



PLANNING & DEVELOPMENT ACT, 2000 (as amended)

Application for a Section 5 Declaration
Development / Exempted Development

1. Applicant's address/contact details:

<i>Applicant</i>	JOHN FRANCIS O'FARRELL
<i>Address</i>	CLONCANNON MONEYGALL CO. TIPPERARY
<i>Telephone No.</i>	
<i>E-mail</i>	

2. Agent's (if any) address:

<i>Agent</i>	DAVID MOONEY
<i>Address</i>	14 OLD FARM ROAD, CLOUGHJORDAN CO. TIPPERARY E53 V221
<i>Telephone No.</i>	
<i>E-mail</i>	
<i>Please advise where all correspondence in relation to this application is to be sent;</i>	
Applicant [<input type="checkbox"/>] Agent [<input checked="" type="checkbox"/>]	

3. Location of Proposed Development:

<i>Postal Address or Townland or Location (as may best identify the land or structure in question)</i>	CLONCANNON, MONEYGALL, CO. TIPPERARY	Tipperary County Council RECEIVED 06 SEP 2024 CSD Civic Offices, Nenagh
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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.)

SHED WITH CANOPY AT SIDE OF EXISTING DWELLING HOUSE
Proposed floor area of proposed works/uses: <input type="text" value="25"/> 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. Owner <input checked="" type="checkbox"/>	B. Occupier <input type="checkbox"/>
	C. Other <input type="checkbox"/>	<input type="checkbox"/>
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) David Mooney Date: 3rd Sept 2023
(Agent)

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 0818 06 5000

E-Mail planning@tipperarycoco.ie

FOR OFFICE USE ONLY

DATE STAMP

Fee Recd. € 80.00

Receipt No NENAMI/0/122695

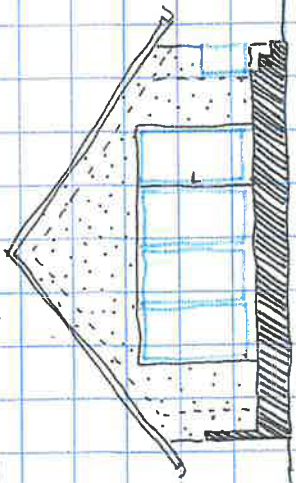
Date 6/9/24

Received by Maura Lillis

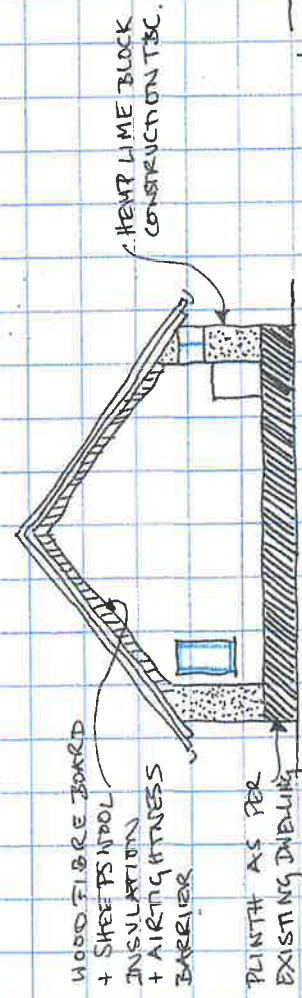
THIS DRAWING IS TO BE READ IN CONJUNCTION WITH GROUND FLOOR + SITE LAYOUT PLAN 30/5/2024

