



PLANNING & DEVELOPMENT ACT, 2000 (as amended)

Application for a Section 5 Declaration
Development / Exempted Development

1. Applicant's address/contact details:

Applicant	Tipperary EDUCATION Training Board <i>EE</i>
Address	Church Rd, Neeragh Co. Tipperary E45 XD5A
Telephone No.	[REDACTED]
E-mail	[REDACTED]

2. Agent's (if any) address:

Agent	P. Coleman & ASSOCIATES
Address	5 Bank Place, Ennis, Co. CLARE
Telephone No.	[REDACTED]
E-mail	[REDACTED]
Please advise when sent;	[REDACTED]
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)	Coláiste Mhaire Co. EN Castlemeadows, Thurles, Co. Tipperary E41 W67G
---	---

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>See Attached Note</i>	
Proposed floor area of proposed works/uses:	sqm

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

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

Signature of Applicant(s)  Date: 2.5.24

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 *- N/A*
- Site layout plan indicating position of proposed development relative to premises and adjoining properties
- Other details e.g. brochures, photographs if appropriate. *- Aerial Photos on Text*

(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 NENAM 1/0/119695

Date 8/5/2024

Received by _____

Is the proposed development which includes for the provision of modular accommodation with ancillary site works which include for the relocation of 6 no. existing car-parking spaces, the extension of the access road and the removal of trees is or is not development and is or is not exempted development.

This ongoing project necessitates the extension of the access road, a measure necessitated by the Fire Officer in the fire cert application. The extension of the road requires the relocation of 6 existing car spaces.

Given the limited space available and the strategic considerations of both current site usage and anticipated future expansions, there is a proposal to relocate six parking spaces from area X to a location B as shown on image below. This proposal has been thoroughly evaluated and endorsed by the school and the design team as the most viable solution that addresses functional, safety, and aesthetic needs without compromising the integrity of planned educational facilities.

We believe that the provision of the modular building together with these minor site modifications, while essential for the practical use and safety of the educational facility, fall within the activities categorised as exempt under Class 20D of and Class 40 of Schedule 2, part 1 of the Planning and Development Regulations as amended. We are seeking the Planning Authorities confirmation on whether the above works is or is not development and is or is not exempted development.





Co. Tipperary, Printed Under Ordnance Survey Ireland Licence No. AR 0011023_Map Sheets 1:1000 4696-06, 12500 4695-B

LEGEND:
 SITE BOUNDARY

- GENERAL NOTES
1. THIS DRAWING SHALL BE READ IN CONJUNCTION WITH ALL RELEVANT CIVIL, STRUCTURAL, MECHANICAL AND ELECTRICAL SPECIFICATIONS AND SCHEDULES.
 2. ALL DIMENSIONS ARE IN MILLIMETERS AND LEVELS METRES. USE FIGURED DIMENSION ONLY.
 3. ALL DIMENSIONS ARE TO FACE OF BLOCK OR PANEL OR STUD TYPICALLY UNLESS NOTED OTHERWISE.
 4. ALL WORKS TO BE CARRIED OUT IN ACCORDANCE WITH CURRENT BUILDING REGULATIONS INCLUDING SUBSEQUENT AMENDMENT & INCLUDING FOR ALL OTHER NATIONAL STANDARDS EUROPEAN STANDARDS ISO, IEC & STANDARDS AS SET OUT THEREIN.
 5. ALL WORKS TO COMPLY WITH HEALTH & SAFETY ACT.

No.	DESCRIPTION	REVISION	DATE

PROJECT: **Modular Accommodation Unit**
 ADDRESS: **Castlemeadows, Thurles, Co. Tipperary H53 PC94**
 SCALE: 1:1,000 @ A3 DATE: 19/10/2023 DRAWN: EG APPROVED: JC STAGE: FSC

0 10 20 35 40 50mm
 PRINT REDUCTION BAR | A1 SHEET

ALL RIGHTS RESERVED. THE COPYRIGHT OF THIS DRAWING (INCLUDING ALL ATTACHED AND INCORPORATED DOCUMENTS) IS THE PROPERTY OF THE COMPANY. NOTHING IN THE FORM OR ANY PART OF IT MAY BE USED OR REPRODUCED BY ANY METHOD WHATSOEVER OR INCORPORATED BY REFERENCE OR IN ANY MANNER WHATSOEVER IN ANY OTHER DOCUMENT WITHOUT THE PRIOR WRITTEN CONSENT.

P. Coleman & Associates
 5 Bank Place, Ennis, Co. Clare
 Tel: 065-6829731
 Web: www.pcoleman.com
 Email: engineers@pcoleman.com

CLIENT: **Coláiste Mhuire Co-Ed**
 TITLE: **Site Location Map**

PROJECT No. **7114 -3.21 -10** DRAWING No. REVISION



No.	DESCRIPTION	REVISION	DATE

PROJECT:	COLÁISTE MUIRE CO-ED				
ADDRESS:	CASTLEMEADOWS THURLES CO TIPPERARY				
SCALE:	as shown	DATE:	20/09/23	DRAWN:	HB
		APPROVED:	JC	STAGE:	Const.
ALL RIGHTS RESERVED. THE COPYRIGHT OF THIS DRAWING (INCLUDING ALL ATTACHED AND INCORPORATED DOCUMENTS) IS THE PROPERTY OF THE COMPANY. NOT TO BE REPRODUCED OR ANY PART OF IT MAY BE USED OR REPRODUCED BY ANY METHOD WHATSOEVER OR INCORPORATED BY REFERENCE OR IN ANY MANNER WHATSOEVER IN ANY OTHER DOCUMENT WITHOUT THE PRIOR WRITTEN CONSENT.					

 P. Coleman & Associates	5 Bank Place, Ennis, Co.Clare Tel: 065-6829731 Web: www.pjcoleman.com Email: engineers@pjcoleman.com
	PROJECT No. DRAWING No. REVISION 7114 -3.21 -32 B
CLIENT: Department Of Education	TITLE: Proposed Car Parking



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: 8th May, 2024 Our Ref: S5/24/55

Civic Offices, Nenagh

Tipperary Education & Training Board
C/O P. Coleman & Associates
5 Bank Place
Ennis
Co. Clare

Re: Application for a Section 5 Declaration – the proposed development which includes for the provision of modular accommodation with ancillary site works which include for the relocation of 6 no. existing car-parking spaces, the extension of the access road and the removal of trees at Colaiste Mhuire Co-Ed, Castlemeadows, Thurles, Co Tipperary

Dear Sir/Madam

I acknowledge receipt of your application for a Section 5 Declaration received on 8th May, 2024, in connection with the above.

I wish to advise that you will be notified of a decision on your application in due course.

Yours faithfully

for **Director of Services**

TIPPERARY COUNTY COUNCIL
Application for Declaration under Section 5

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

Planning Ref.: S5/24/55

Applicant: Tipperary Education and Training Board

Development Address: Colaiste Mhuire Co Ed, Castlemeadows, Thurles, Co. Tipperary

Proposed Development: Development of modular accommodation, ancillary site works, relocation of 6 parking spaces, widening of an access route and removal of trees

1. GENERAL

A request was made for a declaration under Section 5 of the Planning and Development Act, 2000 as amended by Tipperary Education and Training Board as to whether or not the following works constituted development and if so, whether same was exempted development:

Development of modular accommodation, ancillary site works, relocation of 6 parking spaces, widening of an access route and removal of trees

The proposals involve works within the site of Colaiste Mhuire Co Ed, Castlemeadows, Thurles, Co. Tipperary.

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(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.

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.

Class 20D, Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended:

CLASS 20D Development consisting of -

The erection on land on which a school is situated of a structure to facilitate the continued delivery of education.

Subject to the following conditions and limitations:

- 1. No such structure shall be erected for a period exceeding 5 years.*
- 2. The gross floor area of such structure shall not exceed 30% of the gross floor area of the existing school.*
- 3. No such structure shall exceed two storeys.*
- 4. Distance to party boundary*
 - (a) any single storey structure shall be a distance of not less than 2 metres from any party boundary,*
 - (b) any two-storey extension facing an existing dwelling shall be a distance no less than 22 metres from the main part of the dwelling, or*
 - (c) any two-storey extension closer than 12.5m to a party boundary, or facing and closer than 22 metres to the dwelling shall –*
 - (i) have no windows overlooking, or*
 - (ii) have obscure glass.*
- 5. Such structure shall comply with the Department of Education Primary and Post Primary Technical Guidance Documents for the time being in force.*

Class 40, Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended:

Works incidental to the use or maintenance of any burial ground, churchyard, monument, fairgreen, market, schoolgrounds or showground except—

- (a) the erection or construction of any wall, fence or gate bounding or abutting on a public road,*
- (b) the erection or construction of any building, other than a stall or store which is wholly enclosed within a market building, or*
- (c) the reconstruction or alteration of any building, other than a stall or store which is wholly enclosed within a market building.*

Article 9 of the Planning and Development Regulations 2001, as amended sets out restrictions on exemptions and states:

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

(ii) consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,

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

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

(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.

I am satisfied the proposed development is not restricted by Article 9.

Environmental Impact Assessment Screening and Appropriate Assessment Screening are attached overleaf. I am satisfied an AA or EIA is not required.

3. ASSESSMENT

a. Site Location

The site comprises Colaiste Mhuire Co Ed, Castlemeadows, Thurles, Co. Tipperary.

b. Relevant Planning History

On site:

- | | |
|----------|---|
| 19601174 | Permission granted on 23/1/2020 for development of a single storey temporary accommodation building comprising 2 classroom ASD unit, 4 classrooms, 5 office/tuition rooms, toilets, car parking and all associated site works, along with the retention of an existing single storey temporary accommodation building comprising 1 classroom. |
| 11510260 | Permission granted for new entrance canopy/pergola, entrance lobby, new sports equipment store, general landscape works and associated site works. |
| 10510016 | entrance lobby – granted but not built. |
| 07511568 | Permission granted for three additional classrooms and all associated site works |
| 51 24406 | Permission granted for New prefabricated extension consisting of 1 no. classroom and associated site works – 2001 |
| 51 23551 | new pre-fabricated extension consisting of 2 no. classrooms, 1 no. office and ancillary spaces and associated site works - 2001 |

Adjoining Lands:

- | | |
|------------|--|
| 14/60/0069 | Permission granted for minor internal plan reconfigurations, a new single storey entrance area, a new extension to the rear/side of the existing building, along with all site and ancillary works. The total proposed extension area is 26.5 sq.m |
|------------|--|

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 would involve “works” and such works would constitute “development” within the meaning of Section 3 of the Act.

