



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Registered Post

**Jerry Gough
4 Thomas Street
Killaloe
Co. Clare**

21st July 2025

Section 5 referral Reference R25-52 – Jerry Gough

Is the existing shed at 4 Thomas Street, Killaloe, Co. Clare development and if so, is it exempted development?

A Chara,

I refer to your application received on 25th June 2025 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

The Planning Authority has considered the matter and I attach herewith the Council's findings in this matter.

Where a declaration is issued by the Planning Authority, any person issued with a declaration, may on payment to An Coimisiún Pleanála of the required fee, refer a declaration for review by An Coimisiún Pleanála within 4 weeks of the date of the issuing of the declaration. Details on making such appeal are available on the Board's website at www.pleanala.ie.

Mise, le meas

**Anne O'Gorman
Staff Officer
Planning Department
Economic Development Directorate**

**An Roinn Pleanála
An Stiúrthóireacht Forbairt Gheilleagrach**

Áras Contae an Chláir, Bóthar Nua, Inis, Co. an Chláir, V95 DXP2

**Planning Department
Economic Development Directorate**

Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2



CLARE COUNTY COUNCIL

SECTION 5 OF THE PLANNING AND DEVELOPMENT ACT 2000 AS AMENDED

DECLARATION ON DEVELOPMENT AND/OR EXEMPTED DEVELOPMENT

Chief Executive's Order No:

85957

Reference Number:

R25-52

Date Referral Received:

25th June 2025

Name of Applicant:

Jerry Gough

Location of works in question:

4 Thomas Street, Killaloe, Co. Clare

Section 5 referral Reference R25-52 – Jerry Gough

Is the existing shed at 4 Thomas Street, Killaloe, Co. Clare development and if so, is it exempted development?

AND WHEREAS Clare County Council, in considering this referral, had regard in particular to –

- (a) Sections 2, and 3 of the Local Government (Planning and Development) Act, 1963;
- (b) Articles 10 and 11 of the Local Government (Planning and Development) Regulations 1977;
- (c) Third Schedule, Part 1, Class 3 of the Local Government (Planning and Development) Regulations 1977;
- (d) The works as indicated in submitted documents from the referrer, including the date of construction.

AND WHEREAS Clare County Council has concluded:

- (a) The construction of a shed to the rear of No. 4 Thomas Street, Killaloe, Co. Clare constitutes "works" which come within the scope of section 2(1) of the Local Government (Planning and Development) Act 1963;
- (b) The said works constitute "development" which comes within the scope of section 3(1) of the Local Government (Planning and Development) Act 1963;
- (c) The said construction of a shed to the rear of No. 4 Thomas Street, Killaloe, Co. Clare is not exempted development having regard to the Third Schedule, Part 1, Class 3 of the Local Government (Planning and Development) Regulations 1977.

ORDER: Whereas by Chief Executive's Order No. HR 343 dated 19th May 2025, Gordon Daly, Chief Executive for Clare County Council, did, pursuant to the powers conferred on him by Section 154 of the Local Government Act 2001, delegate to Candace Ingram, Senior Executive Planner, the powers, functions and duties as set out herein,

NOW THEREFORE pursuant to the delegation of the said powers, functions and duties and under Section 5(2)(a) of the Planning & Development Act 2000 (as amended) and having considered the various submissions and reports in connection with the referral described above, I, Candace Ingram, Senior Executive Planner, hereby declare that the construction of a shed to the rear of 4 Thomas Street, Killaloe, Co. Clare is considered development which is not exempted development.

Signed:


CANDACE INGRAM
SENIOR EXECUTIVE PLANNER 

Date:

21st July 2025

**DECLARATION ISSUED UNDER SECTION 5 OF THE
PLANNING & DEVELOPMENT ACT 2000 (AS AMENDED)**

Reference No.: R25-52



**Comhairle Contae an Chláir
Clare County Council**

Section 5 referral Reference R25-52

Is the existing shed at 4 Thomas Street, Killaloe, Co. Clare development and if so, is it exempted development?

AND WHEREAS, Jerry Gough has requested a declaration from Clare County Council on the said question.

AND WHEREAS Clare County Council, in considering this referral, had regard in particular to –

- (a) Sections 2, and 3 of the Local Government (Planning and Development) Act, 1963;
- (b) Articles 10 and 11 of the Local Government (Planning and Development) Regulations 1977;
- (c) Third Schedule, Part 1, Class 3 of the Local Government (Planning and Development) Regulations 1977;
- (d) The works as indicated in submitted documents from the referrer, including the date of construction.

