



Comhairle Contae Thiobraid Árann
Tipperary County Council

Tipperary County Council
RECEIVED
17 JUL 2024
C.S.D.
Civic Offices, Clonmel

Receipt No 183 431
Issued 17 of 2024
€ 80.00 Postal Order

PLANNING & DEVELOPMENT ACT, 2000 (as amended)

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

1. Applicant's address/contact details:

Applicant	Victor Lupu
Address	44 An Duiche Scallagheen Tipperary town Co. Tipperary E34ET78
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 []	Agent []

3. Location of Proposed Development:

Postal Address or Townland or Location (as may best identify the land or structure in question)	44 An Duiche Scallagheen Tipperary Town Co. Tipperary E34ET78
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4. Development Details:


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

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

I have a semi-detached house with a garage.	
The garage has a roller door, which I want to remove and install a window. I'm not magnifying anything, and I will not damage the facade of the house.	
Proposed floor area of proposed works/uses:	sqm

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. <u>Owner</u> <input checked="" type="checkbox"/>	B. Occupier
	C. Other	
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: 16.07.2024

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

GUIDANCE NOTES

- (1) All queries on the form must be completed and the form must be accompanied by the relevant fee. The amount of the fee is currently **€80.00**.
- (2) This application should be accompanied by **TWO COPIES** of the following documentation
 - OSI Site Location Map with the site outlined clearly – 1:1000 in urban areas and 1:2500 in rural areas
 - Floor Plans & Elevations at a scale of not less than 1:200
 - Site layout plan indicating position of proposed development relative to premises and adjoining properties
 - Other details e.g. brochures, photographs if appropriate.

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

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

This application form and relevant fee should be submitted to:

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

OR

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

Enquires:

Telephone 0761 06 5000

E-Mail planning@tipperarycoco.ie

FOR OFFICE USE ONLY

DATE STAMP

Fee Recd. € _____

Receipt No _____

Date _____

Received by _____



Comhairle Contae Thiobraid Árann
Tipperary County Council

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

Comhairle Contae
Thiobraid Árann,
Oifigí Cathartha,
An tAonach,
Co. Thiobraid Árann
Tipperary County Council,
Civic Offices, Nenagh,
Co. Tipperary
E45 A099

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

Date: 18th July, 2024 Our Ref: S5/24/87 Civic Offices, Clonmel

**Victor Lupu,
44 An Duiche,
Scallagheen,
Tipperary Town,
Co. Tipperary**

Re: Application for a Section 5 Declaration To remove a roller garage door and install window at 44 An Duiche, Scallagheen, Tipperary Town, Co. Tipperary.

Dear Sir/Madam,

I acknowledge receipt of your application for a Section 5 Declaration received on 17th July 2024, in connection with the above.

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

Yours faithfully,


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

SCANNED

Planning Reference: S5/24/87
Applicant: Victor Lupu
Development Address: 44 An Duiche, Scallagheen, Tipperary Town, Co. Tipperary
Proposed Development: Remove door of garage and install a window.

1. GENERAL

On the 17th July 2024a request was made for a declaration under Section 5 of the Planning and Development Act, 2000 as amended, by Victor Lupu in respect of the following development;

The description as per the application form is as follows;

I have a semidetached house with a garage. The garage has a roller door, which I want to remove and install a window. I'm not magnifying anything and I will not damage the face of the house.



Figure 1 google street View



Figure 2 Google Street View

2. **STATUTORY PROVISIONS**

The following statutory provisions are relevant to this case;

Planning and Development Act 2000, as amended

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

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

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

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

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.

4.- (2) (a) of the Planning and Development Act 2000, as amended, states as follows:-

(2)(a) The Minister may by regulations provide for any class of development to be exempted development for the purposes of this Act where he or she is of the opinion that—

(i) by reason of the size, nature or limited effect on its surroundings, of development belonging to that class, the carrying out of such development would not offend against principles of proper planning and sustainable development, or

(ii) the development is authorised, or is required to be authorised, by or under any enactment (whether the authorisation takes the form of the grant of a licence, consent, approval or any other type of authorisation) where the enactment concerned requires there to be consultation (howsoever described) with members of the public in relation to the proposed development prior to the granting of the authorisation (howsoever described).

Section 4 (4) of the Planning and Development Act 2000, as amended, states as follows:-

4 (4) Notwithstanding paragraphs (a), (i), (ia) and (l) of subsection (1) and any regulations under subsection (2), development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required.

Planning and Development Regulations 2001, as amended

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 1 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended states:

Description of Development	Conditions and Limitations
<p>The extension of a house, by the construction or erection of an extension (including a conservatory) to the rear of the house or by the conversion for use as part of the house of any garage, store, shed or other similar structure attached to the rear or to the side of the house.</p>	<ol style="list-style-type: none"> 1. <ol style="list-style-type: none"> (a) Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres. (b) Subject to paragraph (a), where the house is terraced or semi-detached, the floor area of any extension above ground level shall not exceed 12 square metres. (c) Subject to paragraph (a), where the house is detached, the floor area of any extension above ground level shall not exceed 20 square metres. 2. <ol style="list-style-type: none"> (a) Where the house has been extended previously, the floor area of any such extension, taken together with the floor area of any previous extension or extensions constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 40 square metres. (b) Subject to paragraph (a), where the house is terraced or semi-detached and has been extended previously, the floor area of any extension above ground level taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 12 square metres. (c) Subject to paragraph (a), where the house is detached and has been extended previously, the floor area of any extension above ground level, taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 20 square metres. 3. Any above ground floor extension shall be a distance of not less than 2 metres from any party boundary.

	<p>4.</p> <p>(a) <i>Where the rear wall of the house does not include a gable, the height of the walls of any such extension shall not exceed the height of the rear wall of the house.</i></p> <p>(b) <i>Where the rear wall of the house includes a gable, the height of the walls of any such extension shall not exceed the height of the side walls of the house.</i></p> <p>(c) <i>The height of the highest part of the roof of any such extension shall not exceed, in the case of a flat roofed extension, the height of the eaves or parapet, as may be appropriate, or, in any other case, shall not exceed the height of the highest part of the roof of the dwelling.</i></p> <p>5. <i>The construction or erection of any such extension to the rear of the house shall not reduce the area of private open space, reserved exclusively for the use of the occupants of the house, to the rear of the house to less than 25 square metres.</i></p> <p>6.</p> <p>(a) <i>Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces.</i></p> <p>(b) <i>Any window proposed above ground level in any such extension shall not be less than 11 metres from the boundary it faces.</i></p> <p>(c) <i>Where the house is detached and the floor area of the extension above ground level exceeds 12 square metres, any window proposed at above ground level shall not be less than 11 metres from the boundary it faces.</i></p> <p>(d)</p> <p>7. <i>The roof of any extension shall not be used as a balcony or roof garden.</i></p>
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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—*

(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.*

3. ASSESSMENT

a. Site Location

The site comprises of an existing residential property at 44 An Duiche, Scallagheen, Tipperary Town, Co. Tipperary

b. Relevant Planning History

03581535 Permission GRANTED to modify a previously approved housing development to provide for the substitution of 111 dwellings with 141 dwellings comprised of 3 No.2-bed det. bungalows, 118 No. 3-bed semi-det 2-storey dwellings & 20 No. 4-bed semi-det 2-storey dwellings

98581273 Permission GRANTED for housing development comprising 57 houses.

c. Assessment

The question posed under the Section 5 Declaration application is whether the removal of a roller garage door and installation of a window is development and is exempted development.

i) "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 proposal therefore constitutes "development" within the meaning of the Planning and Development Act 2000, as amended.

ii) "Is or is not Exempted Development"

The application as submitted does not include a site location map, site layout plan, floor plans or elevations.

While the proposed removal of the door and replacement of same with a window may avail of an exemption under Section 4(1)h of the Act elevations of the proposal would be required in order to determine same. Furthermore, it is unclear if the proposal is to facilitate the integration of the garage into the main dwelling and this would need to be assessed against Class 1 of Part 1 of Schedule 2 of the Regulations.

