

PLANNING & DEVELOPMENT ACT, 2000 (as amended)

Application for a Section 5 Declaration
Development / Exempted Development

1. Applicant's address/contact details:

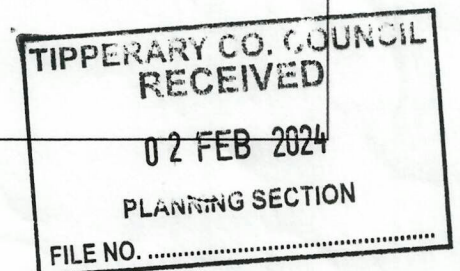
Applicant	BRIAN KENNY + Amanda Hackett Kenny
Address	7 INIS OIR Cashel Road Clonmel Town CO TIPPERARY E91K092
Telephone No.	[REDACTED]
E-mail	[REDACTED]

2. Agent's (if any) address:

Agent	
Address	
Telephone No.	
E-mail	
Please advise where all correspondence in relation to this application is to be sent;	
Applicant []	Agent []

3. Location of Proposed Development:

Postal Address or Townland or Location (as may best identify the land or structure in question)	7 INIS OIR Cashel Road Clonmel Town CO TIPPERARY E91K092
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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.

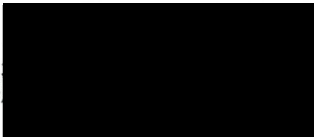
(Note: only works and uses listed and described under this section will be assessed under this Section 5 Application. Use additional sheets if required.)

We are turning our current living room into a wet room because of my Disability. We are building on a new living room.
Size of new living room is 5150 ^{mm} X 4300mm
Proposed floor area of proposed works/uses: 18 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		
If you are not the legal owner, please state the name and address of the owner	Name: Address:	

Signature of Applicant(s)



Date: 01/02/2024

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
 - o 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
 - o Site layout plan indicating position of proposed development relative to premises and adjoining properties
 - o Other details e.g. brochures, photographs if appropriate.

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

This application form and relevant fee should be submitted to:

Planning Section, 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

<u>DATE STAMP</u>
Fee Recd. € _____
Receipt No _____
Date _____
Received by _____



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

Our Ref: S5/24/15

Date: 7th February, 2024

Civic Offices, Clonmel

**Brian Kenny &
Amanda Hackett Kenny
7 Inis Oir
Cashel Road
Clonmel
Co. Tipperary**

Re: Application for a Section 5 Declaration – Conversion of the existing living room into a wet room and the construction of a new living room at 7 Inis Oir, Cashel Road, Clonmel, Co. Tipperary.

Dear Sir/Madam

I acknowledge receipt of your application for a Section 5 Declaration received on 2nd February, 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**

640239 6181 mE
622207 6708 mN

640239 6181 mE
622207 6708 mN

Freehold Interest to be discharged at
No. 7 Inis Oir, Clonmel, Co. Tipperary.
In the townland of Burgagery-Lands West.
Site denoted by the centre of the red line.
The red line is not OSI detail.

Area= 245.0644m² (0.06055 Acres)

Folio details : Not Registered

Signed : *James O'Byrne*
Date : *20/12/2022*



640239 6181 mE
622207 6708 mN

604505 2266 mE
622055 1337 mN

Comhairle Contae Thiobraid Árann
Tipperary County Council

Director Of Services
Sheela Carr

Senior Engineer
Jonathan Cooney

Tel: 0761065000

HOUSING DESIGN OFFICE
Tipperary County Council,
Civic Offices
Emmet Street,
Clonmel,
Co. TIPPERARY

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All rights reserved.
Licence number:
2021/10/CCMA/TipperaryCountyCouncil

email: housing@tipperarycoco.ie
web: www.tipperarycoco.ie

PROJECT:
Proposed interest to be disposed of at 7 Inis Oir, Clonmel, Co. Tipperary

