



PLANNING & DEVELOPMENT ACT, 2000 (as amended)

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

Applicant	Teamal Roperty Developments (
Address	Castlelough: Portles Neugh Co Welaly.
Telephone No.	
E-mail	
Agent's (if any) add	ress:
Agent	Michael Backet & Company
Address	Michael Backer & Company Riverpoint, Lower Mellow St
	Limetick
Telephone No.	
E-mail	
Please advise where sent;	e all correspondence in relation to this application is to
Applicant []	Agent ['V
Location of Propos	ed Development:
Postal Address <u>or</u> Townland <u>or</u> Location	9 Goltland Loc, St Conlang Land Neurogh E45 RH70
(as may best identify the land or structure in question)	

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.

Relocate	vehicular	entlance	to the	public	Road	with
ancillade	1 wilks.					
	,					
		.,				
Proposed floor	area of propose	d works/uses:	⊘ _{sqm}			

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

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

Signature of Applicant(s)

Date: 28 Novembre 2024

Note: If the proposed development consists of works to a (Proposed) Protected Structure and/or any structure within the curtilage of a (Proposed) Protected Structure, an application for a Section 57 Declaration may be more appropriate.

GUIDANCE NOTES

- (1) All queries on the form must be completed and the form must be accompanied by the relevant fee. The amount of the fee is currently €80.00.
- (2) This application should be accompanied by **TWO COPIES** of the following documentation
 - OSI Site Location Map with the site outlined clearly 1:1000 in urban areas and 1:2500 in rural areas
 - o Floor Plans & Elevations at a scale of not less than 1:200
 - Site layout plan indicating position of proposed development relative to premises and adjoining properties
 - Other details e.g. brochures, photographs if appropriate.

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

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

This application form and relevant fee should be submitted to:

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

OR

Planning Section,
Tipperary County Council,
Civic Offices,
Emmet Street

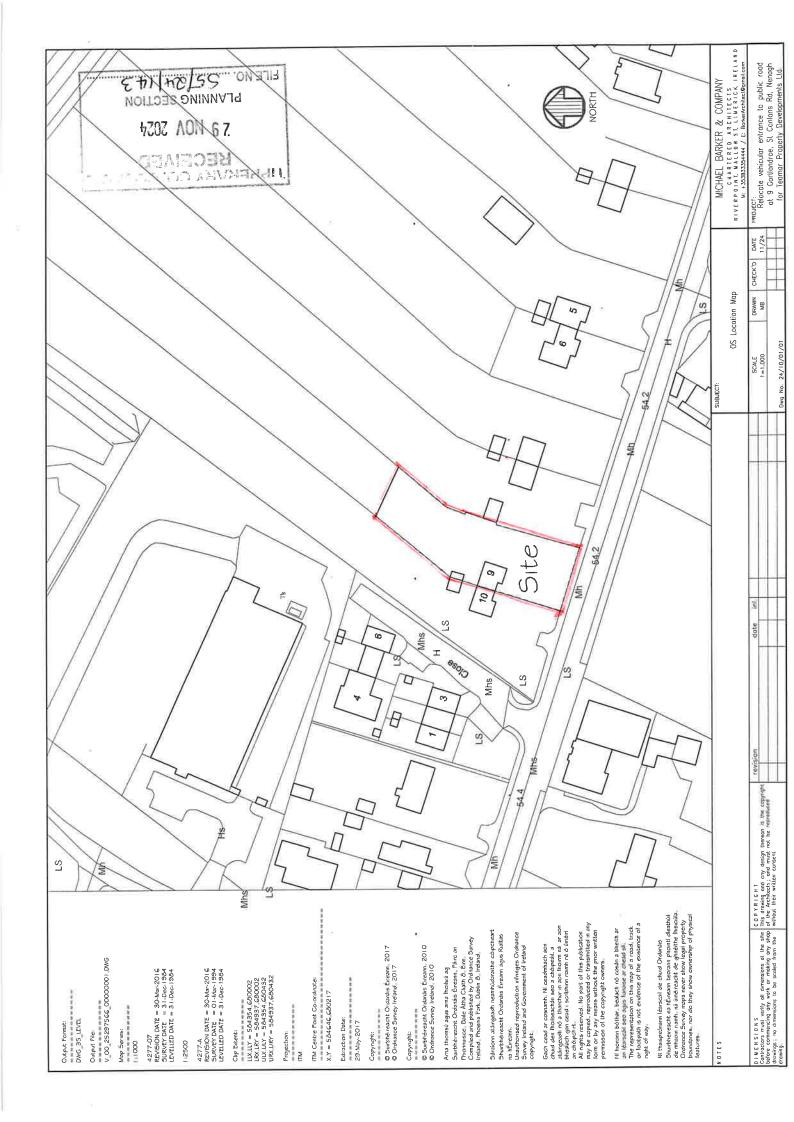
Emmet Street, Clonmel, Co. Tipperary

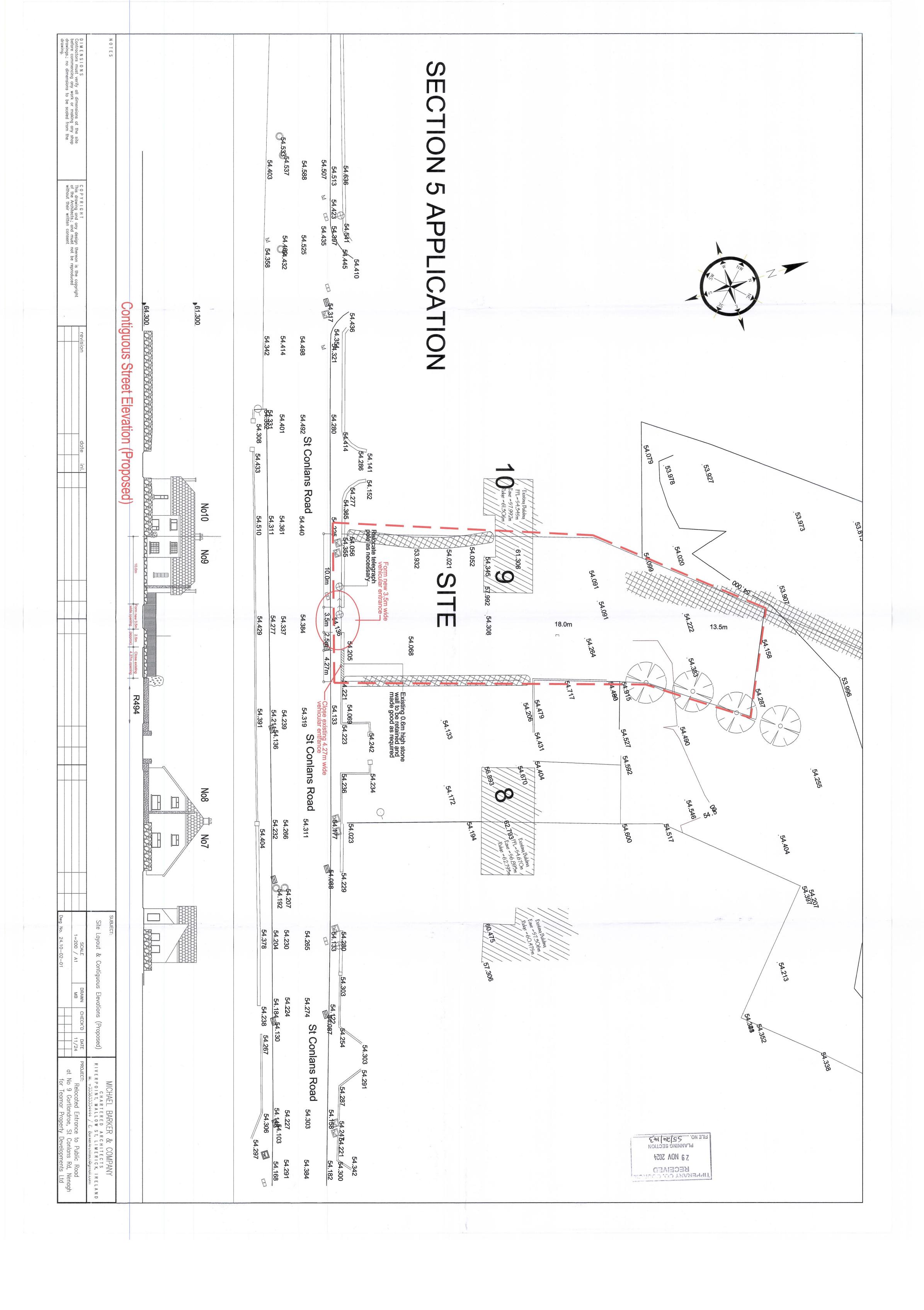
Enquires:

Telephone 0818 06 5000

E-Mail planning@tipperarycoco.ie

FOR OFFICE USE ONLY	
	DATE STAMP
Fee Recd. € 80 00	
Receipt No_NEN AM 1/0 124870	
Date 29/11/24	each planning application.
Deceloted py Marika Villizate specialistic de la	will not be accepted. Tipperary County Council shall determine whether the
Committee of the Street Policy of the Committee of the Co	







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, Oifigí Cathartha, An tAonach, Co. Thiobraid Árann

Tipperary County Council,

Civic Offices, Nenagh,

Co. Tipperary

E45 A099

e customerservice @tipperarycoco,ie

t 0818 06 5000

tipperarycoco.ie

Date: 29th November, 2024 Our Ref: S5/24/143 Civic Offices, Nenagh

Teamar Property Developments Ltd C/O Michael Barker & Company Riverpoint **Lower Mallow St** Limerick

Application for a Section 5 Declaration -Relocate vehicular entrance to the public road with ancillary works at 9 Gortlandroe, St Conlans Road, Nenagh, Co. Tipperary E45 RH70.

Dear Mr Barker,

I acknowledge receipt of your application for a Section 5 Declaration received on 29th November, 2024, in connection with the above.

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

Yours sincerely

for **Pirector 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.: S5/24/143

Applicant: Teamar Property Development Ltd

Development

Address:

9 Gortlandroe, St. Conlons Road, Nenagh, E45RH70

Proposed

Development: Relocate vehicular entrance to the public road with

ancillary works

1. GENERAL

On the 29th November 2024 a request was made for a declaration under Section 5 of the Planning and Development Act 2000 (as amended) by Michael Barker & Company on behalf of Teamar Property Developments Ltd as to whether or not the following constitutes development and if so, whether same constitutes exempted development:

"Relocate vehicular entrance to the public road with ancillary works at 9 Gortlandroe, St. Conlons Road, Nenagh E45RH70.

2. STATUTORY PROVISIONS

The following statutory provisions are relevant to this referral case;

Planning and Development Act 2000 (as amended) Section 2

Interpretation

"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.

or an appropriate assessment of the development is required.

Section 3

Development

- (1) In this Act, except where the context otherwise requires, "development" means—
- (a) the carrying out of any works in, on, over or under land, or the making of any material change in the use of any land or structures situated on land, or
- (b) development within the meaning of Part XXI (inserted by section 171 of the Maritime Area Planning Act 2021).

Planning and Development Regulations 2001 (as amended) Article 6

Exempted Development

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

Schedule 2, Part 1 'Exempted Development - General':

Column 1	Column 2
Description of Development	Conditions and Limitations
Development within the curtilage of a house	
CLASS 5 The construction, erection or alteration, within or	
bounding the curtilage of a house, of a gate, gateway, railing or wooden fence or a wall of brick,	 The height of any such structure shall not exceed metres or, in the case of a wall or fence within or
stone, blocks with decorative finish, other concrete	bounding any garden or other space in front of a
blocks or mass concrete.	house, 1.2 metres.
	2. Every wall other than a dry or natural stone wall
	bounding any garden or other space shall be
	capped and the face of any wall of concrete or
	concrete block (other than blocks with decorative
	finish) which will be visible from any road, path or
	public area, including public open space, shall be
	rendered or plastered.
	3. No such structure shall be a metal palisade or
	other security fence

Article 9

Restrictions on Exemptions

(1) Development to which article 6 relates shall not be exempted development for the purposes of the Act—

C) Is the exemption restricted under Article 9

Restrictions on exemption.

Article 9. (1) Development to which article 6 relates shall not be exempted development for the purposes of the Act—

(a) if the carrying out of such development would —

- (i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,
- (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,

3. ASSESSMENT

a. Site Location

The site accommodates a semi-detached two storey dwelling at Gortlandroe, Nenagh. The site is accessed from the R494.



Image taken from Google maps (Dated September 2009) showing front boundary wall in situ

b. Relevant Planning History

On site:

2460985 Th	e relocation of the vehicular entrance to the public road \mid Decision Due on 20 $^{ ext{th}}\mid$
to	ether with ancillary site works, which includes new screen January 2025

c. Assessment

A) "Is or is not Development"

The proposal would result in the undertaking of works and thereby constitute "development" in accordance with the definition of same under Section 3 of the Act.

B) "Is or is not Exempted Development"

The details proposed show a new vehicular entrance will be formed 2.5 metres west of the current site entrance which will be closed up.