NEW SHED DEVELOPMENT

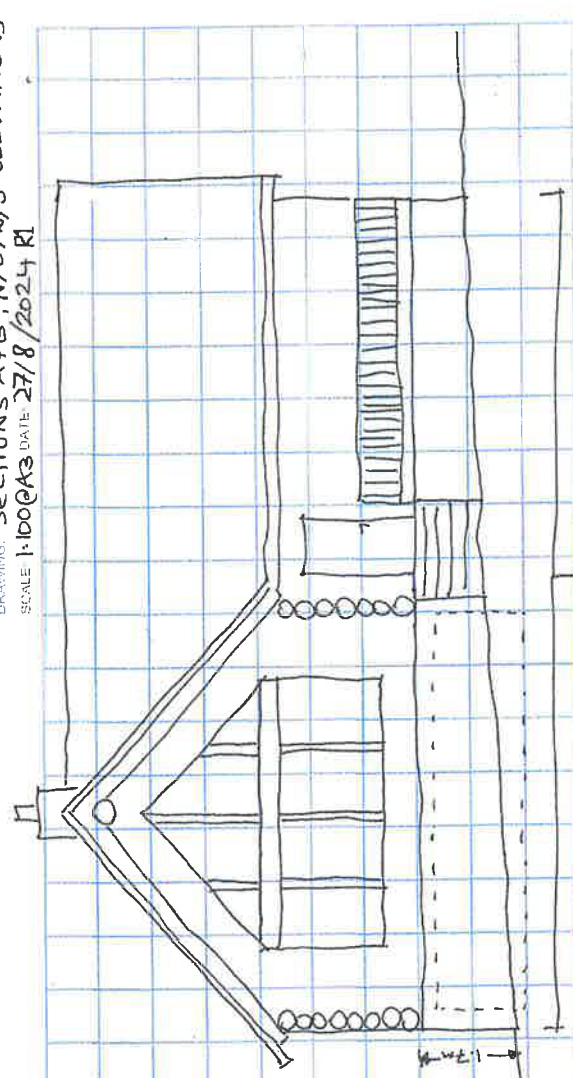
NOTE: EXEMPTED DEVELOPMENT - ITEM 7 = RIDGE HEIGHT AS PER PLS. DOING WORK AROUND THE HOUSE - THE PLANNING ISSUES



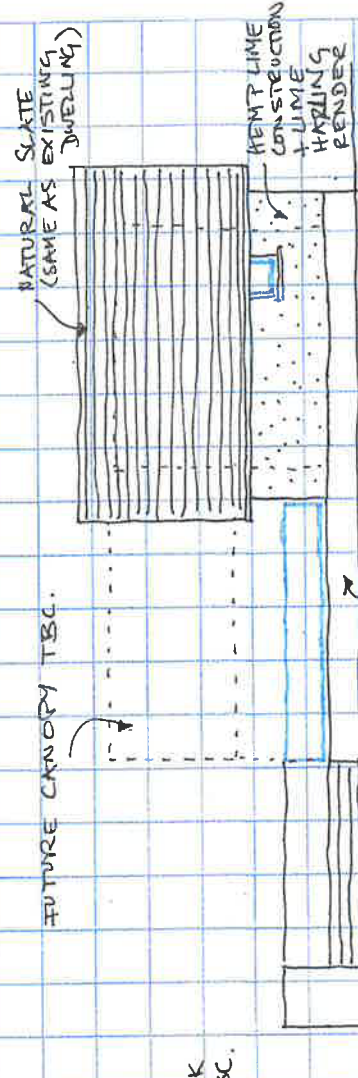
SECTION A-A, SCALE 1:100 @ A3
 SOUTH ELEVATION



SECTION B-B, SCALE 1:100 @ A3
 (NORTH ELEVATION VIEWED INTERNALLY)



EXISTING DWELLING



EAST ELEVATION SCALE 1:100 @ A3
 (WEST ELEVATION SAME + WINDOW OMITTED)

- NEW WINDOWS / GLASS DOORS
- INSULATION

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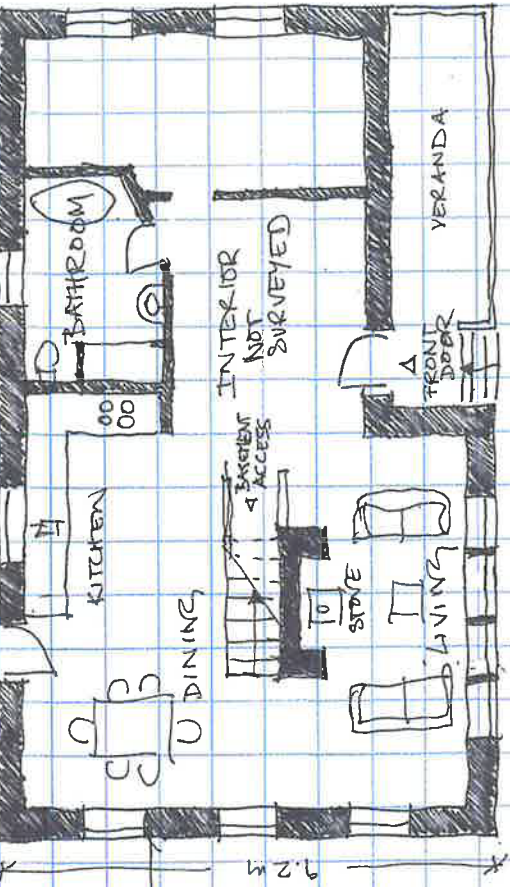
- EXISTING WALLS
- WALLS TO BE REMOVED
- NEW WALLS



