

PLANNING & DEVELOPMENT ACT, 2000 (as amended)

Application for a Section 5 Declaration
Development / Exempted Development

SCANNED

1. Applicant's address/contact details:

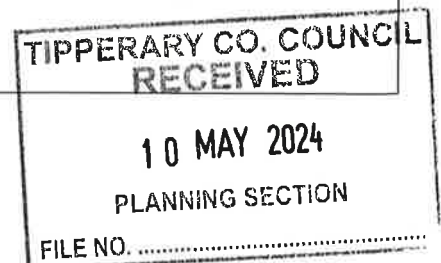
<i>Applicant</i>	Daffodil Care Services Ltd.
<i>Address</i>	Daffodil House, 25 Market Street, Thomastown, Co. Kilkenny
<i>Telephone No.</i>	██████████
<i>E-mail</i>	██████████@██████████.e

2. Agent's (if any) address:

<i>Agent</i>	Furey Consulting Engineers
<i>Address</i>	Olde World Cottage, Ratahsker Road, Naas, Co. Kildare
<i>Telephone No.</i>	045486229
<i>E-mail</i>	info@fureyconsulting.ie
<i>Please advise where all correspondence in relation to this application is to be sent;</i>	
Applicant [<input type="checkbox"/>] Agent [<input checked="" type="checkbox"/>]	

3. Location of Proposed Development:

<i>Postal Address or Townland or Location (as may best identify the land or structure in question)</i>	Kilnacarriga, Newcastle, Co. Tipperary, E91 HW29
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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.)

Change of use from a house to use as a residence for persons with intellectual or physical disability or mental illness and persons providing for such persons. The maximum number of persons with an intellectual or physical disability or a mental illness living in the subject residence is 4. The number of resident carers living in the subject residence is 2. Class 14 (F) development.

Proposed floor area of proposed works/uses: 251.4 sqm

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

<i>Please tick appropriate box to show applicant's legal interest in the land or structure</i>	A. Owner	B. Occupier
	C. Other x	
<i>Where legal interest is 'Other', please expand further on your interest in the land or structure</i>	PROPOSED PURCHASER OF PROPERTY	
<i>If you are not the legal owner, please state the name and address of the owner</i>	Name: MARK HEFFERNAN Address: Kilnacarriga, Newcastle, Co. Tipperary	

Signature of Applicant(s)



Date: 07-05-24

Emmet Furey of Furey Consulting Engineers for and on behalf of Daffodil Care Services Ltd.

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:

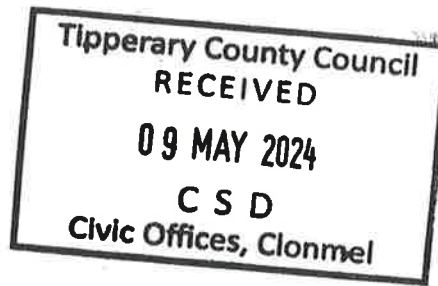
Telephone 0761 06 5000

E-Mail planning@tipperarycoco.ie

FOR OFFICE USE ONLY

DATE STAMP

Fee Recd. € 80 _____
Receipt No 181200
Date 9-5-2024
Received by _____



7th May 2024

Our Reference: 15-012

Planning Section,
Tipperary County Council,
Civic Offices,
Emmet Street,
Clonmel,
Co. Tipperary

SCANNED

RE: Section 5 Declaration Application – Kilnacarriga, Newcastle, Co. Tipperary, E91 HW29.

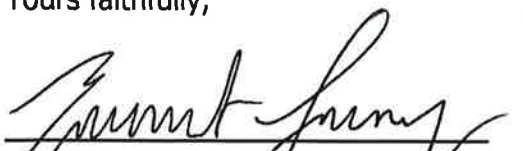
Dear Sir/Madam,

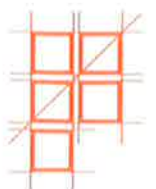
Our client, Pat Hayes of Daffodil Care, wishes to seek a Section 5 Declaration for a property at Kilnacarriga, Newcastle, Co. Tipperary. The appropriate fee of €80 and associated drawings and application form for the development are also enclosed.

Please note a Section 5 Declaration was submitted for this development in August 2023 and was deemed not exempted development as there was existing unauthorised development on the site. This unauthorised development has now been regularised with a grant of permission for retention from An Bord Pleanála. I enclose a copy of the Grant of Permission and the previous Section 5 Declaration decision made by Tipperary County Council for your convenience.

Please don't hesitate to contact our office if you require any further information. Hoping all is in order.

Yours faithfully,

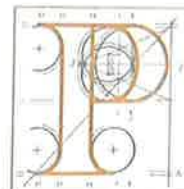

EMMET FUREY, B.E., C.Eng, M.I.E.I.
FUREY CONSULTING ENGINEERS



Our Case Number: ABP-317727-23

Planning Authority Reference Number: 22673

Your Reference: Daffodil Care Services Ltd.



An
Bord
Pleanála

David Mulcahy
67 The Old Mill Race
Athgarvan
Newbridge
Co. Kildare

SCANNED

Date: 25 APR 2024

Re: Extensions to rear and side of dwelling and raising of roof over north-east of dwelling.
Kilnacarriga , Newcastle, Co. Tipperary

Dear Sir / Madam,

An order has been made by An Bord Pleanála determining the above-mentioned appeal under the Planning and Development Acts 2000 to 2022. A copy of the order is enclosed.

In accordance with section 146(5) of the Planning and Development Act 2000, as amended, the Board will make available for inspection and purchase at its offices the documents relating to any matter falling to be determined by it, within 3 days following the making of its decision. The documents referred to shall be made available for a period of 5 years, beginning on the day that they are required to be made available. In addition, the Board will also make available the Inspector's Report, the Board Direction and Board Order in respect of the matter on the Board's website (www.pleanala.ie). This information is normally made available on the list of decided cases on the website on the Wednesday following the week in which the decision is made.

The Public Access Service for the purpose of inspection/purchase of file documentation is available on weekdays from 9.15am to 5.30pm (including lunchtime) except on public holidays and other days on which the office of the Board is closed.

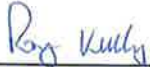
In cases where a grant of (full) planning permission is notified by the Board, it is policy to include a copy of the Department of the Environment and Local Government's Leaflet PL11 - Guide to the Building Control System and a copy of the Health and Safety Authority's leaflet Safety and Health on Construction Projects -The Role of Clients with the notification. These leaflets are issued at the request of the above bodies.

Tel	Tel	(01) 858 8100
Glaó Áitiúil	LoCall	1800 275 175
Facs	Fax	(01) 872 2684
Lálthreán Gréasáin	Website	www.pleanala.ie
Riomhphost	Email	bord@pleanala.ie

64 Sráid Maoilbhríde	64 Marlborough Street
Baile Átha Cliath 1	Dublin 1
D01 V902	D01 V902

A further enclosure contains information in relation to challenges by way of judicial review to the validity of a decision of An Bord Pleanála under the provisions of the Planning and Development Act, 2000, as amended.

