



TIPPERARY CO. COUNCIL
RECEIVED
-7 AUG 2024
PLANNING SECTION
FILE NO. 55/24/94

Tipperary County Council
RECEIVED
07 AUG 2024
CSD
Civic Offices, Nenagh

PLANNING & DEVELOPMENT ACT, 2000 (as amended)

Application for a Section 5 Declaration
Development / Exempted Development

1. Applicant's address/contact details:

Applicant	Helen Moore
Address	Beakstown Holycross [REDACTED]
[REDACTED]	[REDACTED]
E-mail	[REDACTED]

2. Agent's (if any) address:

Agent	N/A
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)	Beakstown E41 TX67 Holycross Thurles Co. Tipperary
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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.)

Re-Building the front wall as original
wall wasn't structurally safe, when I bought the
height of wall will be 1.2m + length 50 metres ^{Cottage}
Entrance gate will be slightly widened to accommodate
new gate - size will be between 10-12ft
Proposed floor area of proposed works/uses: 50sqm

Large gate needed as my daughter is in a special needs school & the school bus requires

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

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

Signature of Applicant(s)

[Handwritten Signature]

Date: 5.8.24.

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

GUIDANCE NOTES

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

(All dimensions must be given in metric scale and drawings should be accompanied by a brief description outlining the use of the proposed development)
- (3) Where a proper and complete application is received, a decision must be conveyed to the applicant within four (4) weeks except where additional necessary information is required.

This application form and relevant fee should be submitted to:

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

FOR OFFICE USE ONLY

DATE STAMP

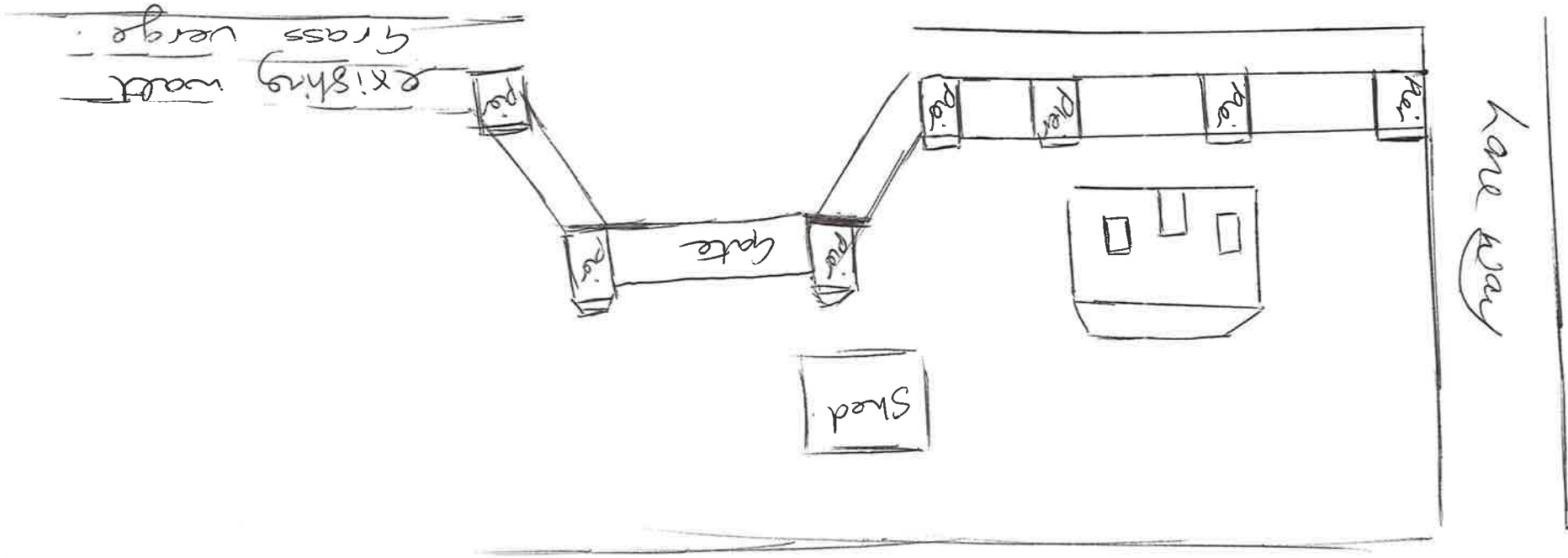
Fee Recd. € 80.00

Receipt No NENAM1/0/121921

Date 07/8/2024

Received by _____

Main Road - Holycross → Trucks



Sorry
I'm brutal at
drawing.
If you want to send
someone out to take
a look - feel free
Thanks.

