



PLANNING & DEVELOPMENT ACT, 2000 (as amended)

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

1. Applicant's address/contact details:

Applicant	Josephine Kenny
Address	Glengode, Thurles, Co. Tipperary
Telephone No.	See agent details
E-mail	See agent details

2. Agent's (if any) address:

Agent	Slobhan Dempsey
Address	J. J. Fitzgerald & Co, Friar St, Thurles, Co. Tipperary
Telephone No.	[REDACTED]
E-mail	[REDACTED]
Please advise where all correspondence in relation to this application is to be sent;	
Applicant []	Agent [<input checked="" type="checkbox"/>]

3. Location of Proposed Development:

Postal Address or Townland or Location (as may best identify the land or structure in question)	Ballybeg, Littlebn, Thurles, Co. Tipperary E41 NS12 F10 T427242
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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.)

Previous extension built around 2011 to	
include ground floor bedroom and	
en suite bathroom possibly under	
Housing Adaptation Grant Scheme	
Proposed floor area of proposed works/uses:	sqm unknown

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

Please tick appropriate box to show applicant's legal interest in the land or structure	A. Owner <input checked="" type="checkbox"/>	B. Occupier <input type="checkbox"/>
	C. Other <input type="checkbox"/>	<input type="checkbox"/>
Where legal interest is 'Other', please expand further on your interest in the land or structure		
If you are not the legal owner, please state the name and address of the owner	Name: Address:	

Signature of Applicant(s) Sam Daffey Date: 28/2/24
As Agent

Note: If the proposed development consists of works to a (Proposed) Protected Structure and/or any structure within the curtilage of a (Proposed) Protected Structure, an application for a Section 57 Declaration may be more appropriate.

GUIDANCE NOTES

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

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

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

This application form and relevant fee should be submitted to:

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

FOR OFFICE USE ONLY

DATE STAMP


Fee Recd. € 80.00
Receipt No NENAM1/0/118142
Date 4/03/24
Received by M.L

https://www.landdirect.ie/pramap.aspx/ Landdirect.ie

File Edit View Favorites Tools Help

Suggested Sites Topless teacher pic in ...

Gaellge



Property Details

> Back

Folio Number	TY27242
Title Level	Freehold
Plan Number	6275_23
Property Number	1
Area of selected plans	Not available.
Number of Plans on this folio:	1
Address	Ballybeg, Lixtedon, Thurles, Co. Tipperary, E41 N512

View Folio PDF Request Certified Copy

⚠️PRA Boundaries and Plan Area are not conclusive. See [Section 62\(2\) of Registration of Title Act 2006](#) and [Rule 8\(3\) of the Land Registration Rules 2012](#)

Print Current View

XY
Scale 1:1000
Townland Ballybeg
Barony Eliogarty
County Tipperary

12:38 08/12/2017

NS12

Area of extension

see more dates

Get View

Area



Friar Street
Thurles
County Tipperary

Tel: (0504) 27000
Fax: (0504) 24606
Dx 40 012
E-Mail: mail@jjfitzgerald.ie
www.jjfitzgerald.ie

J.J. FITZGERALD & CO.

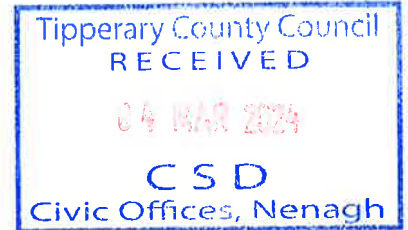
SOLICITORS

Date: 01 March 2024

Our Ref.: SD/DL/KEJ127001

Your Ref.:

Mr. T. Kiely,
Tipperary County Council,
Civic Offices,
Nenagh,
Co. Tipperary.



**Re: Our Client; Josephine Kenny
Property at: Ballybeg, Littleton, Thurles.
Application for Section 5 Declaration**

Dear Sir,

We refer to the above matter and to your recent correspondence.