Yours faithfully,



Rory Kellely
Executive Officer

BP100LN

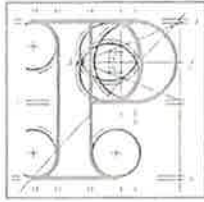
Tel
Glaio Áitiúil
Facs
Lálthreán Gréasáin
Ríomhphost

Tel
LoCall
Facs
Website
Email

(01) 858 8100
1800 275 175
(01) 872 2684
www.pleanala.ie
bord@pleanala.ie

64 Sráid Maoilbhríde
Baile Átha Cliath 1
D01 V902

64 Marlborough Street
Dublin 1
D01 V902



An
Bord
Pleanála

Board Order
ABP-317727-23

Planning and Development Acts 2000 to 2022

Planning Authority: Tipperary County Council

Planning Register Reference Number: 22673

SCANNED

Appeal by Nigel Burke and Emelie Sjoberg care of Walsh and Walsh Architects of The Square, Cahir, County Tipperary against the decision made on the 13th day of July, 2023 by Tipperary County Council to grant subject to conditions a permission to Daffodil Care Services Limited care of Furey Consulting Engineers Limited of Olde World Cottage, Rathasker Road, Naas, County Kildare in accordance with plans and particulars lodged with the said Council.

Proposed Development: Retention of (A) two number extensions to the rear and side of the dwelling, (B) raising of roof level over the north-east of the dwelling and for the provision of first floor accommodation, (C) the change of fenestration and (D) internal modifications and all associated site works and services at Kilnacarriga, Newcastle, County Tipperary as revised by the further public notices received by the planning authority on the 19th day of June 2023.

Decision

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Reasons and Considerations

Having regard to the existing residential development at the site, the nature and scale of the development to be retained / carried out, and the provisions of the Tipperary County Development Plan 2022-2028, it is considered that, subject to compliance with the conditions set out below, the development proposed to be retained would not seriously injure the residential or visual amenities of the area or of property in the vicinity and would constitute an acceptable form of development at this location. The development proposed to be retained would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be retained, carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further information submitted on the 18th day of May 2023, and also the proposal submitted to An Bord Pleanála with the grounds of appeal, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority and the development shall be retained, carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

3. The developer shall enter into water and/or wastewater connection agreements with Uisce Éireann, prior to the completion /occupation of the development proposed to be retained.

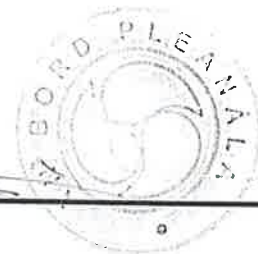
Reason: In the interest of public health.

4. The shed to be retained shall be ancillary to the main dwelling. It shall not be used for commercial purposes or as a separate dwelling unit.

Reason: In the interest of residential amenity.

5. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid within three months of the date of this Order or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.



Liam Bergin

Member of An Bord Pleanála

duly authorised to authenticate

the seal of the Board

Dated this 24th day of April 2024



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



Date: 15 August 2023

Our Ref: S5/23/78

Civic Offices, Nenagh

**Daffodil Care Services Ltd
C/O Furey Consulting Engineers
Olde World Cottage
Ratahsker Road
Naas, Co. Kildare**

SCANNED

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 24th July 2023, in relation to the following proposed works:

the change of use of the existing house on site to use as a residence for persons with intellectual or physical disability or mental illness and persons providing for such persons at Kilnacarriga, Newcastle, Co. Tipperary

Having considered the information received, the Planning Authority has decided that the works proposed at Kilnacarriga, Newcastle, Co. Tipperary, as set out in section 4.1 above, **constitute "development"** but are **not considered "exempted development"** as the exemption provided for under Class 14 (f) of Schedule 2 Part 1 of the Planning and Development Regulations 2001 (as amended) cannot be applied if the structure is unauthorised. As an application to retain the unauthorised works on site has been appealed to An Bord Pleanála, the unauthorised works on site have yet to be regularised.

Having regard to the provisions of Article 9(1)(a)(vii B) of the Planning and Development Regulations, it is considered that the change of use would not be likely to have significant impacts on a protected site.

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

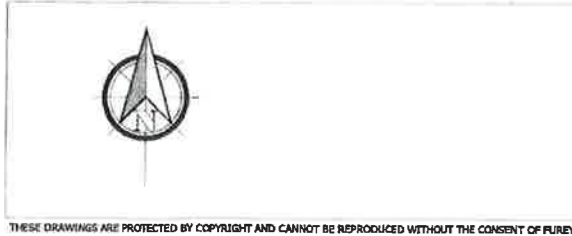
D. MacGrath
for **Director of Services**



SCANNED

SITE BOUNDARY

River Tar
An Teann



REV	DESCRIPTION

DATE | BY | CHK

(+353) 45 486 229
 fureyconsulting.ie
 Olde World Cottage,
 Rathasker Road,
 Naas, Co. Kildare



PROJECT
 DRAWING TITLE
 CLIENT
 STATUS

SECTION 5 DECLARATION AT
 KILNACARRIGA, NEWCASTLE, CO. TIPPERARY
 SITE LOCATION MAP
 O.S. SHEET NO.: 5619-B, 5619-D
 DAFFODIL CARE SERVICES LTD.
 SECTION 5 DECLARATION

DWG NO	A1-001		
SCALE	1:2500 @ A3		
DATE	21-07-23		
BY	NF	REV	---
CHK	EF	REF	15-012

River Tar
An Teara

SITE BOUNDARY

DWELLING
FOR
CHANGE
OF USE

GARAGE



SCANNED

REV | DESCRIPTION

DATE | BY | CHK



(+353) 45 486 239
fureyconsulting.ie
Olde World Cottage,
Rathlasker Road,
Naas, Co. Kildare

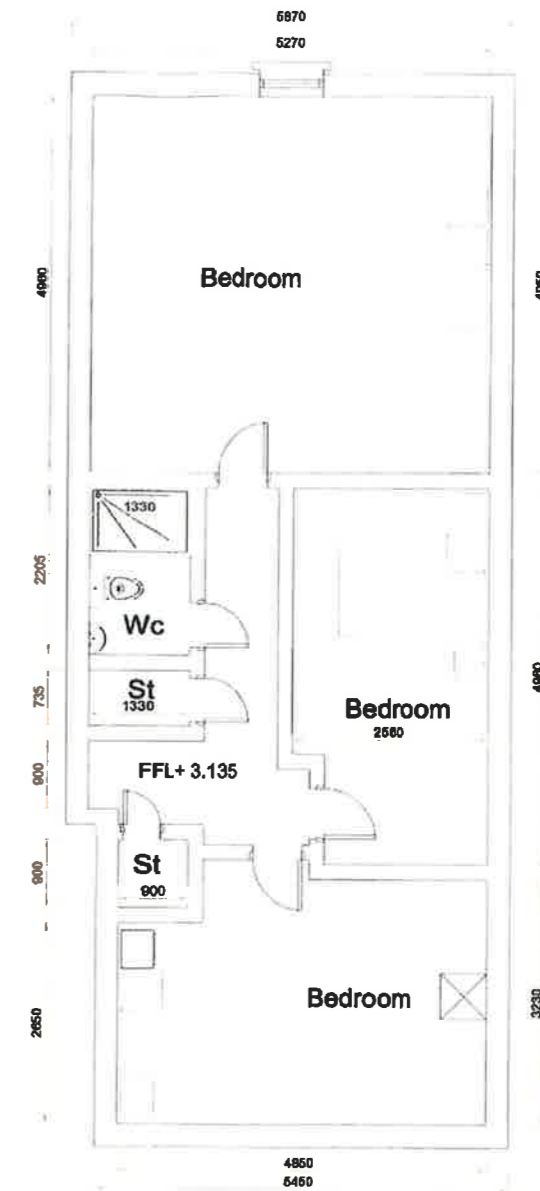
FUREY
CONSULTING ENGINEERS

PROJECT	SECTION 5 DECLARATION AT KILMACARRIGA, NEWCASTLE, CO. TIPPERARY
DRAWING TITLE	SITE LAYOUT
CLIENT	DAFFODIL CARE SERVICES LTD.
STATUS	SECTION 5 DECLARATION

