



***PLANNING & DEVELOPMENT ACT, 2000 (as amended)***

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

**1. Applicant's address/contact details:**

|                      |   |
|----------------------|---|
| <i>Applicant</i>     | Compass Child & Family Services CLG       |
| <i>Address</i>       | Unit 8A Convent Hill, Killaloe, Co. Clare |
| <i>Telephone No.</i> |   |
| <i>E-mail</i>        |   |

**2. Agent's (if any) address:**

|  |   |
|--|---|
| <i>Agent</i>   | P. Coleman & Associates                 |
| <i>Address</i>   | 5 Bank Place, Ennis, Co. Clare V95 HW27 |
| <i>Telephone No.</i>   |   |
| <i>E-mail</i>  |   |
| <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<br/>Townland or<br/>Location<br/>(as may best<br/>identify the land or<br/>structure in<br/>question)</i> | Gurtussa, Dundrum, Co. Tipperary E34YF65 |
|--|--|

#### 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.)

|   |
|---|
| Whether the change of use from a residential dwelling house to a care-in-the-community dwelling house is development or not development and, if it is development, whether it is exempted development |
|   |
|   |
|   |
| Proposed floor area of proposed works/uses: 303.99 sqm  |

#### 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   | B. Occupier <input checked="" type="checkbox"/> |
|   | C. Other   |   |
| <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>                   | Name: KJSH - Stiftung fur Kinder<br>Address: Jugend- und Soziale Hilfen<br>Hammer Stindamm 7 D-22089 Hamburg |   |

Signature of Applicant(s)