And whereas Clare County Council has concluded:

- (a) The construction of a shed to the rear of No. 4 Thomas Street, Killaloe, Co. Clare constitutes "works" which come within the scope of section 2(1) of the Local Government (Planning and Development) Act 1963;
- (b) The said works constitute "development" which comes within the scope of section 3(1) of the Local Government (Planning and Development) Act 1963;
- (c) The said construction of a shed to the rear of No. 4 Thomas Street, Killaloe, Co. Clare is not exempted development having regard to the Third Schedule, Part 1, Class 3 of the Local Government (Planning and Development) Regulations 1977.

THEREFORE: The Planning Authority in exercise of the powers conferred on it by Section 5 of the Planning and Development Act, 2000 (as amended), hereby decides that:

The proposed development consisting of the construction of a shed to the rear of 4 Thomas Street, Killaloe, Co. Clare constitutes development which is not exempted development as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.



Anne O'Gorman
Staff Officer
Planning Department
Economic Development Directorate

21st July 2025

CLARE COUNTY COUNCIL
SECTION 5 DECLARATION OF EXEMPTION APPLICATION
PLANNERS REPORT

| | |
|----------------------|---|
| FILE REF: | R25-52 |
| APPLICANT(S): | Jerry Gough |
| REFERENCE: | Whether the existing shed is or is not development and is or is not exempted development. |
| LOCATION: | 4 Thomas Steet, Killaloe, Co. Clare |
| DUE DATE: | 22/07/2025 |

Site Location

The proposed development location is the rear garden of a terraced dwelling in Killaloe town centre. The subject building aligns with the rear boundary of the site and thereby directly adjoins Courthouse Lane.

Recent Planning History

No recent planning applications on the proposal site or adjoining sites.

Background to Referral

This Referral under Section 5(1) of the Planning and Development Act 2000 (as amended) has been made by Jerry Gough. He states that he is the owner of the site.

The applicant is seeking a Section 5 Declaration as to whether the existing shed to the rear of No. 4 Thomas Street, Killaloe, Co. Clare is or is not development and is or is not exempted development.

Statutory Provisions

The documents submitted with the referral indicate that the shed was constructed in 1985. It is therefore assessed in the context of the planning legislation in place at that time, namely the Local Government (Planning and Development) Act 1963 and the Local Government (Planning and Development) Regulations 1977.

Local Government (Planning and Development) Act 1963

In order to assess this proposal, regard has to be had to the *Local Government (Planning and Development) Act 1963*.

S.3.(1) "Development" in this Act means, except where the context otherwise requires, 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.

'Works' are defined in Section 2 of the *Local Government (Planning and Development) Act 1963* as follows:

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

Article 10(1) of the Local Government (Planning and Development) Regulations 1977

Subject to article 11, development of a class specified in column 1 of Part 1 of Third Schedule shall be exempted development for the purposes of the Acts, provided such development complies with the limitations specified in the said column 1 in relation to that class and with the conditions specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1.

Local Government (Planning and Development) Regulations 1977, Third Schedule, Part 1, Class 3

The erection, construction, or placing within the curtilage of a dwelling-house of any tent, awning, shade or other object, greenhouse, garage, shed or other similar structure.

1. The height above ground level of any such structure shall not exceed, in the case of a building with a tiled or slated ridged roof, 4 metres or any other case, 3 metres:
2. The structure shall not be used for human habitation or for the keeping of pigs or poultry or for any other purpose other than a purpose incidental to the enjoyment of the dwellinghouse as such.

Under Article 11(1) of the same Regulations, *development to which Article 10 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 Acts or be inconsistent with any use specified in a permission under the Acts.

(ii) consist of or compromise the formation, laying out or material widening of a means of access to a public road the metalled part of which is more than 4 metres in width,

(iii) endanger public safety by reason of traffic hazard or any obstruction to the view of persons using any public road at or near any bend, corner, junction or intersection,

(iv) contravene any building regulation made under section 86 of the Act of 1963 or any byelaw in force under section 41 of the Public Health (Ireland) Act, 1878, in the area in which the land to which the development relates is situated.

(v) comprise the erection, construction, 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 the development plan for the area or, pending the variation of the development plan or the making of a new development plan, in the draft variation of the development plan or the draft new development plan.

(vi) consist of or comprise the carrying out under a public road of works other than a connection to a sewer, water main, gas main or electricity supply line or cable, or any works specified in class 21 or 22 of Part I of the Third Schedule.