We now enclose herewith the following;

1. Application for Section 5 Declaration duly completed.
2. Cheque in the sum of €80 for your fee.
3. Photograph and copy map of the property.

You might note that our client's knowledge in respect of the extension is quite limited in that she had no direct involvement in the extension at the time and we would suggest that your file on the matter may have more specific details.

We look forward to hearing from you.

Yours faithfully,


J.J. FITZGERALD & CO.

Encl./3 (Cheques)

J.J. Fitzgerald, B.C.L., M.B.A., Dip. Prop. TAX

Siobhán Dempsey, B.A.

Friar Street
Thurles
County Tipperary

Tel: (0504) 27000
Fax: (0504) 24606
Dx 40 012
E-Mail: mail@jjfitzgerald.ie
www.jjfitzgerald.ie

J.J. FITZGERALD & CO.

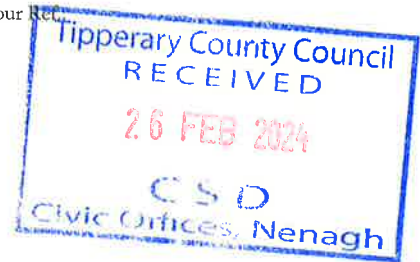
SOLICITORS

Date: 22 February 2024

Our Ref.: SD/DL/KEJ127001

Your Ref.:

Planning Department,
Tipperary County Council,
Civic Offices,
Limerick Road,
Nenagh,
Co. Tipperary.



Re: Our Client: Josephine Kenny
Previous registered owner: Mary Ryan, late of Bord Na Mona Road,
Littleton, Thurles, Co. Tipperary.
Housing Adaptation Grant Scheme – reference number: HGD/0127

Dear Sirs,

We refer to the above matter and confirm that we have received instruction from Josephine Kenny in respect of the sale of property at Bord Na Mona Road, Littleton.

The property was previously owned by her mother, Mary Ryan, who died in 2013. It would appear that Mary Ryan may have obtained a grant for an extension to her property to include a ground floor bedroom and ensuite bathroom. We have been provided with correspondence that contains a possible reference number HGD/0127.

In order to sell the property, I need a letter from you confirming that Planning Permission was not required for this development.

Can you please let us hear from you by return and advise your fee for obtaining this letter.

Yours faithfully,


J.J. FITZGERALD & CO.



J.J. Fitzgerald, B.C.L., M.B.A., Dip. Prop. TAX

Siobhán Dempsey, B.A.



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: 5 March 2024

Our Ref: S5/24/29

Civic Offices, Nenagh

**Josephine Kenny,
C/o Siobhan Dempsey,
J.J Fitzgerald & Co,
Friar Street,
Thurles,
Co. Tipperary.**

Re: Application for a Section 5 Declaration – Extension built in the year 2011 approx. to include a bedroom and ensuite bathroom at Ballybeg, Littleton, Thurles, Co. Tipperary E41 N512.

Dear Sir/Madam,

I acknowledge receipt of your application for a Section 5 Declaration received on 4th 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

SCANNED

Application for Declaration under Section 5

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

Planning Ref.: S5/24/29
Applicant: Josephine Kenny
Development Address: Ballybeg, Littleton, Thurles, Co. Tipperary E41 N512
Proposed Development: Rear extension to dwelling

1. GENERAL

On the 4/3/2024 request was made for a declaration under Section 5 of the Planning and Development Act, 2000 as amended in respect of the following development at 23 Ballybeg, Littleton, Thurles, Co. Tipperary E41 N512

Rear extension developed in 2011.

The details provided with the Declaration application include a map showing the location of the site and a photograph of the extension from which appears to be taken from Google streetview.

2. STATUTORY PROVISIONS

Section 2 (1) of the Planning and Development Act 2000, as amended, states as follows:- "works" includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal....'