DWG NO	A1-002
SCALE	1:500 @ A3
DATE	21-07-23
BY	NF
CHK	EF
	REV
	REF
	15-012



GROUND FLOOR
GROUND FLOOR AREA = 181.7m²
TOTAL FLOOR AREA = 251.4m²



FIRST FLOOR
FIRST FLOOR AREA = 69.7m²
TOTAL FLOOR AREA = 251.4m²

SCANNED



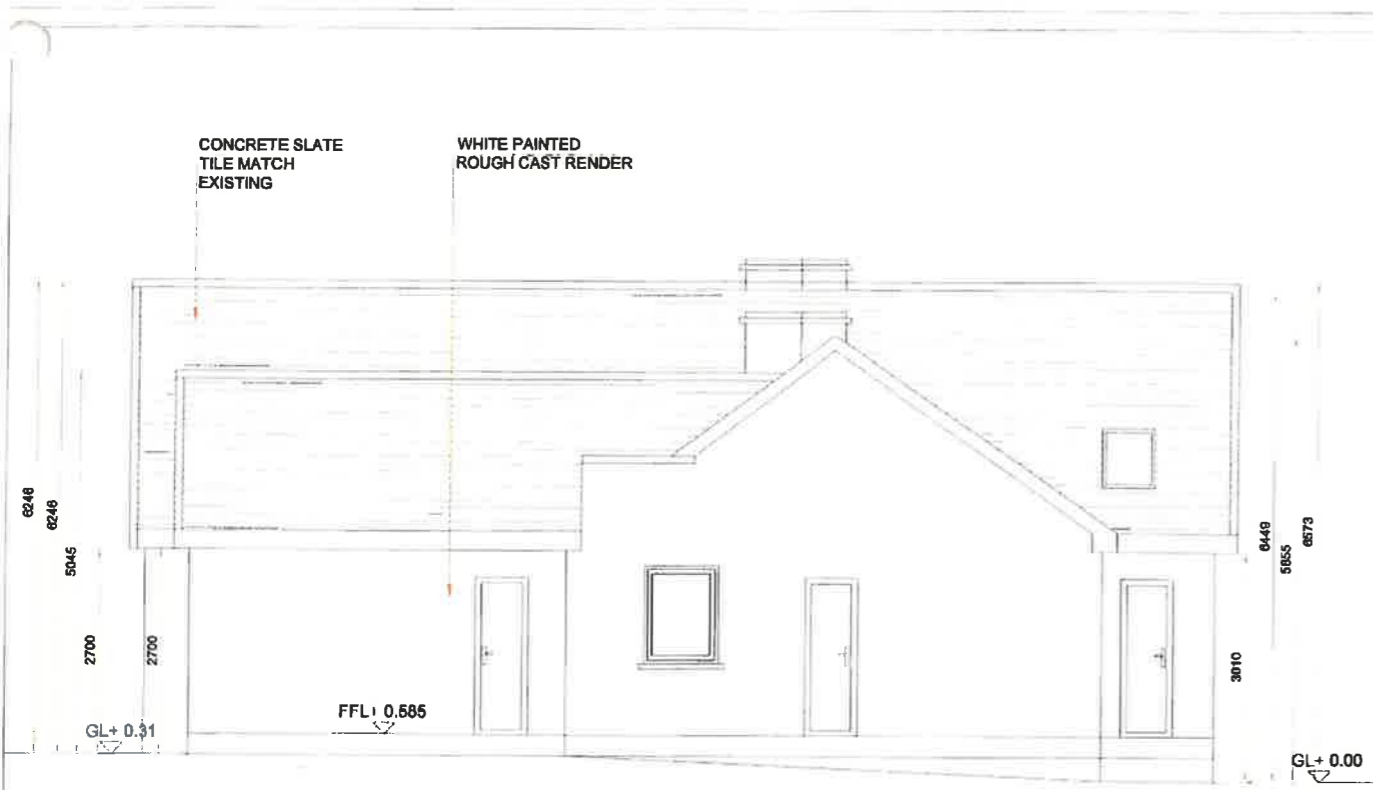
REV	DESCRIPTION	DATE	BY	CHK

(+353) 45 486 229
 fureyconsulting.ie
 Olde World Cottage,
 Rathasker Road,
 Naas, Co. Kildare

