



PLANNING & DEVELOPMENT ACT, 2000 (as amended)

Application for a Section 5 Declaration
Development / Exempted Development

1. Applicant's address/contact details:

<i>Applicant</i>	Ciaran Treacy
<i>Address</i>	Kilnockin Fethard Co Tipperary
<i>Telephone No.</i>	
<i>E-mail</i>	

2. Agent's (if any) address:

<i>Agent</i>	N/A
<i>Address</i>	
<i>Telephone No.</i>	
<i>E-mail</i>	
<i>Please advise where all correspondence in relation to this application is to be sent;</i>	
Applicant [X] Agent []	

3. Location of Proposed Development:

<i>Postal Address or Townland or Location (as may best identify the land or structure in question)</i>	Kilnockin Fethard Co Tipperary E91 YO46
--	--

TIPPERARY CO. COUNCIL
RECEIVED
28 JUL 2026
PLANNING SECTION
FILE NO.

GUIDANCE NOTES

- (1) All queries on the form must be completed and the form must be accompanied by the relevant fee. The amount of the fee is currently **€80.00**.
- (2) This application should be accompanied by **TWO COPIES** of the following documentation
- OSI Site Location Map with the site outlined clearly – 1:1000 in urban areas and 1:2500 in rural areas
 - Floor Plans & Elevations at a scale of not less than 1:200
 - Site layout plan indicating position of proposed development relative to premises and adjoining properties
 - Other details e.g. brochures, photographs if appropriate.
- (All dimensions must be given in metric scale and drawings should be accompanied by a brief description outlining the use of the proposed development)
- (3) Where a proper and complete application is received, a decision must be conveyed to the applicant within four (4) weeks except where additional necessary information is required.

This application form and relevant fee should be submitted to:

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

OR

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

Enquires:

Telephone 0818 06 5000

E-Mail planning@tipperarycoco.ie

FOR OFFICE USE ONLY

DATE STAMP

Fee Recd. € _____

Receipt No _____

Date _____

Received by _____

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 commercial (former shop) to residential (studio apartment). There is no proposed
change to the footprint of the building or to its general appearance – merely a change of use.
The property operated as a shop from 1990 to mid-2000s but has been vacant for approx. 20 years.
A notification of intention to avail of the exemption pursuant to Article 10(6)(a) of the Planning and Development Act 2001 was furnished to Tipperary County Council in March 2026.
A letter of acknowledgement of receipt of the intention dated 26 March 2026 was received (reference number 6a / 26 / 2).
Proposed floor area of proposed works/uses: 35 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	
<i>Where legal interest is 'Other', please expand further on your interest in the land or structure</i>		
<i>If you are not the legal owner, please state the name and address of the owner</i>	Name: Address:	

Signature of Applicant(s)

Date:

28/July 2026

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.

16th March 2026

Our Ref: JS/FC

To Whom it Concerns :

On behalf of :

Mr. Ciaran Treacy
Kilnockan Road,
Fethard,
Co. Tipperary

**Re: Vacancy Confirmation in relation to derelict vacant shop/commercial premises at
Kilnockan Road, Fethard, Co. Tipperary**

We hereby confirm that the above derelict vacant shop/commercial premises was purchased by Ciaran Treacy and same has been vacant for more than two years.

Yours sincerely,
For: REA Stokes & Quirke


John Stokes B.Sc. MRICS MSCSI
Director

REA Stokes & Quirke
9 Sarsfield Street, Clonmel,
Co. Tipperary
T: 052 6121788
E: info@reastokesandquirke.ie
VAT No. IE6414779H





Comhairle Contae Thír Eanáir
County Tipperary Council

Comhairle Contae
Thír Eanáir
Difigi Cathartha,
Cluin Meala
Thír Eanáir

Comhairle Contae
Thír Eanáir
Difigi Cathartha,
An tAnnach,
Thír Eanáir

Comhairle Contae
Thír Eanáir
Difigi Cathartha,
An tAnnach,
Thír Eanáir

Our Ref: 6a/26/2

Date: 26th March 2026

Ciaran Treacy
Kilnockin
Fethard
Co. Tipperary

Re: Notification of Intention to avail of Article 10 (6)(a) Exemption

A Chara,

I hereby acknowledge receipt of your notification of intention to avail of Article 10(6)(a) Exemption – change of use from Commercial to Residential for Kilnockin, Fethard, Co. Tipperary which was received by the Planning Section on the 26th March 2026.