DRAWING TITLE:
Site Map

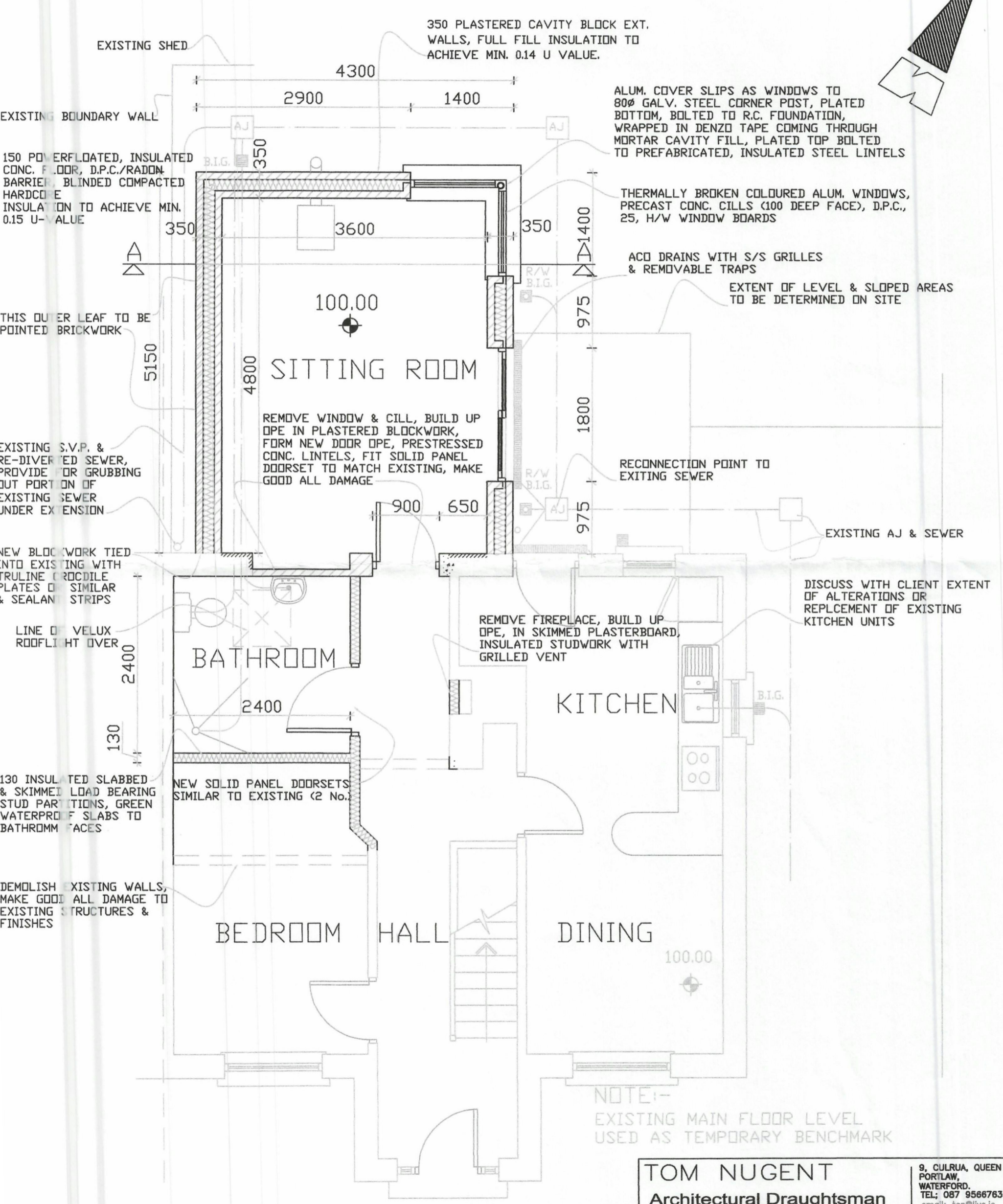
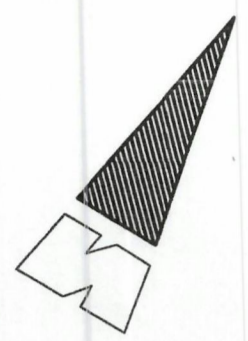
PREPARED BY: D. O' Dwyer	DRAWING NO: 1	SCALE: 1:1000	DATE: December 2022
APPROVED BY: J. Cooney	O'S MAP: 5429-10	TIPPERARY/0401 2. Showing/22. Planning Technical/28. Land Acquisition/23. Local Government/23/01/22 Inis Oir, Clonmel	

"NOTE":