Further information should be requested to allow for a determination of the above.

iii) Restrictions under Article 9

I note no restrictions under Article 9 that would apply.

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

AA

The proposal has been assessed having regard to the requirements of the EU Habitats Directive. The proposal has been screened as to the requirements for AA and the screening assessment considers that the proposal does not impact on any Natura 2000 site. See also Appropriate Assessment (AA) screening report attached.

EIA

The proposed development has been subject to a preliminary examination to determine the requirement for EIA. EIA is not required in respect of the development. See also for Environmental Impact Assessment (EIA) preliminary examination screening report attached.

4. RECOMMENDATION

It is recommended that FURTHER INFORMATION is requested under Section 5(2) of the Planning and Development Act 2000, as amended, as follows;

1. The applicant is advised that the submitted application has not adequately identified the full nature and extent of the proposed development i.e. a site location map, site layout plan, plans and elevations have not been submitted. Therefore, the Planning Authority cannot determine if the proposal constitutes development and is or is not exempted development. **Furthermore, it is unclear if the proposal will facilitate the conversion for use as part of the house of the garage.**

In order to address this concern the applicant is requested to submitted full details of the proposed development to include a suitably scaled;

- Site Location Plan,
- Site Layout Plan clearly outlining the boundaries the site, existing dwelling and proposed works,
- Dimensioned Floor Plans and Elevation drawings (sufficiently detailed including floor areas and heights etc) to illustrate the existing dwelling and the proposed development.
- In the event the proposal is to facilitate the conversion for use as part of the house of the garage the applicant shall clearly identify the area of the garage to be converted

District Planner:

L. Butler-Lynn

Date:08/08/2024

Senior Executive Planner:

C. Conway

Date: 09.08.2024

HABITATS DIRECTIVE APPROPRIATE ASSESSMENT (AA) SCREENING REPORT

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

(a) File Reference No:	S5/24/87
(b) Brief description of the project or plan:	Remove door of garage and install a window.
(c) Brief description of site characteristics:	Existing dwelling in urban serviced area
(d) Relevant prescribed bodies consulted: e.g. DHLGH (NPWS), EPA, OPW	None
(e) Response to consultation:	None

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

European Site (code)	List of Qualifying Interest/Special Conservation Interest ¹	Distance from proposed development ² (km)	Connections (Source-Pathway-Receptor)	Considered further in screening Y/N
002137 Lower River Suir SAC	https://www.npws.ie/protected-sites/sac/002137	Within 10km	None	No
001847 Philipstown Marsh SAC	https://www.npws.ie/protected-sites/sac/001847	Within 15km	None	No
002165 Lower River Shannon SAC	https://www.npws.ie/protected-sites/sac/002165	Within 15km	None	No

STEP 3. Assessment of Likely Significant Effects

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

Impacts:	Possible Significance of Impacts: (duration/magnitude etc.)
Construction phase e.g. <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 	No potential impacts.
Operational phase e.g. <ul style="list-style-type: none"> • Direct emission to air and water 	No potential impacts.

- 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

In-combination/Other

No potential impacts

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

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

No potential impacts

- 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 proposed development is not likely to have significant effects.

Conclusion:

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

Refuse planning permission

EIA Pre-Screening
Establishing a development is a 'sub-threshold development'

File Reference: S5/24/87

Development Summary: A single storey rear extension

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 _____

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):

EIA is mandatory

No Screening required

Yes the project is of a type listed **but** is *sub-threshold*:

Proceed to **Part C**

C. If Yes, has Schedule 7A information/screening report been submitted?

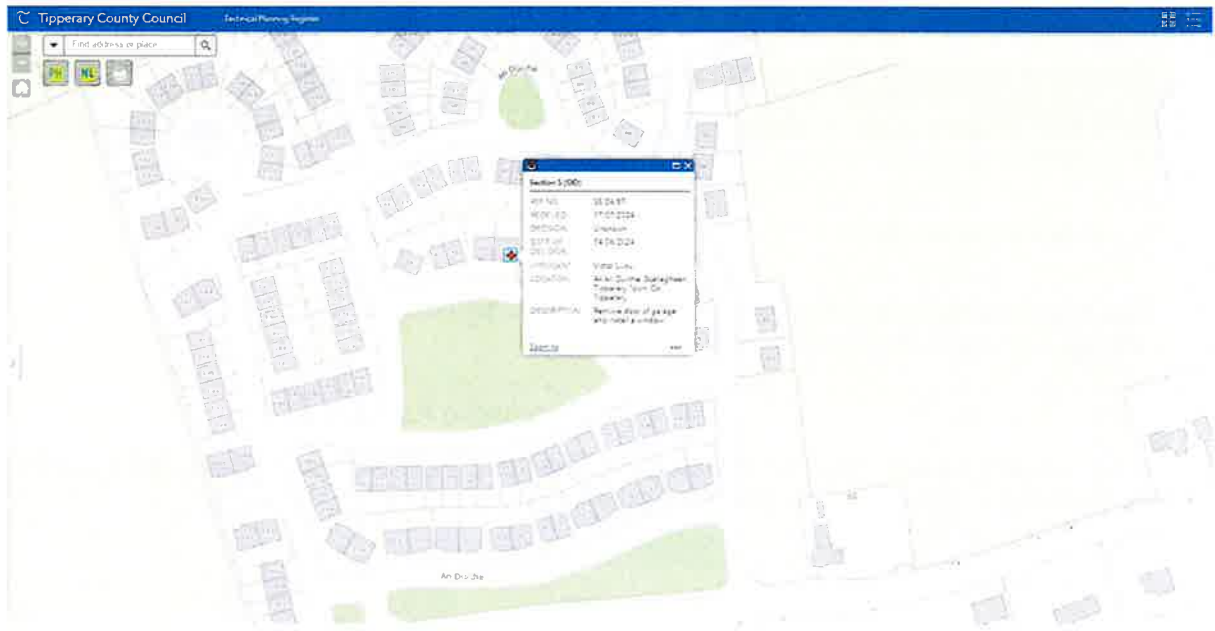
Yes, Schedule 7A information/screening report has been submitted by the applicant

Screening required

Determination

No, Schedule 7A information/screening report has not been submitted by the applicant

Preliminary Examination required





Comhairle Contae Thiobraid Árann
Tipperary County Council

Comhairle Contae
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E45 A099

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

Date: 12th August 2024

Our Ref: S5/24/87

Civic Offices, Nenagh

Victor Lupu
44 An Duiche
Scallagheen
Tipperary Town
Co. Tipperary

Re: Application for a Section 5 Declaration – Remove door of garage and install a window at 44 An Duiche, Scallagheen, Tipperary Town, Co. Tipperary

Dear Sir,

I refer to an application received from you on 17th July, 2024, requesting a Declaration from this Planning Authority as to whether or not certain works constitute development within the meaning of the Planning and Development Act 2000, as amended.

Further information is requested as follows;

1. The applicant is advised that the submitted application has not adequately identified the full nature and extent of the proposed development i.e. a site location map, site layout plan, plans and elevations have not been submitted. Therefore, the Planning Authority cannot determine if the proposal constitutes development and is or is not exempted development. Furthermore, it is unclear if the proposal will facilitate the conversion for use as part of the house of the garage.

In order to address this concern the applicant is requested to submitted full details of the proposed development to include a suitably scaled;

- Site Location Plan,
- Site Layout Plan clearly outlining the boundaries the site, existing dwelling and proposed works,
- Dimensioned Floor Plans and Elevation drawings (sufficiently detailed including floor areas and heights etc) to illustrate the existing dwelling and the proposed development.