ate: 6th. October, 2025

**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 0818 06 5000**

**E-Mail [planning@tipperarycoco.ie](mailto:planning@tipperarycoco.ie)**

**FOR OFFICE USE ONLY**

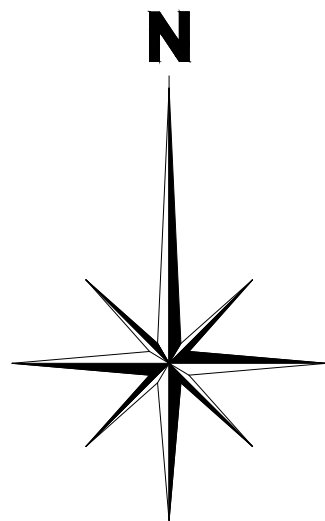
**DATE STAMP**

**Fee Recd. €** \_\_\_\_\_

Receipt No \_\_\_\_\_

Date \_\_\_\_\_

Receipted by \_\_\_\_\_

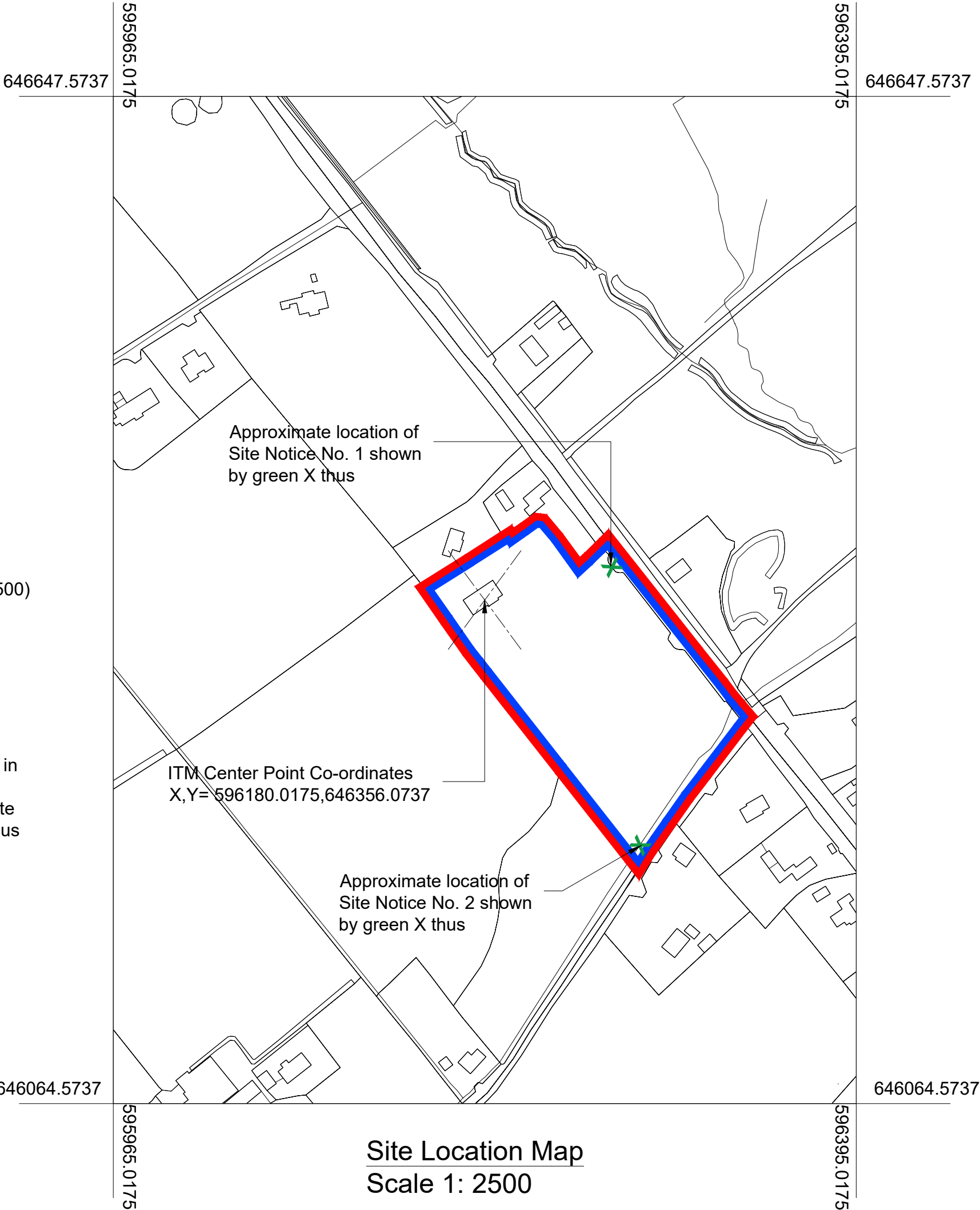


Reproduced from  
Ordnance Survey  
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Order No. 50474209

Part OS Map: 4938-C and 4938-A (1:2500)  
ITM Center Point Co-ordinates  
X,Y= 596180.0175,646356.0737

**NOTES:**

1. Site outlined in red
2. Total Landholding of the Applicant in the locality in-lined in blue.
3. The approximate location of the Site Notices are shown by a green X thus



**NOTES:**

1. All works to comply with the Building Regulations current at the date of commencement of the works.
2. No dimensions to be scaled from the drawing. Use figured dimensions only.
3. Any discrepancies in dimensions to be notified to the Architect prior to executing the works.
4. ©Michael Conroy Architects 2025.  
This drawing and any information hereon is copyright of Michael Conroy Architects and may not be reproduced without their written consent.
5. All drawings remain the property of the Architect.

|      |              |          |     |
|------|--------------|----------|-----|
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|      |              |          |     |
|      |              |          |     |
| *    | *****        | **--20** | **  |
| Rev. | Description: | Date:    | By: |



73 O'Connell Street,  
Limerick.  
Tel: 087-2368377  
email: michaelconroyarchitects@gmail.com

Project Title:  
**Change of Use and Alterations  
to an Existing Dwelling House at  
Gortussa, Dundrum,  
Co. Tipperary**

Client:  
**Compass Child & Family Services CLG**

Drawing Title:  
**Site Location Map**

|              |               |                   |
|--------------|---------------|-------------------|
| Project No.: | Drawing No.:  | Rev.              |
| <b>24121</b> | <b>P-00</b>   | <b>*</b>          |
| Drawn:       | Scale:        | Checked:          |
| <b>M.C.</b>  | <b>1:2500</b> | <b>M.C.</b>       |
|              |               | Date:             |
|              |               | <b>22-06-2025</b> |

## **Section 5 Referral Application**

**Application by Compass Child & Family Services CLG**

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

Compass Child & Family Services CLG

Issue: A

Customer Project Number: 7595

Customer Document Number:

## Document Sign Off

### Section 5 Referral Application

**Application by Compass Child & Family Services CLG    Whether the change of use from a residential dwelling house use to a care in the community dwelling house is development or not development and if development if it is exempted development?**

Issue A

File No: 7595

| CURRENT ISSUE |                           |                                      |          |               |                                 |
|---------------|---------------------------|--------------------------------------|----------|---------------|---------------------------------|
| Issue No: A   | Date: 26.09.25            | Reason for issue: Section 5 Referral |          |               |                                 |
| Sign Off      | Originator                | Checker                              | Reviewer | Approver      | Customer Approval (if required) |
| Print Name    | Mandy Coleman             | Mandy Coleman                        |          | Mandy Coleman |                                 |
| Signature     | Authorised Electronically |                                      |          |               |                                 |
| Date          | 26.09.25                  | 26.09.25                             |          | 26.09.25      |                                 |

| PREVIOUS ISSUES |      |            |         |          |          |          |                  |
|-----------------|------|------------|---------|----------|----------|----------|------------------|
| Issue No        | Date | Originator | Checker | Reviewer | Approver | Customer | Reason for issue |
|                 |      |            |         |          |          |          |                  |
|                 |      |            |         |          |          |          |                  |
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## 1.0 Introduction

This submission is made to Tipperary County Council under Section 5 of the Planning and Development Act 2000 (as amended) on behalf of our Client, Compass Child and Family Services CLG. The question to be determined is:

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

The question before the Planning Authority therefore has two distinct parts:

- Whether the change of use constitutes a material change of use and therefore “development” within the meaning of Section 3(1) of the Act; and
- If it does comprise development, whether the development is exempted development by reference to the Planning and Development Regulations 2001 (as amended).

## 2.0 Submission Details

**Submitter Name & Address**      Compass Child & Family Services CLG  
Unit 8A Convent Hill, Killaloe Co. Clare.

**Address for Correspondence**      Compass Child & Family Service CLG c/o P. Coleman & Associates, 5, Bank Place, Ennis, V95 HW27

## 3.0 Site Location and Context

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

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

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

## 4.0 Proposed Development and Nature of Proposed Use

The development consists of change of use of an existing dwelling to provide accommodation for a maximum of four children in care, with staff present in *loco parentis*.

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

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

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

Staffing is provided by a team of qualified social care workers managed locally and with access to professional supports as needed. These staff members are not medical or institutional personnel; their role is to provide consistency, guidance and nurturing care, acting in *loco parentis* for the children. Additional therapeutic supports, such as psychology or occupational therapy, can be accessed where required, but the home itself is not a medical facility.

