



Receipt No 178 973  
€ 80.00 Cash  
06 03 2024

**PLANNING & DEVELOPMENT ACT, 2000 (as amended)**

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

**1. Applicant's address/contact details:**

Applicant	ANTHONY & MARY NOLAN
Address	37 CHERRYMOON CLONMEL
Telephone No.	[REDACTED]
E-mail	[REDACTED]

**2. Agent's (if any) address:**

Agent	Liam Butler
Address	20 GLENCORR LANE CLONMEL
Telephone No.	[REDACTED]
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)	37 CHERRYMOON CLONMEL Co. Tipperary
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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.)

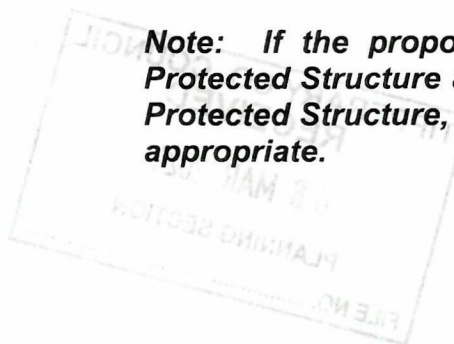
CONVERSION OF EXISTING GARAGE TO
HABITABLE AREA (WET ROOM & UTILITY)
Proposed floor area of proposed works/uses: 25.7 sqm

**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"/>	<input type="checkbox"/>
Where legal interest is 'Other', please expand further on your interest in the land or structure	MA	
If you are not the legal owner, please state the name and address of the owner	Name: Address:	MA

Signature of Applicant(s) Amity Vohra Date: 04/03/2024

**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.**





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](http://tipperarycoco.ie)

Date: 7<sup>th</sup> March 2024

Our Ref: S5/24/32

Civic Offices, Clonmel

**Anthony & Mary Nolan**  
**37 Cherrymount**  
**Clonmel**  
**Co. Tipperary**

**Re: Application for a Section 5 Declaration – Conversion of existing garage to habitable area (wet room & utility) at 37 Cherrymount, Clonmel, Co. Tipperary.**

Dear Sir/Madam

I acknowledge receipt of your application for a Section 5 Declaration received on the 6<sup>th</sup> March, 2024, in connection with the above.

I wish to advise that you will be notified of a decision on your application in due course.