B) “Is or is not Exempted Development”

There are a number of elements to the proposal that will be addressed in turn:

Modular accommodation

It is considered that the modular accommodation may come within the criteria as set under Class 20D, Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended of the Planning & Development Regulations 2001, as amended. However no drawings of the proposed modular accommodation has been provided and same would be needed to confirm whether same meets this planning exemption. In addition the following will be needed to determine whether the modular unit meets the terms and conditions attached to Class 20D:

- i) The duration of the modular accommodation.
- ii) The gross floor area of the structure and the gross floor area of the existing school (excluding any temporary accommodation).
- iii) Elevation drawings of the accommodation showing the number of stories in same.
- iv) A site layout plan showing the location of the modular unit with distances to party boundaries clearly identified.

Relocation of 6 parking spaces, widening and extension of an access route and removal of trees

I am not satisfied that the works to develop additional parking spaces and extend the access road can be considered to come within the exemption under Class 40 of the Planning and Development Regulations 2001, as amended. The works are not associated with the maintenance of the school grounds and I do not consider same can be considered incidental works noting the meaning of incidental

The applicant can be advised of the foregoing and requested to respond setting out any precedent cases where this exemption has been confirmed for similar works.

C) Restrictions under Article 9

I note no restrictions on the foregoing exemption under Article 9 of the Planning and Development Regulations 2001, as amended.

D) 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

It is recommended to request the following further information:

1. The applicant is requested to arrange to submit, for the consideration of the Planning Authority, the following further information regarding the proposed modular unit:

- i) The duration of the modular accommodation will be used for (in years).
- ii) The gross floor area of the structure and the gross floor area of the existing school (excluding any temporary accommodation).
- iii) Plan and elevation drawings of the unit drawn to metric scale of not less than 1:200 showing the number of stories in same.
- iv) A site layout plan drawn to metric scale of not less than 1:500 showing the location of the modular unit with distances to party boundaries clearly identified.

2. The applicant is requested to arrange to submit, for the consideration of the Planning Authority a site layout plan drawn to a scale of 1:500 showing the nature and extent of works associated with extending the access roadway and developing the additional car parking spaces

3. The Planning Authority is not satisfied that the works to develop additional parking spaces and extend the access road can be considered to come within the exemption under Class 40 of the Planning and Development Regulations 2001, as amended. The works are not associated with the maintenance of the school grounds and the Planning Authority do not consider the works can be considered incidental noting the definition of incidental.

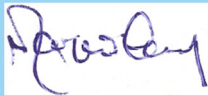
You are invited to respond and provide details for consideration of any similar cases where the planning exemption under Class 40 has been confirmed.

District Planner: 

Date: 31/05/2024

A/Senior Executive Planner: 

Date: 30/5/2024

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:	S5/24/55	
	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?	Proposed temporary prefabricated classroom (80sq.m) to cater for increased pupil numbers.	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?	The site is 0.44ha and comprises an existing national school, located in a rural area with single dwellings on either side.	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?	Kyletombrickane, Borrisokane, Co. Tipperary	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:		

HABITATS DIRECTIVE APPROPRIATE ASSESSMENT (AA) SCREENING REPORT

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

(a) File Reference No:	S5/24/55
(b) Brief description of the project or plan:	As per planners report.
(c) Brief description of site characteristics:	As per planners report.
(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 Suir SAC	https://www.npws.ie/protected-sites/sac/002165	Within 15km	None	N

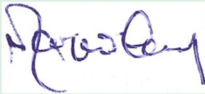
STEP 3. Assessment of Likely Significant Effects

(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.)
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 	Development does not include any major construction works.
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 	It is considered that there is no real likelihood of any significant effects on European Sites in the wider catchment area.

<ul style="list-style-type: none"> abstraction • Presence of people, vehicles and activities • Physical presence of structures (e.g. collision risks) • Potential for accidents or incidents 	
In-combination/Other	No likely significant in-combination effects
(b) Describe any likely changes to the European site:	
<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>
(c) Are 'mitigation' measures necessary to reach a conclusion that likely significant effects can be ruled out at screening?	
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

Step 4. Screening Determination Statement		
<p>The assessment of significance of effects:</p> <p>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.</p>		
<p>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.</p> <p>An appropriate assessment is not, therefore, required.</p>		
<p>Conclusion:</p>		
	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:		



Comhairle Contae Thiobraid Árann
Tipperary County Council

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

Comhairle Contae
Thiobraid Árann,
Oifigi 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: 4th June, 2024

Our Ref: S5/24/55

Civic Offices, Nenagh

Tipperary Education & Training Board
C/O P. Coleman & Associates
5 Bank Place
Ennis
Co. Clare

Re: Application for a Section 5 Declaration –Development of modular accommodation, ancillary site works, relocation of 6 parking spaces, widening of an access route and removal of trees **at Castlemeadow, Thurles, Co. Tipperary**

Dear Sir/Madam

I refer to an application received from you on 8th May, 2024 requesting a Declaration from this Planning Authority as to whether or not certain works constitute development within the meaning of the Planning and Development Act 2000, as amended.

Further information is requested as follows;

It is recommended to request the following further information:

1. The applicant is requested to arrange to submit, for the consideration of the Planning Authority, the following further information regarding the proposed modular unit:
 - i. The duration of the modular accommodation will be used for (in years).
 - ii. The gross floor area of the structure and the gross floor area of the existing school (excluding any temporary accommodation).
 - iii. Plan and elevation drawings of the unit drawn to metric scale of not less than 1:200 showing the number of stories in same.
 - iv. A site layout plan drawn to metric scale of not less than 1:500 showing the location of the modular unit with distances to party boundaries clearly identified.

2. The applicant is requested to arrange to submit, for the consideration of the Planning Authority a site layout plan drawn to a scale of 1:500 showing the nature and extent of works associated with extending the access roadway and developing the additional car parking spaces
3. The Planning Authority is not satisfied that the works to develop additional parking spaces and extend the access road can be considered to come within the exemption under Class 40 of the Planning and Development Regulations 2001, as amended. The works are not associated with the maintenance of the school grounds and the Planning Authority do not consider the works can be considered incidental noting the definition of incidental.

You are invited to respond and provide details for consideration of any similar cases where the planning exemption under Class 40 has been confirmed.

Further consideration of your request for a declaration cannot be considered until the above information is received.

Yours faithfully

Geraldine Quinn

for **Director of Services**

CONSULTING ENGINEERS, ARCHITECTS & PLANNERS

PATRICK J. COLEMAN B.E. M.Eng.Sc. C.Eng. FIEI Eur. Ing, A.C.E.I.
Jackson M. Coleman BSc. Eng., Dip. Eng, C.Eng. Eur. Ing, MI
John P. Morrissey B.E., M.Eng. Sc.. C.Eng..
Richard Robinson Dip Arch Tech., BSc (Hons) in Architecture, M.Arch, MRIAI
Mandy Coleman BA, MA (Econ), MA (Spatial Planning), AdvDip (Planning & Env Law), MIPI

Tel: 065 682 9731/682 9173
Fax: 065 6840199
Email: engineers@pjcoleman.com
Web: www.pjcoleman.com
VAT no. IE 9F34043S

P. COLEMAN & ASSOCIATES

CONSULTING ENGINEERS, ARCHITECTS & PLANNERS
BANK PLACE, ENNIS, CO. CLARE, V95 HW27, IRELAND.

Planning Section,
Tipperary County Council,
Civic Offices,
Limerick Road,
Nenagh,
Co. Tipperary.

OUR REFERENCE

MC/7114(3.21)

YOUR REFERENCE

S5/24/55

DATE

16th. September, 2024

Re: Section 5 Declaration Application Ref: S5/24/55

Development of Modular Accommodation, ancillary site works, relocation of 6 parking spaces, widening of an access route and removal of trees at Castlemeadow, Thurles, Co. Tipperary.

Dear Sir/Madam,

We refer to your letter dated 4th. June, 2024 requesting further information in relation to the above and wish to respond as follows:-

Query No. 1

1. The applicant is requested to arrange to submit, for the consideration of the Planning Authority, the following further information regarding the proposed modular unit:
 - i. The duration of the modular accommodation will be used for (in years).
 - ii. The gross floor area of the structure and the gross floor area of the existing school (excluding any temporary accommodation).
 - iii. Plan and elevation drawings of the unit drawn to metric scale of not less than 1:200 showing the number of stories in same.
 - iv. A site layout plan drawn to metric scale of not less than 1:500 showing the location of the modular unit with distances to party boundaries clearly identified.

In the following table we have outlined our submission to the five criteria necessary to come within the Class 20D exemption.

Class 20D**Development consisting of –**

The erection on land on which a school is situated of a structure to facilitate the continued delivery of education.

	Condition/Limitation	Response
1	No such structure shall be erected for a period exceeding 5 years.	Our Clients are aware that the structure is a temporary structure which can only be in place under this exemption for a 5 year period.
2	The gross floor space of such structures shall not exceed 30% of the gross floor area of the existing school.	The gross floor area of the proposed modular unit is 455sqm. The gross floor area of the existing school building is 3,175sqm. The modular unit is 14% of the floor area of the school building. This condition/limitation is complied with.
3	No such structure shall exceed two storeys	The modular structure is two storeys only. This condition/limitation is complied with.
4	Distance to party boundary- (a) Any single storey structure shall be at distance of not less than 2 meters from any party boundary. (b) Any two storey extension facing an existing dwelling shall be a distance of no less than 22m. from the main part of the dwelling, or (c) Any two-storey extension closer than 12.5m. to a party boundary, or facing and closer than 22m. to the dwelling shall- (i) have no windows overlooking, or (ii) have obscure glass	N/A N/A N/A N/A
5	Such structure shall comply with the Department of Education Primary and Post Primary Technician Guidance documents for the time being in force.	Will be complied with.

As per Class 20D of Schedule 2, Part 1 the Planning & Development Regulations 2001 (as amended)

- I. The modular building is to be in use for a period of 5 years.
- II. Gross Floor area of the modular unit is 455sqm. which equates to 14% of the floor area of the existing school buildings
- III. The modular building is 2 storeys in height. Refer to AL Architects drawing No. A014-33-01 PC03 General Arrangement Drawings – Plans & Elevations enclosed
- IV. Refer to P. Coleman & Associates drawing No. 7114—3.21-35 Site Layout showing distances of modular building from boundaries as requested.

We are satisfied that the new modular building comes within the scope of Class 20D as outlined above.

Article 9 of the Planning & Development Regulations 2001 (as amended) sets out a number of restrictions on exempted development. We have reviewed these restrictions in relation to the modular building and are satisfied that none of these restrictions apply directly to the subject works. Refer to Table 2 below for our response to the restrictions on exempted development for the provision of the modular building.