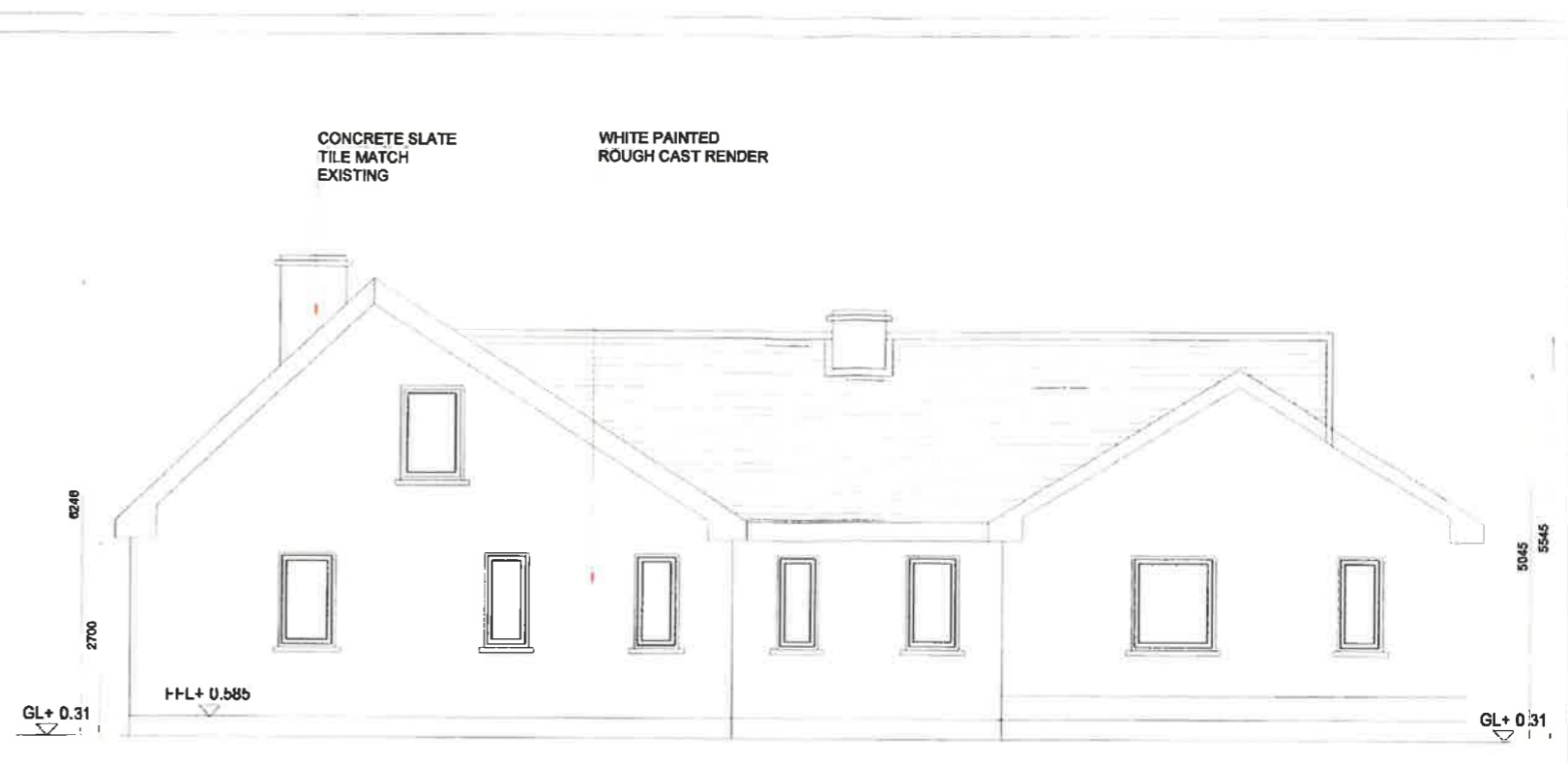


PROJECT	SECTION 5 DECLARATION AT KILNACARRIGA, NEWCASTLE, CO. TIPPERARY
DRAWING TITLE	GROUND FLOOR AND FIRST FLOOR PLAN
CLIENT	DAFFODIL CARE SERVICES LTD.
STATUS	SECTION 5 DECLARATION

