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: 3 February 2023 Our Ref: S5/23/2 Civic Offices, Nenagh

Mr. Peter McMillan
25 Cluain Glas
Thurles
Co Tipperary
E41 XN40

Dear Mr. McMillan

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

I refer to your application for a Section 5 Declaration received on 10 January 2023 in relation to the following proposed works:

Conversion of a garage into a habitable room (playroom/den/bedroom) at 25 Cluain Glas, Thurles, Co. Tipperary

A question has arisen as to whether the following is development and is or is not exempted development:

Conversion of a garage into a habitable room

Tipperary County Council, in considering this referral, had regard particularly to:

(a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as Amended

(b) Class 1 of Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended

(c) Article 6 and 9 of the Planning and Development Regulations 2001, as amended.

Tipperary County Council has concluded that:

The proposed development as presented on the drawings provided with the Declaration application, constitutes **"development"** within the meaning of the Planning and Development Act 2000, as amended and is **"exempted development"**.

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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,

Dáire MacGrath

for **Director of Services**

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Original

TIPPERARY COUNTY COUNCIL

DELEGATED EMPLOYEE'S ORDER

File Ref: **S5/23/2** **Delegated Employee's Order No:** _____

SUBJECT: **Section 5 Declaration**

I, Stephane Duclot, 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. 32227 dated 5th December, 2022 hereby order that pursuant to the provisions of the Planning and Development Act 2000, as amended, that an application under Section 5 from Peter McMillan, 25 Cluain Glas, Thurles, Co Tipperary, E41 XN40 in relation to a conversion of a garage into a habitable room (playroom/den/bedroom) at 25 Cluain Glas, Thurles, Co Tipperary is development and **is exempted development**.

Tipperary County Council, in considering this referral, had regard particularly to:

(a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended

(b) Class 1 of Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended

(c) Article 6 and 9 of the Planning and Development Regulations 2001, as amended.

Tipperary County Council has concluded that:

The proposed development as presented on the drawings provided with the Declaration application, constitutes **"development"** within the meaning of the Planning and Development Act 2000, as amended and is **"exempted development"**.

Signed: _____ Date: 03/02/2023

Stephane Duclot
Director of Services
Planning and Development, Emergency Services and Emergency Planning
Libraries/Cultural Services/Biodiversity

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TIPPERARY COUNTY COUNCIL

Application for Declaration under Section 5

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

Planning Ref.: S5/23/2

Applicant: Peter McMillan

Development Address: 25 Cluain Glas, Thurles, Co. Tipperary

Proposed Development: Conversion of a garage into a habitable room (playroom/den/bedroom)

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1. GENERAL

On 10.01.2023 a request was made for a declaration under Section 5 of the Planning and Development Act, 2000 as amended as to whether or not the following works constituted development and if so, whether same was exempted development:

Conversion of a garage into a habitable room

The Declaration application is accompanied by a site location drawing, a site location plan and elevations and floor plans showing the existing and proposed development.
elevations and ground floor plan at a scale of 1:100.

2. STATUTORY PROVISIONS

The following statutory provisions are relevant to this referral case;

Section 3 (1) of the Planning and Development Act 2000, as amended, states as follows:-

"In this Act, 'development' means, except where the context otherwise requires, the carrying out of works on, in, over or under land or the making of any material change in the use of any structures or other land."

Section 2(1) of the Planning and Development Act, 2000, as amended, defines "works" as:-

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"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.

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

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

Schedule 2, Part 1 'Exempted Development - General:

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

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

Conditions and Limitations

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

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

after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 12 square metres.

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

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

4. (a) Where the rear wall of the house does not include a gable, the height of the walls of any such extension shall not exceed the height of the rear wall of the house.

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

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

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

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

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

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

Article 9 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—

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(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,

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

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

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

The proposed development is for an extension to a dwelling and is not a type of development included for under Schedule 5 of the Planning and Development Regulations 2001, as amended. It is noted however that the development is situated within an urban area, therefore Mandatory EIA is required under Class 10 (b) (iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended for Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere. The proposal is for development on a site measuring 0.04ha and is significantly below the mandatory threshold. I have undertaken a preliminary examination of the development that concludes that EIA is not required (See attached).