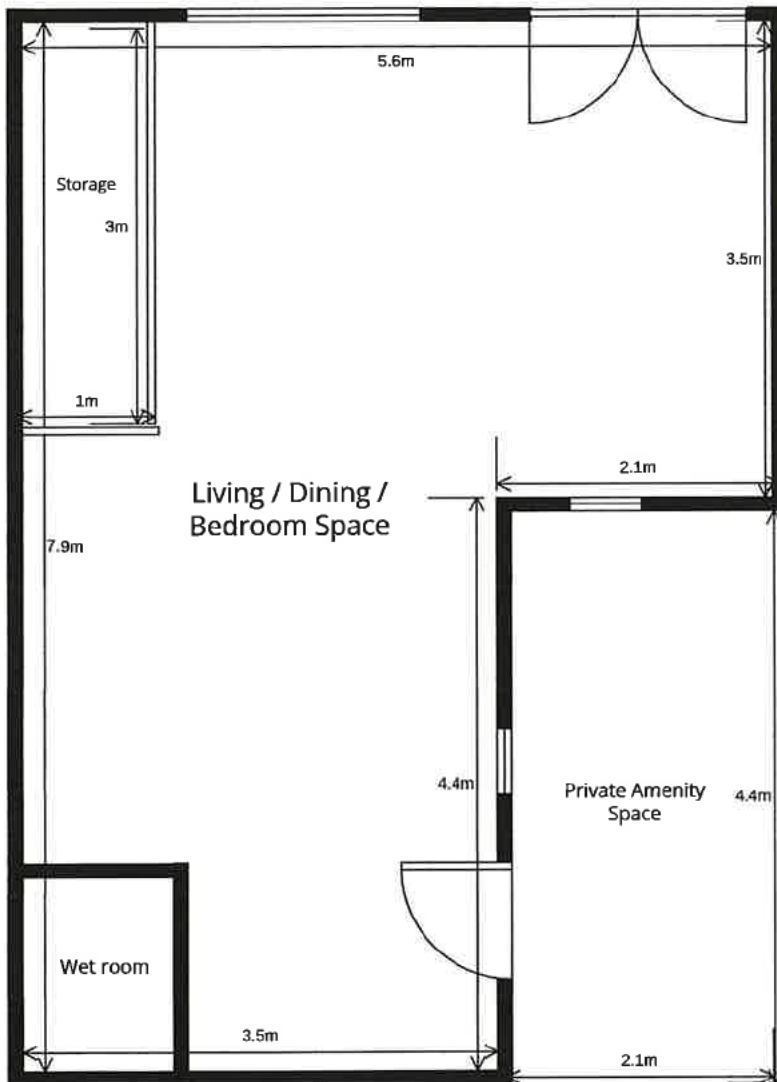
Please be advised that it is the developers responsibility to ensure compliance with Planning Legislation and the Building Control Legislation.

Mise le meas,

For Director of Services

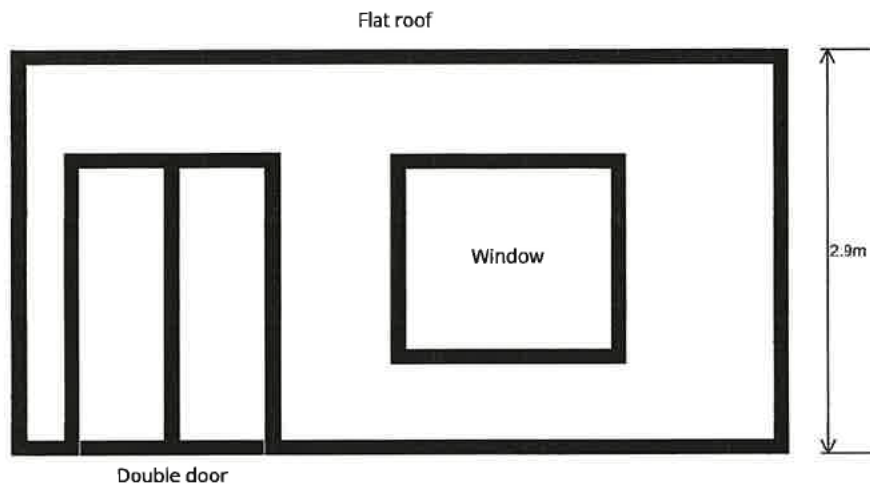
Please find enclosed:

- Signed and completed application form for a Section 5 declaration
- 2 copies of OSI / Táilte Éireann Site Location Map
- 2 copies of Floor Plans and Elevations
- 2 copies of Site Layout Plan
- 2 copies of Auctioneer's Letter confirming vacant shop / commercial premises was vacant for more than 2 years
- 2 copies of Tipperary County Council Letter (dated 26 March 2026) acknowledging receipt of notification of intention to avail of Article 10(6)(a) Exemption



