



PLANNING & DEVELOPMENT ACT, 2000 (as amended)

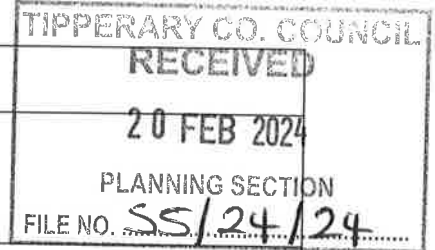
**Application for a Section 5 Declaration
Development / Exempted Development**

1. Applicant's address/contact details:

Applicant	BJSORV IMHOFF
Address	23 MARINA VILLAGE BALLINA CO. TIPPERARY
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 <input checked="" type="checkbox"/>	Agent <input type="checkbox"/>



3. Location of Proposed Development:

Postal Address or Townland or Location (as may best identify the land or structure in question)	V94 R7X6 23 MARINA VILLAGE BALLINA
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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.)

INSTALLATION OF ONE VELUX WINDOW
IN THE GARAGE.
INSTALLING A FLAT ROOF, OPEN SIDED CAR
PORT TO THE FRONT OF THE GARAGE
Proposed floor area of proposed works/uses: 32.4sqm

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) B. S. A. Date: 19/2/24

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.

GUIDANCE NOTES

- (1) All queries on the form must be completed and the form must be accompanied by the relevant fee. The amount of the fee is currently **€80.00**.
- (2) This application should be accompanied by **TWO COPIES** of the following documentation
 - OSI Site Location Map with the site outlined clearly – 1:1000 in urban areas and 1:2500 in rural areas
 - Floor Plans & Elevations at a scale of not less than 1:200
 - Site layout plan indicating position of proposed development relative to premises and adjoining properties
 - Other details e.g. brochures, photographs if appropriate.

(All dimensions must be given in metric scale and drawings should be accompanied by a brief description outlining the use of the proposed development)

- (3) Where a proper and complete application is received, a decision must be conveyed to the applicant within four (4) weeks except where additional necessary information is required.

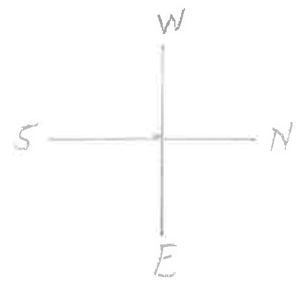
This application form and relevant fee should be submitted to:

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

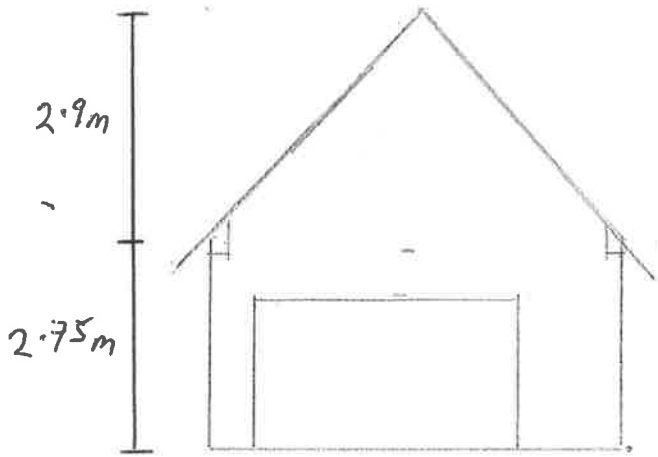
FOR OFFICE USE ONLY

DATE STAMP

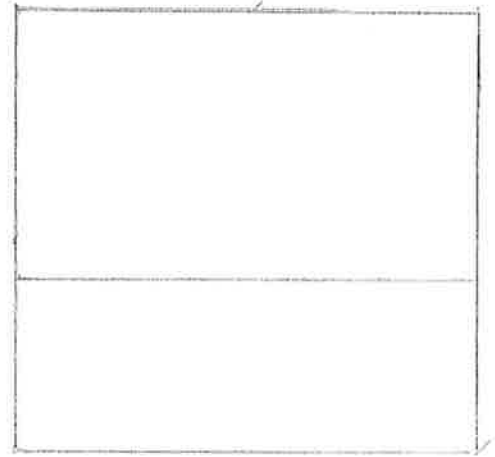
Fee Recd. € 80.00
Receipt No NENAMI/0/117804
Date 20/02/24
Received by ML