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

3. ASSESSMENT

a. Site Location

The site is located at 25 Cluain Glas, Thurles, approximately 1km north of Thurles Town Centre (Liberty Square). The site is situated within an existing residential estate and is accessed off the Jimmy Doyle Road.

b. Relevant Planning History

501628/97541628 (TH1628):

Permission granted to Philip Leahy for a mixed housing development (122houses) & associated site works

c. *Assessment*

A) "Is or is not Development"

I consider the above listed proposals constitutes "works" as understood by the Planning and Development Act 2000, as amended. The above listed proposals therefore constitute "development" within the meaning of the Planning and Development Act 2000, as amended.

B) "Is or is not Exempted Development"

The identified area of garage conversion measures approximately 13.2sq m (as stated by the applicant) and forms part of the ground floor of the dwellinghouse. The proposed conversion area is less than 40sqm and is at ground floor level, therefore area of conversion is within the planning exemption parameters under Class 1.
The development does not appear to have been extended previously

C) Restrictions under Article 9
I note no restrictions under Article 9 that would apply

4. RECOMMENDATION

A question has arisen as to whether the following is development and is or is not exempted development;

Conversion of a garage into a habitable room

Tipperary County Council, in considering this referral, had regard particularly to -

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

Tipperary County Council has concluded that –

The proposed development as presented on the drawings provided with the Declaration application, constitutes **"development"** within the meaning of the Planning and Development Act 2000, as amended and is **"exempted development"**.

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Signed: _____ Date: 03.02.2023

District Planner

Signed: Date: 03/02/2023

Senior Executive Planner

Establishing if the proposal is a *'sub-threshold development'*:	
Planning Reference:	S5.23.2
Development Summary:	Conversion of garage to habitable area
Was a Screening Determination carried out under Section 176A-C?	☐ Yes, no further action required ☒ No, Proceed to **Part A**

A. Schedule 5 Part 1 - Does the development comprise a project listed in Schedule 5, **Part 1**, of the Planning and Development Regulations 2001 (as amended)? (Tick as appropriate)	
☐ Yes, specify class	**EIA is mandatory** No Screening required
☐ No	Proceed to **Part B**

B. Schedule 5 Part 2 - Does the development comprise a project listed in Schedule 5, **Part 2**, of the Planning and Development Regulations 2001 (as amended) **and** does it meet/exceed the thresholds? (Tick as appropriate)	
☐ No, the development is not a project listed in Schedule 5, Part 2	No Screening required
☐ Yes the project is listed in Schedule 5, Part 2 **and** meets/exceeds the threshold, specify class (including threshold): _____	EIA is mandatory No Screening required
☒ Yes the project is of a type listed in Schedule 5, Part 2 **but** is *sub-threshold*: Mandatory EIA is required under Class 10 (b) (iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended for Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere. The proposal is for development on a site measuring 0.04ha and is significantly below the mandatory threshold. I have undertaken a preliminary examination of the development that concludes that EIA is not required (See attached).	**Proceed to Part C**

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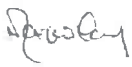
C. If Yes, has Schedule 7A information/screening report been submitted?	
☐ Yes, Schedule 7A information/screening report has been submitted by the applicant ☒ No, Schedule 7A information/screening report has not been submitted by the applicant	**Screening Determination required** **Preliminary Examination required**
Signature and Date of Recommending officer:	 **03.02.2023**

EIA Preliminary Examination: The planning authority shall carry out a preliminary examination of, at the **least, the nature, size or location of the development.**		
File Reference: S5.23.02		
Applicant Details: Peter McMillan, 25 Cluain Glas		
	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?*		**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?*		**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?*		**no**

Preliminary Examination Conclusion:		
Based on a preliminary examination of the **nature, size or location** of the development. (Tick as appropriate)		
☒ 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.

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HABITATS DIRECTIVE APPROPERIATE ASSESSMENT (AA) SCREENING REPORT

STEP 1. Description of the project/proposal and local site characteristics:	
(a) File Reference No:	S5.23.02
(b) Brief description of the project or plan:	Conversion of a garage to habitable area
(c) Brief description of site characteristics:	The site is located at 25 Cluain Glas, Thurles, approximately 1km north of Thurles Town Centre (Liberty Square). The site is situated within an existing residential estate and is accessed off the Jimmy Doyle Road.
(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
002137 – Lower River Suir SAC	https://www.npws.ie/protected-sites/search/by-code?code=002137	Less than 15km	None	No

[1] Short paraphrasing and/or cross reference to NPWS is acceptable – it is not necessary to reproduce the full text on the QI/SCI.
[2] If the site or part thereof is within the European site or adjacent to the European site, state here.

