



PLANNING & DEVELOPMENT ACT, 2000 (as amended)

Application for a Section 5 Declaration
Development / Exempted Development

1. Applicant's address/contact details:

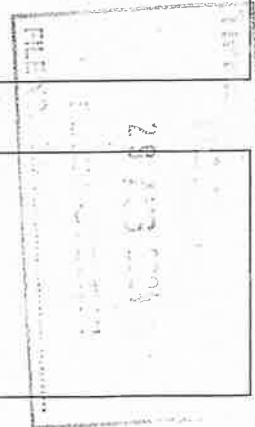
Applicant	MARY COSTELLO
Address	MAIN STREET, BORRISOLEIGH, THURLES CO TIPPERARY E41NP63
Telephone No.	[REDACTED]
E-mail	[REDACTED]

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)	MAIN ST, BORRISOLEIGH THURLES CO TIPPERARY E41 NP 63
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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 retired as postmistress in Borrisoleigh on the 12/3/84. The post office was in a front room of my home & I now wish to change the room back to residential like it was 30 yrs ago.	
I would like to remove the front door of the office & replace it with a window to match the window of my front lounge. This is at the other side of the hall door.	
Proposed floor area of proposed works/uses:	167 sqm

82cm window width
133cm window length

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

Please tick appropriate box to show applicant's legal interest in the land or structure	A. Owner <input checked="" type="checkbox"/>	B. Occupier
	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) Mary Costello Date:

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
<u>DATE STAMP</u>
Fee Recd. € <u>80-</u>
Receipt No <u>NENAM1/0/122493</u>
Date <u>29/8/2024</u>
Received by _____