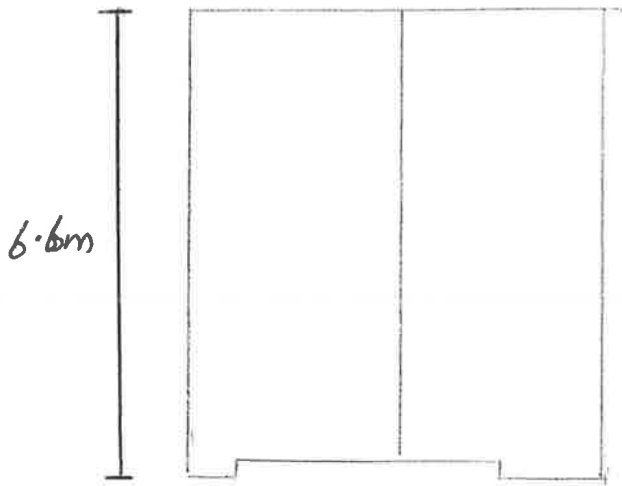
SCALE 1—10
EXISTING GARAGE



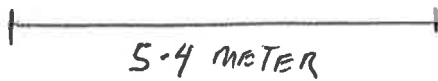
ELEVATION



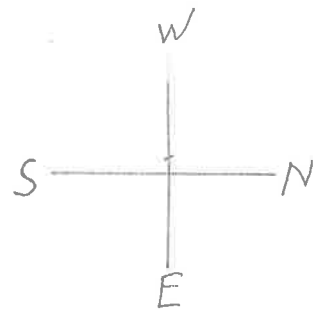
END VIEW



PLAN

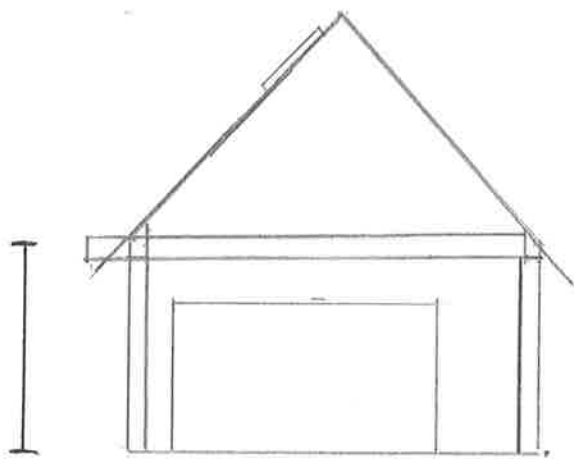


5.4 METER

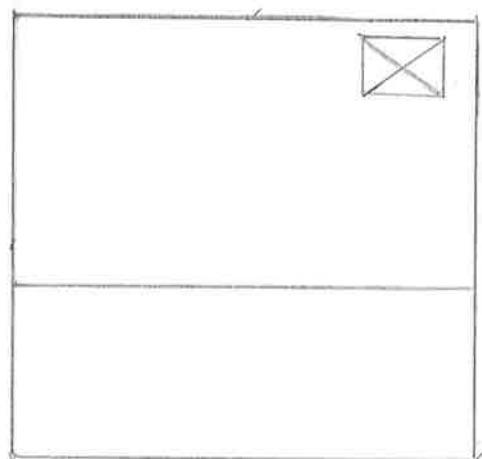


SCALE 1-10
GARAGE AFTER

2.7m

