



TIPPERARY CO. COUNCIL
RECEIVED
06 JUN 2024
PLANNING SECTION
FILE NO.

182163

PLANNING & DEVELOPMENT ACT, 2000 (as amended)

Application for a Section 5 Declaration
Development / Exempted Development

1. Applicant's address/contact details:

Applicant	Busy BEES Afterschool Ltd
Address	Unit 2 Crag Ard Fethard Road Clonmel. Co. Tipperary
Telephone No.	[REDACTED]
E-mail	

2. Agent's (if any) address:

Agent	
Address	N/A
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)	POWERSTOWN N.S POWERSTOWN Clonmel, Co. Tipperary
---	--

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.

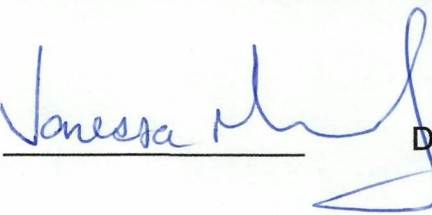
(Note: only works and uses listed and described under this section will be assessed under this Section 5 Application. Use additional sheets if required.)

The use of part of the school for a full day care service (sleeping children).
Proposed floor area of proposed works/uses: 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	B. Occupier <input checked="" 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: BOM of Powerstown N.S Address: Powerstown Clonmel Co. Tipp	

Signature of Applicant(s)

Janessa 

Date:

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

DATE STAMP

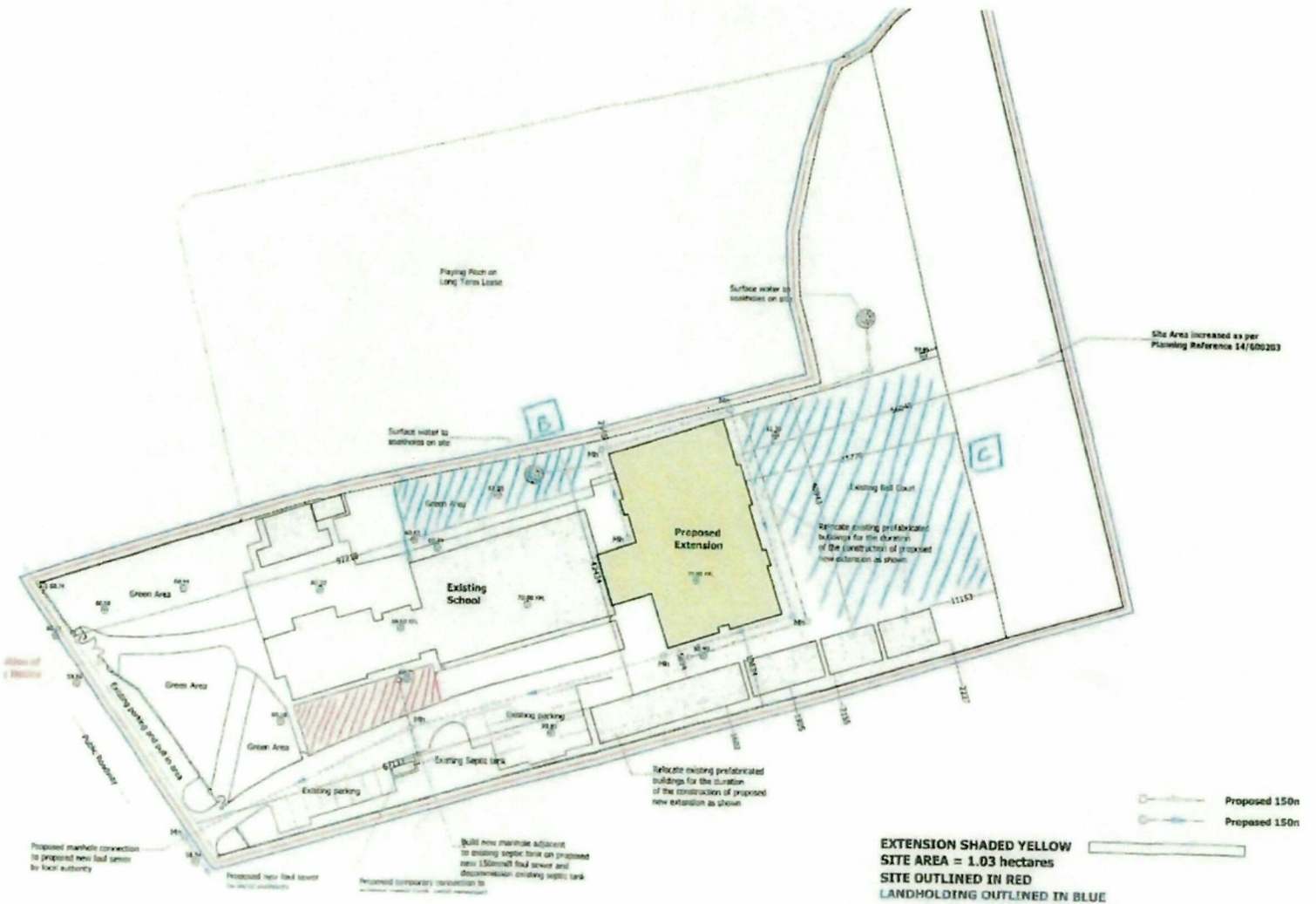
Fee Recd. € 80

Receipt No 182163

Date 6/6/24

Received by _____

TIPPERARY CO. COUNCIL
RECEIVED
06 JUN 2024
PLANNING SECTION
FILE NO.



Available Play Area 1.40 - 2.40
2.40 ONWARDS

Available Play Areas 2.40 ONWARDS
(UNLESS REQUIRED BY SCHOOL)

Grass Area Available in Fine Weather
(UNLESS REQUIRED BY SCHOOL)

$8.5m \times 22.5m$
 $7.5m \times 22.5m$
 Total 181 m²

B = $9.1m \times 30.5m$
 Total 277.5 m²

C = $40.9m \times 35.5m$
 Total 1464.2 m²

FRONT DOOR

+60.38

+FL60.53

glass block glass block

+FL 60.59

AVAILABLE ROOM.