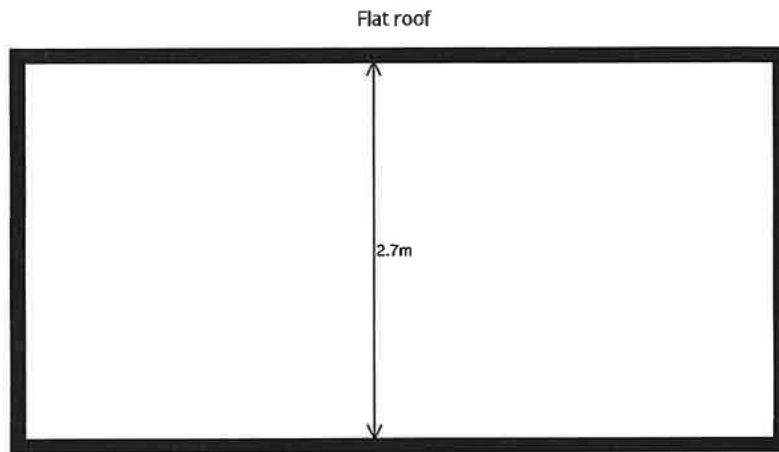
Scale: 1:100

Studio Apartment
Floor Plan - 35 m.sq
Ciaran Treacy - Kilnockin, Fethard, Co Tipperary



Scale: 1:100

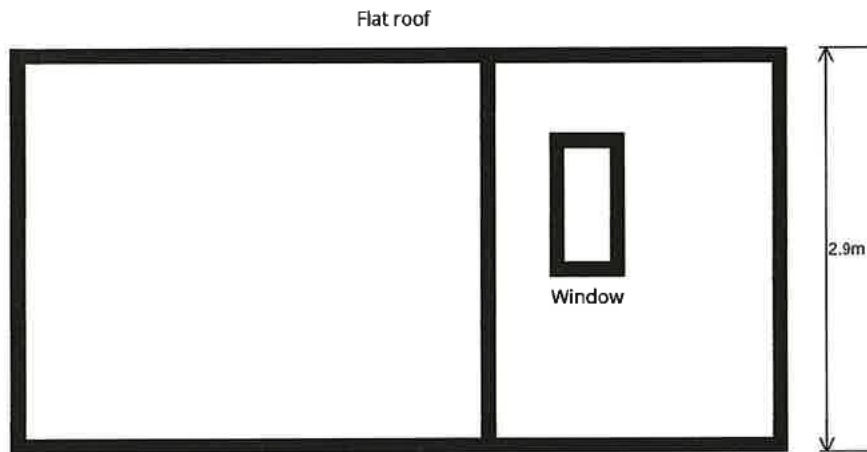
Studio Apartment
Front Elevation (East)
Ciaran Treacy - Kilnockin, Fethard, Co Tipperary



Studio Apartment
Section

Scale: 1:100

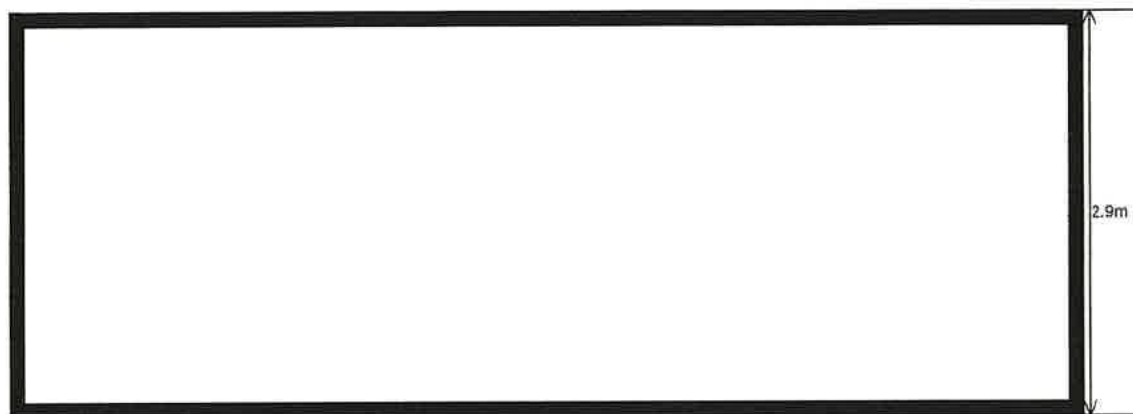
Ciaran Treacy - Kilnockin, Fethard, Co Tipperary