Article 9(1)(a)	Restriction	Response
(i)	contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,	The provision of the modular building does not appear to contravene a condition of any previous permissions 19601174; 11510260; 10510016; 07511568; 5124406; 512351
(ii)	consist of or comprise the formation, layout out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width;	N/A as no change proposed to existing entrance/exit.
(iii)	Endanger public safety by reason of traffic hazard or obstruction of road users	N/A as the proposal does not create a traffic hazard or obstruct road users in the area. The works are fully contained within the school site boundary.
(iiia)	endanger public safety by reason of hazardous glint and/or glare for the operation of airports, aerodromes or aircraft.	N/A as the proposal is not located in a solar safeguard zone.
(iv)	except in the case of a porch to which Class 7 specified in column 1 of Part 1 of Schedule 2 applies and which 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, comprise the construction, erection, extension or renewal of a building on any street so as to bring forward the building, or any part of the building, beyond the front wall of the building on either side thereof or beyond a line determined as the building line in a development plan for the area, 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,	N/A
(v)	consist of or comprise the carrying out under a public road of works other than a connection to a wired broadcast relay service, sewer, water main, gas main or electricity supply line or cable, or any works to which class 25, 26 or 31(a) specified in column 1 of Part 1 of Schedule 2 applies,	N/A

Article 9(1)(a)	Restriction	Response
(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,	The proposed works are not considered to impact on the character of the landscape.
(vii)	consist of or comprise the excavation, alternation or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan or the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,	N/A
(viiA)	consist of or comprise the excavation, alteration or demolition of any archaeological monument including the Record of Monuments and Places, pursuant to Section 12(1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to an in accordance with a consent granted under Section 14 or a licence granted under Section 26 of the National Monuments Act, 1930 (No. 2 of 1930) as amended,	N/A there are no recorded monuments on the subject site or in close proximity.
(viiB)	comprise development in relation to which a planning authority or An Bord Pleanala 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,	Having regard to the nature and extent of the proposed development within an established urban area, the absence of any pathway to a European Site, we are satisfied that no appropriate assessment issues arise, and it is not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European Site.

Article 9(1)(a)	Restriction	Response
(viiC)	consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under Section 18 of the Wildlife (Amendment) Act 2000,	N/A subject site not within NHA or within close proximity to NHA.
(viii)	consist of or comprise the extension, alteration, repair or renewal or an unauthorised structure or a structure the use of which is an unauthorised use,	N/A
(ix)	consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area 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,	N/A
(x)	consist of the fencing or enclosure or any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility,	N/A
(xi)	obstruct any public right of way	N/A proposal is within existing school grounds
(xii)	further to the provisions of Section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located with an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan for the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area.	N/A

2. The applicant is requested to arrange to submit, for the consideration of the Planning Authority a site layout plan drawn to a scale of 1:500 showing the nature and extent of works associated with extending the access roadway and developing the additional car parking spaces

Refer to drawing No. 7114-3.21-35 Site Layout showing nature and extent of works associated with the roadway access and relocated car-parking spaces as requested.

3. The Planning Authority is not satisfied that the works to develop additional parking spaces and extend the access road can be considered to come within the exemption under Class 40 of the Planning and Development Regulations 2001, as amended. The works are not associated with the maintenance of the school grounds and the Planning Authority do not consider the works can be considered incidental noting the definition of incidental.

You are invited to respond and provide details for consideration of any similar cases where the planning exemption under Class 40 has been confirmed.

We wish to clarify that there no additional car-parking spaces being provided as stated in query No. 3 above. 6 no. existing car-parking spaces are being relocated to facilitate the provision of the extension of the existing access road which is to provide access for a fire tender only to the new temporary modular building as required by the Fire Authority. It is our opinion that staff parking is ancillary and incidental to the primary use of the site anywhere within the planning unit (overall school building). There is no increase in the number of parking spaces being provided. These spaces are simply being relocated within the overall school grounds. There are no material planning considerations to be considered as part of the proposed works i.e. no additional traffic generation etc. Having regard to the definition of 'incidental' which is defined as "*happening as a result or in connection with something of greater importance*", we submit that these works are works incidental to the use of the schoolgrounds being a requirement for fire safety management for the use of the schoolgrounds following the provision of the Modular unit, which satisfies the Class 20D planning exemption, and there come within the scope of Class 40 of the Regulations.

We refer to the following Section 5 Referral cases decided by Clare County Council where works within schoolgrounds were deemed to be incidental works to the use of the schoolgrounds and were deemed to come within Class 40 of the Planning & Development Regulations 2001 as amended. Note the works the subject of these Section 5 decisions are not the same as the works the subject of this application however, the application of the Class 40 exemption in relation to the works the subject of the Section 5 Referral cases as being considered to be incidental to the use and maintenance of the schoolgrounds by Clare County Council is what is relevant. Copies of these Section 5 Decisions with relevant extracts from the Planners Reports are included in the Appendix.

Section 5 Ref: R24-60. A Section 5 Declaration was sought in relation to the replacement of a section of natural grass playing pitch in the grounds of the Holy Family School with an unlit artificial grass playing pitch with a 2.4m high boundary fence and a 2.6m. ball stop netting development. The proposed development as outlined above was deemed to come within Classes 33 and 40 of the Regulations where none of the restrictions on exempted development as outlined in Article 9(1)(a) of the Regulations were deemed to apply and therefore the proposed development was deemed to

be exempted development. The application of the Class 40 exemption was in relation to the provision of the boundary fence and ball stop netting which was considered to be works incidental to the use or maintenance of the school grounds.

Section 5 Ref: R23-50. A Section 5 Declaration was sought in relation to (b) the replacement of a section of hard surface playing yard located between existing school buildings, with an unlit purpose built artificial grass playing area, with 2.4m. high boundary fence and 2.6m. ball stop netting at Holy Family School, Ennis. The proposed development as outlined above was deemed to come within Classes 33 and 40 of the Regulations where none of the restrictions on exempted development as outlined in Article 9(1)(a) of the Regulations were deemed to apply and therefore the proposed development was deemed to be exempted development. The application of the Class 40 exemption was in relation to the provision of the boundary fence and ball stop netting which was considered to be works incidental to the use or maintenance of the school grounds.

Section 5 Ref: R23-13. A Section 5 Declaration was sought by St. Enda's National School where the layout of a sensory garden adjacent to the school property but associated with the school was deemed to be exempted development under Classes 33 and 40 of the Regulations where none of the restrictions on exempted development as outlined in Article 9(1)(a) of the Regulations were deemed to apply and therefore the proposed development was deemed to be exempted development. The application of the Class 40 exemption was in relation to proposed works been deemed to be incidental to the use of the schoolgrounds.

Section 5 Ref: R23-9. A Section 5 Declaration was sought by Kilshanny National School where the changing of a tarmac surface, on a school yard, to an Astro-Turf (Soft Play Area) was deemed to be exempted development under Classes 33 and 40 of the Regulations where none of the restrictions on exempted development as outlined in Article 9(1)(a) of the Regulations were deemed to apply and therefore the proposed development was deemed to be exempted development. The application of the Class 40 exemption was in relation to the provision of the boundary fence and ball stop netting which was considered to be works incidental to the use or maintenance of the school grounds.

On behalf of our Client, Department of Education, we would be grateful if the Planning Authority would kindly consider our justification for the works the subject of this application as falling within the Exempted Development Classes 20D and 40 as outlined in this submission.

Yours sincerely,



Mandy Coleman. MIPI
P. Coleman & Associates

Encl/s.

APPENDIX

DECLARATION ISSUED UNDER SECTION 5 OF THE PLANNING & DEVELOPMENT ACT 2000 (AS AMENDED)

Reference No.: R24-60



Comhairle Contae an Chláir
Clare County Council

Section 5 referral Reference R24-60

Is the replacement of a section of a natural grass playing pitch in the grounds of the Holy Family School with an unlit artificial grass playing pitch with a 2.4-meter-high boundary fence and a 2.6 meter ball stop netting development and if so is it exempted development?

AND WHEREAS, Board of Management Holy Family School has requested a declaration from Clare County Council on the said question.

AND WHEREAS Clare County Council, in considering this referral, had regard in particular to –

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended;
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended;
- (c) Classes 33 and 40 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended;
- (d) The works as indicated in submitted documents from the referrer.

And whereas Clare County Council has concluded:

- (a) The replacement of a section of natural grass playing pitch with an unlit artificial grass playing pitch, with 2.4m high boundary fencing and 2.6m ball stop netting constitutes "works" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended;
- (b) The said works constitute "development" which comes within the scope of section 3(1) of the Planning and Development Act 2000, as amended;
- (c) The said replacement of a section of natural grass playing pitch with an unlit artificial grass playing pitch, with 2.4m high boundary fencing and 2.6m high ball stop netting is exempted development having regard to Classes 33 and 40 of Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended.

THEREFORE: The Planning Authority in exercise of the powers conferred on it by Section 5 of the Planning and Development Act, 2000 (as amended), hereby decides that:

The proposed development consisting of the replacement of a section of natural grass playing pitch with an unlit artificial grass playing pitch, with 2.4m high boundary fencing to three sides at Holy Family School, Ennis, Co. Clare constitutes development which is exempted development as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.

A handwritten signature in blue ink, appearing to read 'Anne O'Gorman'.

Anne O'Gorman
Staff Officer
Planning Department
Economic Development Directorate

21st August, 2024

Extract from Planner s Report – R24-60

Assessment

Basis of Referral

The applicants are seeking a Section 5 Declaration as to whether the replacement of a section of natural grass playing pitch with an unlit artificial grass playing pitch, with 2.4m high boundary fencing and a 2.6m high ball stop netting is or is not development and is or is not exempted development.

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 1, Class 33

Development consisting of the laying out and use of land—

(c) for athletics or sports (other than golf or pitch and putt or sports involving the use of motor vehicles, aircraft or firearms), where no charge is made for admission of the public to the land.

The applicants intend to replace an existing grass play area with an artificial grass pitch. I consider this to constitute *the laying out of land for athletics or sports* and the proposal does not exceed the limitations of Class 33.

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 1, Class 40

CLASS 40 Works incidental to the use or maintenance of any burial ground, churchyard, monument, fairgreen, market, schoolgrounds or showground except—

(a) the erection or construction of any wall, fence or gate bounding or abutting on a public road,

The applicant proposes new fencing and netting on the perimeter of the artificial grass pitch. Both the pitch and associated fencing are located on the existing grassed pitch area to the rear of the school on the Friar's Walk side. While the proposed location for the pitch and fencing are located close to Friar's Walk, there is an existing and established fence and a 9m high ball stop net located along this boundary with the public road, with the proposed fencing located inside of, and removed from, this existing established boundary.

Due to the existing established fence bounding the public road and the set back from the boundary of the pitch and associated fencing, it is considered that the proposal does not exceed the limitations of Class 40.