STEP 3. Assessment of Likely Significant Effects	
(a) Identify all potential direct and indirect impacts that may have an effect on the conservation objectives of a European site, taking into account the size and scale of the project under the following headings:	
Impacts:	Possible Significance of Impacts: (duration/magnitude etc.)
Construction phase e.g. • Vegetation clearance • Demolition • Surface water runoff from soil	None as the application relates to a change of use of an existing room from garage to habitable

excavation/infill/landscaping (including borrow pits) • Dust, noise, vibration • Lighting disturbance • Impact on groundwater/dewatering • Storage of excavated/construction materials • Access to site • Pests	
Operational phase e.g. • Direct emission to air and water • Surface water runoff containing contaminant or sediment • Lighting disturbance • Noise/vibration • Changes to water/groundwater due to drainage or abstraction • Presence of people, vehicles and activities • Physical presence of structures (e.g. collision risks) • Potential for accidents or incidents	None significant – application relates to change of use of an existing room from garage/storage use to habitable use.
In-combination/Other	

(b)Describe any likely 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	None significant – application relates to a change of use of an existing room from garage/storage use to habitable use

(c) Are *'mitigation'* measures necessary to reach a conclusion that likely significant effects can be ruled out at screening?

☐ Yes ☒ No

Step 4. Screening Determination Statement

The assessment of significance of effects:

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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.		
Conclusion:		
	Tick as Appropriate:	Recommendation:
(i) It is clear that there is no likelihood of significant effects on a European site.	☒	The proposal can be screened out: Appropriate assessment not required.
(ii) It is uncertain whether the proposal will have a significant effect on a European site.	☐	☐ Request further information to complete screening ☐ Request NIS ☐ Refuse planning permission
(iii) Significant effects are likely.	☐	☐ Request NIS ☐ Refuse planning permission
Signature and Date of Recommending Officer:		03.02.2023
Signature and Date of the Decision Maker:		

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
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Tipperary County Council, Civic Offices, Nenagh, Co. Tipperary
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Our Ref: S5/23/2 Date: 11 January 2023 Civic Offices, Nenagh

Mr Peter McMillan
25 Cluain Glas
Thurles
Co Tipperary
E41 XN40

Re: Application for a Section 5 Declaration – 25 Cluain Glas, Thurles, Co Tipperary, E41 XN40

Dear Mr McMillan

I acknowledge receipt of your application for a Section 5 Declaration received on 10 January 2023 in connection with the above.

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

Yours sincerely

For Director of Services

SCANNED

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.

CONVERSION OF GARAGE INTO A HABITABLE ROOM (PLAYROOM/DEN/ BEDROOM). SEE ATTACHED DOCUMENTS FOR DETAILS.
Proposed floor area of proposed works/uses: 13.2 sqm

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

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

Signature of Applicant(s) Peter McMullan Date: 8/1/23

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

GUIDANCE NOTES

(1) All queries on the form must be completed and the form must be accompanied by the relevant fee. The amount of the fee is currently **€80.00.**

(2) This application should be accompanied by **TWO COPIES** of the following documentation

- OSI Site Location Map with the site outlined clearly – 1:1000 in urban areas and 1:2500 in rural areas
- Floor Plans & Elevations at a scale of not less than 1:200
- Site layout plan indicating position of proposed development relative to premises and adjoining properties
- Other details *e.g.* brochures, photographs if appropriate.

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

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

This application form and relevant fee should be submitted to:

Planning Section, **Tipperary County Council,** **Civic Offices,** **Limerick Road,** **Nenagh,** **Co. Tipperary**	**OR**	**Planning Section,** **Tipperary County Council,** **Civic Offices,** **Emmet Street,** **Clonmel,** **Co. Tipperary**

Enquires:

Telephone 0761 06 5000

E-Mail planning@tipperarycoco.ie

FOR OFFICE USE ONLY

DATE STAMP

Fee Recd. €_____

Receipt No_____

Date_____

Receipted by _____

Details

Photos and description of proposed garage conversion of 25 Cluain Glas, Thurles, Co. Tipperary, E41 XN40. Provided in relation to Section 5 Exemption application.