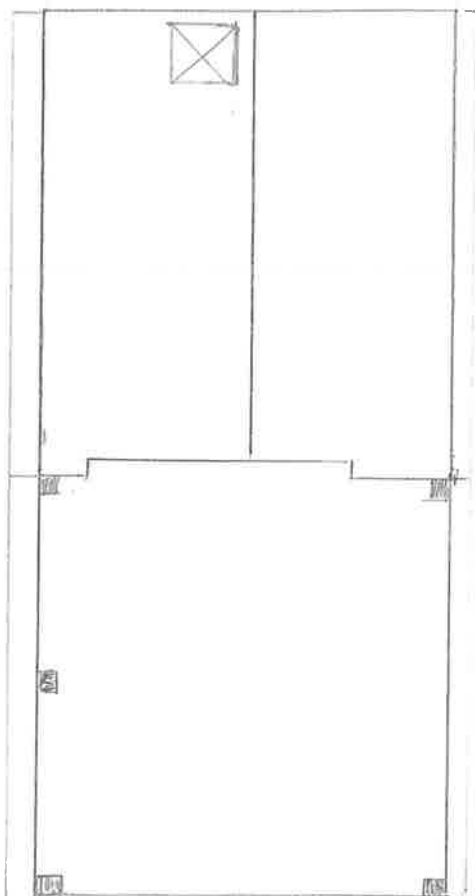


ELEVATION



END VIEW

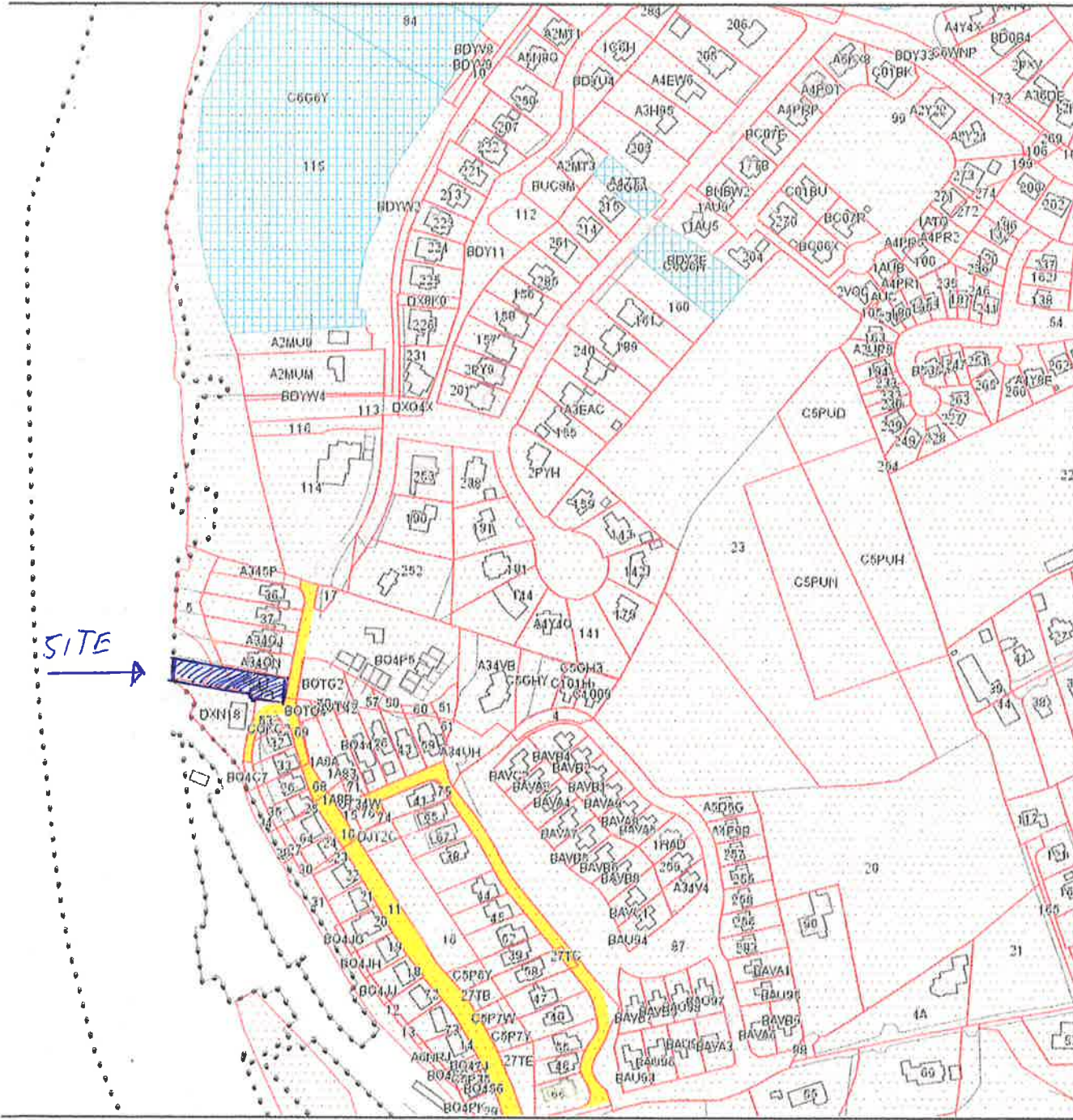
5.4m



6.0m

PLAN

SITE LOCATION IN BLUE



Tailte Éireann

Clárúcháin, Luacháil,
Suirbhéireacht
Registration, Valuation,
Surveying

Official Tailte Éireann Registration Map

This map should be read in conjunction with the folio.