Section 3 (1) of the Planning and Development Act 2000, (as amended) states as follows:- "In this Act, 'development' means, except where the context otherwise requires, the carrying out of works on, in, over or under land or the making of any material change in the use of any structures or other land."

Section 4 (1)(h) of the Act states as follows:-

The following shall be exempted developments for the purposes of this Act

Development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures;

Section 4(2)(a) of the Act states as follows: -

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

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

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

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

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

In relation to this specific case, the following applies:

Class 1 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 considers the following works to be exempted development subject to the conditions and limitations set out below;

The extension of a house, by the construction or erection of an extension (including a conservatory) to the rear of the house or by the conversion for use as part of the house of any garage, store, shed or other similar structure attached to the rear or to the side of the house.

Conditions and Limitations

1. (a) Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres. (b) Subject to paragraph (a), where the house is terraced or semi-detached, the floor area of any extension above ground level shall not exceed 12 square metres. (c) Subject to paragraph (a), where the house is detached, the floor area of any extension above ground level shall not exceed 20 square metres.

2. (a) Where the house has been extended previously, the floor area of any such extension, taken together with the floor area of any previous extension or extensions constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 40 square metres. (b) Subject to paragraph (a), where the house is terraced or semi-detached and has been extended previously, the floor area of any extension above ground level taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for

which planning permission has been obtained, shall not exceed 12 square metres.

(c) Subject to paragraph (a), where the house is detached and has been extended previously, the floor area of any extension above ground level, taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 20 square metres.

3. Any above ground floor extension shall be a distance of not less than 2 metres from any party boundary.

4. (a) Where the rear wall of the house does not include a gable, the height of the walls of any such extension shall not exceed the height of the rear wall of the house.

(b) Where the rear wall of the house includes a gable, the height of the walls of any such extension shall not exceed the height of the side walls of the house.

(c) The height of the highest part of the roof of any such extension shall not exceed, in the case of a flat roofed extension, the height of the eaves or parapet, as may be appropriate, or, in any other case, shall not exceed the height of the highest part of the roof of the dwelling.

5. The construction or erection of any such extension to the rear of the house shall not reduce the area of private open space, reserved exclusively for the use of the occupants of the house, to the rear of the house to less than 25 square metres.

6. (a) Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces.

(b) Any window proposed above ground level in any such extension shall not be less than 11 metres from the boundary it faces.

(c) Where the house is detached and the floor area of the extension above ground level exceeds 12 square metres, any window proposed at above ground level shall not be less than 11 metres from the boundary it faces.

7. The roof of any extension shall not be used as a balcony or roof garden.

3. ASSESSMENT

a. **Site Location** – The site is located at Ballybeg, Littleton, Thurles, Co. Tipperary E41 N512

b. **Relevant Planning History** –

None recorded.

c. **Assessment**

A) “Is or is not Development”

Having regard to Sections 2(1) and 3(1) of the Planning and Development Act 2000 (as amended), it is considered that both proposals constitute *development* as same involve the carrying out of works on the subject land.

B) “Is or is not Exempted Development”

Insufficient information has been provided to allow a determination of this proposal. No floor plans or elevations of the extension has been provided nor has a site layout plan. Further information is required.

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

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

Appropriate Assessment (AA):

The subject site is located 7km from the Lower River Suir SAC.

Having regard to:

- the small scale and domestic nature of the development,
- the consequent absence of a pathway to the European site,

It is considered that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on the Natura 2000 network and appropriate assessment is not therefore required. See AA Screening attached.

Environmental Impact Assessment (EIA):

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

Article 9 of the Planning and Development Regulations 2001, as amended has been considered in the assessment of the proposed exemption and is not applicable in this instance.

