





**GUIDANCE NOTES**

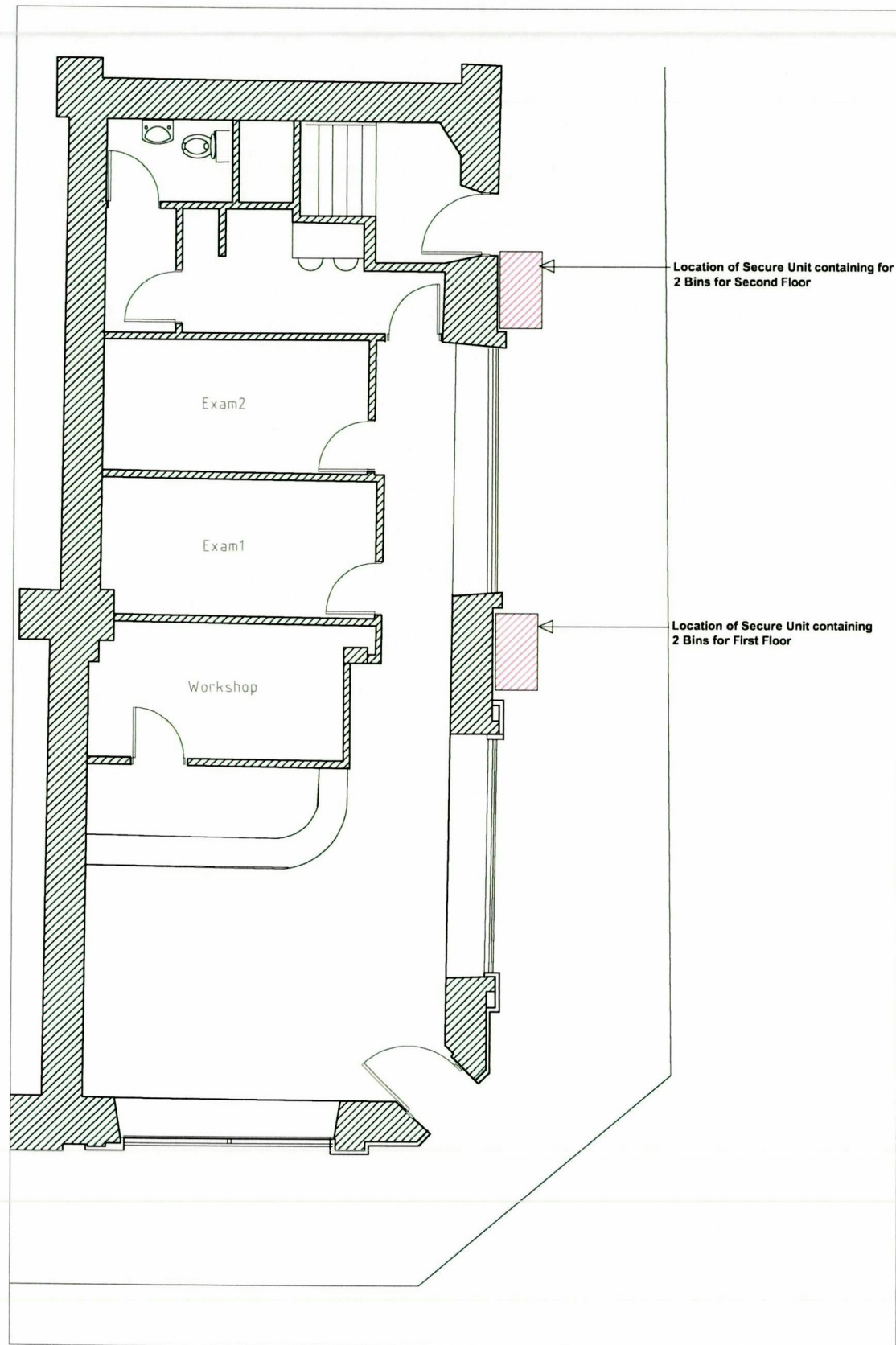
- (1) All queries on the form must be completed and the form must be accompanied by the relevant fee. The amount of the fee is currently **€80.00**.
- (2) This application should be accompanied by **TWO COPIES** of the following documentation
- OSI Site Location Map with the site outlined clearly – 1:1000 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:**