SEPTIC TANK LOCATION TBC

EXISTING PERCOLATION AREA - PIPE OUTLET POSITIONS TBC
 NEW SHED DEVELOPMENT
 6 METRES

LEGEND
 EXISTING WALLS
 WALLS TO BE REMOVED
 NEW WALLS
 NEW WINDOWS / GLASS DOORS
 INSULATION
 © 2024 O'Neill Architects

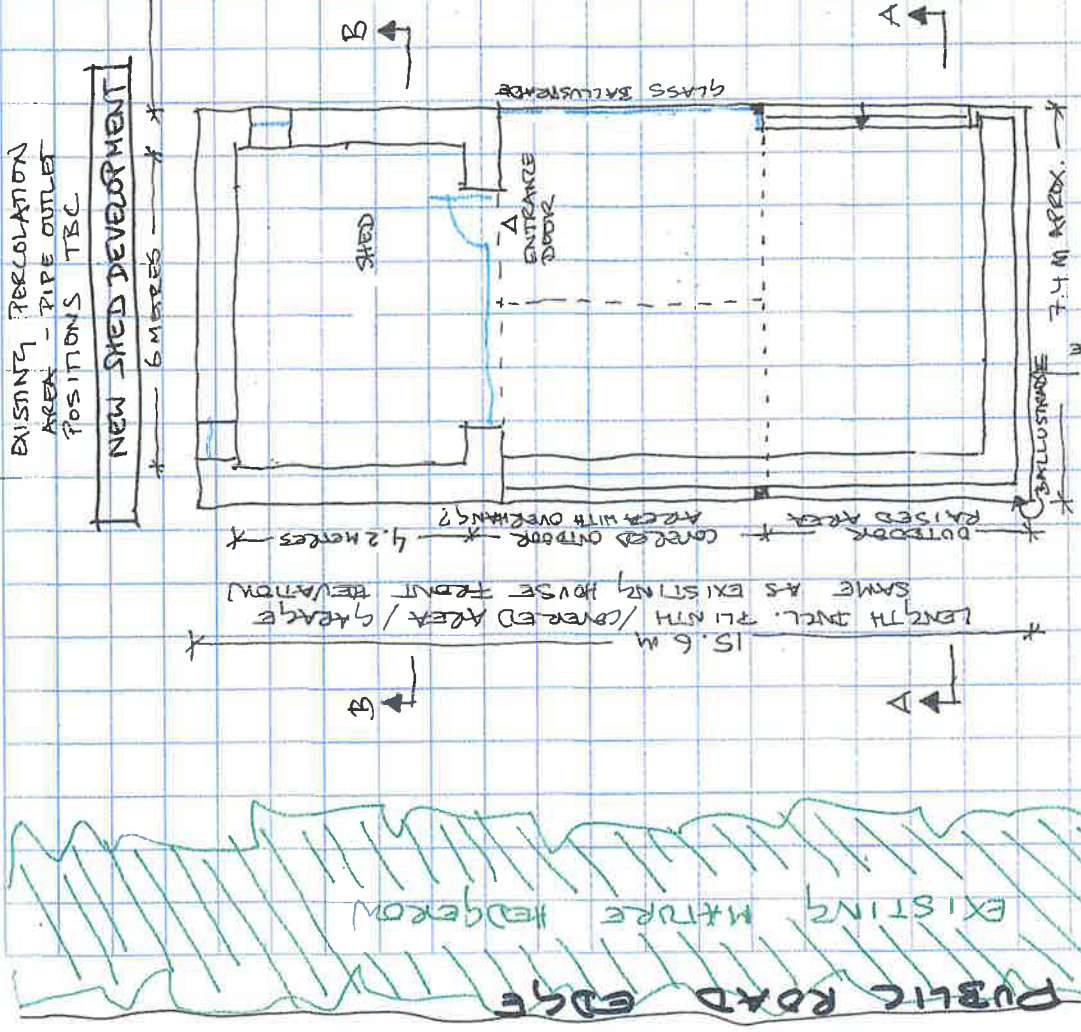


EXISTING DWELLING
 8M APPROX.
 15.6M

NOTE: NEW GARAGE / SHED TO WEST OF EXISTING DWELLING. AREA 25 SQM APPROX. 6 x 4.2 METRES DOES NOT EXTEND OUT IN FRONT OF THE BUILDING, LINE OF THE HD USE + DOES NOT EXCEED 4 METRES IN HEIGHT IS EXEMPTED DEVELOPMENT AS PER P/L 5 - DOING WORK AROUND THE HOUSE - PLANNING ISSUES!

GROUND FLOOR PLAN / SITE PLAN
