



PLANNING & DEVELOPMENT ACT, 2000 (as amended)

Application for a Section 5 Declaration
Development / Exempted Development

1. Applicant's address/contact details:

Applicant	THOMAS FOX
Address	CLONCANNON CREAMERY Moneygall, Roscrea CO. TIPPERARY E53 PX22
Telephone No.	[REDACTED]
E-mail	[REDACTED]

2. Agent's (if any) address:

Agent	N/A
Address	N/A
Telephone No.	N/A
E-mail	N/A
Please advise where all correspondence in relation to this application is to be sent;	
Applicant [<input checked="" type="checkbox"/>]	Agent [<input type="checkbox"/>]

TIPPERARY CO. COUNCIL
SC RECEIVED
29 JAN 2024
PLANNING SECTION
FILE NO. 55/24/11

3. Location of Proposed Development:

Postal Address or Townland or Location (as may best identify the land or structure in question)	CLONCANNON CREAMERY Moneygall Roscrea E53 PX22
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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.

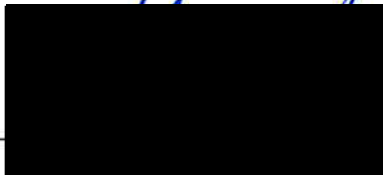
(Note: only works and uses listed and described under this section will be assessed under this Section 5 Application. Use additional sheets if required.)

Erection of a eco Room, 6.2m x 4.4m.
Fully insulated with double glazed windows and door, to be used as a home office.
Pls see other paperwork for more specs.
Proposed floor area of proposed works/uses: 27 sqm

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

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

Signature of Applicant(s) _____



Date:

29th January 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
 - Floor Plans & Elevations at a scale of not less than 1:200
 - Site layout plan indicating position of proposed development relative to premises and adjoining properties
 - Other details e.g. brochures, photographs if appropriate.

(All dimensions must be given in metric scale and drawings should be accompanied by a brief description outlining the use of the proposed development)
- (3) Where a proper and complete application is received, a decision must be conveyed to the applicant within four (4) weeks except where additional necessary information is required.

This application form and relevant fee should be submitted to:

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

FOR OFFICE USE ONLY

DATE STAMP

Fee Recd. € 80.00
Receipt No NENAM1/0/117280
Date 29/01/24
Received by M.Q.



www.loghouse.ie

Company Details

Ecohouse Developments, T/A Loghouse
Unit 518A Grants Crescer
Greenogue Business Park, Rathcoole, Co. Dubli
Tel: 01 - 201 7675. Email: info@loghouse.i

Quotation

Re. To supply and build "Eco Garden Room" as per attached drawing

Size: 6.2m x 4.4m

Date: 24th of January 2024,

Log cabin includes:

Walls 184mm EPS insulated SIP panel

Total area 27.0 m²

Wall height 2200mm

Ridge height 2400mm

Roof boards, tongue-groove, d=19mm

Fascia board / eaves

Roof ending boards

Roof overhang 0.0m

Pressure treated floor bearers 45 x 100mm

Floorboards, tongue-groove, d=19mm

1 x Premium UPVC double door 1450mm x 2100mm double glazing U-Value 1.1

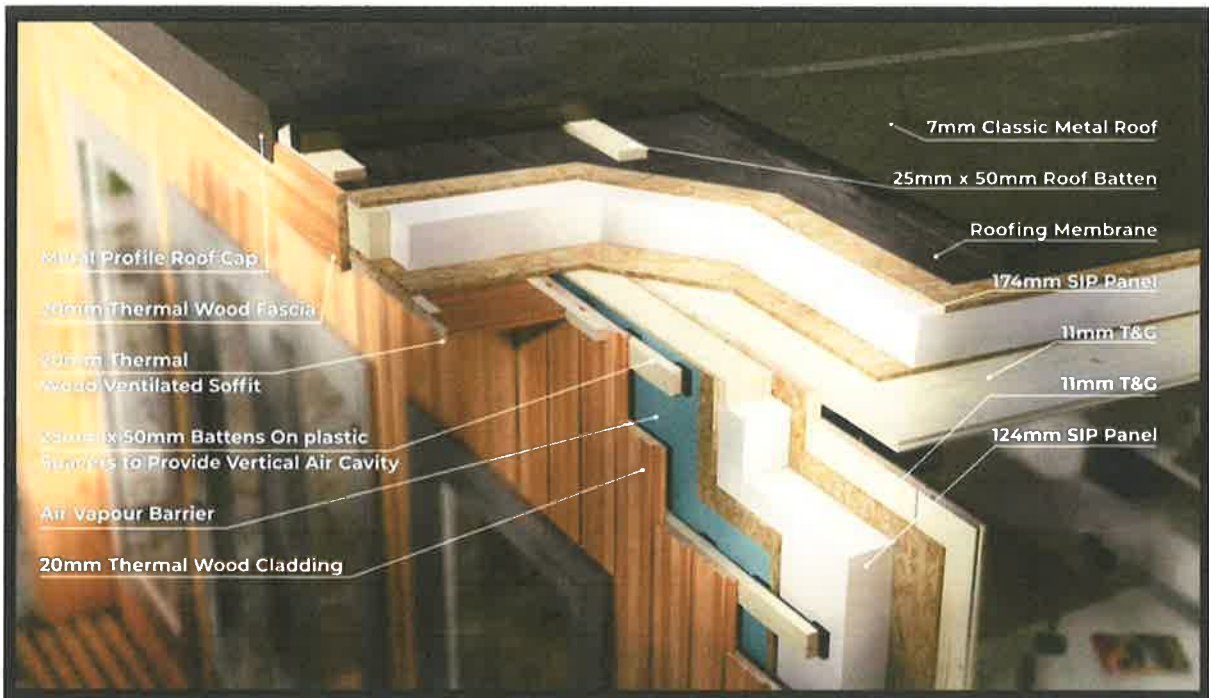
3 x Premium UPVC single windows 800mm x 1900mm double glazing U-Value 1.1

Manufactured from Scandinavian F.S.C. accredited slow grown pine – rainforest alliance certified.
Competed building guaranteed 10 years.

Showrooms



Horkans Garden Centre Glen of The Downs, Bray, Co.Wicklow. Opening hours: Tue - Sat 12 - 5pm
Kinsealy Garden Centre Malahide Road, Kinsealy, Dublin 17. Opening hours: Tue - Sat 12 - 5pm



The Property
Registration Authority
An tÚdarás
Clárúcháin Maoine



Print map images taken from www.landdirect.ie may be used for information purposes only.

Ni fhéadtar na hiomhánna léarscáile priontáilte arna fháil ó www.landdirect.ie a úsáid ach chun críocha eolais amháin.