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



## 5.0 Planning History

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

**2460389** – Permission granted for the construction of:

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

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

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

## 6.0 Statutory Provisions

### Planning and Development Act, 2000

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

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

**Section 3(1)** states that:

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

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

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

**Article 6(1)** provide that ‘subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1’.

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

**Article 10 (1)** states that development which consists of a change of use within any one of the classes of use specified in Part 4 of Schedule 2, shall be exempted development for the purposes of the Act, provided that the development, if carried out would not –

- involve the carrying out of any works other than works which are exempted development,
- contravene a condition attached to a permission under the Act,
- be inconsistent with any use specified or included in a permission, or
- be a development where the existing use is an unauthorised use, save where such change of use consists of the resumption of a use which is not unauthorised, and which has not been abandoned.

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

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

Conditions of exemption include:

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

## **7.0 Is the Change of Use Development?**

The first question is whether the proposed use of the house as a small-scale residential home for children in care constitutes a material change of use and therefore “development” within the meaning of Section 3(1) of the Planning and Development Act 2000 (as amended).

## **7.1 Domestic Character of the Use**

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

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

- families with or without children;
- families with foster children;
- groups of unrelated adults living together;
- households where residents require 24-hour care, provided by live-in or visiting carers; and
- households engaged in exempt uses such as bed-and-breakfast accommodation or childminding.

All of these arrangements may involve staff, carers or visitors coming and going and may give rise to increased activity and traffic. Yet they are consistently accepted as remaining within the definition of a dwellinghouse use and not amounting to a material change.

Of particular relevance are the express exemptions in the Planning and Development Regulations:

- Class 6 of Part 1, Schedule 2 permits the use of a house for bed-and-breakfast purposes, provided not more than four bedrooms are used for guest accommodation and the operation remains incidental to the use of the house as a residence. This can significantly increase comings and goings, traffic movements, and intensity of use — yet it is exempted development.
- Class 14(a) of Part 1, Schedule 2 allows the use of part of a house for childminding, where up to six children may be cared for, in addition to the children of the householder. This again results in additional daily traffic, drop-offs and pick-ups, but is expressly recognised as exempt.

These examples show that even when a dwelling accommodates groups of unrelated people or gives rise to patterns of traffic and activity that exceed ordinary family use, it is not treated as a material change of use.

The present proposal is directly comparable: four children living in the house, with three carers present during the day and two overnight, together with ordinary domestic trips to school, sports and community activities. This pattern of activity falls well within the scope of what is normal and legislatively accepted for a family home.

## 7.2 An Comisiún Pleanála (ACP) formally An Bord Pleanála (ABP) Precedents

This view is reinforced by a consistent line of ACP referral decisions and local authority declarations:

- **RL25.RL.2059** (Athlone, Westmeath): Residential care for four children. The Inspector found it to be institutional and therefore development. The Board disagreed, holding that the change of use, by reason of its nature and scale, did not constitute a material change and was not development.
- **PL29S.RL.243** (Eiscir Meadows, Offaly): Care for two children. The Board accepted the Inspector's recommendation that no material change of use had occurred.
- **18.RL.2552** (Drumbenagh, Monaghan): Care for three children with staff accommodation. The Inspector noted the house continued to resemble a family home, with domestic activity patterns, and concluded that the change of use was not material. The Board agreed.
- Cork County Council Ref. **R563/20** (Douglas, Cork): Change of use to a registered children's home determined to be not development.

These decisions establish a clear principle: the use of a house as a small-scale children's home, accommodating up to four children, does not amount to development (copies of the Orders are included in the Appendix to this submission).

## 7.3 Class 9 Exclusion

Part 4, Class 9 of Schedule 2 to the Regulations groups together institutional uses such as hospitals and nursing homes. Critically, Class 9(a) excludes the use of a house for that purpose. The effect is that when care is provided in a house, the use is not reclassified as an institutional use but remains within the ordinary residential sphere. This legislative choice reinforces the view that children's homes in houses are not institutional in planning terms.

## 7.4 Legislative Context – S.I. No. 397/1996

Further support comes from S.I. No. 397/1996 – Child Care (Standards in Children's Residential Centres) Regulations, 1996.

- These Regulations define a "children's residential centre" as *"any home or other institution for the residential care of children in the care of health boards or other children who are not receiving adequate care and protection."*
- Importantly, the definition excludes hospitals, institutions for children with physical/mental disabilities, and mental institutions.

The legislative intent is clear in that children's residential centres are legally distinct from medical or institutional care facilities. They are understood as homes, designed to replicate a family environment for children who cannot live with their own families.

It follows that it is a mischaracterisation to treat such a home as equivalent to institutional care.

## **7.5 Conclusion on Development**

Having regard to:

- the domestic character of the proposed use;
- the range of household uses and express exemptions already recognised in the Regulations (including B&Bs and childminding);
- the consistent body of An Bord Pleanála precedent;
- the exclusion of houses from Class 9; and
- the legislative treatment of children's residential centres as homes rather than institutions;

it is submitted that the change of use from a dwelling to a small-scale children's residential home does not constitute a material change of use.

Accordingly, we submit that the proposal is not development within the meaning of Section 3(1) of the Act.

## **8.0 If Development – Exempted Development**

Without prejudice to the foregoing submission that the proposed use does not constitute development, should the Planning Authority be minded to conclude that a material change of use has occurred and that the use is therefore development, it is submitted that such development is exempted development under Class 14(f), Part 1, Schedule 2 of the Planning and Development Regulations 2001 (as amended).