+60.19

6.34 m

11.9 m

+60.13

+60.17

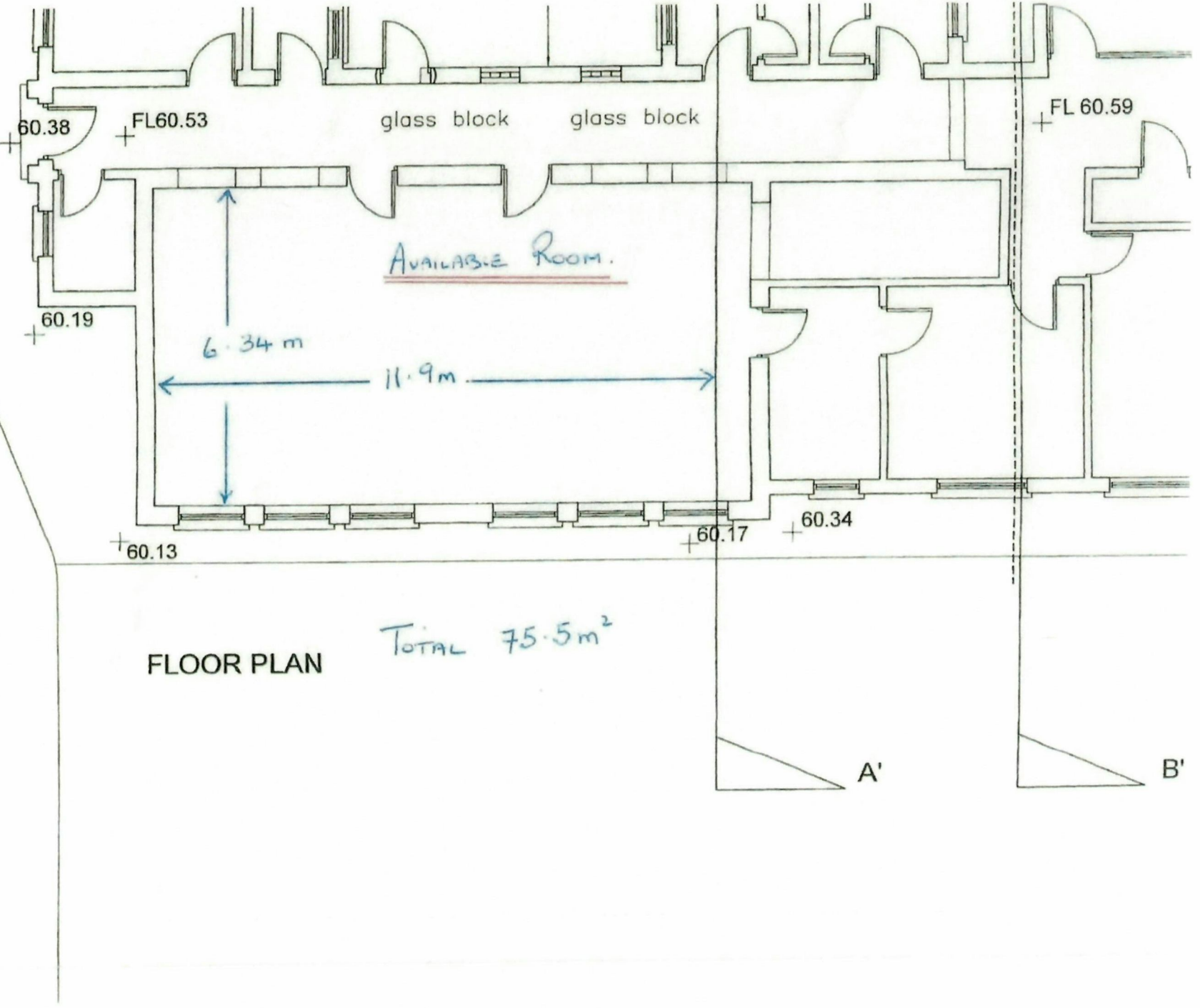
+60.34

FLOOR PLAN

TOTAL 75.5m²

A'

B'





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: 7th June, 2024

Our Ref: S5/24/68

Civic Offices, Clonmel

Busy Bee's Afterschool Ltd
Unit 2, Crann Ard
Fethard Road
Clonmel
Co. Tipperary

Re: Application for a Section 5 Declaration – to use of part of the school for a full day care service (sleeping children) at Powerstown N.S, Powerstown, Clonmel, Co Tipperary.

Dear Sir/Madam

I acknowledge receipt of your application for a Section 5 Declaration received on the 6th June, 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**

From: [Vanessa Moriarty](#)
To: [Planning Group](#)
Subject: [External] Powerstown Busy Bees S5.24.68
Date: 18 June 2024 16:04:40

CAUTION FROM TIPPERARY COUNTY COUNCIL IT SECTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Paul,

I would like to confirm that this is not a crèche facility. We cater for children currently aged 4 years as we are seen as a feeder for the primary school and used as such.

We have a relaxation area with bean bags, books should a child need to relax. We don't have a separate sleeping room as we don't run a crèche.

Kind regards

Vanessa

Sent from [Outlook for iOS](#)

TIPPERARY COUNTY COUNCIL

Application for Declaration under Section 5

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

Planning Ref.: S5/24/68

Applicant: Busy Bees Afterschool Ltd.

Development Address: Powerstown National School, Rathloose, Clonmel, Co. Tipperary

Proposed Development: The use of part of the School for a full day pre school service

1. GENERAL

A request was made for a declaration under Section 5 of the Planning and Development Act, 2000 (as amended) as to whether or not the following is development and exempted development:

The use of part of Powerstown National School for a full day pre school service.

2. STATUTORY PROVISIONS

The following statutory provisions are relevant to this referral case;

Planning and Development Act 2000 (as amended)

Section 3(1) of the Planning and Development Act 2000, as amended, states as follows:-

“In this Act, ‘development’ means, except where the context otherwise requires, the carrying out of works on, in, over or under land or the making of any material change in the use of any structures or other land.”

Section 2(1) of the Planning and Development Act, 2000, as amended, defines “works” as:-

“works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

Section 4 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.

Planning and development Regulations 2001 (as amended).

Article 5 of the Planning and Development Regulations 2001 states that “School” has the meaning assigned to it under the Education Act 1998. The Education Act 1998 defines school as;

“school” means an establishment which—

(a) provides primary education to its students and which may also provide early childhood education, or

(b) provides post-primary education to its students and which may also provide courses in adult, continuing or vocational education or vocational training, but does not include a school or institution established in accordance with the Children Acts, 1908 to 1989, or a school or institution established or maintained by a health board in accordance with the Health Acts, 1947 to 1996, or the Child Care Act, 1991;

Art 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.