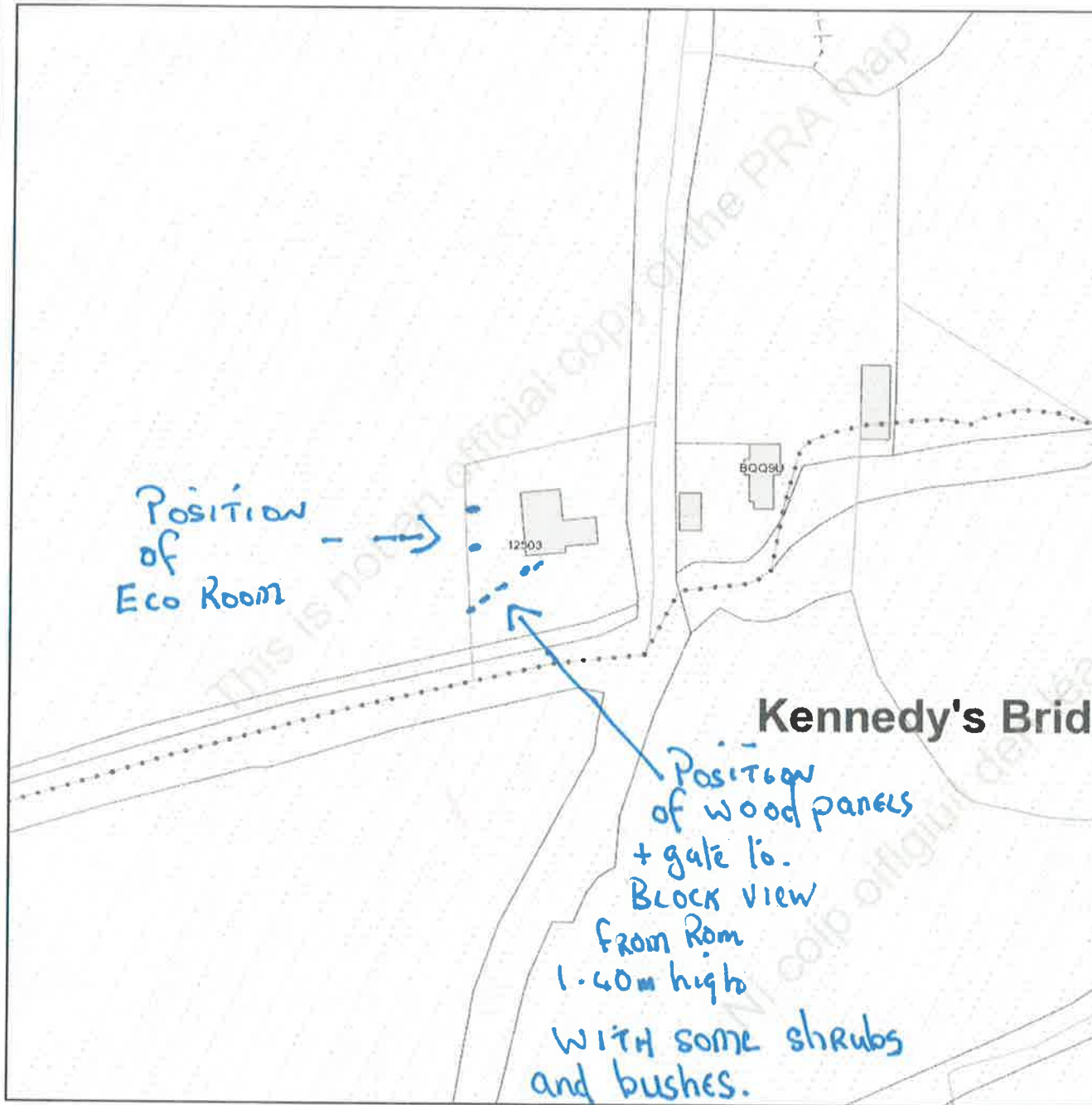
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The registry operates a non-conclusive boundary system.

The Registry Map identifies properties not boundaries meaning neither the description of land in a register nor its identification by reference to a registry map is conclusive as to the boundaries or extent. (See Section 85 of the Registration of Title Act, 1964). As inserted by Section 62 of the Registration of Deed and Title Act 2006.