less than 40 sq.m.
Put down eircode

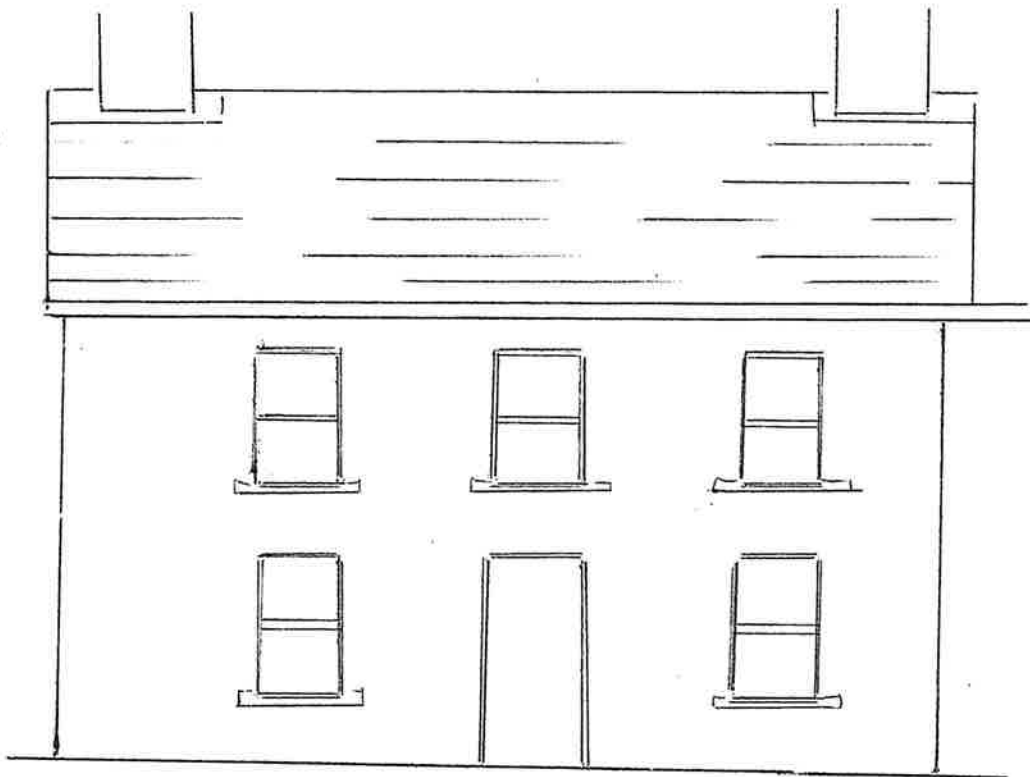




Drawings showing new
front elevation &
plans of new Living
Room

A4 size

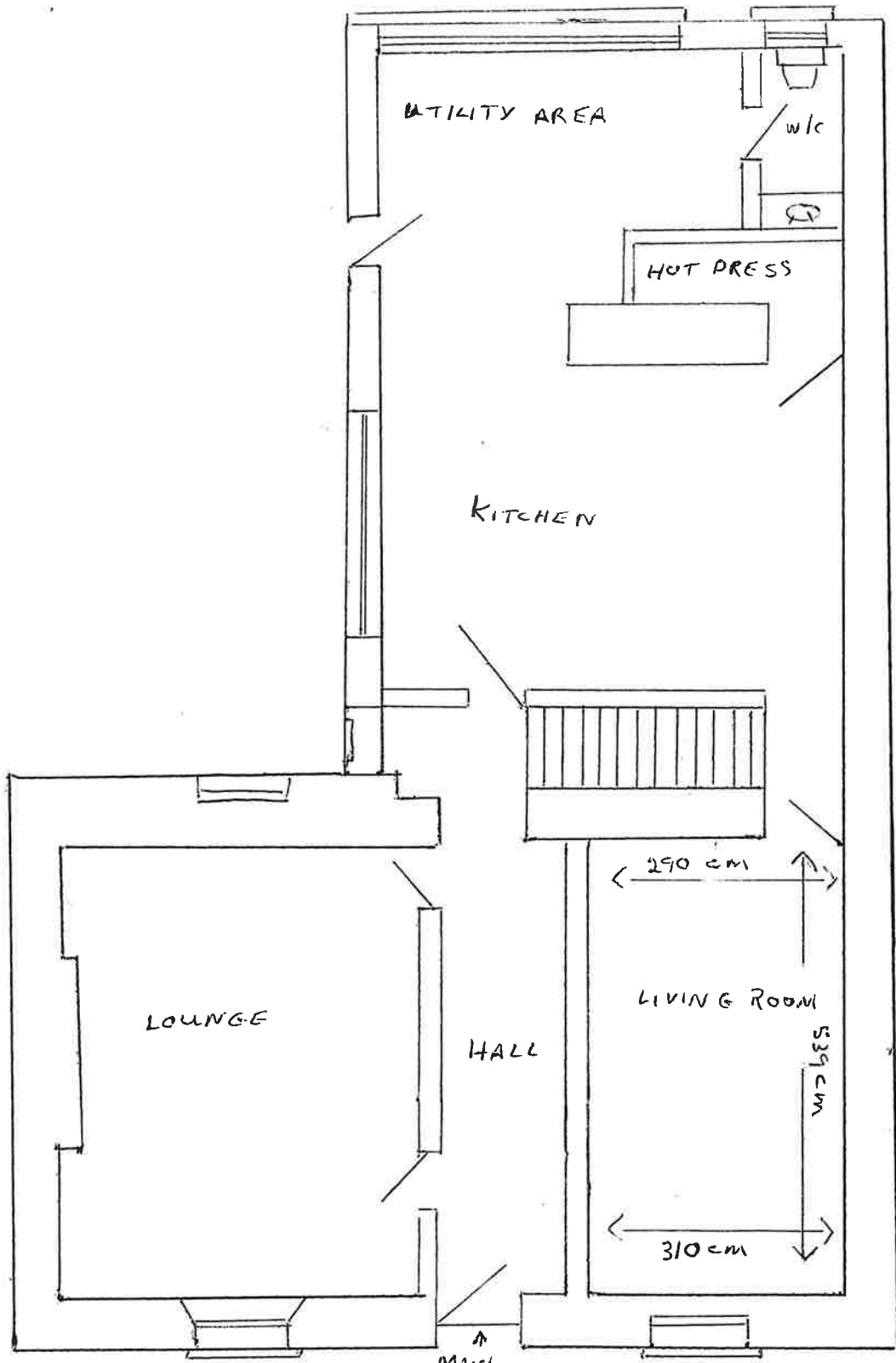




FRONT ELEVATION

↖
Remove the door &
Replace with a window
to match the bottom
window on the front left.
(width of window 82 cm)
length 133 cm