 SCALE 1:100 @ A3 REVISION 1

THIS DRAWING IS TO BE READ IN CONJUNCTION WITH SECTIONS A+B, 1+2 N/E/W/S ELEVATIONS 15/6/2024



TO TOP OF SHED 1.5M



Planning Pack Map



CENTRE COORDINATES:
ITM 603817,677389

PUBLISHED:
03/09/2024

ORDER NO.:
50420319_1

MAP SERIES:
1:5,000
4339
1:5,000
4340

COMPILED AND PUBLISHED BY:

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

www.tailte.ie

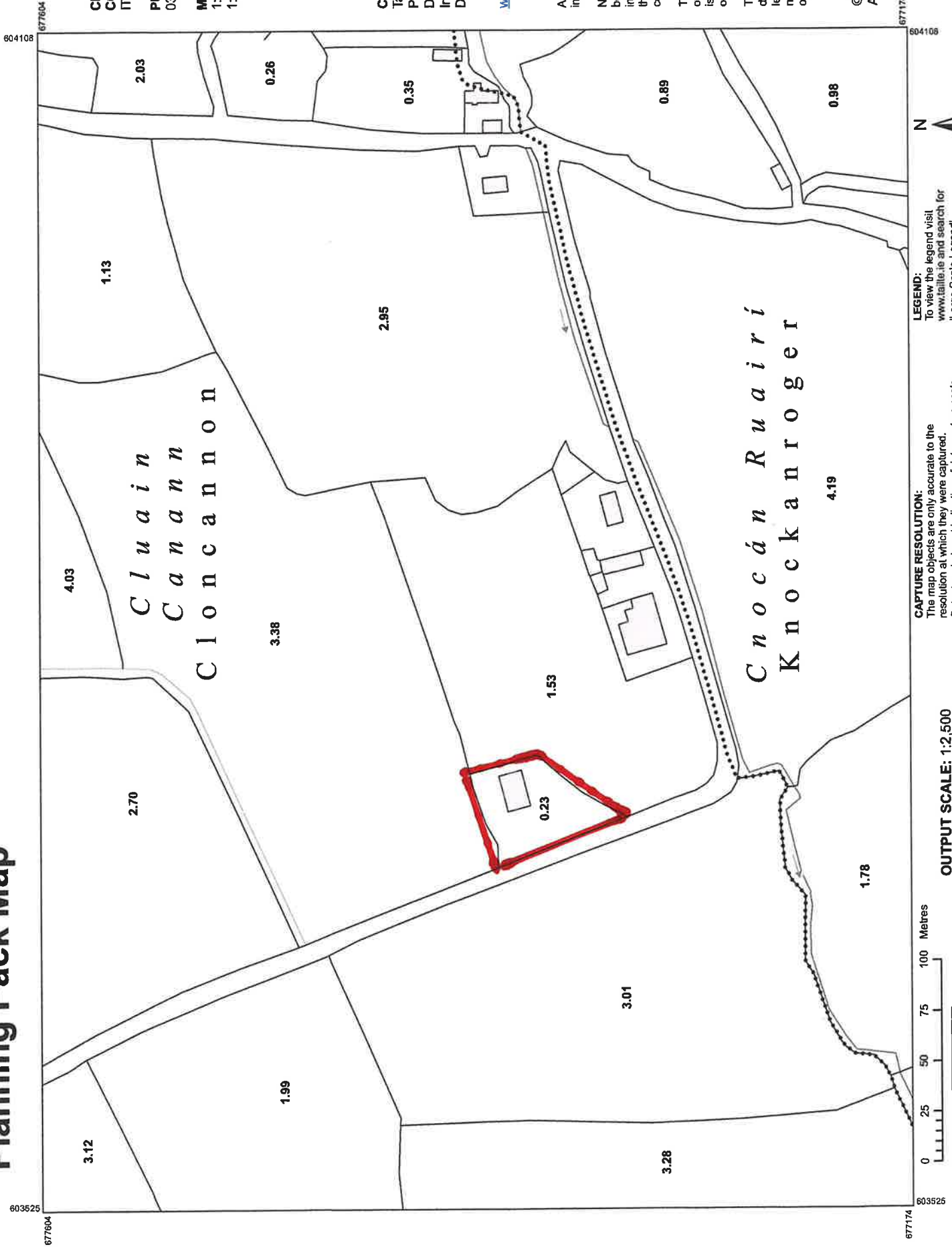
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The representation on this map of a road, track or footpath is not evidence of the existence of a right of way.