Site layout plan has not been included as the works will be performed on the original garage and the property footprint will remain the same. The only visible changes from the outside will be the replacement of the garage door with a window and the required brickwork and sill.

The converted room will be used as a playroom/den/bedroom.

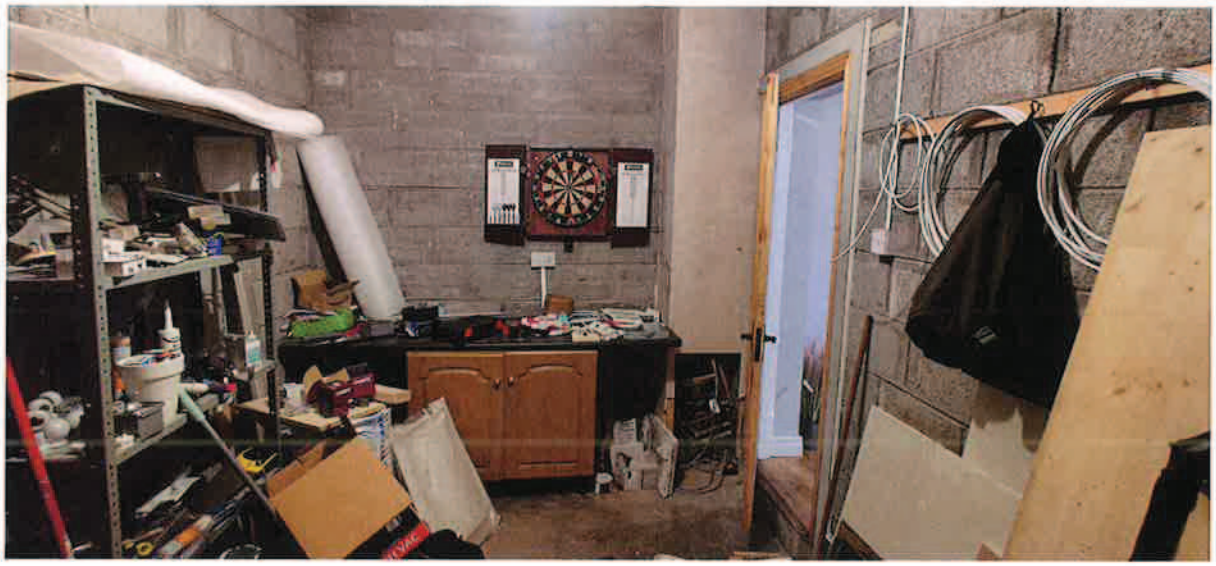
The existing garage front.

The existing front of house. The garage door will be removed and a window will be fitted in its place. The brick work will be built up under the window in keeping with the look of the front sitting room window as seen on the right. Unlike the sitting room window, the proposed window will be flush and not a bay window.

Photo of a similar converted garage in the estate. The finished result should be similar to this.

Inside facing garage door. Inside walls will be plastered and painted and insulated where necessary. A radiator will be fitted on the wall to the left and plumbed into the existing central heating system.

Back wall with existing access to the house.



The existing garage floor level is below the house floor level. A new concrete floor will be poured to bring the level up to the floor level of the house.