The floor area of this
Room is 167 sqm

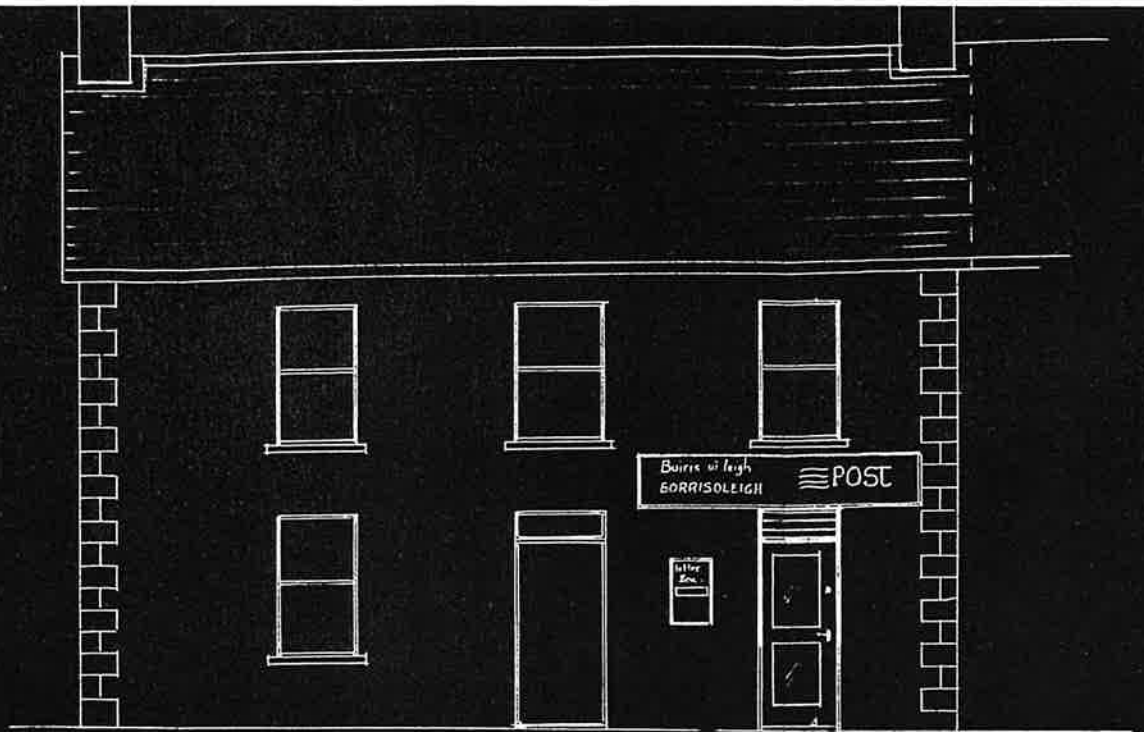


NEW WINDOW 82cm to match the first window in the lounge

GROUND FLOOR LAYOUT

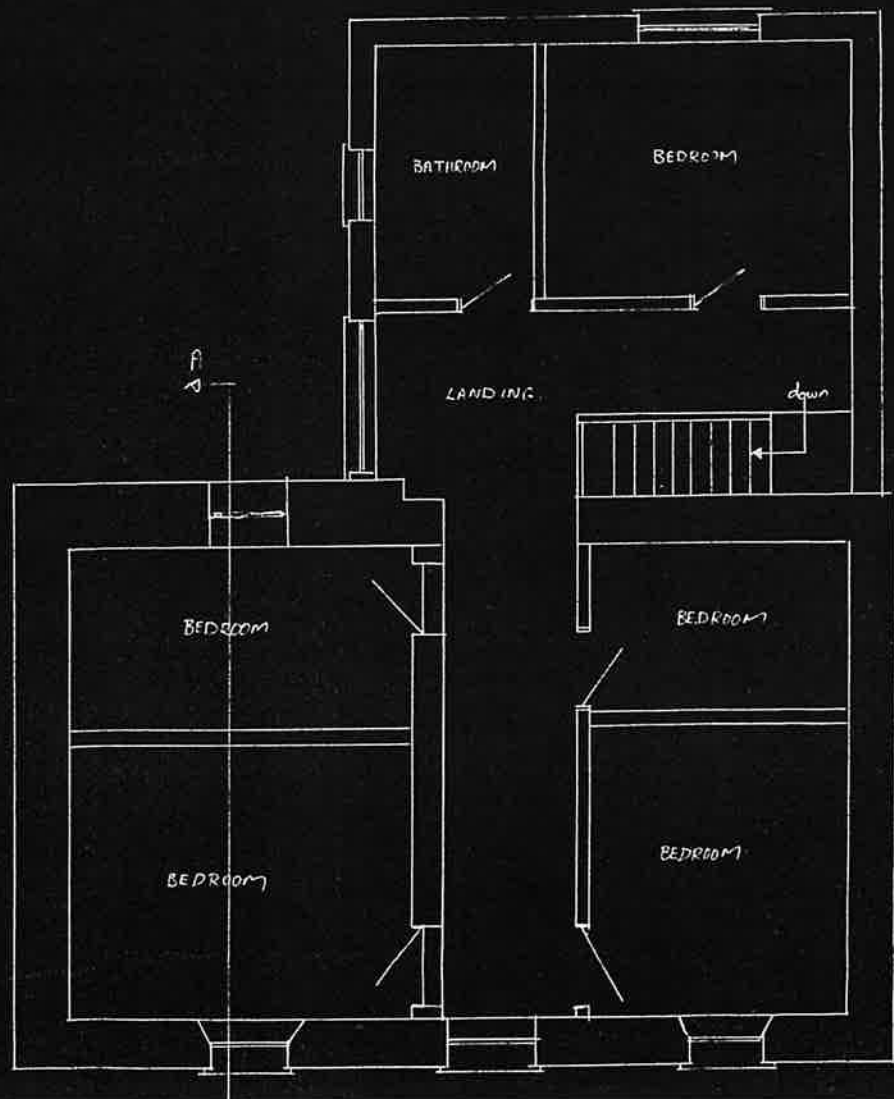
The original copy of plans
to turn the front room
of the house into
a Post Office.
This happened over
30 years ago.