The Property
Registration Authority
An tÚdarás
Clárúcháin Maoinne



Official Property Registration Map

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.prai.ie.

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(centre-line of parcel(s) edged)

- Freehold
- Leasehold
- SubLeasehold
- 'S' Register

(see Section 8(b)(II) of Registration of Title Act 1964 and Rule 224 & 225 Land Registration Rules 1972 - 2010).

Burdens (may not all be represented on map)

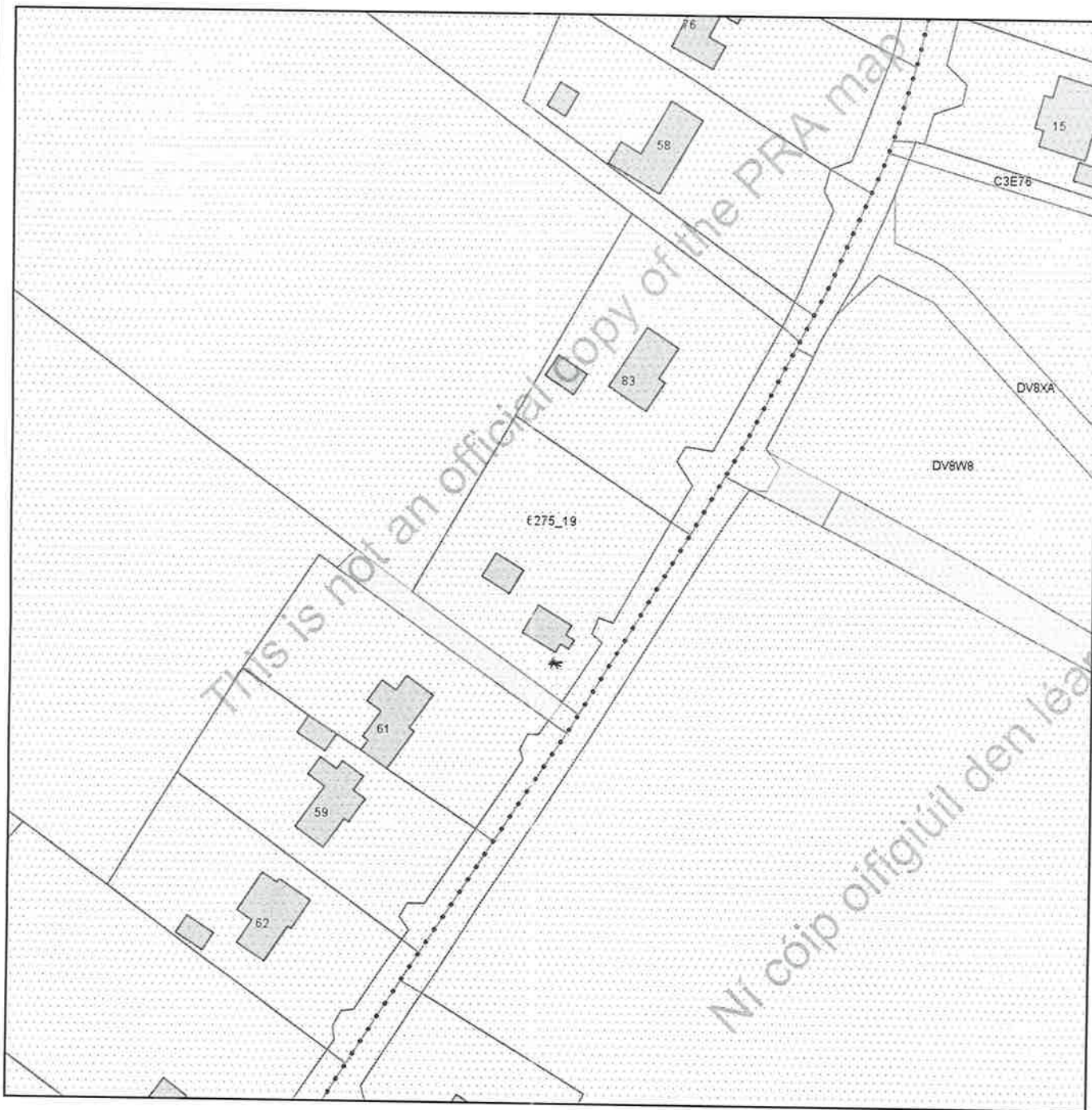
- Right of Way / Wayleave
- Turbary
- Pipeline
- Well
- Pump
- Septic Tank
- Soak Pit

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.