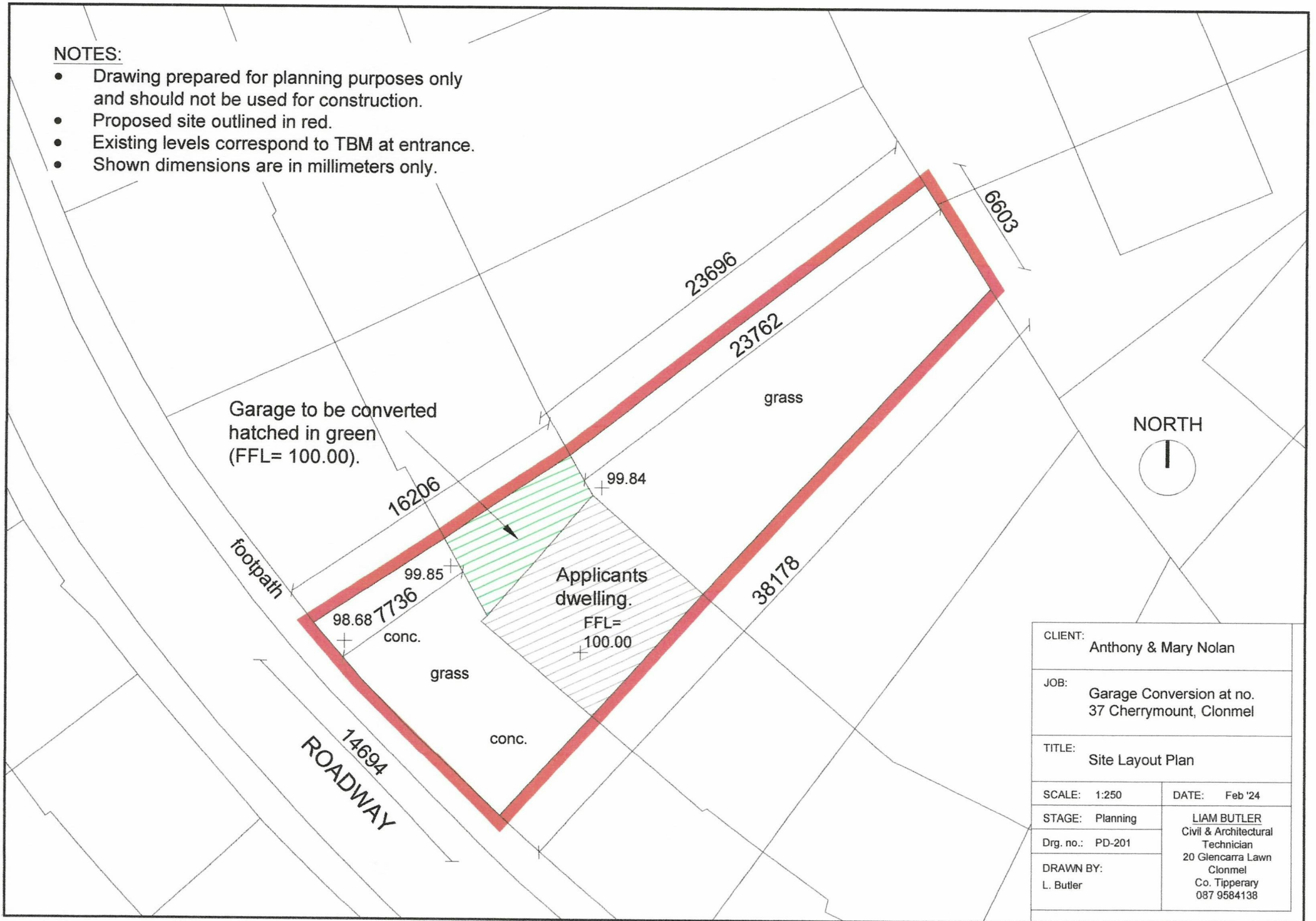
Yours faithfully,

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for **Director of Services**

**NOTES:**

- Drawing prepared for planning purposes only and should not be used for construction.
- Proposed site outlined in red.
- Existing levels correspond to TBM at entrance.
- Shown dimensions are in millimeters only.



CLIENT: Anthony & Mary Nolan	
JOB: Garage Conversion at no. 37 Cherrymount, Clonmel	
TITLE: Site Layout Plan	
SCALE: 1:250	DATE: Feb '24
STAGE: Planning	LIAM BUTLER Civil & Architectural Technician 20 Glencarra Lawn Clonmel Co. Tipperary 087 9584138
Dr. no.: PD-201	
DRAWN BY: L. Butler	

**NOTES:**

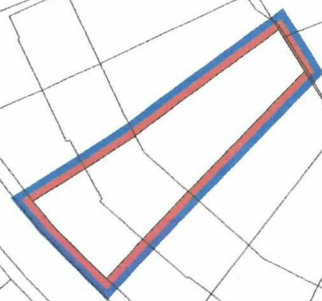
Proposed site outlined in red.

Landholding marked blue.

O.S.I. licence no.: EN0047224.

Map reference no.: 5429-09, 5429-14 & 5429-B.