FRONT ELEVATION

< Post office change of use
 New door in P.V.C
 single entry



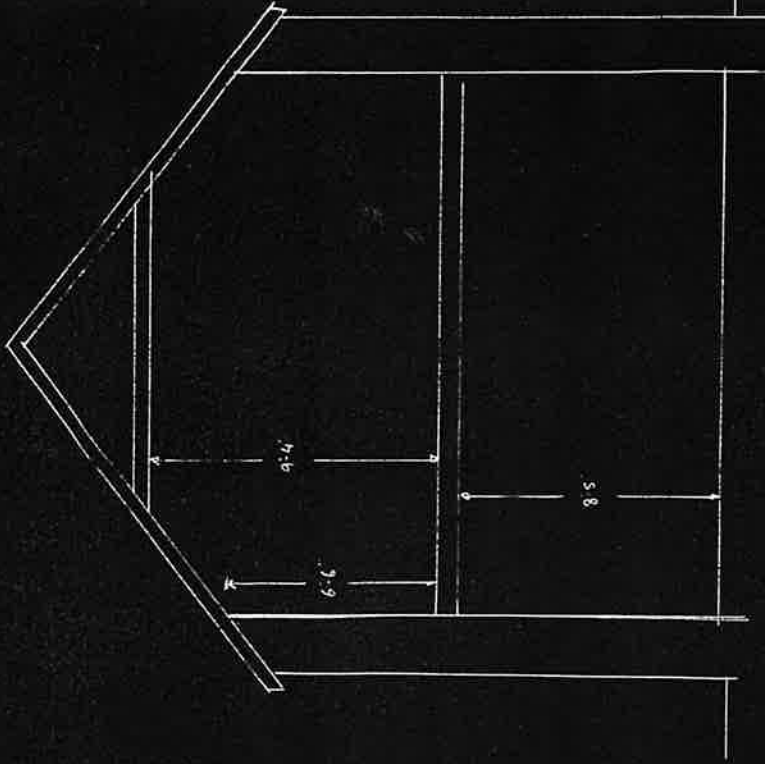
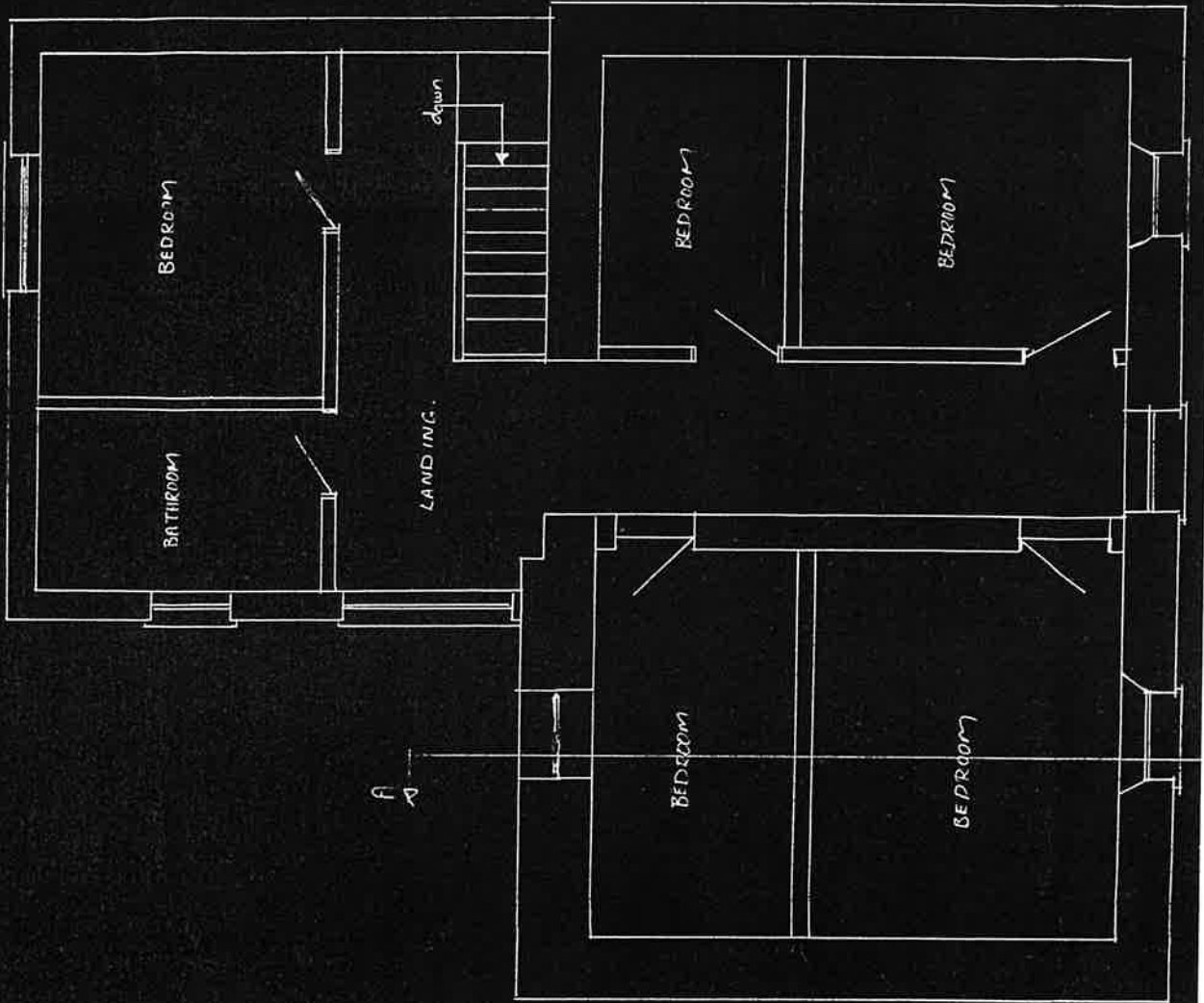
propose the entrance