Class 14(f) provides:

*"The use of a house by not more than six persons living together, including a household where care is provided for persons with an intellectual or physical disability or mental illness, and persons providing care for such persons, shall be exempted development, where the number of resident carers shall not exceed 2."*

## **8.1 Application to the Present Case**

- The dwelling will accommodate four children, well below the six-person limit.
- Carers will be present on a shift basis, with three during the day and two at night, ensuring that no more than two staff members reside in the house at any one time.
- The model of care replicates a domestic household, with the children attending local schools and participating in community activities.

## **8.2 Consideration of ACP Case RL05E.322247**

It is acknowledged that in ACP case reference: RL05E.322247, the Inspector considered that children in care did not fall within the terms of Class 14(f) by reference to definitions in S.I. No. 397/1996. However, it is respectfully submitted that this interpretation was overly restrictive.

The 1996 Regulations define children's residential centres as *homes* for children in care, and explicitly distinguish them from hospitals, institutions for children with disabilities, and mental institutions. The legislative intent is that such centres are domestic in character and should not be treated as institutional.

## **8.3 Stress, Anxiety and Trauma as Mental Health Needs**

Children placed in care are invariably experiencing trauma, stress, anxiety or depression. These conditions are widely recognised as mental health needs, even if not formally diagnosed as psychiatric illness. On a purposive interpretation, Class 14(f) was clearly intended to extend to households accommodating vulnerable persons with such needs.

This approach was endorsed in ABP Ref. 18.RL.2552 (Drumbenagh, Monaghan), where the Inspector concluded that if the use were to be considered development, it would fall within Class 14(f), and that the exemption does not distinguish between severity of disability or illness.

## **8.4 Conclusion on Exemption**

Accordingly, should the Planning Authority determine, contrary to the primary submission, that the proposed use is development, it is submitted that the use falls within the scope of Class 14(f) and is therefore exempted development.

## **9.0 Conclusion**

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

Without prejudice to that primary submission, and only in the event that the Planning Authority were to disagree and consider the proposal to be development, it is further submitted that it qualifies as exempted development under Class 14(f), Part 1, Schedule 2 of the Planning and Development Regulations 2001 (as amended). The number of children to be accommodated is below the statutory threshold, the number of carers resident at

any time will not exceed two, and the children's needs — arising from stress, trauma and anxiety — fall within the scope of the exemption.

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

# **Appendix A**

## **Referral Decisions**

### **An Bord Pleanála**



PLANNING AND DEVELOPMENT ACTS, 2000 TO 2002

**Westmeath County**

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

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

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

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

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

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

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

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

**Dated this                      day of                      2003.**



# An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2006

Offaly County

Register Reference Number: 07/3

An Bord Pleanála Reference Number: 19.RL.2430

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

**AND WHEREAS** Fresh Start care of David Durney of Raffeen House, Monkstown, Cork requested a declaration on the said question from Offaly County Council and the said Council issued a declaration on the 27<sup>th</sup> day of March, 2007 stating that the said development was development and was not exempted development:

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

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

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

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

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

#### **MATTERS CONSIDERED**

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

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

**Dated this            day of            2007.**

# An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2007

## Monaghan County

An Bord Pleanála Reference Number: 18.RL.2552

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

**AND WHEREAS** the said question was referred to An Bord Pleanála by Monaghan County Council on the 7<sup>th</sup> day of July, 2008:

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

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

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

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

#### **MATTERS CONSIDERED**

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

---

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

**Dated this            day of            2009.**



**Comhairle Cathrach Chorcaí**  
**Cork City Council**

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

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

19<sup>th</sup> March, 2020

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

Dear Sir/Madam,

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


Having regard to:

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

the Planning Authority considers that –

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

Yours faithfully,

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



Comhairle Contae Thiobraid Árann  
Tipperary County Council

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

Comhairle Contae  
Thiobraid Árann,  
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**Date: 9<sup>th</sup> October 2025    Our Ref: S5/25/129    Civic Offices, Clonmel**

Compass Child & Family Services CLG  
Unit 8A  
Convent Hill  
Killaloe  
Co. Clare

**Re: Application for a Section 5 Declaration – whether the change of use from a residential dwelling house to a care in the community dwelling house is a development or not development and, if it is development, whether it is exempted development at Gurtussa, Dundrum, Co. Tipperary E34 YF65**

Dear Sir/Madam

I acknowledge receipt of your application for a Section 5 Declaration received on 7<sup>th</sup> October 2025, 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

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|                              |   |
|------------------------------|---|
| <b>Planning Reference:</b>   | S5/25/129   |
| <b>Applicant:</b>            | Compass Child & Family Services CLG   |
| <b>Development Address:</b>  | Gurtussa, Dundrum, Co. Tipperary E34YF65  |
| <b>Proposed Development:</b> | To change the use from a residential dwelling house to a care-in-the-community dwelling house |

---

#### **1. GENERAL**

On the 7<sup>th</sup> of October 2025 a request was made for a declaration under Section 5 of the Planning and Development Act, 2000 as amended by Compass Child & Family Services CLG in respect of the following development at Gurtussa, Dundrum, Co. Tipperary.

- A change the use from a residential dwelling house to a care-in-the-community dwelling house

The application is accompanied by the following;

- Cover Letter
- Application form
- Site Location Map
- Section 5 application Planning Report

#### **2. STATUTORY PROVISIONS**

The following statutory provisions are relevant to this case;

Section 2 (1) of the Planning and Development Act 2000, as amended, states as follows:

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

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 4 of the Planning and Development Act 2000, as amended, provides for Exempted Development and Section 4(1) sets out works which shall be exempted development for the purposes of this act. Section 4(2) (a) of the same Act states that 'the Minister may by regulations provide for any class of development to be exempted development for the purposes of this Act.