DECLARATION ISSUED UNDER SECTION 5 OF THE
PLANNING & DEVELOPMENT ACT 2000 (AS AMENDED)

Reference No.: R23-50



Comhairle Contae an Chláir
Clare County Council

Section 5 referral Reference R23-50

Is the removal of an existing open shed and the replacement of a section of a hard surface playing yard located between existing school buildings, with an unlit purpose built artificial grass playing area, with 2.4 meter high boundary fence and 2.6 meter ball stop netting development and if so is it considered exempted development?

AND WHEREAS, Board of Management Holy Family School has requested a declaration from Clare County Council on the said question.

AND WHEREAS Clare County Council, in considering this referral, had regard in particular to –

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended;
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended;
- (c) Classes 33, 40 and 50 of Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended;
- (d) The works as indicated in submitted documents from the referrer.

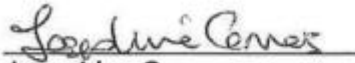
And whereas Clare County Council has concluded:

- (a) The removal of an existing open shed, the replacement of a section of hard surface playing yard with an unlit, purpose built, artificial grass playing pitch with 2.4m high boundary fencing topped with 2.6m ball stop netting constitutes "works" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended;
- (b) The said works constitute "development" which comes within the scope of section 3(1) of the Planning and Development Act 2000, as amended;
- (c) The said removal of an existing open shed is not exempted development having regard to the descriptions, conditions and limitations of Schedule 2, Part 1, Class 50 of the Planning and Development Regulations 2001 (as amended).
- (d) The said replacement of a section of hard surface playing yard with an unlit, purpose built, artificial grass playing pitch with 2.4m high boundary fencing topped with 2.6m ball stop netting is exempted development having regard to Classes 33 and 40 of Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended.

THEREFORE: The Planning Authority in exercise of the powers conferred on it by Section 5 of the Planning and Development Act, 2000 (as amended), hereby decides that:

The proposed development consisting of the removal of an existing open shed at Holy Family School, Station Road, Ennis, Co. Clare **constitutes development** which is **not exempted development** as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.

The replacement of a section of hard surface playing yard with an unlit, purpose built, artificial grass playing pitch with a 2.4m high boundary fencing topped with 2.6m ball stop netting **constitutes development** which is **exempted development** as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.



Josephine Connors
Staff Officer
Planning Department
Economic Development Directorate

31st July 2023

Extract from Planner s Report – R23-50

Assessment of the following elements of the works:

- The erection of 2.4m high boundary fencing topped with 2.6m ball stop netting

This aspect of the proposal is assessed in the context of Schedule 2, Part 1, Class 40 of the Planning and Development Regulations 2001 (as amended)

Works incidental to the use or maintenance of any burial ground, churchyard, monument, fairgreen, market, schoolgrounds or showground except—

(a) the erection or construction of any wall, fence or gate bounding or abutting on a public road,

The applicants propose new fencing on the perimeter of the artificial grass pitch. Both the pitch and associated fencing are located in the centre of the school complex, at a distance from the public road.

The proposal does not exceed the limitations of Class 40.

DECLARATION ISSUED UNDER SECTION 5 OF THE
PLANNING & DEVELOPMENT ACT 2000 (AS AMENDED)

Reference No.: R23-13



Section 5 referral Reference R23-13

Is the construction of a sensory garden at St. Enda's National School development, and if so, is it exempted development?

AND WHEREAS, St. Enda's National School has requested a declaration from Clare County Council on the said question.

AND WHEREAS Clare County Council, in considering this referral, had regard in particular to –

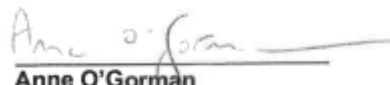
- (a) Sections 2, and 3 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended,
- (c) Class 33 'Development for Amenity and Recreational Purposes' and Class 40 'Works incidental to the use or maintenance of any burial ground, churchyard, monument, fairgreen, market, schoolgrounds or showground' of Part 1 of Schedule 2, Article 6 of the Planning and Development Regulations 2001, as amended,
- (d) The nature and extent of works as indicated in submitted documents from the referrer.

And whereas Clare County Council has concluded:

- (a) The laying out of the sensory garden within the school grounds constitutes "works" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended.
- (b) The said works constitute "development" which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended.
- (c) The said development of a sensory garden accessed from the school grounds is development which is exempted development having regard to the extent of works involved and the provisions of Classes 33 and 40 of Schedule 2 of Part 1, Planning and Development Regulations 2001 as amended,

THEREFORE: The Planning Authority in exercise of the powers conferred on it by Section 5 of the Planning and Development Act, 2000 (as amended), hereby decides that:

The proposed development consisting of the construction of a sensory garden at St. Enda's National School, Lisdoonvarna, Co. Clare **constitutes development** which is **exempted development** as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.


Anne O'Gorman
Staff Officer
Planning Department
Economic Development Directorate

14th March 2023

Extract from Planner Report – R23-13

Planning and Development Regulations 2001 (as amended)

Class 33 Development for Amenity and Recreational purposes:

Development for the laying out and use of land for

(a) As a park , private open space, or ornamental garden

(b) As a road side shrine (subject to limitations)

(c) Or athletic or sports (other than golf or pitch and putt, or sports involving the use of motor vehicles, aircraft, or fire arms) where no charge is made for admission of the public to the land.

There are no conditions or limitations attaching to item C.

The laying out of a sensory garden is considered to be the same as development for the laying out and use of land for a private open space or ornamental garden. In addition having regard to class 40 the works could be considered incidental to the use of the school on site.

CLARE COUNTY COUNCIL

SECTION 5 OF THE PLANNING AND DEVELOPMENT ACT 2000 AS AMENDED

DECLARATION ON DEVELOPMENT AND/OR EXEMPTED DEVELOPMENT

Chief Executive's Order No: 81329
Reference Number: R23-9
Date Referral Received: 14th February 2023
Name of Applicant: Kilshanny National School
Location of works in question: Kilshanny, Co. Clare

Section 5 referral Reference R23-9 – Kilshanny National School

Is the changing of a Tarmac surface, on a school yard, to an Astro-Turf (Soft Play area) an exempted development?

AND WHEREAS Clare County Council, in considering this referral, had regard in particular to –

- (a) Sections 2 and 3 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended,
- (c) Class 33 'Development for Amenity and Recreational Purposes' and Class 40 'Works incidental to the use or maintenance of any burial ground, churchyard, monument, fairgreen, market, schoolgrounds or showground' of Part 1 of Schedule 2, Article 6 of the Planning and Development Regulations 2001, as amended,
- (d) The nature and extent of works as indicated in submitted documents from the referrer.

AND WHEREAS Clare County Council has concluded:

- (a) the placement of an astroturf soft play surface on top of an existing tarmacadam yard constitutes "works" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended.
- (b) the said works constitute "development" which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended.
- (c) the said development of an Astro turf soft play area on the existing tarmacadam yard at St. Augustine's National School, Kilshanny is development which is exempted development having regard to the extent of works involved, its siting on an existing play area and the provisions of Classes 33 and 40 of Schedule 2 of Part 1, Planning and Development Regulations 2001 as amended,

ORDER: Whereas by Chief Executive's Order No. HR 152 dated 9th April 2021, Pat Dowling, Chief Executive for Clare County Council, did, pursuant to the powers conferred on him by Section 154 of the Local Government Act 2001, delegate to Gareth Ruane, Senior Executive Planner, the powers, functions and duties as set out herein,

NOW THEREFORE pursuant to the delegation of the said powers, functions and duties and under Section 5(2)(a) of the Planning & Development Act 2000 (as amended) and having considered the various submissions and reports in connection with the referral described above, I, Gareth Ruane, Senior Executive Planner, hereby declare that the development of an Astro turf (soft play area) on the existing tarmacadam yard at St. Augustine's National School, Kilshanny, Co. Clare is considered development which is exempted development.

Signed:


GARETH RUANE
SENIOR EXECUTIVE PLANNER *AR*

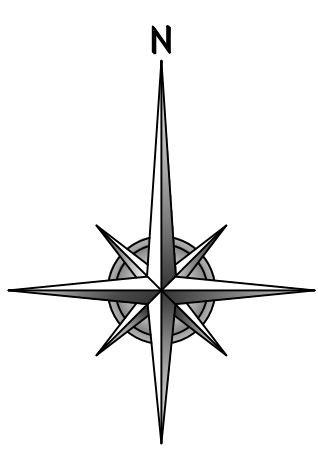
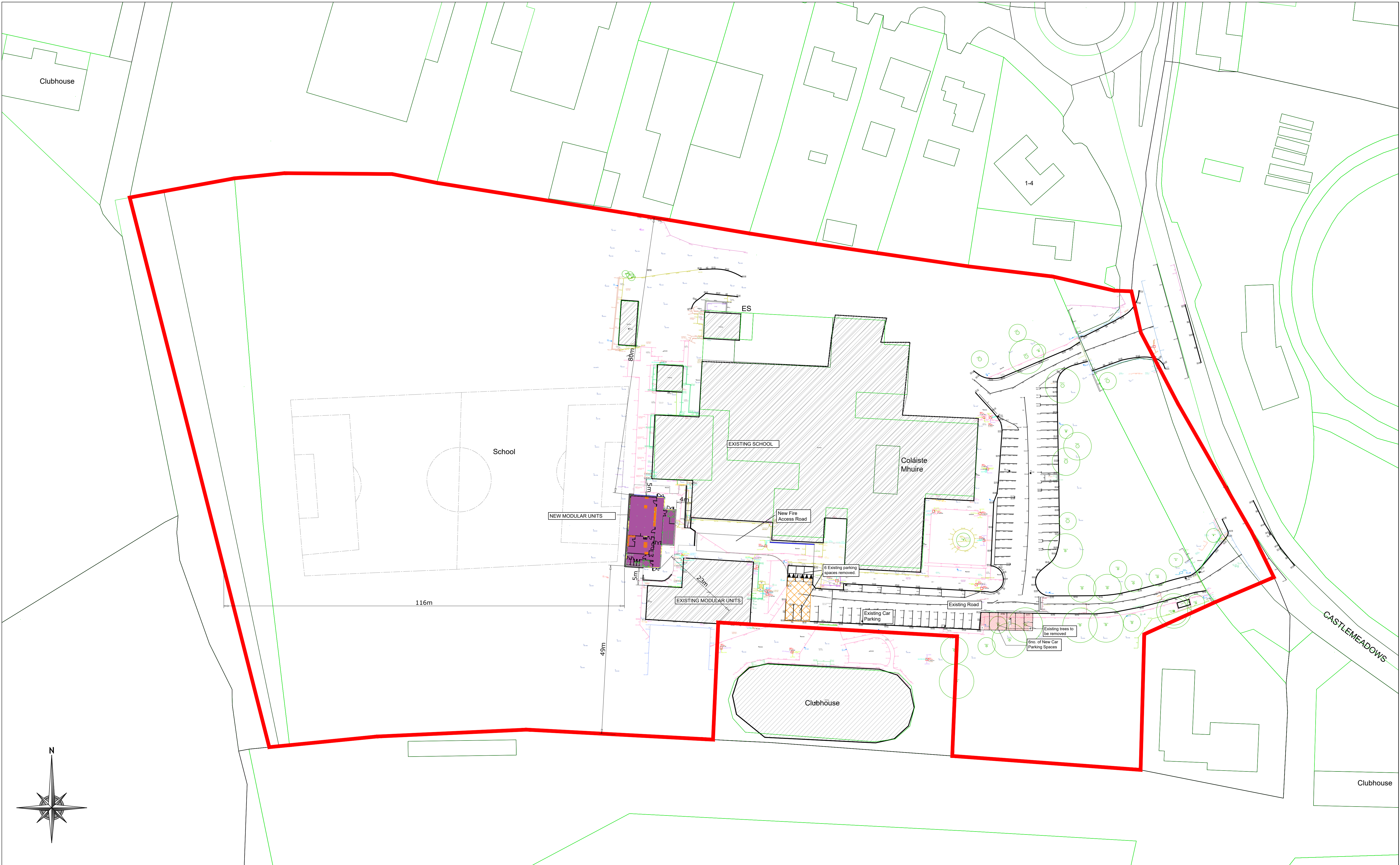
Date:

3rd March 2023

Extract from Planner Report – R23-9

The soft surface is to be laid directly on top of the existing tarmacadam layer. Having

regard to Class 40 the laying of the soft surface layer on the existing tarmacadam yard would be considered works incidental to the maintenance of the school grounds. The development of an astro turf soft surface play area is therefore considered to be development and to be exempted development for the purposes of these Regulations.



Site Layout
Scale 1:500

— SITE BOUNDARY

No.	DESCRIPTION	REVISION	DATE

PROJECT: COLÁISTE MHUIRE CO-ED
 ADDRESS: CASTLEMEADOWS THURLES CO TIPPERARY

SCALE: as shown DATE: 10/09/23 DRAWN: HB APPROVED: JC STAGE: Constr.

0 10 20 35 40 50mm
 PRINT REDUCTION BAR | A1 SHEET

ALL RIGHTS RESERVED. THE COPYRIGHT OF THIS DRAWING (INCLUDING ALL ATTACHED AND INCORPORATED DOCUMENTS) IS THE PROPERTY OF THE COMPANY. NEITHER THE FORM OR ANY PART OF IT MAY BE USED OR REPRODUCED BY ANY METHOD WHATSOEVER OR INCORPORATED BY REFERENCE OR IN ANY MANNER WHATSOEVER IN ANY OTHER DOCUMENT WITHOUT THE PRIOR WRITTEN CONSENT