<b>Planning Section, Tipperary County Council, Civic Offices, Limerick Road, Nenagh, Co. Tipperary</b>	<b><u>OR</u></b>	<b>Planning Section, Tipperary County Council, Civic Offices, Emmet Street, Clonmel, Co. Tipperary</b>
<b>Enquires:</b>		
<b>Telephone 0761 06 5000</b>		
<b>E-Mail <a href="mailto:planning@tipperarycoco.ie">planning@tipperarycoco.ie</a></b>		

<b>FOR OFFICE USE ONLY</b>
<b><u>DATE STAMP</u></b>
<b>Fee Recd. €</b> _____
Receipt No _____
Date _____
Received by _____

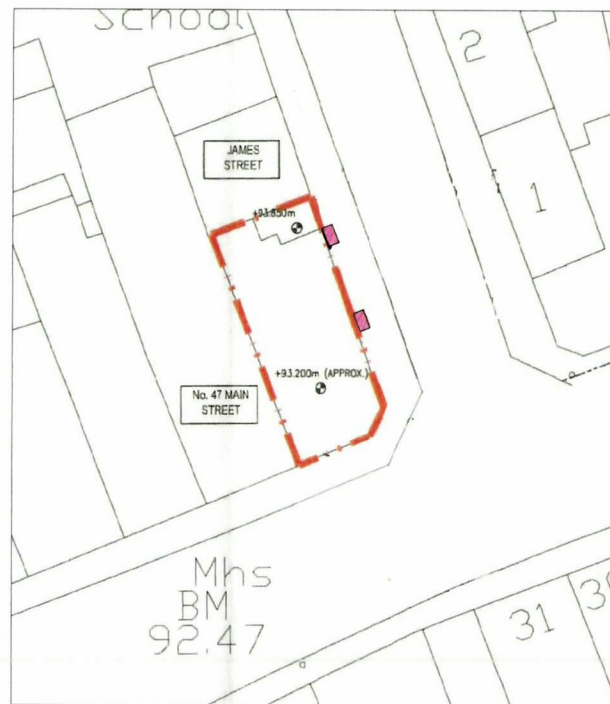
**Sketch Only**



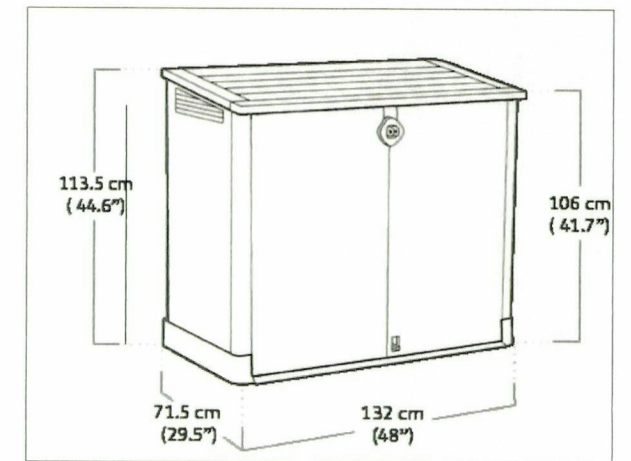
**Plan Showing Location of Bins Scale 1:50**



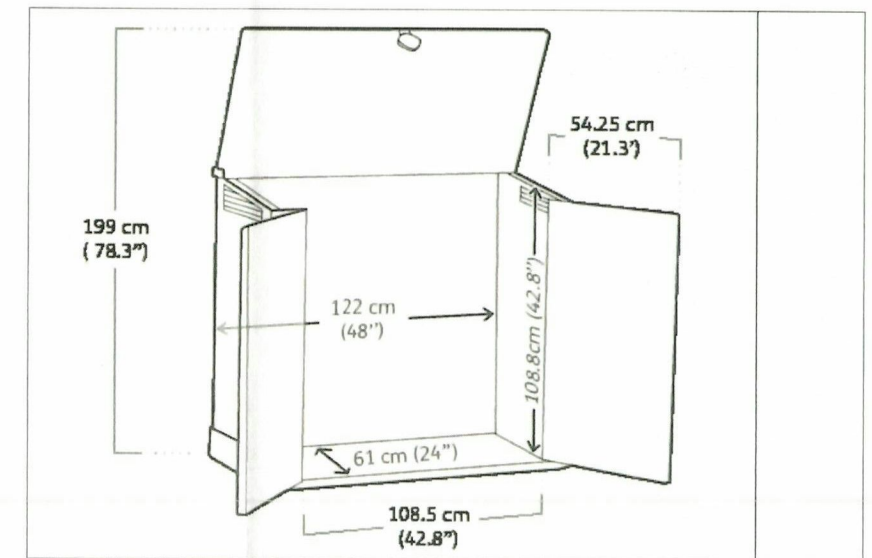
**Elevation Showing Location of Bins Store Scale 1:100**