Art 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—

(i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act

(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

Art 10 (1) Development which consists of a change of use within any one of the classes of use specified in Part 4 of Schedule 2, shall be exempted development for the purposes of the Act, provided that the development, if carried out would not—

(a) involve the carrying out of any works other than works which are exempted development,

(b) contravene a condition attached to a permission under the Act,

(c) be inconsistent with any use specified or included in such a permission, or

(d) be a development where the existing use is an unauthorised use, save where such change of use consists of the resumption of a use which is not unauthorised and which has not been abandoned.

3. ASSESSMENT

a. Site Location

The application site contains the existing Powerstown National School, located in Rathloose, Clonmel, Co. Tipperary and accessed from the L-2508.

b. Relevant Planning History

PI Ref 01948: Grant of permission to Powerstown National School Board of Management for erection of temporary accommodation (a room of 58.5m² approx.).

PI Ref 03759: Grant of permission to Powerstown National School Board of Management for additional temporary classroom and toilets which includes repositioning previously approved room (ref. 01/948) and integration with additional accommodation to form building 153 sq. m. approx. with 2 classrooms and toilets.

PI Ref 05571: Grant of permission to Powerstown National School Board of Management to provide and erect temporary accommodation to the rear of the existing school. The temporary accommodation will include a classroom which will be attached to the existing prefabricated building on site (similar to that permitted under permission No. 03/759 which was not executed) and two additional classrooms with toilets.

PI Ref 08229: Grant of permission to Powerstown National School Board of Management to make a new pedestrian access to the site and to provide and erect temporary accommodation to the rear of the existing school and associated site works, temporary accommodation will include a classroom and two toilets similar to those permitted under permission No. 05/571.

PI Ref 08905: Grant of permission to Powerstown National School Board of Management for revisions to existing planning permission ref 08/229 including relocation of the temporary accommodation linking it to an existing unit to the side of the existing school and relocation of the fire engine access road and associated site works.

PI Ref 09139: Grant of permission to Powerstown National School Board of Management for staff car park on grounds of school.

PI Ref 10204: Grant of permission to Powerstown National School Board of Management to alter and extend existing school to include two extensions to rear of existing building, one to accommodate a classroom and ancillary accommodation and one to accommodate a resource room and will include external works.

PI Ref 1341: Grant of permission to Powerstown National School Board of Management to alter and extend the existing school. The works will include construction of an additional classroom and special education room with circulation and link to the existing building and will include external works.

PI Ref 13259: Grant of permission to Powerstown National School Board of Management to provide and erect a temporary prefabricated classroom, with toilets, and with associated external works. The prefabricated classroom will have a floor area of 75sqm approx.

PI Ref 14600203: Grant of permission to Powerstown National School Board of Management to develop macadam ballcourts and associated works and to construct a new boundary fence on recently acquired lands.

PI Ref 14600359: Grant of permission to Powerstown National School Board of Management for single storey extension to existing school, relocation/removal of existing prefabricated buildings, connection to proposed public sewer and all associated site works.

PI Ref 17601063: Grant of permission to Powerstown National School Board of Management for alterations and extension to an existing pedestrian access to the school grounds.

PI Ref 18600328: Grant of permission to Fr. Peter Ahearne P.P. Powerstown Clonmel Co Tipperary to retain 2 no. prefabricated classrooms with toilets and associated site works.

PI Ref 18600489: Grant of permission to Fr. Peter Ahearne P.P. Powerstown Clonmel Co Tipperary, to demolish existing open school shed and construct a general-purpose building with mezzanine floor over portion of the building and flat roof connection to the existing school together with all associated site works and services.

PI Ref 2057: Grant of permission and permission for retention to Powerstown National School Board of Management for the construction of a single-storey extension to the south of existing school to comprise 3 no. mainstream classrooms with ancillary facilities, 3 no. resource rooms, assisted user WC, storage area, plant room and entrance canopy. Alterations to existing school to accommodate new extension. Retention Permission is sought for existing prefab to south west of new extension for the duration of construction works. All associated site boundary and site development works.

S5/23/49: The use of part of the School for morning and afterschool service – Deemed exempt.

The proposed use is not in contravention of conditions attached to planning permissions.