- In the event the proposal is to facilitate the conversion for use as part of the house of the garage the applicant shall clearly identify the area of the garage to be converted

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

Yours faithfully,



for **Director of Services**



Comhairle Contae Thiobraid Árann
Tipperary County Council

Comhairle Contae
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Date: 12th August 2024

Our Ref: S5/24/87

Civic Offices, Nenagh

Victor Lupu
44 An Duiche
Scallagheen
Tipperary Town
Co. Tipperary



Re: Application for a Section 5 Declaration – Remove door of garage and install a window at 44 An Duiche, Scallagheen, Tipperary Town, Co. Tipperary

Dear Sir,

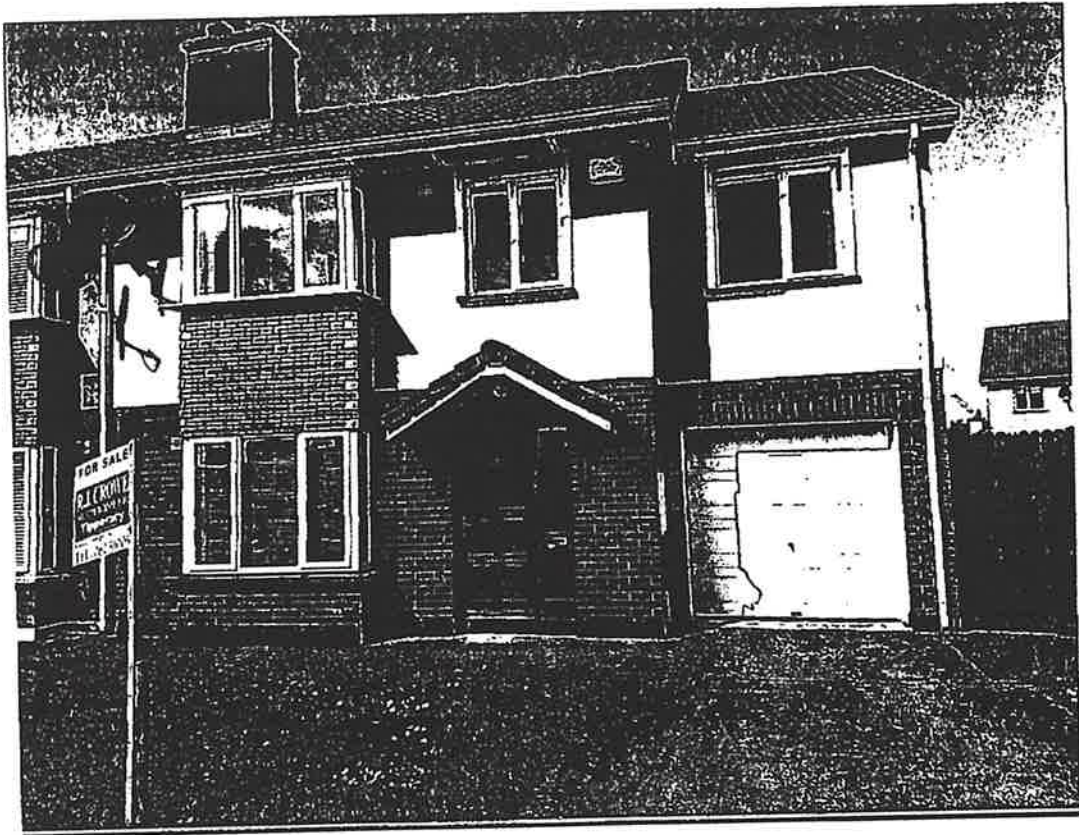
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44 An Duiche, Scalagheen, Tipperary, Co. Tipperary

Natalia Lupu & Victor Lupu

A handwritten signature in black ink, appearing to read 'Victor Lupu', written in a cursive style.

Sender:
DONOVAN AUCTIONEERS LTD.
DAVIS STREET
TIPPERARY
CO. TIPPERARY
Tel. 062-51214

588820 mE, 635200 mN

Folio Number: TY36850F

The r. Registration.

An tÚdarás Clárúcháin Maoine

Folio: TY36850F

This map should be read in conjunction with the folio.

Registry maps are based on OSI topographic mapping. Where registry maps are printed at a scale that is larger than the OSI published scale, accuracy is limited to that of the original OSI map scale.

For details of the terms of use and limitations as to scale, accuracy and other conditions relating to Land Registry maps, see www.lrd.ie.

This map incorporates Ordnance Survey Ireland (OSI) mapping data under a licence from OSI. Copyright © OSI and Government of Ireland.

(centre-line of parcel(s) edged)

Freehold

Leasehold

Subleasehold

Burdens (may not all be represented on map)

- Right of Way / Wayleave
- Turbary
- Pipeline
- Well
- Pump
- Septic Tank
- Soak Pit

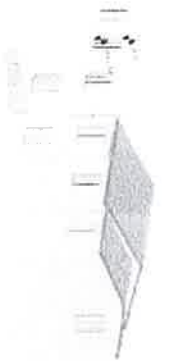
A full list of burdens and their symbology can be found at: www.landdirect.ie

The registry operates a non-conclusive boundary system. The Registry Map identifies properties not boundaries meaning neither the description of land in a register nor its identification by reference to a registry map is conclusive as to the boundaries or extent. (see Section 85 of the Registration of Title Act, 1964). As inserted by Section 62 of the Registration of Deed and Title Act 2006.

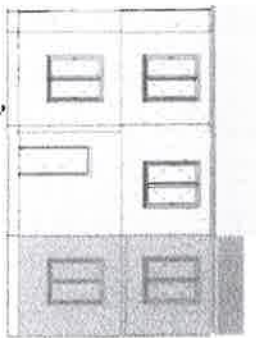


1:1000 Scale

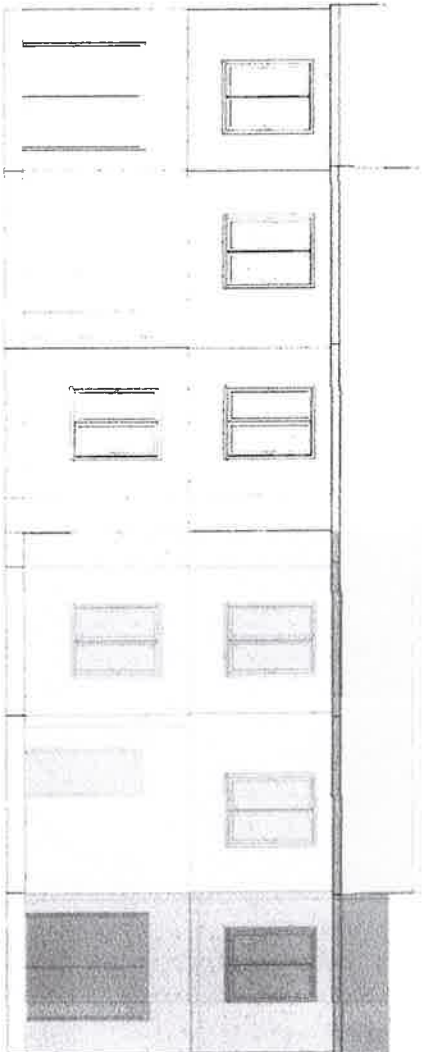




Proposed Development

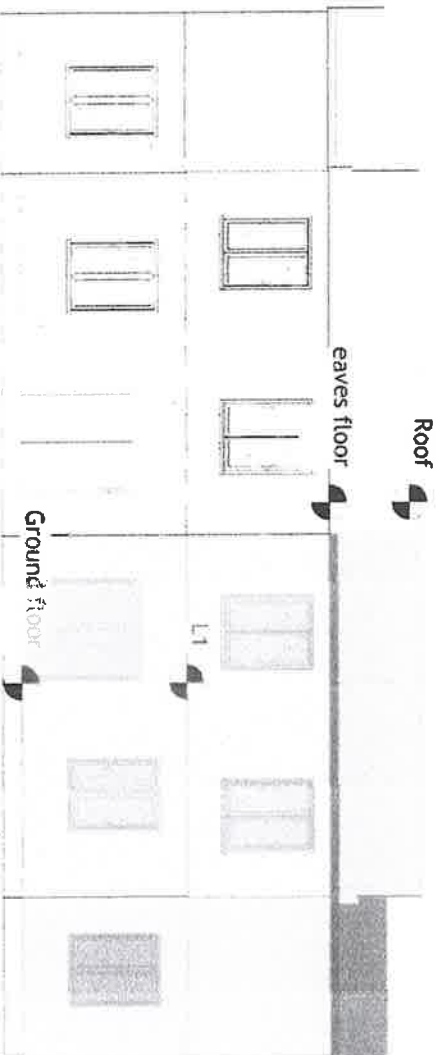


SOUTH ELEVATION
Entry/front door

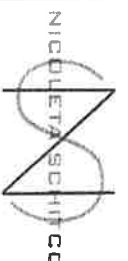


Roof 8.50m
eaves floor 5.10m
Level 1 2.60m
Ground Floor 0 m

NORTH ELEVATION
Backyard/back door



Roof
eaves floor
Ground floor



1
2
South Elevation
North Elevation
26.07.2024
26.07.2024



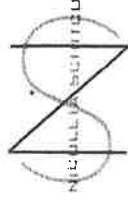
44 An Dutche, Scallaghkeen
Tipperary, Co. Tipperary,
Ireland

