

PLANNING & DEVELOPMENT ACT, 2000 (as amended)

Application for a Section 5 Declaration
Development / Exempted Development

1. Applicant's address/contact details:

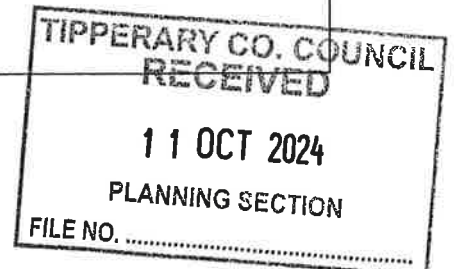
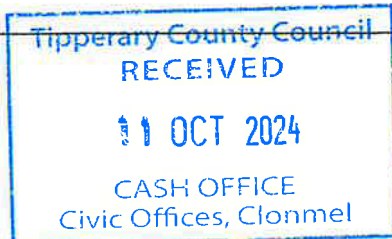
Applicant	Brothers of Charity Services CLG
Address	Kilcornan, House, Clonmelbridge, Co. Galway.
Telephone No.	[REDACTED]
E-mail	[REDACTED]

2. Agent's (if any) address:

Agent	Wid McGARRY
Address	15 WINDY ST CLONMEL CO. TIPP.
Telephone No.	[REDACTED]
E-mail	[REDACTED]
Please advise where all correspondence in relation to this application is to be sent;	
Applicant []	Agent [<input checked="" type="checkbox"/>]

3. Location of Proposed Development:

Postal Address or Townland or Location (as may best identify the land or structure in question)	No. 26 St Patricks Gardens Deerpark Road, Cashel
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Receipt No 185 953
Issued 11 10 2024
€80 - 00 Cheque

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.)

change bedroom window to double
doors by dropping the sill height
to the ground - see attached sketch.
The width stays the same - The reason is so
that emergency evacuation would be easier.
Proposed floor area of proposed works/uses: <i>NA</i> 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
	C. Other	
Where legal interest is 'Other', please expand further on your interest in the land or structure	<i>na</i>	
If you are not the legal owner, please state the name and address of the owner	Name: Address:	

