



Comhairle Contae Thiobraid Árann
Tipperary County Council

Tipperary County Council
RECEIVED
20 FEB 2024
C S D
Civic Offices, Clonmel

TIPPERARY CO. COUNCIL
RECEIVED
20 FEB 2024
PLANNING SECTION
FILE NO.

PLANNING & DEVELOPMENT ACT, 2000 (as amended)

Application for a Section 5 Declaration
Development / Exempted Development

1. Applicant's address/contact details:

Applicant	ANDRIAN MOROZAN
Address	14 Auburn Close, Clonmel, Co Tipperary
Telephone No.	[REDACTED]
E-mail	[REDACTED]

2. Agent's (if any) address:

Agent	Nil McGarry
Address	15 Mary St Clonmel.
Telephone No.	[REDACTED]
E-mail	[REDACTED]
Please advise where all correspondence in relation to this application is to be sent;	
Applicant []	Agent [<input checked="" type="checkbox"/>]

3. Location of Proposed Development:

Postal Address or Townland or Location (as may best identify the land or structure in question)	14 Auburn Close, Clonmel. Co Tipperary.
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Receipt No 178 440
€ 80.00 Charge
20 02 2024

Tipperary County Council
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CASH OFFICE
Civic Offices, Clonmel

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.)

APPLICANT WISHES TO BUILD AN EXTENSION
TO THE REAR OF THE EXISTING CONVERTED
GARAGE AS PER THE ATTACHED SKETCH.
Proposed floor area of proposed works/uses: 5.94 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 <input type="checkbox"/>
	C. Other <input type="checkbox"/>	
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: 15.2.24

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.



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

Date: 21st February 2024

Our Ref: S5/24/21

Civic Offices, Clonmel

**Andrian Morozan
C/o Will McGarry
15 Mary Street
Clonmel
Co. Tipperary**

Re: Application for a Section 5 Declaration – Extension to the rear of the existing converted garage at 16 Auburn Close, Clonmel, Co. Tipperary.

A Chara,

I acknowledge receipt of your application for a Section 5 Declaration received on 20th 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.

