

**LIMERICK CITY & COUNTY COUNCIL****PLANNING AND ENVIRONMENTAL SERVICES****SECTION 5 APPLICATION****DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT**

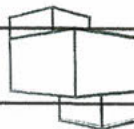
Applicant's Name: Noel O'Brien

Applicant's Address: Tobbernea
Kilmallock
Co. Limerick

Telephone No. [REDACTED]

Name of Agent (if any): MIKE BOYCE

Address: CONSULTING ENGINEERS LTD
Tel: 087 132 1395
Appletown, Feohanagh,
Co. Limerick, V42 X773



Telephone No. 063 50218

Address for Correspondence:

(AGENT)

Location of Proposed development:

Toberna, Kilmallock Co. Limerick
V35 WK73

Description of Proposed development:

(1) Construct new 2nd porch
(2) Remove rear chimney back roof line

Is this a Protected Structure or within the curtilage of a Protected Structure.
YES/NO

Applicant's interest in site: Owner

List of plans, drawings, etc. submitted with this application:

Existing Elevations
Proposed Elevations
Plan Existing / Proposed
Location + Layout

Have any previous extensions/structures been erected at this location YES/NO

If Yes please provide floor areas of all existing structures:

All existing annexes & outhouses
pre-date planning legislation

Signature of Applicant (or Agent)

Mick Kenny

NOTES: Application must be accompanied by:

- ✓(a) Fee of €80
- ✓(b) Site location map
- ✓(c) Site layout plan
- ✓(d) Dimensioned plans and elevations of the structure and any existing structures.
- ✗(e) Where the declaration is in respect of a farm building, a layout identifying the use of each existing building together with floor area of each building.

Application to be forwarded to:

Limerick City & County Council,
Planning and Environmental Services,
City & County Council Offices,
Dooradoyle Road,
Limerick.

OFFICE USE ONLY

Ref. No. _____ Date Received _____

Fee Received _____ Date Due _____

SITE LAYOUT
1:500 (A3)