The Planning and Development Regulations 2001 (as amended) contain the following relevant provisions;

Article 5 (Definitions)

"care" means personal care, including help with physical, intellectual, or social needs.

Article 6 (Exempted Development)

- (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 sets out Restrictions on Exemptions.

Article 10 (1) states that development which consists of a change of use within any one of the classes of use specified in Part 4 of Schedule 2, shall be exempted development for the purposes of the Act, provided that the development, if carried out would not –

- (a) involve the carrying out of any works other than works which are exempted development,
- (b) contravene a condition attached to a permission under the Act,
- (c) be inconsistent with any use specified or included in a permission, or
- (d) be a development where the existing use is an unauthorised use, save where such change of use consists of the resumption of a use which is not unauthorised, and which has not been abandoned

*Schedule 2 Part 1*

*Change of use*

CLASS 14

Development consisting of a change of use—

- |   |   |
|---|---|
| (f) from use as a house, to use as a residence for persons with an intellectual or physical disability or mental illness and persons providing care for such persons. | The number of persons with an intellectual or physical disability or a mental illness living in any such residence shall not exceed 6 and the number of resident carers shall not exceed 2. |
|---|---|

**SI No. 397/1996 - Child Care (Standards in Children's Residential Centres) Regulations, 1996**

Part I (Preliminary Provisions) Section 3 (Definitions) states that in these Regulations: -

"children's residential centre" means any home or other institution for the residential care of children in the care of health boards or other children who are not receiving adequate care and protection excluding –

- (a) an institution managed by or on behalf of a Minister of the Government or a health board,
- (b) an institution in which a majority of the children being maintained are being treated for acute illnesses,
- (c) an institution for the care and maintenance of physically or mentally handicapped children,
- (d) a mental institution within the meaning of the Mental Treatment Acts, 1945 to 1966,
- (e) an institution which is a "certified school" within the meaning of Part IV of the Children Act, 1908, functions in relation to which stand vested in the Minister for Education;



### **3. ASSESSMENT**

#### **a. Site Location**

The site is located at Gurtussa, Dundrum, Co. Tipperary E34YF65. There is an existing dwelling on the site.

#### **b. Relevant Planning History**

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

2460389 – Permission granted for the construction of: a) single-storey extension to the side of the existing dwelling b) a domestic garage and carport to the rear of the existing dwelling; and c) the refurbishment and alterations of the existing dwelling and all associated works (not implemented).

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

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

#### **c. Assessment**

##### **A) “Is or is not Development”**

Section 3 of the Act defines development as ‘the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land’. As defined in section 2(1) of the Act, works include “any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal”. It is apparent from the information contained on file that no physical ‘works’ are to be undertaken as part of the proposed development. Whilst no works are to be undertaken, the change of use from use as a private dwelling house to use as a residential care home for children in social care represents a material change of use of the structure, and as such, I am satisfied that the proposal constitutes development

##### **B) “Is or is not Exempted Development”**

There is an exemption under Class 14 (f) of Part 1 of Schedule 2 Planning & Development Regulations 2001, as amended for development consisting of a change of use:

from use as a house, to use as **a residence for persons with an intellectual or physical disability or mental illness** and persons providing care for such persons.

This exemption is subject to the following limitation:

The number of persons with an intellectual or physical disability or a mental illness living in any such residence shall not exceed 6 and the number of resident carers shall not exceed 2.

The details provided with the Declaration application and associated report state that:

- The development consists of change of use of an existing dwelling to provide accommodation for a maximum of four children in care, with staff present in loco parentis.
- The model of care is explicitly non-institutional and is designed to replicate the routines and relationships of an ordinary household.

- The children share the home with staff in a way that mirrors family life: cooking, eating, recreation and household activities all take place within a shared living space.
- Children placed in the home are all from home environments whose parents are unable to care for them.
- Typically, the children will be aged between 13–17 years, though placements of younger children may occasionally be directed by the courts. All placements are made by Tusla, the Child and Family Agency, under the Child Care Act.
- Staffing is provided by a team of qualified social care workers managed locally and with access to professional supports as needed.
- These staff members are not medical or institutional personnel; their role is to provide consistency, guidance and nurturing care, acting in loco parentis for the children.
- Overall, the proposed development represents the continued use of a dwelling as a domestic household environment where children in care can live in a stable, supportive and community-integrated setting. It is deliberately distinct from healthcare or institutional facilities such as nursing homes, hospitals or residential treatment centres, and aligns instead with the principle of children being cared for in ordinary homes within their local communities.

The contents of the report are noted. However, it is clear from the application and details provided, that the proposal includes the change of use of the dwelling from a residence to a Social Care unit, described in the development description as a 'care-in-the-community dwelling'.

The exemption available under Class 14 (f) of Part 1 Schedule 2 of the Planning and Development Regulations 2001 (as amended) is for residences for persons with an intellectual or physical disability or mental illness and their care providers.

Section 3 of Part I of the Child Care (Standards in Children's Residential Centres) Regulations, 1996, defines a "children's residential center" as any home or institution for the residential care of children in the care of health boards or other children who are not receiving adequate care and protection. However, the Regulations specifically exclude "an institution for the care and maintenance of physically or mentally handicapped children". This definition of a residential care centre for children in the care of the state and its associated restrictions, indicates that a residential care facility for children under social care placements is not the same as a residence for persons with an intellectual or physical disability or mental illness which specifically lies within the exemption provided under per Class 14(f).