DWG NO	A2-001
SCALE	1:100 @ A3
DATE	21-07-23
BY	NF
CHK	EF
REV	---
REF	15-O12

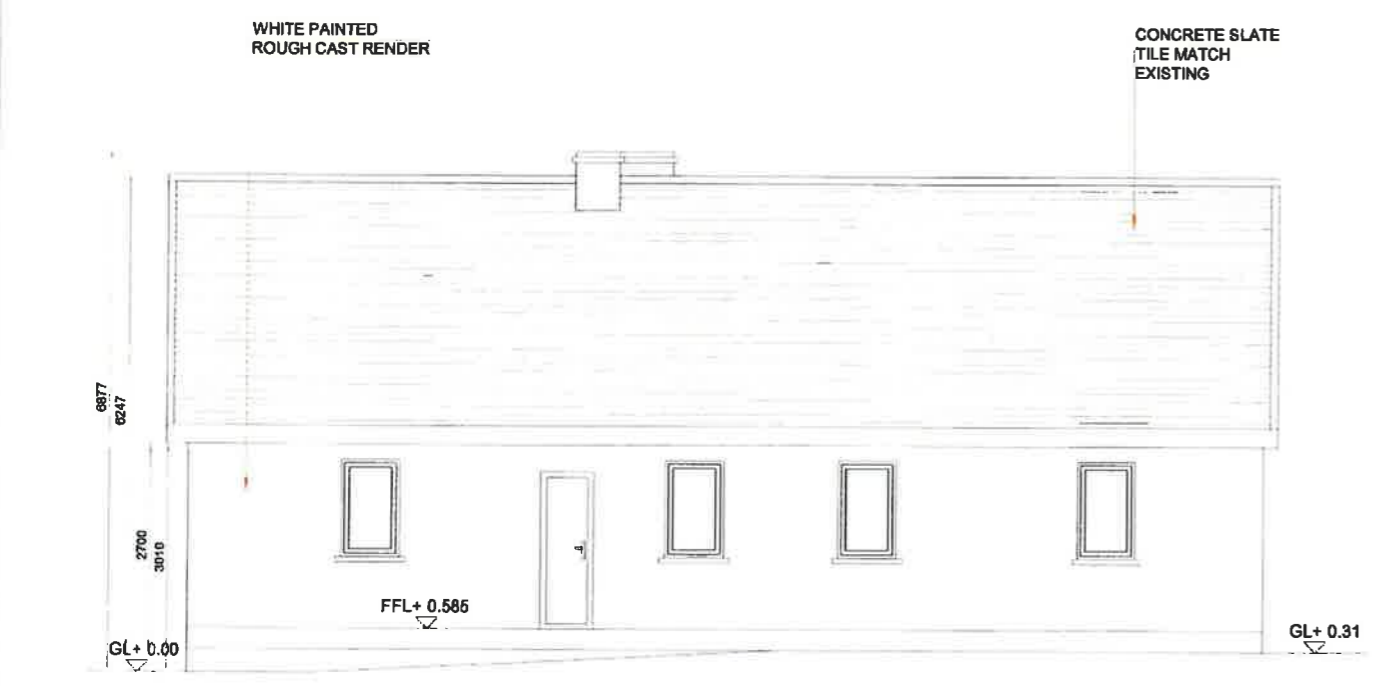


**SIDE ELEVATION
(SOUTH-WEST)**



**REAR ELEVATION
(NORTH-WEST)**

SCANNED



**SIDE ELEVATION
(NORTH-EAST)**



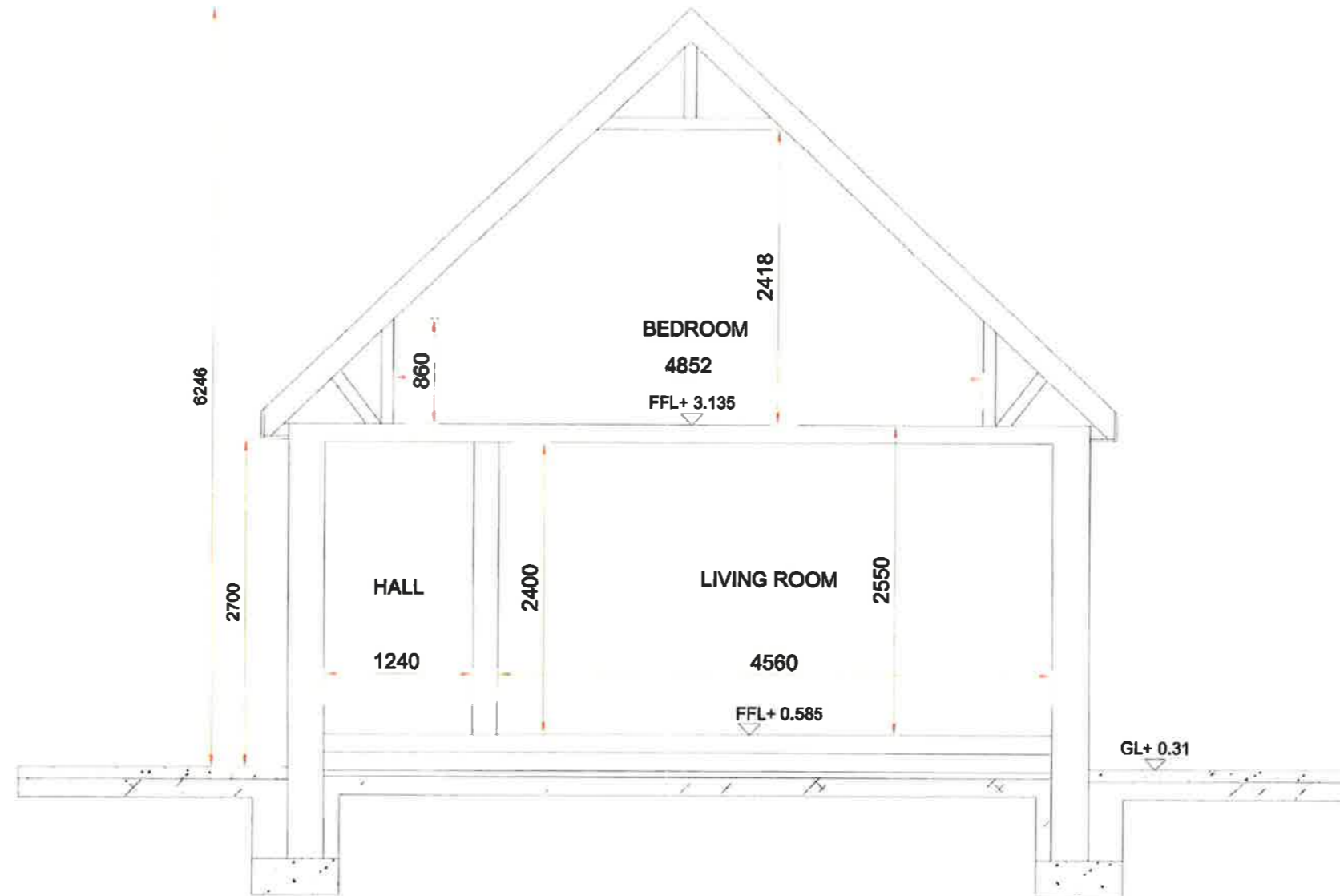
**FRONT ELEVATION
(SOUTH-EAST)**

REV	DESCRIPTION	DATE	BY	CHK

(+353) 45 486 229
 fureyconsulting.ie
 Olde World Cottage,
 Rathsker Road,
 Naas, Co. Kildare



PROJECT	SECTION 5 DECLARATION AT KILNACARRIGA, NEWCASTLE, CO. TIPPERARY	DWG NO	A3-001		
DRAWING TITLE	ELEVATIONS	SCALE	1:100 @ A3		
CLIENT	DAFFODIL CARE SERVICES LTD.	DATE	21-07-23		
STATUS	SECTION 5 DECLARATION	BY	NF	REV	---
		CHK	EF	REF	15-012



SCANNED

SECTION A-A

REV | DESCRIPTION

DATE | BY | CHK

(+353) 45 486 229
 fureyconsulting.ie
 Olde World Cottage,
 Rathasker Road,
 Naas, Co. Kildare

FUREY
 CONSULTING ENGINEERS

PROJECT

SECTION 5 DECLARATION AT
 KILNACARRIGA, NEWCASTLE, CO. TIPPERARY

DRAWING
 TITLE

SECTION A-A

CLIENT

DAFFODIL CARE SERVICES LTD.

STATUS

SECTION 5 DECLARATION

DWG
 NO

A4-001

SCALE

1:50 @ A3

DATE

21-07-23

BY

NF

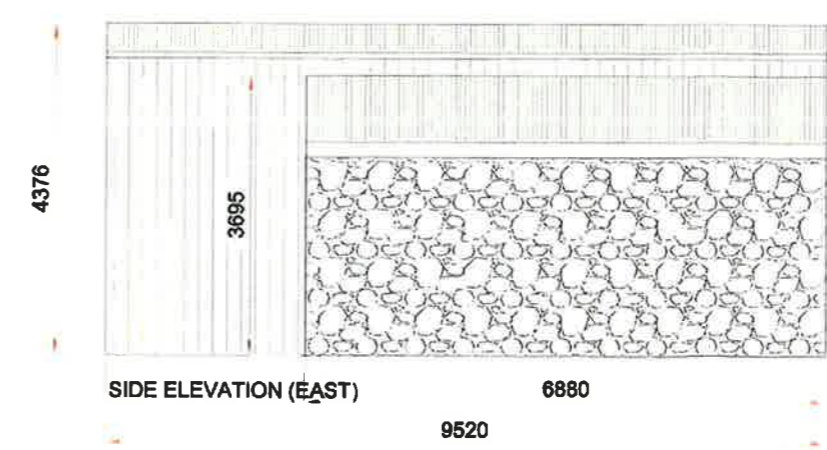
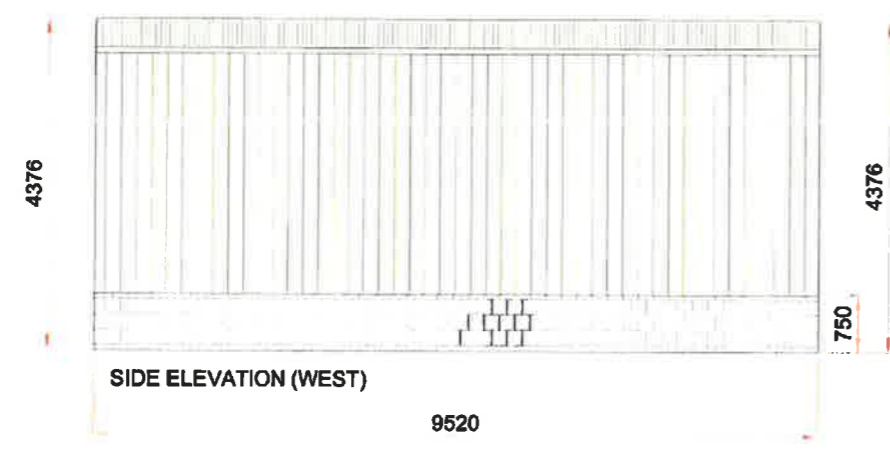
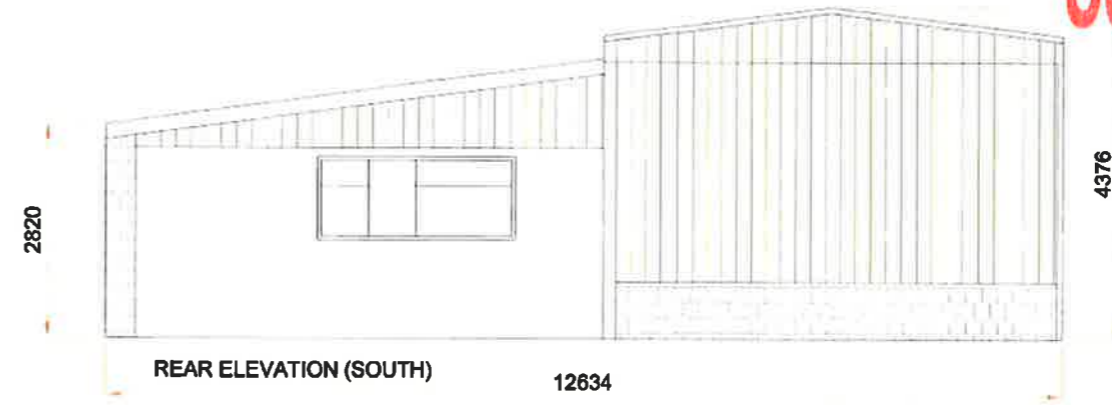
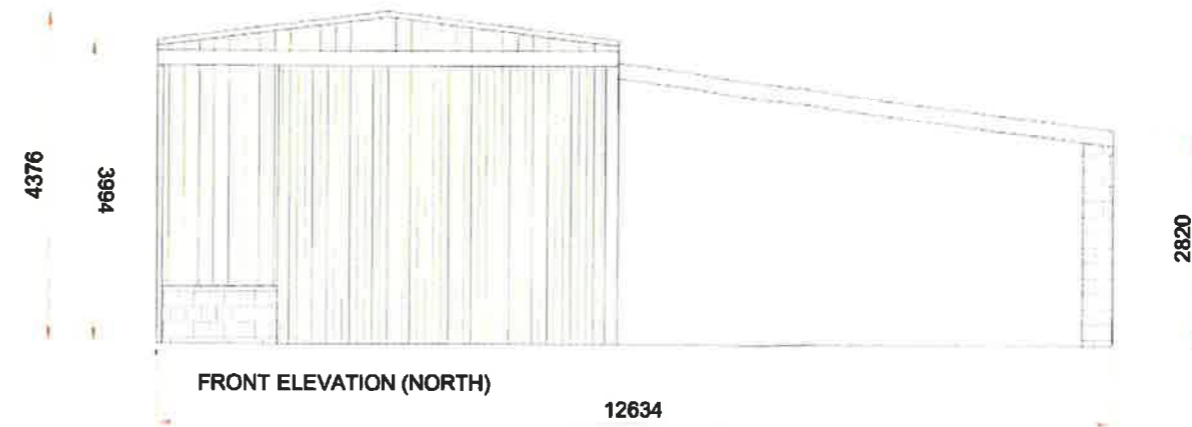
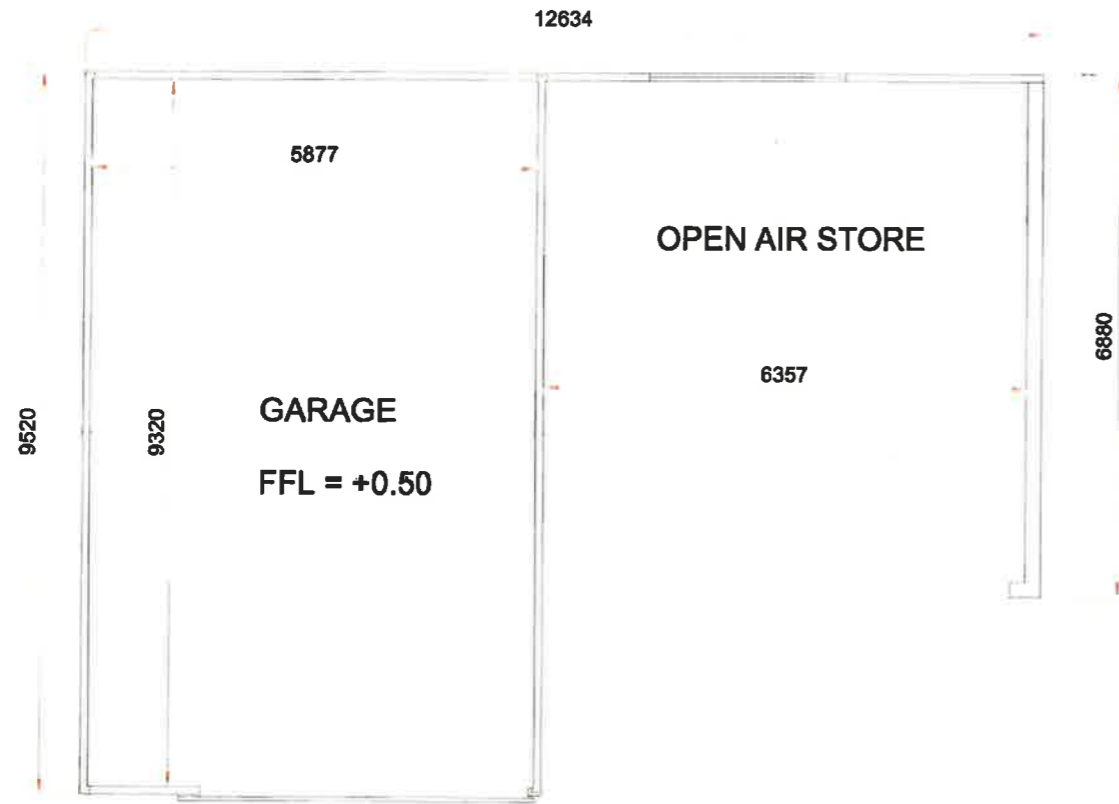
REV