GRAZING LANDS

ADJOINING
RESIDENCE

166100

DOMESTIC TREATMENT

GRAZING LANDS

135300

SHED

SHED

SHED

SHED

DWELLING FFL 100.00
RAISED TO 100.20

SHED

PARKING

144100

SITE BOUNDARY IN RED

67200

PUBLIC ROAD

ROOF WATER
DISCHARGED TO
SOAKAWAYS

ADJOINING
RESIDENCE

GRAZING LANDS



REV	DATE	NOTES	MB	CHKD
A	30.06.26	COMMENT	MB	✓

**MIKE
BOYCE**
CONSULTING ENGINEERS

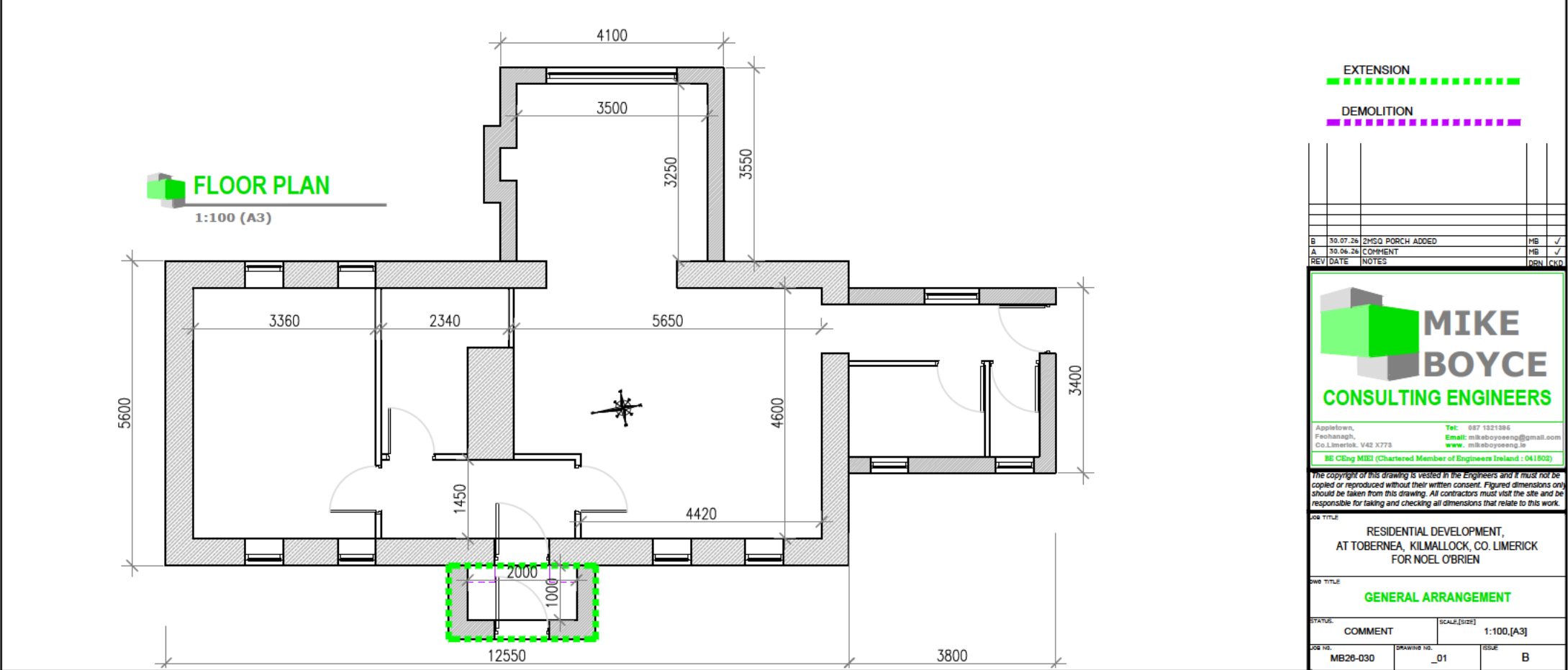
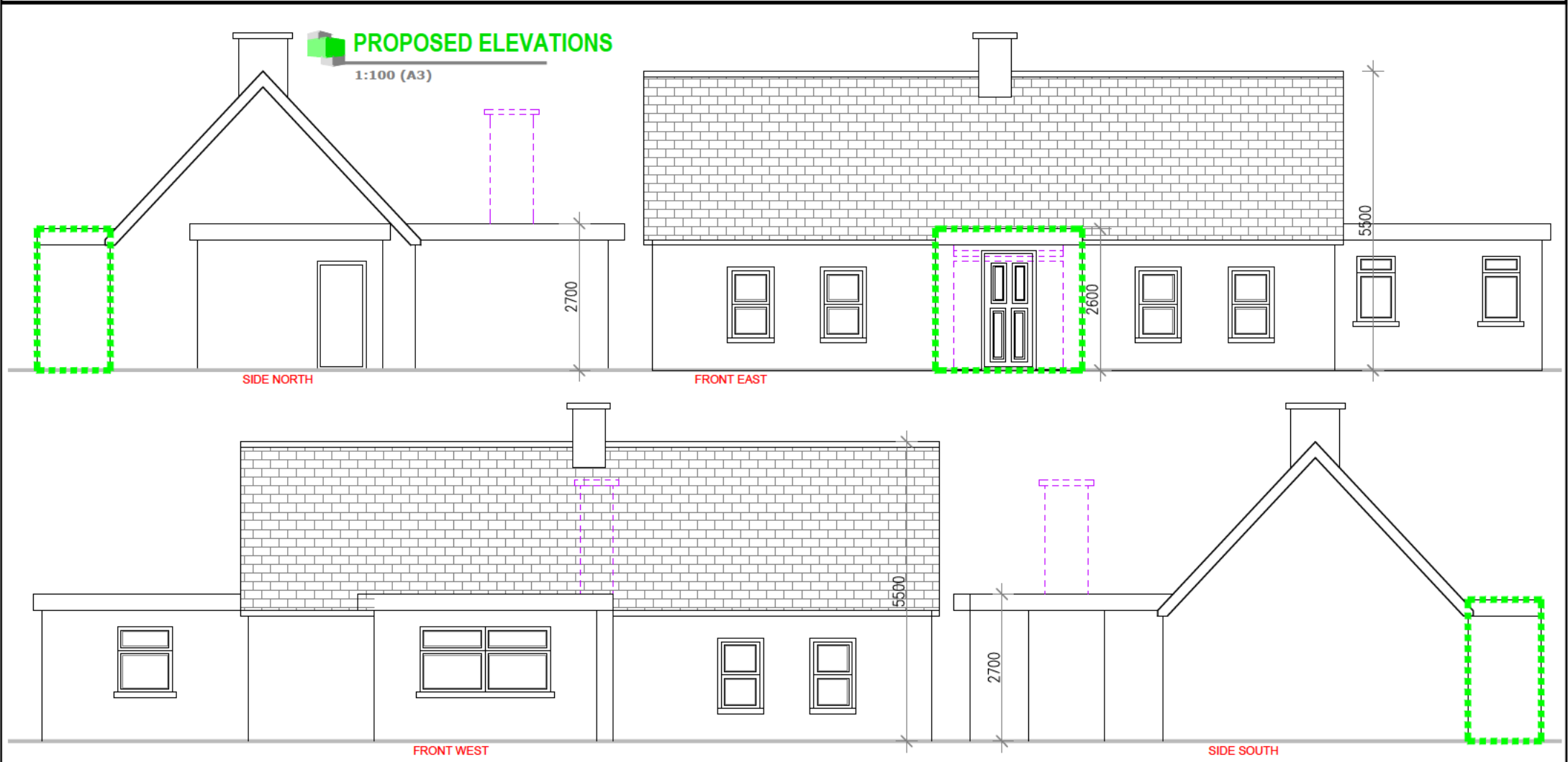
Appletown,
Feohanagh,
Co.Limerick, V42 X773
Tel: 087 1021986
Email: miboyceeng@gmail.com
www.miboyceeng.ie
BE CEng MIEI (Chartered Member of Engineers Ireland : 041803)