Signature of Applicant(s) *James Brennan* Date: *10-10-24*

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		

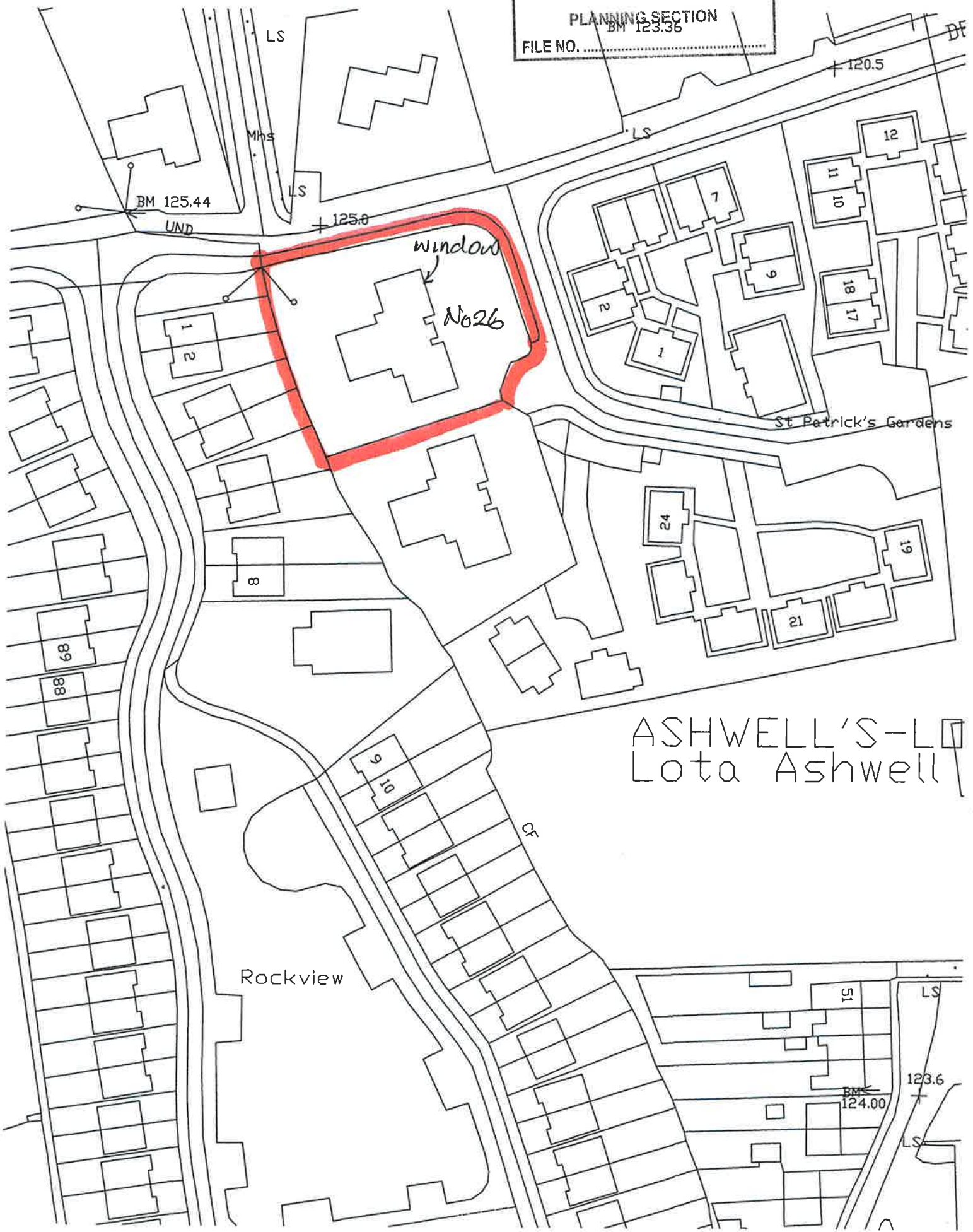
FOR OFFICE USE ONLY	
<u>DATE STAMP</u>	
Fee Recd. € _____	
Receipt No _____	
Date _____	
Received by _____	

TIPPERARY CO. COUNCIL
RECEIVED

11 OCT 2024

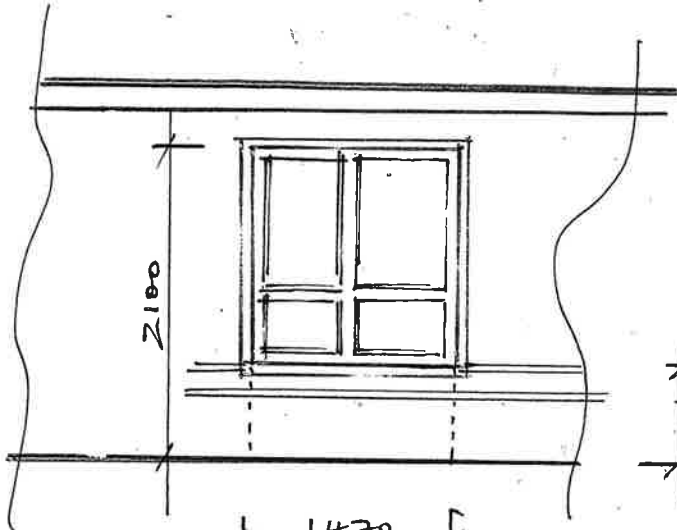
PLANNING SECTION

FILE NO.