Figure 1 Planning history

c. Assessment

The applicant in this case has sought a declaration from the Planning Authority as to whether or not the use of part of Powerstown National School to operate a full day pre school service, constitutes development and if so, does it constitute exempted development. The room to be used is located in the western wing of the existing school building.

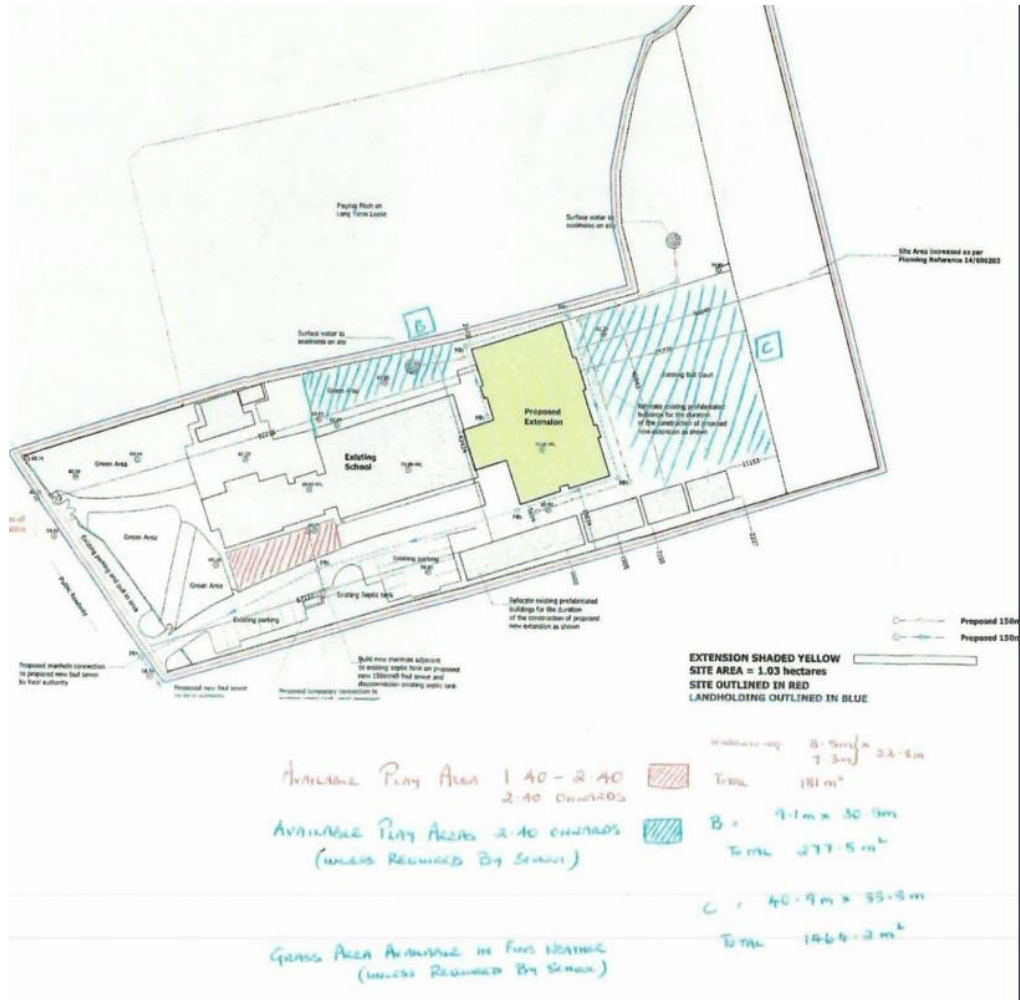


Figure 2 School Layout

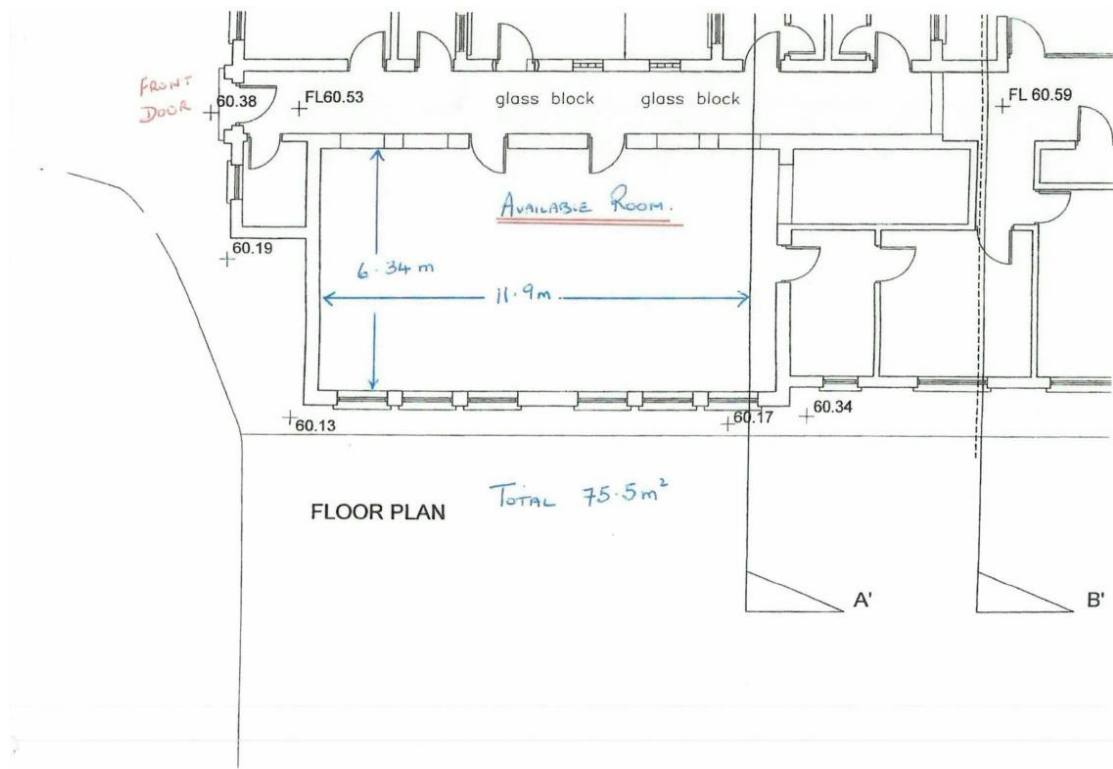


Figure 3 Available room for pre school service, in south west corner.

- In considering this referral regard has been had in particular to –
- (a) sections 2(1) and 3(1) of the Planning and Development Act, 2000, as amended,
 - (b) Article 5 of the Planning and Development Regulations 2001 (as amended),
 - (c) Article 10 (1) (d) of the Planning and Development Regulations 2001,
 - (d) Article 9 of the Planning and Development Regulations 2001 (as amended)
 - (e) class 8 of Part 4 of Schedule 2 of the said Regulations 2001; and
 - (f) the planning history of the site and the documentation submitted with the application.

i) Is or is not Development

As noted above, the Planning and Development Act defines development as, “except where the context otherwise requires, the carrying out of works on, in over or under land, or the making of any material change of use of any structures or other land”.

Article 5 of the Planning and Development Regulations 2001 states that a “School” has the meaning assigned to it under the Education Act 1998. The Education Act 1998 defines “school” as follows-

school” means an establishment which—

- (a) provides primary education to its students and which may also provide early childhood education, or
- (b) provides post-primary education to its students and which may also provide courses in adult, continuing or vocational education or vocational training.

Having considered all of the details, documentation and history in relation to this file with regards the question asked, the Planning Authority is satisfied that the proposal would not involve “works” to a building but does involve a change of use to part of the building which is not a material change of use and as such would NOT constitute “development” within the meaning of Section 3 of the Act. In unsolicited information received on the 18th of June 2024, the applicant confirmed that facility did not provide a creche service.

On this basis, it can be concluded that the operation of a “full day service”, within the confines of the school building in Powerstown, does not constitute a “material change of use of any structures or other land”.

As the structure in question is not a protected structure, the issue of the impact of the proposal on the character of such a structure is not a consideration in determining if the works proposed constitute development.

ii) Is or is not Exempted Development

As the proposal does not constitute development, the question as to whether or not it constitutes exempted development does not arise.

iii) Is the exemption restricted under Article 9

As the proposal does not constitute development, the question as to whether or not the exemption is restricted under Article 9 does not arise.

4. RECOMMENDATION

WHEREAS, a question has arisen as to whether the use of part of Powerstown National School for the operation of an existing room as a full day pre-school service is development and if so, is it or is it not exempted development.