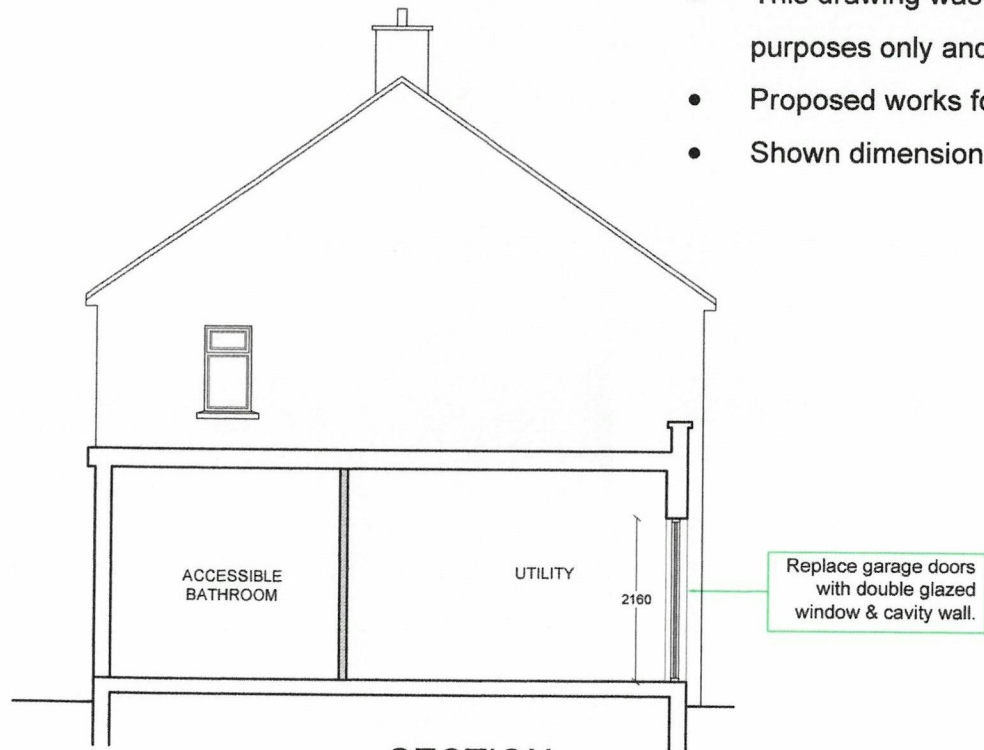
NORTH



CLIENT:	Anthony & Mary Nolan	
JOB:	Garage Conversion at no. 37 Cherrymount, Clonmel	
TITLE:	Location/Landholding Map	
SCALE:	1:1000	DATE: Feb '24
STAGE:	Planning	LIAM BUTLER Civil & Architectural Technician 20 Glencarra Lawn Clonmel Co. Tipperary 087 9584138
Drg. no.:	PD-301	
DRAWN BY:	L. Butler	

**NOTES:**

- This drawing was prepared for planning permission purposes only and should not be used for construction.
- Proposed works for Permission are marked in GREEN.
- Shown dimensions are in millimeters only.