4. RECOMMENDATION

It is recommended to seek the following further information in accordance with Section 5(2) (b) of the Planning and Development Act 2000, as amended:

1. Insufficient information has been provided to enable the proposal to be determined. The applicant is requested to arrange to submit the following information:

- i) A site layout plan drawing to metric scale of not less than 1:500 showing the dwelling, extension and other buildings and structures on the site and site boundaries.
- ii) Floor plans and elevation drawings of the dwelling and extension to a scale of not less than 1:200. Same should be marked to clearly show the dwelling and extension to which this Declaration relates.

A/Senior Executive Planner: *Jonathan Flood* **Date:**22/3/2024

A/Senior Planner: *Andreas Denny* **Date:**27/3/2024

AA Screening Form

STEP 1. Description of the project/proposal and local site characteristics:

(a) File Reference No:	S5/24/29
(b) Brief description of the project or plan:	Rear extension to dwelling
(c) Brief description of site characteristics:	Existing dwelling on site
(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	https://www.npws.ie/protected-sites/sac/002137	Within 15km	No	No
River Barrow and Nore SAC	https://www.npws.ie/protected-sites/sac/002162	Within 15km	No	No

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.)
Construction phase e.g. <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 	The construction phase will not result in significant environmental impacts that could affect European Sites within the wider catchment area.

- Access to site
- Pests

Operational phase e.g.

- 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 impact.

Given the nature and scale of the development, it is considered that there is no real likelihood of any significant effects on European Sites in the wider catchment area.

In-combination/Other

No impacts

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

Examples of the type of changes to give consideration to include:

- 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
- Interference with the key relationships that define the structure or ecological function of the site

None.

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.

Given the nature and scale of the development and the distance between the proposed development site and any European Sites it is considered that the proposal will not result in any likely changes to the European sites that comprise part of the Natura 2000 network

(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 development,
- the land use and distance from European sites,
- the lack of direct connections with regard to the Source-Pathway-Receptor model,

it is concluded that the proposed 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.

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:	Jonathan Flood 26/3/2024	
Signature and Date of the Decision Maker:		

EIA PRE-SCREENING
Establishing a development is a 'sub-threshold development'

File Reference: S5/24/29

Development Summary: See section 1 of Planners Report

Was a Screening Determination carried out under Section 176A-C? Yes, no further action required
 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)

Yes, specify class _____

EIA is mandatory

No Screening required

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)

No, the development is not a project listed in Schedule 5, Part 2

No Screening required

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

Yes the project is of a type listed **but** is *sub-threshold*:

Proceed to Part C

C. If Yes, has Schedule 7A information/screening report been submitted?

Yes, Schedule 7A information/screening report has been submitted by the applicant

Screening Determination required

No, Schedule 7A information/screening report has not been submitted by the applicant

Preliminary Examination required

Signature and Date of Recommending Officer:

Jonathan Flood 26/3/2024

Signature and Date of the Decision Maker:



Date: 27 March 2024

Our Ref: S5/24/29

Civic Offices, Nenagh

**Josephine Kenny,
C/o Siobhan Dempsey,
J.J Fitzgerald & Co,
Friar Street,
Thurles, Co. Tipperary.**

Re: Application for a Section 5 Declaration – Rear extension to dwelling at Ballybeg, Littleton, Thurles, Co. Tipperary E41 N512

Dear Ms Dempsey,

I refer to an application received from you on 4th March 2024 requesting a Declaration from this Planning Authority as to whether or not certain works constitute development within the meaning of the Planning and Development Act 2000, as amended.

Further information is requested as follows;

1. Insufficient information has been provided to enable the proposal to be determined. The applicant is requested to arrange to submit the following information:

- i) A site layout plan drawing to metric scale of not less than 1:500 showing the dwelling, extension and other buildings and structures on the site and site boundaries.
- ii) Floor plans and elevation drawings of the dwelling and extension to a scale of not less than 1:200. Same should be marked to clearly show the dwelling and extension to which this Declaration relates.

Further consideration of your request for a declaration cannot be considered until the above information is received.