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JOB TITLE
RESIDENTIAL DEVELOPMENT,
AT TOBERNEA, KILMALLOCK, CO. LIMERICK
FOR NOEL O'BRIEN

DWG TITLE
SITE LAYOUT

STATUS	COMMENT	SCALE(SIZE)	1:500,[A3]
JOB NO.	MB26-030	DRAWING NO.	_02
ISSUE	A		



56003



Tailte Éireann,
Phoenix Park,
Dublin 8,
Ireland.
D08F6E4

This topographic map does not show legal property boundaries, nor does it show ownership of physical features.

MAP SHEETS:
5354-C

LEGEND:To view the legend visit www.tailte.ie and search for 'Large Scale Legend'

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Tailte Éireann

Report on application under Section 5 of the Planning and Development Act 2000 (as amended)

File Reference number	EC-136-26
Applicant(s)	Noel O' Brien
Location	Tobernea, Kilmallock, Co. Limerick V35 WK73

Description of Site and Surroundings:

The site is located in the townland of Tobernea which is approximately 2.5 km from the town of Kilmallock. The site comprises of an existing single storey dwelling with a flat roof located to the rear of the dwelling. It is adjacent to two sheds and an agricultural structure. It can be accessed from the Tobernea East Road, which is located off the R515 Road.

Proposal:

This is an application requesting a Section 5 Declaration on whether the following works are or are not development or are or are not exempted development:

The applicant is proposing to construct a new 2 sqm porch and remove the rear chimney above the roof line.