**SECTION Proposed**

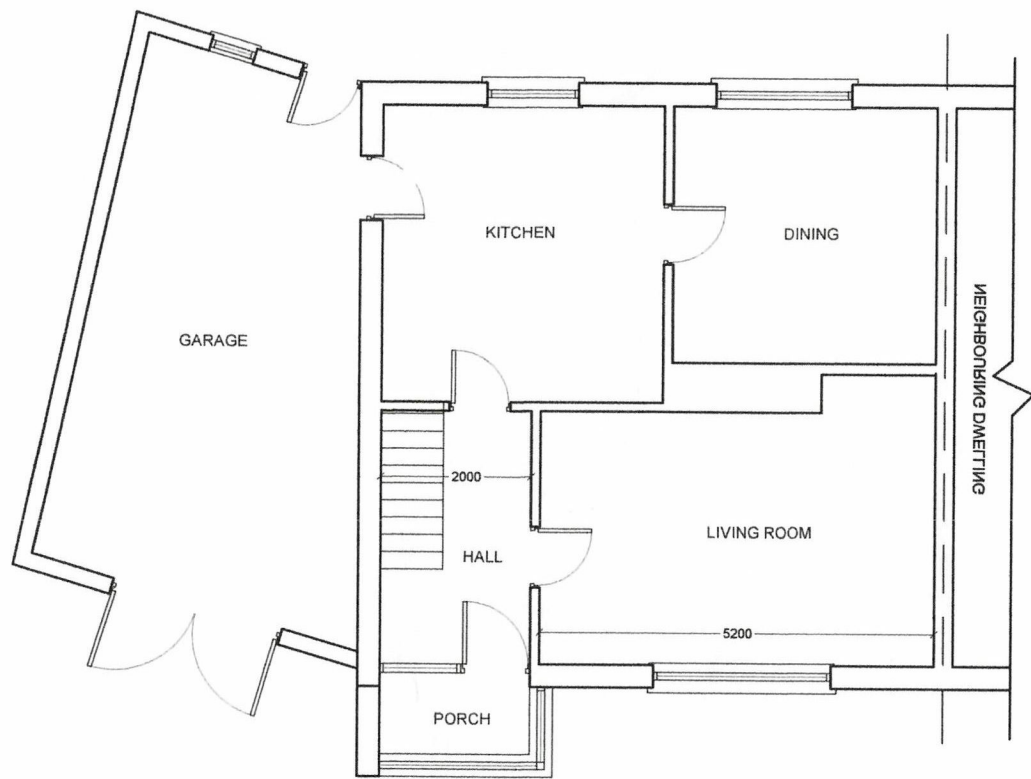


**FRONT ELEVATION Proposed**

**PROPOSED EXTERNAL FINISHES:**

(useless otherwise stated)

- External walls - Nap plaster finish.
- Windows - White uPVC windows.
- Window cills - Precast concrete cills