The Class 14(f) exemption does not therefore extend to children under social care placements. This view is as determined by An Bord Coimisiún in recent referral case Reference: RL05E.322247 by reason that the service users (children in care) did not meet the conditions associated with the exemption by specific reason the definitions under SI No. 397/1996 - Child Care Regulations, 1996.

Having regard to the foregoing, and having regard to the definition of "care" under Article 5(1) of the Planning and Development Regulations, the exemption provided under Class 14(f) of Part 1 of Schedule 2 of the Regulations, and the definition of "children's residential center" and associated restrictions, and in particular item (c) under Section 3 of Part I of the Child Care (Standards in Children's Residential Centres) Regulations 1996, I am satisfied that the exemption provided for under Class 14(f) does not apply, and that the proposed development, which comprises a change of use, does not constitute exempted development.

C) Whether the exemption is restricted under Article 9 of the Planning & Development Regulations 2001, as amended.

Article 9 of the Regulations sets out Restrictions on Exemptions and states:

Development to which Article 6 relates shall not be exempted development for the purposes of the Act—

(a) if the carrying out of such development would—

(i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,

(iii) 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.

I have examined the planning history for the site and confirm that the development does not contravene any condition attached to any grant of permission. The exemption is not restricted under Article 9 (a) (i).

I am satisfied that the development would not endanger public safety by reason of traffic hazard or obstruction of road users. The exemption is not restricted under Article 9 (a) (ii).

Article 9 places a restriction on the Class 14 exemption if the carrying out of such development would—

(viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use.

The structure on site is not considered to be unauthorised.

D) Requirement for Appropriate Assessment (AA) and Environmental Impact Assessment (EIA)

The proposal has been screened as to the requirements for AA and the screening assessment (attached) considers that the proposal does not impact on any Natura 2000 site.

The proposed development is not a type of development included for under Schedule 5 of the Planning and Development Regulations 2001, as amended. EIA is not required in respect of the development. See attached.

**4. RECOMMENDATION**

A question has arisen as to whether the change of use from an existing dwelling at Gurtussa, Dundrum, Co. Tipperary E34YF65 to use as a care-in-the-community dwelling house constitutes “development” and if so if it is “exempted development”.

Tipperary County Council, in considering this proposal had regard particularly to –

- (a) Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended)
- (b) Article 5, 6 & 9 of the Planning and Development Regulations 2001, as amended,
- (c) Class 14 (f) of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended)

(d) Section 3 of Part I of Child Care (Standards in Children's Residential Centres) Regulations, 1996 (SI No. 397/1996),

Tipperary County Council, in exercise of the powers conferred on it by section 5(2)(a) of the 2000 Act, as amended, it is hereby decided that the change of use from an existing dwelling at Gurtussa, Dundrum, Co. Tipperary E34YF65 to use as a care-in-the-community dwelling house constitutes a material change of use and "development" within the meaning of the Planning and Development Act 2000, as amended and is **NOT "exempted development"** as it does not avail of an exemption under Class 14(f) of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended).

**Assistant Planner:**

Aife Martin

**Date:** 21/10/2025

C. Conway

**Senior Executive Planner:**

**Date:** 21.10.2025

## HABITATS DIRECTIVE APPROPRIATE ASSESSMENT (AA) SCREENING REPORT

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

|  |                        |
|--|------------------------|
| (a) File Reference No:   | S5/25/129              |
| (b) Brief description of the project or plan:                            | As per Planners Report |
| (c) Brief description of site characteristics:                           | As per Planners Report |
| (d) Relevant prescribed bodies consulted:<br>e.g. DHLGH (NPWS), EPA, OPW | None                   |
| (e) Response to consultation:  | None                   |

### 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 <sup>1</sup>                                      | Distance from proposed development <sup>2</sup> (km) | Connections (Source-Pathway-Receptor) | Considered further in screening Y/N |
|--|---|--|---------------------------------------|-------------------------------------|
| Lower River Suir                         | <a href="https://www.npws.ie/protected-sites/sac/002137">https://www.npws.ie/protected-sites/sac/002137</a> | Within 10km  | None                                  | No                                  |
| Anglesey Road                            | <a href="https://www.npws.ie/protected-sites/sac/002125">https://www.npws.ie/protected-sites/sac/002125</a> | Within 10km  | None                                  | No                                  |
| Philipstown Marsh                        | <a href="https://www.npws.ie/protected-sites/sac/001847">https://www.npws.ie/protected-sites/sac/001847</a> | Within 10km  | None                                  | No                                  |
| Lower River Shannon                      | <a href="https://www.npws.ie/protected-sites/sac/002165">https://www.npws.ie/protected-sites/sac/002165</a> | Within 10km  | None                                  | No                                  |
| SLIEVEFELIM TO SILVERMINES MOUNTAINS SPA | <a href="https://www.npws.ie/protected-sites/spa/004165">https://www.npws.ie/protected-sites/spa/004165</a> | Within 15km  | None                                  | No                                  |