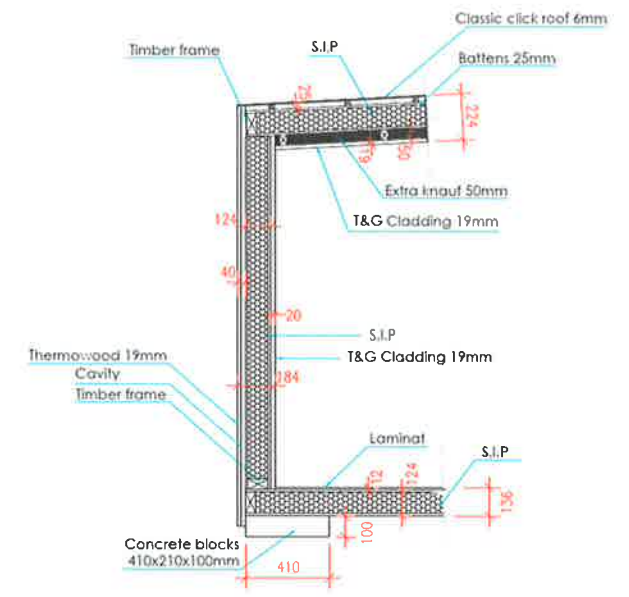
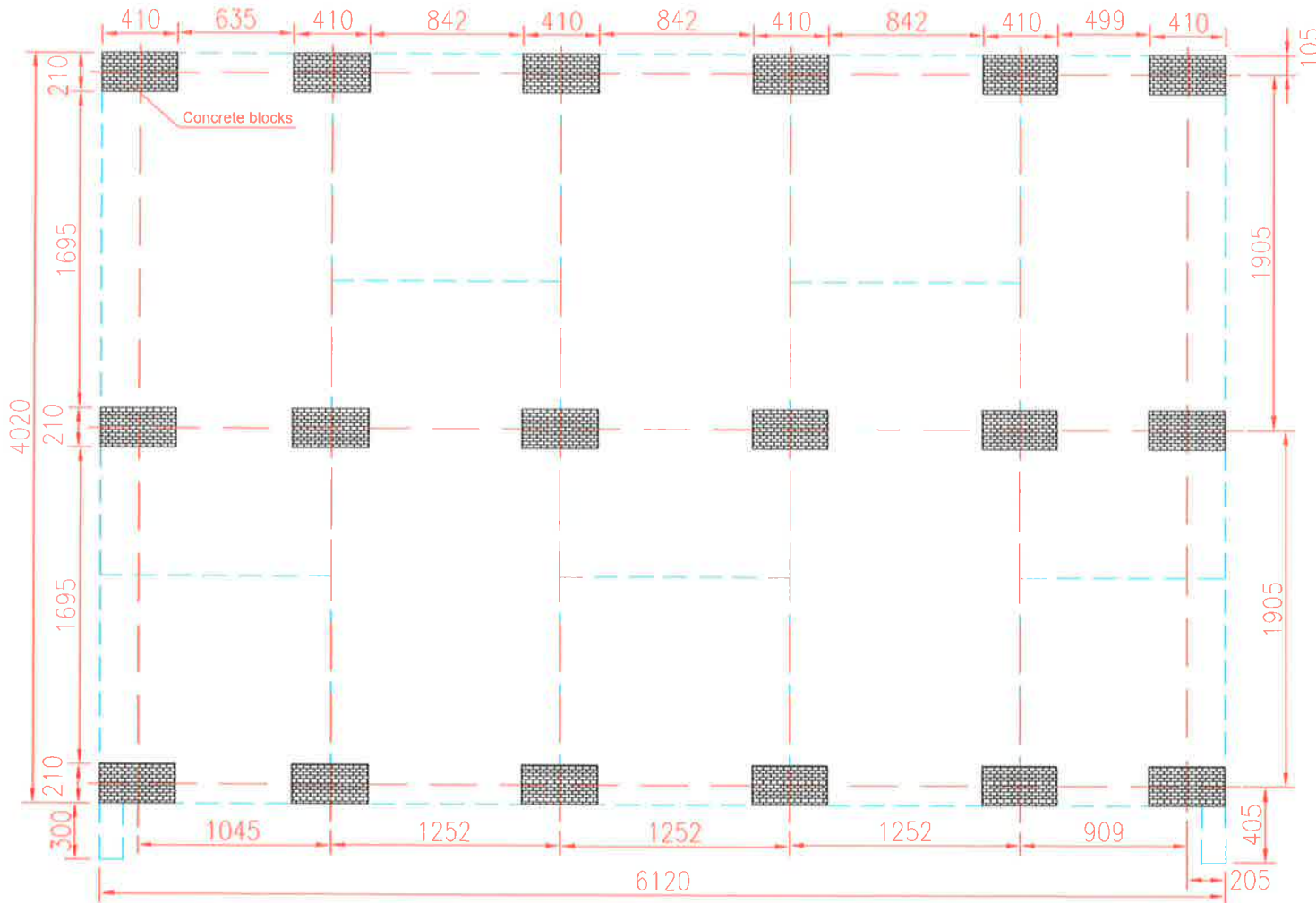
Feidhmíonn Clárann na Talún córas teorann neamhdhochtloite. Aithníonn Mapa na Clárlainne maoine nach ionann agus teorainneacha, rud a chiallaíonn nach bhfuil an cur síos ar thalamh i gclár ná a haithint trí thagairt do mhapa clárlainne cinntitheach maidir le teorainneacha ná fairsinge. (Feach Alt 85, den Acht um Chlárú Teidil, 1964). Mar a ionadaíodh ag Alt 62 den Acht um Chlárú Gníomhas agus Teidil 2006.