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- Burdens** (may not all be represented on map)
- Right of Way / Wayleave
 - Turbary
 - Pipeline
 - Well
 - Pump
 - Septic Tank
 - ▽ Soak Pit

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Land Registry

County Tipperary

Folio 30639

Register of Ownership of Freehold Land

Part 1(A) - The Property

Note: Unless a note to the contrary appears, neither the description of land in the register nor its identification by reference to the Registry Map is conclusive as to boundaries or extent

For parts transferred see Part 1(B)

No.	Description	Official Notes
1	The property shown coloured RED as Plan(s) 6275_19 on the Registry Map, situate in the Townland of BEAKSTOWN, in the Barony of ELIOGARTY, in the Electoral Division of HOLYCROSS.	From Folio TY6275

Land Registry

County Tipperary

Folio 30639

Part 1(B) - Property

Parts Transferred

No.	Prop No:	Instrument:	Date:	Area (Hectares):	Plan:	Folio No:

Land Registry

County Tipperary

Folio 30639

Part 2 - Ownership

Title ABSOLUTE

No.	The devolution of the property is subject to the provisions of Part II of the Succession Act, 1965
1	<p>11-JAN-1974 T153/74</p> <p>TIMOTHY CARROLL of BREAKSTOWN, HOLYCROSS, THURLES, COUNTY TIPPERARY is full owner.</p> <p>Land Cert Application No.: 633755893447</p> <p>Date: 10-NOV-2000</p> <p>Issued To: P. J. O'MEARA, SOLR.</p> <p>Address: THURLES CO. TIPPERARY</p>

Land Registry

County Tipperary

Folio 30639

Part 3 - Burdens and Notices of Burdens

No.	Particulars
1	11-JAN-1974 T153/74 The right of Matthew Carroll during his life to reside in the dwellinghouse.

**The Property
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Burdens (may not all be represented on map)

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Tipperary County Council

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Cluain Meala,
Co. Thiobraid Árann
Tipperary County Council,
Civic Offices, Clonmel,
Co. Tipperary
E91 N512

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Tipperary County Council,
Civic Offices, Nenagh,
Co. Tipperary
E45 A099

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

Date: 7th August, 2024

Our Ref: S5/24/94

Civic Offices, Nenagh

**Helen Moore
Beakstown
Holycross
Thurles,
Co. Tipperary, E41 TX67**

Re: Application for a Section 5 Declaration –Rebuilding the front wall as it is structurally unsafe, height 1.2m, entrance to be widened to enable access for special needs school bus 10 – 12 ft at Beakstown, Holycross, Thurles, Co Tipperary, E41 TX67

Dear Sir/Madam

I acknowledge receipt of your application for a Section 5 Declaration received on 7th August, 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**

From: [REDACTED]
Subject: [External] Section 5 form re build wall/wider entrance
Date: 21 August 2024 12:28:46

CAUTION FROM TIPPERARY COUNTY COUNCIL IT SECTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Siobhan following our earlier conversation the length of the front wall is 100ft that's including up to entrance piers.

Gate size will be 10 or 12 ft depending on what will be allowed

Kind regards
Helen Moore

TIPPERARY COUNTY COUNCIL

Application for Declaration under Section 5

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

Planning Ref.: S5/24/94

Applicant: Helen Moore

Development Address: Beakstown, Holycross, E41 TX67

Proposed Development: Rebuilding the front wall as original wall wasn't structurally safe.. Height of wall will be 1.2m and 50m in length. Entrance gate will be slightly widened to accommodate new gate – size will be between 10-12 ft.

1. GENERAL

On 07.08.2024 a request was made for a declaration under Section 5 of the Planning and Development Act 2000, as amended by Helen Moore as to whether or not the following constitutes development and if so, whether same constitutes exempted development:

Rebuilding the front wall as original wall wasn't structurally safe. Height of wall will be 1.2m and 50m in length. Entrance gate will be slightly widened to accommodate new gate – size will be between 10-12 ft at Beakstown, Holycross.