OSi PLACE Map

0 10 20 30 40 metres

0 20 40 60 80 100 Feet

OUTPUT SCALE: 1:1,000

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

N

Ordnance Survey Ireland
National Mapping Agency

CENTRE COORDINATES:
ITM 612361,659558

PUBLISHED: 03/01/2023

ORDER NO.: 50309766_1

MAP SERIES: 1:2,500

MAP SHEETS: 4696-A

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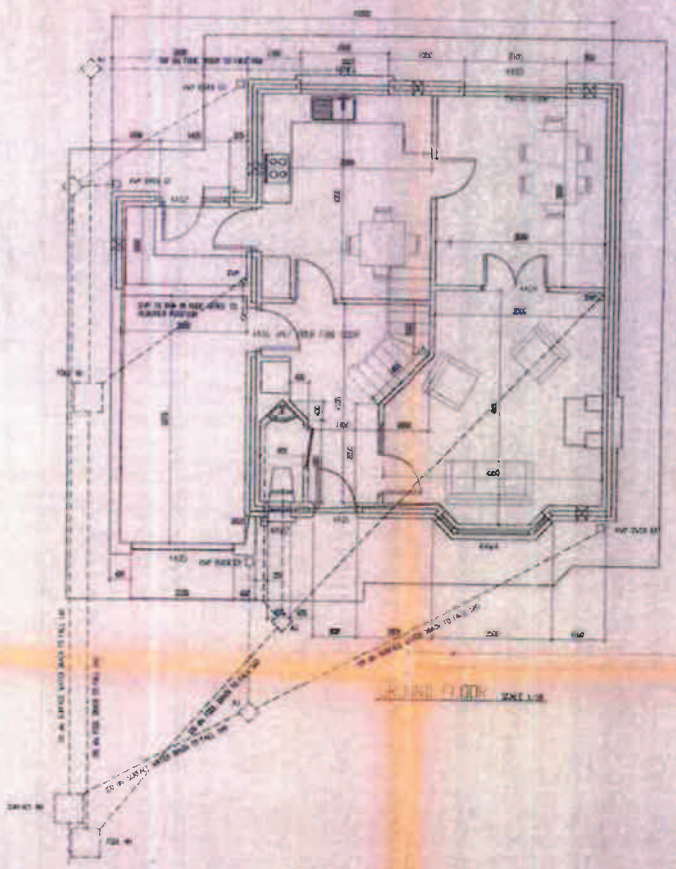
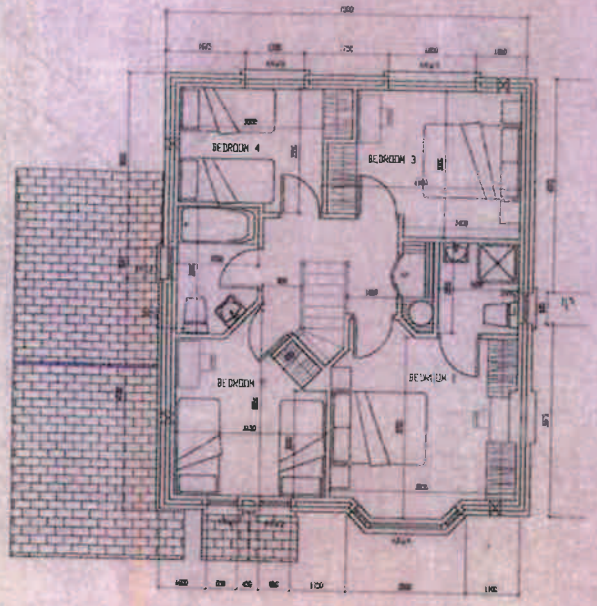
LEGEND:
http://www.osi.ie;
search 'Large Scale Legend'