OUTER LEAF OF SIDE WALL ADJACENT TO HOUSE No.8 TO BE OF POINTED BRICKWORK

NOTE

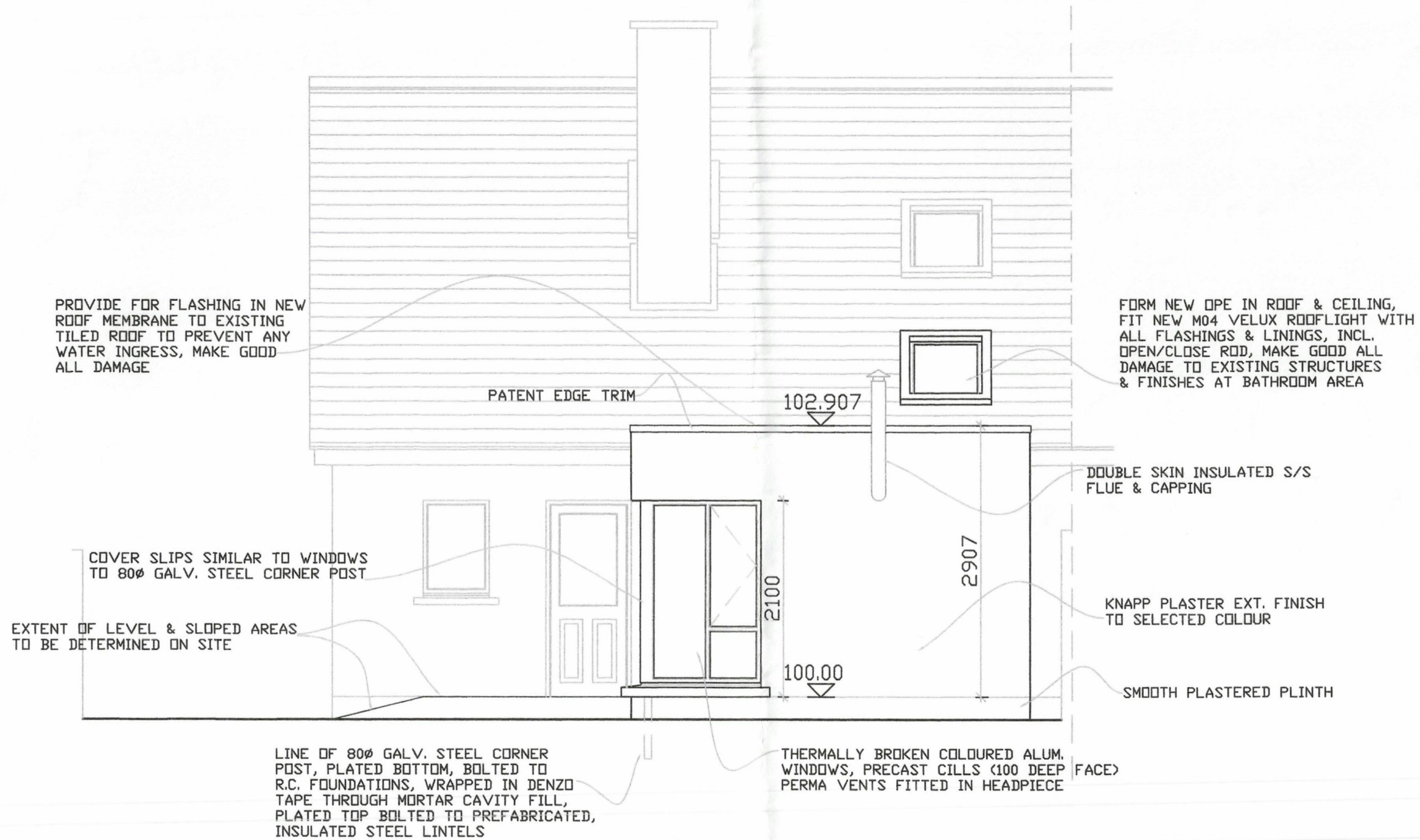
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GROUND FLOOR PLAN

NOTE:-
EXISTING MAIN FLOOR LEVEL
USED AS TEMPORARY BENCHMARK

TOM NUGENT Architectural Draughtsman		9, CULRUA, QUEEN ST., PORTLAW, WATERFORD. TEL: 087 9566763 email: tcn@live.ie	
PROPOSED EXTENSION & ALTERATIONS TO HOUSE AT 7, INIS OIR, CLONMEL, Co. TIPPERARY.	SCALE 1:50	STAGE ESTIMATION	
BRIAN & AMANDA KENNY	DRG.NO. E01A/23	DATE 03-11-2023	
GROUND FLOOR PLAN			