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

CAPTURE RESOLUTION:
The map objects are only accurate to the resolution at which they were captured. Output scale is not indicative of data capture scale. Further information is available at: www.tailte.ie, search 'Capture Resolution'

OUTPUT SCALE: 1:2,500



677174

604108

677604

603625



Comhairle Contae Thiobraid Árann
Tipperary County Council

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

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Oifigí Cathartha,
An tAonach,
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e customerservice
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tipperarycoco.ie

Date: 6th September, 2024 Our Ref: S5/24/102 Civic Offices, Nenagh

John Francis O'Farrell
C/O David Mooney
14 Old Farm Road
Cloughjordan
Co. Tipperary
E53 V221


Re: Application for a Section 5 Declaration – Construction of a shed with canopy at side of the existing house at Cloncannon, Moneygall, Co. Tipperary.

Dear Mr Farrell,

I acknowledge receipt of your application for a Section 5 Declaration received on 6th 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

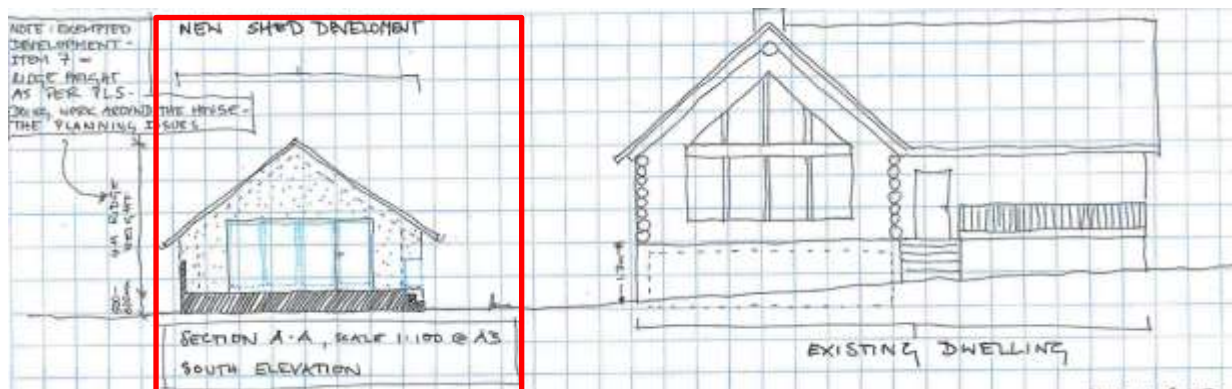
Application for Declaration under Section 5

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

Planning Ref.:	S5/24/102
Applicant:	John Francis O' Farrell
Development Address:	Cloncannon, Moneygall, Co. Tipperary
Query:	If the construction of a shed with canopy, measuring 25sqm, to the sided of an existing dwelling constitutes development and is or is not exempted development.