This Section 5 declaration includes the following:

- Application form
- Existing elevations
- Proposed elevations
- Existing site plan
- Proposed site plan
- Site location
- Site layout

Planning History:

Subject site: None

Adjacent:

03/2295 Conditional Permission: erect bungalow, entrance and proprietary waste water treatment system

Enforcement History:

N/A

Relevant An Coimisiún Pleanála referrals:

N/A

Assessment:

Consideration as to whether a development constitutes exempted development or not is governed by Sections 4 and 5 of the Planning and Development Act 2000 (as amended) and Articles 5, 6, 7, 8, 9, 10 and 11 of the Planning and Development Regulations 2001 (as amended).

Is the proposal development?

Section 2(1) in this Act, except where otherwise requires –

‘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.

‘structure’ as any building, structure, excavation, or other thing constructed or made on, in or under any land, or part of a structure so defined, and –

(b) in relation to a protected structure or proposed protected structure, includes—

- (i) the interior of the structure,
- (ii) the land lying within the curtilage of the structure,
- (iii) any other structures lying within that curtilage and their interiors, and
- (iv) all fixtures and features which form part of the interior or exterior of any structure or structures referred to in subparagraph (i) or (iii);

Section 3(1) 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’.

The proposal concerns, to construct a new 2 sqm porch and remove the rear chimney above the roof line., **constituting ‘works’ and ‘development’**.

Is the proposal exempted development?

Having established that the proposal constitutes "development" within the meaning of Section 3(1) of the Planning and Development Act 2000 (as amended), the next step is to assess whether the proposed works fall within the scope of exempted development. It is proposed to construct a new 2 sqm porch which will be assessed under Class 7 of Part 1 of Schedule 2 of the Planning and Development Act 2000 (as amended). The removal of the chimney will be assessed under Class 2A of Part 1 of Schedule 2 of the Planning and Development Regulations 2000 (as amended).

Class 7:

The construction or erection of a porch outside any external door of a house.

1. *Any such structure shall be situated not less than 2 metres from any road.*

The porch will not be situated less than 2 metres from the road.

2. *The floor area of any such structure shall not exceed 2 square metres.*

The floor area will not exceed 2 square metres.

3. The height of any such structure shall not exceed, in the case of a structure with a tiled or slated pitched roof, 4 metres or, in any other case, 3 metres.

The height of the porch will not exceed 3 metres.

Class 2A:

The removal of a chimney from a house.

1. No chimney shall be removed where it forms part of a joint chimney stack

The chimney does not form part of a joint chimney stack.

2. Roof finishes shall be the same as the existing roof.

The roof finish will not change as it is built on a flat roof rather than a slated roof.

3. This exemption is subject to compliance with Section 22 (protection of nests of wild birds) and Section 23 (breeding or resting places of protected wild animals including bats) of the Wildlife Act 1976, as amended.

The application does not explicitly state the compliance with Section 22 and Section 23 of the Wildlife Act 1976 (as amended). However, any works undertaken must comply with the relevant provisions of the Act.

Article 9 Restrictions

Planning and Development Regulations 2001 – 2025 Article 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,	N/A
(ii) consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,	N/A
(iii) endanger public safety by reason of traffic hazard or obstruction of road users,	N/A

(iiia) endanger public safety by reason of hazardous glint and/or glare for the operation of airports, aerodromes or aircraft,	
(iv) except in the case of a porch to which class 7 specified in column 1 of Part 1 of Schedule 2 applies and which 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, comprise the construction, erection, extension or renewal of a building on any street so as to bring forward the building, or any part of the building, beyond the front wall of the building on either side thereof or beyond a line determined as the building line in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,	N/A
(v) consist of or comprise the carrying out under a public road of works other than a connection to a wired broadcast relay service, sewer, water main, gas main or electricity supply line or cable, or any works to which class 25, 26 or 31 (a) specified in column 1 of Part 1 of Schedule 2 applies,	N/A
(vi) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,	N/A
(vii) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,	N/A
(viiA) consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12 (1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any	N/A

excavation or any works, pursuant to and in accordance with a consent granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended,	
(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,	N/A
(viiC) consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000.	N/A
(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,	N/A
(ix) consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,	N/A
(x) consist of the fencing or enclosure of any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility,	N/A
(xi) obstruct any public right of way,	N/A
(xii) further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area,	N/A
(b) in an area to which a special amenity area order relates, if such development would be development:—	