**Site Layout Map Showing Location of Bins Scale 1:250**



**Axonometric showing unit for bins**



**Axonometric opened out showing unit for bins**



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,  
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e customerservice  
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[tipperarycoco.ie](http://tipperarycoco.ie)

Our Ref: S5/24/17

Date: 19<sup>th</sup> February 2024

Civic Offices, Clonmel

**Mr Reece St John**  
**No 3 Matthew Avenue**  
**Thurles**  
**Co. Tipperary.**

**Re: Application for a Section 5 Declaration – New bin storage at 48  
Main Street, Tipperary Town, Co Tipperary.**

Dear Mr St. John,

I acknowledge receipt of your application for a Section 5 Declaration received on 13<sup>th</sup> 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

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for **Director of Services**

TIPPERARY COUNTY COUNCIL

**Application for Declaration under Section 5**

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

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**Planning Reference:** S5/24/17  
**Applicant:** Mr Reece St John  
**Development Address:** 48 Main Street, Tipperary Town, Co. Tipperary  
**Proposed Development:** Bin Storage

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**1. GENERAL**

On the 13<sup>th</sup> February 2024, a request was made for a declaration under Section 5 of the Planning and Development Act, 2000 as amended in the name of Mr. Reece St John as to whether or not the following constitutes development and if so, whether same constitutes exempted development at 48 Main Street, Tipperary Town, Co. Tipperary.

***Bin Storage***

The application is accompanied by:

- Section 5 Declaration Application Form.
- Site Location Map, Layout Plans, Plans and Elevations

**2. STATUTORY PROVISIONS**

The following statutory provisions are relevant to this referral case;

**Planning and Development Act 2000, as amended**

Section 2(1) of the Planning and Development Act, 2000, as amended, states as follows;

*“In this Act, except where the context otherwise requires – “development” has the meaning assigned to it by Section 3 and development shall be construed accordingly.*

And,

*“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”.*

And,

*“structure” means any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined, and—*

*(a) where the context so admits, includes the land on, in or under which the structure is situate, and*

*(b) in relation to a protected structure or proposed protected structure, includes—*

*(i) the interior of the structure,*

*(ii) the land lying within the curtilage of the structure,*

*(iii) any other structures lying within that curtilage and their interiors, and*

(iv) all fixtures and features which form part of the interior or exterior of any structure or structures referred to in subparagraph (i) or (iii);

Section 3(1) of the Planning and Development Act 2000, as amended, defined “development” 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(2)(a) of the Planning and Development Act 2000, as amended, 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) of the Planning and Development Act 2000, as amended, states as follows:-

*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.*

### **Planning and Development Regulations 2001 (as amended)**

Article 6 (1) of the Planning and Development Regulations 2001, as amended, states;

*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.*

There are no provisions of relevance in the Regulations for this Section 5 case.

### **3. ASSESSMENT**

#### **a. Site Location**

The site comprises of the existing options part of a corner building 48 Main Street in the settlement of Tipperary Town (Development fronting onto James Street).

#### **b. Planning History**

**11581879** Permission GRANTED to Mr. Reece St. John to carry out elevational alterations to include installation of new selected cut stone cladding, new access door, signage and all associated site works at 48 Main Street, the building being located in an Architectural Conservation Area.

**08581791** Permission GRANTED to change the use of the ground storey from shop to betting office, and ancillary accommodation

**c. Assessment**

The question posed under the Section 5 Declaration application is rephrased as whether the construction of a refuse bin storage area is or is not development and is or is not exempted development.

A) “Is or is not Development”

Having considered all of the details and documentation on file with regards the question asked the I am satisfied that the proposal would involve “works” and such works would constitute enclosed storage which is therefore a “structure” on land. I therefore consider the proposal is “development” within the meaning of Section 3 of the Act.

B) “Is or is not Exempted Development”

For clarity as part of the assessment of this case, I refer to previous relevant precedent cases decided by An Bord Pleanála (ABP) which are relevant to the question posed and to make an informed assessment of this proposal noting that no similar cases have been assessed by Tipperary County Council.