Remove existing fireplace

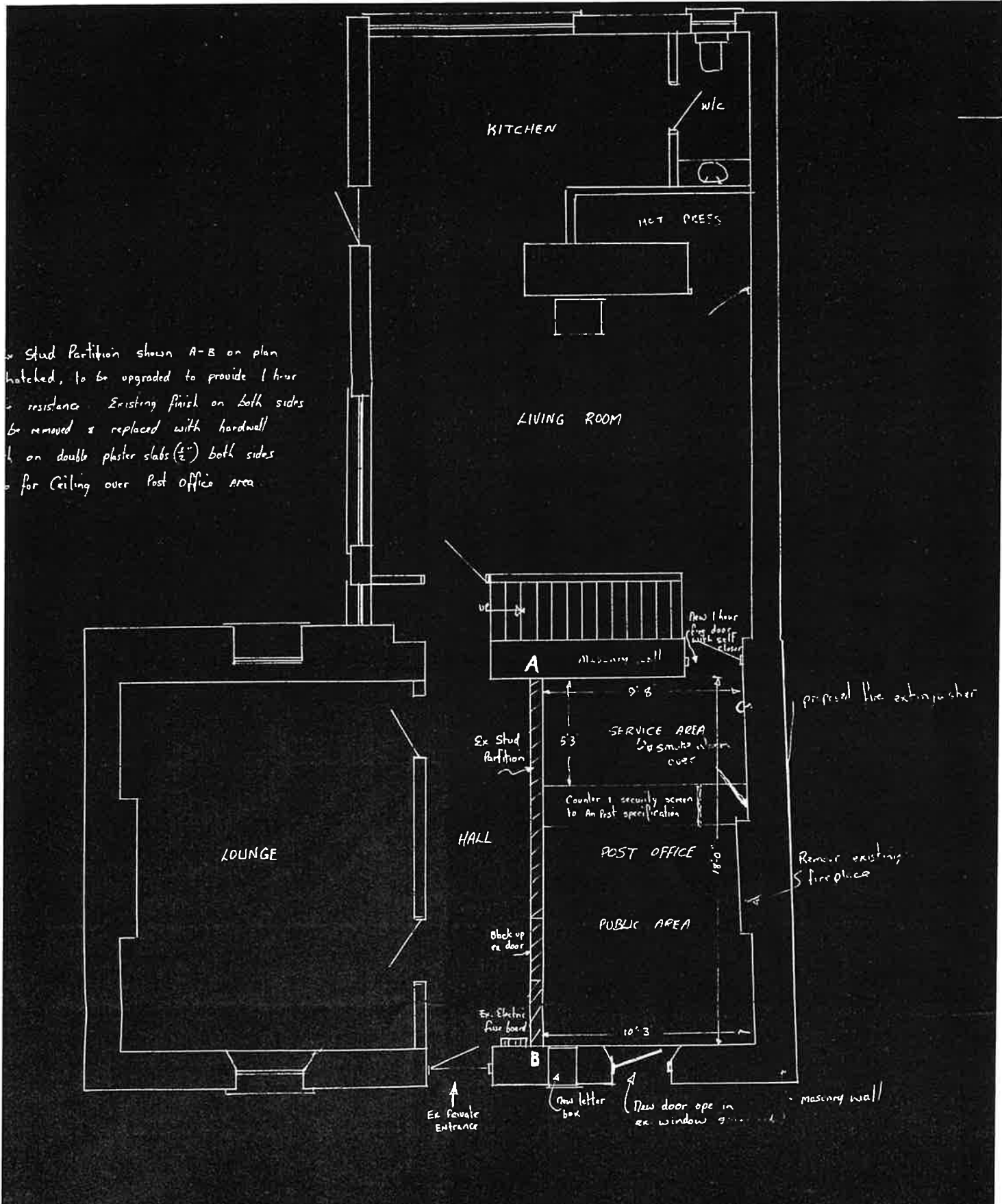
massing wall

FRONT ELEVATION

< New door in P.M.C.
first office - change of use
2 up's & 1 down



SECTION A-A



Ex Stud Partition shown A-B on plan hatched, to be upgraded to provide 1 hour resistance. Existing finish on both sides to be removed & replaced with hardwall on double plaster slabs (1/2") both sides for ceiling over Post Office Area.