CHK

EF

REF

15-012



SCANNED

REV	DESCRIPTION	DATE	BY	CHK

(+353) 45 486 229
 fureyconsulting.ie
 Olde World Cottage,
 Rathsker Road,
 Naas, Co. Kildare



PROJECT
 DRAWING TITLE
 CLIENT
 STATUS

SECTION 5 DECLARATION AT
 KILNACARRIGA, NEWCASTLE, CO. TIPPERARY
 GARAGE PLANS AND ELEVATIONS
 DAFFODIL CARE SERVICES LTD.
 PLANNING

DWG NO	A2-101		
SCALE	1:200 @ A3		
DATE	21-07-23		
BY	NF	REV	---
CHK	EF	REF	15-012



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

Date: 10th May 2024

Our Ref: S5/24/57

Civic Offices, Clonmel

**Daffodil Care Services Ltd
C/o Furey Consulting Engineers
Olde World Cottage
Ratahsker Road
Naas
Co. Kildare**

SCANNED

Re: Application for a Section 5 Declaration – Change of use from house to use as a residence for persons with intellectual or physical disability or mental illness and persons providing for such persons. The maximum number of persons with an intellectual or physical disability or a mental illness living in the subject residence is 4. The number of resident careers living in the subject residence is 2 at Kilnacarriga, Newcastle, Co. Tipperary, E91 HW29.

Dear Sir/Madam,

I acknowledge receipt of your application for a Section 5 Declaration received on 10th May, 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

Declaration on Exempted Development under Section 5 of the Planning and Development Act 2000

Declaration Reference No.: S5/24/57

Query: Whether the works proposed at Kilnacarriga, Newcastle, Co. Tipperary, which consist of the change of use of the existing house on site to use as a residence for persons with intellectual or physical disability or mental illness and persons providing for such persons.

Location: Kilnacarriga, Newcastle, Co. Tipperary.

Querist: Daffodil Care Services.

Owner/Occupier: Daffodil Care Services

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1 Introduction

1.1 Query

- 1.1.1 A question has arisen pursuant of Section 5 of the Planning and Development Act 2000 (as amended) as to whether or not the change of use of the existing house to use as a residence for persons with intellectual or physical disability or mental illness and persons providing for such persons at Kilnacarriga, Newcastle, Co. Tipperary is or is not exempted development. The change of use will provide residential care accommodation for a maximum number of 4 service users and 2 resident carers.

2 Site Location and History

2.1 Site location

- 2.1.1 The application site is located in the townland of Kilnacarriga, Newcastle, Co. Tipperary, c. 1.9 kms to the west of the village of Newcastle,
- 2.1.2 The site is occupied by an existing dwelling, a single storey structure. There is a large extension to the side which also provides for living space at first floor level. There are two roof light on the western roof plan serving this space.
- 2.1.3 The site is served by two entrances off the L-3501 which runs to the south west of the site. The dwelling is located on the southern side of the road.
- 2.1.4 The structure on site is not listed on the Record of Protected Structures as set out in the Tipperary County Development plan 2022.

2.2 Planning History

- 2.2.1 The planning history on site is summarised in table 1 below.