Following an examination of these cases, they related to either the hard standing area for storage of bins or bin storage;

- ABP-313420-22 (RL29N.313420)
- ABP-310420-21 (RL06D.310420)

Under ABP-310420-21 (RL06D.310420) the referrer sought an answer as to whether the creation of hard standing area for the storage of refuse bins is or is not development and is or is not exempted development. The Inspector concluded that the laying out of a hard standing on an area previously in use for open space was considered to be works and a change of use and there being no provision in the Planning and Development Act 2000, as amended or the Planning and Development Regulations 2001, as amended to render the development to be exempted.

Under ABP-313420-22 (RL29N.313420) it was determined that bin store area over car park spaces comprised both works and a material change of use of the land. It was concluded are no provisions under the Planning and Development Act 2000, as amended and/ or the Planning and Development Regulations 2001, as amended which would render the development to be exempted development and was therefore not considered exempted.

It is noted above that this proposal while smaller is scale entails a material change of use from taking up part of an existing public footpath to the permanent storage of waste bins and is therefore considered to be development and not exempted development.

It is also noteworthy that following a review of the land registry, that the proposal would reduce the width of the public footpath in the area and the applicant has not included a letter of consent for same.

C) Restrictions under Article 9

No restrictions relevant.

D) Requirement for Appropriate Assessment and Environmental Impact Assessment

**AA**

Screening for AA is not required in respect of the proposal which is not considered to constitute development.

**EIA**

Screening for EIA is not required in respect of the proposal which is not considered to constitute development.



#### 4. RECOMMENDATION

**WHEREAS** a question has arisen as to whether the construction of a refuse bin storage area at 48 Main Street, Tipperary Town, Co. Tipperary is development and 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) An Bord Pleanála declarations ABP-313420-22 (RL29N.313420) and ABP-310420-21 (RL06D.310420),
- (c) The documents submitted with the declaration application,
- (d) The layout of development on the site and the pattern of development in the area

**AND WHEREAS** Tipperary County Council has concluded that –

The development consisting of the construction of a refuse bin storage area is works and development as defined under the Planning and Development Act 2000, as amended. The proposal is not exempted development as it DOES NOT fall under the exempted development provisions as set out under Section 4 of the Planning and Development Act 2000, as amended or the Planning and Development Regulations 2001, as amended.

**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 construction of a refuse bin storage is development and **IS NOT** exempted development.

District Planner



Date: 07/03/2024

Senior Executive Planner



Date: 07.03.2024

## HABITATS DIRECTIVE APPROPRIATE ASSESSMENT (AA) SCREENING REPORT

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

(a) File Reference No:	S5/24/17
(b) Brief description of the project or plan:	Bin storage
(c) Brief description of site characteristics:	Existing business at 48 Main Street, Tipperary Town, Co. Tipperary
(d) Relevant prescribed bodies consulted: e.g. DHLGH (NPWS), EPA, OPW	None
(e) Response to consultation:	None

### 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 <sup>1</sup>	Distance from proposed development <sup>2</sup> (km)	Connections (Source-Pathway-Receptor)	Considered further in screening Y/N
002137 Lower River Suir	<a href="https://www.npws.ie/protected-sites/sac/002137">https://www.npws.ie/protected-sites/sac/002137</a>	Within 15km	None	No

### 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.)
<b>Construction phase e.g.</b> <ul style="list-style-type: none"> <li>• Vegetation clearance</li> <li>• Demolition</li> <li>• Surface water runoff from soil excavation/infill/landscaping (including borrow pits)</li> <li>• Dust, noise, vibration</li> <li>• Lighting disturbance</li> <li>• Impact on groundwater/dewatering</li> <li>• Storage of excavated/construction materials</li> <li>• Access to site</li> <li>• Pests</li> </ul>	No potential impacts
<b>Operational phase e.g.</b> <ul style="list-style-type: none"> <li>• Direct emission to air and water</li> <li>• Surface water runoff containing contaminant or sediment</li> <li>• Lighting disturbance</li> <li>• Noise/vibration</li> <li>• Changes to water/groundwater due to drainage or abstraction</li> <li>• Presence of people, vehicles and activities</li> <li>• Physical presence of structures (e.g. collision risks)</li> </ul>	No potential impacts