Yours sincerely,

for **Director of Services**

Friar Street
Thurles
County Tipperary

Tel: (0504) 27000
Fax: (0504) 24606
Dx 40 012
E-Mail: mail@jffitzgerald.ie
www.jffitzgerald.ie

J.J. FITZGERALD & CO.

SOLICITORS

Date: 05 April 2024

Our Ref.: SD/DL/KEJ127001

Your Ref.: S5/24/29

Director of Services,
Planning Offices,
Tipperary County Council,
Civic Offices,
Nenagh,
Co. Tipperary.

SCANNED

Re: Our Client; Josephine Kenny
Application for a Section 5 Declaration – Rear extension to dwelling at
Ballybeg, Littleton, Thurles, Co. Tipperary. E41 N512

Dear Sirs,

We refer to the above matter and to your letter dated 27th March 2024.

We have received updated instruction from our client in respect of further information sought by you. We attach herewith copy map which has been furnished by our client. This is the only map available. We are advised that our client's brother-in-law was the Quantity Surveyor who was contracted in this matter. Unfortunately that man passed away very recently and therefore it is not possible for us to make any enquiries as to where he may have retained any files in relation to drawings for the property.

We trust that you might be able to proceed on the basis of the attached map.

Yours faithfully,


J.J. FITZGERALD & CO.

Encl./1



J.J. Fitzgerald, B.C.L., M.B.A., Dip. Prop. TAX

Siobhán Dempsey, B.A.

TIPPERARY COUNTY COUNCIL

Application for Declaration under Section 5

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

SCANNED

Planning Ref.: S5/24/29
Applicant: Josephine Kenny
Development Address: Ballybeg, Littleton, Thurles, Co. Tipperary E41 N512
Proposed Development: Rear extension to dwelling

1. GENERAL

On the 4/3/2024 request was made for a declaration under Section 5 of the Planning and Development Act, 2000 as amended in respect of the following development at 23 Ballybeg, Littleton, Thurles, Co. Tipperary E41 N512

Rear extension developed in 2011.

The details provided with the Declaration application include a map showing the location of the site and a photograph of the extension from which appears to be taken from Google streetview.

The following further information was requested on 27/3/2024:

1. Insufficient information has been provided to enable the proposal to be determined. The applicant is requested to arrange to submit the following information:

- A site layout plan drawing to metric scale of not less than 1:500 showing the dwelling, extension and other buildings and structures on the site and site boundaries.
- Floor plans and elevation drawings of the dwelling and extension to a scale of not less than 1:200. Same should be marked to clearly show the dwelling and extension to which this Declaration relates.

A reply was received on 8/4/2024. Same comprises a cover letter from JJ Fitzgerald and Co Solicitor and a plan drawing of what appears to be the proposed extension.

The information as required under the further information request has not been submitted.

2. STATUTORY PROVISIONS

Section 2 (1) of the **Planning and Development Act 2000**, as amended, states as follows:- "works" includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal....'

Section 3 (1) of the **Planning and Development Act 2000, (as amended)** states as follows:- "In this Act, 'development' means, except where the context otherwise requires, the carrying out of works on, in, over or under land or the making of any material change in the use of any structures or other land."

Section 4 (1)(h) of the **Act** states as follows:-

The following shall be exempted developments for the purposes of this Act

Development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures;

Section 4(2)(a) of the Act states as follows: -

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

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

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

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

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

In relation to this specific case, the following applies:

Class 1 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 considers the following works to be exempted development subject to the conditions and limitations set out below;

The extension of a house, by the construction or erection of an extension (including a conservatory) to the rear of the house or by the conversion for use as part of the house of any garage, store, shed or other similar structure attached to the rear or to the side of the house.

Conditions and Limitations

1. (a) Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres. (b) Subject to paragraph (a), where the house is terraced or semi-detached, the floor area of any extension above ground level shall not exceed 12 square metres. (c) Subject to paragraph (a), where the house is detached, the floor area of any extension above ground level shall not exceed 20 square metres.