Creation Date: Thursday, May 22, 2014 4:01:36 PM



Foundation plan - Office 6x4



**The Property
Registration Authority**
**An tÚdarás
Clárúcháin Maoine**



Folio: TY12503

This map should be read in conjunction with the folio.

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(centre-line of parcel(s) edged)

- Freehold
- Leasehold
- SubLeasehold

Burdens (may not all be represented on map)

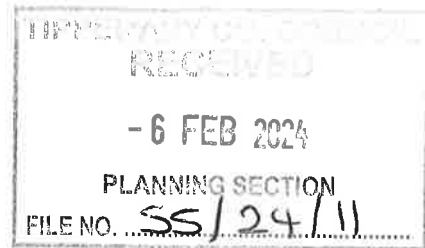
- Right of Way / Wayleave
- Turbary
- Pipeline
- Well
- Pump
- Septic Tank
- Soak Pit



A full list of burdens and their symbology can be found at: www.landdirect.ie

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Dear Michelle,

Ref No S5/24/11

I spoke with Tara today (2nd Feb) and she requested that I send in a copy of the internal floor plan.

Please find attached said floor plan, the dimensions are 5.872m Long and with is 3.772m which equals 22.15 sq M

I will also send this document via post which should arrive by next week Wednesday.

Any further inquiries, please do not hesitate to contact me.