Scale: 1:100

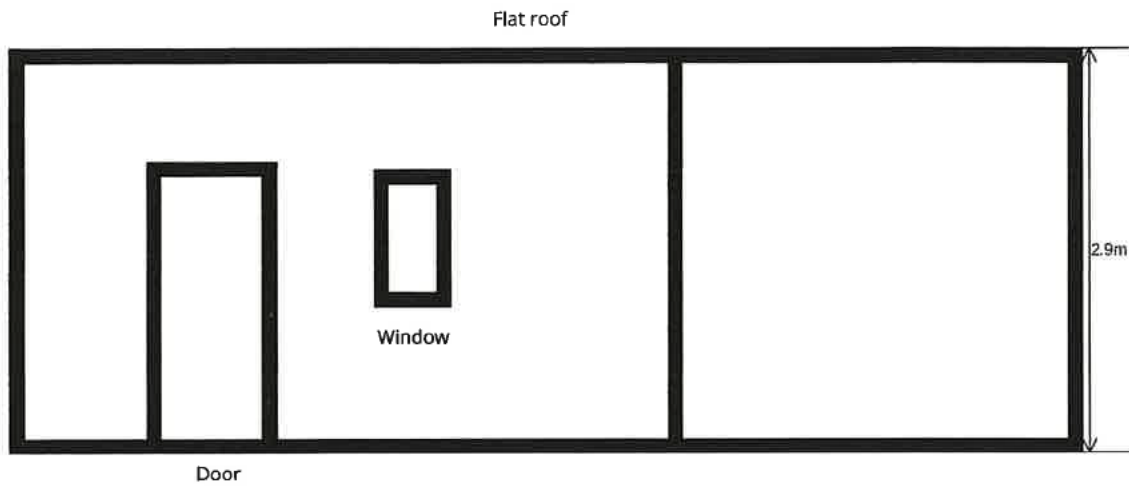
Studio Apartment
Back Elevation (West)
Ciaran Treacy - Kilnockin, Fethard, Co Tipperary

Flat roof



Scale: 1:100

Studio Apartment
Side Elevation (North)
Ciaran Treacy - Kilnockin, Fethard, Co Tipperary



Scale: 1:100

Studio Apartment
Side Elevation (South)
Ciaran Treacy - Kilnockin, Fethard, Co Tipperary

Site Layout Map

House

House

House

Public Road R689

Footpath

Vacant

Shop

Proposed Private
Amenity space

Shed

Applicant's
House

Wall

Wall

Applicant's
Garden

Wall

Fence

Boundary Fence

Paddock

Private

Driveway

House

Shade Grove
Green Space

No. 1

No. 2

No. 3

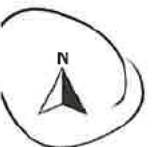
No. 4

Boundary Wall

Ciaran Treacy - Kilnockin, Fethard, Co Tipperary

Owner's landholding in blue
Application site in red

Scale: 1:1000





**Taite
Éireann**

Folio: TY27273

This map should be read in conjunction with the folio.

Tailte Éireann (TÉ) Registration mapping is based on TÉ Surveying mapping. Where TÉ Registration maps are printed at a scale that is larger than the TÉ Surveying scale, accuracy is limited to that of the TÉ Surveying map scale.

For details of the terms of use and limitations of scale, accuracy and other conditions relating to T  Registration maps, see www.taite.ie.

This map incorporates T  Surveying map data under licence from T . Copyright   Tallie  reann and Government of Ireland.

(centre-line of parcel(s) edged)

Freehold

Leasehold

SubLeasehold

Burdens (may not all be represented on map)

Right of Way / Wayleave

Turbary

Pipeline

Well

Pump

Septic Tank

Soak Pit

A full list of burdens and their symbology can be found at:

www.landdirect.ie

Tailte Éireann Registration operates a non-conclusive boundary system.

The T  Registration map identifies properties not boundaries meaning neither the description of land in a

follo nor its identification by reference to a T  Registration map is conclusive

as to the boundaries or extent. (see Section 85 of the Registration of Title Act, 1964). As Inserted by Section 62 of the Registration of Deed and Title Act 2006.



1:1000 Scale

Page 6 of 6



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 5000/6000
e customerservice
@tipperarycoco.ie
tipperarycoco.ie

Our Ref: S5/26/129

29th July 2026

Ciaran Treacy,
Kilnockin,
Fethard,
Co. Tipperary.

Re: Application for a Section 5 Declaration – Change of use from commercial (former shop) to residential (studio apartment) at Kilnockin Fethard, Co. Tipperary.

Dear Mr. Treacy,

I wish to acknowledge receipt of your application for a Section 5 Declaration received on 28th July 2026 in connection with the above.

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

Yours sincerely,

For Director of Services.

TIPPERARY COUNTY COUNCIL

Application for Declaration under Section 5

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

Planning Reference:	S5/26/129
Applicant:	Ciarán Tracey
Development Address:	Kilknockan Road, Fethard, Co. Tipperary
Proposed Development:	Change of use from Commercial (former Shop) to Residential (Studio Apartment)
Site Inspection	14/08/2026

1. GENERAL

On the 28th July 2026 a request was made for a declaration under Section 5 of the Planning and Development Act, 2000 as amended by Ciarán Tracey in respect of the following development at Kilknockan Road, Fethard, Co. Tipperary

Change of use from Commercial (former shop) to Residential (studio Apartment). There is no proposed change to the footprint of the building or to its general appearance – merely a change of use. The property operation as a shop from 1990 to mid- 2000s but has been vacant for approx. 20 years.

