



Comhairle Contae Thiobraid Árann
Tipperary County Council



Tipperary County Council
RECEIVED
02 APR 2026
CSD
Civic Offices, Clonmel

PLANNING & DEVELOPMENT ACT, 2000 (as amended)

Application for a Section 5 Declaration
Development / Exempted Development

1. Applicant's address/contact details:

Applicant	NIGEL KENNY
Address	V94 ER86
Telephone No.	[REDACTED]
E-mail	[REDACTED]

2. Agent's (if any) address:

Agent	
Address	
Telephone No.	
E-mail	
Please advise where all correspondence in relation to this application is to be sent;	
Applicant [<input checked="" type="checkbox"/>]	Agent [<input type="checkbox"/>]

3. Location of Proposed Development:

Postal Address or Townland or Location (as may best identify the land or structure in question)	V94 ER86
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TIPPERARY CO. COUNCIL
RECEIVED
02 APR 2026
PLANNING SECTION
FILE NO. 55.26.46

4. **Development Details:** CLASS 10 Exempted Development - Rural

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.)

Erection of an unrooted fence around for the exercising of horses together with a drainage bed or soft surface material to provide an all weather surface. For private use only
Proposed floor area of proposed works/uses: 1800sqm

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

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

Signature of Applicant(s)



Date: 3/3/26

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	<u>OR</u>	Planning Section, Tipperary County Council, Civic Offices, Emmet Street, Clonmel, Co. Tipperary
Enquires:		
Telephone 0818 06 5000		
E-Mail planning@tipperarycoco.ie		

FOR OFFICE USE ONLY	
Fee Recd. € <u>80</u>	DATE STAMP
Receipt No <u>136258</u>	TIPPERARY CO. COUNCIL RECEIVED 02 APR 2026 PLANNING SECTION FILE NO. <u>55.26.46</u>
Date <u>31/3/26</u>	
Received by _____	

PART 3

Article 6

Exempted Development — Rural

Column 1 Description of Development	Column 2 Conditions and Limitations
<p><i>Limited use for camping</i></p> <p>CLASS 1 Temporary use of any land for the placing of any tent, campervan or caravan or for the mooring of any boat, barge or other vessel used for the purpose of camping.</p>	<p>1. Not more than one tent, campervan or caravan shall be placed within 100 metres of another tent, campervan or caravan at any time.</p> <p>2. No tent, campervan, caravan or vessel shall remain on the land for a period greater than 10 days.</p> <p>3. No tent, campervan, caravan or vessel shall be used for the storage, display, advertisement or sale of goods or for the purposes of any business.</p> <p>4. No tent, campervan or caravan shall be placed on land within 50 metres of any public road unless the land is enclosed by a wall, bank or hedge, or any combination thereof, having an average height of not less than 1.5 metres.</p>
<p>CLASS 2 Temporary use of land by a scouting organisation for a camp.</p>	<p>The land shall not be used for such purposes for any period or periods exceeding 30 days in any year.</p>
<p><i>Minor works and structures</i></p> <p>CLASS 3 Works relating to the construction or maintenance of any gully, drain, pond, trough, pit or culvert, the widening or deepening of watercourses, the removal of obstructions from watercourses and the making or repairing of embankments in connection with any of the foregoing works.</p>	