ORIGINAL PLANS

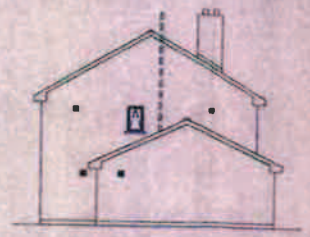




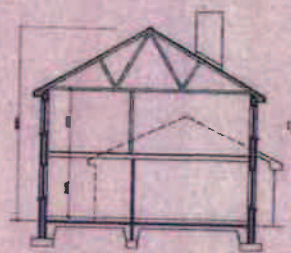
FIRST FLOOR

FRONT ELEVATION

REAR ELEVATION



GABLE ELEVATION



CROSS SECTION

HOUSING DEVELOPMENT FOR Mr PHILIP LEAHY

TYPE A– 4 Bed Det. BRITTAS RD TIMAHOE

AA-003 ARCHITECTURAL

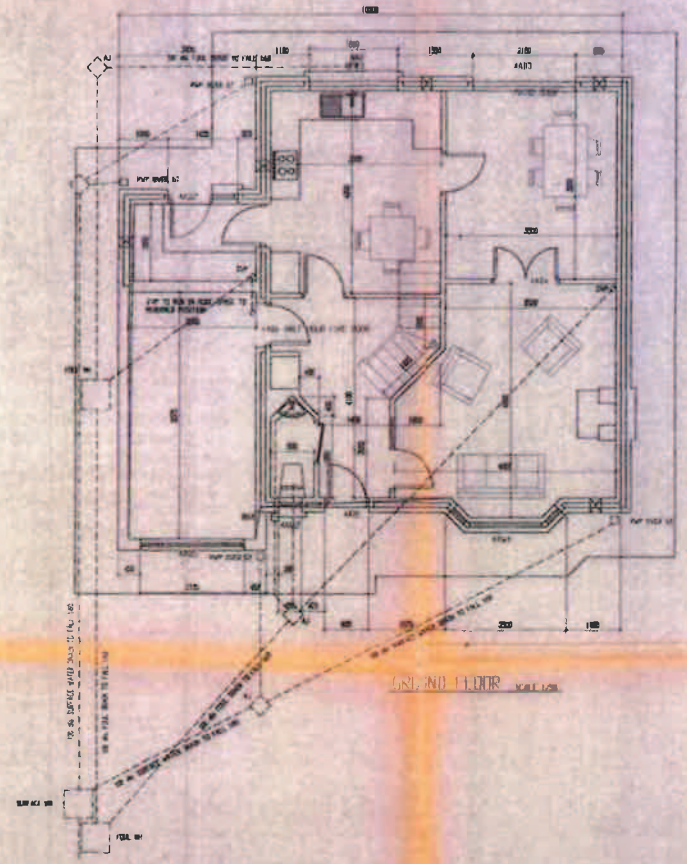
OF JULY 97 PLANNING

M.J. FARAH & ASSOCIATES

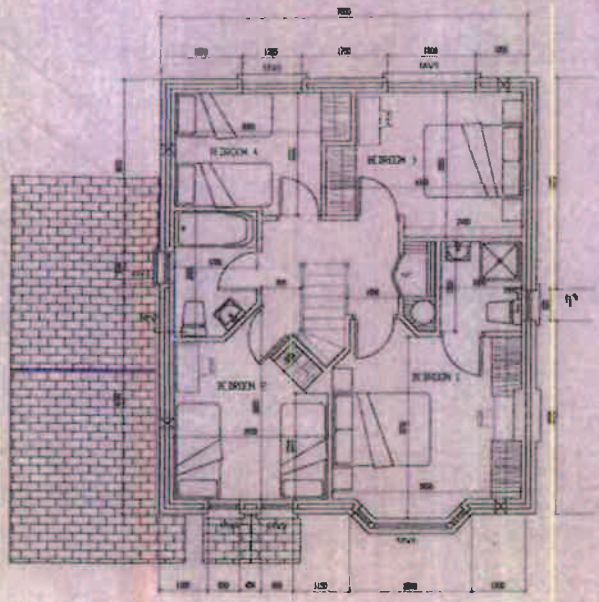
ARCHITECTS * PLANNERS * PROJECT MANAGERS

28 JUL 1997

PLANS WITH PROPOSED CHANGES



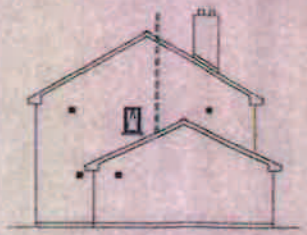
GROUND FLOOR



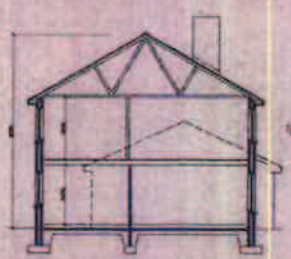
FIRST FLOOR

FRONT ELEVATION

REAR ELEVATION



GABLE ELEVATION



CROSS SECTION

Modified to reflect proposed changes for garage conversion

HOUSING DEVELOPMENT FOR Mr. PHILIP LEAHY

TYPE A- 4 Bed Det. BRITTAS RD. THURLES

AA-003 ARCHITECTURAL

OF JULY 97 PLANNING

M.J. FARAH & ASSOCIATES

ARCHITECTS • PLANNERS • PROJECT MANAGERS

28 JUL 1997