The application is accompanied by the following;

- Application form
- Letter from Auctioneers confirming vacancy
- Letter of acknowledgement of Article 10(6)(a) Notification Reference 6a/26/2
- Cover Letter
- Site Location Map
- Site Layout Plan
- Plan, section and elevation and roof plan drawings

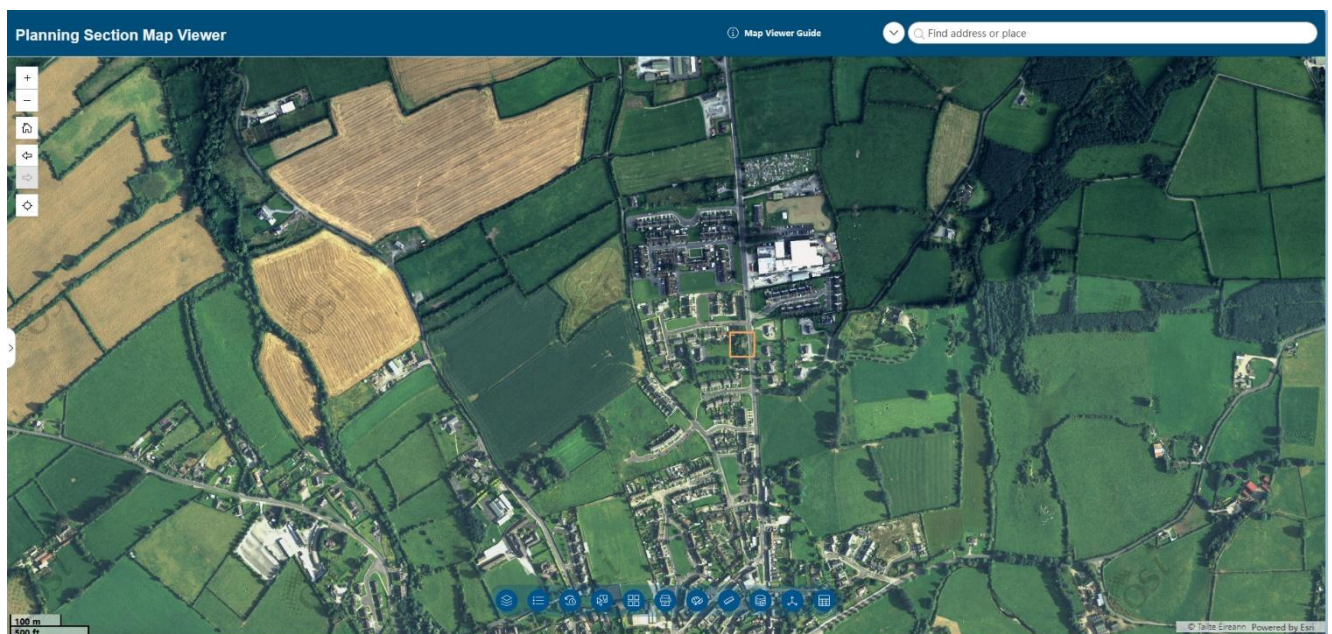


Figure 1 Site Location



Figure 2 Subject Site (Google Street View Captured 2025)



Figure 3 Subject site (Google Street View Captured 2009)

2. **STATUTORY PROVISIONS**

The following statutory provisions are relevant to this case;

Planning and Development Act 2000, as amended

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

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

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

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

Section 4(1) of the Planning and Development Act, 2000, as amended states:

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

- (h) *development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures.*

Section 4 (2) (a) of the Planning and Development Act 2000, as amended, states as follows:-

(2)(a) *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 of the Planning and Development Act 2000, as amended, states as follows:-

(4) *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.*

Planning and Development Regulations 2001, as amended

Article 9 of the Planning and Development Regulations 2001, as amended sets out restrictions on exemptions and states:

9. (1) *Development to which article 6 relates shall not be exempted development for the purposes of the Act—*

(a) *if the carrying out of such development would—*

- (iv) *except in the case of a porch to which class 7 specified in column 1 of Part 1 of Schedule 2 applies and which 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, comprise the construction, erection, extension or renewal of a building on any street so as to bring forward the building, or any part of the building, beyond the front wall of the building on either side thereof or beyond a line determined as the building line in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,*
- (vii) *consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,*

- (viiA) consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12 (1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to and in accordance with a consent granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended,
- (viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,
- (viiC) consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000.
- (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,
- (ix) consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,
- (c) if it is development to which Part 10 applies, unless the development is required by or under any statutory provision (other than the Act or these Regulations) to comply with procedures for the purpose of giving effect to the Council Directive,
- (d) if it consists of the provision of, or modifications to, an establishment, and could have significant repercussions on major accident hazards.

Article 10 of the Planning and Development Regulations 2001, as amended sets out changes of use and states:

(a) In this sub-article—

'habitable room' means a room used for living or sleeping purposes but does not include a kitchen that has a floor area of less than 6.5 square metres;

'relevant period' means the period from 8 February 2018 until 31 December 2028.'