<p>CLASS 4 The construction or erection of any wall or fence, other than a fence of sheet metal, or a wall or fence within or bounding the curtilage of a house.</p>	<ol style="list-style-type: none"> 1. The height of the wall or fence, other than a fence referred to in paragraph 2, shall not exceed 2 metres. 2. The height of any fence for the purposes of deer farming or conservation shall not exceed 3 metres.
<p><i>Minerals and petroleum prospecting</i></p> <p>CLASS 5 (a) The carrying out of works on any land for the purpose of minerals prospecting and the erection or placing on land of any structures required for that purpose, where the prospecting is carried out pursuant to and in accordance with the terms and conditions of a licence, lease or permission granted by the Minister for the Marine and Natural Resources under the Minerals Development Acts, 1940 to 1999.</p> <p>(b) The carrying out of works on any land for the purpose of searching for petroleum and the erection or placing on land of any structures required for that purpose, where the searching is carried out pursuant to and in accordance with the terms and conditions of an exploration licence, a petroleum prospecting licence or a reserved area licence granted by the Minister for the Marine and Natural Resources under the Petroleum and Other Minerals Development Act, 1960 (No. 7 of 1960).</p>	
<p><i>Agricultural Structures</i></p> <p>CLASS 6 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.</p>	<ol style="list-style-type: none"> 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

	<p>metres of that complex shall not exceed 300 square metres gross floor space in aggregate.</p> <p>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.</p> <p>4. No such structure shall be situated, and no effluent from such structure shall be stored, within 10 metres of any public road.</p> <p>5. No such structure within 100 metres of any public road shall exceed 8 metres in height.</p> <p>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.</p> <p>7. No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.</p>
<p>CLASS 7 Works consisting of the provision of a roofed structure for the housing of pigs, mink or poultry, having a gross floor space not exceeding 75 square metres (whether or not by extension of an existing structure), and any ancillary provision for effluent storage.</p>	<p>1. No such structure shall be used for any purpose other than the purpose of agriculture.</p> <p>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</p>

	<p>exceed 100 square metres gross floor space in aggregate.</p> <p>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.</p> <p>4. No such structure shall be situated, and no effluent from such structure shall be stored, within 10 metres of any public road.</p> <p>5. No such structure within 100 metres of any public road shall exceed 8 metres in height.</p> <p>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.</p> <p>7. No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.</p> <p>8. Boundary fencing on any mink holding must be escape-proof for mink.</p>
<p>CLASS 8 Works consisting of the provision of roofless cubicles, open loose yards, self-feed silo or silage areas, feeding aprons, assembly yards, milking parlours or structures for the making or storage of silage or any other structures of a similar character</p>	<p>1. No such structure shall be used for any purpose other than the purpose of agriculture.</p> <p>2. The gross floor space of such structures together with any other such</p>

<p>or description, having an aggregate gross floor space not exceeding 200 square metres, and any ancillary provision for effluent storage.</p>	<p>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.</p> <p>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 the Department of the Environment and Local Government requirements and shall have regard to the need to avoid water pollution.</p> <p>4. No such structure shall be situated, and no effluent from such structure shall be stored, within 10 metres of any public road.</p> <p>5. No such structure within 100 metres of any public road shall exceed 8 metres in height.</p> <p>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.</p> <p>7. No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.</p>
<p>CLASS 9 Works consisting of the provision of any store, barn, shed, glass-house or other structure, not being of a type specified in class 6, 7 or 8 of this Part of this Schedule, and having a gross floor space not exceeding 300 square metres.</p>	<p>1. No such structure shall be used for any purpose other than the purpose of agriculture or forestry, but excluding the housing of animals or the storing of effluent.</p>

	<p>2. The gross floor space of such structures together with any other such structures situated within the same farmyard complex or complex of such structures or within 100 metres of that complex shall not exceed 900 square metres gross floor space in aggregate.</p> <p>3. No such structure shall be situated within 10 metres of any public road.</p> <p>4. No such structure within 100 metres of any public road shall exceed 8 metres in height.</p> <p>5. No such structure shall be situated 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.</p> <p>6. No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.</p>
<p>CLASS 10 The erection of an unroofed fenced area for the exercising or training of horses or ponies, together with a drainage bed or soft surface material to provide an all-weather surface.</p>	<p>1. No such structure shall be used for any purpose other than the exercising or training of horses or ponies.</p> <p>2. No such area shall be used for the staging of public events.</p> <p>3. No such structure shall be situated within 10 metres of any public road, and no entrance to such area shall be directly off any public road.</p> <p>4. The height of any such structure shall not exceed 2 metres.</p>
<p><i>Land Reclamation</i></p> <p>CLASS 11 Development consisting of the carrying out,</p>	

