

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.)

| | |
|---|-------------------------|
| In order to proceed with the sale of my property, I wish for the Council to declare | |
| that the extension constructed in 2004/05 to the rear of this dwelling, and the | |
| conversion of the attic space for storage, satisfies exempted development under | |
| the Planning & Development Act/ Regulations. | |
| Ground floor area = 11sqm, 1st floor extension = 11sqm. | Attic storage = 16.5sqm |
| Uses; Kitchen at g.floor/ Bedroom & Bathroom at 1st Floor/ Attic Storage. | |
| Proposed floor area of proposed 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 structure | A. Owner I am the Owner. | B. Occupier Property is Rented |
| | 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) Michael O Sullivan Date: 20 Feb 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

| |
|-----------------------------------|
| <u>DATE STAMP</u> |
| Fee Recd. € <u>80.00</u> |
| Receipt No <u>NENAM1/0/117936</u> |
| Date <u>26/02/24</u> |
| Received by <u>N.L</u> |

Property at; No.1 Ormond Street, Nenagh,
Co Tipperary
Dwg No.01

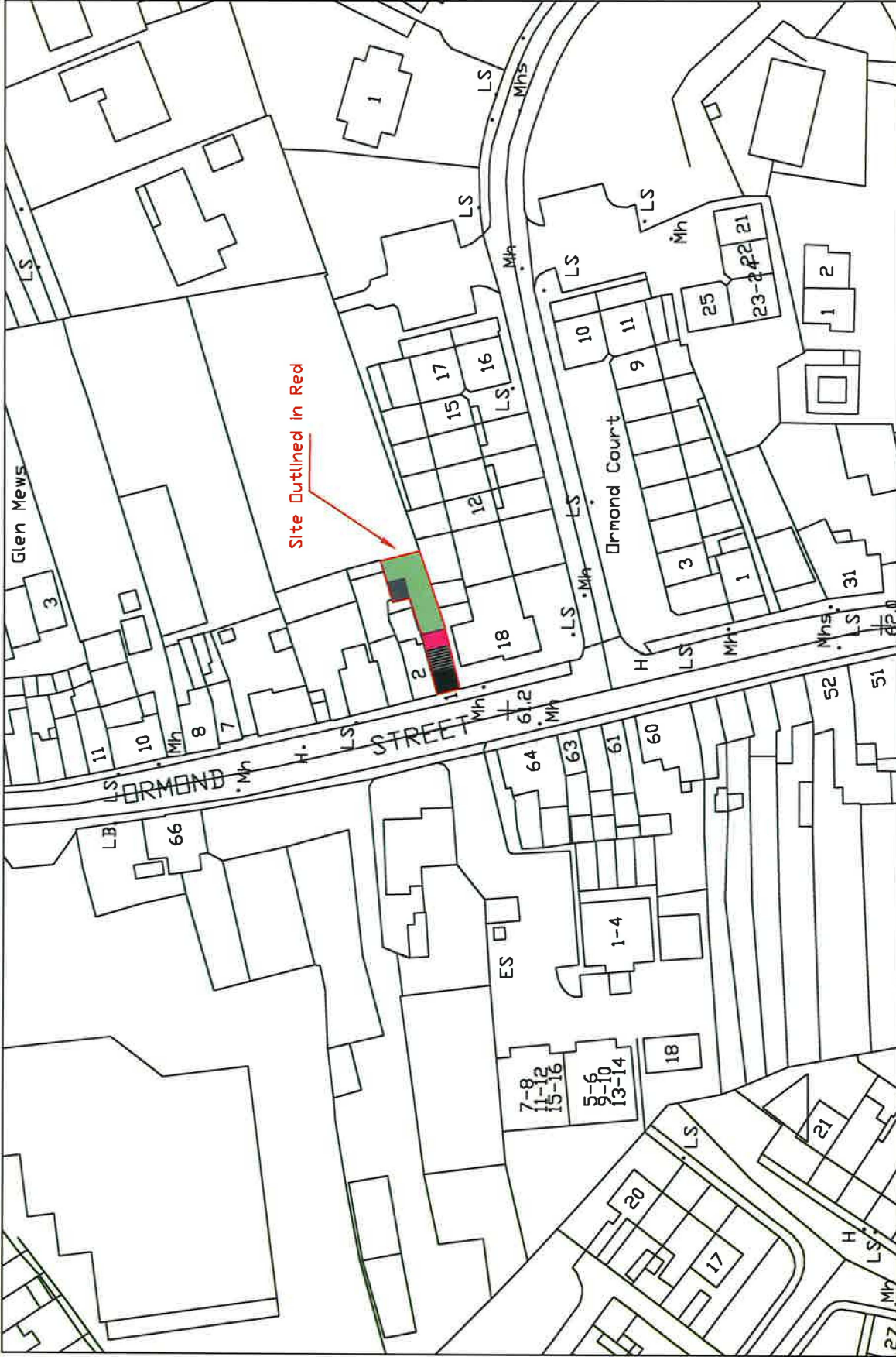
586705

679791

SITE LOCATION MAP

D.S. No. 4277

586937
679791



679637
586937

Scale 1/1000
DATE 26/01/2024

AREA OUTLINED RED = 0.012Ha

679637
586705

SITE LAYOUT MAP

Property at; No.1 Ormond Street, Nenagh, Co Tipperary.





Scale; 1:250

Date; 26/01/2024

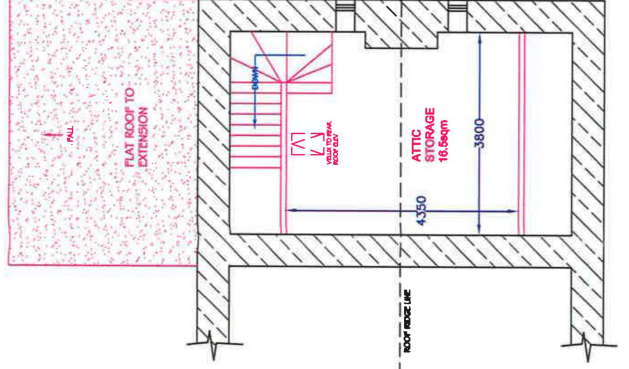
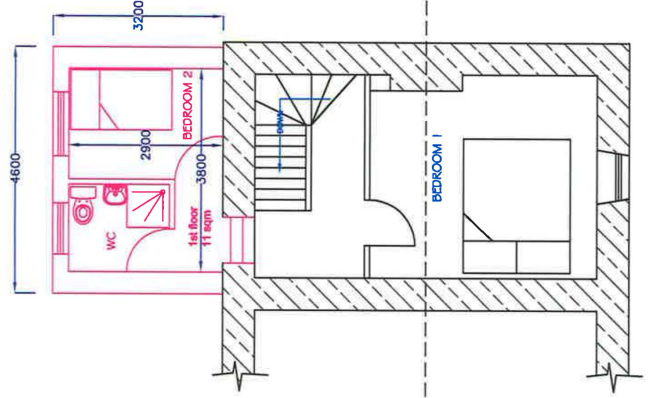
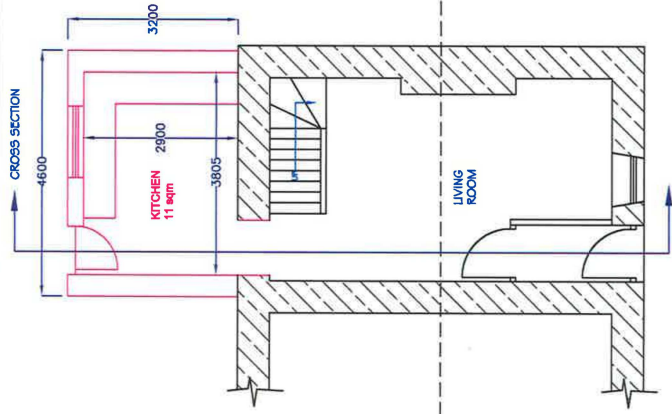
Drawn; MOS