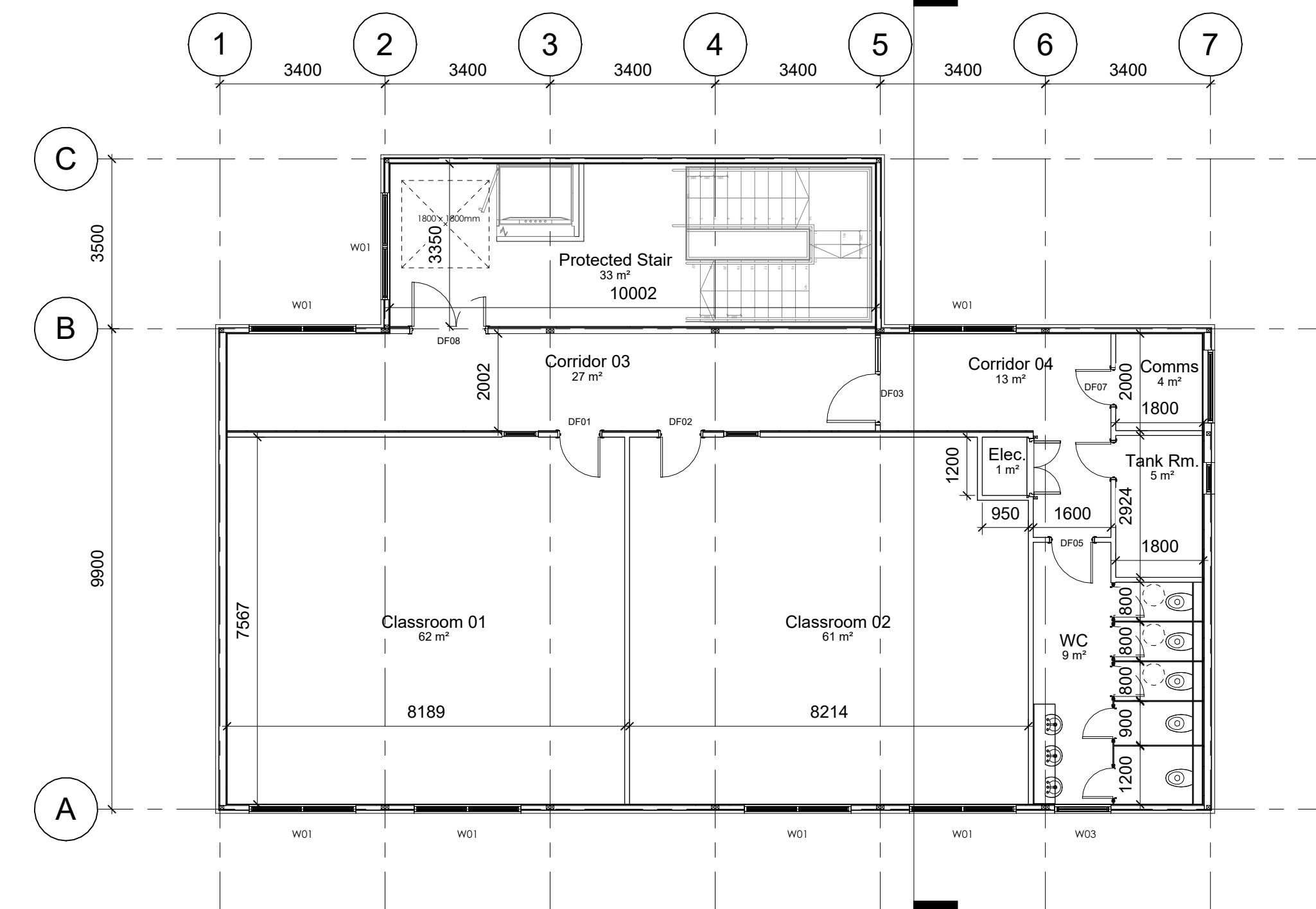
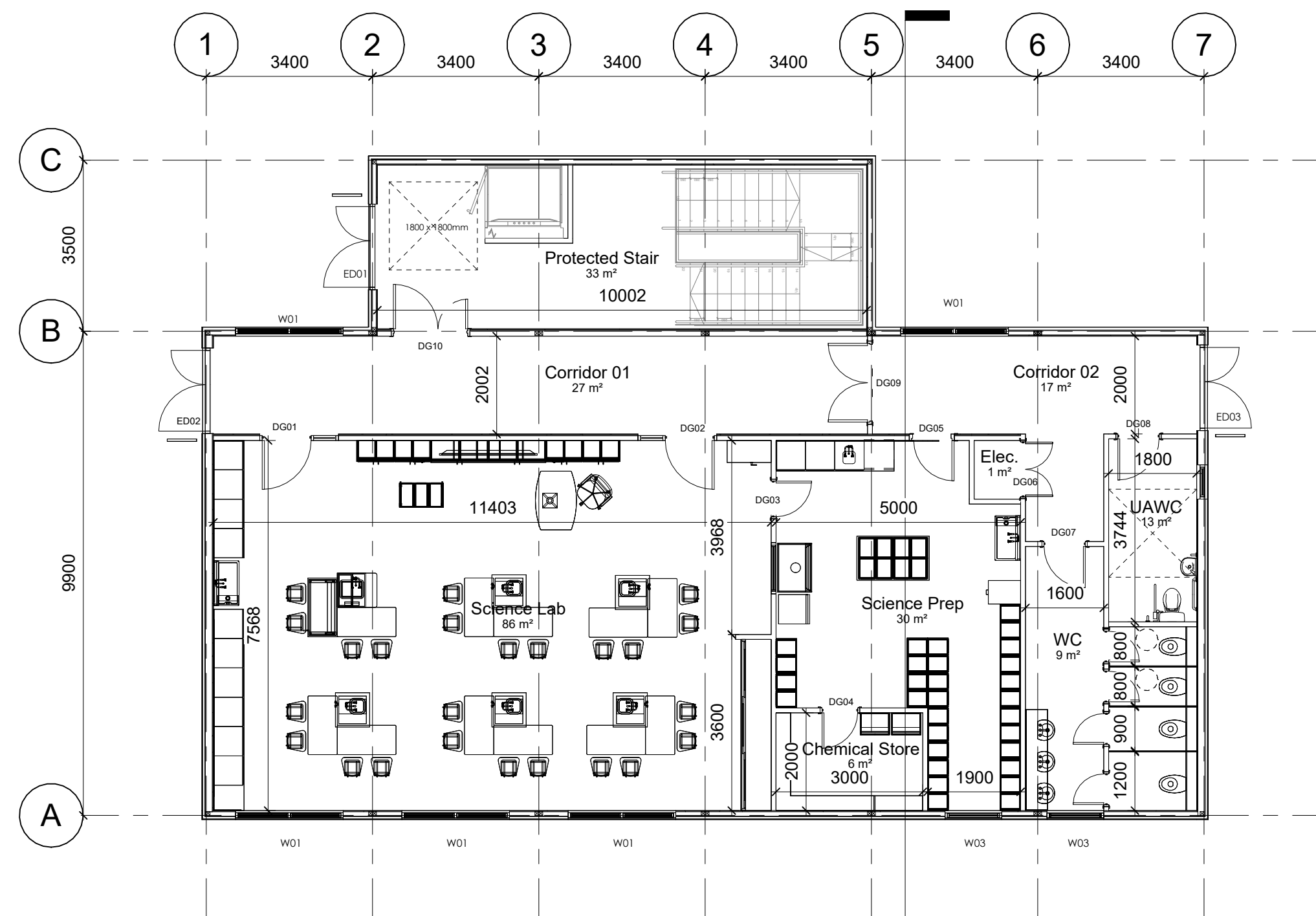
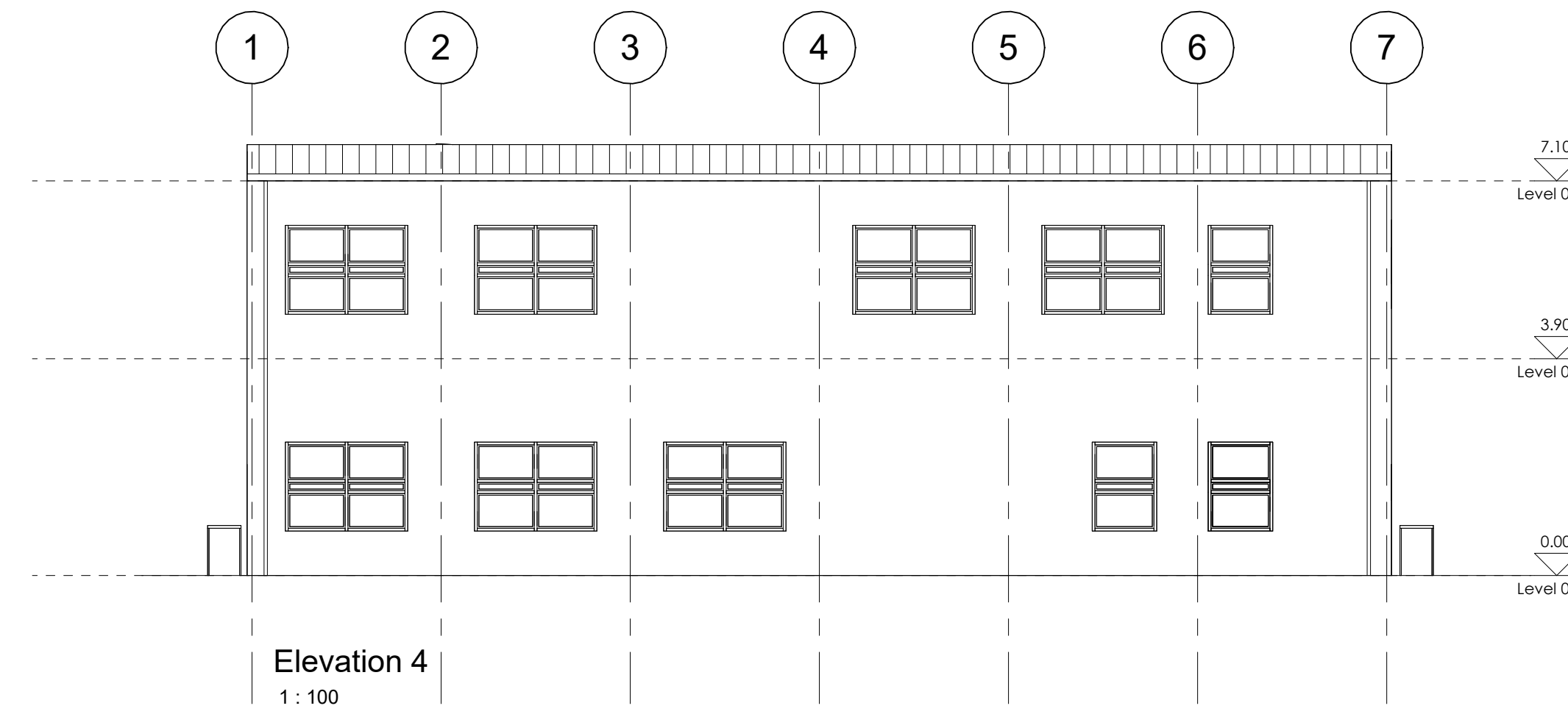
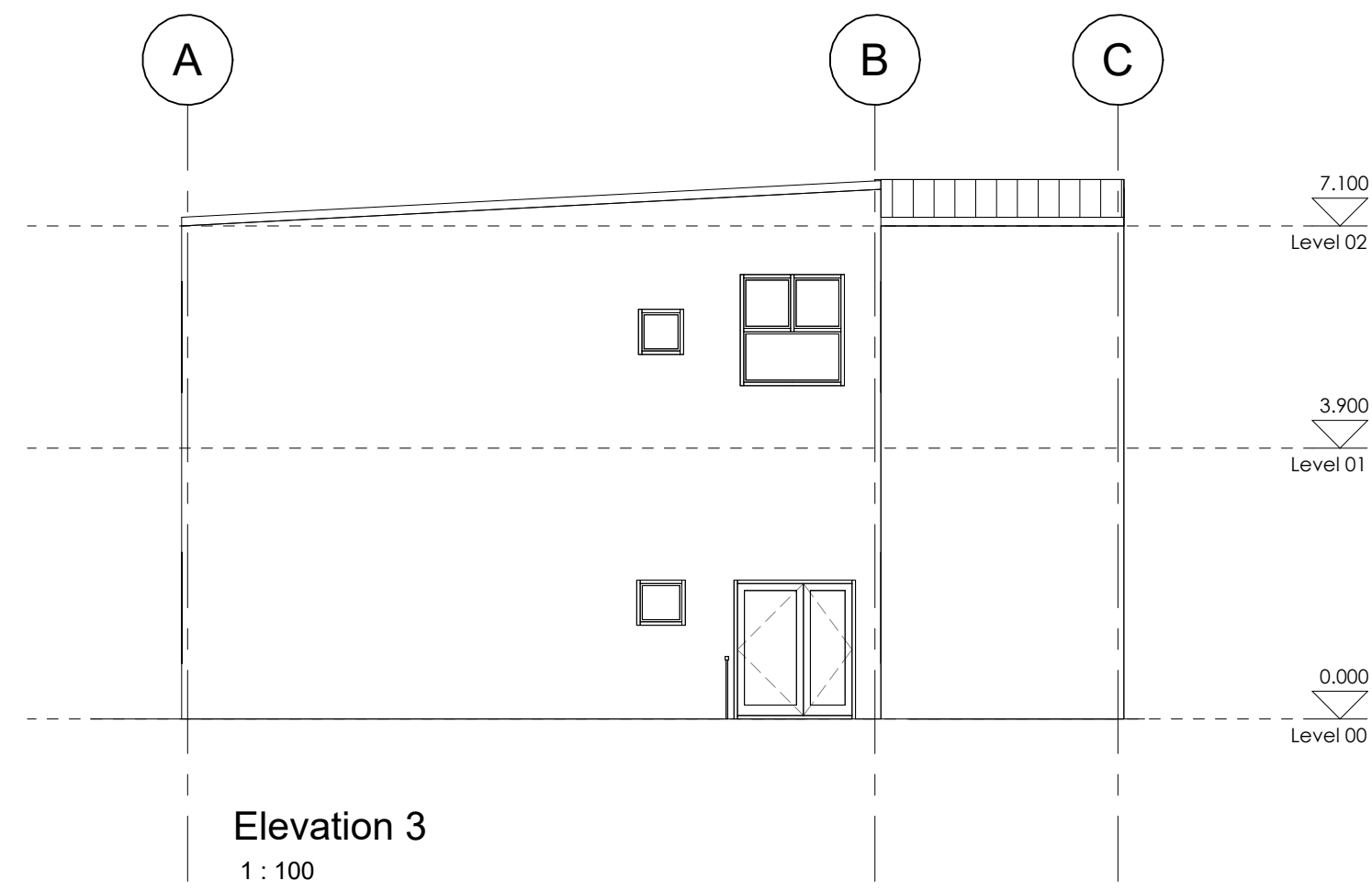
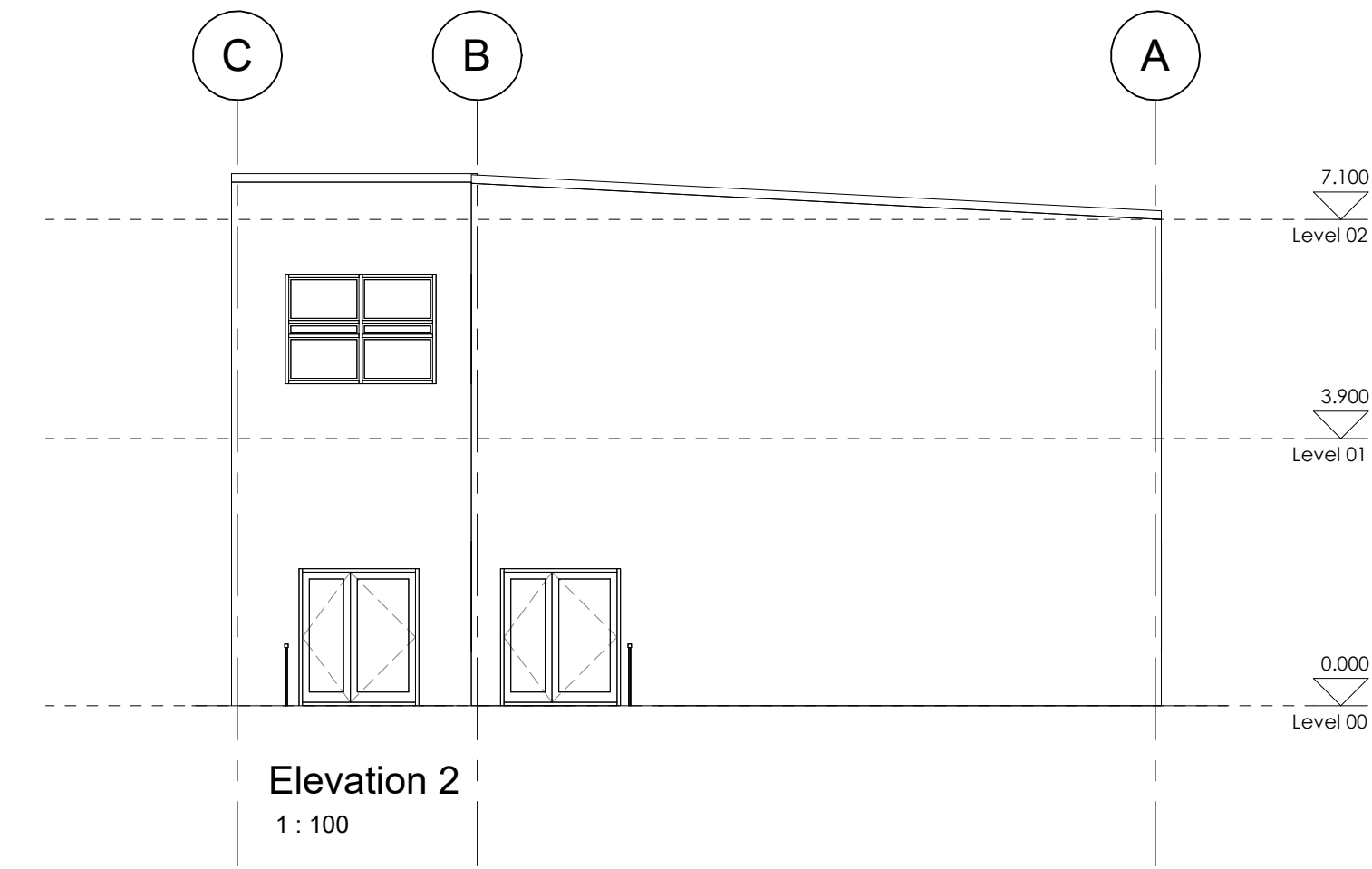
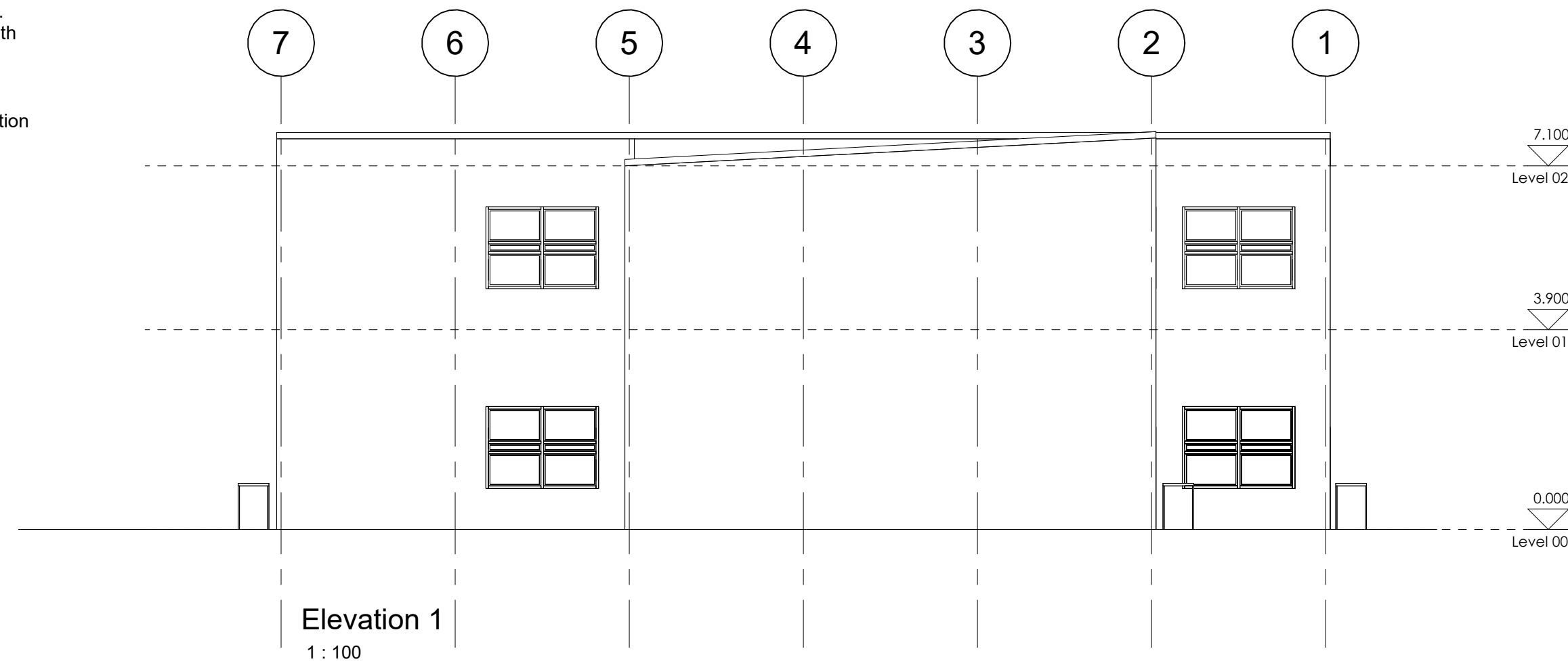
P. Coleman & Associates