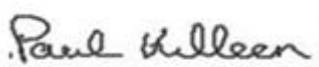
AND WHEREAS Tipperary County Council, in considering this referral, had regard particularly to -

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended
- (b) Article 5 of the Planning and Development Regulations 2001 (as amended),
- (c) Article 10 (1) (d) of the Planning and Development Regulations 2001,
- (d) Article 9 of the Planning and Development Regulations 2001 (as amended)
- (e) Class 8 of Part 4 of Schedule 2 of the said Regulations 2001; and
- (f) the planning history of the site and documentation submitted to the Planning Authority

AND WHEREAS the Planning Authority has concluded that,

the operation of an existing room “for a full day pre-school service”, within the confines of part of an existing National School building in Rathloose, Clonmel, Co. Tipperary, does not constitute a “material change of use of any structures or other land”.

Accordingly, the Planning Authority has decided that the use of part of an existing National School building in Powerstown for a full day service does not constitute “development” for the purposes of the Planning and Development Act 2000, as amended.

Signed: 

Paul Killeen District Planner

Date: 19/06/24


Signed:
Caroline Conway, Senior Executive Planner

Date: 19.06.2024

Figure 4: S5/24/68 digitised





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: 19th June 2024

Our Ref: S5/24/68

Civic Offices, Nenagh

Busy Bee's Afterschool Ltd
Unit 2, Crann Ard
Fethard Road
Clonmel
Co. Tipperary
Email: [REDACTED]

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 6th June, 2024, in relation to the following proposed works:

The use of part of the School for a full day pre school service **at Powerstown National School, Rathloose, 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 and 4 of the Planning and Development Act, 2000, as amended
- b) Article 5 of the Planning and Development Regulations 2001 (as amended),
- c) Article 10 (1) (d) of the Planning and Development Regulations 2001,
- d) Article 9 of the Planning and Development Regulations 2001 (as amended)
- e) Class 8 of Part 4 of Schedule 2 of the said Regulations 2001; and
- f) the planning history of the site and documentation submitted to the Planning Authority

AND WHEREAS the Planning Authority has concluded that,

the operation of an existing room "for a full day pre-school service", within the confines of part of an existing National School building in Rathloose, Clonmel, Co. Tipperary, does not constitute a "material change of use of any structures or other land".

Accordingly, the Planning Authority has decided that the use of part of an existing National School building in Powerstown for a full day service does not constitute "development" for the purposes of the Planning and Development Act 2000, as amended.

The use of part of the School for a full day pre school service **at Powerstown National School, Rathloose, Clonmel, Co. Tipperary is not a 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

Geraldine Quinn

for **Director of Services**

Original

TIPPERARY COUNTY COUNCIL

DELEGATED EMPLOYEE'S ORDER

File Ref: **S5/24/68** **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 Busy Bee's Afterschool Ltd., Unit 2, Crann Ard, Fethard Road, Clonmel, Co. Tipperary, re: The use of part of the School for a full day pre school service to use at Powerstown National School, Rathloose, Clonmel, Co. Tipperary is **not a development**.

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

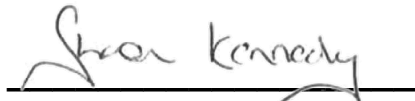
- a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended
- b) Article 5 of the Planning and Development Regulations 2001 (as amended),
- c) Article 10 (1) (d) of the Planning and Development Regulations 2001,
- d) Article 9 of the Planning and Development Regulations 2001 (as amended)
- e) Class 8 of Part 4 of Schedule 2 of the said Regulations 2001; and
- f) the planning history of the site and documentation submitted to the Planning Authority

AND WHEREAS the Planning Authority has concluded that,

the operation of an existing room "for a full day pre-school service", within the confines of part of an existing National School building in Rathloose, Clonmel, Co. Tipperary, does not constitute a "material change of use of any structures or other land".

Accordingly, the Planning Authority has decided that the use of part of an existing National School building in Powerstown for a full day service **does not constitute "development"** for the purposes of the Planning and Development Act 2000, as amended.

Signed:



Date: 19/06/2024

Sharon Kennedy

Director of Services

Planning and Development (including Town Centre First),

Emergency Services and Emergency Planning and

Tipperary/Cahir/Cashel Municipal District