

Comhairle Contae Thiobraid Árann MAR 2024 **Tipperary County Council**

FILE NO.

RN 179384 Tipperary County Council RECEIVED

RECEIVED 20 MAR 2024

E80 P.C.

CSD Civic Offices, Clonmel

Tipperary County Council

PLANNING & DEVELOPMENT ACT, 2000 (as amended)

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

| Applicant | MARGARET O'NEILL |
|--|--|
| Address | 2 KINGS CROFT, CAMAS ROAD, |
| Address | CASHEL, CO. TIPPERARY. E25 ND99 |
| Telephone No. | |
| E-mail | |
| Agent's (if any) | address: |
| Agent | |
| Address | |
| Telephone No. | |
| E-mail | |
| <i>Please advise wi</i> <i>sent;</i> Applicant [] | here all correspondence in relation to this application is to b Agent [] |
| | |
| Location of Draw | sood Davelanment |
| Postal Address of | 2, KINGS CROFT, CAMAS ROAD |
| Postal Address <u>o</u> Townland <u>or</u> Location (as may be | 2, KINGS CROFT, CAMAS ROAD CASHEL, CO. TIPPERARY, E25 ND9 |
| Postal Address <u>o</u> Townland <u>or</u> Location (as may be identify the land o | 2, KINGS CROFT, CAMAS ROAD CASHEL, CO. TIPPERARY, E25 ND9 |
| Postal Address on Townland or Location (as may beding the land of structure question) | 2, KINGS CROFT, CAMAS ROAD CASHEL, CO. TIPPERARY, E25 ND9 |
| Postal Address on Townland or Location (as may besidentify the land of structure question). | 2, KINGS CROFT, CAMAS ROAD CASHEL, CO. TIPPERARY, E25 ND9 |
| Postal Address of Townland or Location (as may besidentify the land of structure question) TIPPERAR | 2, KINGS CROFT, CAMAS ROAD CASHEL, CO. TIPPERARY, E25 ND9 St or in Y CO. COUNCIL CEIVED MAR 2024 TIPPERARY CO. COUNCIL RECEIVED 2 0 MAR 2024 |
| Postal Address of Townland or Location (as may besidentify the land of structure question). TIPPERAR RE | 2, KINGS CROFT, CAMAS ROAD CASHEL, CO. TIPPERARY, E25 ND9 TIPPERARY CO. COUNCIL RECEIVED 20 MAR 2021 |

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.

| EXTRA ROOM DEF BEDROOM 2 TO BECOME | | | | |
|--|--|--|--|--|
| GRANNY FLAT SO FAMILY WILL BE ABLE TO | | | | |
| MOVE IN SE AS TO STOP THE NEED TO MOVE | | | | |
| INTO NURSING HOME | | | | |
| | | | | |
| Proposed floor area of proposed works/uses: 24-85sqm | | | | |

5. Legal Interest of Applicant in the Land or Structure:

| A. Owner | B. Occupier |
|-------------------|-------------|
| C. Other | |
| | |
| Name: Address: | |
| | C. Other |

Signature of Applicant(s) Date: 143 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

OR Planning Section,

Tipperary County Council, Civic Offices,

Emmet Street, Clonmel, Co. Tipperary

Enquires:

Telephone 0818 06 5000

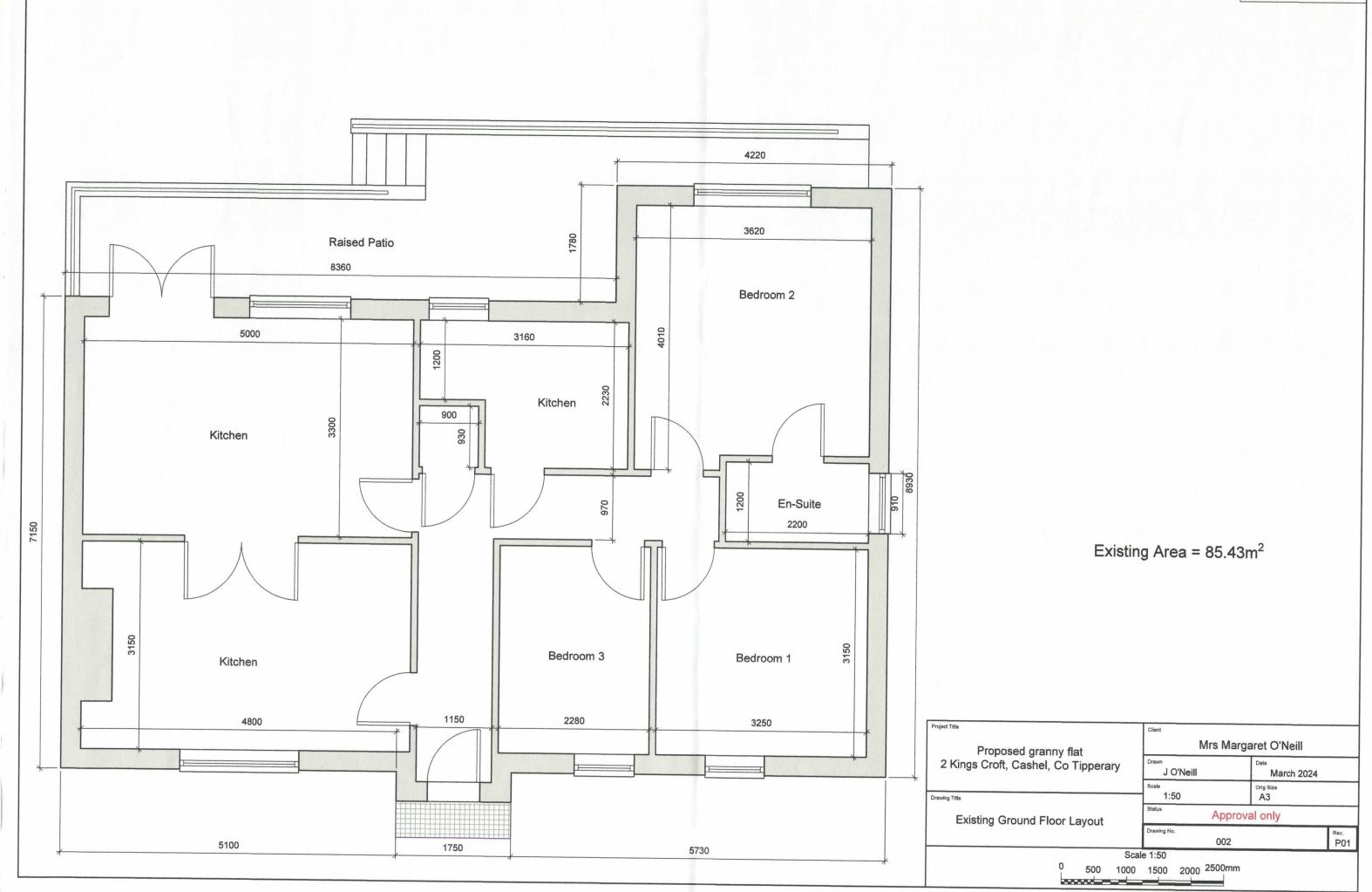
E-Mail planning@tipperarycoco.ie

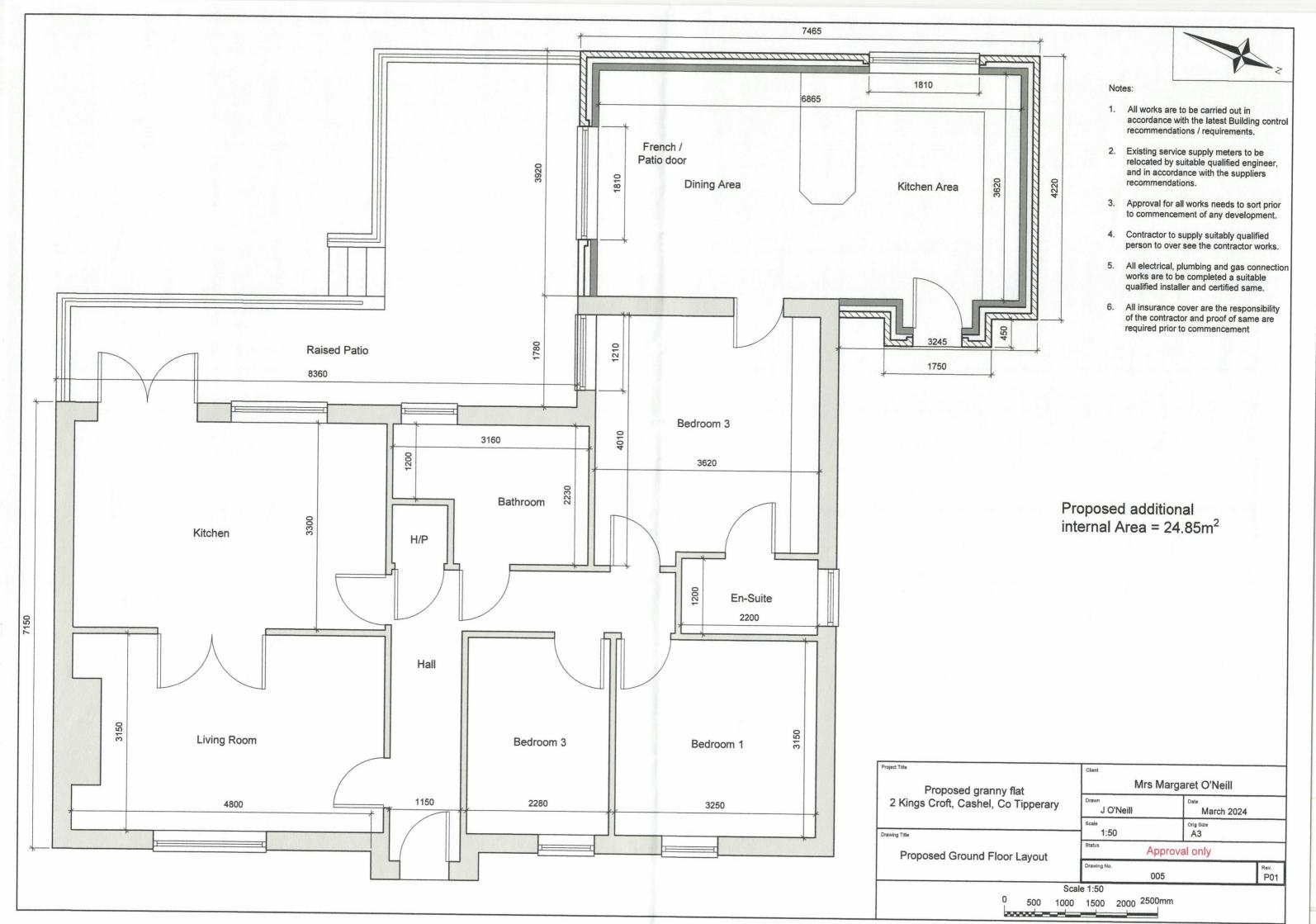
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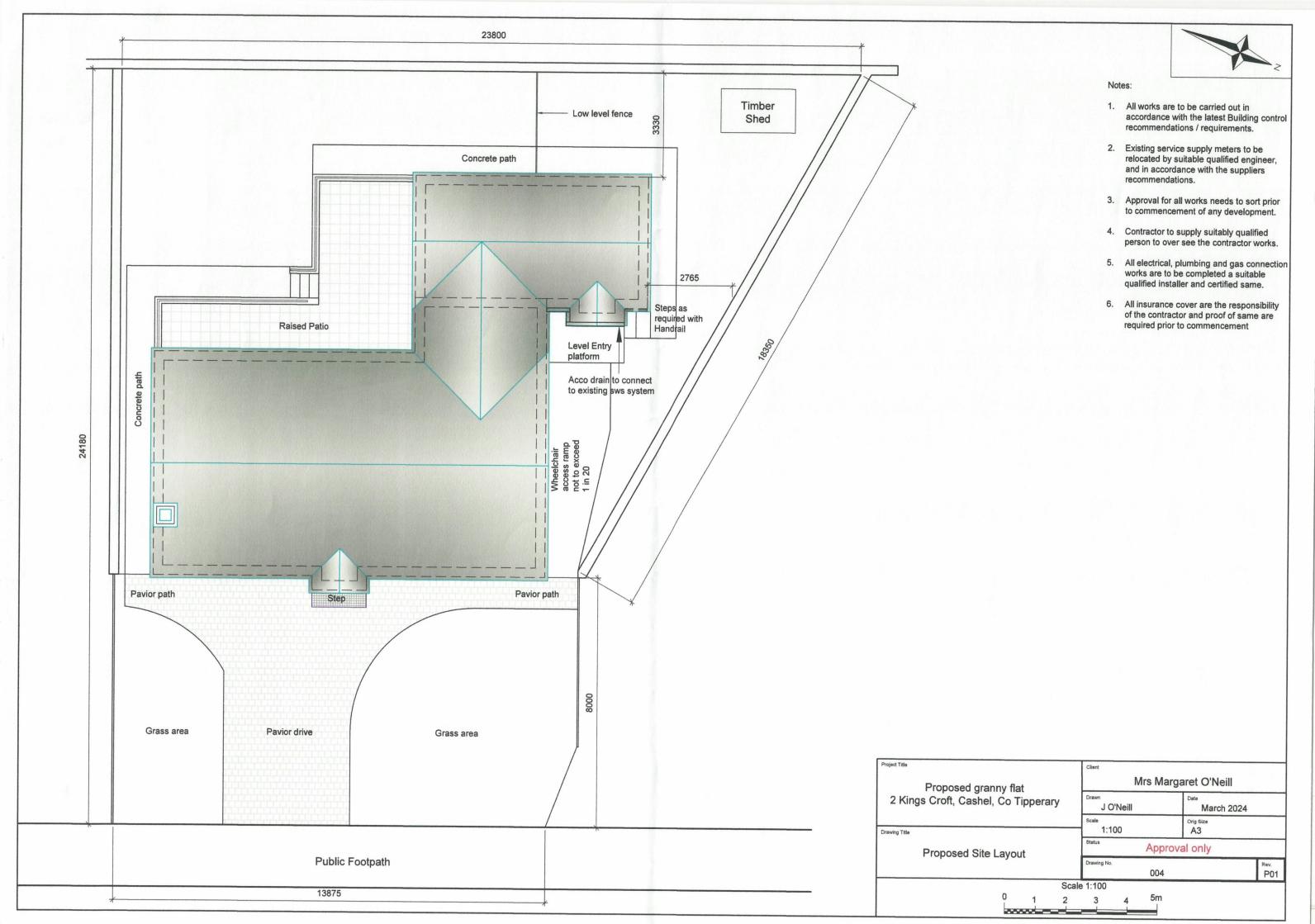
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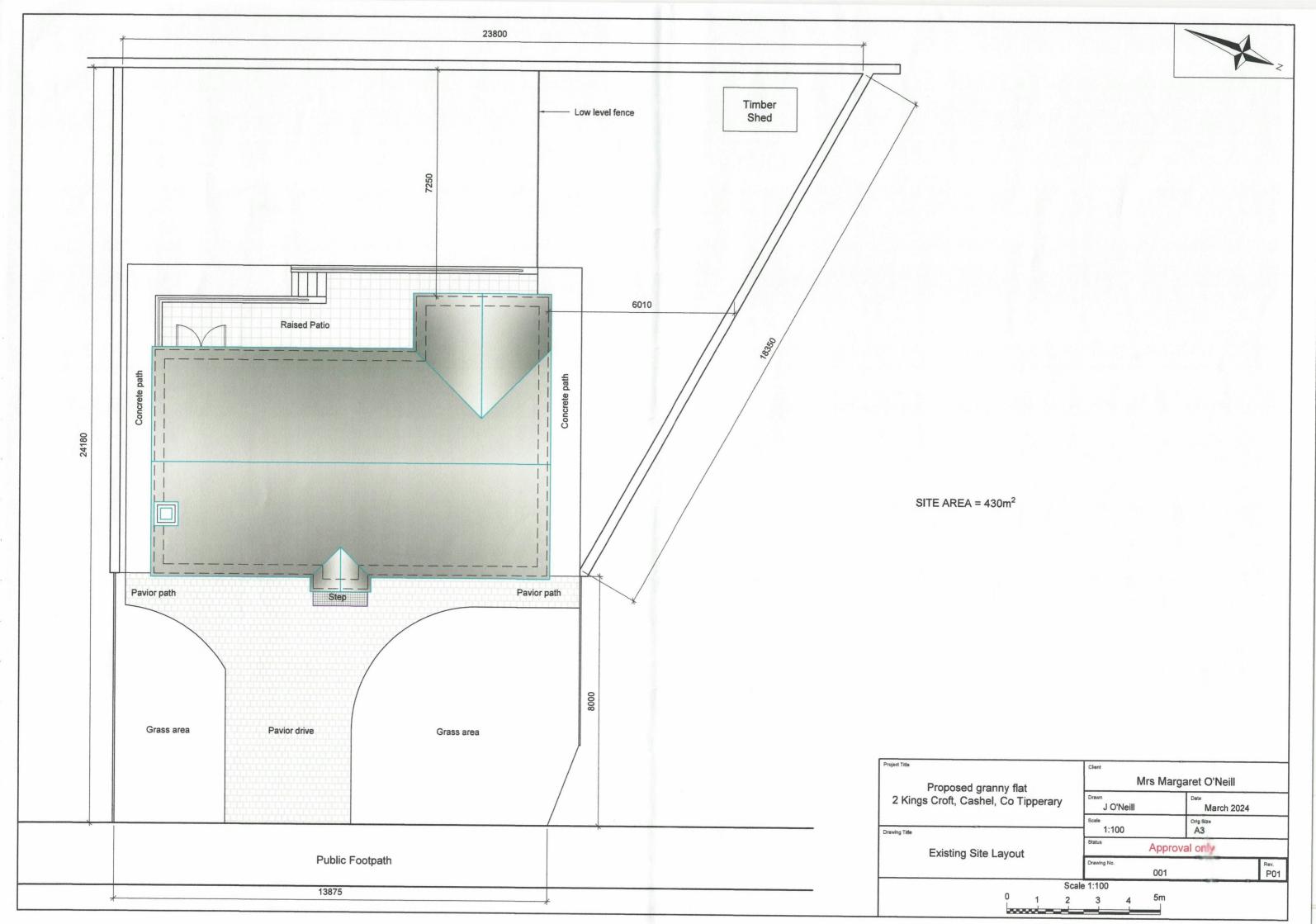
Planning Pack Map Tailte Éireann 640821 arraig Phádraig St. Patricksrock CENTRE COORDINATES: ITM 607282,640735 PUBLISHED: ORDER NO .: 17/01/2024 50377642 1 MAP SERIES: MAP SHEETS: 1:1,000 5060-10 0) 10 40 COMPILED AND PUBLISHED BY: Tailte Éireann. Phoenix Park. Dublin 8. 1 11 L Ireland. D08F6E4 0 e 0 2 D www.tailte.ie 0 KINGS 13 Any unauthorised reproduction infringes Tailte Éireann copyright. No part of this publication may be copied, reproduced or transmitted in any form or by any means without the prior written permission of the copyright owner. The representation on this map of a road, track or footpath is not evidence of the existence of a right of way. This topographic map does not show legal property boundaries, nor does it show ownership of physical features. ©Tailte Éireann, 2024. All rights reserved. School 640649 CAPTURE RESOLUTION: LEGEND: 40 Metres The map objects are only accurate to the To view the legend visit **OUTPUT SCALE: 1:1,000** resolution at which they were captured. www.tailte.ie and search for Output scale is not indicative of data capture scale. 'Large Scale Legend' 0 20 40 60 80 100 Feet Further information is available at: www.tailte.ie; search 'Capture Resolution'