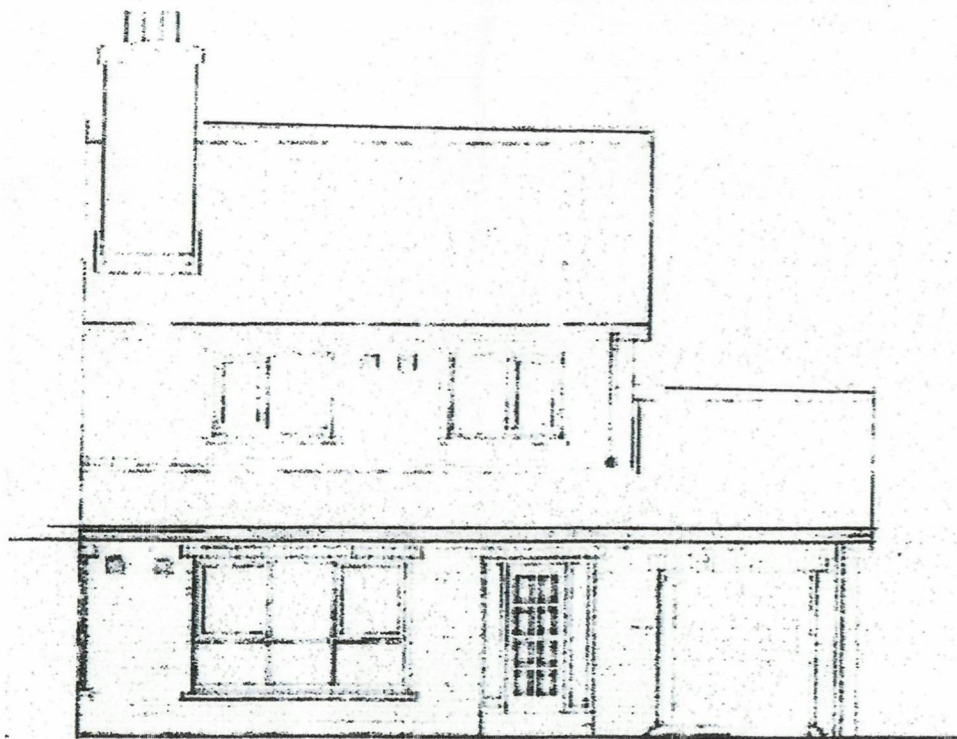
Yours faithfully

for **Director of Services**

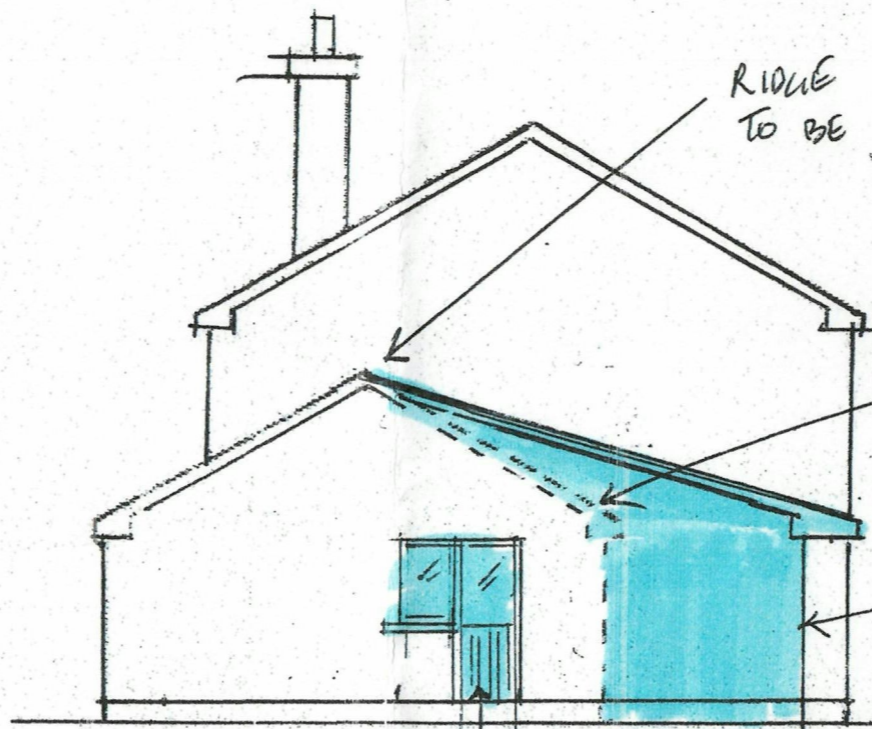
↑ NORTH



OSREF 5429-B
SCALE 1/1000



FRONT ELEVATION
NO CHANGES



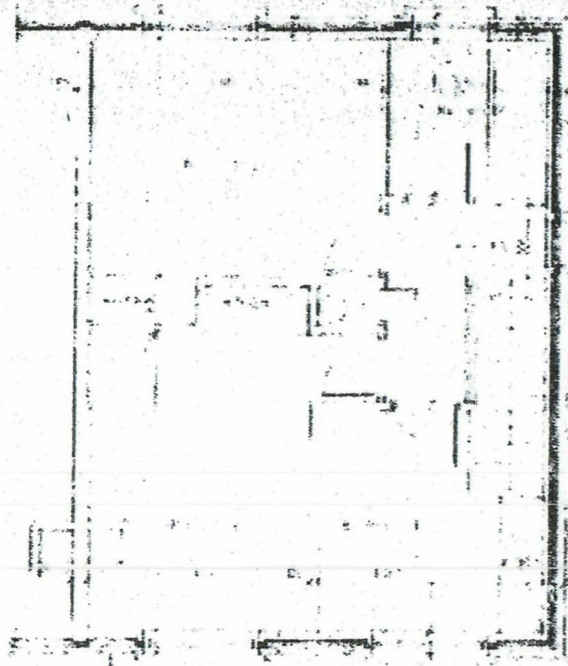
NEW SIDE DOOR
SIDE ELEVATION

RIDGE HEIGHT
TO BE RETAINED

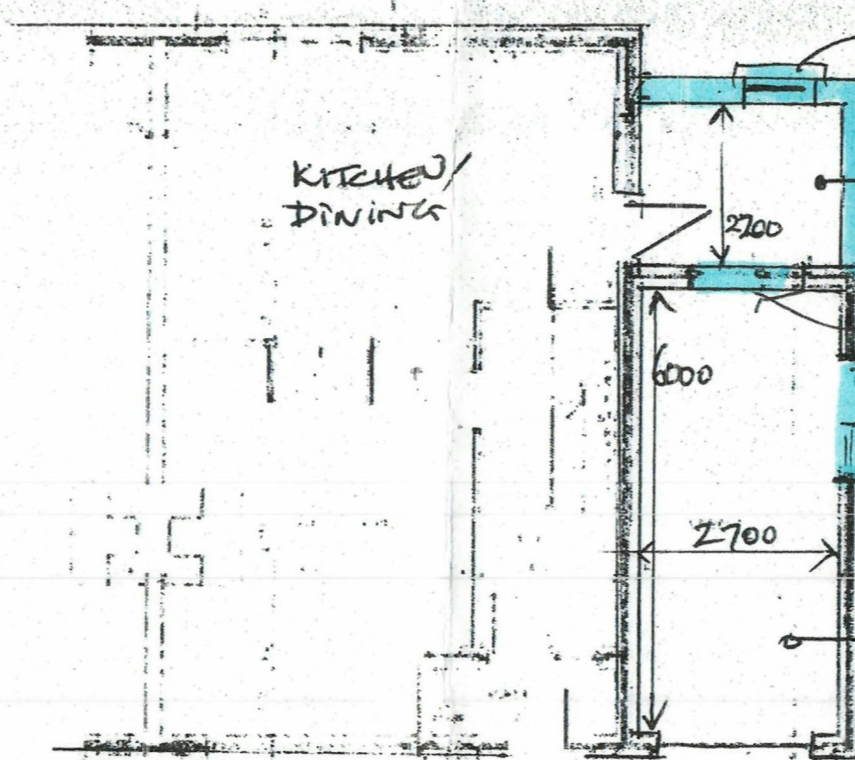
ALL NEW
WORKS SHOWN
IN BLUE

REMOVE PARAPETS
& TIE IN TO NEW
BUILD

PROPOSED EXTENSION
ALL FINISHES TO MATCH
MAIN DWELLING HOUSE



FIRST FLOOR PLAN



GROUND FLOOR PLAN

NEW PROTECTED GLASS WINDOW TO REAR

PROPOSED EXTENSION
(5.94 M²)
(2.2 x 2.7)

BLOCK UP WINDOW

NEW DOOR & WINDOW

EXISTING GARAGE WHICH
HAS BEEN CONVERTED INTO
A UTILITY ROOM.
(AREA = 16.36 M²)
(2.7 x 6.06)

TIPPERARY COUNTY COUNCIL

Application for Declaration under Section 5

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

Planning Ref.: S5/24/21
Applicant: Andrian Moroza
Development Address: 14 Auburn Close, Clonmel, Co. Tipperary
Proposed Development: extension to the rear of an existing converted garage.

1. GENERAL

On the 20th 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”:

- extension to the rear of an existing converted garage

Having reviewed the details submitted, it is noted that the conversion of the garage to a utility room was not referenced.

As such, the query proposed is to be amended to read as follows;

- Does the conversion of an attached side garage into a utility room (16.36 sqms), and the construction of a rear extension, measuring 5.94 sqms, constitute development and if so, does it constitute exempted development.

2. STATUTORY PROVISION

The following statutory provisions are relevant to this referral case;

Planning and Development Act 2000 (As amended)

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.

Planning and Development Regulations 2001 (As amended)

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 if the carrying out of works would-

(viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use

3. ASSESSMENT

a. Site Location

The site comprises an existing dwelling at 14 Auburn Close, Clonmel, Co. Tipperary.

b. Relevant Planning History

21/1870 to retain indefinitely the as constructed new front wall, widened entrance, driveway, dished footpath and all associated site development works - granted

TUD21-123 Alleged unauthorised development consisting of widening of entrance onto L36888 - closed

Figure 1 Planning history



c. Assessment

A) “Is or is not Development”