2. STATUTORY PROVISIONS

The following statutory provisions are relevant to this referral case;

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.

or an appropriate assessment of the development is required.

Article 6 (1) of the Planning & Development Regulations 2001, as amended states:

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 5, Schedule 2 Part 31 of the Planning & Development Regulations 2001, as amended provides an exemption for:

The construction, erection or alteration, within or bounding the curtilage of a house, of a gate, gateway, railing or wooden fence or a wall of brick, stone, blocks with decorative finish, other concrete blocks or mass concrete

The following conditions/limitations apply to this exemption:

1. *The height of any such structure shall not exceed 2 metres or, in the case of a wall or fence within or bounding any garden or other space in front of a house, 1.2 metres.*
2. *Every wall other than a dry or natural stone wall bounding any garden or other space shall be capped and the face of any wall of concrete or concrete block (other than blocks with decorative finish) which will be visible from any road, path or public area, including public open space, shall be rendered or plastered.*
3. *No such structure shall be a metal palisade or other security fence.*

Article 9 (1) of the Planning & Development Regulations 2001, as amended states:

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

C) Is the exemption restricted under Article 9

Restrictions on exemption.

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,

There is no planning history attached to this site

(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,

As per site visit of August 30th the previously existing wall has been removed. The section 5 application references rebuilding of the front boundary wall, however it is noted that planning permission has not been granted for the removal of the existing front boundary, with the removal of same considered to be unauthorised. It is noted that the surfaced carriageway at this location measures in excess of 4 metres in width so the removal of the boundary wall is considered unauthorised.

(iii) endanger public safety by reason of traffic hazard or obstruction of road users,

It is noted that the applicant has not demonstrated that adequate sightlines are achievable at the proposed access, and therefore it is not clear that the proposed development will not endanger public safety by reason of traffic hazard or obstruction of road users.

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

As set out above, the application relates to the rebuilding of front boundary wall which has been removed without the benefit of planning permission, and which therefore may constitute unauthorised development

3. **ASSESSMENT**

a. Site Location

The site accommodates a dwelling and shed at Beakstown, Holycross.



Image taken from Google maps (image capture July 2019) showing front boundary wall in situ

As per site visit dated, 30th August, 2024 the entire front boundary has been removed (image to be uploaded)

b. Relevant Planning History

On site:

There is no planning history traced on site. It is noted that the dwelling is not evident on historic 6" maps, however is visible on B&W orthophotos dated 1995.

It is noted that no planning permission was granted for the removal of the original front boundary.

c. Assessment

A) "Is or is not Development"

I consider the proposals constitute "works" as understood by the Planning and Development Act 2000, as amended. The 'works' in this instance constitute "development" in accordance with the provisions of Section 3 of the Act.

B) "Is or is not Exempted Development"

Class 5, Schedule 2 Part 1 of the Planning & Development Regulations 2001, as amended provides an exemption for the construction of blockwork walls bounding the domestic cartilage of a house of up to 1.2 metres in height to the front of a dwelling. The conditions associated with this exemption require the walls to be capped and rendered where open to public view.

The evidence from the site inspection show the original front boundary wall has been removed without the benefit of planning permission.

C) "Is the exemption limited under Article 9."

With regard to Article 9 (1) (a) (iii) I consider that the proposed development may endanger public safety by reason of traffic hazard or obstruction of road users. It is noted that the applicant has not demonstrated adequate sightlines in compliance with the Development Management Standards set out in the Tipperary County Development Plan, 2022.

With regard to Article 9 (1) (a) (viii) I note that the application relates to the rebuilding of front boundary wall which has been removed without the benefit of planning permission, and which therefore may consist of or comprise the alteration of an unauthorised structure.

With regard to Article 9 (1) (a) (viiB) the attached AA Screening Assessment shows the development presents no impact on a natura 2000 site and the exemption is not restricted by Article 9 (1) (a) (viiB).

I note no other restrictions under Article 9 that would apply to the exemption.