- (b) This sub-article relates to a proposed development, during the relevant period, that consists of a change of use to residential use from Class 1, 2, 3, 6 or 12 of Part 4 to Schedule 1
- (c) Notwithstanding sub-article (1), where in respect of a proposed development referred to in paragraph (b)—
 - (i) the structure concerned was completed prior to the making of the Planning and Development (Amendment) (No. 2) Regulations 2018,
 - (ii) the structure concerned has at some time been used for the purpose of its current use class, being Class 1, 2, 3, 6 or 12 and
 - (iii) the structure concerned, or so much of it that is the subject of the proposed development, has been vacant for a period of 2 years or more immediately prior to the commencement of the proposed development,

then the proposed development for residential use, and any related works, shall be exempted development for the purposes of the Act, subject to the conditions and limitations set out in paragraph (d).

(d) (i) The development is commenced and completed during the relevant period.

(ii) Subject to sub-paragraph (iii), any related works, including works as may be required to comply with sub-paragraph (vii), shall –

- (I) primarily affect the interior of the structure,*
- (II) retain 50 per cent or more of the existing external fabric of the building, and*
- (III) not materially affect the external appearance of the structure so as to render its appearance inconsistent with the character of the structure or of neighbouring structures.*

(iii) Any related works for the alteration of existing ground floor shop fronts shall be consistent with the fenestration details and architectural and streetscape character of the remainder of the structure or of neighbouring structures.

(iv) No development shall consist of or comprise the carrying out of works to the ground floor area of any structure which conflicts with any objective of the relevant local authority development plan or local area plan, pursuant to the Part 1 of the First Schedule to the Act, for such to remain in retail use, with the exception of any works the purpose of which is to solely provide on street access to the upper floors of the structure concerned.

(v) No development shall consist of or comprise the carrying out of works which exceeds the provision of more than 9 residential units in any structure.

(vi) Dwelling floor areas and storage spaces shall comply with the minimum floor area requirements and minimum storage space requirements of the “Sustainable Urban Housing: Design Standards for New Apartments — Guidelines for Planning Authorities” issued under section 28 of the Act or any subsequent updated or replacement guidelines.

(vii) Rooms for use, or intended for use, as habitable rooms shall have adequate natural lighting.

(viii) No development shall consist of or comprise the carrying out of works to a protected structure, as defined in section 2 of the Act, save where the relevant planning authority has issued a declaration under section 57 of the Act to the effect that the proposed works would not materially affect the character of the structure or any element, referred to in section 57(1)(b) of the Act, of the structure.

(ix) No development shall contravene a condition attached to a permission under the Act or be inconsistent with any use specified or included in such a permission.

(x) No development shall relate to any structure in any of the following areas:

- (I) an area to which a special amenity area order relates*
- (II) an area of special planning control*
- (III) within the relevant perimeter distance area, as set out in Table 2 of Schedule 8, of any type of establishment to which the Major Accident Regulations apply*

(xi) No development shall relate to matters in respect of which any of the restrictions set out in subparagraph (iv), (vii), (viiA), (viiB), (viiC), (viii) or (ix) of article 9(1)(a), or paragraph (c) or (d) of article (9)(1), would apply.

(xii) No development shall consist of or comprise the carrying out of works for the provision of an onsite wastewater treatment and disposal system to which the

code of practice made by the Environmental Protection Agency pursuant to section 76 of the Environmental Protection Agency Act 1992 relates and entitled Code of Practice — Wastewater Treatment and Disposal Systems Serving Single Houses together with any amendment to that Code or any replacement for it.

S.I. No. 648 of 2025 extends the provisions of Article 10(6) by amending the ‘relevant period’ from 31st December 2025 to 31st December 2028.

Planning Design Standards for Apartments Guidelines for Planning Authorities, 2025
[Planning Design Standards for Apartments 080725 FINAL.pdf](#)

Class 50 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended states:

<i>Column 1 Description of Development</i>	<i>Column 2 Conditions and Limitations</i>
Class 50 <i>(a) The demolition of a building, or buildings, within the curtilage of—</i> <i>(i) a house,</i> <i>(ii) an industrial building,</i> <i>(iii) a business premises, or</i> <i>(iv) a farmyard complex.</i> <i>(b) The demolition of part of a habitable house in connection with the provision of an extension or porch in accordance with Class 1 or 7, respectively, of this Part of this Schedule or in accordance with a permission for an extension or porch under the Act.</i>	<i>1. No such building or buildings shall abut on another building in separate ownership.</i> <i>2. The cumulative floor area of any such building, or buildings, shall not exceed:</i> <i>(a) in the case of a building, or buildings within the curtilage of a house, 40 square metres, and</i> <i>(b) in all other cases, 100 square metres.</i> <i>3. No such demolition shall be carried out to facilitate development of any class prescribed for the purposes of section 176 of the Act.</i>

3. ASSESSMENT

a. Site Location

The application site comprises of a single storey building at Kilknockan Road (R-689) within the settlement of Fethard. The lands are zoned for existing residential uses as contained within the Fethard Settlement Plan as per Volume 2 of the TCDP 2022-2028. The building was previously used as a shop permitted under Reg. Ref P3/12386 and is within the curtilage of an existing dwelling to the immediate south.