Tailte Éireann (TÉ) Registration mapping is based on TÉ Surveying mapping. Where TÉ Registration maps are printed at a scale that is larger than the TÉ Surveying scale, accuracy is limited to that of the TÉ Surveying map scale.

For details of the terms of use and limitations of scale, accuracy and other conditions relating to TÉ Registration maps, see www.tailte.ie.

This map incorporates TÉ Surveying map data under a licence from TÉ. Copyright © Tailte Éireann and Government of Ireland.

- (centre-line of parcel(s) edged)
- Freehold
- Leasehold
- SubLeasehold
- 'S' Register

(see Section 8(b)(i) of Registration of Title Act 1964 and Rule 224 & 225 Land Registration Rules 1972 - 2010).

Burdens (may not all be represented on map)

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

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

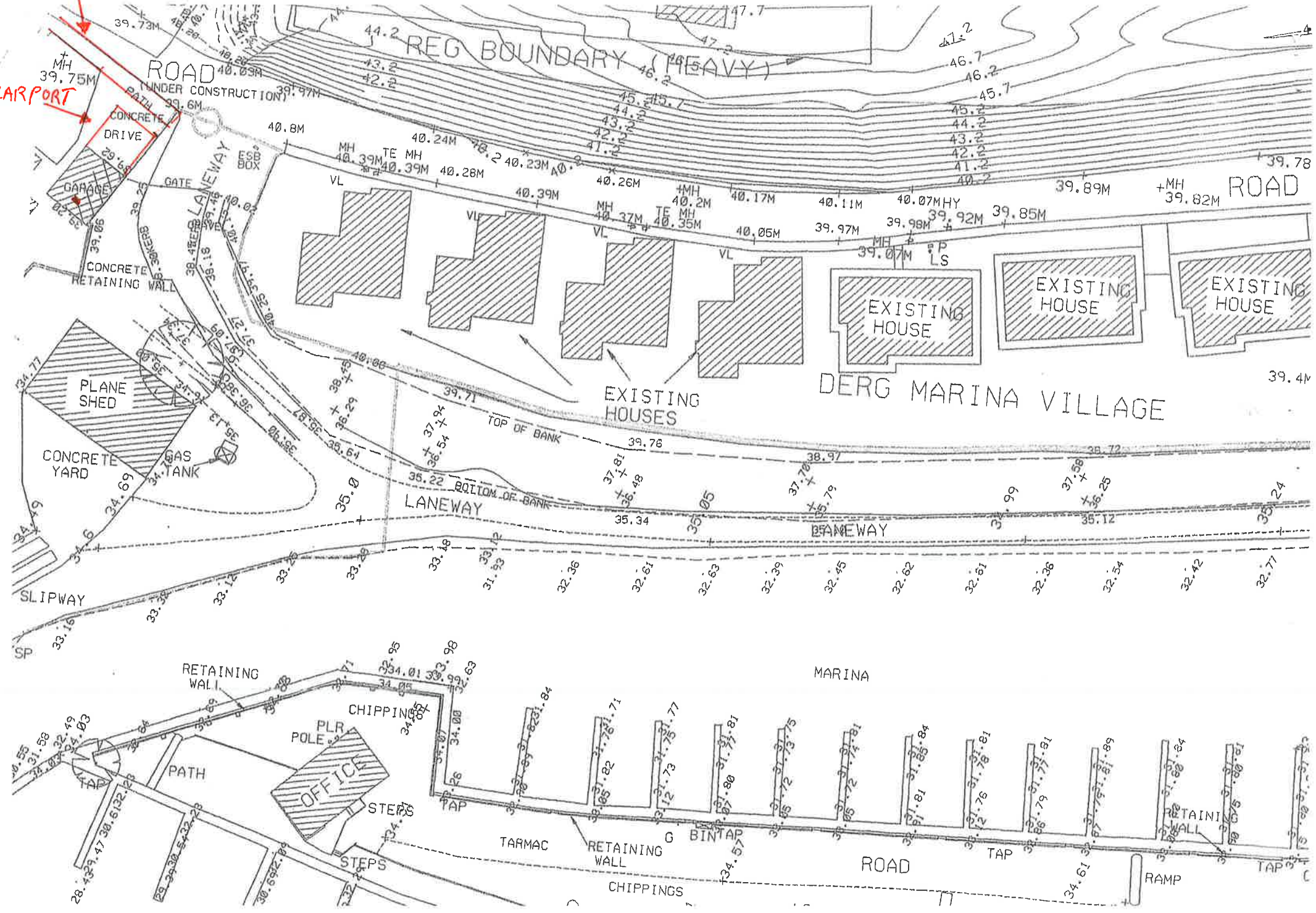
Tailte Éireann Registration operates a non-conclusive boundary system. The TÉ Registration map identifies properties not boundaries meaning neither the description of land in a folio nor its identification by reference to a TÉ Registration map is conclusive as to the boundaries or extent.