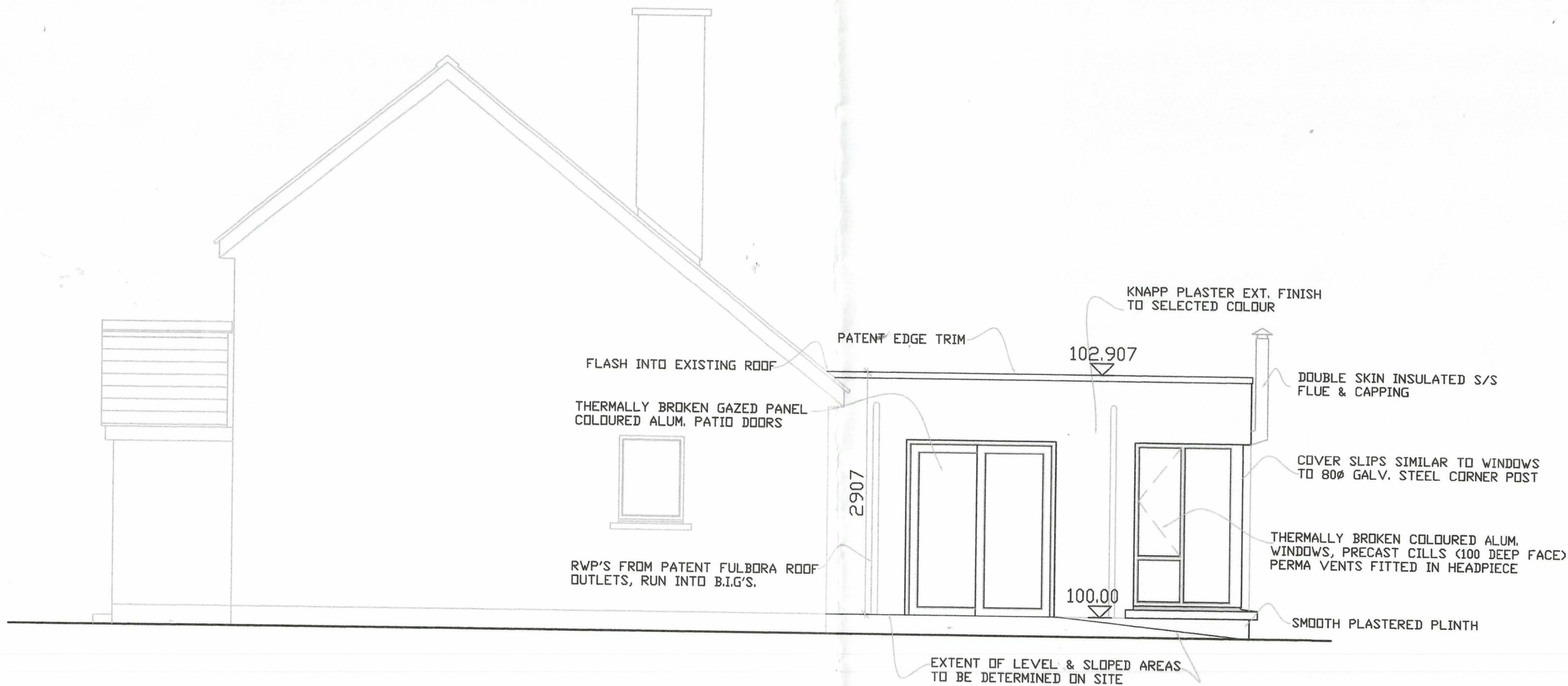


REAR ELEVATION (N.W.)

NOTE

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TOM NUGENT		9, CULRUA, QUEEN ST., PORTLAW, WATERFORD.
Architectural Draughtsman		TEL: 087 9566763 email: tcn@live.ie
PROPOSED EXTENSION & ALTERATIONS TO HOUSE AT 7, INIS OIR, CLONMEL, Co. TIPPERARY.	SCALE	1:50
BRIAN & AMANDA KENNY	STAGE	ESTIMATION
REAR ELEVATION	DRG.NO.	E02A/23
	DATE	03-11-2023



SIDE ELEVATION (N.E.)

NOTE

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TOM NUGENT		9, CULRUA, QUEEN ST., PORTLAW, WATERFORD, TEL: 087 9566763 email: tcn@live.ie
Architectural Draughtsman		
PROPOSED EXTENSION & ALTERATIONS TO	7, INIS OIR, CLONMEL, Co. TIPPERARY.	SCALE 1:50
BRIAN & AMANDA KENNY		STAGE ESTIMATION
SIDE ELEVATION		DRG.NO. E03A/23
		DATE 03-11-2023

SINGLE SKIN P.V.C. MEMBRANE & FLEECE, MIN. 100 HIGH DENSITY INSULATION, 20 WPB DECKING, 150 x 50 JOISTS @ 400 C/C, FIRRING PIECES, BRIDGING, PACKED INSULATION BETWEEN JOISTS, SKIM FINISHED INSULATED PLASTERBOARD CEILINGS. INSULATION TO ACHIEVE 0.12 U VALUE.