Dwg No. 02

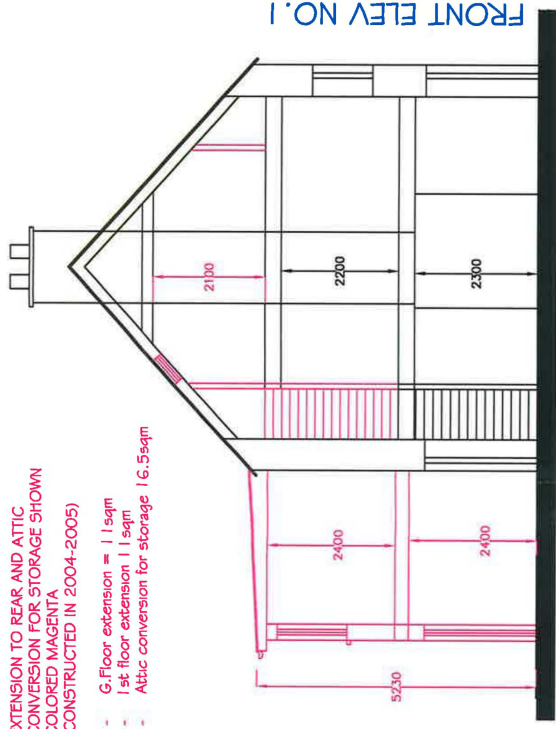
DRAWING LEGEND

-  Rear garden open space, 69sqm
-  Rear garden shed; 10sqm
-  Rear extension, 11 + 11 (22sqm)
-  Existing Dwelling,





- EXTENSION TO REAR AND ATTIC CONVERSION FOR STORAGE SHOWN COLORED MAGENTA (CONSTRUCTED IN 2004-2005)
- G-Floor extension = 11 sqm
 - 1st floor extension 11 sqm
 - Attic conversion for storage 16.5sqm