Garage Alteration

Victor Iupu

NS OS 26.08.202
1:100 D2P1

2



Project No: 277/2021
 Approved Date: 17/08/2021
 Living Room
 WC
 Draining: Kit 1
 Kitchen
 Storage
 1st Floor
 Bedroom 1, 4
 Storage
 Private WC
 2nd Floor

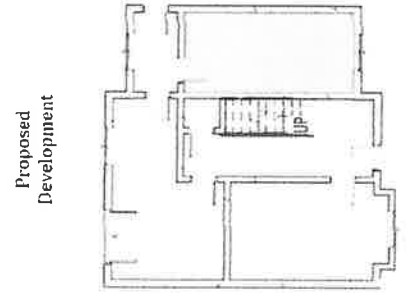


44 An Duiche, Scallaghree, Tipperary,
 Co. Tipperary, Ireland

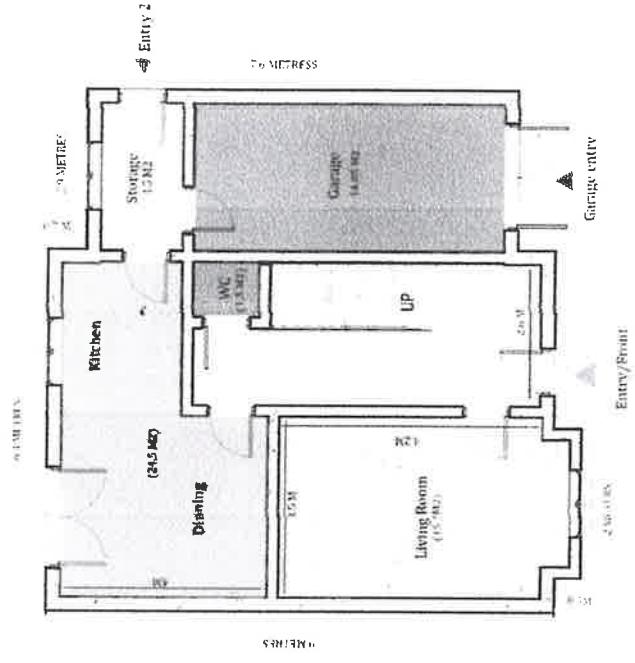
Garage Alteration

Victor Lupu

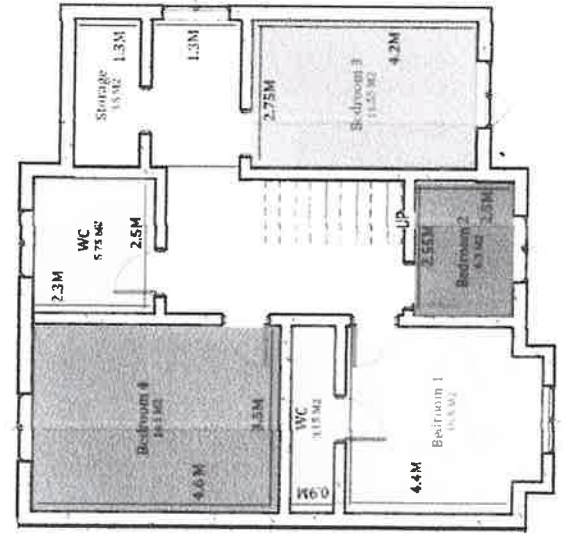
Date: 27/08/2021
 Scale: 1:100
 Drawing No: 1/2021/01