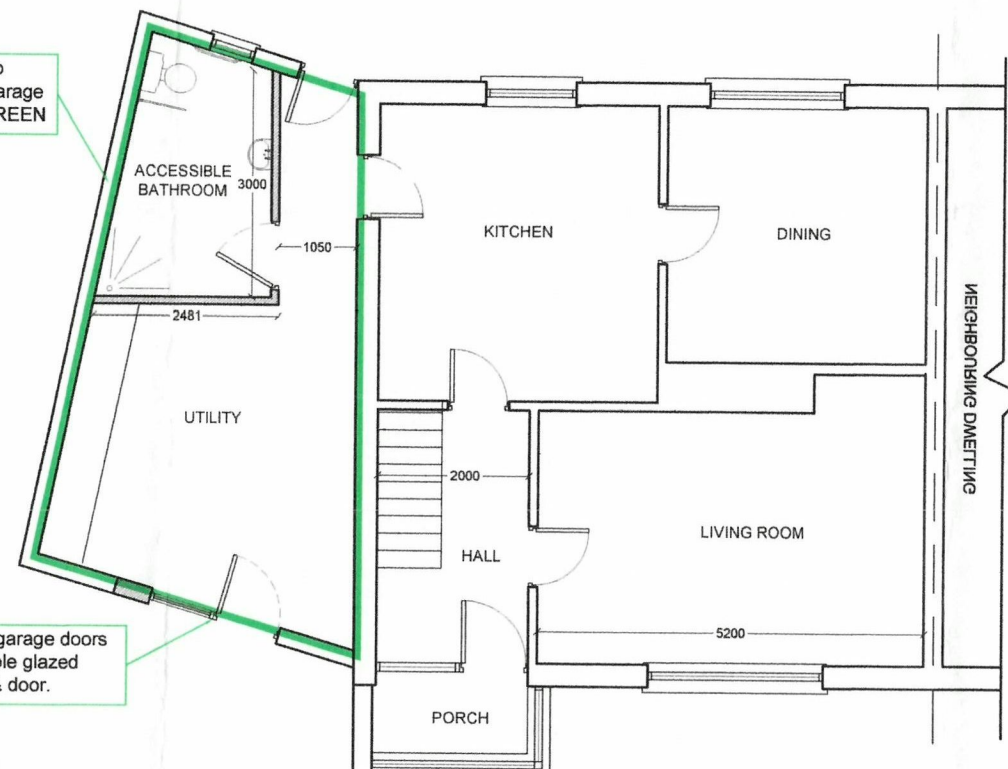


**GROUND FLOOR PLAN Existing**

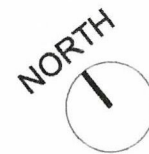
Proposed floor area to change of use from garage to living outlined in GREEN

Replace garage doors with double glazed window & door.

— Existing walls  
 — Proposed walls



**GROUND FLOOR PLAN Proposed**



CLIENT: Anthony & Mary Nolan	
JOB: Garage Conversion at no. 37 Cherrymount, Clonmel	
TITLE: Proposed Drawings	
SCALE: 1:100	DATE: Feb '24
STAGE: Planning	LIAM BUTLER Civil & Architectural Technician 20 Glencarra Lawn Clonmel Co. Tipperary 087 9584138
Drg. no.: PD-101	
DRAWN BY: L. Butler	

## 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 Ref.:** S5/24/32

**Applicant:** Anthony and Mary Nolan

**Development Address:** 37 Cherrymount, Clonmel, Co. Tipperary

**Proposed Development:** Conversion of existing garage to habitable area (wet room and utility).

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#### 1. GENERAL

On the 6<sup>th</sup> March 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 is or is not “exempt development”:

**Conversion of existing garage to habitable area (wet room and utility - 25.7m<sup>2</sup>)**

#### 2. STATUTORY PROVISION

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, 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 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 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**

#### ***Site Location***

The site comprises an existing dwelling at 37 Cherrymount, Clonmel, Co. Tipperary.

#### ***Relevant Planning History***

No planning permission has been traced to 37 Cherrymount, Clonmel Co. Tipperary.