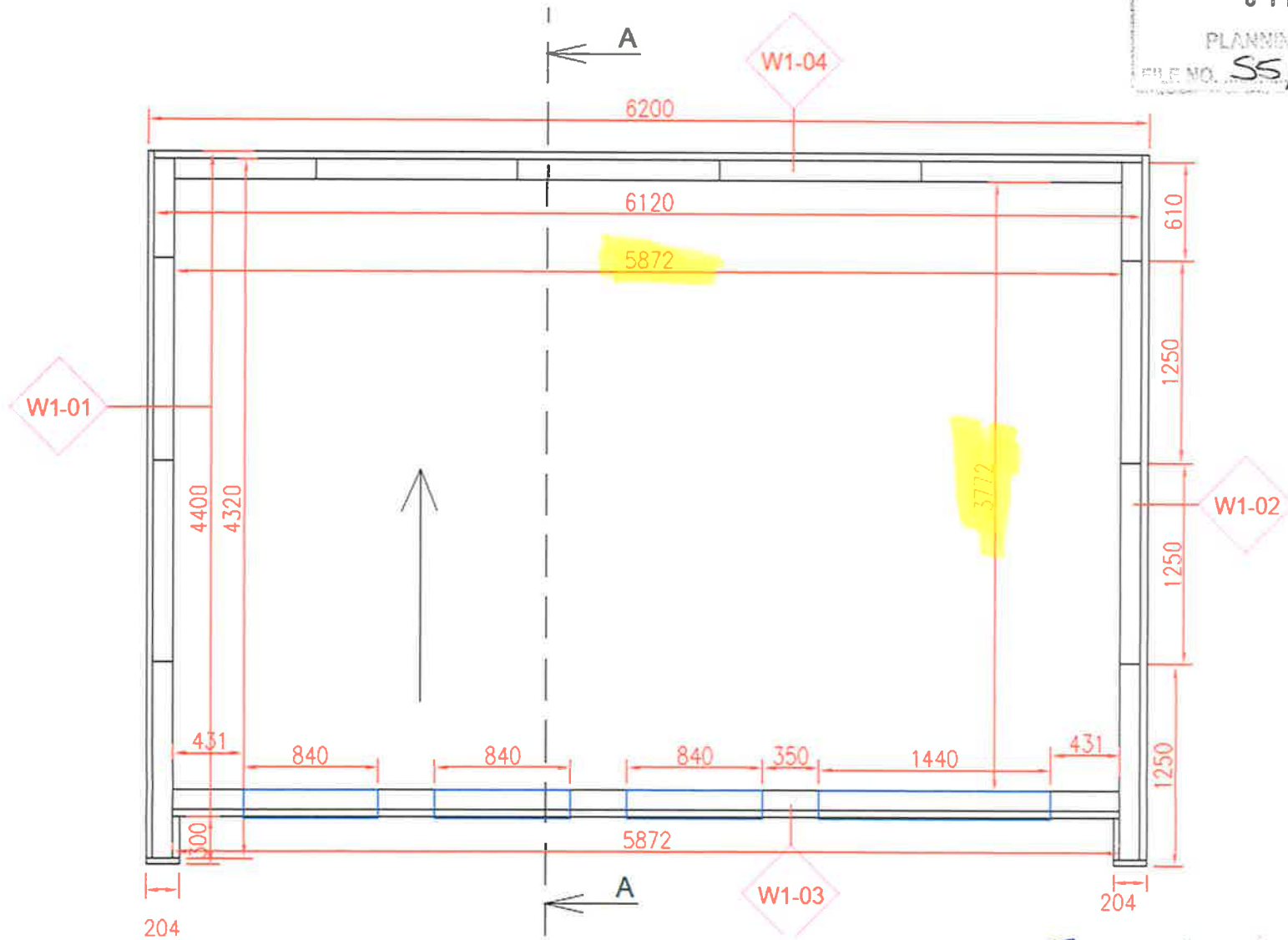
Kind regards,

Tom Fox



Ref S5/24/11

PLANNING SECTION
- 6 FEB 2024
FILE NO. S5/24/11



FLOOR PLAN FOR Eco Room.

$5872 \times 3772 =$ TOTAL INTERNAL
Sq M is 22.15.

TIPPERARY COUNTY COUNCIL

Application for Declaration under Section 5

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

Planning Ref.: S5/24/11

Applicant: Thomas Fox

Development Address: Cloncannon Creamery, Moneygall, Roscrea, Co. Tipperary E53 PX22

Proposed Development: Whether the erection of a fully insulated eco room with double glazed windows and door, with internal floor area of 22.15sqm, to be used as a home office, is development and if so, does it constitute exempted development.

1. GENERAL

On the 29nd of January 2024, a request was made for a declaration under Section 5 of the Planning and Development Act, 2000 as amended by the Thomas Fox in respect of the following development at Cloncannon Creamery, Moneygall, Roscrea, Co. Tipperary E53 PX22 that is accessed via the L – 3224 Local Road at Cloncannon.

The site lies within 15km of the Lower River Suir SAC and the Slievefelim to Silvermines SPA and within 10km of the Kilduff, Devilsbit Mountain SAC. The site also lies 62m south-west of the R137541 Zone of Archaeological Potential (ZAP), 58m east of the R137532 ZAP and 283m east of the R137533 ZAP.

Whether the erection of a fully insulated eco room with double glazed windows and door, with internal floor area of 22.15sqm to be used as a home office, is development and if so, does it constitute exempted development.

2. PLANNING & DEVELOPMENT ACT 2000, as amended, / PLANNING & DEVELOPMENT REGULATIONS 2001, as amended, - STATUTORY PROVISIONS

Section 2 (1) of the **Planning and Development Act 2000**, as amended, states as follows:- “works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal....’

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 (1)(h) of the **Act** states as follows:-

The following shall be exempted developments for the purposes of this Act

Development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures;

Section 4(2)(a) of the Act states as follows: -

The Minister may by regulations provide for any class of development to be exempted development for the purposes of this Act where he or she is of the opinion that—

(i) by reason of the size, nature or limited effect on its surroundings, of development belonging to that class, the carrying out of such development would not offend against principles of proper planning and sustainable development, or

(ii) the development is authorised, or is required to be authorised, by or under any enactment (whether the authorisation takes the form of the grant of a licence, consent, approval or any other type of authorisation) where the enactment concerned requires there to be consultation (howsoever described) with members of the public in relation to the proposed development prior to the granting of the authorisation (howsoever described).

Section 4(4) 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(1) of the **Planning and Development Regulations** states that 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 conditions and limitations specified in Column 2 of said Part 1 opposite the mention of that class in said Column 1.