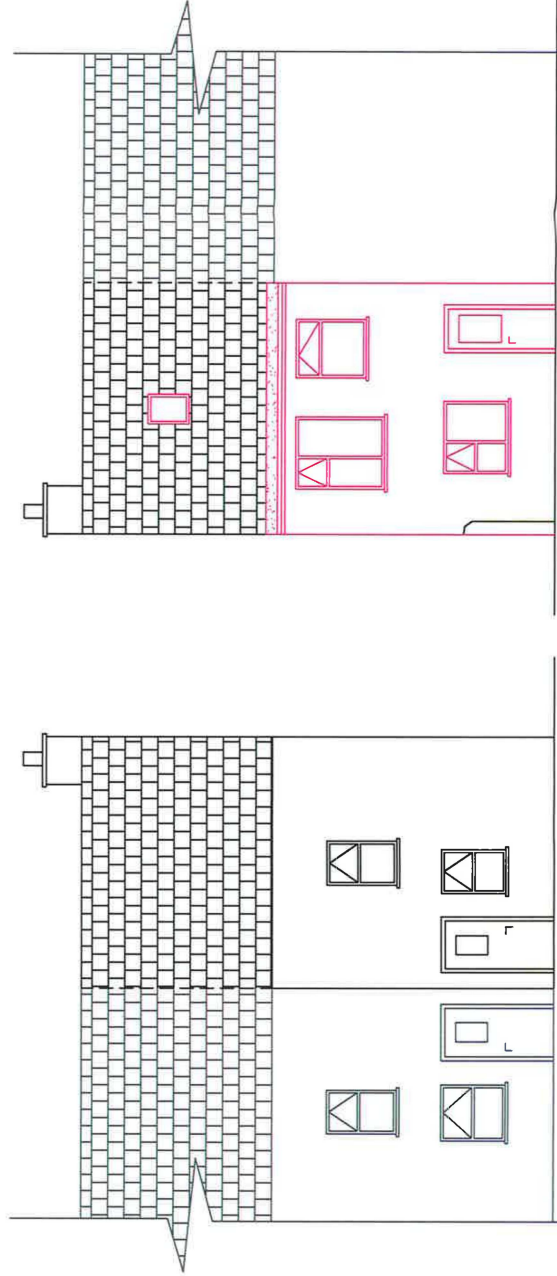


GROUND FLOOR

FIRST FLOOR

ATTIC FLOOR

CROSS SECTION



FRONT ELEV NO. 1

REAR ELEV NO. 1

SIDE ELEV NO. 1

No.1 Ormond Street, Nenagh, Co Tipperary

| | | |
|------------|------------------------------|--------|
| Drawn by: | Dimensions: | Title: |
| M.O.S | as dimensions in mm | |
| Date: | Plans, Elevations & Sections | |
| 26/01/2024 | Drawing No.: | |
| Scale: | -03 | |
| 1:100 | Sheet: | |

No.1 Ormond Street, Nenagh, Co Tipperary, E45XT78

Front Elevation;



Rear Elevation;



TIPPERARY COUNTY COUNCIL

Application for Declaration under Section 5

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

Planning Ref.: S5/24/26

Applicant: Michael O'Sullivan

Development Address: 1 Ormond Street, Nenagh, Co. Tipperary

Proposed Development: Whether the as-built rear extension and attic conversion meet planning exemptions

1. GENERAL

On the 26th of February 2024, a request was made for a declaration under Section 5 of the Planning and Development Act, 2000 as amended in respect of the following development at 1 Ormond Street, Nenagh, Co. Tipperary:

- As-built rear extension sized 22 sq m (11 sq m at ground and first floor).
- Conversion of attic to storage (16.5 sq m)

The drawings submitted with the declaration show the rear extension to have a flat roof. The attic is served by a velux window located in the rear roof plane of the dwelling.

I contacted the applicant on 19/3/2024 and same advised the works to which the declaration relates were carried out in 2005.

2. 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(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 1 of Part 1 of Schedule 2 of the Planning and Development Regulations reads as follows:

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 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 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 previously 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 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 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 levels 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.

3. ASSESSMENT

a. **Site Location** – The site is located at 1 Ormond Street, Nenagh, Co. Tipperary

b. **Relevant Planning History** –

9522614-Grant of permission for change use of existing dwelling house to 2 no. apartments

C. Assessment

There are 2 elements to the proposal that will be examined separately:

- As-built rear extension sized 22 sq m (11 sq m at ground and first floor).
- Conversion of attic to storage (16.5 sq m)

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 both proposals constitute *development* as same involve the carrying out of works.

B) "Is or is not Exempted Development"

Based on the information provided by the applicant that the works were undertaken in 2005 the planning exemption outlined under Class 1, Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended apply. The extension fails to satisfy Condition 3 attached to the Class 1 exemption. Condition 3 states:

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

In the subject case the extension is less than 2 metres from the party boundaries to the site.

Regarding the conversion of the attic, development of serving attic stairs and installation of a velux window I note same is to be used for storage space. I consider its conversion and use as storage space and installation of a velux window in the rear roof place would come within the planning exemptions provided under Section 4(1)(h) of the Planning and Development Act 2000, as amended. I note An Brd Pleanala deemed an attic conversion under ABP-302774-18 as exempted development and same has similar characteristics to that proposed.

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

I note no restrictions under Article 9 of the Planning and Regulations that would apply.

Appropriate Assessment (AA):

The subject site is located 9km from the Lough Derg, North-east Shore SAC and over 15k from the Lower River Shannon SAC.

The proposed development is located within an established urban area with public water supply and drainage services.

Having regard to:

- the small scale and domestic nature of the development,
- the location of the development in a serviced urban area,
- the consequent absence of a pathway to the European site,

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.