Table 1 Planning History

Planning Reference	Description of Development	Decision
On-Site		
02/9032	extension to the western side and the south-eastern side of dwelling house, a storage shed, new septic tank and percolation area and modification to existing entrances	Granted
22/673	a) 2 no. extensions to the rear and side of the dwelling (b) raising the roof level over the north-east of the dwelling and for the provision of first floor accommodation (c) the change of fenestration (d) internal modifications and all associated site works and services	Permission granted by Tipperary County Council and by ABP following a third party appeal (ABP-317727-23)
S5/23/78	the change of use of the existing house to use as a residence for persons with intellectual or physical disability or mental illness and persons providing for such persons	Not exempted development as there were unauthorised works to the building to be converted.
Adjacent		
20/1288	demolition of existing entrance porch and adjoining garage, single storey extension to rear and side of existing dwelling, minor modifications to existing elevations to include new covering, proposed external store, new percolation area to existing treatment system	Granted

Figure 1 Planning history



3 Legislative Context

3.1 Planning and Development Act 2000 (as amended)

- 3.1.1 According to **Section 2(1)** of the **Planning and Development Act 2000 (as amended)**, the definition of “Works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal.
- 3.1.2 According to **Section 3(1)** of the **Planning and Development Act 2000 (as amended)**, “development” means, save where the context otherwise requires, the carrying out of works on, in or under land or the making of any material change in the use of any structures or other land.
- 3.1.3 **Section 4** of the same Act lists works that would be considered exempted development. Section 4 also conveys power on the Minister to make regulations to provide for any class of development to be exempted development for the purposes of the Act.

3.2 Planning and Development Regulations

- 3.2.1 **Article 6** of the **Planning and Development Regulations 2001, as amended**, refers to “Exempted Development”. 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.
- 3.2.2 **Article 9** of said Regulations lists a series of restrictions on exemptions. Of particular note are the provisions of 9(1)(a)(viiB) and (viii) .
- 3.2.3 Of particular relevance to this declaration is **Class 14(f) of Schedule 2 Part 1**, which considers the change of use of a house to use as a residence for persons with an intellectual or physical disability or mental illness and persons providing care for such persons.

4 Assessment

4.1 Works Proposed

- 4.1.1 For the purpose of this Declaration, the work, to which the query relates, is,
- the change of use of a house to use as a residence for persons with an intellectual or physical disability or mental illness and persons providing care for such persons.
- 4.1.2 The change of use will provide residential care accommodation for a maximum number of 4 service users and 2 resident carers.

4.2 Is it development?

- 4.2.1 Having regard to Sections 2(1) and 3(1) of the Planning and Development Act 2000 (as amended), it is considered that the proposal as set out in paragraph 4.1.1 above, constitutes development in that it constitutes the material change of use of the structure on the subject lands.

4.3 Is it exempted development?

- 4.3.1 Schedule 2, part 1, class 14 (F) of the Planning and Development Regulations considers such works to exempted development provided it meets the conditions and limitations set out in table 2 below;

Table 2 Schedule 2 Part 1 Class 14 (f)	
<p>CLASS 14</p> <p>Development consisting of a change of use—</p> <p>(f) from use as a house, to use as a residence for persons with an intellectual or physical disability or mental illness and persons providing care for such persons.</p>	<p>The number of persons with an intellectual or physical disability or a mental illness living in any such residence shall not exceed 6 and the number of resident carers shall not exceed 2.</p>

- 4.3.2 Based on the information presented, the maximum number of service users is 4 with 2 residential care staff. This level of use complies with the conditions and limitations specified in Schedule 2, part 1, class 14 (F) of the Planning and Development Regulations
- 4.3.3 Having regard to the restrictions on exempted development as set out under Article 9 of the Planning and Development Regulations 2001, it is not considered that any restriction apply in this instance.
- 4.3.4 An AA screening assessment in respect the development proposed is attached as Appendix 1 and identifies impacts on a Natura 2000 site arising from the development are unlikely. Therefore an Appropriate Assessment of the development is not required (see appendix below).

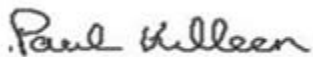
5 Conclusion

5.1 Query

- 5.1.1 A question has arisen as to whether the change of use of the existing house to use as a residence for persons with intellectual or physical disability or mental illness and persons providing care for such persons at Kilnacarriga, Newcastle, Co. Tipperary is or is not development and is or is not exempted development.
- 5.1.2 Part 5 of the Planning and Development Act 2000 (as amended) requires a Planning Authority to make a declaration on any question that arises as to what is or is not development. In determining this query, the Planning Authority had 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 14 (f) of Schedule 2 Part 1 of the Planning and Development Regulations 2001 (as amended).
 - the nature and scale of the proposed use, as outlined in submissions on file by the owner/occupier, as a residence for persons with an intellectual/physical disability or mental illness

5.2 Determination

- 5.2.1 Having considered the information received, the Planning Authority has decided that the works proposed at Kilnacarriga, Newcastle, Co. Tipperary, as set out in section 4.1 above, constitute “a material change of use” and “development” and are considered “exempted development” as provided for under Class 14 (f) of Schedule 2 Part 1 of the Planning and Development Regulations 2001 (as amended).
- 5.2.2 Having regard to the provisions of Article 9(1)(a)(vii B) of the Planning and Development Regulations, the change of use is exempted development as it would not be likely to have significant impacts on a protected site.



Paul Killeen
Executive Planner
31st of May 2024



Caroline Conway
Senior Executive Planner
4th June 2024

APPENDIX 1

HABITATS DIRECTIVE APPROPRIATE ASSESSMENT (AA) SCREENING REPORT				
STEP 1. Description of the project/proposal and local site characteristics:				
(a) File Reference No:		S5/24/57		
(b) Brief description of the project or plan:		the change of use of a house to use as a residence for persons with an intellectual or physical disability or mental illness and persons providing care for such persons.		
(c) Brief description of site characteristics:		<p>The application site is located in the townland of Kilnacarriga, Newcastle, Co. Tipperary, c. 1.9 kms to the west of the village of Newcastle,</p> <p>The site is occupied by an existing dwelling, a single storey structure. There is a large extension to the side which also provides for living space at first floor level. There are two roof light on the western roof plan serving this space</p>		
(d) Relevant prescribed bodies consulted: e.g. DHLGH (NPWS), EPA, OPW		n/a		
(e) Response to consultation:		n/a		
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 ¹	Distance from proposed development ² (km)	Connections (Source-Pathway-Receptor)	Considered further in screening Y/N
Lower River Suir SAC 002137	https://www.npws.ie/protected-sites/sac/002137	10 metres	<p>Weak as wastewater is discharged to ground.</p> <p>Surface water collected and discharged to a soakpit</p>	yes
Nier Valley woodland SAC 000668	https://www.npws.ie/protected-sites/sac/000668	12.4 kms	No due to distance and lack of connection	N
Comeragh mountains	https://www.npws.ie/protected-sites/sac/001952	c. 15 kms	No due to distance and	N

SAC 001952			lack of connection	
River blackwater SAC 002170	https://www.npws.ie/protected-sites/sac/002170	6.9 kms	No due to distance and lack of connection	N

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.)
<p>Construction phase e.g.</p> <ul style="list-style-type: none"> Vegetation clearance Demolition Surface water runoff from soil excavation/infill/landscaping (including borrow pits) Dust, noise, vibration Lighting disturbance Impact on groundwater/dewatering Storage of excavated/construction materials Access to site Pests 	It is not considered that the works to be undertaken on site, which are minor in nature, will have impacts that could affect European Sites within the wider catchment area.
<p>Operational phase e.g.</p> <ul style="list-style-type: none"> Direct emission to air and water Surface water runoff containing contaminant or sediment Lighting disturbance Noise/vibration Changes to water/groundwater due to drainage or abstraction Presence of people, vehicles and activities Physical presence of structures (e.g. collision risks) Potential for accidents or incidents 	No likely impacts
In-combination/Other	No likely in combination effects

(b) Describe any likely changes to the European site:

<p>Examples of the type of changes to give consideration to include:</p> <ul style="list-style-type: none"> Reduction or fragmentation of habitat area Disturbance to QI species Habitat or species fragmentation Reduction or fragmentation in species density Changes in key indicators of conservation status value (water or air quality etc.) Changes to areas of sensitivity or threats to QI 	<p>None.</p> <p>The application site is not located within a European site, therefore there is no risk of habitat loss or fragmentation or any effects on QI species directly or ex-situ.</p> <p>Surface water will be managed through appropriate on site drainage system</p>
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- Interference with the key relationships that define the structure or ecological function of the site

(c) Are 'mitigation' measures necessary to reach a conclusion that likely significant effects can be ruled out at screening?