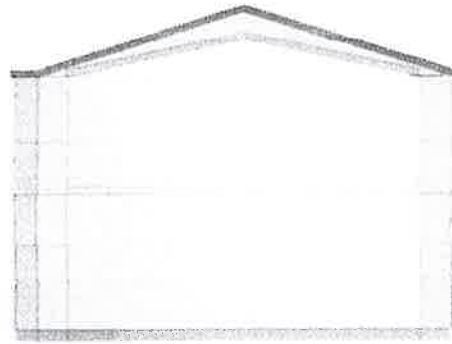
Proposed Development



GROUND FLOOR



FIRST FLOOR



EAST ELEVATION

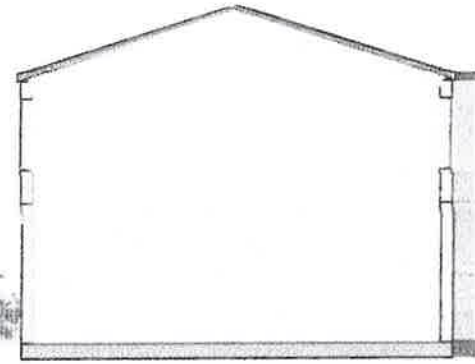


Roof
8.50 M

eaves floor
5.10 M

L1
2.00 M

Ground floor
0.00 M



WEST ELEVATION
Semi-detached

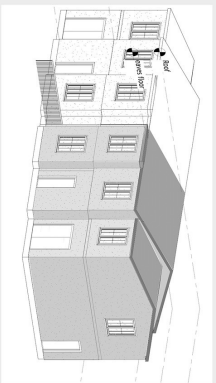


Roof
8.50 M

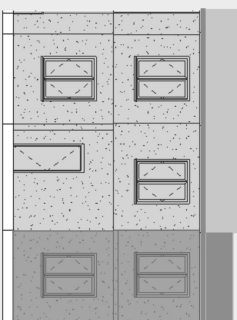
eaves floor
5.10 M

L1
2.00 M

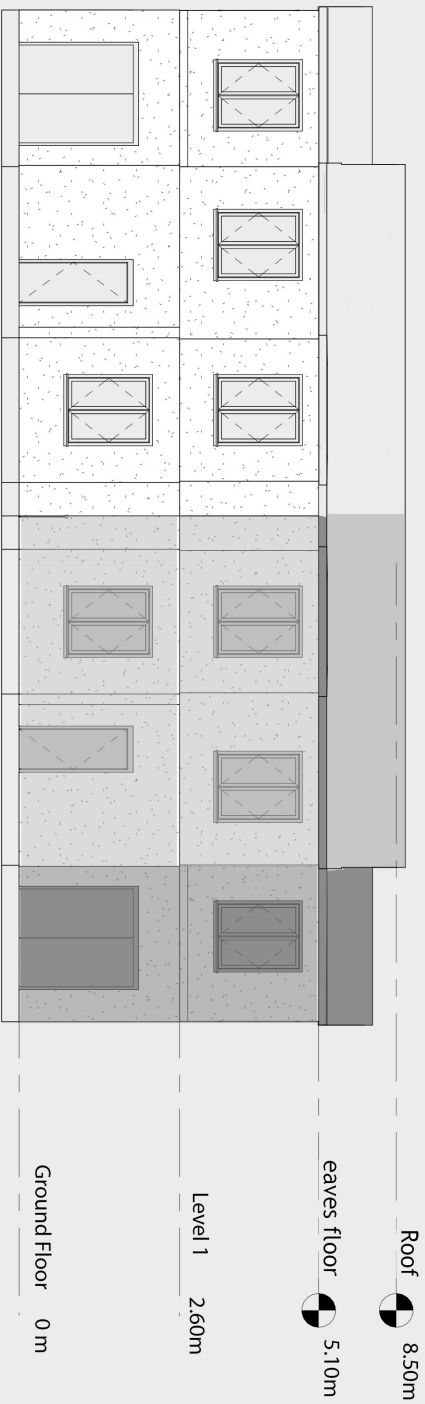
Ground floor
0.00 M



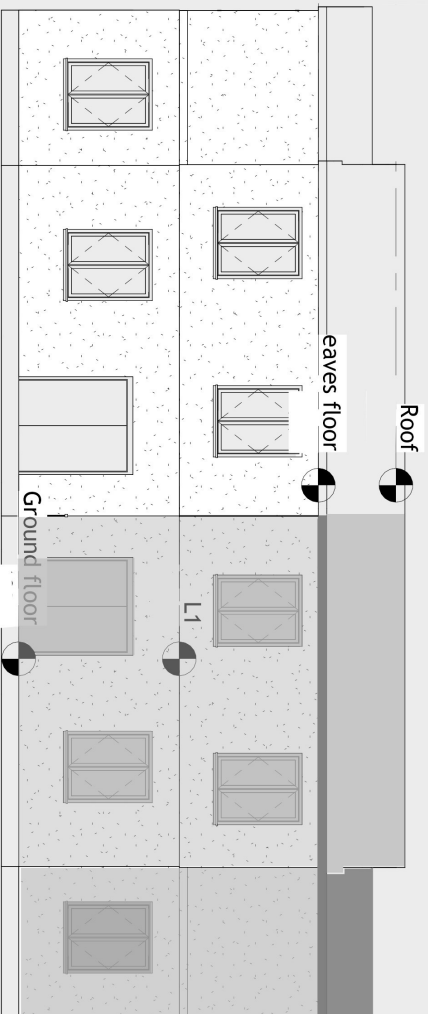
Proposed Development



SOUTH ELEVATION
Entry/front door



NORTH ELEVATION
Backyard/back door



REV	DESCRIPTION	DATE
1	South Elevation	26.07.2024
2	North Elevation	26.07.2024

CODE	STATUS

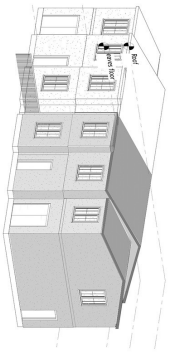


PROJECT
44 An Duiche, Scallaghbeen,
Tipperary, Co. Tipperary,
Ireland

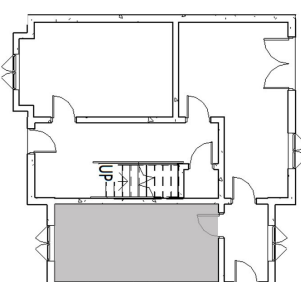
TITLE
Garage Alteration

CLIENT
Victor Iupu

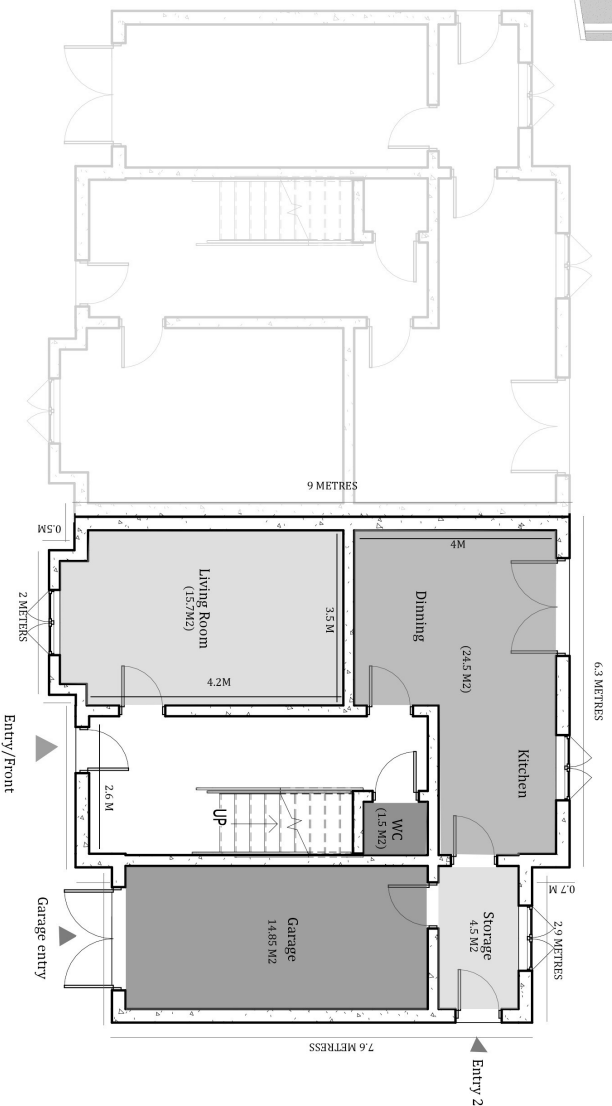
DRAWN BY NS	CHECKED BY OS	DATE 26.08.2024
SCALE 1:100	PROJECT NUMBER D2P1	REV
DRAWING NUMBER 2		



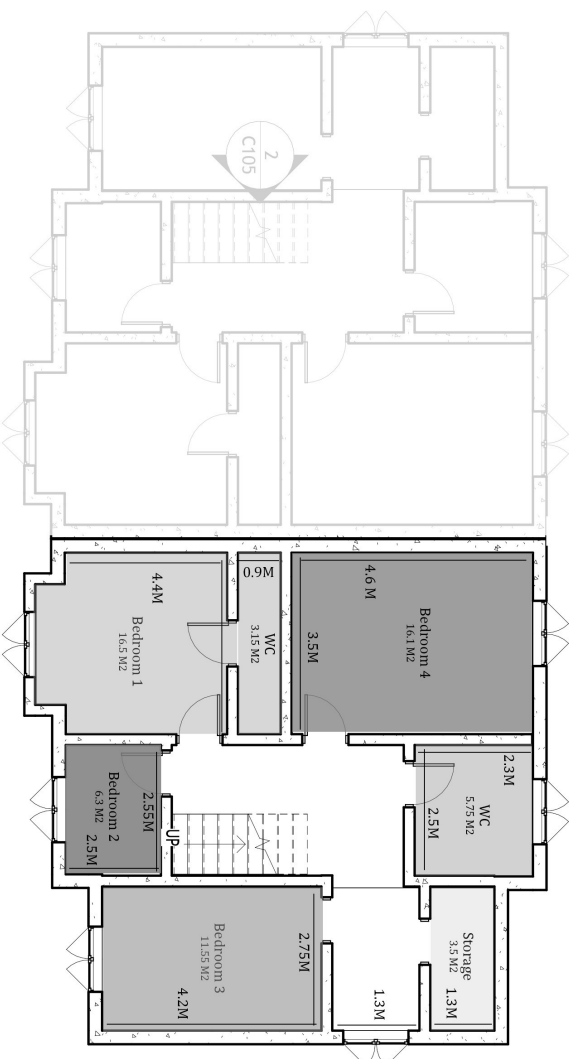
Proposed Development



GRUND FLOOR



FIRST FLOOR



REV	DESCRIPTION	DATE
1	GROUND FLOOR Entrance Lounge Room WC	27/7/2024
2	Dining/ Kitchen Storage Garage Bedroom 1-4 Storage Private WC WC	27/7/2024