(i) of class 1, 3, 11, 16, 21, 22, 27, 28, 29, 31, (other than paragraph (a) thereof), 33 (c) (including the laying out and use of land for golf or pitch and putt or sports involving the use of motor vehicles, aircraft or firearms), 39, 44 or 50(a) specified in column 1 of Part 1 of Schedule 2, or	N/A
(ii) consisting of the use of a structure or other land for the exhibition of advertisements of class 1, 4, 6, 11, 16 or 17 specified in column 1 of Part 2 of the said Schedule or the erection of an advertisement structure for the exhibition of any advertisement of any of the said classes, or	N/A
(iii) of class 3, 5, 6, 7, 8, 9, 10, 11, 12 or 13 specified in column 1 of Part 3 of the said Schedule, or	N/A
(iv) of any class of Parts 1, 2 or 3 of Schedule 2 not referred to in subparagraphs (i), (ii) and (iii) where it is stated in the order made under section 202 of the Act that such development shall be prevented or limited,	N/A
(c) if it is development to which Part 10 applies, unless the development is required by or under any statutory provision (other than the Act or these Regulations) to comply with procedures for the purpose of giving effect to the Council Directive,	N/A
(d) if it consists of the provision of, or modifications to, an establishment, and could have significant repercussions on major accident hazards.	N/A
Article 9(2) Sub-article (1)(a)(vi) shall not apply where the development consists of the construction by any electricity undertaking of an overhead line or cable not exceeding 100 metres in length for the purpose of conducting electricity from a distribution or transmission line to any premises.	N/A
Article 9 (3) For the avoidance of doubt, sub-article (1)(a)(vii) shall not apply to any operation or activity in respect of which a Minister of the Government has granted consent or approval in accordance with the requirements of regulation 31 of the Habitats Regulations 1997, and where regulation 31(5) does not apply.	N/A

Appropriate Assessment

Having regard to the nature and scale of the proposed development and the absence of proximity or connectivity to a Natura 2000 European Site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects, on a European Site. An appropriate assessment screening report and determination is attached to this report.

Environmental Impact Assessment

Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations it has been concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

Conclusion/Recommendation

The proposal to construct a new 2 sqm porch and remove the rear chimney above the roof line can be considered development. The development falls under the scope of exempted development under Class 7 of Part 1 of Schedule 2 of the Planning and Development Regulations 2000 (as amended) and Class 2A of Part 1 of Schedule 2 of the Planning and Development Regulations 2000 (as amended).

Regard has been had to –

- (a) Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended);
- (b) Article 6, 9, Class 7 & Class 2A of the Planning and Development Regulations 2001 (as amended);
- (c) The plans and particulars submitted with the application received on the 30th of July 2026

It is therefore considered that the said works constitute development and exempted development under Class 7 & Class 2A of Part 1 of Schedule 2 of the Planning and Regulations 2001 (as amended).

Graduate Planner	Conor Deering	Date: 06/08/2026
Signature:		
Senior Executive Planner	Barry Henn	Date: 24/08/2026
Signature		

Appendix 1: AA PN01 Screening Form

STEP 1: Description of the project/proposal and local site characteristics:	
(e) File Reference No:	EC-136-26
(e) Brief description of the project or plan:	to construct a new 2 sqm porch and remove the rear chimney above the roof line.
(e) Brief description of site characteristics:	The site is located in the townland of Tobernea which is approximately 2.5 km from the town of Kilmallock. The site comprises of an existing single storey dwelling with a flat roof located to the rear of the dwelling. It is adjacent to two sheds and an agricultural structure. It can be accessed from the Tobernea East Road, which is located off the R515 Road.
(e) Relevant prescribed bodies consulted: e.g. DHLGH (NPWS), EPA, OPW	N/A
(e) Response to consultation:	N/A