2. (a) Where the house has been extended previously, the floor area of any such extension, taken together with the floor area of any previous extension or extensions constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 40 square metres. (b) Subject to paragraph (a), where the house is terraced or semi-detached and has been extended previously, the floor area of any extension above ground level taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 12 square metres.

(c) Subject to paragraph (a), where the house is detached and has been extended previously, the floor area of any extension above ground level, taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 20 square metres.

3. Any above ground floor extension shall be a distance of not less than 2 metres from any party boundary.

4. (a) Where the rear wall of the house does not include a gable, the height of the walls of any such extension shall not exceed the height of the rear wall of the house.

(b) Where the rear wall of the house includes a gable, the height of the walls of any such extension shall not exceed the height of the side walls of the house.

(c) The height of the highest part of the roof of any such extension shall not exceed, in the case of a flat roofed extension, the height of the eaves or parapet, as may be appropriate, or, in any other case, shall not exceed the height of the highest part of the roof of the dwelling.

5. The construction or erection of any such extension to the rear of the house shall not reduce the area of private open space, reserved exclusively for the use of the occupants of the house, to the rear of the house to less than 25 square metres.

6. (a) Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces.

(b) Any window proposed above ground level in any such extension shall not be less than 11 metres from the boundary it faces.

(c) Where the house is detached and the floor area of the extension above ground level exceeds 12 square metres, any window proposed

at above ground level shall not be less than 11 metres from the boundary it faces.

7. The roof of any extension shall not be used as a balcony or roof garden.

3. ASSESSMENT

a. **Site Location** – The site is located at Ballybeg, Littleton, Thurles, Co. Tipperary E41 N512

b. **Relevant Planning History** –

None recorded.

c. **Assessment**

A) “Is or is not Development”

Having regard to Sections 2(1) and 3(1) of the Planning and Development Act 2000 (as amended), it is considered that both proposals constitute *development* as same involve the carrying out of works on the subject land.

B) “Is or is not Exempted Development”

I have examined the information received as further information and consider same is insufficient to allow a determination of this proposal. No elevations of the extension has been provided nor has a site layout plan.

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

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

Appropriate Assessment (AA):

The subject site is located 7km from the Lower River Suir SAC.

Having regard to:

- the small scale and domestic nature of the development,
- the consequent absence of a pathway to the European site,

It is considered that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on the Natura 2000 network and appropriate assessment is not therefore required. See AA Screening attached.

Environmental Impact Assessment (EIA):

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

Article 9 of the Planning and Development Regulations 2001, as amended has been considered in the assessment of the proposed exemption and is not applicable in this instance.

4. RECOMMENDATION

I consider as follows:

A question has arisen as to whether a development consisting of an extension to the rear of existing dwelling, at Ballybeg, Littleton, Co. Tipperary constitutes “development” and “exempted development”

Tipperary County Council, in considering this proposal, 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) Class 1 of Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended

Tipperary County Council has concluded that –

The proposal constitutes “development” within the meaning of the Planning and Development Act 2000, as amended. Due to the limitations in information provided the Planning Authority cannot confirm whether the proposals constitutes exempted development.

A/Senior Executive Planner: *Jonathan Flood* **Date:** 25/4/2024

A/Senior Planner: *[Signature]* **Date:** 25/4/2024

AA Screening Form

STEP 1. Description of the project/proposal and local site characteristics:

(a) File Reference No:	S5/24/29
(b) Brief description of the project or plan:	Rear extension to dwelling
(c) Brief description of site characteristics:	Existing dwelling on site
(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	https://www.npws.ie/protected-sites/sac/002137	Within 15km	No	No
River Barrow and Nore SAC	https://www.npws.ie/protected-sites/sac/002162	Within 15km	No	No

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.)
Construction phase e.g. <ul style="list-style-type: none"> • Vegetation clearance • Demolition • Surface water runoff from soil excavation/infill/landscaping (including borrow pits) • Dust, noise, vibration 	The construction phase will not result in significant environmental impacts that could affect European Sites within the wider catchment area.