PATENT TRIM & PROPRIETARY INSULATED CAVITY CLOSER.

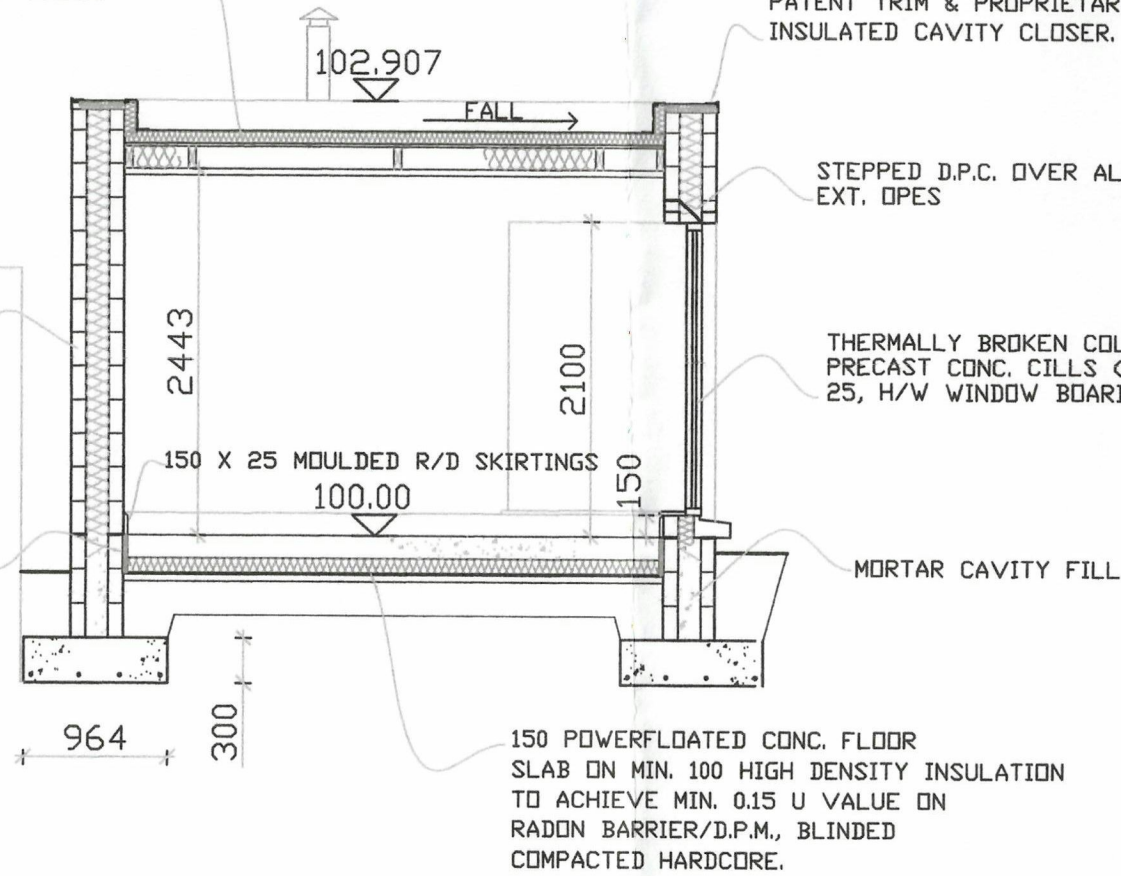
350 PLASTERED CAVITY BLOCK EXT. WALLS, FULL FILL INSULATION TO ACHIEVE MIN. 0.14 U VALUE. D.P.C., R.C. FOUNDATIONS

STEPPED D.P.C. OVER ALL EXT. OPES

30 POLYISO VERTICAL INSULATION AT PERIMETER WALLS

THERMALLY BROKEN COLOURED ALUM. WINDOWS, PRECAST CONC. CILLS (100 DEEP FACE), D.P.C., 25, H/W WINDOW BOARDS

MORTAR CAVITY FILL



SECTION AA

NOTE

THIS DRAWING AND ANY DESIGN HEREON IS THE COPYRIGHT OF THE ARCHITECT AND MUST NOT BE REPRODUCED WITHOUT THEIR WRITTEN CONSENT