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

tipperarycoco.ie

t 0818 06 5000

e customerservice

@tipperarycoco.ie

Tipperary County Council, Civic Offices, Nenagh, Co. Tipperary

E45 A099

Date: 25th March 2024

Our Ref: S5/24/38

Civic Offices, Clonmel

Margaret O Neill 2 Kings Croft Camas Road Cashel Co. Tipperary E25 ND99

Re: Application for a Section 5 Declaration – An extra room off bedroom 2 to become granny flat at 2, Kings Croft, Camas Road, Cashel, Co. Tipperary.

Dear Sir/Madam,

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

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 Reference: \$5/24/38

Applicant: Margaret O'Neill

Development Address: 2 Kings Croft, Camas Road, Cashel Co. Tipperary

Proposed Development: Construction of an extra room off bedroom no.2 to become a Granny Flat

(24.85m²)

1. **GENERAL**

On the 20th March 2024 a request was made for a declaration under Section 5 of the Planning and Development Act, 2000 as amended, by Margaret O'Neill in respect of the following development;

Construction of an extra room off bedroom no.2 to become a Granny Flat (24.85m²)

A site layout plan and floor plans only have been provided and the application does not include for elevations.

2. STATUTORY PROVISIONS

The following statutory provisions are relevant to this 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) of the Planning and Development Act, 2000, as amended states:

- 4.- (1) The following shall be exempted developments for the purposes of this Act—
 - (h) 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.

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.

Class 1 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended states:

The extension of a house, by the construction or erection of an extension (including a conservatory) to the rear of

Description of Development

(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

- (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 of the Planning and Development Regulations 2001, as amended sets out restrictions on exemptions and states:

- 9. (1) Development to which article 6 relates shall not be exempted development for the purposes of the Act—
- (a) if the carrying out of such development 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.
- (viiA) consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12 (1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to and in accordance with a consent granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended

3. ASSESSMENT

a. Site Location

The site comprises of an existing residential property at 2 Kings Croft, Camas Road, Cashel, Co. Tipperary

b. Relevant Planning History

No previous planning history has been traced to the site.

c. Assessment

The question posed under the Section 5 Declaration application rephrased as is whether the construction of an extra room off bedroom no.2 to become a Granny Flat is development and is exempted development.

i) "Is or is not Development"

It is considered that the above listed proposal constitutes 'works' and therefore constitutes 'development' as understood by the Planning and Development Act, 2000, as amended.

ii) "Is or is not Exempted Development"

The floor area of the single storey extension is 24.85sq.m. The extension does not meet the parameters of Class 1 of Part 1 of Schedule 2 of the above cited Regulations as the extension extends beyond the side of the dwelling and is not wholly located to the rear. In the absence of elevations it is not possible to comment on all conditions and limitations.

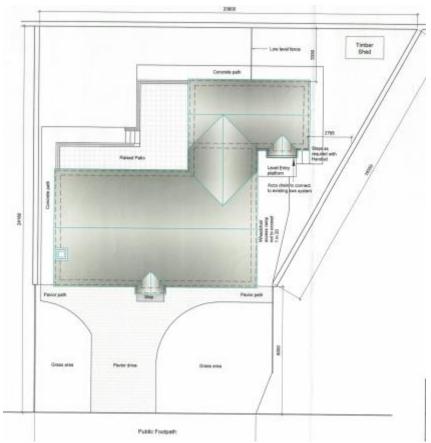


Image 1: Proposed image of Granny Flat to the rear and side of the existing dwelling

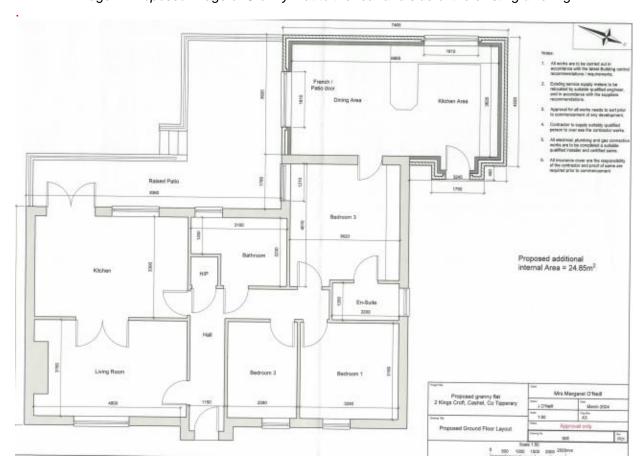


Image 2: Proposed image of Granny Flat to the rear and side of the existing dwelling

iii) Restrictions under Article 9

It is noted that the site is located within a Zone of Archaeological Potential and any available exemption would be limited by the restriction set out under Article 9(1)(a)(viiA) as referred to above.

iv) Requirement for Appropriate Assessment (AA) and Environmental Impact Assessment (EIA)

The proposal has been assessed having regard to the requirements of the EU Habitats Directive. The proposal has been screened as to the requirements for AA and the screening assessment considers that the proposal does not impact on any Natura 2000 site. See also Appropriate Assessment (AA) screening report attached.

EIA

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 also for Environmental Impact Assessment (EIA) preliminary examination screening report attached.