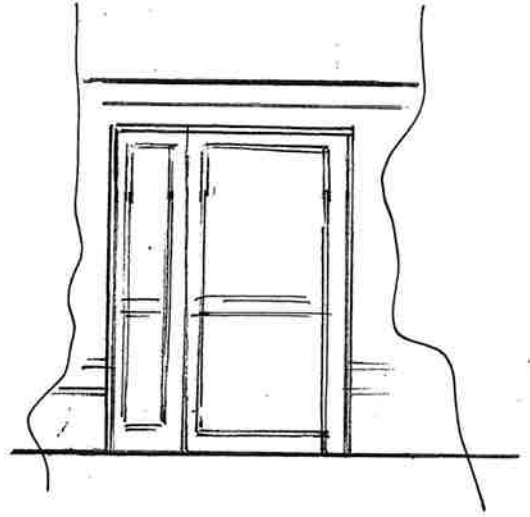
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Lota Ashwell

TIPPERARY CO. COUNCIL
RECEIVED
11 OCT 2024
PLANNING SECTION
FILE NO.



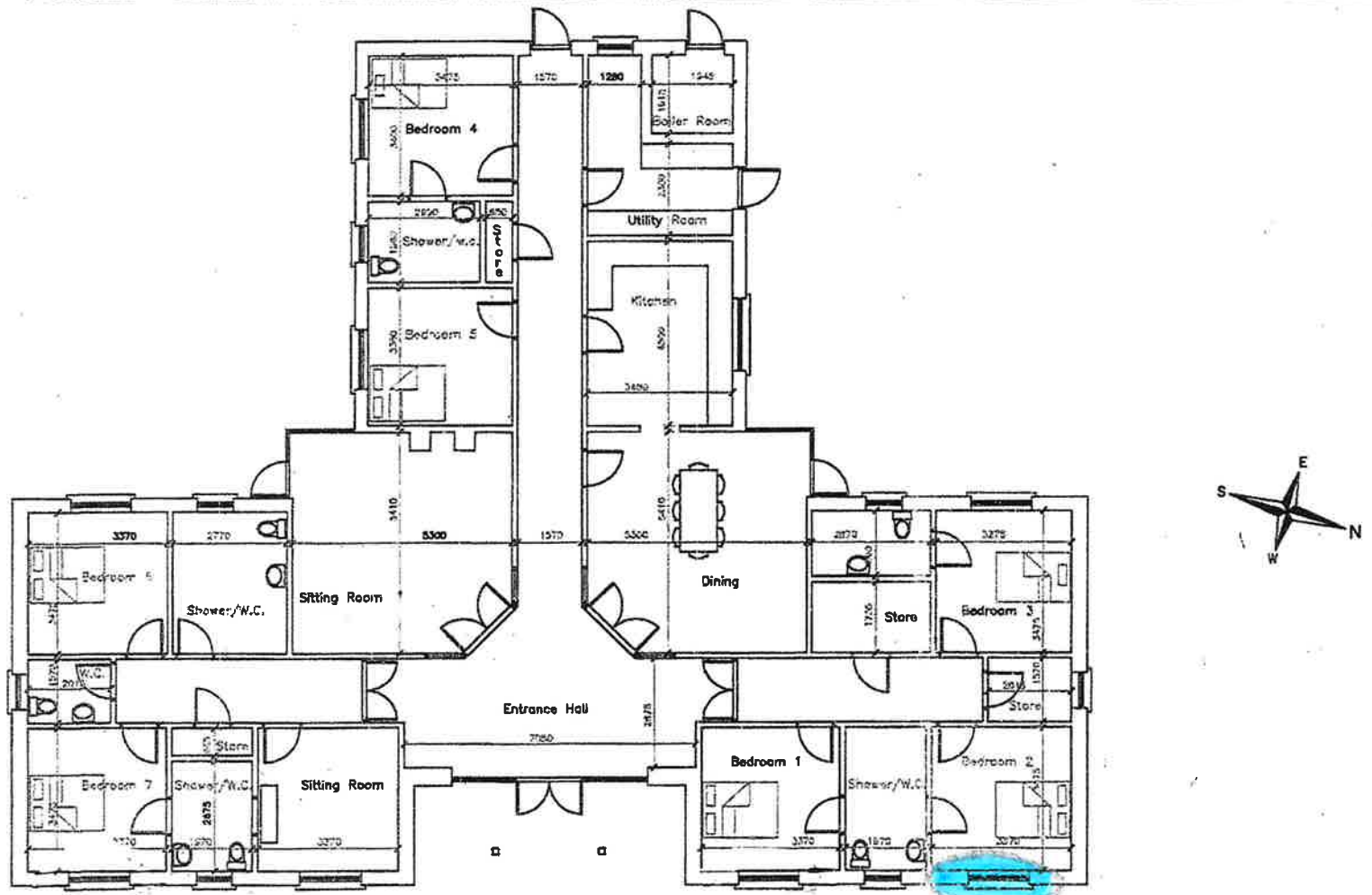
1470
EXISTING 1/50

630



1470
PROPOSED 1/50

TIPPERARY CO. COUNCIL
RECEIVED
11 OCT 2024
PLANNING SECTION
FILE NO.



PROPOSED NEW
DOUBLE DOORS

BROTHERS OF CHARITY SERVICES
SOUTH EAST REGION
BELMONT PARK, FERRYBANK,
WATERFORD. X91 NCX7
NO 26 ST. PATRICKS GARDENS,
DEERPARK ROAD
NOT TO SCALE



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

Our Ref: S5.24.115

11th October, 2024

James Brennan,
Brothers of Charity CLG,
C/o Will McGarry,
15 Mary Street,
Clonmel,
Co. Tipperary.

Re: Application for a Section 5 Declaration – Change bedroom windows to double doors by dropping the cill height to the ground. The width stays the same at No. 26 St. Patricks Gardens, Deerpark Road, Cashel, Co. Tipperary.

A Chara,

I acknowledge receipt of your application for a Section 5 Declaration received on 11th October, 2024, in connection with the above.

You will be notified of a decision on your application in due course.

Mise le meas,



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 Reference: S5/24/115
Applicant: Brothers of Charity CLG
Development Address: 26 St. Patricks Gardens, Deerpark, Road, Cashel, Co. Tipperary
Proposed Development: Change bedroom window to double doors by dropping the cill height to the ground. The width stays the same.

1. GENERAL

On the 11th October 2024 a request was made by Brothers of Charity CLG Cc/o Will McGarry for a declaration under Section 5 of the Planning and Development Act, 2000 as amended for the following;

Change bedroom window to double doors by dropping the cill height to the ground. The width stays the same.