STEP 2: Identification of relevant Natura 2000 sites using Source-Pathway-Receptor model and compilation of information on Qualifying Interests and conservation objectives.				
European Site (code)	List of Qualifying Interest/Special Conservation Interest ¹	Distance from proposed development ² (km)	Connections (Source-Pathway-Receptors)	Considered further in screening Y/N
002036 Ballyhoura Mountains SAC	https://www.npws.ie/protected-sites/sac/002036	6.5 km	N/A	N
002170 Blackwater River (Cork/Waterford) SAC	https://www.npws.ie/protected-sites/sac/002170	8.4 km	N/A	N

STEP 3: Assessment of Likely Significant Effects	
(a) Identify all potential direct and indirect impacts that may have an effect on the conservation objectives of a European site, taking into account the size and scale of the project under the following headings:	
Impacts:	Possible Significance of Impacts: (duration/Magnitude etc)
Construction phase e.g - Vegetation clearance - Demolition - Surface water runoff from soil excavation/infill/landscaping (including borrow pits) - Dust, noise, vibration - Lighting disturbance - Impact on groundwater/dewatering	None. No direct encroachment or hydrological connection.

- Storage of excavated/construction materials - Access to site - Pests	
Operation phase e.g. - 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 risk) - Potential for accidents or incidents	None. No direct encroachment or hydrological connection
In-combination/Other	N/A.

(a) Describe any likely changes to the European site:	
Examples of the type of changes to give consideration to include: - Reduction or fragmentation of habitat area - Disturbance to QI species - Habitat or species fragmentation - Reduction or fragmentation in species density - Changes in key indicators of conservation status value (water or air quality etc) - Changes to areas of sensitivity or threats to QI - Interference with the key relationships that define the structure or ecological function of the site	None. No direct encroachment or hydrological connection.

(a) (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.

Given the sites size, no hydrological connection to any SAC/SPA, no encroachment on any SAC/SPA and the limited scale of the development proposed, an AA is not required.		
Conclusion: AA is not required.		
	Tick as appropriate:	Recommendation:
i. It is clear that there is no likelihood of significant effects on a European Site	☒	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	☐	☐ Request further information to complete screening ☐ Request NIS ☐ Refuse planning permission
iii. Significant effects are likely	☐	☐ Request NIS ☐ Refuse planning permission
Signature and Date of Recommending Officer:	 _____ 06/08/2026	
Signature and Date of the Decision Maker:	 _____ 24/08/2026	

Appendix 2: EIA Screening

Establishing if the proposal is a 'sub-threshold development':		
Planning Register Reference:	EC-136-26	
Development Summary:	to construct a new 2 sqm porch and remove the rear chimney above the roof line.	
Was a Screening Determination carried out under Section 176A-C?	Yes. no further action required 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)		
☐ Yes. specify class: [insert here] _		EIA is mandatory No Screening required
☒ 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)		
☒ No. the development is not a project listed in Schedule 5, Part 2		No Screening required
☐ Yes the project is listed in Schedule 5, Part 2 and meets/exceeds the threshold, specify class (including threshold): _[specify class & threshold here]_		EIA is mandatory No Screening required
☐ Yes the project is of a type listed but is <i>sub-threshold</i> : [insert here] _		Proceed to Part C
c. If Yes , has Schedule 7A information/screening report been submitted?		
Yes, Schedule 7A information/screening report has been submitted by the applicant		Screening Determination required

No, Schedule 7A information/screening report has not been submitted by the applicant	Preliminary Examination required
Signature and Date of Recommending Officer:  06/08/2026	
Signature and Date of the Decision Maker:  24/08/2026	



Comhairle Cathrach
& Contae **Luimnigh**
Limerick City
& County Council

An Roinn Pleanála
Comhairle Cathrach agus Contae Luimnigh
Bóthar Thuar an Dail
Tuair an Dail
Luimneach
V94 WV78

Planning Department
Limerick City & County Council
Dooradoyle Road
Dooradoyle
Limerick
V94 WV78

t: 061 556 000

DEVELOPMENT MANAGEMENT, PLANNING

REG POST:

Noel O'Brien
c/o Mike Boyce Consulting Engineers Ltd,
Appletown,
Feohanagh,
Co. Limerick.