(see Section 85 of the Registration of Title Act, 1964). As inserted by Section 62 of the Registration of Deed and Title Act 2006.



FOOT PATH

CARPORIT



ROAD (UNDER CONSTRUCTION)

CONCRETE DRIVE

GARAGE

GATE

CONCRETE RETAINING WALL

PLANE SHED

CONCRETE YARD

GAS TANK

SLIPWAY

OFFICE

STEPS

STEPS

TARMAC

RETAINING WALL

CHIPPING

PLR POLE

TAP

G BINTAP

ROAD

RAMP

REG BOUNDARY (HEAVY)

EXISTING HOUSES

DERG MARINA VILLAGE

LANEWAY

MARINA

RAMP





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

Our Ref: S5/24/24

Date: 22 February 2024

Civic Offices, Nenagh

**Bjorn Innoff,
23 Marina Village,
Ballina,
Co. Tipperary.**

Re: Application for a Section 5 Declaration – Installation of a velux window and to build a flat roof open sided car port to the front of the existing garage at 23 Marine Village, Ballina, Co. Tipperary.

Dear Sir/Madam

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**

TIPPERARY COUNTY COUNCIL

Application for Declaration under Section 5

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

Planning Ref.: S5/24/24

Applicant: Bjorn Imhoff

Development Address: 23 Marine Village, Ballina, Co. Tipperary V94 R7X6

Proposed Development: Whether the installation of one velux window in the garage and the installation of a flat roof, open sided car port to the front of the garage, is development and if so, does it constitute exempted development.

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 by Bjorn Imhoff in respect of the following development at 23 Marine Village, Ballina, Co. Tipperary V94 R7X6 that is accessed via an estate access road off the L – 6090:

Whether the installation of one velux window in the garage and the installation of a flat roof, open sided car port to the front of the garage, is development and if so, does it constitute exempted development.

The drawings submitted with the declaration show the velux window is proposed to be inserted in the southern roof plane of the garage. The drawings show the car port to cover an area of 6 metres x 5.4 metres, same has a height of 2.7 metres.

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

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

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

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

Section 4(4) states that notwithstanding paragraphs (a), (i), (ia) and (l) of subsection (1) and any regulations under subsection (2), development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required.

Article 6(1) of the **Planning and Development Regulations** states that subject to Article 9, development of a class specified in Column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act provided that such development complies with conditions and limitations specified in Column 2 of said Part 1 opposite the mention of that class in said Column 1.

In relation to this specific case, the following applies:

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

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

Conditions and Limitations

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

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

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

such structures previously constructed, erected or placed within the said curtilage, exceed 25 square metres.

The existing garage on site is given at 35.64sqm

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

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

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

The structure is an open-sided, flat-roofed carport made of clear plastic sheeting

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

The proposed structure has a flat roof that is 2.7m to ridge height

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

The structure is a wall-less carport and will not be used for human habitation

3. ASSESSMENT

- a. **Site Location** – The site is located at 23 Marine Village, in the town of Ballina and comprises an existing detached dwelling with domestic garage to the front. The site is bounded at the rear by the River Shannon.

- b. **Relevant Planning History** –

PI Ref 5117467 Grant of permission for 5 houses and ancillary site development.

PI Ref 5117968 Grant of permission to construct 5 domestic garages.

c. Assessment

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

- i) Proposed velux window
- ii) Proposed car port

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 on the subject land.

B) “Is or is not Exempted Development”

It is considered that the development of (b) one velux window in the garage would come within the exemption under Section 4(1)(h) of the Planning and Development Act, 2000 as amended. However in the subject case the exemption cannot apply as the garage structure as existing on site is not consistent with that permitted under PLC 17968. The garage permitted under PLC 17968 had an enclosed floor area of 3 metres x 6 metres. The northern side of the garage was open sided. This area has been enclosed and incorporated into the garage and there is no record of a prior grant of permission for same. This would be considered unauthorised development.