The site is not located within an Architectural Conservation Area, Zone of Archaeology and is not listed on the Recorded of Protected Structures as per volume 4 of the TCP 2022-2028.

A site inspection was carried out on 13/08/2026.



Figure 4 Eastern (Front) Elevation



Southern (side) elevation



Figure 5 South Elevation



Figure 6 Side door

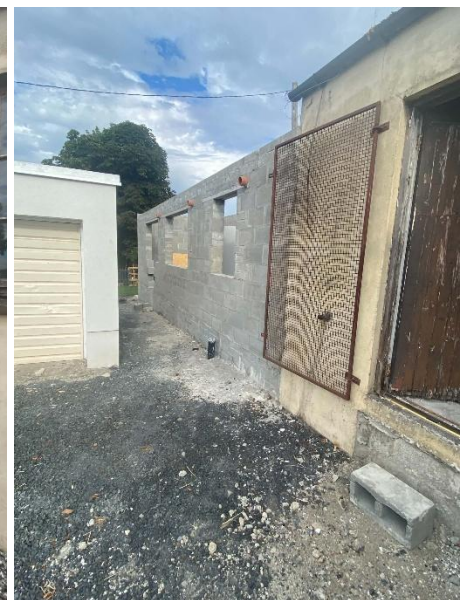


Figure 7 New rear structure



Figure 8 Interior structure under construction



Figure 9 View of garden/dwelling within site

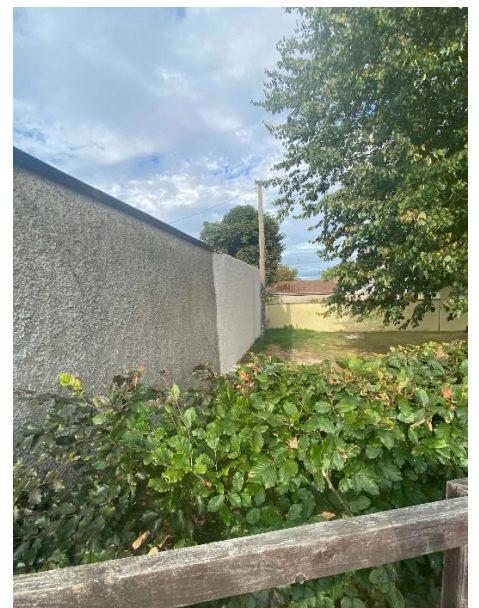


Figure 9 View of north elevation

b. Relevant Planning History

P3 12386 Permission GRANTED in 1989 extension to ex. store to form new retail outlet.