Insufficient details has been provided to determine if the proposal can avail of the exemptions as set out under Class 5, Schedule 2 Part 1 of the Planning & Development Regulations 2001 (as amended). The plan drawing indicates an existing 0.6 metre high wall will be retained, the elevation drawing appears to show the roadside boundary wall will be altered through attachment of a railing or fencing on same. This would need to be confirmed.

C) "Is the exemption limited under Article 9.

Any exemption under Class 5 would be restricted by Article 9 (1) (a) (ii) as it would 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.

Any exemption may also be restricted under Article 9 (1) (a) (iii) as no details of available visibility from the new entrance has been identified.

With regard to Article 9 (1)(a)(viiB) the attached AA Screening Assessment shows the development presents no impact on a Natura 2000 site and the exemption is not restricted by Article 9 (1) (a) (viiB).

4. RECOMMENDATION

WHEREAS a question has arisen as to whether the relocation of vehicular entrance to the public road with ancillary works is development and is exempted development:

AND WHEREAS Tipperary County Council, in considering this referral, had regard particularly 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 5 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended)

AND WHEREAS Tipperary County Council has concluded that -

The relocation of vehicular entrance to the public road with ancillary works constitutes "development" within the meaning of the Planning and Development Act 2000 (as amended) and is not "exempted development".

The Planning Authority consider the exemption under Class 5 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended) is restricted under Article 9 (1)(a) part (ii) as the carrying out of development would:

• Consist of the relocation of a vehicular entrance to the public road which exceeds 4 metres in width Article 9(1)(a)(ii)

Furthermore the Planning Authority is not satisfied that the development would not endanger public safety by reason of traffic hazard or obstruction of road users. The provisions of Article 9 (1)(a) part (iii) would also restrict any possible exemption under Article 6.

NOW WHEREAS Tipperary County Council, in exercise of the powers conferred on it by section 5(2)(a) of the Planning and Development Act 2000 (as amended), it is hereby decided that the proposed development is development and is **not exempted development.**

Signed: 6.05

Naomi Scully District Planner

Signed: Jonathan Flood

Jonathan Flood

A/Senior Executive Planner

Date: 18th December 2024

Date: 18/12/2024

HABITATS DIRECTIVE APPROPERIATE ASSESSMENT (AA) SCREENING REPORT

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

(a) File Reference No:	S5.24.143
(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	No
(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 developmen t ² (km)	Connection s (Source- Pathway- Receptor)	Considere d further in screening Y/N
000939	Silvermine Mountains SAC https://www.npws.ie/protected-sites/sac/000939	<15km	None	N
002124	Bolingbrook Hill SAC https://www.npws.ie/protected-sites/sac/002124	<15km	None	N
002258	Silvermines Mountains West SAC https://www.npws.ie/protected-sites/sac/002258	<15km	None	N
001197	Keeper Hill SAC https://www.npws.ie/protected- sites/sac/001197	<15km	None	N
002165	Lower River Shannon SAC https://www.npws.ie/protected-sites/sac/002165	<15km	None	N
002241	Lough Derg N-E Shore SAC https://www.npws.ie/protected-sites/sac/002241	<15km	None	N
004058	Lough Derg (Shannon) SPA https://www.npws.ie/protected- sites/spa/004058	<15km	None	N
004165	Slievefelim to Silvermines Mountains SPA https://www.npws.ie/protected-	<15km	None	N

	sites/spa/004165				
	STEP 3. Assessment of Lik	ely Signit	ficant Ef	ffects	
conservation	otential direct and indirect impa objectives of a European site, nder the following headings:				
Impacts:				e Significance n/magnitude (
Dust, noise, vibLighting disturbImpact on ground	rance runoff from soil /landscaping (including borrow pi rration		No poter	ntial impacts	
 Surface water r sediment Lighting disturb Noise/vibration Changes to wat abstraction Presence of pe Physical preser 	to air and water runoff containing contaminant or	or	No poter	ntial impacts	
In-combination/Otl	her	1	No poter	ntial impacts	
(b)Describe any I	ikely changes to the European	site:			
 Examples of the type of changes to give consideration to include: 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 		s value	No potential impacts		
	on' measures necessary to read e ruled out at screening?	ch a conc	lusion t	hat likely sigr	nificant
☐ Yes ⊠ No					

STEP 4. Screening Determination Statement

The assessment of significance of effects:

Describe how the proposed development (alone or in-combination) is/is **not likely** to have **significant** effects on European site(s) in view of its conservation objectives.