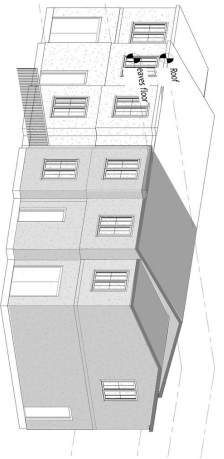


PROJECT
44 An Duiche, Scallaghan, Tipperary,
Co. Tipperary, Ireland

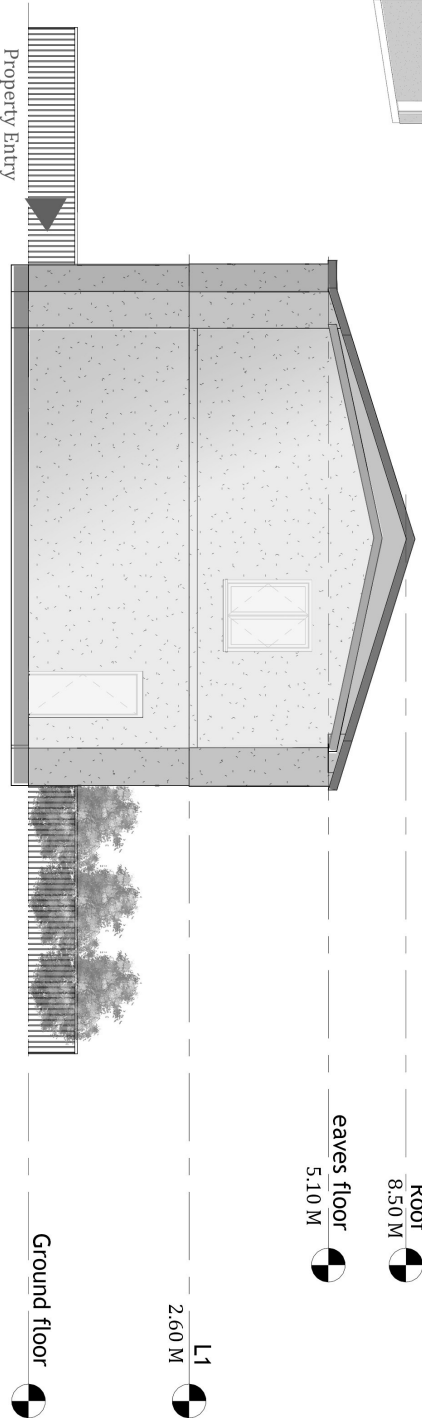
Garage Alteration

CLIENT
Victor lupu

DRAWN BY NS	CHECKED BY OS	DATE 27/7/2024
SCALE 1:100	PROJECT NUMBER D1P1	REV
DRAWING NUMBER 1		



EAST ELEVATION



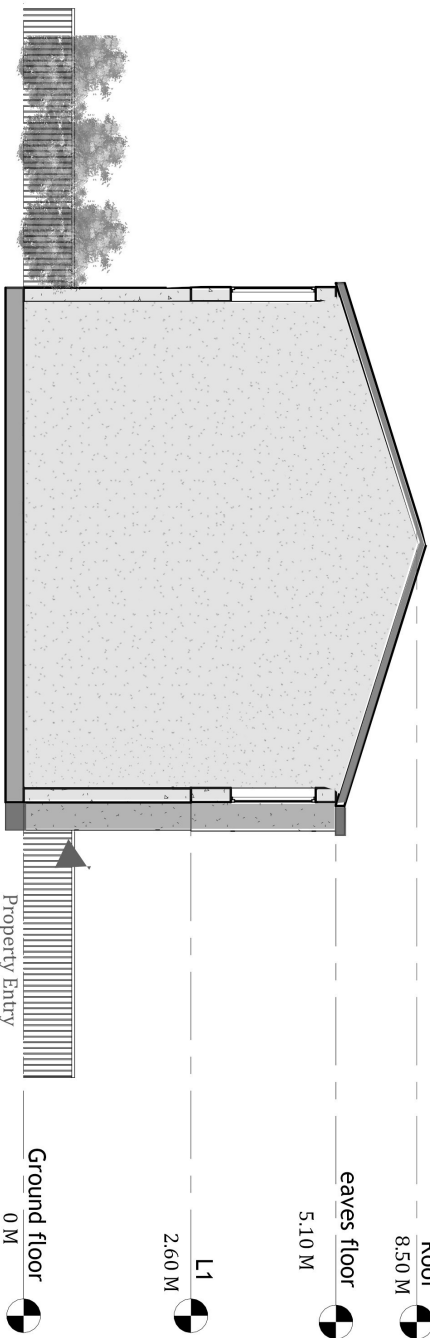
Roof
8.50 M

eaves floor
5.10 M

L1
2.60 M

Ground floor

WEST ELEVATION Semi-detached

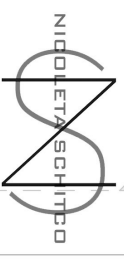


Roof
8.50 M

eaves floor
5.10 M

L1
2.60 M

Ground floor
0 M



REV	DESCRIPTION	DATE
1	EAST ELEVATION	27/7/2024
2	WEST ELEVATION	27/7/2024

CODE	STATUS



PROJECT
44 An Dutche, Scallaghreen, Tipperary,
Co. Tipperary, Ireland

TITLE
Garage Alteration

CLIENT
VICTOR IUPU

DRAWN BY	CHECKED BY	DATE
NS	OS	27/7/2024
SCALE 1:100	PROJECT NUMBER D3P1	REV
DRAWING NUMBER 3		



Comhairle Contae Thiobraid Árann
Tipperary County Council

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Tipperary County Council,
Civic Offices, Clonmel,
Co. Tipperary
E91 N512

Comhairle Contae
Thiobraid Árann,
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An tAonach,
Co. Thiobraid Árann
Tipperary County Council,
Civic Offices, Nenagh,
Co. Tipperary
E45 A099

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

Date: 3rd September, 2024

Our Ref: S5/24/87

Civic Offices, Nenagh

Victor Lupu
44 An Duiche
Scallagheen
Tipperary Town
Co. Tipperary

Re: Application for a Section 5 Declaration re – remove door of garage and install a window at 44 An Duiche, Scallagheen, Tipperary Town, Co. Tipperary

Dear Mr Lupu

I acknowledge receipt of Further Information received on 2nd September, 2024 in connection with the above.

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

Yours sincerely


for **Director of Services**

TIPPERARY COUNTY COUNCIL

Application for Declaration under Section 5
Report No. 2

Planning & Development Act 2000, as amended
Planning & Development Regulations 2001, as amended

Planning Reference: S5/24/87
Applicant: Victor Lupu
Development Address: 44 An Duiche, Scallagheen, Tipperary Town, Co. Tipperary
Proposed Development: Remove door of garage and install a window. Conversion of the garage to use as a study.

A request for further information was issued on 12th August 2024 and a response was received on 2nd September 2024 and 13th September 2024.

1. GENERAL

On the 17th July 2024, a request was made for a declaration under Section 5 of the Planning and Development Act, 2000 as amended, by Victor Lupu in respect of the following development;

The description as per the application form is as follows;

I have a semidetached house with a garage. The garage has a roller door, which I want to remove and install a window. I'm not magnifying anything and I will not damage the face of the house.



Figure 1 google street View



Figure 2 Google Street View

2. **STATUTORY PROVISIONS**

The following statutory provisions are relevant to this case;

Planning and Development Act 2000, as amended

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

“In this Act, ‘development’ means, except where the context otherwise requires, the carrying out of works on, in, over or under land or the making of any material change in the use of any structures or other land.”