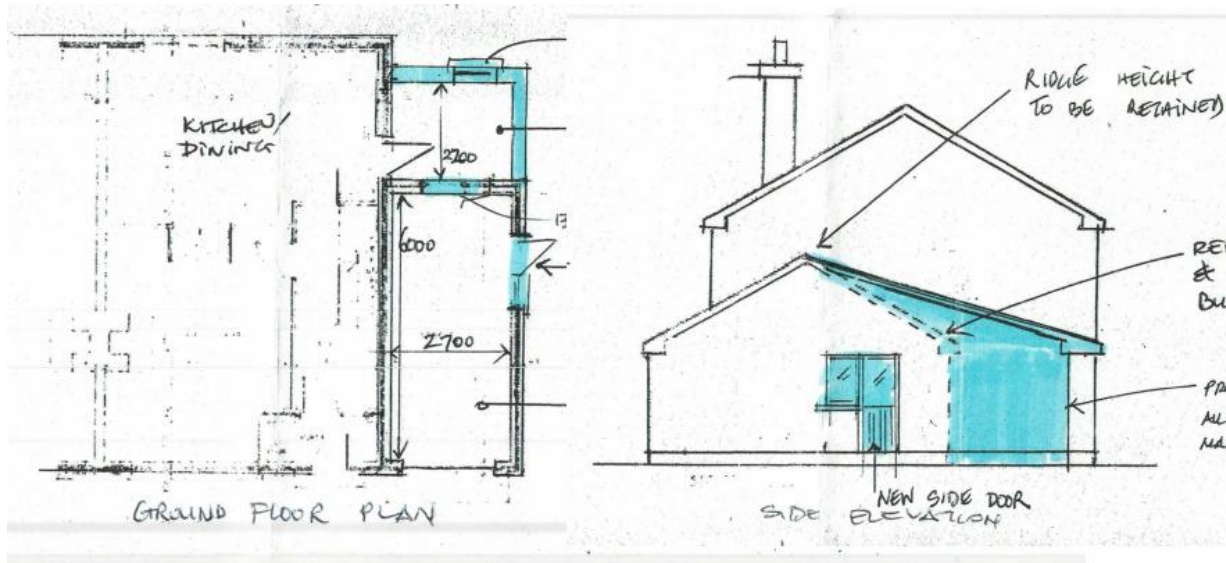
It is considered that the above listed proposals constitute “works” as understood by the Planning and Development Act 2000, as amended. The above listed proposals therefore constitute “development” within the meaning of the Planning and Development Act 2000, as amended.

B) “Is or is not Exempted Development”

The works comprise of the conversion of an existing garage to the side of the dwelling to a utility room. Somewhat unusually, the original garage door is to be retained.

It is proposed to extend this garage to the rear and provide a second utility room off the rear kitchen.

Figure 2 Floor Plans and side elevation



It is considered that conversion of a side garage to a utility and the extension of same can be considered under **Class 1** of Part 1 of Schedule 2. None of the conditions and limitations related to this exemption apply in this instance.

It is considered that the alteration to provide for a new door and side window on the western gable does 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.

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. 741 ms from the Lower River Suir SAC, 9.9 kms from the Nier valley Woodlands SAC and c. 11 kilometres from the Comeragh mountains SAC

The proposed development is located within a long established residential area and comprises of minor alterations to the structure on site. The property is connected to the mains waste water infrastructure.

Having regard to:

- the small scale nature of the development,
- the location of the site in a serviced urban centre,
- 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 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 of the Planning & Development Regulations 2001, as amended
- (c) Articles 6 and 9 of the Planning & Development Regulations 2001, as amended, and
- (d) The details submitted by the querist with the Declaration

Tipperary County Council has concluded that the proposal presented on the drawings and details provided with the Declaration application, constitutes “works” and “development” within the meaning of the Planning and Development Act 2000, and is “exempted development”.