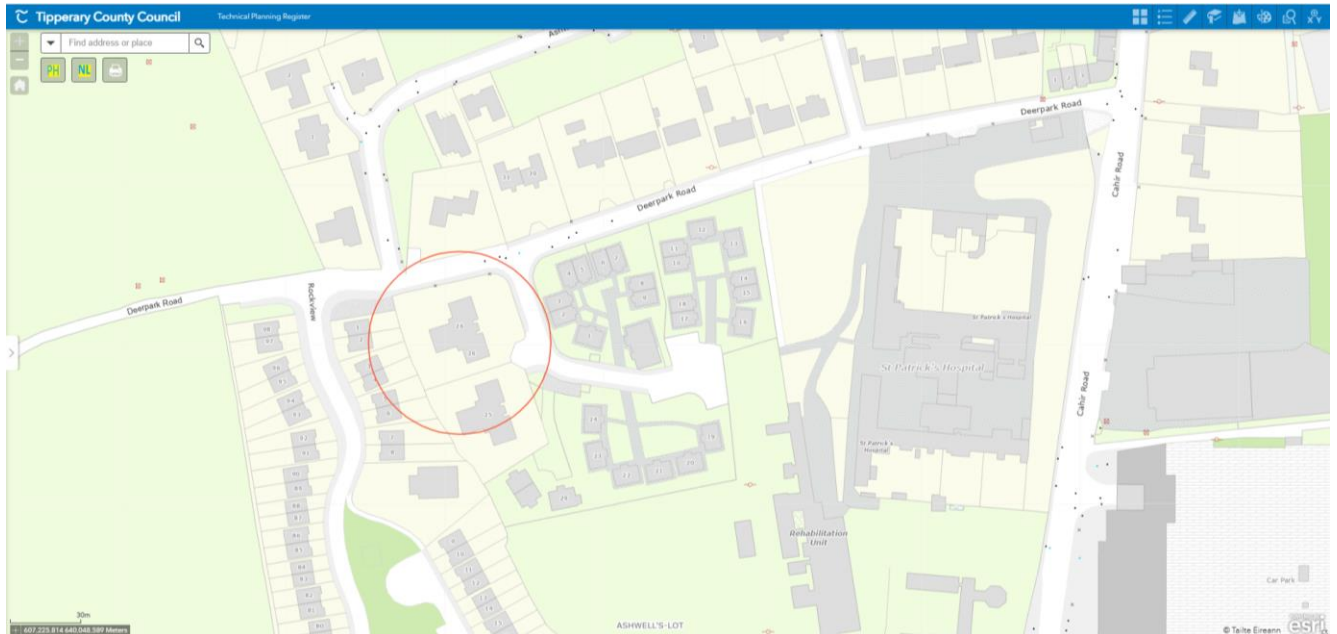


Figure 1 Site Location



Figure 2

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 unauthorised structure or a structure the use of which is an unauthorised use.

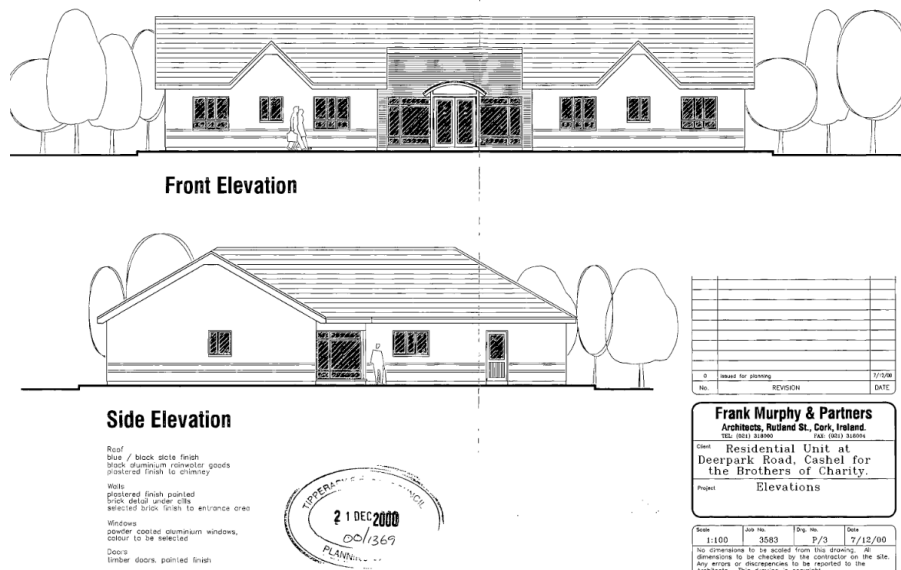
3. **ASSESSMENT**

a. **Site Location**

The site comprises of an existing property at 26 St. Patricks Gardens, Deerpark, Road, Cashel, Co. Tipperary off the Deerpark Road within the settlement of Cashel.

b. **Relevant Planning History**

00/1639 Permission GRANTED two detached single-storey residential units for use by persons with an intellectual disability.



c. **Assessment**

The question posed under the Section 5 Declaration application is whether to change bedroom window to double doors by dropping the cill height to the ground. The width stays the same. This development is exempted development.