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

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

Section 4 of the Planning and Development Act, 2000, as amended states:

(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.*

(2)(a) *The Minister may by regulations provide for any class of development to be exempted development for the purposes of this Act where he or she is of the opinion that—*

(i) *by reason of the size, nature or limited effect on its surroundings, of development belonging to that class, the carrying out of such development would not offend against principles of proper planning and sustainable development, or*

(ii) *the development is authorised, or is required to be authorised, by or under any enactment (whether the authorisation takes the form of the grant of a licence, consent, approval or any other type of authorisation) where the enactment concerned requires there to be consultation (howsoever described) with members of the public in relation to the proposed development prior to the granting of the authorisation (howsoever described).*

(4) *Notwithstanding paragraphs (a), (i), (ia) and (l) of subsection (1) and any regulations under subsection (2), development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required.*

Planning and Development Regulations 2001, as amended

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 1 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended states:

Description of Development	Conditions and Limitations
<i>The extension of a house, by the construction or erection of an extension (including a conservatory) to the rear of the house or by the conversion for use as part of the house of any garage, store, shed or other similar structure attached to the rear or to the side of the house.</i>	<ol style="list-style-type: none">1.<ol style="list-style-type: none">(a) <i>Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres.</i>(b) <i>Subject to paragraph (a), where the house is terraced or semi-detached, the floor area of any extension above ground level shall not exceed 12 square metres.</i>(c) <i>Subject to paragraph (a), where the house is detached, the floor area of any extension above ground level shall not exceed 20 square metres.</i>2.<ol style="list-style-type: none">(a) <i>Where the house has been extended previously, the floor area of any such extension, taken together with the floor area of any previous extension or extensions constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 40 square metres.</i>(b) <i>Subject to paragraph (a), where the house is terraced or semi-detached and has been extended previously, the floor area of any extension above ground level taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 12 square metres.</i>(c) <i>Subject to paragraph (a), where the house is detached and has been extended previously, the floor area of any extension above ground level, taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 20 square metres.</i>3. <i>Any above ground floor extension shall be a distance of not less than 2 metres from any party boundary.</i>4.<ol style="list-style-type: none">(a) <i>Where the rear wall of the house does not include a gable, the height of the walls of any such extension shall not exceed the height of the rear wall of the house.</i>

	<p>(b) <i>Where the rear wall of the house includes a gable, the height of the walls of any such extension shall not exceed the height of the side walls of the house.</i></p> <p>(c) <i>The height of the highest part of the roof of any such extension shall not exceed, in the case of a flat roofed extension, the height of the eaves or parapet, as may be appropriate, or, in any other case, shall not exceed the height of the highest part of the roof of the dwelling.</i></p> <p>5. <i>The construction or erection of any such extension to the rear of the house shall not reduce the area of private open space, reserved exclusively for the use of the occupants of the house, to the rear of the house to less than 25 square metres.</i></p> <p>6.</p> <p>(a) <i>Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces.</i></p> <p>(b) <i>Any window proposed above ground level in any such extension shall not be less than 11 metres from the boundary it faces.</i></p> <p>(c) <i>Where the house is detached and the floor area of the extension above ground level exceeds 12 square metres, any window proposed at above ground level shall not be less than 11 metres from the boundary it faces.</i></p> <p>7. <i>The roof of any extension shall not be used as a balcony or roof garden.</i></p>
--	---

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—

(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.

3. ASSESSMENT

a. Site Location

The site comprises of an existing residential property at 44 An Duiche, Scallagheen, Tipperary Town, Co. Tipperary

b. Relevant Planning History

03581535 Permission GRANTED to modify a previously approved housing development to provide for the substitution of 111 dwellings with 141 dwellings comprised of 3 No.2-

bed det. bungalows, 118 No. 3-bed semi-det 2-storey dwellings & 20 No. 4-bed semi-det 2-storey dwellings

98581273 Permission GRANTED for housing development comprising 57 houses.

c. Assessment

The question posed under the Section 5 Declaration application is whether the removal of a roller garage door and installation of a window is development and is exempted development.

i) “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 proposal therefore constitutes “development” within the meaning of the Planning and Development Act 2000, as amended.

ii) “Is or is not Exempted Development”

The application as submitted does not include a site location map, site layout plan, floor plans or elevations.

While the proposed removal of the door and replacement of same with a window may avail of an exemption under Section 4(1)h of the Act elevations of the proposal would be required in order to determine same. Furthermore, it is unclear if the proposal is to facilitate the integration of the garage into the main dwelling and this would need to be assessed against Class 1 of Part 1 of Schedule 2 of the Regulations.

Further information should be requested to allow for a determination of the above.

iii) Restrictions under Article 9

I note no restrictions under Article 9 that would apply.

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

AA

The proposal has been assessed having regard to the requirements of the EU Habitats Directive. The proposal has been screened as to the requirements for AA and the screening assessment considers that the proposal does not impact on any Natura 2000 site. See also Appropriate Assessment (AA) screening report attached.

EIA

The proposed development has been subject to a preliminary examination to determine the requirement for EIA. EIA is not required in respect of the development. See also for Environmental Impact Assessment (EIA) preliminary examination screening report attached.

4. FUTHER INFORMATION REQUEST, RESPONSE & ASSESSMENT

A request for further information was issued on 12th August 2024. A response was received on 2nd September 2024 and 13th September 2024.

1. *The applicant is advised that the submitted application has not adequately identified the full nature and extent of the proposed development i.e. a site location map, site layout plan, plans and elevations have not been submitted. Therefore, the Planning Authority cannot determine if the proposal constitutes development and is or is not exempted development. **Furthermore, it is unclear if the proposal will facilitate the conversion for use as part of the house of the garage.***

In order to address this concern the applicant is requested to submitted full details of the proposed development to include a suitably scaled;

- *Site Location Plan,*
- *Site Layout Plan clearly outlining the boundaries the site, existing dwelling and proposed works,*
- *Dimensioned Floor Plans and Elevation drawings (sufficiently detailed including floor areas and heights etc) to illustrate the existing dwelling and the proposed development.*
- *In the event the proposal is to facilitate the conversion for use as part of the house of the garage the applicant shall clearly identify the area of the garage to be converted*

Response: The response details that the garage is proposed to be used as a study. Revised location map, site layout plan, floor plan and elevation drawings have been submitted.

Assessment: Following clarity in the response, the question has been rephrased as to whether the removal of the door of garage, installation of a window and conversion of the garage to a study is development and is exempted development.

The floor plan shows the that garage has a floor area of 14.85sq.m. It is proposed to replace the garage door with a window which appears to match the existing. Following a review of the proposal against Class 1 of Part 1 of Schedule 2 of the Regulations, I am satisfied that it meets this the parameters of the available exemption and is not limited by Article 9 of the Regulations.

5. RECOMMENDATION

WHEREAS a question has arisen as to whether the removal of the door of garage, installation of a window and conversion of the garage to a study at 44 An Duiche, Scallagheen, Tipperary Town, Co. Tipperary constitutes “development” and is or is not “exempted development”.

AND WHERE AS Tipperary County Council in considering this referral had regard particularly to -

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000 as amended,
- (b) Article 6 and Article 9 of the Planning and Development Regulations, 2001, as amended,
- (c) Schedule 2, Part 1, Class 1 of the Planning and Development Regulations, 2001, as amended
- (d) The application and details submitted by the applicant

AND WHEREAS Tipperary County Council has concluded that the removal of the door of the garage, installation of a window and conversion of the garage to a study at No 44 An Duiche, Scallagheen, Tipperary Town, Co. Tipperary constitutes “development” within the meaning of the Planning and Development Act 2000, as amended and is “exempted development”. The development is exempted development as same satisfies the exemptions available under Section 4(1)(h) of the Planning and Development Act 2000, as amended, and Class 1, Schedule 2, Part 3 of the Planning and Development Regulations 2001 (as amended).

NOW THEREFORE Tipperary County Council, in exercise of the powers conferred on it by Section 5 (2) (a) of the 2000 Act, as amended, hereby decides the conversion of the garage to a study at 44 An Duiche, Scallagheen, Tipperary Town, Co. Tipperary is development and is exempted development.

The development has been screened as to the requirement for Appropriate Assessment and Environmental Impact Assessment and it has been determined that same are not required.