<p>on land which is used only for the purpose of agriculture or forestry, of any of the following works—</p> <ul style="list-style-type: none"> (a) field drainage, (b) land reclamation, (c) the removal of fences, (d) the improvement of existing fences, (e) the improvement of hill grazing, or (f) the reclamation of estuarine marsh land or of callows, where the preservation of such land or callows is not an objective of a development plan for the area. 	
<p><i>Miscellaneous</i></p> <p>CLASS 12 Works consisting of the provision of a roofed structure for housing greyhounds, having a gross floor space not exceeding 50 square metres (whether or not by extension of an existing structure), and any ancillary provision for effluent storage.</p>	<ol style="list-style-type: none"> 1. No such structure shall be used for any purpose other than the keeping of greyhounds. 2. The gross floor space of such structure together with any other such structures situated within a premises or within 100 metres of that premises shall not exceed 75 square metres gross floor space in aggregate. 3. Effluent storage facilities adequate to serve the structure having regard to its size, use, location and the need to avoid water pollution shall be provided. 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.
<p>CLASS 13 Works consisting of the provision, for any purpose in connection with the keeping of greyhounds, of a roofless hard-surfaced yard, or of a roofless hard-surfaced enclosed area, having an area not exceeding 100 square metres (whether or not by extension of an existing yard or area) and any ancillary provision for effluent storage.</p>	<p>1. The gross floor space of such structure or structures together with any other such structures situated within the same complex or within 100 metres of that complex shall not exceed 150 square metres gross floor space in aggregate.</p> <p>2. Effluent storage facilities adequate to serve the structure having regard to its size, use, location and the need to avoid water pollution shall be provided.</p> <p>3. No such structure shall be situated, and no effluent from such structure shall be stored, within 10 metres of any public road.</p> <p>4. 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.</p>
<p><i>Intensive agriculture</i></p> <p>Class 14 The use of uncultivated land or semi-natural areas for intensive agricultural purposes.</p>	<p>The area involved shall be less than 100 hectares.</p>
<i>Afforestation</i>	

<p>CLASS 15 Initial afforestation.</p>	
<p>CLASS 16 Replacement of broadleaf high forest by conifer species.</p>	<p>The area involved shall be less than 10 hectares.</p>
<p><i>Peat extraction.</i></p> <p>CLASS 17 (a) Peat extraction in a new or extended area of less than 10 hectares.</p> <p>(b) Peat extraction in a new or extended area of 10 hectares or more, where the drainage of the bogland commenced prior to the coming into force of these Regulations.</p>	



Comhairle Contae Thiobraid Árann
Tipperary County Council

Comhairle Contae
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Oifigí Cathartha,
Cluain Meala,
Co. Thiobraid Árann
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Date: 7th April 2026

Our Ref: S5/26/46

Civic Offices, Clonmel

**Nigel Kenny
Derrycastle Stud,
Derry Demesne,
Ballina,
Co. Tipperary.**

Re: Application for a Section 5 Declaration – Erection of an unroofed fence arena for the exercising of horses together with a drainage bed or soft surface material to provide an all-weather surface for private use only at Derrycastle Stud, Derry Demesne, Ballina, Co. Tipperary, V94 ER86.

Dear Mr. Kenny,

I acknowledge receipt of your application for a Section 5 Declaration received on 2nd April 2026 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.:	S5/26/46
Applicant:	Nigel Kenny
Development Address:	Derry Demesne, Ballina, Co. Tipperary
Proposed Development:	Erection of an unroofed fence arena for the exercising of horses together with a drainage bed or soft surface material to provide an all-weather surface for private use only.