CLIENT: Department Of Education
 TITLE: Site Layout

5 Bank Place, Ennis, Co.Clare
 Tel: 065-6829731
 Web: www.pjcoleman.com
 Email: engineers@pjcoleman.com

PROJECT No. DRAWING No. REVISION
 7114 -3.21 -35

- Notes:
1. Copyright reserved to AL Architects.
 2. Work to figured dimensions only. Do not scale the drawing.
 3. The contractor is responsible for checking all levels and dimensions on site, and shall refer all discrepancies to the architect.
 4. Where appropriate, for details of structure, mechanical or electrical details, see consultant engineers drawings.
 5. Proprietary items shall be fixed in strict accordance with manufacturers instructions unless otherwise instructed.
 6. Sizes of proprietary items shall be checked with manufacturer.
 7. The contractor shall be responsible for the co-ordination of structure, finishes and services.



Rev.	Date	Comments
P01	14/11	UAWC layout revised to comply with Part M
P02	21/11	Science Room furniture & Door Numbers added
P03	12/01	Stairwell layout altered to accommodate Platform lift
P04	16/01	Additional dimensions added to plans
P05	17/01	Comms, and Tank Room amended
P06	16/02	Plans & Elevations Amended on match as built.

AL Architects
Chartered Architects | Surveyors | Project Managers.

Office 8B,
The Courtyard,
Lower Main Street,
Letterkenny,
Co. Donegal.

Tel: +353 (0)749128222.
Fax: +353 (0)749129903.
Email: info@alarchitects.com

Project: Proposed Modular Unit at Castlemeadows
Thurles, Co. Tipperary

Drawing Title: A014-33-01 P03 General Arrangement
Drawings - Plans & Elevations

Purpose of Issue: For Review

Date: 16.02.24

Drawn By: MD

Scale: 1 : 100

Print As: A1

Drawing Number: 01

Rev: P06



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

☎ 0818 06 5000
✉ customerservice
@tipperarycoco.ie
tipperarycoco.ie

Date: 19th September, 2024

Our Ref: S5/24/55

Civic Offices, Nenagh

Tipperary Education & Training Board
c/o P. Coleman & Associates
5 Bank Place
Ennis
Co. Clare

Re: Application for a Section 5 Declaration re – Development of modular accommodation, ancillary site works, relocation of 6 parking spaces, widening of an access route and removal of trees at Castlemeadows, Thurles, Co. Tipperary

Dear Sir/Madam

I acknowledge receipt of Further Information received on 18th 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 faithfully,


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.: S5/24/55

Applicant: Tipperary Education and Training Board

Development Address: Colaiste Mhuire Co Ed, Castlemeadows, Thurles, Co. Tipperary

Proposed Development: Development of modular accommodation, ancillary site works, relocation of 6 parking spaces, widening of an access route and removal of trees

1. GENERAL

A request was made for a declaration under Section 5 of the Planning and Development Act, 2000 as amended by Tipperary Education and Training Board as to whether or not the following works constituted development and if so, whether same was exempted development:

Development of modular accommodation, ancillary site works, relocation of 6 parking spaces, widening of an access route and removal of trees

The proposals involve works within the site of Colaiste Mhuire Co Ed, Castlemeadows, Thurles, Co. Tipperary.

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(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.

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.

Class 20D, Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended:

CLASS 20D Development consisting of -

The erection on land on which a school is situated of a structure to facilitate the continued delivery of education.

Subject to the following conditions and limitations:

- 1. No such structure shall be erected for a period exceeding 5 years.*
- 2. The gross floor area of such structure shall not exceed 30% of the gross floor area of the existing school.*
- 3. No such structure shall exceed two storeys.*
- 4. Distance to party boundary*
 - (a) any single storey structure shall be a distance of not less than 2 metres from any party boundary,*
 - (b) any two-storey extension facing an existing dwelling shall be a distance no less than 22 metres from the main part of the dwelling, or*
 - (c) any two-storey extension closer than 12.5m to a party boundary, or facing and closer than 22 metres to the dwelling shall –*
 - (i) have no windows overlooking, or*
 - (ii) have obscure glass.*
- 5. Such structure shall comply with the Department of Education Primary and Post Primary Technical Guidance Documents for the time being in force.*

Class 40, Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended:

Works incidental to the use or maintenance of any burial ground, churchyard, monument, fairgreen, market, schoolgrounds or showground except—

- (a) the erection or construction of any wall, fence or gate bounding or abutting on a public road,*
- (b) the erection or construction of any building, other than a stall or store which is wholly enclosed within a market building, or*
- (c) the reconstruction or alteration of any building, other than a stall or store which is wholly enclosed within a market building.*

Article 9 of the Planning and Development Regulations 2001, as amended sets out restrictions on exemptions and states:

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
- (ii) consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,
- (iii) endanger public safety by reason of traffic hazard or obstruction of road users
- (viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,
- (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.

I am satisfied the proposed development is not restricted by Article 9.

Environmental Impact Assessment Screening and Appropriate Assessment Screening are attached overleaf. I am satisfied an AA or EIA is not required.

3. ASSESSMENT

a. Site Location

The site comprises Colaiste Mhuire Co Ed, Castlemeadows, Thurles, Co. Tipperary.

b. Relevant Planning History

On site:

- 19601174 Permission granted on 23/1/2020 for development of a single storey temporary accommodation building comprising 2 classroom ASD unit, 4 classrooms, 5 office/tuition rooms, toilets, car parking and all associated site works, along with the retention of an existing single storey temporary accommodation building comprising 1 classroom.
- 11510260 Permission granted for new entrance canopy/pergola, entrance lobby, new sports equipment store, general landscape works and associated site works.
- 10510016 entrance lobby – granted but not built.
- 07511568 Permission granted for three additional classrooms and all associated site works
- 51 24406 Permission granted for New prefabricated extension consisting of 1 no. classroom and associated site works – 2001
- 51 23551 new pre-fabricated extension consisting of 2 no. classrooms, 1 no. office and ancillary spaces and associated site works - 2001

Adjoining Lands:

- 14/60/0069 Permission granted for minor internal plan reconfigurations, a new single storey entrance area, a new extension to the rear/side of the existing building, along with all site and ancillary works. The total proposed extension area is 26.5 sq.m

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 would involve “works” and such works would constitute “development” within the meaning of Section 3 of the Act.

B) “Is or is not Exempted Development”

There are a number of elements to the proposal that will be addressed in turn:

Modular accommodation

It is considered that the modular accommodation may come within the criteria as set under Class 20D, Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended of the Planning & Development Regulations 2001, as amended. However no drawings of the proposed modular accommodation has been provided and same would be needed to confirm whether same meets this planning exemption. In addition the following will be needed to determine whether the modular unit meets the terms and conditions attached to Class 20D:

- i) The duration of the modular accommodation.
- ii) The gross floor area of the structure and the gross floor area of the existing school (excluding any temporary accommodation).
- iii) Elevation drawings of the accommodation showing the number of stories in same.
- iv) A site layout plan showing the location of the modular unit with distances to party boundaries clearly identified.

Relocation of 6 parking spaces, widening and extension of an access route and removal of trees

I am not satisfied that the works to develop additional parking spaces and extend the access road can be considered to come within the exemption under Class 40 of the Planning and Development Regulations 2001, as amended. The works are not associated with the maintenance of the school grounds and I do not consider same can be considered incidental works noting the meaning of incidental

The applicant can be advised of the foregoing and requested to respond setting out any precedent cases where this exemption has been confirmed for similar works.

