

PLANNING & DEVELOPMENT ACT, 2000 (as amended)

<u>Application for a Section 5 Declaration</u> Development / Exempted Development

Applicant's addre	ess/contact details:
Applicant	Jack Maher
Address	Coerrow, Ballinure, Thurles, Co. Tipperary
Telephone No.	
E-mail	
Agent's (if any) ac	ddress:
Agent	lan Daniels (Domarch)
Address	Grand Floor, eld Windmill Courts Lower Gerald Gallin St., Limerick
Telephone No.	
E-mail	
Please advise who sent;	ere all correspondence in relation to this application is to be
Applicant []	Agent [V]
Location of Propo	osed Development:
Postal Address or Townland or Location (as may best identify the land or structure in	Carrow, Ballinures Thurles, Co. Tipperary

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.

Construction of a 25 m single storay
rear extension
Proposed floor area of proposed works/uses: 25 sqm

5.	Legal	Interest o	f Applica	ant in the	Land or	Structure:
	5					

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

Signature of Applicant(s)

Date: 15/10/14

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
 - o 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
 - o Other details e.g. brochures, photographs if appropriate.

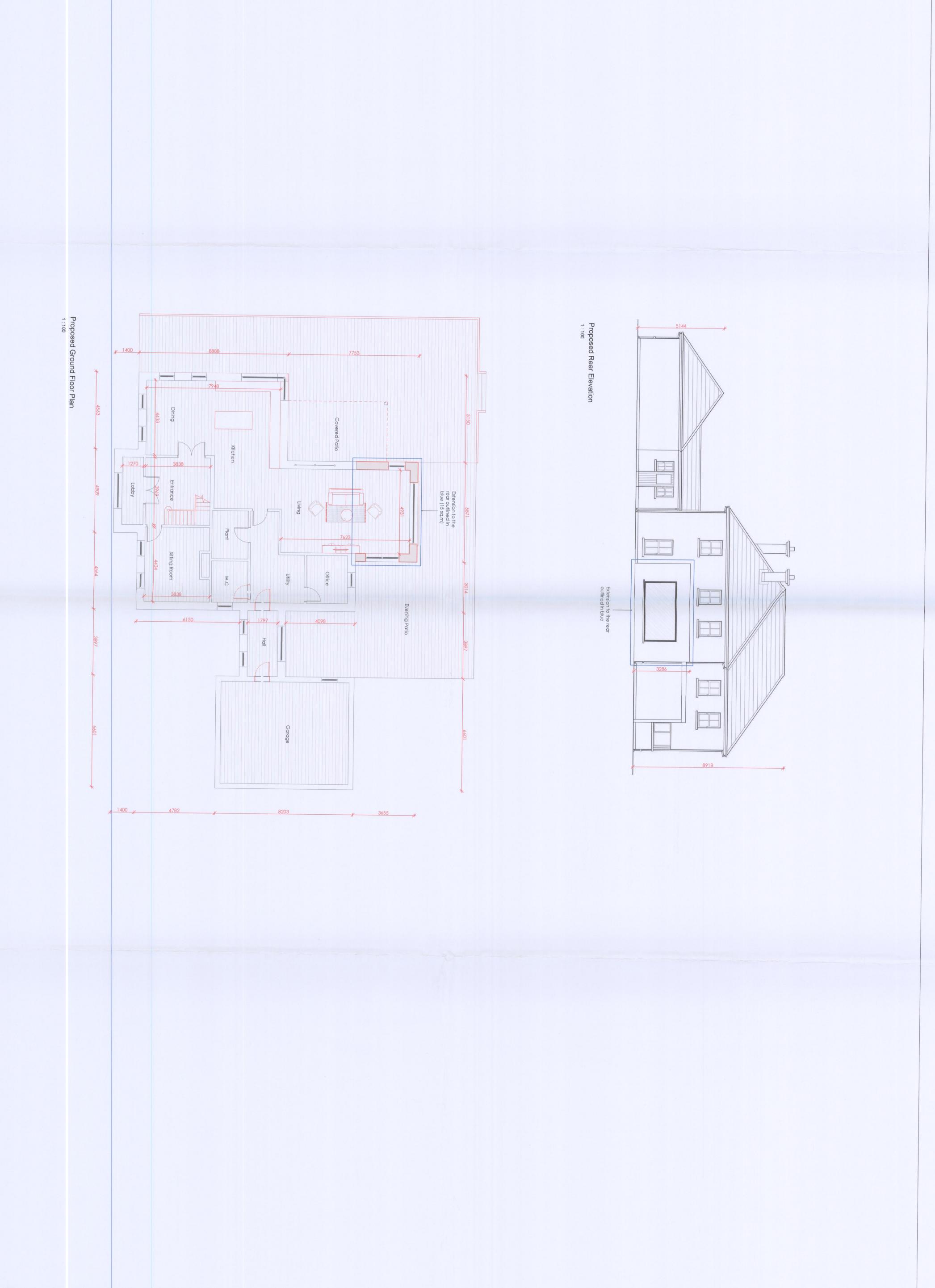
(All dimensions must be given in metric scale and drawings should be accompanied by a brief description outlining the use of the proposed development)