TOM NUGENT		9, CULRUA, QUEEN ST., PORTLAW, WATERFORD. TEL: 087 9566763 email: tcn@live.ie	
PROPOSED EXTENSION & ALTERATIONS TO HOUSE AT 7, RING DR., CLONMEL, CO. TIPPERARY.	SCALE	1:50	
BRIAN & AMANDA KENNY	STAGE	ESTIMATION	
SECTION AA	DRG.NO.	E04A/23	
	DATE	03-11-2023	

TIPPERARY COUNTY COUNCIL

Application for Declaration under Section 5

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

Planning Ref.: S5/24/15

Applicant: Brian Kenny and Amanda Hackett Kenny

Development Address: 7 Inis Oir, Clonmel, Co. Tipperary

Proposed Development: Single storey extension to rear of dwelling.

1. GENERAL

On the 2nd of February 2024 a request was made for a declaration under Section 5 of the Planning and Development Act, 2000 as amended as to whether the following is “development” and “exempt development”:

- Convert an existing living room into a wetroom and construct a single storey rear extension.

2. STATUTORY PROVISION

The following statutory provisions are relevant to this referral case;

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

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

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

“works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

Section 4(1)(h) of the Act considers 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; to be exempted development.

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

Exempted Development.

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

Schedule 2, Part 1 'Exempted Development - General:

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

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

Conditions and Limitations

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

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

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

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

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

(c) The height of the highest part of the roof of any such extension shall not exceed, in the case of a flat roofed extension, the height of the eaves or parapet, as may be appropriate, or, in any other case, shall not exceed the height of the highest part of the roof of the dwelling.

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

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

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

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

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

Article 9 (1) (a) of the Planning and Development Regulations 2001, as amended sets out the instances where development, to which Article 6 relates, shall not be exempted development for the purposes of the Act.

3. ASSESSMENT

a. Site Location

The site comprises a semi- detached dwelling at 7 Inis Oir, Clonmel Co. Tipperary

b. Relevant Planning History

None recorded

Figure 1 Planning history



c. Assessment

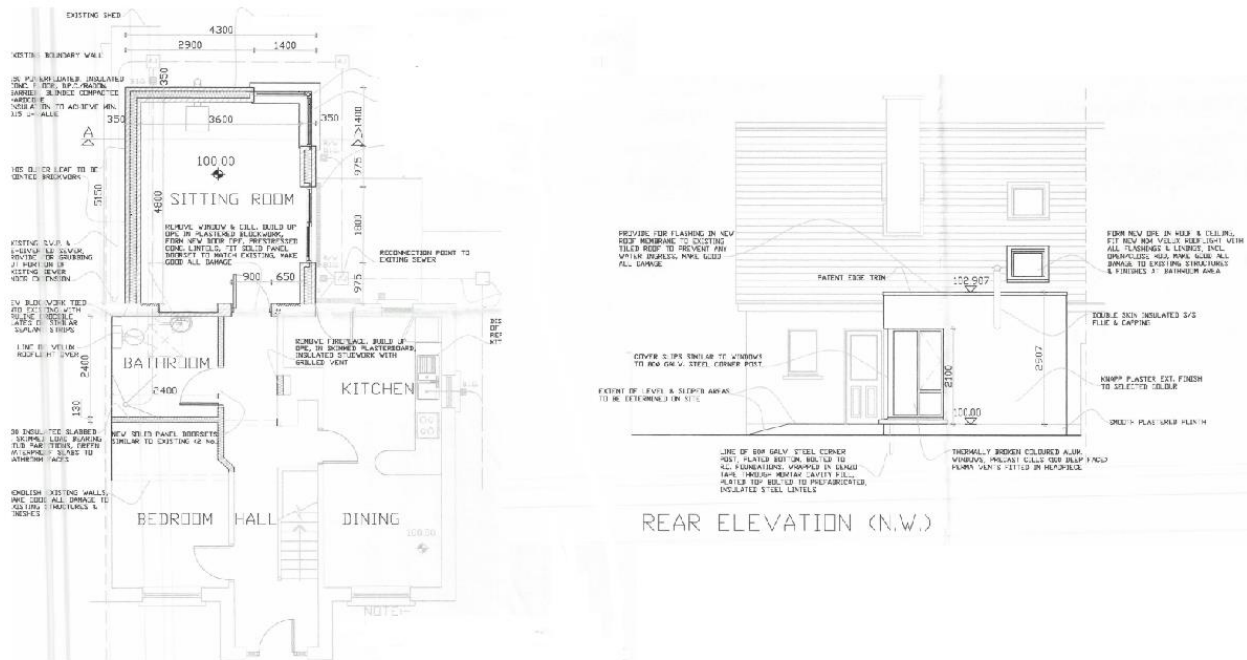
A) "Is or is not Development"

It is considered that the above listed proposals constitute "works" as understood by the Planning and Development Act 2000, as amended. The above listed proposals therefore constitute "development" within the meaning of the Planning and Development Act 2000, as amended.