In relation to this specific case, the following applies:

CLASS 3 of Part 1 of Schedule 2 of the Planning and Development Regulations reads as follows:

The construction, erection or placing within the curtilage of a house of any tent, awning, shade or other object, greenhouse, garage, store, shed or other similar structure

Conditions and Limitations

1. No structure shall be constructed, erected or placed forward of the front wall of a house.

The structure is to be placed to the rear of the house

2. The total area of such structures constructed, erected or placed within the curtilage of a house shall not, taken together with any other such structures previously constructed, erected or placed within the said curtilage, exceed 25 square metres.

The internal dimensions of the structure are given at 5.872m x 3.772m totalling 22.149sqm. The floor area is therefore under 25 square metres.

However, there are two domestic storage structures on site and, as the eco office is 22.149sqm, the cumulative floor area of domestic storage structures within the curtilage of the house exceeds 25sqm.

3. The construction, erection or placing within the curtilage of a house of any such structure shall not reduce the amount of private open space reserved exclusively for the use of the occupants of the house to the rear or to the side of the house to less than 25 square metres.

The structure will not reduce the amount of private open space to the rear or to the side of the house to less than 25 square metres.

4. The external finishes of any garage or other structure constructed, erected or placed to the side of a house, and the roof covering where any such structure has a tiled or slated roof, shall conform with those of the house

The structure is to be placed to the rear of the house

- 3-5. The height of any such structure shall not exceed, in the case of a building with a tiled or slated pitched roof, 4 metres or, in any other case, 3 metres.

The proposed structure has a flat, metal roof that is 2.4m in height

- 4-6. The structure shall not be used for human habitation or for the keeping of pigs, poultry, pigeons, ponies or horses, or for any other purpose other than a purpose incidental to the enjoyment of the house as such.

The structure is to be used as a home office

3. ASSESSMENT

- a. **Site Location** – The site comprises a restored creamery that is in use as a domestic dwelling and is accessed via the L – 3224. The site lies 13.7km south-west of Roscrea and 15.7km east of Nenagh.

The proposed development is designated Open Countryside.

The site lies within 15km of the Lower River Suir SAC and the Slievefelim to Silvermines SPA and within 10km of the Kilduff, Devilsbit Mountain SAC. The site also lies 62m south-west of the R137541 Zone of Archaeological Potential (ZAP), 58m east of the R137532 ZAP and 283m east of the R137533 ZAP.

b. **Relevant Planning History** –

14600173 – Conditional grant of permission for alterations and improvement works to existing wastewater treatment system and polishing filter

04511487 – Conditional grant of permission to convert existing derelict creamery to domestic dwelling house, also permission for entrance, proprietary treatment plant and associated site works

c. Assessment

–Pursuant to Section 5 of the Planning & Development Acts this report will examine whether the proposal to erect a fully insulated log cabin eco room with double glazed windows and door, with a given internal floor area of 22sqm, to be used as a home office, is development and if so, does it constitute exempted development.

There are two structures located to the northern side of the dwelling. These structures don't have planning permission but may avail of exemptions set out in CLASS 3 of Part 1 of Schedule 2 of the Planning and Development Regulations.

This affects the total area of further structures that can be considered for exemption.

A) "Is or is not Development"

Having regard to Sections 2(1) and 3(1) of the Planning and Development Act 2000 (as amended), it is considered that the proposal as set out in section 3 (c) above, does constitute development as it does involve the carrying out of works on the subject land.

B) "Is or is not Exempted Development"

It is considered that the development of a log cabin to be used as a home office ~~comes can be considered~~ under the planning exemption under Class 3 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.

[The presence of existing structures within this class on the site will exceed the 25sqm threshod for such developments.](#)

The restrictions under Article 9 of the Planning and Development Regulations 2001, as amended shall not be exempted development for the purposes of the Act if the carrying out of such development would include any of the following;

(i),(ii), (iii), (iiia), (iv), (v), (vi), (vii), (viiA), (viiB), (viiC), (viii), (ix), (x), (xi) and (xii).

N/A – None apply

C) “Restrictions to exemptions under the Planning and Development Act 2000, as amended or Planning and Development Regulations 2001, as amended”

i) Requirement for Appropriate Assessment and Environmental Impact Assessment required

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.