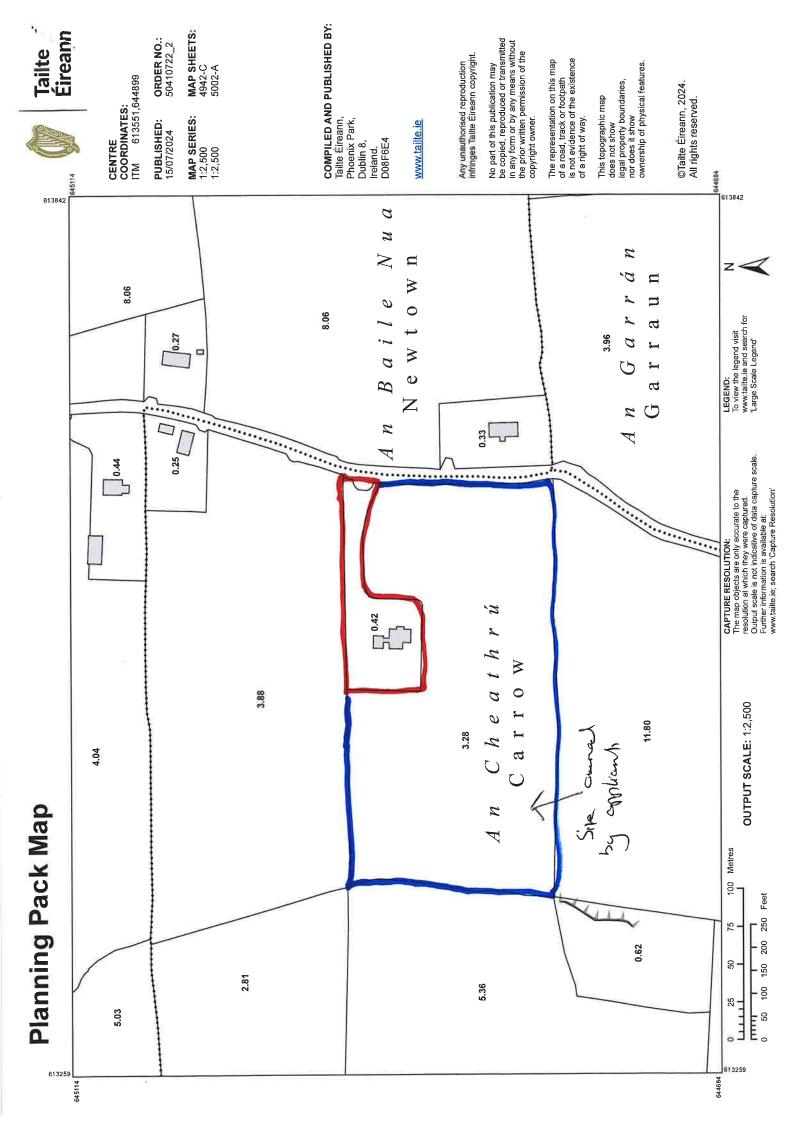
(3) Where a proper and complete application is received, a decision must be conveyed to the applicant within four (4) weeks except where additional necessary information is required.

This application form and relevant fee should be submitted to:

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

FOR OFFICE USE ONLY	
	DATE STAMPARY CO. RECEIVED
Fee Recd. €	
Receipt No	16 OCT 2024
Date	PLANNING SECTION
Receipted by	FILE NO.





Tailte Éireann



ORDER NO.: 50410722_2 613551,644899

MAP SHEETS: TY053

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

E91 N512

Comhairle Contae Thiobraid Árann, Oifigí Cathartha, An tAonach, Co. Thiobraid Árann

E45 A099

Tipperary County Council, Civic Offices, Nenagh, Co. Tipperary t 0818 06 5000 e customerservice @tipperarycoco.ie

tipperarycoco.ie

Date: 17th October, 2024 Our Ref: S5/24/119 Civic Offices, Nenagh

Jack Maher
C/O Ian Daniels
Ground Floor, Old Windmill Court
Lower Gerald Griffin St
Limerick

Re: Application for a Section 5 Declaration – Construction of a 25sqm single storey rear extension at Carrow, Ballinure, Thurles, Co. Tipperary.