B) "Is or is not Exempted Development"

The works proposed comprise of internal modifications and the construction of a small extension to the rear of the property.

Figure 2 floor plans and side elevations



The extension will provide 18 sqms of additional floor space.

Condition 4 associated with Class 1 of this exempted development provision notes that

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.

As illustrated in figure 2 above, the rear wall of the extension exceeds, albeit marginally, the height of the rear wall of the house.

C) Restrictions under Article 9

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

D) Requirement for Appropriate Assessment (AA) and Environmental Impact Assessment (EIA)

The subject site is located c. 800ms from the Lower River Suir SAC, 10 kms from the Nier Valley Woodlands SAC and c. 11.3 kms from The Comeragh Mountains SAC.

The proposed development is located within the curtilage of a residential dwelling and comprises of domestic extension to the rear of the property

Having regard to:

- the small scale nature of the development,
- the location of the development relevant to the closest European site (lower River Suir,
- The intervening land uses between the subject site and the SAC's referenced above and
- the consequent absence of a direct pathway to these European sites,

it is considered that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on the Natura 2000 network and appropriate assessment is not therefore required.

The proposed development has been subject to a preliminary examination to determine the requirement for EIA. EIA is not required in respect of the development. See attached.

4. RECOMMENDATION

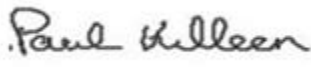
Having regard to:

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

Tipperary County Council has concluded that the proposal presented on the drawings and details provided with the Declaration application, constitutes “development” within the meaning of the Planning and Development Act 2000, and is **not** “exempted development” for the following reasons

- The height of the rear wall of the extension exceeds the height of the rear wall of the house and therefore condition 4(a) of Part 1, Class 1, of Schedule 2 Planning and Development Regulations 2001, as amended, is not satisfied.

The development would not be likely to have significant effects on the environment and would not require an EIA.