GROUND FLOOR LAYOUT

Floor Area of Post Office 180 sq

Copy of letter from
AN Post stating that
the Post Office on
Main St would be
closing on the 12/3/24
E41 WP 63



Ms Mary Costello
Postmaster
Borrisoleigh Post Office
Borrisoleigh
Thurles
Co Tipperary

8th September 2023

Dear Mary,

I acknowledge receipt of your correspondence of 7th September 2023 detailing your wish to resign from your contract effective from 12th March 2024. I have processed your request and the contract will now be advertised. You should receive the advertisement notices for display in your Office in a matter of days.

I would like to take this opportunity to acknowledge and sincerely thank you for your long service, dating back to 1989, as Postmaster at Borrisoleigh Post Office. Your contribution is greatly appreciated both by An Post and by the local residents and Post Office customers in Borrisoleigh and surrounding areas.

The staff in Portlaoise Regional Office and I, want to wish you enjoyment and happiness into the future.

I will be in contact with you on an ongoing basis over the next number of weeks/months updating you on the progress around identifying a new contractor and on completing arrangements around the actions necessary on your resignation date.

Yours Sincerely



Pat Cremin
Regional Operations Manager



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,
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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: 30th August, 2024

Our Ref: S5/24/98

Civic Offices, Nenagh

**Mary Costello
Main Street
Borrisoleigh
Thurles
Co. Tipperary**

Re: Application for a Section 5 Declaration – Change room from Post office back to a residential room. Remove front door and replace with a window, (167sqm) at Main Street, Borrisoleigh, Thurles, Co. Tipperary.

Dear Ms Costello,

I acknowledge receipt of your application for a Section 5 Declaration received on 29th 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 sincerely


for **Director of Services**

TIPPERARY COUNTY COUNCIL
Application for Declaration under Section 5

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

Planning Ref.: S5/24/98

Applicant: Mary Costello

Development Address: Main Street, Borrisoleigh, Co. Tipperary

Proposed Development: Change of use of post office area of building to residential

1. GENERAL

On 29/8/2024 a request was made for a declaration under Section 5 of the Planning and Development Act, 2000 as amended as to whether or not the following works constituted development and if so, whether same was exempted development:

- Change of use of post office area of building to residential

The details provided with the application show that the area to which the change of use was part of a dwelling house used as a post office (GFA16.43 sq m). This area is to be incorporated into use as part of the dwelling house and the former post office doorway from Main Street is to be changed to a window.

2. STATUTORY PROVISIONS

The following statutory provisions are relevant to this referral case;

Section 2(1) of the Planning and Development Act, 2000, as amended, states as follows;
“In this Act, except where the context otherwise requires – “development” has the meaning assigned to it by Section 3 and development shall be construed accordingly.”

And,

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

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

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

Section 4 provides for Exempted Development and Section 4(1) sets out works which shall be exempted development for the purposes of the Planning and Development Act 2000, as amended.

Section 4(1) (h) of the Act states provides an exemption for:

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

Section 4(2)(a) of the same Act states that
'the Minister may by regulations provide for any class of development to be exempted development for the purposes of this Act.

Section 4(4) states that
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.

Section 82 of the Act states:

Notwithstanding paragraph (a), (h), (i), (ia), (j), (k) or (l) of section 4(1), or any regulations made under section 4(2) the carrying out of works to the exterior of a structure located in an architectural conservation area shall be exempted development only if those works would not materially affect the character of the area

Article 6 of the Planning and Development Regulations 2001, as amended states:

Shop means a structure used for any or all of the following purposes, where the sale, display or service is principally to visiting members of the public

(b) as a post office,

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.

Article 10 of the Planning and Development Regulations 2001, as amended provides an exemption for the change of use of certain classes of development to residential use. This exemption is subject to a number of criteria being satisfied (*inter alia*):

- *The structure has been vacant for a period of 2 years or more immediately prior to the commencement of the proposed development.*

3. ASSESSMENT

a. Site Location

The site is located at Main Street, Borrisoleigh.

b. Relevant Planning History

On site:

5116051 Permission granted for CHANGE USE OF PORTION OF RESIDENTIAL PREMISES TO POST OFFICE

Adjoining Lands:

None recent or relevant.

c. Assessment

The application relates to the development of proposed temporary accommodation to facilitate teaching accommodation, catering for increased pupil numbers.

A) "Is or is not Development"

Having considered all of the details and documentation on file with regards the question asked the Planning Authority is satisfied that the proposal would involve "works" and such works would constitute "development" within the meaning of Section 3 of the Act. The "works" in this case relate to the alterations to the buildings front elevation where a doorway is to be changed into a window together with removal of post office signage and internal fixtures/fittings.