EC/136/26

25 August 2026

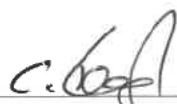
Re: Declaration under Section 5

Dear Sir/Madam,

I refer to the above application for Section 5 Declaration on Development and Exempted Development.

Please find herewith a copy of Council's decision on same.

Yours faithfully,


(for) Senior Planner,
Development Management

LIMERICK CITY & COUNTY COUNCIL

APPROVED OFFICER'S ORDER

SECTION 5 – DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT

No. AOO/DC/2026/1066

File Ref No. EC/136/26

SUBJECT: Declaration under Section 5.
Planning and Development Act 2000 as amended
Planning and Development Regulations 2001 as amended

RE: Construction of new 2sqm porch and remove the rear chimney above the roof line at
Tobernea, Kilmallock, Co. Limerick

ORDER: Whereas by Director General's Order No. DG/2026/056 dated 25th May 2026, Dr. Pat Daly, Director General, Limerick City & County Council did, pursuant to the powers conferred on him by Section 154 of the Local Government Act, 2001, (as amended by the Local Government Reform Act, 2014 and the Local Government (Mayor of Limerick) and Miscellaneous Provisions Act, 2024), delegate unto Barry Henn, Senior Executive Planner the functions as defined in the Local Government Acts, 1925 to 2024.

Now therefore pursuant to the delegation of the functions aforesaid, I, Barry Henn, Senior Executive Planner, having considered the report and recommendation of
 Conor Deering, Graduate Planner dated 06/08/2026, hereby order that a Declaration under Section 5 of the Planning and Development Act 2000 (as amended) be issued to Noel O' Brien, c/o Mike Boyce Consulting Engineers Ltd, Appletown, Feohanagh, Co. Limerick to state that the works as described above is

Development and is Exempt Development.

Signed



SENIOR EXECUTIVE PLANNER, DEVELOPMENT MANAGEMENT,
PLANNING

Date

25/08/2026



Comhairle Cathrach
& Contae **Luimnigh**
Limerick City
& County Council

An Roinn Pleanála
Comhairle Cathrach agus Contae Luimnigh
Bóthar Thuar an Daill
Tuar an Daill
Luimneach
V94 WV78

Planning Department
Limerick City & County Council
Dooradoyle Road
Dooradoyle
Limerick
V94 WV78

t: 061 556 000

SECTION 5 – DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT

DECLARATION NO.

EC/136/26

Name and Address of Applicant: Noel O' Brien, Tobernea, Kilmallock, Co. Limerick

Agent: Mike Boyce Consulting Engineers Ltd, Appletown, Feohanagh, Co. Limerick.

Whether the construction of a new 2sqm porch and the removal of the rear chimney above the roof line at Tobernea, Kilmallock, Co. Limerick is or is not Development or is or is not Exempted Development. The works as described on the plans submitted with the application on the 30th day of July 2026.

AND WHEREAS the Planning Authority has concluded that the construction of a new 2sqm porch and the removal of the rear chimney above the roof line at Tobernea, Kilmallock, Co. Limerick **DOES** come within the scope of exempted development under Class 7 & Class 2A of Part 1 of Schedule 2 of the Planning and Regulations 2001 (as amended). See Report attached.

NOW THEREFORE the Planning Authority in exercise of the powers conferred on it by Section 5(2) (a) of the Planning and Development Act 2000 (as amended) hereby decides that the said development as described above is **Development and is Exempted Development.**

Signed on behalf of the said Council

Date:

25.8.2026

NOTE: A Declaration on Development or Exemption issued by Limerick City & County Council may be referred to An Coimisiún Pleanála on payment of €220 for review within 4 weeks after the issuing of the declaration.