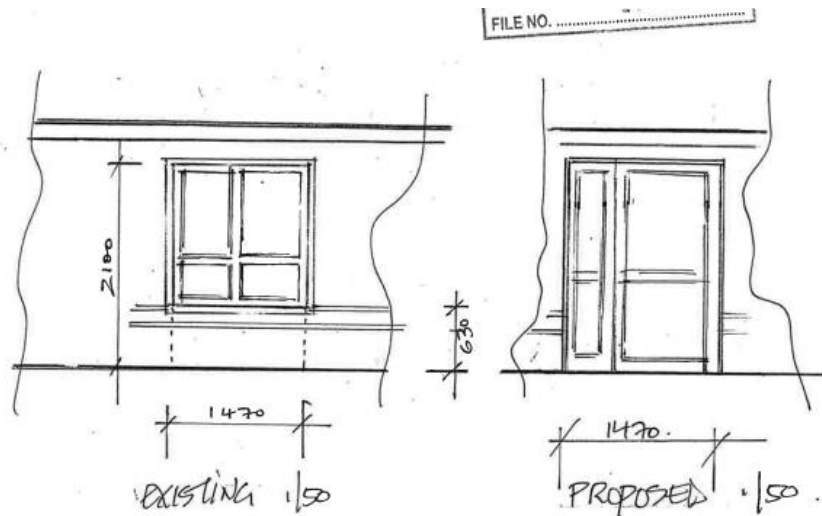
i) **“Is or is not Development”**

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 change of the window into a door is considered to constitute the carrying out of works for the maintenance and improvement of the structure and is works 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. I am therefore satisfied that the proposal

satisfies the exemption available under Section 4(1)(h) of the Planning and Development Act 2000, as amended and does not render the appearance inconsistent with the character of the structure.



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

WHEREAS a question has arisen as to whether the change of a bedroom window to double doors by dropping the cill height to the ground & the width stays the same at 26 St. Patricks Gardens, Deerpark, Road, Cashel, Co. Tipperary is 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


AND WHEREAS Tipperary County Council has concluded the proposal as presented constitutes "works" and "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,

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 that the above proposal 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: 

Date: 07/11/2024



Senior Executive Planner:

Date: 07.11.2024

HABITATS DIRECTIVE APPROPRIATE ASSESSMENT (AA) SCREENING REPORT

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

(a) File Reference No:	S5/24/115
(b) Brief description of the project or plan:	Change bedroom window to double doors by dropping the cill height to the ground. The width stays the same.
(c) Brief description of site characteristics:	Existing building in urban 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

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 • Surface water runoff containing contaminant or sediment • Lighting disturbance • Noise/vibration • Changes to water/groundwater due to drainage or 	No potential impacts.

abstraction <ul style="list-style-type: none"> • Presence of people, vehicles and activities • Physical presence of structures (e.g. collision risks) • Potential for accidents or incidents 	
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In-combination/Other	No potential impacts
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(b) Describe any likely changes to the European site:

Examples of the type of changes to give consideration to include: <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
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(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: S5/24/115

Development Summary: Change bedroom window to double doors by dropping the cill height to the ground. The width stays the same.

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)