4. RECOMMENDATION

WHEREAS a question has arisen as to whether the rebuilding the front wall where the height of wall will be 1.2m and 50m in length. Entrance gate will be slightly widened to accommodate new gate – size will be between 10-12 ft, is development and is exempted development:

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

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

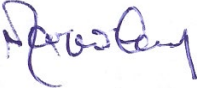
AND WHEREAS Tipperary County Council has concluded that –

The rebuilding of the front wall where the height of wall will be 1.2m and 50m in length. Entrance gate will be slightly widened to accommodate new gate – size will be between 10-12 ft, constitutes “development” within the meaning of the Planning and Development Act 2000, as amended and is not “exempted development”. The Planning Authority consider the exemption under Class 5 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended) is restricted under Article 9 (1) (a) parts ii) as the carrying out of development would:

- 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 Article 9(1)(a) (ii)

The Planning Authority is not satisfied that the development would not endanger public safety by reason of traffic hazard or obstruction of road users (Article 9(1)(a) (iii))

NOW WHEREAS Tipperary County Council, in exercise of the powers conferred on it by section 5(2)(a) of the Planning and Development Act 2000 as amended, it is hereby decided that the proposed development is development and is **not exempted development**.

Signed: 
Marion Carey
District Planner

Date: 02.09.2024

Regarding this case I note the new boundary wall comes within the planning exemption height limit under Class 5 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended). The development also includes for the formation of a new entrance onto the public road R 503 that appears to be wider than the entrance that pre-existed. The roadway at this point exceeds 4 metres in width.

I consider the exemptions under Class 5 is restricted under Article 9 of the Planning and Development Regulations 2001, as amended in this instance for the reasons as set out above. I am satisfied the proposal is not exempted development-Jonathan Flood A/SEP 2/9/2024

Signed: 
Jonathan Flood
A/Senior Executive Planner

Date: 2/9/2024



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Tipperary County Council

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Date: 3rd September, 2024

Our Ref: S5/24/94

Civic Offices, Nenagh

Helen Moore
Beakstown
Holycross
Thurles
Co. Tipperary, E41 TX67
Email: helenmoore992@gmail.com

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

Dear Ms Moore,

I refer to your application for a Section 5 Declaration received on 7th August, 2024, in relation to the following proposed works: Rebuilding the front wall as original wall wasn't structurally safe..Height of wall will be 1.2m and 50m in length. Entrance gate will be slightly widened to accommodate new gate – size will be between 10-12 **at Beakstown, 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 of the Planning and Development Act 2000 (as amended)
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001 (as amended)
- (c) Class 5 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended)

AND WHEREAS Tipperary County Council has concluded that –

The rebuilding of the front wall where the height of wall will be 1.2m and 50m in length. Entrance gate will be slightly widened to accommodate new gate – size will be between 10-12 ft, constitutes “development” within the meaning of the Planning and Development Act 2000, as amended and is not “exempted development”. The Planning Authority consider the exemption under Class 5 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended) is restricted under Article 9 (1) (a) parts ii) as the carrying out of development would:

- 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 Article 9(1)(a) (ii)

The Planning Authority is not satisfied that the development would not endanger public safety by reason of traffic hazard or obstruction of road users (Article 9(1)(a) (iii))

NOW WHEREAS Tipperary County Council, in exercise of the powers conferred on it by section 5(2)(a) of the Planning and Development Act 2000 as amended, it is hereby decided that the proposed development is development and is **not exempted development.**

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: **S5/24/94** **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 Helen Moore, Beakstown, Holycross, E41 TX67 re Rebuilding the front wall as original wall wasn't structurally safe. Height of wall will be 1.2m and 50m in length. Entrance gate will be slightly widened to accommodate new gate – size will be between 10-12 ft is development and is not exempted development.

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

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


AND WHEREAS Tipperary County Council has concluded that –

The rebuilding of the front wall where the height of wall will be 1.2m and 50m in length. Entrance gate will be slightly widened to accommodate new gate – size will be between 10-12 ft, constitutes "development" within the meaning of the Planning and Development Act 2000, as amended and is not "exempted development". The Planning Authority consider the exemption under Class 5 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended) is restricted under Article 9 (1) (a) parts ii) as the carrying out of development would:

- 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 Article 9(1)(a) (ii)

The Planning Authority is not satisfied that the development would not endanger public safety by reason of traffic hazard or obstruction of road users (Article 9(1)(a) (iii))

NOW WHEREAS Tipperary County Council, in exercise of the powers conferred on it by section 5(2)(a) of the Planning and Development Act 2000 as amended, it is hereby decided that the proposed development is development and is **not exempted development.**

Signed:  _____

Date: 03/09/2024

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