Yes 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.

On the basis of the information on file, which is considered adequate to undertake a screening determination and having regard to:

- the nature and scale of the proposed development,
- appropriate wastewater and surface water management systems,

it is concluded that the development, individually or in-combination with other plans or projects, would not be likely to have a significant effect on the above listed European sites or any other European site, in view of the said sites' conservation objectives.

An appropriate assessment is not, therefore, required..

Conclusion:

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

Signature and Date of Recommending Officer:	Paul Killeen	Date:	31/05/24
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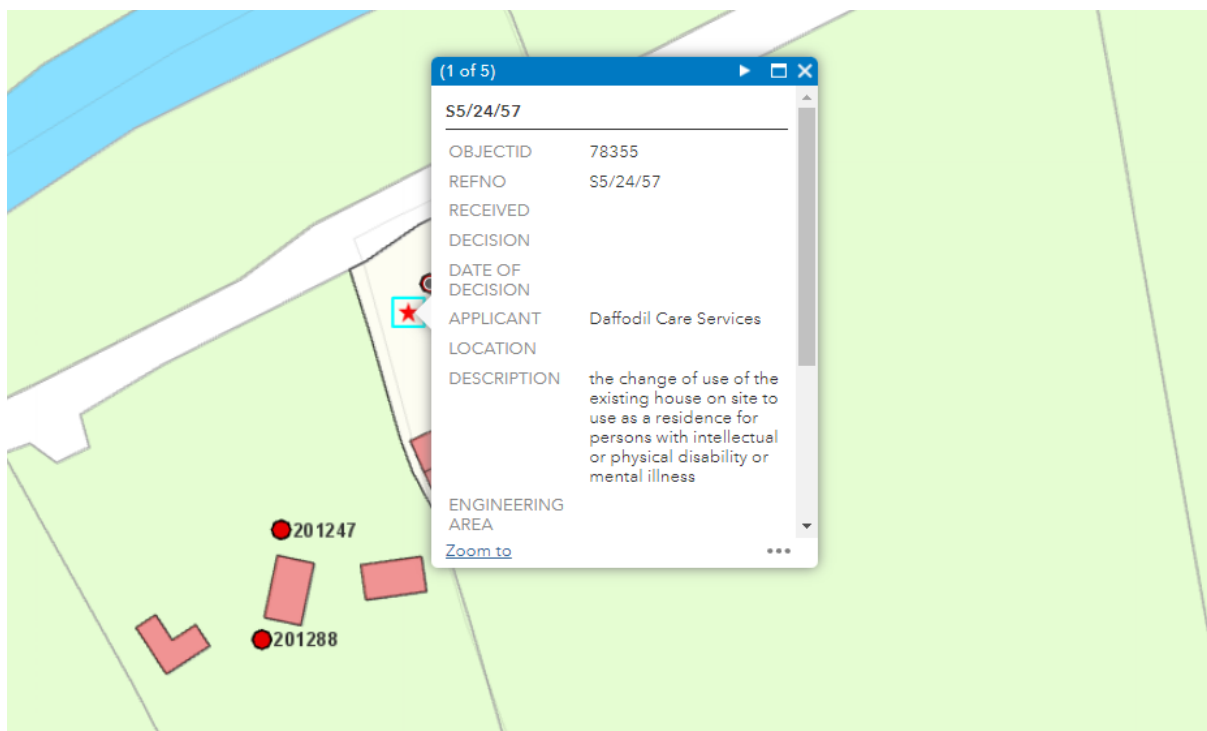
EIA PRE-SCREENING

Establishing a development is a 'sub-threshold development'

File Reference:	S5/23/78	
Development Summary:	the change of use of a house to use as a residence for persons with an intellectual or physical disability or mental illness and persons providing care for such persons.	
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 required	Determination
<input type="checkbox"/> No, Schedule 7A information/screening report has not been submitted by the applicant	Preliminary Examination required	

Figure 2 Site entered on Planning Register





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

Date: 4th June, 2024

Our Ref: S5/24/57

Civic Offices, Nenagh

**Daffodil Care Services Ltd
C/O Furey Consulting Engineers
Olde World Cottage
Ratahsker Rd
Naas
Co. Kildare**

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 10th May, 2024, in relation to the following proposed works:

Whether the works proposed at Kilnacarriga, Newcastle, Co. Tipperary, which consist of the change of use of the existing house on site to use as a residence for persons with intellectual or physical disability or mental illness and persons providing for such persons.

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 14 (f) of Schedule 2 Part 1 of the Planning and Development Regulations 2001 (as amended).

- the nature and scale of the proposed use, as outlined in submissions on file by the owner/occupier, as a residence for persons with an intellectual/physical disability or mental illness

Having considered the information received, the Planning Authority has decided that the works proposed at Kilnacarriga, Newcastle, Co. Tipperary, as set out in section 4.1 above, constitute "a material change of use" and "development" and are considered "**exempted development**" as provided for under Class 14 (f) of Schedule 2 Part 1 of the Planning and Development Regulations 2001 (as amended).

Having regard to the provisions of Article 9(1)(a)(vii B) of the Planning and Development Regulations, the change of use is **exempted development** as it would not be likely to have significant impacts on a protected site.

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

Geraldine Quinn

for **Director of Services**

Original

TIPPERARY COUNTY COUNCIL

DELEGATED EMPLOYEE'S ORDER

File Ref: **S5/24/57** **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 Daffodil Care Services Ltd, C/O Furey Consulting Engineers, Olde World Cottage, Ratahsker Road, Naas, Co.Kildare re: change of use of the existing house on site to use as a residence for persons with intellectual or physical disability or mental illness and persons providing for such persons at Kilnacarriga, Newcastle, Co. Tipperary, E91 HW29 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 14 (f) of Schedule 2 Part 1 of the Planning and Development Regulations 2001 (as amended).
- the nature and scale of the proposed use, as outlined in submissions on file by the owner/occupier, as a residence for persons with an intellectual/physical disability or mental illness

Having considered the information received, the Planning Authority has decided that the works proposed at Kilnacarriga, Newcastle, Co. Tipperary, as set out in section 4.1 above, constitute "a material change of use" and "development" and are considered "**exempted development**" as provided for under Class 14 (f) of Schedule 2 Part 1 of the Planning and Development Regulations 2001 (as amended).

Having regard to the provisions of Article 9(1)(a)(vii B) of the Planning and Development Regulations, the change of use is **exempted development** as it would not be likely to have significant impacts on a protected site

Signed:  _____

Date: 05/06/2024

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