### 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:

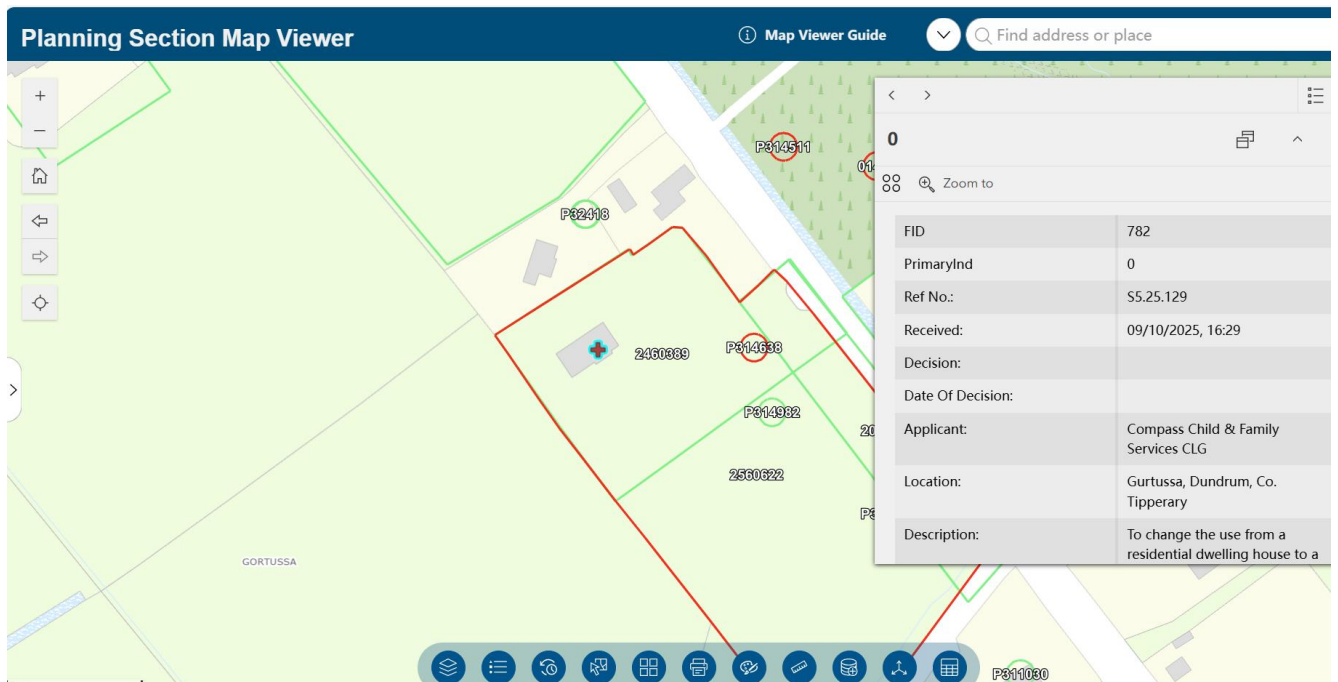
| Impacts:  | Possible Significance of Impacts: (duration/magnitude etc.) |
|---|---|
| <b>Construction phase e.g.</b> <ul style="list-style-type: none"> <li>Vegetation clearance</li> <li>Demolition</li> <li>Surface water runoff from soil excavation/infill/landscaping (including borrow pits)</li> <li>Dust, noise, vibration</li> </ul> | No potential impacts. Change of use only                    |

| <ul style="list-style-type: none"> <li>• Lighting disturbance</li> <li>• Impact on groundwater/dewatering</li> <li>• Storage of excavated/construction materials</li> <li>• Access to site</li> <li>• Pests</li> </ul>   |   |                      |                 |                                     |  |
|--|---|----------------------|-----------------|-------------------------------------|--|
| <b>Operational phase e.g.</b> <ul style="list-style-type: none"> <li>• Direct emission to air and water</li> <li>• Surface water runoff containing contaminant or sediment</li> <li>• Lighting disturbance</li> <li>• Noise/vibration</li> <li>• Changes to water/groundwater due to drainage or abstraction</li> <li>• Presence of people, vehicles and activities</li> <li>• Physical presence of structures (e.g. collision risks)</li> <li>• Potential for accidents or incidents</li> </ul>   | No potential impacts. Change of use only  |                      |                 |                                     |  |
| <b>In-combination/Other</b>  | No potential impacts  |                      |                 |                                     |  |
| <b>(b) Describe any likely changes to the European site:</b>   |   |                      |                 |                                     |  |
| Examples of the type of changes to give consideration to include: <ul style="list-style-type: none"> <li>• Reduction or fragmentation of habitat area</li> <li>• Disturbance to QI species</li> <li>• Habitat or species fragmentation</li> <li>• Reduction or fragmentation in species density</li> <li>• Changes in key indicators of conservation status value (water or air quality etc.)</li> <li>• Changes to areas of sensitivity or threats to QI</li> <li>• Interference with the key relationships that define the structure or ecological function of the site</li> </ul> | No potential impacts  |                      |                 |                                     |  |
| <b>(c) Are 'mitigation' measures necessary to reach a conclusion that likely significant effects can be ruled out at screening?</b>  |   |                      |                 |                                     |  |
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No  |   |                      |                 |                                     |  |
| <b>STEP 4. Screening Determination Statement</b>   |   |                      |                 |                                     |  |
| <b>The assessment of significance of effects:</b><br>Describe how the proposed development (alone or in-combination) is/is <b>not likely</b> to have <b>significant</b> effects on European site(s) in view of its conservation objectives.  |   |                      |                 |                                     |  |
| The proposed development is not likely to have significant effects.  |   |                      |                 |                                     |  |
| <b>Conclusion:</b>   |   |                      |                 |                                     |  |
|  | <table border="1"> <thead> <tr> <th>Tick as Appropriate:</th> <th>Recommendation:</th> </tr> </thead> <tbody> <tr> <td><input checked="" type="checkbox"/></td> <td>The proposal can be screened out: Appropriate assessment not required.</td> </tr> </tbody> </table> | Tick as Appropriate: | Recommendation: | <input checked="" type="checkbox"/> | The proposal can be screened out: Appropriate assessment not required. |
| Tick as Appropriate:   | Recommendation:   |                      |                 |                                     |  |
| <input checked="" type="checkbox"/>  | The proposal can be screened out: Appropriate assessment not required.  |                      |                 |                                     |  |
| (i) It is clear that there is <b>no likelihood</b> of significant effects on a European site.  |   |                      |                 |                                     |  |