Figure 1 Planning history

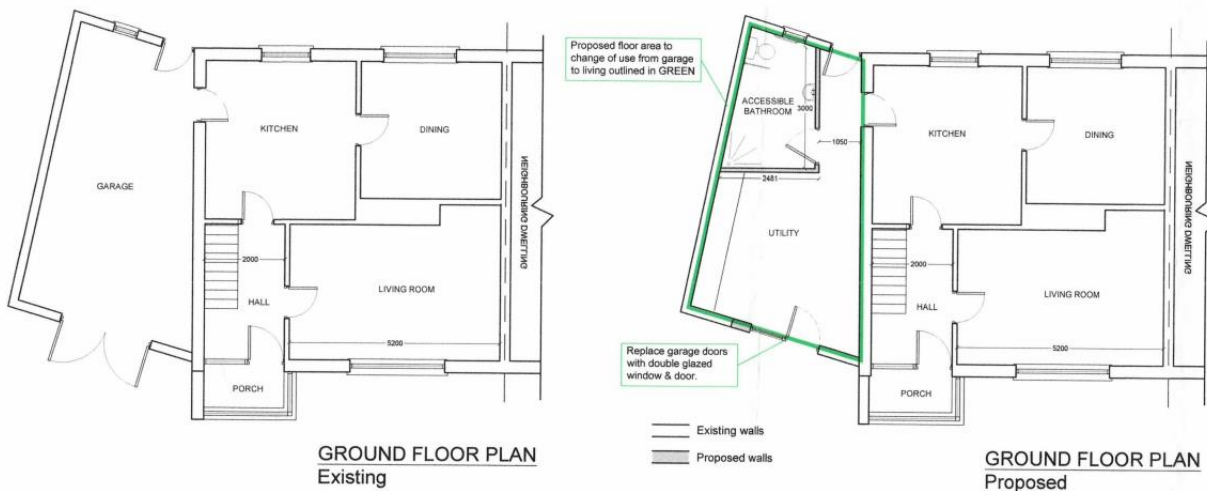
**a. Assessment**

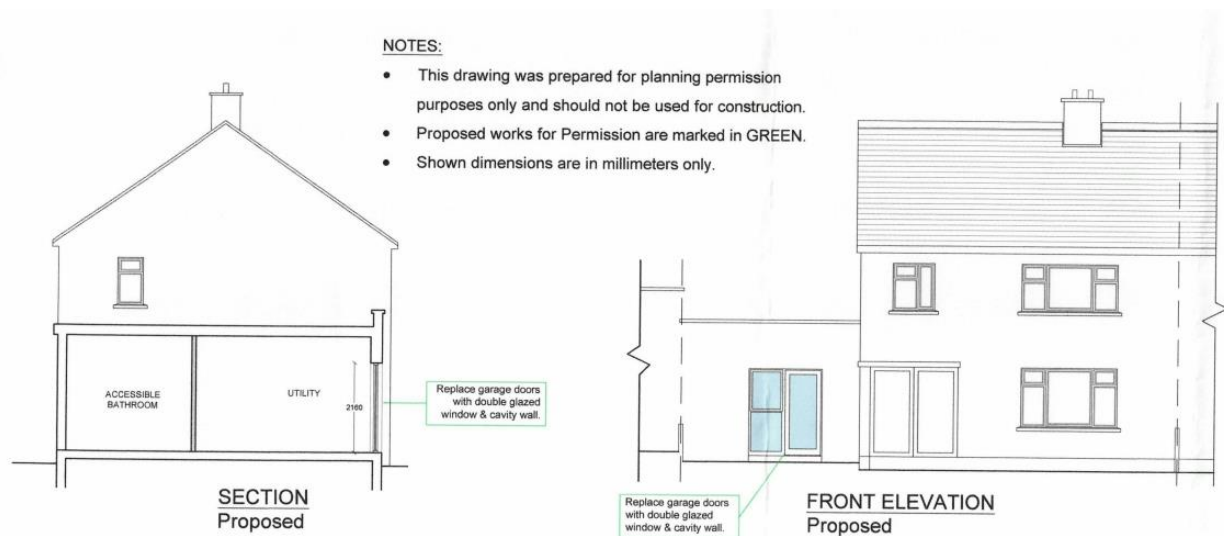
**A) “Is or is not Development”**

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 the conversion of an existing garage to the side of the dwelling to an accessible wet room and utility room. A consequence of this alteration is that the window arrangement on the front elevation will be amended.





It is considered that conversion of a side garage to a utility and wet room can be considered under **Class 1** of Part 1 of Schedule 2. The proposal satisfies the conditions and limitations attached to this exemption.

It is considered that the alteration to provide for a new window instead of the existing garage door 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 and avails of an exemption under Section 4(1)(h) of the Planning and Development Act 2000, as amended.

### 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. 740 metres north of the River Suir.

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 (River Suir)
- The intervening land uses between the subject site and the SAC and

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.





Date: 25 March 2024

Our Ref: S5/24/32

Civic Offices, Nenagh

**Anthony & Mary Nolan,  
37 Cherrymount,  
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 6<sup>th</sup> March 2024, in relation to the following proposed works:

**Conversion of existing garage to habitable area (wet room and utility) at 37 Cherrymount, 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 black ink, appearing to be 'Ther', is written above a horizontal line.

for **Director of Services**

**Original**

**TIPPERARY COUNTY COUNCIL**

**DELEGATED EMPLOYEE'S ORDER**

File Ref: **S5/24/32**      **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 Anthony & Mary Nolan, 37 Cherrymount, Clonmel, Co. Tipperary, re: Conversion of existing garage to habitable area (wet room and utility) at 37 Cherrymount, Clonmel, Co. Tipperary is development and is exempted development.

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

- 24  
2
- (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: 25/03/2024**