Dear Mr Maher,

I acknowledge receipt of your application for a Section 5 Declaration received on 16th October, 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.: S5/24/119

Applicant: Jack Maher

Development Address: Carrow, Ballinure, Thurles, Co. Tipperary

Proposed Development: Construction of a 25sqm single storey rear extension

1. GENERAL

On the 16th of October 2024 a request was made for a declaration under Section 5 of the Planning and Development Act, 2000 as amended as to whether the following is "development" and "exempt development":

- Construction of a 25sqm single storey rear extension at Carrow Ballinue.

2. STATUTORY PROVISION

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.

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:-

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

Planning and Development Regulations 2001 (as amended)

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

Exempted Development.

6. (1) Subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1.

Schedule 2, Part 1 'Exempted Development - General:

Class 1 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 considers the following works to be exempted development subject to the conditions and limitations set out below;

The extension of a house, by the construction or erection of an extension (including a conservatory) to the rear of the house or by the conversion for use as part of the house of any garage, store, shed or other similar structure attached to the rear or to the side of the house.

Conditions and Limitations

- 1. (a) Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres. (b) Subject to paragraph (a), where the house is terraced or semi-detached, the floor area of any extension above ground level shall not exceed 12 square metres.(c) Subject to paragraph (a), where the house is detached, the floor area of any extension above ground level shall not exceed 20 square metres.
- 2. (a) Where the house has been extended previously, the floor area of any such extension, taken together with the floor area of any previous extension or extensions constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 40 square metres.(b) Subject to paragraph (a), where the house is terraced or semi-detached and has been extended previously, the floor area of any extension above ground level taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 12 square metres.
- (c) Subject to paragraph (a), where the house is detached and has been extended previously, the floor area of any extension above ground level, taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 20 square metres.

- 3. Any above ground floor extension shall be a distance of not less than 2 metres from any party boundary.
- 4. (a) Where the rear wall of the house does not include a gable, the height of the walls of any such extension shall not exceed the height of the rear wall of the house.
- (b) Where the rear wall of the house includes a gable, the height of the walls of any such extension shall not exceed the height of the side walls of the house.
- (c) The height of the highest part of the roof of any such extension shall not exceed, in the case of a flat roofed extension, the height of the eaves or parapet, as may be appropriate, or, in any other case, shall not exceed the height of the highest part of the roof of the dwelling.
- 5. The construction or erection of any such extension to the rear of the house shall not reduce the area of private open space, reserved exclusively for the use of the occupants of the house, to the rear of the house to less than 25 square metres.
- 6. (a) Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces.
- (b) Any window proposed above ground level in any such extension shall not be less than 11 metres from the boundary it faces.
- (c) Where the house is detached and the floor area of the extension above ground level exceeds 12 square metres, any window proposed at above ground level shall not be less than 11 metres from the boundary it faces.
- 7. The roof of any extension shall not be used as a balcony or roof garden.

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.

3. ASSESSMENT

a. Site Location

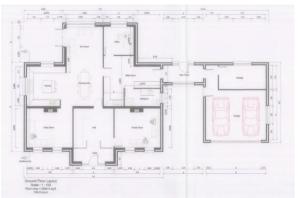
The site is located at Carrow, Ballinure and is situated in an area designated as Open Countryside in the Tipperary County Develoment Plan, 2022. It is noted that the house is situated in a secondary amenity area.

b. Relevant Planning History

On site

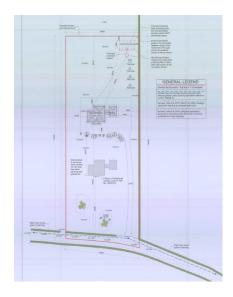
16600319

Permission granted to Louise McLoughlin for the construction of a two storey dwelling house, garage, entrance gates, installation of waste water treatment plant and all ancillary site works





Permission granted to Louise McLoughlin for changing the position of the proposed dwelling & associated waste water treatment system as shown on planning application reference number 16600319 and all associated site works



\$5/23/136 The construction of a 4 bay portal building for the storage of hay, straw and feed and the housing of horses – Not Exempt

\$5/24/85 The construction of a loose house for horses and concrete apron on the working side with an underground soiled water tank - Exempt

Adjacent

None relevant

4. ASSESSMENT

A) "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 proposals therefore constitute "development" within the meaning of the Planning and Development Act 2000, as amended.

B) "Is or is not Exempted Development"

The works proposed comprise of the construction of an extension to the rear of a permitted dwelling with a floor area of 25sqm.