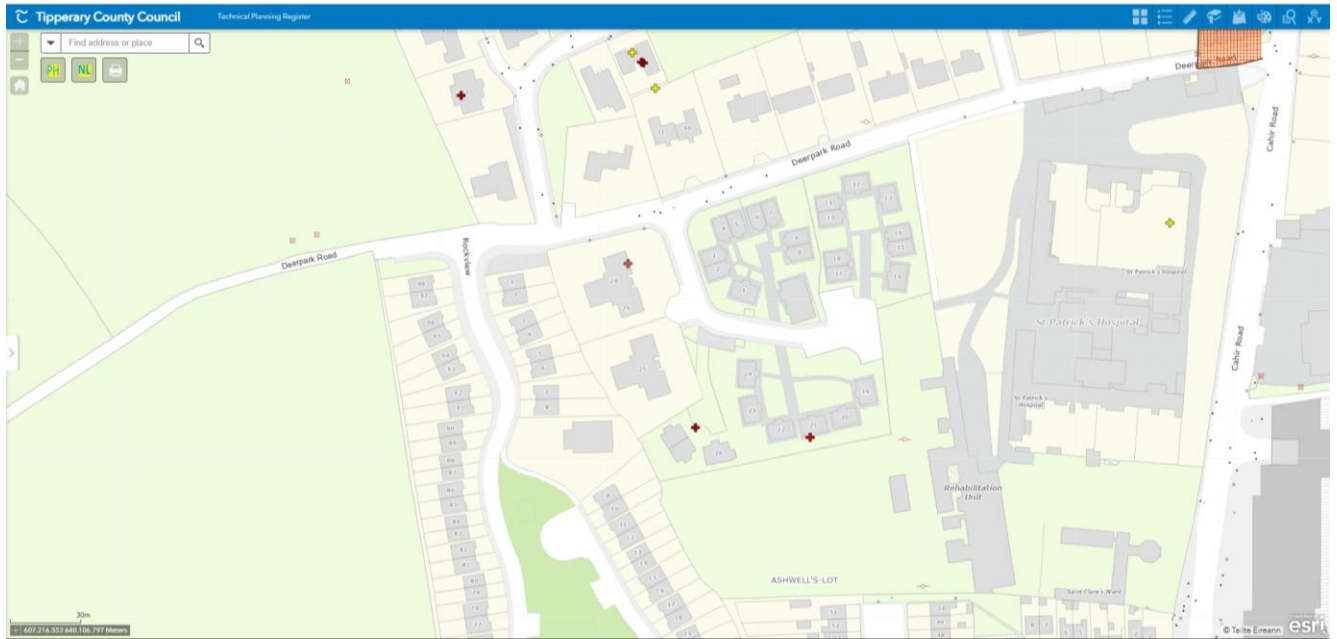
<input type="checkbox"/> Yes, specify class _____	EIA is mandatory
	No Screening required
<input checked="" type="checkbox"/> No	Proceed to Part B

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
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: 07th November, 2024

Our Ref: S5/24/115

Civic Offices, Nenagh

James Brennan
Brothers of Charity CLG
C/O Will McGarry
15 Mary St
Clonmel
Co. Tipperary
Email: info@wmaa.ie

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

Dear Mr Brennan,

I refer to your application for a Section 5 Declaration received on 11th October, 2024, in relation to the following proposed works:

Change bedroom window to double doors by dropping the cill height to the ground. The width stays the same **at** 26 St. Patricks Gardens, Deerpark, Road, Cashel, 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

AND WHEREAS Tipperary County Council has concluded the proposal as presented constitutes “works” and “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,

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 that the above proposal 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: **S5/24/115** **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 James Brennan, Brothers of Charity CLG, C/O Will McGarry, 15 Mary Street, Clonmel, Co. Tipperary re: Construction of a single storey extension to rear of dwelling at Change bedroom window to double doors by dropping the cill height to the ground. The width stays the same at 26 St. Patricks Gardens, Deerpark, Road, Cashel, Co. Tipperary is development and is exempted development.

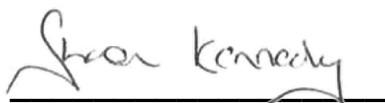
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AND WHEREAS Tipperary County Council has concluded the proposal as presented constitutes "works" and "development" within the meaning of the Planning and Development Act 2000, as amended and is "exempted development". The development is exempted development as same satisfies the exemptions available under Section 4(1)h of the Planning and Development Act 2000, as amended,

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 that the above proposal is development and is **exempted development**.

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: 07/11/2024