<ul style="list-style-type: none"> <li>Potential for accidents or incidents</li> </ul>	
In-combination/Other	No potential impacts
<b>(b) Describe any likely changes to the European site:</b>	
<p>Examples of the type of changes to give consideration to include:</p> <ul style="list-style-type: none"> <li>Reduction or fragmentation of habitat area</li> <li>Disturbance to QI species</li> <li>Habitat or species fragmentation</li> <li>Reduction or fragmentation in species density</li> <li>Changes in key indicators of conservation status value (water or air quality etc.)</li> <li>Changes to areas of sensitivity or threats to QI</li> <li>Interference with the key relationships that define the structure or ecological function of the site</li> </ul>	No potential impacts
<b>(c) Are 'mitigation' measures necessary to reach a conclusion that likely significant effects can be ruled out at screening?</b>	
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

### STEP 4. Screening Determination Statement

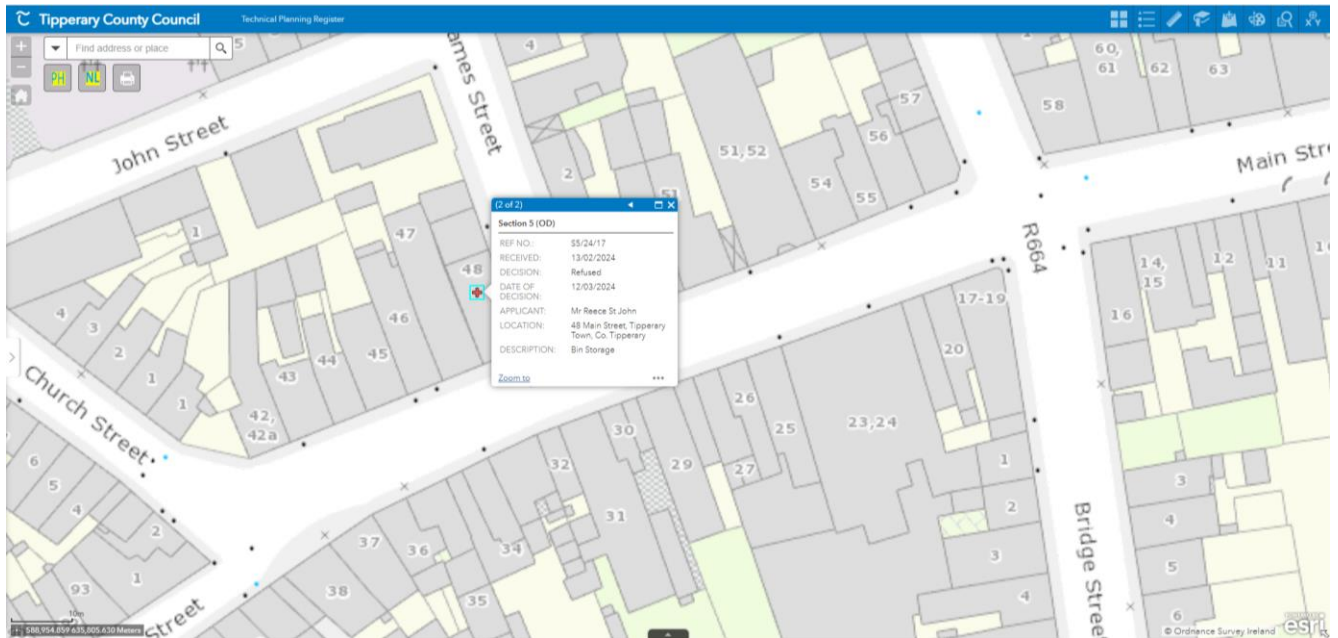
**The assessment of significance of effects:**  
 Describe how the proposed development (alone or in-combination) is/is **not likely** to have **significant** effects on European site(s) in view of its conservation objectives.

The proposed development is not likely to have significant effects.

**Conclusion:**

	Tick as Appropriate:	Recommendation:
(i) It is clear that there is <b>no likelihood</b> of significant effects on a European site.	<input checked="" type="checkbox"/>	The proposal can be screened out: Appropriate assessment not required.
(ii) It is <b>uncertain</b> whether the proposal will have a significant effect on a European site.	<input type="checkbox"/>	<input type="checkbox"/> Request further information to complete screening <input type="checkbox"/> Request NIS <input type="checkbox"/> Refuse planning permission
(iii) <b>Significant effects</b> are likely.	<input type="checkbox"/>	<input type="checkbox"/> Request NIS <input type="checkbox"/> Refuse planning permission