Having reviewed the conditions and limitations associated with Class 1, it is not considered that any apply in this instance as set out below:

1. (a) Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres. (b) Subject to paragraph (a), where the house is terraced or semi-detached, the floor area of any extension above ground level shall not exceed 12 square metres. (c) Subject to paragraph (a), where the house is detached, the floor area of any extension above ground level shall not exceed 20 square metres.

Having regard to the permitted dwelling under 16600319 and the plans submitted with this application, it is considered that the house has not been previously extended. The proposed extension is for a structure measuring 25sqm at ground floor level and therefore complies with the limitations set out in 1 above.

- 2. (a) Where the house has been extended previously, the floor area of any such extension, taken together with the floor area of any previous extension or extensions constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 40 square metres.(b) Subject to paragraph (a), where the house is terraced or semi-detached and has been extended previously, the floor area of any extension above ground level taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 12 square metres.
- (c) Subject to paragraph (a), where the house is detached and has been extended previously, the floor area of any extension above ground level, taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 20 square metres.

The house has not been previously extended.

3. Any above ground floor extension shall be a distance of not less than 2 metres from any party boundary.

The proposed extension is at ground floor level

- 4. (a) Where the rear wall of the house does not include a gable, the height of the walls of any such extension shall not exceed the height of the rear wall of the house.
- (b) Where the rear wall of the house includes a gable, the height of the walls of any such extension shall not exceed the height of the side walls of the house.
- (c) The height of the highest part of the roof of any such extension shall not exceed, in the case of a flat roofed extension, the height of the eaves or parapet, as may be appropriate, or, in any other case, shall not exceed the height of the highest part of the roof of the dwelling.

The rear wall does not include a gable and the extension includes a flat roof, which is below the height of the rear wall of the house.



5. The construction or erection of any such extension to the rear of the house shall not reduce the area of private open space, reserved exclusively for the use of the occupants of the house, to the rear of the house to less than 25 square metres.

The private open space to the rear of the house is in excess of 25sqm.

6. (a) Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces.

All proposed windows at ground level are in excess of 1m from the boundary it faces.

(b) Any window proposed above ground level in any such extension shall not be less than 11 metres from the boundary it faces

The proposed extension is at ground floor level only.

(c) Where the house is detached and the floor area of the extension above ground level exceeds 12 square metres, any window proposed at above ground level shall not be less than 11 metres from the boundary it faces.

The proposed extension is at ground floor level only.

7. The roof of any extension shall not be used as a balcony or roof garden.

The proposal does not include for the use of the roof as a balcony. The proposed extension is not accessible by any door and is not conducive for use as a balcony.

C) Restrictions under Article 9

It is noted that no exemptions under Article 9 of the Planning and Development Regulations 2001, as amended that would apply.

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 condition which would de-exempt the construction of an extension to the dwelling.

(vi) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,

While it is noted that the dwelling is in a secondary amenity area, it is not considered that the proposed extension would interfere with the character of the landscape or any view or prospect.

5. ENVIRONMENTAL IMPACT ASSESSMENT (EIA) & APPROPRIATE ASSESSMENT (AA):

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

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.

The proposed development for an extension to a dwelling and is not a type of development included for under Schedule 5 of the Planning and Development Regulations 2001, as amended.).

The proposed development has been screened as to the requirement for AA and it has been determined that AA is not required. See Screening Report attached.

6. **RECOMMENDATION**

Having regard to:

- (a) Sections 2, 3 & 4 of the Planning and Development Act 2000 (as amended)
- (b) Part 1 Class 1 of Schedule 2 Planning & Development Regulations 2001, as amended.
- (c) Articles 6 and 9 of the Planning & Development Regulations 2001, as amended

Tipperary County Council has concluded that the proposal presented on the drawings and details provided with the Declaration application, for the

"Construction of a 25sqm single storey rear extension to a dwelling"

constitutes "development" within the meaning of the Planning and Development Act 2000, and is "exempted development".