1. GENERAL

On the 6th September 2024, a request was made for a declaration under Section 5 of the Planning and Development Act, 2000 (as amended) by David Mooney, acting on behalf of John Francis O' Farrell, as to whether or not the construction of a shed, measuring 25sqm, to the side of an existing dwelling constitutes development and is or is not exempted development.



Shed for which S5 declaration is sought (highlighted in red)

2. STATUTORY PROVISIONS

The relevant planning legislation is set out below;

Planning and Development Act 2000, as amended,

Section 2(1) of the same Act 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,

Section 3 (1) of the Planning and Development Act 2000, as amended, defines “development” as: -

In this Act, except where the context otherwise requires, "development" means—(a) the carrying out of any works in, on, over or under land, or the making of any material change in the use of any land or structures situated on land, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

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(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 (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:

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 (Exempted Development) of the Planning and Development Regulations 2001, as amended states:

(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.

Schedule 2, Part 1 ‘Exempted Development - General:

Class 1 – 8 inclusive refer to development within the curtilage of a house.

Class 3 provides for the following exemption;

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

Conditions and Limitations

1. No such structure shall be constructed, erected or placed forward of the front wall of a house.

The proposed shed is to the side of the existing dwelling, however the proposed canopy to the shed will extend forward of the front wall.

2. The total area of such structures constructed, erected or placed within the curtilage of a house shall not, taken together with any other such structures previously constructed, erected or placed within the said curtilage, exceed 25 square metres.

The proposed shed does not exceed the limitation of 25sqm, this does not include for the canopy, this would exceed the 25sqm exemption.

3. The construction, erection or placing within the curtilage of a house of any such structure shall not reduce the amount of private open space reserved exclusively for the use of the occupants of the house to the rear or to the side of the house to less than 25 square metres.

The proposed shed does not reduce open space less than 25sqm

4. The external finishes of any garage or other structure constructed, erected or placed to the side of a house, and the roof covering where any such structure has a tiled or slated roof, shall conform with those of the house.

The drawing received indicates that the proposed shed will be constructed with the same material as the existing dwelling.

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

The height of the proposed natural slate roof on the shed has a maximum ridge height of 4m.

6. The structure shall not be used for human habitation or for the keeping of pigs, poultry, pigeons, ponies or horses, or for any other purpose other than a purpose incidental to the enjoyment of the house as such.

Article 9 (1) (a) of the Planning and Development Regulations 2001, as amended sets out the instances where development, to which Article 6 relates, shall not be exempted development for the purposes of the Act if the carrying out of works 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 proposed shed to which the Section 5 relates is located along a straight stretch of road on the L1822 in the townland of Cloncannon, Toomevara Co. Tipperary. The existing dwelling on site is served by an existing entrance off the local road permitted. The shed and canopy, which

is the subject of the current declaration, is proposed to be constructed within the curtilage of this property.

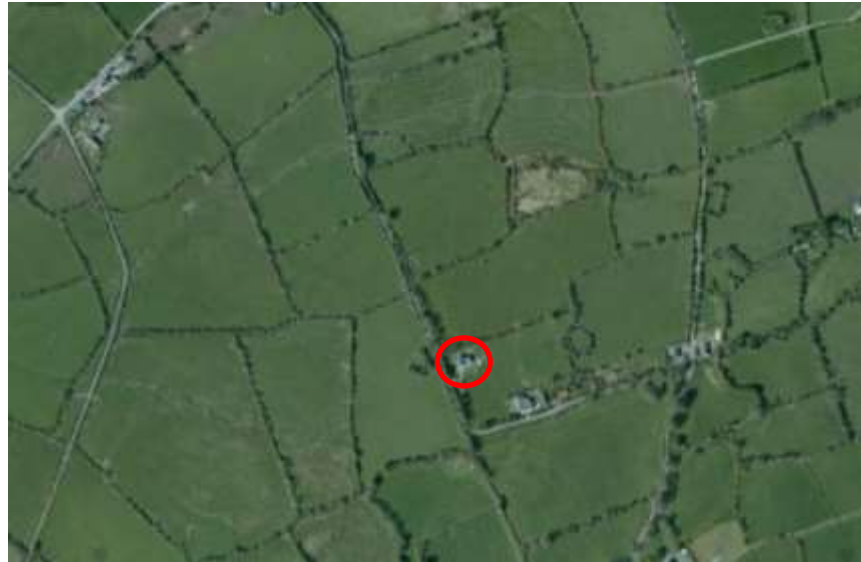


Figure 1: Site Location



Figure 1: Landholding in red

b. Relevant Planning History

Pl. Ref. 07510401

Permission refused in 2007 for the construction of a storey and a half dwelling house, domestic garage, septic tank, entrance and all associated site works. Granted on appeal to ABP

Pl. Ref. 06511567

Incomplete application for a dormer style bungalow, septic tank and entrance.