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

Signed: Paul Hillen

Date: 14/03/24

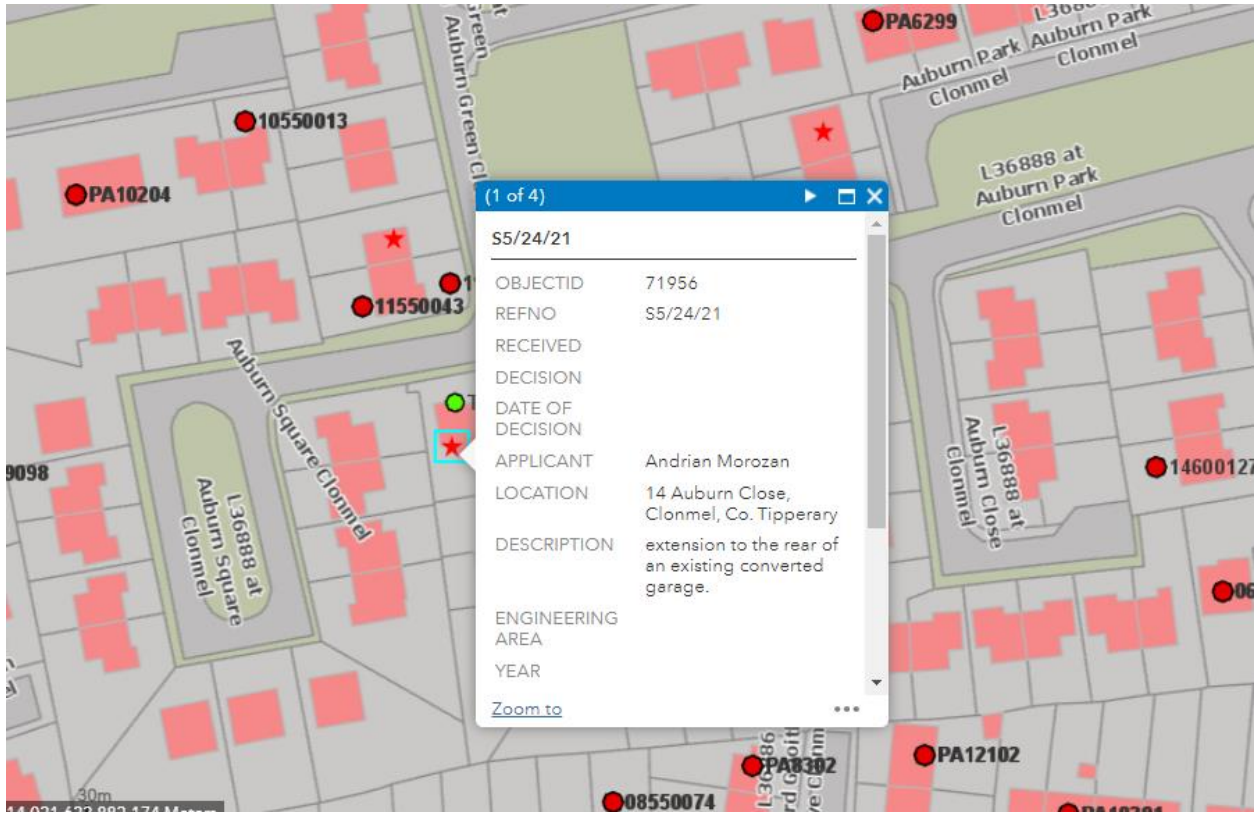
C. Conway

Signed:
Senior Executive Planner

Date: 14.03.2024

EIA Pre-Screening	
Establishing a development is a 'sub-threshold development'	
File Reference:	S5/24/21
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: **S5/24/21** **Delegated Employee's Order No:** _____

SUBJECT: Section 5 Declaration

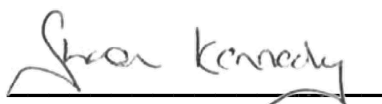
I, Sharon Kennedy, Director of Services, Tipperary County Council, by virtue of the powers delegated to me in accordance with the provisions of Section 154 of the Local Government Act 2001, as amended by Schedule 1, Part 1 of the Local Government Reform Act 2014 under Chief Executive's Order No. 37256 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 Andrian Morozan, C/o Will McGarry, 15 Mary Street, Clonmel, Co. Tipperary re: Extension to the rear of an existing converted garage at 14 Auburn Close, 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 of the Planning & Development Regulations 2001, as amended
- (c) Articles 6 and 9 of the Planning & Development Regulations 2001, as amended, and
- (d) The details submitted by the querist with the Declaration

Tipperary County Council has concluded that the proposal presented on the drawings and details provided with the Declaration application, constitutes "works" and "development" within the meaning of the Planning and Development Act 2000, and is **"exempted development"**.

Signed:



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

Date: 15/03/2024



Date: 15 March 2024

Our Ref: S5/24/21

Civic Offices, Nenagh

**Andrian Morozan
C/o Will McGarry
15 Mary Street
Clonmel
Co. Tipperary**

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

Dear Mr McGarry,

I refer to your application for a Section 5 Declaration received on 21st February 2024, in relation to the following proposed works:

Extension to the rear of an existing converted garage at 14 Auburn Close, 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,
- (b) Part 1 Class 1 of Schedule 2 of the Planning & Development Regulations 2001, as amended
- (c) Articles 6 and 9 of the Planning & Development Regulations 2001, as amended, and
- (d) The details submitted by the querist with the Declaration

Tipperary County Council has concluded that the proposal presented on the drawings and details provided with the Declaration application, constitutes “works” and “development” within the meaning of the Planning and Development Act 2000, and is **“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 enclosed in a thin blue rectangular border.

for **Director of Services**