<ul style="list-style-type: none"> • Lighting disturbance • Impact on groundwater/dewatering • Storage of excavated/construction materials • Access to site • Pests 	
<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 	<p>No impact.</p> <p>Given the nature and scale of the development, it is considered that there is no real likelihood of any significant effects on European Sites in the wider catchment area.</p>
<p>In-combination/Other</p>	<p>No impacts</p>

(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 • Interference with the key relationships that define the structure or ecological function of the site 	<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>Given the nature and scale of the development and the distance between the proposed development site and any European Sites it is considered that the proposal will not result in any likely changes to the European sites that comprise part of the Natura 2000 network</p>
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(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 development,
- the land use and distance from European sites,
- the lack of direct connections with regard to the Source-Pathway-Receptor model,

it is concluded that the proposed 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.

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:	Jonathan Flood 26/3/2024	
Signature and Date of the Decision Maker:		

EIA PRE-SCREENING	
Establishing a development is a 'sub-threshold development'	
File Reference:	S5/24/29
Development Summary:	See section 1 of Planners Report
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
<input checked="" type="checkbox"/> No	No Screening required
	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
<input type="checkbox"/> Yes the project is of a type listed but is <i>sub-threshold</i> : _____	No Screening required
	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 Determination required
<input type="checkbox"/> No, Schedule 7A information/screening report has not been submitted by the applicant	Preliminary Examination required
Signature and Date of Recommending Officer:	Jonathan Flood 26/3/2024
Signature and Date of the Decision Maker:	



Comhairle Contae Thiobraid Árann
Tipperary County Council

Comhairle Contae
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Date: 26th April, 2024

Our Ref: S5/24/29

Civic Offices, Nenagh

Josephine Kenny
Ballybeg
Littleton
Thurles
Co. Tipperary
E41 n512

SCANNED

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

Dear Ms Kenny,

I refer to your application for a Section 5 Declaration received on 4th March, 2024, and the further information received on 8th April, 2024 in relation to the following proposed works:

Rear extension developed in 2011 at 23 Ballybeg, Thurles, 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) Class 1 of Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended

Tipperary County Council has concluded that –

The proposal constitutes "development" within the meaning of the Planning and Development Act 2000, as amended. Due to the limitations in information provided the Planning Authority cannot confirm whether the proposals constitutes exempted development.

NOTE: Any person issued with a Declaration of a Planning Authority may refer the Declaration for review to An Bord Pleanála, 64 Marlborough Street, Dublin 1, within four (4) weeks of the date of issue of the Declaration and on payment of the prescribed fee.

Yours sincerely



for **Director of Services**

Original

TIPPERARY COUNTY COUNCIL

SCANNED

DELEGATED EMPLOYEE'S ORDER

File Ref: **S5/24/29** **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 Josephine Kenny, re: rear extension developed in 2011 at Ballybeg, Littleton, Thurles, Co. Tipperary.

A question has arisen as to whether a development consisting of an extension to the rear of existing dwelling, at Ballybeg, Littleton, Co. Tipperary constitutes "development" and "exempted development"

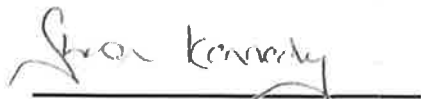
Tipperary County Council, in considering this proposal, had regard particularly to:

- 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) Class 1 of Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended

Tipperary County Council has concluded that -

The proposal constitutes "development" within the meaning of the Planning and Development Act 2000, as amended. Due to the limitations in information provided the Planning Authority cannot confirm whether the proposals constitute exempted development.

Signed:



Sharon Kennedy

Director of Services

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

Date: 26/04/2024