C) Restrictions under Article 9

I note no restrictions on the foregoing exemption under Article 9 of the Planning and Development Regulations 2001, as amended.

D) 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

It is recommended to request the following further information:

1. The applicant is requested to arrange to submit, for the consideration of the Planning Authority, the following further information regarding the proposed modular unit:

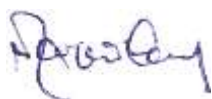
- i) The duration of the modular accommodation will be used for (in years).
- ii) The gross floor area of the structure and the gross floor area of the existing school (excluding any temporary accommodation).
- iii) Plan and elevation drawings of the unit drawn to metric scale of not less than 1:200 showing the number of stories in same.
- iv) A site layout plan drawn to metric scale of not less than 1:500 showing the location of the modular unit with distances to party boundaries clearly identified.

2. The applicant is requested to arrange to submit, for the consideration of the Planning Authority a site layout plan drawn to a scale of 1:500 showing the nature and extent of works associated with extending the access roadway and developing the additional car parking spaces

3. The Planning Authority is not satisfied that the works to develop additional parking spaces and extend the access road can be considered to come within the exemption under Class 40 of the Planning and Development Regulations 2001, as amended. The works are not associated with the maintenance of the school grounds and the Planning Authority do not consider the works can be considered incidental noting the definition of incidental.

You are invited to respond and provide details for consideration of any similar cases where the planning exemption under Class 40 has been confirmed.

District Planner:



Date: 31/05/2024

A/Senior Executive Planner:



Date: 30/5/2024

1. FURTHER INFORMATION

Further information (FI) was requested on 04.6.2024 and a response received on 16.09.2024. The FI request is set out below in italics with the planning assessment in bold.

1. *The applicant is requested to arrange to submit, for the consideration of the Planning Authority, the following further information regarding the proposed modular unit:*

i. *The duration of the modular accommodation will be used for (in years).*

The applicant has submitted confirmation that the modular accommodation will be used for not more than 5 years.

ii. *The gross floor area of the structure and the gross floor area of the existing school (excluding any temporary accommodation).*

The applicant has submitted confirmation that the modular accommodation is 455sqm. which equates to 14% of the floor area of the existing school buildings

iii. *Plan and elevation drawings of the unit drawn to metric scale of not less than 1:200 showing the number of stories in same.*

The applicant has submitted confirmation including elevations and plans demonstrating that the modular accommodation is two storeys high and will be constructed to a height of 7.1m high.

iv. *A site layout plan drawn to metric scale of not less than 1:500 showing the location of the modular unit with distances to party boundaries clearly identified.*

The applicant has submitted a site layout plan showing the location of the modular unit with distances to party boundaries.

Having reviewed the details received as FI I am satisfied that the proposed modular unit meets the planning exemption Class 20D, Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended and the conditions/limitations attached to this Class. The FI reply confirms the structure will comply with the Department of Education Primary and Post Primary Technician Guidance documents for the time being in force.

2. *The applicant is requested to arrange to submit, for the consideration of the Planning Authority a site layout plan drawn to a scale of 1:500 showing the nature and extent of works associated with extending the access roadway and developing the additional car parking spaces*

3. *The Planning Authority is not satisfied that the works to develop additional parking spaces and extend the access road can be considered to come within the exemption under Class 40 of the Planning and Development Regulations 2001, as amended. The works are not associated with the maintenance of the school grounds and the Planning Authority do not consider the works can be considered incidental noting the definition of incidental.*

You are invited to respond and provide details for consideration of any similar cases where the planning exemption under Class 40 has been confirmed.

The applicant has submitted a site layout plan showing the nature and extent of works associated with the access roadway and the relocated car parking spaces. A new fire access roadway is to be developed, same is to extend from the western end of the existing parking area (south of the school). 6 parking spaces at this location are to be relocated to allow for the new access way. The new parking spaces are to be developed southeast of the school building. The applicant has confirmed that the proposal does not include for additional car parking spaces, but to relocate the existing spaces.

The applicant has cited precedent cases for Section 5 Declarations that relate to works being undertaken within school grounds pursuant to Class 40 of the Planning and Development Regulations 2001, as amended. These case relates to the development of playing areas and gardens that come under planning exemptions under Class 33 of the Planning and Development Regulations 2001, as amended. Having examined and considered the details received I am not satisfied that the works to develop additional parking spaces and extend the access road can be considered to come within the exemption under Class 40 of the Planning and Development Regulations 2001, as amended noting the provisions of this exemption.

Restrictions under Article 9

I note no restrictions on the foregoing exemption under Article 9 of the Planning and Development Regulations 2001, as amended.

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.

2. RECOMMENDATION

Having regard to:

- (a) Sections 2, 3 & 4 of the Planning and Development Act 2000 (as amended)
- (b) Class 20(D) and Class 40, of Schedule 2, Part 1 of the Planning & Development Regulations 2001, as amended.
- (c) Articles 6 and 9 of the Planning & Development Regulations 2001, as amended

Tipperary County Council determines that the proposal, for development of modular accommodation, ancillary site works, relocation of 6 parking spaces, widening of an access route and removal of trees as presented on the drawings and details provided with the Declaration application on 08.05.2024 including further information submitted on 18.09.2024, constitutes “development” within the meaning of the Planning and Development Act 2000 as amended.

Tipperary County Council determines that:

- i) the development of modular accommodation, and ancillary site works constitutes “exempted development” within the meaning of the Planning and Development Act

2000 as amended. The proposed modular accommodation satisfies the planning exemption under Class 20(D) of Schedule 2 Planning & Development Regulations 2001, as amended.

ii) the relocation of 6 parking spaces and widening of an access route is NOT Exempted Development. The Planning Authority is not satisfied that these works meet the exemptions under Class 40 of Schedule 2 Planning & Development Regulations 2001, as amended.

A/Senior Executive Planner: 

Date: 18/11/2024

Senior Planner: 

Date : 20/11/2024

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:	S5/24/55	
	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?	Proposed temporary prefabricated classroom (80sq.m) to cater for increased pupil numbers.	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?	The site is 0.44ha and comprises an existing national school, located in a rural area with single dwellings on either side.	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?	Kyletombrickane, Borrisokane, Co. Tipperary	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:	Jonathan Flood	
Date:	18/11/2024	

HABITATS DIRECTIVE APPROPRIATE ASSESSMENT (AA) SCREENING REPORT

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

(a) File Reference No:	S5/24/55
(b) Brief description of the project or plan:	As per planners report.
(c) Brief description of site characteristics:	As per planners report.
(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 Suir SAC	https://www.npws.ie/protected-sites/sac/002165	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.)
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 	Development does not include any major construction works.
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 	It is considered that there is no real likelihood of any significant effects on European Sites in the wider catchment area.

<ul style="list-style-type: none"> abstraction • Presence of people, vehicles and activities • Physical presence of structures (e.g. collision risks) • Potential for accidents or incidents 	
In-combination/Other	No likely significant in-combination effects
(b) Describe any likely changes to the European site:	
<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>
(c) Are 'mitigation' measures necessary to reach a conclusion that likely significant effects can be ruled out at screening?	
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

Step 4. Screening Determination Statement		
<p>The assessment of significance of effects:</p> <p>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.</p>		
<p>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.</p> <p>An appropriate assessment is not, therefore, required.</p>		
<p>Conclusion:</p>		
	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:	Jonathan Flood 18/11/2024	



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: 20th November, 2024

Our Ref: S5/24/55

Civic Offices, Nenagh

Tipperary Education & Training Board
C/O P. Coleman & Associates
5 Bank Place
Ennis
Co. Clare

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

Dear Sir/Madam,

I refer to your application for a Section 5 Declaration received on 8th May, 2024 and Further Information received on 18th September, 2024 in relation to the following proposed works:

Development of modular accommodation, ancillary site works, relocation of 6 parking spaces, widening of an access route and removal of trees **at** Colaiste Mhuire Co Ed, Castlemeadows, 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) (Class 20(D) and Class 40, of Schedule 2, Part 1 of the Planning & Development Regulations 2001, as amended.
- c) Articles 6 and 9 of the Planning & Development Regulations 2001, as amended

Tipperary County Council determines that the proposal, for development of modular accommodation, ancillary site works, relocation of 6 parking spaces,

widening of an access route and removal of trees as presented on the drawings and details provided with the Declaration application on 08.05.2024 including further information submitted on 18.09.2024, constitutes "development" within the meaning of the Planning and Development Act 2000 as amended.

Tipperary County Council determines that:

- i. the development of modular accommodation, and ancillary site works constitutes "**exempted development**" within the meaning of the Planning and Development Act 2000 as amended. The proposed modular accommodation satisfies the planning exemption under Class 20(D) of Schedule 2 Planning & Development Regulations 2001, as amended.
- ii. the relocation of 6 parking spaces and widening of an access route is **NOT Exempted Development**. The Planning Authority is not satisfied that these works meet the exemptions under Class 40 of Schedule 2 Planning & Development Regulations 2001, as amended.

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 faithfully

Geraldine Quinn

for **Director of Services**

Original

TIPPERARY COUNTY COUNCIL

DELEGATED EMPLOYEE'S ORDER

File Ref: **S5/24/55** **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 Tipperary Education & Training Board, C/O P. Coleman & Associates, 5 Bank Place, Ennis, Co. Clare re: Development of modular accommodation, ancillary site works, relocation of 6 parking spaces, widening of an access route and removal of trees at Colaiste Mhuire Co Ed, Castlemeadows, Thurles, Co. Tipperary.

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) (Class 20(D) and Class 40, of Schedule 2, Part 1 of the Planning & Development Regulations 2001, as amended.
- c) Articles 6 and 9 of the Planning & Development Regulations 2001, as amended

Tipperary County Council determines that the proposal, for development of modular accommodation, ancillary site works, relocation of 6 parking spaces, widening of an access route and removal of trees as presented on the drawings and details provided with the Declaration application on 08.05.2024 including further information submitted on 18.09.2024, constitutes "development" within the meaning of the Planning and Development Act 2000 as amended.

Tipperary County Council determines that:

- i. the development of modular accommodation, and ancillary site works constitutes "**exempted development**" within the meaning of the Planning and Development Act 2000 as amended. The proposed modular accommodation satisfies the planning exemption under Class 20(D) of Schedule 2 Planning & Development Regulations 2001, as amended.

- ii. the relocation of 6 parking spaces and widening of an access route is **NOT Exempted Development**. The Planning Authority is not satisfied that these works meet the exemptions under Class 40 of Schedule 2 Planning & Development Regulations 2001, as amended.

Signed:



Date: 20/11/2024

Dave Carroll

A/Director of Services

Planning and Development (including Town Centre First),

Emergency Services and Emergency Planning and

Tipperary/Cahir/Cashel Municipal District