(vii) restrict 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 the development plan or the making of a new development plan, in the draft variation of the development plan or the draft new development plan,

(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,

(ix) consist of the alteration or demolition of a building or other structure other than an alteration consisting of the painting of any previously painted part of such building or structure, where such building or structure is 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 new development plan, as a building or other structure, or one of a group of buildings, of artistic, architectural or historic interest, the preservation of which it is an objective of the planning authority to secure,

(x) consist of the alteration or demolition of a building or other structure other than an alteration consisting of the painting of any previously painted part of such building or structure, where such building or structure is 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 new development plan, as a building or other structure, or one of a group of buildings, of artistic, architectural or historic interest, the preservation of which it is the intention of the planning authority to consider in the event of an application for permission being made to alter or demolish the building or structure,

(xi) consist of the demolition or such alteration of a building as would preclude or restrict the continuation of an existing use of a building where it is an objective of the planning authority to secure that the building would remain available for such use and such objective has been included in the 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 new development plan,

(xii) consist of the fencing or enclosure of any land habitually open to or used by the public during the ten years preceding such fencing or enclosure for recreational purposes or as means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility, or

(xiii) obstruct any public right of way.

Assessment

Basis of Referral

The applicant is seeking a Section 5 Declaration as to whether the existing shed to the rear of No. 4 Thomas Street, Killaloe, Co. Clare is or is not development and is or is not exempted development.

Particulars of Proposal

The particulars of the proposal and site are set out below:

- Height 4m
- Floor Area 41.85m².
- Year of Construction 1985.

Having regard to Section 2 of the Local Government (Planning and Development) Act 1963, I consider that the development undertaken comes within the scope of "works" and hence constitutes development in accordance with Section 3(1) of the Local Government (Planning and Development) Act 1963.

The referral relates to the construction of domestic shed structure in 1985. The proposed development is therefore assessed in the context of Schedule 2, Part 1, Class 3 of the Planning and Development Regulations. It is noted that the future use of the building as a private sauna is also covered by this class of the Regulations.

Local Government (Planning and Development) Regulations 1977, Third Schedule, Part 1, Class 3

The erection, construction, or placing within the curtilage of a dwelling-house of any tent, awning, shade or other object, greenhouse, garage, shed or other similar structure.

- (a) The height above ground level of any such structure shall not exceed, in the case of a building with a tiled or slated ridged roof, 4 metres or any other case, 3 metres.*

The subject shed has a pitched roof. The documents submitted with the referral indicated that the height to eaves level is 4m. However, I am satisfied that this is an error and should read "height to ridge". The shed has a galvanised metal roof. It is not tiled or slated. The height limit in that instance is therefore 3m. The shed as constructed exceeds the limitations of the exemption.

- (b) The structure shall not be used for human habitation or for the keeping of pigs or poultry or for any other purpose other than a purpose incidental to the enjoyment of the dwellinghouse as such.*

The shed complies with this limitation of the exemption

Article 11(1) of the Local Government (Planning and Development) Regulations 1977

development to which Article 10 relates shall not be exempted development for the purposes of the Act:

(c) if the carrying out of such development would –

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

The shed does not contravene a condition attached to a permission and is not inconsistent with any specified use.

(ii) consist of or compromise the formation, laying out or material widening of a means of access to a public road the metalled part of which is more than 4 metres in width,

Not applicable to the current development.

(iii) endanger public safety by reason of traffic hazard or any obstruction to the view of persons using any public road at or near any bend, corner, junction or intersection,

The shed does not endanger public safety by reason of traffic hazard.

(iv) contravene any building regulation made under section 86 of the Act of 1963 or any byelaw in force under section 41 of the Public Health (Ireland) Act, 1878, in the area in which the land to which the development relates is situated.

Not applicable to the current development.

(v) comprise the erection, construction, 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 the development plan for the area or, pending the variation of the development plan or the making of a new development plan, in the draft variation of the development plan or the draft new development plan.

The shed was not constructed forward of the established building line.

(vi) consist of or comprise the carrying out under a public road of works other than a connection to a sewer, water main, gas main or electricity supply line or cable, or any works specified in class 21 or 22 of Part I of the Third Schedule.

Not applicable to the current development.

(vii) restrict 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 the development plan or the making of a new development plan, in the draft variation of the development plan or the draft new development plan,

Not applicable to the current development.

(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,

Not applicable to the current development.

(ix) consist of the alteration or demolition of a building or other structure other than an alteration consisting of the painting of any previously painted part of such building or structure, where such building or structure is 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 new development plan, as a building or other structure, or one of a group of buildings, of artistic, architectural or historic interest, the preservation of which it is an objective of the planning authority to secure,

Not applicable to the current development.