|   |                          |   |
|---|--------------------------|---|
| (ii) It is <b>uncertain</b> whether the proposal will have a significant effect on a European site. | <input type="checkbox"/> | <input type="checkbox"/> Request further information to complete screening<br><input type="checkbox"/> Request NIS<br><input type="checkbox"/> Refuse planning permission |
| (iii) <b>Significant effects</b> are likely.  | <input type="checkbox"/> | <input type="checkbox"/> Request NIS<br><input type="checkbox"/> Refuse planning permission   |

| EIA Pre-Screening<br>Establishing a development is a 'sub-threshold development'  |  |
|---|--|
| <b>File Reference:</b>  | S5/25/129  |
| <b>Development Summary:</b>   | As per Planners Report   |
| <b>Was a Screening Determination carried out under Section 176A-C?</b>  | <input type="checkbox"/> Yes, no further action required<br><br><input checked="" type="checkbox"/> No, Proceed to <b>Part A</b> |
| <b>A. Schedule 5 Part 1</b> - Does the development comprise a project listed in Schedule 5, <b>Part 1</b> , of the Planning and Development Regulations 2001 (as amended)?<br>(Tick as appropriate)   |  |
| <input type="checkbox"/> Yes, specify class _____   | <b>EIA is mandatory</b><br><br>No Screening required   |
| <input checked="" type="checkbox"/> No  | Proceed to <b>Part B</b>   |
| <b>B. Schedule 5 Part 2</b> - Does the development comprise a project listed in Schedule 5, <b>Part 2</b> , of the Planning and Development Regulations 2001 (as amended) <b>and</b> does it meet/exceed the thresholds?<br>(Tick as appropriate) |  |
| <input checked="" type="checkbox"/> No, the development is not a project listed in Schedule 5, Part 2   | <b>No Screening required</b>   |
| <input type="checkbox"/> Yes the project is listed in Schedule 5, Part 2 <b>and</b> meets/exceeds the threshold, specify class (including threshold):<br>_____  | <b>EIA is mandatory</b><br><br>No Screening required   |
| <input type="checkbox"/> Yes the project is of a type listed <b>but</b> is <i>sub-threshold</i> :<br>_____  | Proceed to <b>Part C</b>   |
| <b>C. If Yes, has Schedule 7A information/screening report been submitted?</b>  |  |
| <input type="checkbox"/> Yes, Schedule 7A information/screening report has been submitted by the applicant  | <b>Screening required</b> <b>Determination</b>   |
| <input type="checkbox"/> No, Schedule 7A information/screening report has not been submitted by the applicant   | <b>Preliminary Examination required</b>  |





*S5.25.129 mapped on the Planning Register*



Comhairle Contae Thiobraid Árann  
Tipperary County Council

Comhairle Contae  
Thiobraid Árann,  
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tipperarycoco.ie

Date: 22<sup>nd</sup> October 2025

Our Ref: S5/25/129

Civic Offices, Nenagh

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

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

Dear Sir/Madam,

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

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

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

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

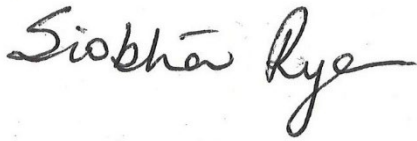
- a) Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended)
- b) Article 5, 6 & 9 of the Planning and Development Regulations 2000, as amended,
- c) Class 14 (f) of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended)
- d) Section 3 of Part I of Child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

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

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

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

Yours faithfully

A handwritten signature in black ink, reading "Siobhán Rye". The signature is written in a cursive style with a long, sweeping tail on the letter 'y'.

---

for **Director of Services**

**Original**

**TIPPERARY COUNTY COUNCIL**

**DELEGATED EMPLOYEE'S ORDER**

File Ref: **S5/25/129**

**Delegated Employee's Order No:** \_\_\_\_\_

**SUBJECT: Section 5 Declaration**

I, Brian Beck, 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. 44188 dated 3<sup>rd</sup> October, 2025, hereby order that pursuant to the provisions of the Planning and Development Act 2000, as amended, that an application under Section 5 from Compass Child & Family Services CLG, Unit 8A, Convent Hill, Killaloe, Co. Clare, re: To change the use from a residential dwelling house to a care-in-the-community dwelling house at Gurtussa, Dundrum, Co. Tipperary E34YF65 is development and is exempted development.

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

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

Tipperary County Council, in exercise of the powers conferred on it by section 5(2)(a) of the 2000 Act, as amended, it is hereby decided that the change of use from an existing dwelling at Gurtussa, Dundrum, Co. Tipperary E34YF65 to use as a care-in-the-community dwelling house constitutes a material change of use and "development" within the meaning of the Planning and Development Act 2000, as amended and is **NOT "exempted development"** as it does not avail of an exemption under Class 14(f) of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended).

**Signed:**

  
**Brian Beck**  
**Director of Services**

**Date: 22/10/2025**