Signed: 
District planner

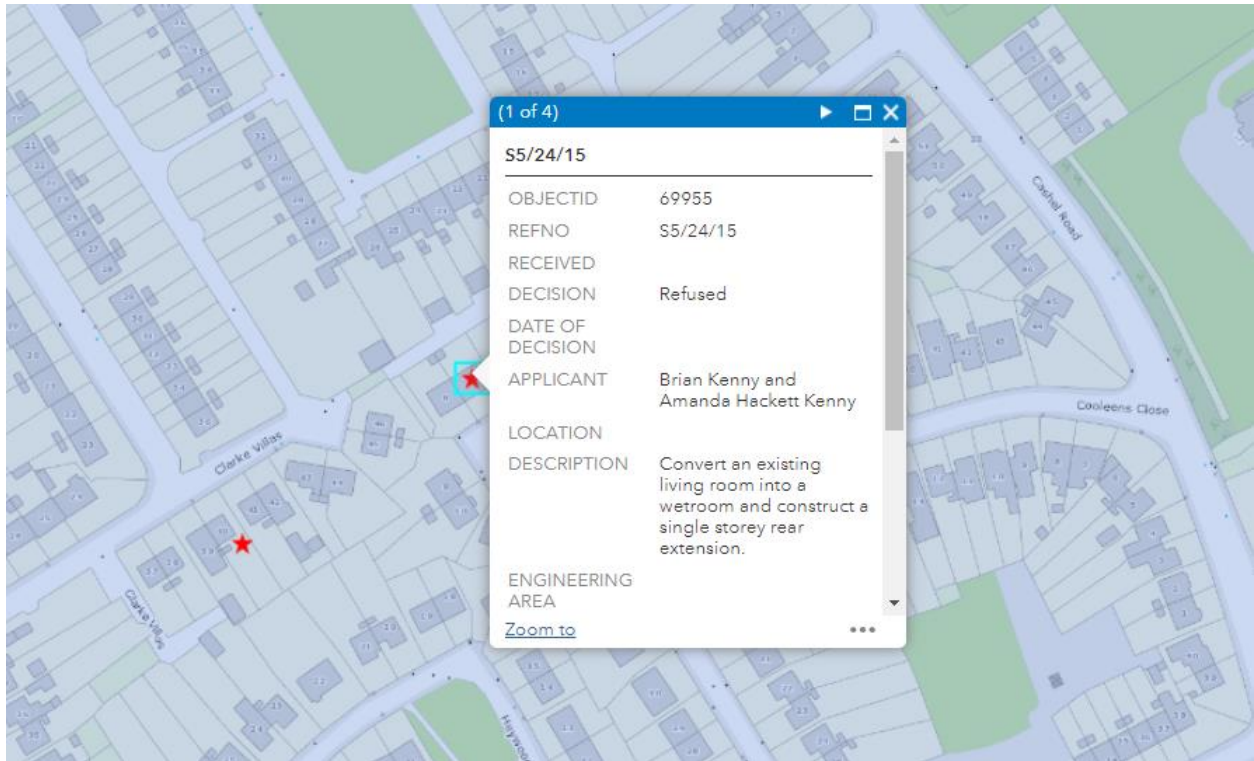
Date: 26/02/24

Signed: 
Senior Executive Planner

Date: 27.02.2024

EIA Pre-Screening	
Establishing a development is a 'sub-threshold development'	
File Reference:	S5/24/15
Development Summary:	Domestic extension
Was a Screening Determination carried out under Section 176A-C?	<input type="checkbox"/> Yes, no further action required <input checked="" type="checkbox"/> 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)	
<input type="checkbox"/> Yes, specify class _____	EIA is mandatory No Screening required
<input checked="" type="checkbox"/> 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)	
<input checked="" type="checkbox"/> No, the development is not a project listed in Schedule 5, Part 2	No Screening required
<input type="checkbox"/> 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
<input type="checkbox"/> Yes the project is of a type listed but is <i>sub-threshold</i> : _____	Proceed to Part C
C. If Yes , has Schedule 7A information/screening report been submitted?	
<input type="checkbox"/> Yes, Schedule 7A information/screening report has been submitted by the applicant	Screening Determination required
<input type="checkbox"/> No, Schedule 7A information/screening report has not been submitted by the applicant	Preliminary Examination required

Figure 3 Site entered on Planning register



Original

TIPPERARY COUNTY COUNCIL

DELEGATED EMPLOYEE'S ORDER

File Ref: **S5/24/15** **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 Brian Kenny & Amanda Hackett Kenny, 7 Inis Oir, Cashel Road, Clonmel, Co. Tipperary, re: Single storey extension to rear of dwelling at 7 Inis Oir, Clonmel, Co. Tipperary is development and is exempted development.

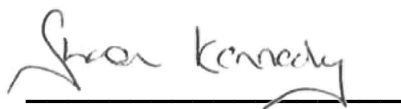
AND WHEREAS Tipperary County Council, in considering this referral, had regard particularly to –

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

Tipperary County Council has concluded that the proposal presented on the drawings and details provided with the Declaration application, **constitutes "development"** within the meaning of the Planning and Development Act 2000, **and is not "exempted development"** for the following reasons

- The height of the rear wall of the extension exceeds the height of the rear wall of the house and therefore condition 4(a) of Part 1, Class 1, of Schedule 2 Planning and Development Regulations 2001, as amended, is not satisfied.

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: 28/02/2024



Date: 28 February 2024

Our Ref: S5/24/15

Civic Offices, Nenagh

**Brian Kenny &
Amanda Hackett Kenny,
7 Inis Oir,
Cashel Road,
Clonmel, Co. Tipperary.**

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 2nd February 2024, in relation to the following proposed works:

Single storey extension to rear of dwelling at 7 Inis Oir, Clonmel, 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 –

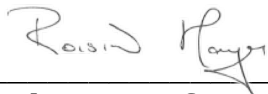
- (a) Sections 2, 3 & 4 of the Planning and Development Act 2000, as amended,
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Tipperary County Council has concluded that the proposal presented on the drawings and details provided with the Declaration application, **constitutes "development"** within the meaning of the Planning and Development Act 2000, **and is not "exempted development"** for the following reasons

- The height of the rear wall of the extension exceeds the height of the rear wall of the house and therefore condition 4(a) of Part 1, Class 1, of Schedule 2 Planning and Development Regulations 2001, as amended, is not satisfied.

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**