The proposed car port is a type of structure to which Class 3 of the Planning and Development Regulations 2001, as amended relates. The proposed car port does not satisfy the exemption under Class 3 for reason that:

- The car port is erected forward of the front wall of the house and the requirements of condition 1 of Class 3 is not satisfied.
- The total area of the car port taken together with the garage exceeds 25 sq m. The requirements of condition 2 of Class 3 is not satisfied.
- The proposal does not satisfy the requirements of condition 4 of Class 3.

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

i) *Requirement for Appropriate Assessment and Environmental Impact Assessment required*

Section 4 (4) of the Planning and Development Act 2000, as amended states:

Notwithstanding paragraphs (a), (i), (ia) and (l) of subsection (1) and any regulations under subsection (2), development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required.

Appropriate Assessment (AA):

The proposed development has been screened as to the requirement for AA and it has been determined that AA is not required. See Screening Report attached.

Environmental Impact Assessment (EIA):

The proposed development is not a type of development included for under Schedule 5 of the Planning and Development Regulations 2001, as amended. See screening report attached.

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

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

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

Article 9 has been considered in the assessment of the proposed exemption and is not applicable in this instance.

4. RECOMMENDATION

Having 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),
- Class 3 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- The declaration application and accompanying drawings and information.
- The planning history for the site, in particular Planning Register Reference 5117968

Tipperary County Council, in exercise of the powers conferred on it by Section 5(2)(a) of the Planning and Development Act 2000 as amended, it is hereby decided that the installation of one velux window in the garage **is development and is NOT exempted development**.

And;

Tipperary County Council, in exercise of the powers conferred on it by Section 5(2)(a) of the Planning and Development Act 2000 as amended, it is hereby decided that the development of an open-sided, flat-roofed car port **is development and is NOT exempted development**.

Graduate Planner: *Tara* *ys* Date: 28/02/2024

A/Senior Executive Planner: *Jonathan Flood* Date: 11/3/2024





Original

TIPPERARY COUNTY COUNCIL

DELEGATED EMPLOYEE'S ORDER

File Ref: **S5/24/24** **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 Bjorn Imhoff, 23 Marina Village, Ballina, Co. Tipperary re: the installation of one velux window in the garage and the installation of a flat roof, open sided car port to the front of the garage at 23 Marine Village, Ballina, Co. Tipperary V94 R7X6 is development and is exempted development.


AND WHEREAS Tipperary County Council, in considering this referral, had regard particularly 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),
- Class 3 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- The declaration application and accompanying drawings and information.
- The planning history for the site, in particular Planning Register Reference 5117968

Tipperary County Council, in exercise of the powers conferred on it by Section 5(2)(a) of the Planning and Development Act 2000 as amended, it is hereby decided that the installation of one velux window in the garage **is development and is NOT exempted development.**

AND Tipperary County Council, in exercise of the powers conferred on it by Section 5(2)(a) of the Planning and Development Act 2000 as amended, it is hereby decided that the development of an open-sided, flat-roofed car port **is development and is NOT 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: 12/03/2024



Date: 12 March 2024

Our Ref: S5/24/24

Civic Offices, Nenagh

**Bjorn Imnoff,
23 Marina Village,
Ballina,
Co. Tipperary.**

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

Dear Mr Imnoff,

I refer to your application for a Section 5 Declaration received on 20th February 2024, in relation to the following proposed works:

The installation of one velux window in the garage and the installation of a flat roof, open sided car port to the front of the garage at 23 Marine Village, Ballina, Co. Tipperary V94 R7X6.

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 –

- Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended).
- Articles 6 and 9 of the Planning and Development Regulations 2001 (as amended),
- Class 3 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- The declaration application and accompanying drawings and information.
- The planning history for the site, in particular Planning Register Reference 5117968

Tipperary County Council, in exercise of the powers conferred on it by Section 5(2)(a) of the Planning and Development Act 2000 as amended, it is hereby decided that the installation of one velux window in the garage **is development and is NOT exempted development.**

AND Tipperary County Council, in exercise of the powers conferred on it by Section 5(2)(a) of the Planning and Development Act 2000 as amended, it is hereby decided that the development of an open-sided, flat-roofed car port **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 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**