(x) consist of the alteration or demolition of a building or other structure other than an alteration consisting of the painting of any previously painted part of such building or structure, where such building or structure is 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 new development plan, as a building or other structure, or one of a group of buildings, of artistic, architectural or historic interest, the preservation of which it is the intention of the planning authority to consider in the event of an application for permission being made to alter or demolish the building or structure,

Not applicable to the current development.

(xi) consist of the demolition or such alteration of a building as would preclude or restrict the continuation of an existing use of a building where it is an objective of the planning authority to secure that the building would remain available for such use and such objective has been included in the 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 new development plan,

Not applicable to the current development.

(xii) consist of the fencing or enclosure of any land habitually open to or used by the public during the ten years preceding such fencing or enclosure for recreational purposes or as means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility, or

Not applicable to the current development.

(xiii) obstruct any public right of way.

Not applicable to the current development.

Recommendation

The following questions have been referred to the Planning Authority:

Whether the construction of a shed to the rear of No. 4 Thomas Street, Killaloe, Co. Clare is or is not development and is or is not exempted development.

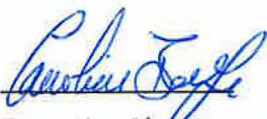
The Planning Authority in considering this referral had regard to:

- (a) Sections 2, and 3 of the Local Government (Planning and Development) Act, 1963;
- (b) Articles 10 and 11 of the Local Government (Planning and Development) Regulations 1977;
- (c) Third Schedule, Part 1, Class 3 of the Local Government (Planning and Development) Regulations 1977;
- (d) The works as indicated in submitted documents from the referrer, *including the date of construction*.

And whereas Clare County Council (Planning Authority) has concluded:

- (a) The construction of a shed to the rear of No. 4 Thomas Street, Killaloe, Co. Clare constitutes "works" which come within the scope of section 2(1) of the Local Government (Planning and Development) Act 1963;
- (b) The said works constitute "development" which comes within the scope of section 3(1) of the Local Government (Planning and Development) Act 1963;
- (c) The said construction of a shed to the rear of No. 4 Thomas Street, Killaloe, Co. Clare is not exempted development having regard to the Third Schedule, Part 1, Class 3 of the Local Government (Planning and Development) Regulations 1977.

Now therefore Clare County Council (Planning Authority), hereby decides that the construction of a shed to the rear of No. 4 Thomas Street, Killaloe, Co. Clare is development and is not exempted development.



Executive Planner

Date: 21/07/2025



Senior Executive Planner

Date: 21/07/25.



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Jerry Gough
4 Thomas St
Killaloe
Co. Clare

25/06/2025

Section 5 referral Reference R25-52 – Jerry Gough

Is the existing shed at 4 Thomas Street, Killaloe, Co. Clare development and if so, is it exempted development?

A Chara,

I refer to your application received on 25th June 2025 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

Please note that the Planning Authority is considering the matter and a reply will issue to you in due course.

Mise, le meas


Brian Fahy
Planning Department
Economic Development Directorate

An Roinn Pleanála
An Stiúirthóireacht Forbairt Gheilleagrach

Áras Contae an Chláir, Bóthar Nua, Inis, Co. an Chláir, V95 DXP2

Planning Department
Economic Development Directorate

Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2



CONTAE AN CHLÁIR



Clare County Council
Aras Contae an Chláir
New Road
Ennis
Co. Clare



25/06/2025 12:27:48

Receipt No. : L1CASH/0/380729
***** REPRINT *****

JERRY GOUGH
4 THOMAS STREET
KILLALOE
CO. CLARE
R25/52

COMHAIRLE CONTAE AN CHLÁIR

| | |
|------------------------|-------|
| SECTION 5 REFERENCES | 80.00 |
| GOODS | 80.00 |
| VAT Exempt/Non-vatable | |

Total : 80.00 EUR

Tendered :
CREDIT CARDS 80.00

Change 0.00

Issued By : L1CASH - Noelette Barry
From : MAIN CASH OFFICE LODGEMENT AF
Vat reg No.0033043E

P07

**CLARE COUNTY COUNCIL
COMHAIRLE CONTAE AN CHLÁIR**

Planning Department,
Economic Development Directorate,
Clare County Council,
New Road, Ennis,
Co. Clare,
V95DAP2

Telephone No. (065) 6821616
Fax No. (065) 6892071
Email: planoff@clarecoco.ie
Website: www.clarecoco.ie