<b>EIA Pre-Screening</b> <b>Establishing a development is a 'sub-threshold development'</b>	
<b>File Reference:</b>	S5/24/17
<b>Development Summary:</b>	Bin storage
<b>Was a Screening Determination carried out under Section 176A-C?</b>	<input type="checkbox"/> Yes, no further action required  <input checked="" type="checkbox"/> No, Proceed to <b>Part A</b>
<b>A. Schedule 5 Part 1</b> - Does the development comprise a project listed in Schedule 5, <b>Part 1</b> , of the Planning and Development Regulations 2001 (as amended)? (Tick as appropriate)	
<input type="checkbox"/> Yes, specify class _____	<b>EIA is mandatory</b>
<input checked="" type="checkbox"/> No	No Screening required
<input checked="" type="checkbox"/> No	Proceed to <b>Part B</b>
<b>B. Schedule 5 Part 2</b> - Does the development comprise a project listed in Schedule 5, <b>Part 2</b> , of the Planning and Development Regulations 2001 (as amended) <b>and</b> 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	<b>No Screening required</b>
<input type="checkbox"/> Yes the project is listed in Schedule 5, Part 2 <b>and</b> meets/exceeds the threshold, specify class (including threshold): _____	<b>EIA is mandatory</b>
<input type="checkbox"/> Yes the project is of a type listed <b>but</b> is <i>sub-threshold</i> : _____	No Screening required
<input type="checkbox"/> Yes the project is of a type listed <b>but</b> is <i>sub-threshold</i> : _____	Proceed to <b>Part C</b>
<b>C. If Yes</b> , has Schedule 7A information/screening report been submitted?	
<input type="checkbox"/> Yes, Schedule 7A information/screening report has been submitted by the applicant	<b>Screening Determination required</b>
<input type="checkbox"/> No, Schedule 7A information/screening report has not been submitted by the applicant	<b>Preliminary Examination required</b>



**Original**

**TIPPERARY COUNTY COUNCIL**

**DELEGATED EMPLOYEE'S ORDER**

File Ref: **S5/24/17**      **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 4<sup>th</sup> 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 Reece St John No. 3 Matthew Avenue, Thurles, Co. Tipperary, re: Refuse Bin Storage area at 48 Main Street, Tipperary Town, 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 and 4 of the Planning and Development Act, 2000, as amended,
- (b) An Bord Pleanála declarations ABP-313420-22 (RL29N.313420) and ABP-310420-21 (RL06D.310420),
- (c) The documents submitted with the declaration application,
- (d) The layout of development on the site and the pattern of development in the area

**AND WHEREAS** Tipperary County Council has concluded that –  
The development consisting of the construction of a refuse bin storage area is works and development as defined under the Planning and Development Act 2000, as amended. The proposal is not exempted development as it DOES NOT fall under the exempted development provisions as set out under Section 4 of the Planning and Development Act 2000, as amended or the Planning and Development Regulations 2001, as amended.

**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 construction of a refuse bin storage **is development and IS NOT exempted development.**

**Signed:**

  
\_\_\_\_\_

**Date: 8/02/2024**

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



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Tipperary County Council

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[tipperarycoco.ie](http://tipperarycoco.ie)

Date: 8<sup>th</sup> March 2024

Our Ref: S5/24/17

Civic Offices, Nenagh

**Reece St John,  
No. 3 Matthew Avenue,  
Thurles,  
Co. Tipperary.**

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

Dear Mr St John,

I refer to your application for a Section 5 Declaration received on 13<sup>th</sup> February 2024, in relation to the following proposed works:

**Refuse Bin Storage area at 48 Main Street, Tipperary Town, 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 and 4 of the Planning and Development Act, 2000, as amended,
- (b) An Bord Pleanála declarations ABP-313420-22 (RL29N.313420) and ABP-310420-21 (RL06D.310420),
- (c) The documents submitted with the declaration application,
- (d) The layout of development on the site and the pattern of development in the area

**AND WHEREAS** Tipperary County Council has concluded that –

The development consisting of the construction of a refuse bin storage area is works and development as defined under the Planning and Development Act 2000, as amended. The proposal is not exempted development as it DOES NOT fall under the exempted development provisions as set out under Section 4 of the Planning and Development Act 2000, as amended or the Planning and Development Regulations 2001, as amended.

**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 construction of a refuse bin storage **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

A handwritten signature in blue ink, reading "Geraldine Quinn". The signature is written in a cursive style and is enclosed within a thin blue rectangular border.

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for **Director of Services**