Appropriate Assessment (AA):

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.

Environmental Impact Assessment (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 screening report attached.

ii) Restrictions under Article 9 of the Planning and Development Regulations 2001, as amended

Under Article 9(a) development to which article 6 relates shall not be exempted development for the purposes of the Act if the carrying out of such development would include any of the following;

(i),(ii), (iii), (iiia), (iv), (v), (vi), (vii), (viiA), (viiB), (viiC), (viii), (ix), (x), (xi) and (xii).

4. RECOMMENDATION

Having regard to:

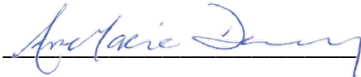
- **Section 5 of the Planning and Development Act 2000 (as amended) which** requires a Planning Authority to make a declaration

on any question that arises as to what is or is not development and if development, is or is not exempted development.

- Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended).
- Articles 6 and 9 of the Planning and Development Regulations 2001 (as amended),
- Class 3 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- **Details on file** the nature and scale of the proposed use, as outlined in submissions on file by the owner/occupier.

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 replacement of **is development and IS NOT exempted development.**

Graduate Planner:  **Date:** 14/02/2024

Senior Planner:  **Date:** 15/02/2024







Original

TIPPERARY COUNTY COUNCIL

DELEGATED EMPLOYEE'S ORDER

File Ref: **S5/24/11** **Delegated Employee's Order No:** _____

SUBJECT: Section 5 Declaration


I, Sharon Kennedy, Director of Services, Tipperary County Council, by virtue of the powers delegated to me in accordance with the provisions of Section 154 of the Local Government Act 2001, as amended by Schedule 1, Part 1 of the Local Government Reform Act 2014 under Chief Executive's Order No. 36275 dated 4th December, 2023, hereby order that pursuant to the provisions of the Planning and Development Act 2000, as amended, that an application under Section 5 from Thomas Fox, Cloncannon Creamery, Moneygall, Roscrea, Co. Tipperary, E53 PX22, re: The erection of a fully insulated eco room with double glazed windows and door, with internal floor area of 22.15sqm, to be used as a home office at Cloncannon Creamery, Moneygall, Roscrea, Co. Tipperary, E53 PX22 is development and is exempted development.

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

- Section 5 of the Planning and Development Act 2000 (as amended) which requires a Planning Authority to make a declaration on any question that arises as to what is or is not development and if development, is or is not exempted development.
- Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended).
- Articles 6 and 9 of the Planning and Development Regulations 2001 (as amended),
- Class 3 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- Details on file the nature and scale of the proposed use, as outlined in submissions on file by the owner/occupier.

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 replacement of **is development and IS NOT exempted development.**

Signed:



Sharon Kennedy

Director of Services

Planning and Development (including Town Centre First and Just Transition), Emergency Services and Emergency Planning and Tipperary/Cahir/Cashel Municipal District

Date: 20/02/2024



Date: 20 February 2024

Our Ref: S5/24/11

Civic Offices, Nenagh

**Thomas Fox,
Cloncannon Creamery,
Moneygall,
Roscrea,
Co. Tipperary, E53 PX22.**

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

Dear Mr Fox,

I refer to your application for a Section 5 Declaration received on 29th January 2024, in relation to the following proposed works:

The erection of a fully insulated eco room with double glazed windows and door, with internal floor area of 22.15sqm, to be used as a home office at Cloncannon Creamery, Moneygall, Roscrea, Co. Tipperary, E53 PX22.

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 –

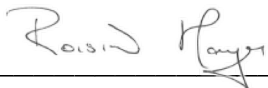
- Section 5 of the Planning and Development Act 2000 (as amended) which requires a Planning Authority to make a declaration on any question that arises as to what is or is not development and if development, is or is not exempted development.
- Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended).

- Articles 6 and 9 of the Planning and Development Regulations 2001 (as amended),
- Class 3 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- Details on file the nature and scale of the proposed use, as outlined in submissions on file by the owner/occupier.

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 replacement of **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 Pleanála, 64 Marlborough Street, Dublin 1, within four (4) weeks of the date of issue of the Declaration and on payment of the prescribed fee.

Yours sincerely



for **Director of Services**