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.

4. RECOMMENDATION

A question has arisen as to whether the proposed development at 1 Ormond Street, Co. Tipperary is or is not exempted development:

Whether the as-built rear extension and attic conversion meet planning exemptions

Tipperary County Council, in considering this proposal has had regard to:

- 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,
- Schedule 2, Part 1 Class 1 of the Planning and Development Regulations 2001 as amended.
- The declaration application and supporting information.
- The Planning History of the site.

Tipperary County Council has concluded that the *as-built rear extension* is development and is **not exempted development**. The proposal fails to satisfy condition / limitation 3 of Class 1 which stipulates that any above ground extension shall be a distance of not less than 2 metres from any party boundary.

Tipperary County Council has concluded that the *converted attic and serving velux window* is development and is exempted development.

A/Senior Executive Planner:

Jonathan Flood

Date: 19/3/2024

A/Senior Planner:

Antonia Dwyer

Date: 20/3/2024

| EIA PRE-SCREENING | |
|--|--|
| Establishing a development is a 'sub-threshold development' | |
| File Reference: | S5/24/26 |
| Development Summary: | See Planners Report for development description |
| 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 |

Original

TIPPERARY COUNTY COUNCIL

DELEGATED EMPLOYEE'S ORDER

File Ref: **S5/24/26** **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. 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 Michael O'Sullivan, No. 35 The Haven, Millersbrook, Nenagh, Co. Tipperary, re: extension to rear of dwelling and attic conversion at No. 1 Ormond Street, Nenagh, Co. Tipperary, E45 E372, is development.

AND WHEREAS 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) Articles, 6 and 9 of the Planning and Development Regulations 2001, as amended,
- c) Schedule 2, Part 1 Class 1 of the Planning and Development Regulations 2001 as amended.
- d) The declaration application and supporting information.
- e) The Planning History of the site.

Tipperary County Council has concluded that the as-built rear extension is development and **is not exempted development**. The proposal fails to satisfy condition / limitation 3 of Class 1 which stipulates that any above ground extension shall be a distance of not less than 2 metres from any party boundary.

Tipperary County Council has concluded that the converted attic and serving velux window is development and **is exempted development**.

Signed:



Date: 20/03/2024

Sharon Kennedy
Director of Services
Planning and Development (including Town Centre First),
Emergency Services and Emergency Planning and
Tipperary/Cahir/Cashel Municipal District



Comhairle Contae Thiobraid Árann
Tipperary County Council

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

Comhairle Contae
Thiobraid Árann,
Oifigí Cathartha,
An tAonach,
Co. Thiobraid Árann
Tipperary County Council,
Civic Offices, Nenagh,
Co. Tipperary
E45 A099

t 0818 06 5000
e customerservice
@tipperarycoco.ie
tipperarycoco.ie

Date: 20th March 2024

Our Ref: S5/24/26

Civic Offices, Nenagh

Michael O'Sullivan,
No. 35 The Haven,
Millersbrook,
Nenagh, Co. Tipperary

SCANNED

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 26th January, and 29th February, 2024, in relation to the following proposed works:

extension to rear of dwelling and attic conversion at No. 1 Ormond Street, Nenagh, Co. Tipperary, E45 E372

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 and 4 of the Planning and Development Act, 2000, as amended,
- b) Articles, 6 and 9 of the Planning and Development Regulations 2001, as amended,
- c) Schedule 2, Part 1 Class 1 of the Planning and Development Regulations 2001 as amended.
- d) The declaration application and supporting information.
- e) The Planning History of the site.

AND WHEREAS Tipperary County Council has concluded the as-built rear extension is development and **is not exempted development**. The proposal fails to satisfy condition / limitation 3 of Class 1 which stipulates that any above ground extension shall be a distance of not less than 2 metres from any party boundary.

(2)

Tipperary County Council has concluded that the converted attic and serving velux window is development and **is 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


for **Director of Services**