District planner: Date: 07.11.2024

A/Senior Executive Planner: Date: 7/11/2024

STEP 1. Description of the project/proposal and local site characteristics: (a) File Reference No: (b) Brief description of the project or plan: Extension to rear of dwelling				
(b) Brief description of the project or plan: Extension to rear of dwelling				
Profession of the Commission o				
(c) Brief description of site characteristics: Existing residential site in the Open countryside				
(d) Relevant prescribed bodies consulted: e.g. DHLGH (NPWS), EPA, OPW	None			
(e) Response to consultation: None	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 List of Distance Connections (Source- (code) Interest/Special Conservation Interest¹ (km) Connections Considered further in screening Y/N Conservation development² Receptor)	Considered further in screening Y/N			
002137 https://www.npws.ie/protected- Within 10km None No Lower River Suir sites/sac/002137				
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. 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				
Operational phase e.g. 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 No potential impacts				

(b) Describe any likely changes to the European site:					
Examples of the type of changes to give include: Reduction or fragmentation of habitat Disturbance to QI species Habitat or species fragmentation Reduction or fragmentation in species Changes in key indicators of conserva (water or air quality etc.) Changes to areas of sensitivity or three Interference with the key relationships structure or ecological function of the	area s density ation status value eats to QI s that define the	No po	otential impacts		
(c) Are 'mitigation' measures necessary to reach a conclusion that likely significant effects can be ruled out at screening?					
☐ Yes ⊠ No					
STEP	4. Screening Determina	tion Statem	nent		
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	o have significant effects.				
Conclusion:					
	Tick as Appropriate:	Recomme	ndation:		
(i) It is clear that there is no likelihood of significant effects on a European site.		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.		 □ Request further information to complete screening □ Request NIS □ Refuse planning permission 			
(iii) Significant effects are likely.		☐ Request NIS☐ Refuse planning permission			
Signature and Date of Recommending Officer:	Parasay		Date:	07.11.2024	

Establishing a d	EIA Pre-Screenin levelopment is a 'sub-t		old development'	
File Reference:	S5/24/119			
Development Summary:	evelopment Summary: Domestic extension			
Was a Screening Determination carried out under Section 176A-C?				
	⊠No, Proceed to P	⊠No, Proceed to Part A		
A. Schedule 5 Part 1 - Does the development Regulations 2001 (as amend (Tick as appropriate)		isted in	Schedule 5, Part 1,	of the Planning and
☐Yes, specify class			mandatory reening required	
		Procee	ed to Part B	
B. Schedule 5 Part 2 - Does the developm Development Regulations 2001 (as amend				of the Planning and
(Tick as appropriate)				
⊠ No, the development is not a project listed in Schedule 5, Part 2			No Screening req	uired
Yes the project is listed in Schedule 5, Part 2 and meets/exceeds the threshold, specify class (including threshold):		ds	EIA is mandatory	
			No Screening requ	ired
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/scr				
Yes, Schedule 7A information/screening report has been submitted by the applicant		ted	Screening Determ	ination required
□ No, Schedule 7A information/screening report has not been submitted by the applicant			Preliminary Exam	ination required
Signature and Date of Recommending Officer:	Agrosay		Date:	07.11.2024



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

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

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

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tipperarycoco.ie

Date: 7th November, 2024 Our Ref: S5/24/119 Civic Offices, Nenagh

Jack Maher
C/O Ian Daniels
Ground Floor, Old Windmill Court
Lower Gerald Griffin St
Limerick

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

Dear Mr Maher,

I refer to your application for a Section 5 Declaration received on 16th October, 2024, in relation to the following proposed works:

Construction of a 25sqm single storey rear extension at Carrow, Ballinure, Thurles, 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 & 4 of the Planning and Development Act 2000 (as amended)
- (b) Part 1 Class 1 of Schedule 2 Planning & Development Regulations 2001, as amended.
- (c) Articles 6 and 9 of the Planning & Development Regulations 2001, as amended

Tipperary County Council has concluded that the proposal presented on the drawings and details provided with the Declaration application, for the

"Construction of a 25sqm single storey rear extension to a dwelling"

constitutes "development" within the meaning of the Planning and Development Act 2000, and is "**exempted development**".

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: S5/24/119	Delegated Employee's Order No:
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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 Jack Maher, C/O Ian Daniels, Ground Fl, Old Windmill Court, Lower Gerald Griffin St., Limerick , re: Construction of a 25sqm single storey rear extension is development and is exempted development.

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

- (a) Sections 2, 3 & 4 of the Planning and Development Act 2000 (as amended)
- (b) Part 1 Class 1 of Schedule 2 Planning & Development Regulations 2001, as amended.
- (c) Articles 6 and 9 of the Planning & Development Regulations 2001, as amended

Tipperary County Council has concluded that the proposal presented on the drawings and details provided with the Declaration application, for the

"Construction of a 25sqm single storey rear extension to a dwelling"

constitutes "development" within the meaning of the Planning and Development Act 2000, and is "exempted development".

Signed:

Date: 07/11/2024

Sharon Kennedy

Director of Services

Planning and Development (including Town Centre First),

Emergency Services and Emergency Planning and

Tipperary/Cahir/Cashel Municipal District