4. RECOMMENDATION

WHEREAS a question has arisen as to whether the construction of an extra room off bedroom no.2 to become a Granny Flat (24.8 sq m) at No. 2 Kings Croft, Camus Road, Cashel, Co. Tipperary, constitutes "development" and is or is not "exempted development"

AND WHERE AS 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) Article 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 application and details submitted by the applicant.

AND WHEREAS Tipperary County Council has concluded that the construction of an extra room off bedroom no.2 to become a Granny Flat constitutes "development" within the meaning of the Planning and Development Act 2000, as amended and is **NOT "exempted development".** The development does not satisfy the planning exemption under Class 1, Schedule 2, the Planning and Development Regulations, 2001, as amended, as same is not wholly located to the rear of the dwelling and extends to the side. It is further noted that the site is located within a Zone of Archaeological Potential associated with Cashel Town and any available exemption would be restricted by Article 9(1)(a)(ViiA) of the Planning and Development Regulations 2001, as amended.

Advice Note: In the absence of elevations of the proposal it is not possible for the Planning Authority to comment on all relevant conditions and limitations included under Class 1, Part 1 of Schedule 2 of the Regulations.

The development has been screened as to the requirement for Appropriate Assessment and Environmental Impact Assessment and it has been determined that same are not required.

Signed: Sara Jane Condon

Date: 26th March 2024

Assistant Planner

C.Conway

Senior Executive Planner

Signed:

Date: 27.03.2024

Original

TIPPERARY COUNTY COUNCIL

DELEGATED EMPLOYEE'S ORDER

| File Ref: S5/24/38 | Delegated Employee's Order No: _ | |
|---------------------------|----------------------------------|--|
|---------------------------|----------------------------------|--|

SUBJECT: Section 5 Declaration

I, Dave Carroll, A/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 Margaret O Neill, 2 Kings Croft, Camas Road, Cashel, Co. Tipperary, E25 ND99, re: Construction of an extra room off bedroom no.2 to become a Granny Flat (24.85m2) at 2 Kings Croft, Camas Road, Cashel Co. Tipperary 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) Article 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 application and details submitted by the applicant.

AND WHEREAS Tipperary County Council has concluded that the construction of an extra room off bedroom no.2 to become a Granny Flat constitutes "development" within the meaning of the Planning and Development Act 2000, as amended and is **NOT "exempted development"**. The development does not satisfy the planning exemption under Class 1, Schedule 2, the Planning and Development Regulations, 2001, as amended, as same is not wholly located to the rear of the dwelling and extends to the side. It is further noted that the site is located within a Zone of Archaeological Potential associated with Cashel Town and any available exemption would be restricted by Article 9(1)(a)(ViiA) of the Planning and Development Regulations 2001, as amended.

Signed:

Dave Carroll,

A/Director of Services,

Dame Coural

Planning and Development (including Town Centre First), Emergency Services and Emergency Planning and

Date: 28/03/2024

Tipperary/Cahir/Cashel Municipal District



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 tipperarycoco.ie

t 0818 06 5000

e customerservice

@tipperarycoco.ie

Date: 28 March 2024 Our Ref: S5/24/38 Civic Offices, Nenagh

Margaret O Neill, 2 Kings Croft, Camas Road, Cashel, Co. Tipperary, E25 ND99

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

Dear Ms O'Neill,

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

Construction of an extra room off bedroom no.2 to become a Granny Flat (24.85m2) at 2 Kings Croft, Camas Road, Cashel 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) Article 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 application and details submitted by the applicant.

AND WHEREAS Tipperary County Council has concluded that the construction of an extra room off bedroom no.2 to become a Granny Flat constitutes "development" within the meaning of the Planning and Development Act 2000, as amended and is **NOT "exempted development"**. The development does not satisfy the planning exemption under Class 1, Schedule 2, the Planning and Development Regulations, 2001, as amended, as same is not wholly located to the rear of the dwelling and extends to the side. It is further noted that the site is located within a Zone of Archaeological Potential associated with Cashel Town and any available exemption would be restricted by Article 9(1)(a)(ViiA) of the Planning and Development Regulations 2001, as amended.

Advice Note: In the absence of elevations of the proposal it is not possible for the Planning Authority to comment on all relevant conditions and limitations included under Class 1, Part 1 of Schedule 2 of the Regulations

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

Geraldene Quem .

for **Director of Services**