1. GENERAL

On 02/04/2026, a request was made for a declaration under Section 5 of the Planning and Development Act, 2000 as amended by Nigel Kenny as to whether or not the following works constitute development and if so, whether same was exempted development:

- Erection of an unroofed fence arena for the exercising of horses together with a drainage bed or soft surface material to provide an all-weather surface for private use only.

2. STATUTORY PROVISIONS

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.

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

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

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

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.

Class 10, Schedule 2, Part 3 of the Planning and Development Regulations 2001, as amended sets out an exemption for:

The erection of an unroofed fenced area for the exercising or training of horses or ponies, together with a drainage bed or soft surface material to provide an all-weather surface.

This exemption is subject to the following conditions/limitations:

- 1. No such structure shall be used for any purpose other than the exercising or training of horses or ponies.*
- 2. No such area shall be used for the staging of public events.*
- 3. No such structure shall be situated within 10 metres of any public road, and no entrance to such area shall be directly off any public road.*
- 4. The height of any such structure shall not exceed 2 metres.*

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—
 - (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,
 - (viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site.
 - (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.
 - (xi) obstruct any public right of way.

3. ASSESSMENT

a. Site Location

The site is located at Derry Demesne, approximately 3km north of Ballina. It is accessed from the R494. The lands at this location fall away from the public road, towards the lake.

b. Relevant Planning History

On site:

21/784 Planning permission granted for the construction of dwelling house, treatment system and percolation area, and all ancillary site works, also demolition of existing entrance and boundary wall and construction of new similar entrance and boundary wall set back from the road edge, NIS submitted with the application

19/600064 Planning permission refused to Nigel Kenny - single storey, split level dwelling, the demolition and reconstruction of the existing boundary wall to the R494, the widening of the existing entrance, the construction of a new access driveway, the installation of a proprietary waste water treatment system and ancillary works

18/60/0835 Withdrawn - Application by Nigel Kenny for the construction of a single storey, split level dwelling, the demolition and reconstruction of the existing boundary wall to the R464, the widening of the existing entrance, the construction of a new access driveway, the installation of a proprietary waste water treatment system and ancillary works

11/51/0078 Granted - Permission granted to N Kenny for construction of a recessed entrance gate, splayed walls and piers and ancillary site works.

09/510334 Refused – Application for permission for a single storey dwelling to M Kenny, treatment plant, entrance, access roadway and all ancillary works. ABP Ref 22.235938

08/51/0787 Refused - Permission was refused to construct a single storey five bedroom family dwelling, with roof ridge heights of 3.723 metres and 5.523 metres, a proprietary waste water system, percolation beds, widening of the existing farm entrance and construction of entrance gates, pillars and railings, associated site works, all on a site of 2.6 Ha within the applicants overall landholding of 11.24 Ha and adjacent lands containing a 'disused lime Kiln', a protected structure.

03/51/0933 Withdrawn – Application for permission for Residence, septic tank, bored well and improvement of existing entrance

Adjoining Lands: None relevant

Enforcement: None

Pre-Planning: None

c. Assessment

Pursuant to Section 5 of the Planning & Development Acts this report will examine whether the proposal constitutes (a) development and (b) exempted development.

A) “Is or is not Development”

It is considered that the above listed proposal constitutes “works” as understood by the Planning and Development Act 2000, as amended. The above listed proposals

proposed unroofed fenced area. Furthermore, the location of the approved driveway is not as per the location of the driveway shown on the submitted plan.

Condition no. 1 attached to 21/784 states:

1. Save where modified by the following conditions, the proposed development shall be carried out and completed in accordance with the drawings and documentation submitted with the planning application including the contents and mitigation measures set out in the Natura Impact Assessment and the Architectural Heritage Impact Assessment on the 31/05/2021 as amended by the Further Information Request submitted on the 18/10/2021 & 29/10/21 in response to a Further Information Request issued on the 22/07/2021.

REASON: To clarify the terms of the permission and in the interest of proper planning and sustainable development.