In addition the proposal constitutes a material change of use from a post office (which comes under the definition of a shop under the Planning and Development Regulations 2001, as amended) to use as residential.

B) "Is or is not Exempted Development"

Article 10(6) of the Planning and Development Regulations 2001, as amended provides an exemption for the change of use of certain classes of development to residential use. This exemption is subject to a number of criteria being satisfied (inter alia):

- *The structure has been vacant for a period of 2 years or more immediately prior to the commencement of the proposed development.*

Availing of an exemption under Article 10(6) requires the making of a notification to a Planning Authority. The proposal does not meet the exemption under Article 10(6) as the premises was used as a post office until March of this year. No notification under Article 10(6) has been made.

Otherwise there are no planning exemptions set down under the Planning and Development Regulations 2001, as amended or Planning and Development Act 2000, as amended that provide for a change of use from a shop to residential use.

The site is within an Architectural Conservation Area and the building is not a protected structure. I consider the removal of the post office sign and change of building door to window can reasonable be considered to meet planning exemptions under Section 4 (1) (h) of the Planning and Development Act 2000, as amended. I do not consider the works impacts on the Architectural Conservation Area and are not therefore restricted under Section 82 of the Act.

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

AA
The proposal has been screened as to the requirements for Appropriate Assessment under the EU Habitats Directive. The screening assessment considers that the proposal does not impact on any Natura 2000 site. See also Appropriate Assessment screening report attached as Appendix 1.

EIA

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

4. RECOMMENDATION

A question has arisen as to whether the following proposal to be undertaken at Main Street, Borrisoleigh, Co. Tipperary is development and is or is not exempted development:

Change of use of post office area of building to residential

Tipperary County Council, in considering this referral, had regard particularly to -

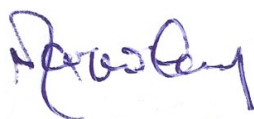
- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended
- (b) Articles 6, 9 and 10 of the Planning & Development Regulations 2001, as amended.
- (c) The plans and documentation submitted.

AND WHEREAS Tipperary County Council has concluded that –

The proposed development, as presented on the details provided with the Declaration application constitutes “development” within the meaning of the Planning and Development Act 2000 as amended and is “**NOT exempted development**”.

The conversion of the former post office to use as part of the dwelling results in a material change of use of the premises. This change of use does not avail of the planning exemptions under Article 10(6) of the Planning and Development Regulations 2001, as amended. There are no other no planning exemptions set down under the Planning and Development Regulations 2001, as amended or Planning and Development Act 2000, as amended that provide for a change of use from a shop to residential use.

Executive Planner:

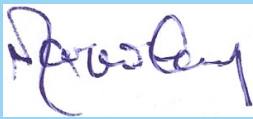


Date: 17.09.2024

Senior Executive Planner:



Date: 17.09.2024

EIA Preliminary Examination:		
The planning authority shall carry out a preliminary examination of, at the least, the nature, size or location of the development.		
Planning Register Reference:	S5/24/98	
	Comment:	Yes/No/ Uncertain:
Nature of the development: Is the nature of the proposed development exceptional in the context of the existing environment? Will the development result in the production of any significant waste, or result in significant emissions or pollutants?	Change of use of post office area of building to residential	No No
Size of the development: Is the size of the proposed development exceptional in the context of the existing environment? Are there cumulative considerations having regard to other existing and/or permitted projects?		No No
Location: Is the proposed development located on, in, adjoining or does it have the potential to impact on an ecologically sensitive site or location? Does the proposed development have the potential to affect other significant environmental sensitivities in the area?	Former Post Office Building, Main Street, Borrisoleigh	No No
Preliminary Examination Conclusion:		
Based on a preliminary examination of the nature, size or location of the development. (Tick as appropriate)		
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
There is no real likelihood of significant effects on the environment. EIA is not required.	There is real likelihood of significant effects on the environment. An EIAR is required.	There is significant and realistic doubt regarding the likelihood of significant effects on the environment. Request the applicant to submit the Information specified in Schedule 7A for the purposes of a screening determination. Proceed to Screening Determination.
Signature of Recommending Officer:		
Date:	17.09.2024	

HABITATS DIRECTIVE APPROPRIATE ASSESSMENT (AA) SCREENING REPORT

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

(a) File Reference No:	S5/24/98
(b) Brief description of the project or plan:	Change of use of post office area of building to residential
(c) Brief description of site characteristics:	Former post office at Main Street Borrisoleigh
(d) Relevant prescribed bodies consulted: e.g. DHLGH (NPWS), EPA, OPW	None
(e) Response to consultation:	n/a