Pl. Ref. 06511567

Permission granted in 2001 for the construction of a two-storey dwelling house, entrance and septic tank with percolation area.

c. Assessment

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 involve “works” and such works would constitute “development” within the meaning of Section 3 of the Planning and Development Act 2000, as amended.

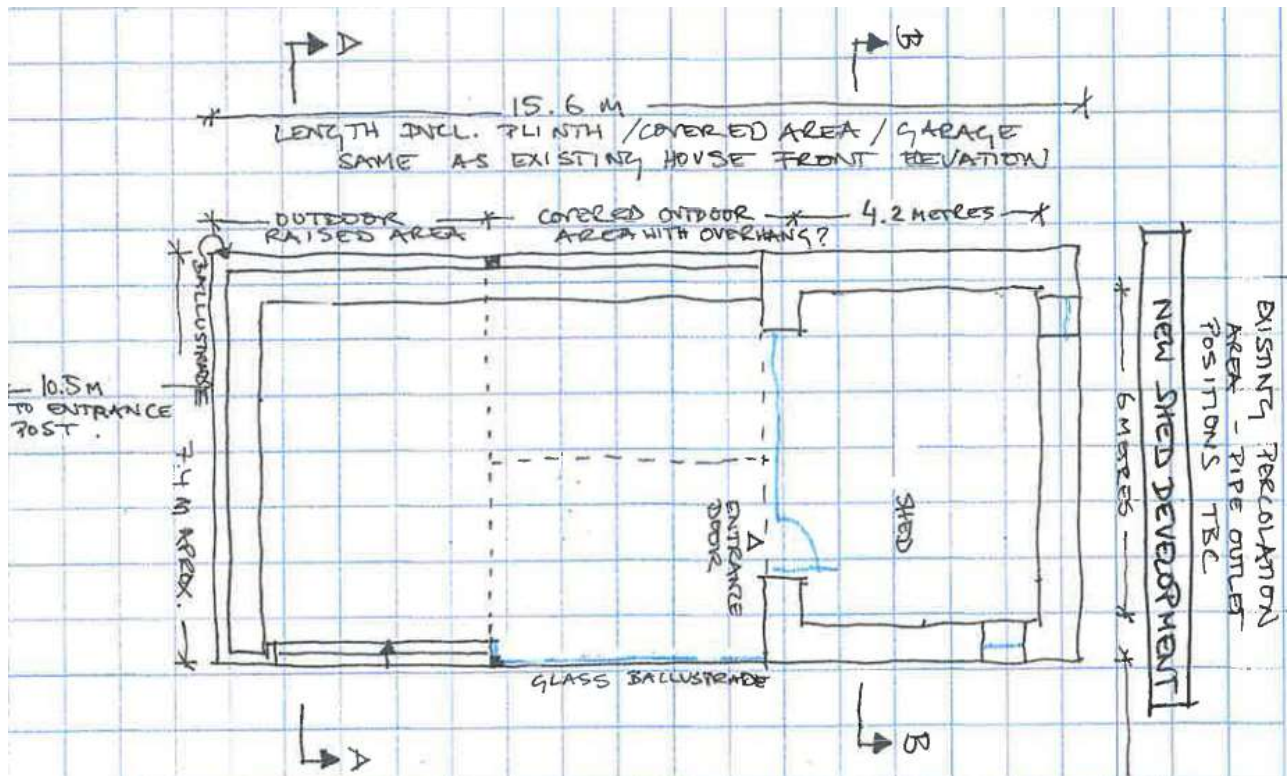
B) “Is or is not Exempted Development”

As noted above, it is considered that the development of a shed, measuring 25sqm, to the side of an existing dwelling. The shed is measuring 25 sqm and is located within the curtilage of the existing dwelling, and the height of the shed has a ridge height of 4m. Therefore, it is considered that the relevant exemptions are those set out under Class 3 of Part 1 of Schedule 2 of the above-mentioned Regulations.