Having regard to the above, it is considered that the following restriction on exemptions under Article 9 of the Planning and Development Regulations 2001, as amended would apply.

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,

Furthermore, the application site is less than 50m the Lough Derg Shannon Special Protection Area (004058). The proposed development has been screened for AA and it has been determined that impacts on this Site is uncertain, and that AA is required (See Screening Report attached). This conclusion is consistent with the conclusions under planning application reference 21/784 and it is noted that a Natura Impact Statement formed part of the application documents.

Having regard to the above, it is considered that the following restriction on exemptions under Article 9 of the Planning and Development Regulations 2001, as amended would apply.

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—

(viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site.

D) REQUIREMENT FOR APPROPRIATE ASSESSMENT (AA) AND ENVIRONMENTAL IMPACT ASSESSMENT (EIA)

Appropriate Assessment (AA)

As above, the proposed development has been screened as to the requirement for AA and it has been determined that the requirement for Stage 2 AA does arise. See Screening Report attached.

Environmental Impact Assessment (EIA):

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

E) RECOMMENDATION

A question has arisen as to whether the following proposed development at Derry Demesne, Ballina, Co. Tipperary is or is not exempted development:

- Erection of an unroofed fence arena for the exercising of horses together with a drainage bed or soft surface material to provide an all-weather surface for private use only.

Tipperary County Council, in considering this proposal has had regard to:

- Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- Articles, 6 and 9 of the Planning and Development Regulations 2001, as amended,
- Class 10, Schedule 2, Part 3 of the Planning and Development Regulations 2001, as amended
- The declaration application and supporting information.
- The Planning history of the site.

Tipperary County Council has concluded that the 'Erection of an unroofed fence arena for the exercising of horses together with a drainage bed or soft surface material to provide an all-weather surface for private use only' is development and is **not exempted development** as the development is restricted by Section 9 (1) Restrictions on Exemptions of the Planning and Development Regulations 2001, as Amended, as

- It would contravene a condition attached to a permission under the Act;
- It would comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,

Advisory note to applicant

The application form refers to an 'unroofed fence arena'.

The applicant has not provided any elevations of the proposed fencing etc therefore it is not possible to ascertain whether the height of any such structure would exceed 2 metres as set out in limitations under Class 10, Schedule 2, Part 3 of the Planning and Development Regulations 2001, as amended.

District Planner:

Olive O'Donnell

Date: 24/04/2026

Senior Executive Planner:

Jonathan Flood

Date: 24/4/2026

**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 26 46
(b) Brief description of the project or plan:	As per Planner's Report
(c) Brief description of site characteristics:	As per Planner's Report
(d) Relevant prescribed bodies consulted: e.g. DHLGH (NPWS), EPA, OPW	None
(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 screening Y/N
004058 Lough Derg (Shannon) SPA	https://www.npws.ie/protected-sites/spa/004058	Within 50m	Yes. Indirect	Yes
002258 Silvermines Mountains West SAC	https://www.npws.ie/protected-sites/sac/002258	Within 15km	None	No
002165 Lower River Shannon SAC	https://www.npws.ie/protected-sites/sac/002165	Within 15km	None	No
004165 Slievefelim to Silvermines Mountains SPA	https://www.npws.ie/protected-sites/spa/004165	Within 15km	None	No
002312 Slieve Bearn Bog SAC	https://www.npws.ie/protected-sites/sac/002312	Within 15km	None	No
000308 Loughatorick South Bog SAC	https://www.npws.ie/protected-sites/sac/000308	Within 15km	None	No

002165 Lower River Shannon SAC	https://www.npws.ie/protected-sites/sac/002165	Within 15km	None	No
004168 Slieve Aughty Mountains SPA	https://www.npws.ie/protected-sites/spa/004168	Within 10km	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.)
<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>the application site is less than 50m the Lough Derg Shannon Special Protection Area (004058). Therefore, there may be a risk of habitat and species impact arising from construction. The potential for and significance of such impacts is uncertain</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>The potential for and significance of such impacts is uncertain</p>
In-combination/Other	No likely significant in-combination effects are identified.