District Planner:

L. Butler-Lyan

Date:16/09/2024

Senior Executive Planner:

C. Conway

Date: 18.09.2024

HABITATS DIRECTIVE APPROPRIATE ASSESSMENT (AA) SCREENING REPORT

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

(a) File Reference No:	S5/24/87
(b) Brief description of the project or plan:	Removal of garage door and replacing same with a window, Conversion of the garage to a study
(c) Brief description of site characteristics:	Existing dwelling in urban serviced area
(d) Relevant prescribed bodies consulted: e.g. DHLGH (NPWS), EPA, OPW	None
(e) Response to consultation:	None

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

European Site (code)	List of Qualifying Interest/Special Conservation Interest ¹	Distance from proposed development ² (km)	Connections (Source-Pathway-Receptor)	Considered further in screening Y/N
002137 Lower River Suir SAC	https://www.npws.ie/protected-sites/sac/002137	Within 10km	None	No
001847 Philipstown Marsh SAC	https://www.npws.ie/protected-sites/sac/001847	Within 15km	None	No
002165 Lower River Shannon SAC	https://www.npws.ie/protected-sites/sac/002165	Within 15km	None	No

STEP 3. Assessment of Likely Significant Effects

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

Impacts:	Possible Significance of Impacts: (duration/magnitude etc.)
Construction phase e.g. <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 	No potential impacts.
Operational phase e.g. <ul style="list-style-type: none"> • Direct emission to air and water 	No potential impacts.

<ul style="list-style-type: none"> • 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 	
In-combination/Other	No potential impacts

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

<p>Examples of the type of changes to give consideration to include:</p> <ul style="list-style-type: none"> • 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 	No potential impacts
---	----------------------

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

Yes No

STEP 4. Screening Determination Statement

The assessment of significance of effects:

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

The proposed development is not likely to have significant effects.

Conclusion:

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

EIA Pre-Screening
Establishing a development is a 'sub-threshold development'

File Reference: S5/24/87

Development Summary: Conversion of the garage to a study. Removal of garage door and replacing same with a window

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)

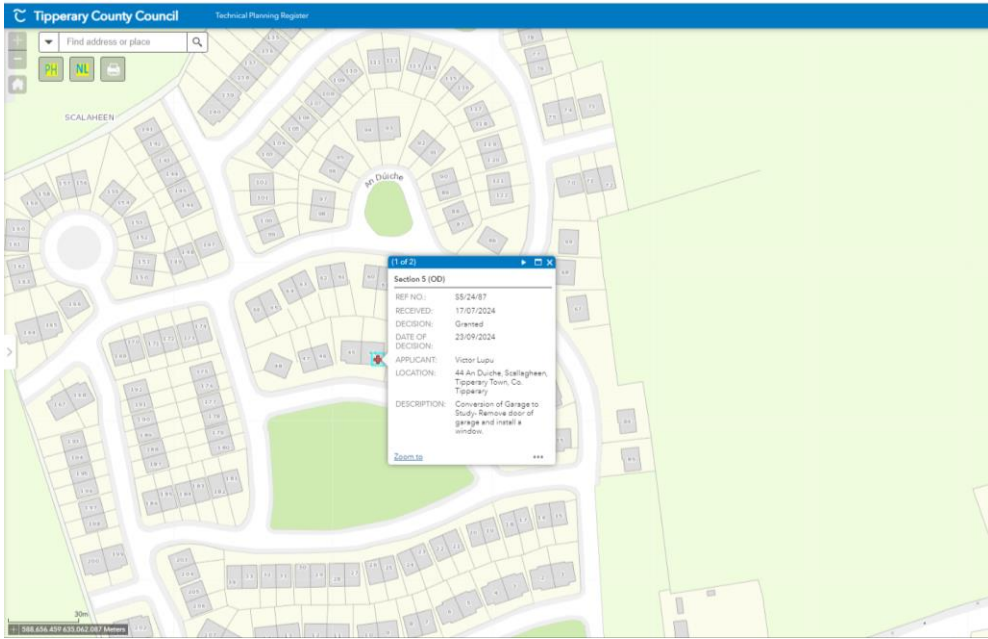
<input type="checkbox"/> Yes, specify class _____	EIA is mandatory
	No Screening required
<input checked="" type="checkbox"/> No	Proceed to Part B

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 required	Determination
<input type="checkbox"/> No, Schedule 7A information/screening report has not been submitted by the applicant	Preliminary Examination required	





Comhairle Contae Thiobraid Árann
Tipperary County Council

Comhairle Contae
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Tipperary County Council,
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Co. Tipperary

E45 A099

t 0818 06 5000
e customerservice
@tipperarycoco.ie

tipperarycoco.ie

Date: 19th September 2024

Our Ref: S5/24/87

Civic Offices, Nenagh

Victor Lupo
44 An Duiche
Scallagheen

Tipperary Town
Co. Tipperary

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

Dear Mr Lupo,

I refer to your application for a Section 5 Declaration received on 17th July, 2024 and a response was received on 2nd September 2024 and 13th September 2024 in relation to the following proposed works:

Remove door of garage and install a window. Conversion of the garage to use as a study at 44 An Duiche, Scallagheen, Tipperary Town, 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 –

- a) Sections 2, 3 and 4 of the Planning and Development Act, 2000 as amended,
- b) Article 6 and Article 9 of the Planning and Development Regulations, 2001, as amended,
- c) Schedule 2, Part 1, Class 1 of the Planning and Development Regulations, 2001, as amended
- d) The application and details submitted by the applicant

AND WHEREAS Tipperary County Council has concluded that the removal of the door of the garage, installation of a window and conversion of the garage to a study at No 44 An Duiche, Scallagheen, Tipperary Town, Co. Tipperary constitutes "development" within the meaning of the Planning and Development Act 2000, as amended and is "exempted development". The development is exempted development as same satisfies the exemptions available under Section 4(1)(h) of the Planning and Development Act 2000, as amended, and Class 1, Schedule 2, Part 3 of the Planning and Development Regulations 2001 (as amended).

NOW THEREFORE Tipperary County Council, in exercise of the powers conferred on it by Section 5 (2) (a) of the 2000 Act, as amended, hereby decides the conversion of the garage to a study at 44 An Duiche, Scallagheen, Tipperary Town, Co. Tipperary is development and is **exempted development**.

The development has been screened as to the requirement for Appropriate Assessment and Environmental Impact Assessment and it has been determined that same are not required.

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

Yours sincerely

Geraldine Quinn

for **Director of Services**

Original

TIPPERARY COUNTY COUNCIL

DELEGATED EMPLOYEE'S ORDER

File Ref: **S5/24/87** **Delegated Employee's Order No:** _____

SUBJECT: Section 5 Declaration

I, Sharon Kennedy, Director of Services, Tipperary County Council, by virtue of the powers delegated to me in accordance with the provisions of Section 154 of the Local Government Act 2001, as amended by Schedule 1, Part 1 of the Local Government Reform Act 2014 under Chief Executive's Order No. 37256 dated 4th March, 2024, hereby order that pursuant to the provisions of the Planning and Development Act 2000, as amended, that an application under Section 5 from Victor Lupu, 44 An Duiche, Scallagheen, Tipperary Town, Co. Tipperary, re: Remove door of garage and install a window. Conversion of the garage to use as a study at 44 An Duiche, Scallagheen, Tipperary Town, Co. Tipperary is development and is exempted development.

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

- a) Sections 2, 3 and 4 of the Planning and Development Act, 2000 as amended,
- b) Article 6 and Article 9 of the Planning and Development Regulations, 2001, as amended,
- c) Schedule 2, Part 1, Class 1 of the Planning and Development Regulations, 2001, as amended
- d) The application and details submitted by the applicant

AND WHEREAS Tipperary County Council has concluded that the removal of the door of the garage, installation of a window and conversion of the garage to a study at No 44 An Duiche, Scallagheen, Tipperary Town, Co. Tipperary constitutes "development" within the meaning of the Planning and Development Act 2000, as amended and is "exempted development". The development is exempted development as same satisfies the exemptions available under Section 4(1)(h) of the Planning and Development Act 2000, as amended, and Class 1, Schedule 2, Part 3 of the Planning and Development Regulations 2001 (as amended).

NOW THEREFORE Tipperary County Council, in exercise of the powers conferred on it by Section 5 (2) (a) of the 2000 Act, as amended, hereby decides the conversion of the garage to a study at 44 An Duiche, Scallagheen, Tipperary Town, Co. Tipperary is development and is **exempted development**.

The development has been screened as to the requirement for Appropriate Assessment and Environmental Impact Assessment and it has been determined that same are not required.

Signed: 

Date: 19/09/2024

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