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

European Site (code)	List of Qualifying Interest/Special Conservation Interest ¹	Distance from proposed development ² (km)	Connections (Source-Pathway-Receptor)	Considered further in screening Y/N
Lower River Shannon SAC	https://www.npws.ie/protected-sites/sac/002165	Within 15km	None	N
Slieve Bernagh Bog SAC	https://www.npws.ie/protected-sites/sac/002312	Within 15km	None	N
Silvermines Mt SAC	https://www.npws.ie/protected-sites/sac/002258	Within 15km	None	N
Lough Derg (Shannon) SPA	https://www.npws.ie/protected-sites/spa/004058	Within 15km	None	N
Slievefelim to Silvermines Mountains SPA	https://www.npws.ie/protected-sites/spa/004165	Within 15km	None	N
Keeper Hill SAC	https://www.npws.ie/protected-sites/sac/001197	Within 15km	None	N

STEP 3. Assessment of Likely Significant Effects

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

Impacts:	Possible Significance of Impacts: (duration/magnitude etc.)
----------	---

<p>Construction phase e.g.</p> <ul style="list-style-type: none"> • Vegetation clearance • Demolition • Surface water runoff from soil excavation/infill/landscaping (including borrow pits) • Dust, noise, vibration • Lighting disturbance • Impact on groundwater/dewatering • Storage of excavated/construction materials • Access to site • Pests 	<p>Development does not include any major construction works.</p>
<p>Operational phase e.g.</p> <ul style="list-style-type: none"> • Direct emission to air and water • Surface water runoff containing contaminant or sediment • Lighting disturbance • Noise/vibration • Changes to water/groundwater due to drainage or abstraction • Presence of people, vehicles and activities • Physical presence of structures (e.g. collision risks) • Potential for accidents or incidents 	<p>It is considered that there is no real likelihood of any significant effects on European Sites in the wider catchment area.</p>
<p>In-combination/Other</p>	<p>No likely significant in-combination effects</p>
<p>(b) Describe any likely changes to the European site:</p>	
<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 	<p>None.</p> <p>The significant distance between the proposed development site and any European Sites, and the very weak and indirect ecological pathway is such that the proposal will not result in any likely changes to the European sites that comprise part of the Natura 2000 network</p>
<p>(c) Are 'mitigation' measures necessary to reach a conclusion that likely significant effects can be ruled out at screening?</p>	
<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	

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.

On the basis of the information on file, which is considered adequate to undertake a screening determination and having regard to: the nature and scale of the proposed development, the intervening land uses and distance from European sites, the lack of direct

connections with regard to the Source-Pathway-Receptor model, it is concluded that the proposed development, individually or in-combination with other plans or projects, would not be likely to have a significant effect on the above listed European sites or any other European site, in view of the said sites' conservation objectives.

An appropriate assessment is not, therefore, required.

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
Signature and Date of Recommending Officer:	Marion Carey 17.09.2024	



Comhairle Contae Thiobraid Árann
Tipperary County Council

Comhairle Contae
Thiobraid Árann,
Oifigí Cathartha,
Cluain Meala,
Co. Thiobraid Árann

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E91 N512

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@tipperarycoco.ie

tipperarycoco.ie

Date: 18th September, 2024

Our Ref: S5/24/98

Civic Offices, Nenagh

Mary Costello
Main Street
Borrisoleigh
Thurles
Co. Tipperary

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

Dear Ms Costello,

I refer to your application for a Section 5 Declaration received on 29th August, 2024, in relation to the following proposed works:

Change of post office area of building to residential at Main Street, Borrisoleigh, 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) Articles 6, 9 and 10 of the Planning & Development Regulations 2001, as amended.
- (c) The plans and documentation submitted.

AND WHEREAS Tipperary County Council has concluded that –

The proposed development, as presented on the details provided with the Declaration application constitutes “development” within the meaning of the Planning and Development Act 2000 as amended and is **“NOT exempted development”**.

The conversion of the former post office to use as part of the dwelling results in a material change of use of the premises. This change of use does not avail of the planning exemptions under Article 10(6) of the Planning and Development Regulations 2001, as amended. There are no other no planning exemptions set down under the Planning and Development Regulations 2001, as amended or Planning and Development Act 2000, as amended that provide for a change of use from a shop to residential use.

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: **S5/24/98** **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 Mary Costello, Main Street, Borrisoleigh, Co. Tipperary, re: Change of use of post office area of building to residential at Main Street, Borrisoleigh, Co. Tipperary is development and 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) Articles 6, 9 and 10 of the Planning & Development Regulations 2001, as amended.
- (c) The plans and documentation submitted.

AND WHEREAS Tipperary County Council has concluded that –

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The conversion of the former post office to use as part of the dwelling results in a material change of use of the premises. This change of use does not avail of the planning exemptions under Article 10(6) of the Planning and Development Regulations 2001, as amended. There are no other no planning exemptions set down under the Planning and Development Regulations 2001, as amended or Planning and Development Act 2000, as amended that provide for a change of use from a shop to residential use.

Signed:



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

Date: 18th September, 2024