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

Examples of the type of changes to give consideration to include:	Habitat reduction and disturbance to QI species in the SAC.
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- 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

(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 potential for and significance of such impacts is uncertain

Conclusion:

	Tick as Appropriate:	Recommendation:
(i) It is clear that there is no likelihood of significant effects on a European site.	<input 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 checked="" 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: Olive O'Donnell **Date:** 22/04/2026

EIA PRE-SCREENING

Establishing a development is a 'sub-threshold development'

File Reference: S5 26 46

Development Summary: As per planners report

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

Original

TIPPERARY COUNTY COUNCIL

DELEGATED EMPLOYEE'S ORDER

File Ref: **S5/26/46** **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 3rd 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 Nigel Kenny, Derrycastle Stud, Derry Demesne, Ballina, Co. Tipperary, RE: Erection of an unroofed fence arena for the exercising of horses together with a drainage bed or soft surface material to provide an all-weather surface for private use only at Derry Demesne, Ballina, 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,
- Articles, 6 and 9 of the Planning and Development Regulations 2001, as amended,
- Class 10, Schedule 2, Part 3 of the Planning and Development Regulations 2001, as amended
- The declaration application and supporting information.
- The Planning history of the site.

Tipperary County Council has concluded that the 'Erection of an unroofed fence arena for the exercising of horses together with a drainage bed or soft surface material to provide an all-weather surface for private use only' is development and is **not exempted development** as the development is restricted by Section 9 (1) Restrictions on Exemptions of the Planning and Development Regulations 2001, as Amended, as

- It would contravene a condition attached to a permission under the Act;
- It would comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,

Advisory note to applicant

The application form refers to an 'unroofed fence arena'.

The applicant has not provided any elevations of the proposed fencing etc therefore it is not possible to ascertain whether the height of any such structure would exceed 2 metres as set out in limitations under Class 10, Schedule 2, Part 3 of the Planning and Development Regulations 2001, as amended.

Signed: 
Brian Beck
Director of Services

Date: 27/04/2026



Date: 27th April 2026

Our Ref: S5/26/46

Civic Offices, Nenagh

**Nigel Kenny
Derrycastle Stud
Derry Demesne
Ballina
Co. Tipperary**

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

Dear Nigel,

I refer to your application for a Section 5 Declaration received on 2nd April 2026 in relation to the following proposed works:

Erection of an unroofed fence arena for the exercising of horses together with a drainage bed or soft surface material to provide an all-weather surface for private use only at Derry Demesne, Ballina, 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,
- Articles, 6 and 9 of the Planning and Development Regulations 2001, as amended,
- Class 10, Schedule 2, Part 3 of the Planning and Development Regulations 2001, as amended
- The declaration application and supporting information.
- The Planning history of the site.

Tipperary County Council has concluded that the 'Erection of an unroofed fence arena for the exercising of horses together with a drainage bed or soft surface material to provide an all-weather surface for private use only' is development and is **not exempted development** as the development is restricted by

Section 9 (1) Restrictions on Exemptions of the Planning and Development Regulations 2001, as Amended, as

- It would contravene a condition attached to a permission under the Act;
- It would comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,

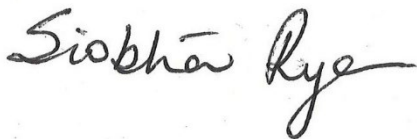
Advisory note to applicant

The application form refers to an 'unroofed fence arena'.

The applicant has not provided any elevations of the proposed fencing etc therefore it is not possible to ascertain whether the height of any such structure would exceed 2 metres as set out in limitations under Class 10, Schedule 2, Part 3 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 sincerely



for **Director of Services**