However, this does not include for the covered outdoor area with canopy, and outdoor revised seating area, measuring 93.6sqm, as described in the drawings received with the application. The development description references shed and canopy, however no drawings of the canopy have been submitted. An indicative outline of the canopy is marked on the drawings but no dimensions provided (it will only cover some of the ‘outdoor raised area’). Both developments (shed and canopy) come under Class 3 exemptions, which will exceed the maximum floor area of 25sqm. Furthermore, the canopy area extends forward of the front building line of the existing dwelling on site.

The declaration submitted to the Planning Authority seeks a decision with respect to the exempted status of ‘shed and canopy to side’. With this in mind and having regard to the drawings submitted with the application I consider that the declaration sought relates to a single entity (i.e. shed and canopy) and cannot be separated into two separate elements.

Furthermore, it is noted that the drawings submitted indicate that the shed and canopy is to be constructed on a plinth. No declaration is sought with respect to this area and as such the provision of the plinth/outdoor seating area has not been addressed in this declaration.



C) Is the exemption restricted under Article 9

I note no restrictions that would apply based on the information presented at this stage.

D) 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 as Appendix 1.

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 as Appendix 2.

4. RECOMMENDATION

WHEREAS a question has arisen as to construction of a shed and canopy, to the side of an existing dwelling constitutes development and 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) Class 3 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended
- (c) The particulars submitted under the application

Tipperary County Council has concluded that –


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

Reason: the floor area of the shed and canopy exceeds 25sqm and is located forward of the front building line of the dwelling.

Signed: Sara Jane Condon

Date: 30th September 2024

Assistant Planner

Signed: 

Date: 30/09/2024

A/Senior Planner

EIA Pre-Screening

Establishing a development is a ‘sub-threshold development’

File Reference:	S5/24/102
Development Summary:	If the construction of a shed, measuring 25sqm, to the sided of an existing dwelling constitutes development
Was a Screening Determination carried out under Section 176A-C?	<input type="checkbox"/> Yes, no further action required <input checked="" type="checkbox"/> 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)

No, the development is not a project listed in Schedule 5, Part 2

No Screening required

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
Thiobraid Árann,
Oifigí Cathartha,
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

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@tipperarycoco.ie

tipperarycoco.ie

Date: 30th September, 2024

Our Ref: S5/24/102

Civic Offices, Nenagh

John Francis O'Farrell
C/O David Mooney
14 Old Farm Road
Cloughjordan
Co. Tipperary
V53 V221

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

Dear Mr O' Farrell,

I refer to your application for a Section 5 Declaration received on 6th September, 2024, in relation to the following proposed works:

Construction of a shed with canopy at side of the dwelling at Cloncannon, Moneygall, 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) Class 3 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended
- (c) The particulars submitted under the application

Tipperary County Council has concluded that –

The proposed development as presented on the drawings provided with the declaration application constitutes development within the meaning of the Planning and Development Act 2000, as amended and is **NOT** "**Exempted Development**".

Reason: the floor area of the shed and canopy exceeds 25sqm and is located forward of the front building line of the dwelling.

NOTE: Any person issued with a Declaration of a Planning Authority may refer the Declaration for review to An Bord Pleanala, 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: **S5/24/102** **Delegated Employee's Order No:** _____

SUBJECT: Section 5 Declaration

I, Dave Carroll, A/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 John Francis O'Farrell, C/O David Mooney, 14 Old Farm Road, Cloughjordan, Co.Tipperary, E53 V221, re: Construction of a shed with canopy, measuring 25sqm to the side of an existing dwelling at Cloncannon, Moneygall is a 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) Class 3 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended
- (c) The particulars submitted under the application

Tipperary County Council has concluded that –

The proposed development as presented on the drawings provided with the declaration application constitutes development within the meaning of the Planning and Development Act 2000, as amended and is **NOT "Exempted Development"**.

Signed:



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

Date: 30/09/2024