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 proposed land use 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, The proposed development is not likely to have significant effects on the above listed European sites or any other European site, in view of the said sites' conservation objectives.

An appropriate assessment is not, therefore, required.

Conclusion: Tick as **Recommendation: Appropriate:** X (i) It is clear that there is **no** The proposal can be screened out: likelihood of significant effects on Appropriate assessment not required. a European site. (ii) It is uncertain whether the Request further information to proposal will have a significant complete screening effect on a European site. Request NIS Refuse planning permission (iii) Significant effects are likely. Request NIS Refuse planning permission Signature and Date of 18/12/2024 Date: Naomi Scully **Recommending Officer:**





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 tipperarycoco.ie

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@tipperarycoco.ie

Date: 20th December, 2024 Our Ref: S5/24/143 Civic Offices, Nenagh

Teamar Property Developments Ltd., C/o Michael Barker & Company, Riverpoint, Lower Mallow Street, Limerick

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 29th November, 2024, in relation to the following proposed works:

Relocation of vehicular entrance to the public road with ancillary works at 9 Gortlandroe, St. Conlan's Road, Nenagh, 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 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 5 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended).

Tipperary County Council has concluded the relocation of vehicular entrance to the public road with ancillary works constitutes "development" within the meaning of the Planning and Development Act 2000 (as amended) and is **not** "exempted development".

The Planning Authority considers the exemption under Class 5 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, (as amended)

is restricted under Article 9(1)(a) part (ii) as the carrying out of development would:

• consist of the relocation of a vehicular entrance to the public road which exceeds 4 metres in width Article 9(1)(a)(ii).

Furthermore the Planning Authority is not satisfied that the development would not endanger public safety by reason of traffic hazard or obstruction of road users. The provisions of Article 9(1)(a) part (iii) would also restrict any possible exemption under Article 6.

NOW WHEREAS Tipperary County Council, in exercise of the powers conferred on it by section 5(2)(a) of the Planning and Development Act, 2000, (as amended), it is hereby decided that the proposed development is development and is **not exempted development**.

NOTE: Any person issued with a Declaration of a Planning Authority may refer the Declaration for review to An Bord Pleanala, 64 Marlborough Street, Dublin 1, within four (4) weeks of the date of issue of the Declaration and on payment of the prescribed fee.

Yours sincerely

Geraldine Quinn for Director of Services

Original

TIPPERARY COUNTY COUNCIL

DELEGATED EMPLOYEE'S ORDER

File Ref: S5/24/143 Delegated Employee's Order No:	
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SUBJECT: Section 5 Declaration

I, Sharon Kennedy, Director of Services, Tipperary County Council, by virtue of the powers delegated to me in accordance with the provisions of Section 154 of the Local Government Act 2001, as amended by Schedule 1, Part 1 of the Local Government Reform Act 2014 under Chief Executive's Order No. 37256 dated 4th March, 2024, hereby order that pursuant to the provisions of the Planning and Development Act 2000, as amended, that an application under Section 5 from Teamar Property Developments Ltd., C/o Michael Barker & Company, Riverpoint, Lower Mallow Street, Limerick, re: relocation of vehicular entrance to the public road with ancillary works at 9 Gortlandroe, St. Conlan's Road, Nenagh, Co. Tipperary, is development and is exempted development.

AND WHEREAS Tipperary County Council, in considering this referral, had regard particularly 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 5 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended).

Tipperary County Council has concluded the relocation of vehicular entrance to the public road with ancillary works constitutes "development" within the meaning of the Planning and Development Act 2000 (as amended) and is **not** "exempted development".

The Planning Authority considers the exemption under Class 5 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, (as amended) is restricted under Article 9(1)(a) part (ii) as the carrying out of development would:

• consist of the relocation of a vehicular entrance to the public road which exceeds 4 metres in width Article 9(1)(a)(ii).

Furthermore the Planning Authority is not satisfied that the development would not endanger public safety by reason of traffic hazard or obstruction of road users. The provisions of Article 9(1)(a) part (iii) would also restrict any possible exemption under Article 6.

NOW WHEREAS Tipperary County Council, in exercise of the powers conferred on it by section 5(2)(a) of the Planning and Development Act, 2000, (as amended), it is hereby decided that the proposed development is development and is **not exempted development**.

Signed:

Sharon Kennedy

Director of Services

Planning and Development (including Town Centre First),

Date: 20/12/2024

Emergency Services and Emergency Planning and

Tipperary/Cahir/Cashel Municipal District