of the Planning and Development Regulations, 2001,
- the details pertaining to the development as set out by the querist.

Accordingly, having considered the information received the Planning Authority has determined that the construction of a roofed structure for the housing of animals at Kilheffernan, Clonmel, Co. Tipperary constitutes development and is considered to be "**exempted development**".

Signed: 

Sharon Kennedy
Director of Services
Planning and Development (including Town Centre First),
Emergency Services and Emergency Planning and
Tipperary/Cahir/Cashel Municipal District

Date: 22/01/2025