R25-52

**REQUEST FOR A DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT
(Section 5 of the Planning & Development Act 2000 (as amended))**

FEE: €80

This following form is a non-statutory form which has been prepared by Clare County Council for the purpose of obtaining the necessary information required for a declaration to be made under Section 5 by the Planning Authority

1. CORRESPONDENCE DETAILS.

(a) Name and Address of person seeking the declaration

JERRY GOUGH
4 THOMAS ST.
KILLADEE
CO. CLARE

(b) Telephone No.:

(c) Email Address:

(d) Agent's Name and address:

**CLARE
COUNTY COUNCIL**

25 JUN 2025

**Received
Planning Section**

2. DETAILS REGARDING DECLARATION BEING SOUGHT

- (a) PLEASE STATE THE SPECIFIC QUESTION FOR WHICH A DECLARATION IS SOUGHT
Note: only works listed and described under this section will be assessed.

Sample Question: Is the construction of a shed at 1 Main St., Ennis development and if so is it exempted development?

Is the existing shed at 4
 THOMAS ST. KILLALOE exempt.

- (b) Provide a full description of the question/matter/subject which arises wherein a declaration of the question is sought.

Shed is constructed from 225mm
 cavity block.

Roof is corrugated sheeting over
 VISQUEEN.

Dimensions as follows: (internal)

LENGTH 11.25 metres

WIDTH 3.72 metres

AREA 41.85 metres

Height to eave 4 metres

A Roof.

- (c) List of plans, drawings etc. submitted with this request for a declaration:

(Note: Please provide a site location map to a scale of not less than 1:2500 based on Ordnance Survey map for the areas, to identify the lands in question)

SITE LOCATION MAP ATTACHED.

Photos to be emailed.

| 3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT | |
|---|--|
| (a) Postal Address of the Property/Site/Building for which the declaration sought: | 4 THOMAS ST KILLALOE Co. CLARE V94 H798 |
| (b) Do the works in question affect a Protected Structure or are within the curtilage of a Protected Structure? If yes, has a Declaration under Section 57 of the Planning & Development Act 2000 (as amended) been requested or issued for the property by the Planning Authority? | NO |
| (c) Legal interest in the land or structure in question of the person requesting the declaration (Give Details): | OWNER |
| (d) If the person in (c) above is not the owner and/or occupier, state the name and address of the owner of the property in question: <i>Note: Observations in relation to a referral may be requested from the owner/occupier where appropriate.</i> | / |
| (e) Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?: | YES |
| (f) Are you aware of any enforcement proceedings connected to this site? If so please supply details: | NO |
| (g) Were there previous planning application/s on this site? If so please supply details: | P8/19455 ADJASANT EXTENSION |
| (h) Date on which 'works' in question were completed/are likely to take place: | EXISTING BUILT 1985 |

SIGNED: GERRY LYON

DATE: 25/6/25

GUIDANCE NOTES

This following are non-statutory advice notes prepared by Clare County Council for the purpose of advising people what information is required for a decision to be made under Section 5 by the Planning Authority

- (i) The request for a declaration under Section 5 must be accompanied by 2 copies of site location map based on the Ordnance Survey map for the area of a scale not less than 1:1000 in urban areas and 1:2500 in rural areas and should clearly identify the site in question.
- (ii) The request for a declaration under Section 5 must be accompanied by the required fee of €80.00.
- (iii) If submitting any additional plans/reports etc. as part of the request for a declaration, please submit 2 copies.
- (iv) The request for a declaration should be sent to the following address:

Planning Department,
Economic Development Directorate,
Clare County Council
Aras Contae an Chlair,
New Road,
Ennis,
Co. Clare
V95DXP2

- (v) Notwithstanding the completion of the above form, the Planning Authority may require the submission of further information with regard to the request in order to enable the Authority to issue a declaration on the question.
- (vi) The Planning Authority may also request other persons to submit information on the question which has arisen and on which the declaration is sought

FOR OFFICE USE ONLY

| | | | |
|------------------------|-------|----------------|-------|
| Date Received: | | Fee Paid: | |
| Date Acknowledged: | | Reference No.: | |
| Date Declaration made: | | CEO No.: | |
| Decision: | | | |

SITE LOCATION MAP SCALE 1:2500
O.S.S. CLARE 45 III.

SCALE _____

1:2500

O.S.S. CLARE 45 III

APPLICATION FOR:-

G. GOUGH Esq.,
THOMAS ST.,
KILLALOE,
CO. CLARE

CLAR. 30/10/76
21 OCT 1976
PLANNING S

Prof.
Oct. 22