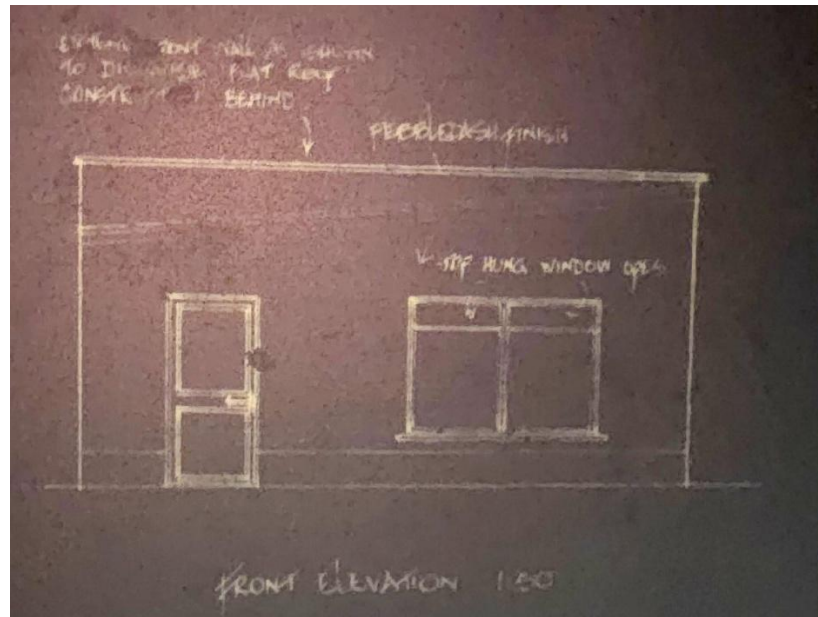


Figure 10 Front Elevation of P3.12386

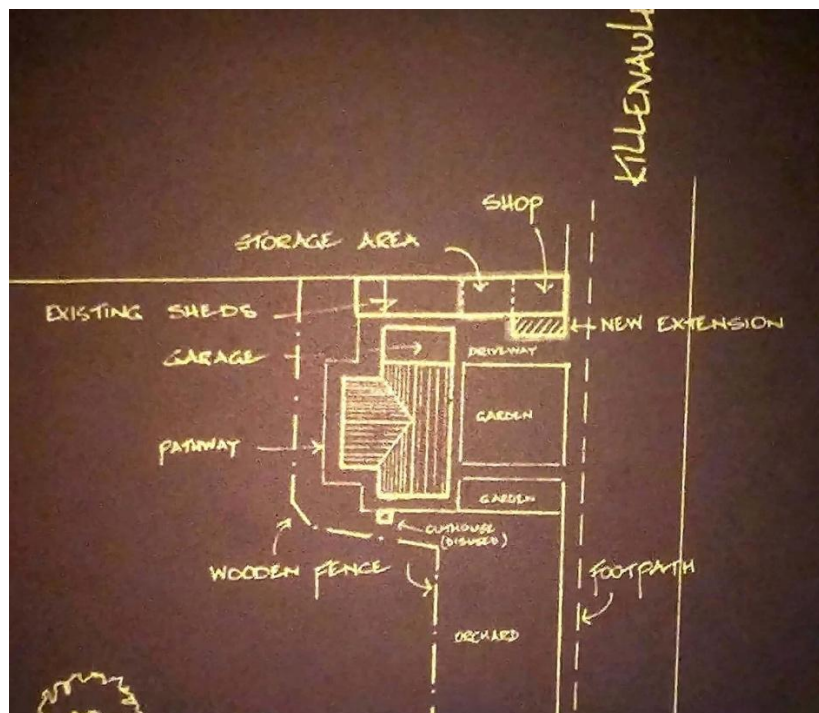


Figure 11 Site Layout Plan of P3.12386

i) "Is or is not Development"

It is considered that the above listed proposal constitutes "works" as understood by the Planning and Development Act 2000, as amended. The proposal **as presented** also constitutes a material change of use. The above listed proposal therefore constitutes "development" within the meaning of the Planning and Development Act 2000, as amended.

ii) "Is or is not Exempted Development"

There are a number of limitations under Article 10(6) and I have assessed same individually hereunder.

(a) In this sub-article—

‘habitable room’ means a room used for living or sleeping purposes but does not include a kitchen that has a floor area of less than 6.5 square metres;

‘relevant period’ means the period from 8 February 2018 until 31 December 2028.’

The Article 10(6)(a) notification (in the appropriate form) was submitted to the Planning Authority and acknowledged under Reference 6a/26/2.

(b) This sub-article relates to a proposed development, during the relevant period, that consists of a change of use to residential use from Class 1, 2, 3, 6 or 12 of Part 4 to Schedule 1

For the purposes of this assessment, I consider the Planning Authority must consider the last legitimate use which appears to have been Shop permitted Reg. Ref P3/12386.

I note that a **shop** does fall under Class 1, 2, 3, 6 or 12 of Part 4 to Schedule 1 of the Planning and Development Regulations 2001, as amended.

(c) Notwithstanding sub-article (1), where in respect of a proposed development referred to in paragraph (b)—

(i) the structure concerned was completed prior to the making of the Planning and Development (Amendment) (No. 2) Regulations 2018,

The structure was completed prior to the making of the Regulations.

(ii) the structure concerned has at some time been used for the purpose of its current use class, being Class 1, 2, 3, 6 or 12 and

I note that a **shop** does fall under Class 1 of Part 4 to Schedule 1 of the Planning and Development Regulations 2001, as amended and was operating as a shop.

(iii) the structure concerned, or so much of it that is the subject of the proposed development, has been vacant for a period of 2 years or more immediately prior to the commencement of the proposed development,

The applicant has provided details from REA Stokes and Quirke Auctioneers to confirm that the structure concerned, has been vacant for a period of at least 2 years

then the proposed development for residential use, and any related works, shall be exempted development for the purposes of the Act, subject to the conditions and limitations set out in paragraph (d).

(d) (i) The development is commenced and completed during the relevant period.

As the Article 10(6)(a) form has been completed and intended development is intended to be completed within the relevant period.

(ii) Subject to sub-paragraph (iii), any related works, including works as may be required to comply with sub-paragraph (vii), shall –

- (I) primarily affect the interior of the structure,**
- (II) retain 50 per cent or more of the existing external fabric of the building, and**
- (III) not materially affect the external appearance of the structure so as to render its appearance inconsistent with the character of the structure or of neighbouring structures.**

I note that 50 per cent or more of the external fabric of the building will be retained. The submitted plans show limited works to the interior of the structure.

(iii) Any related works for the alteration of existing ground floor shop fronts shall be consistent with the fenestration details and architectural and streetscape character of the remainder of the structure or of neighbouring structures.

works for the alteration of existing ground floor shop fronts shall be consistent with the fenestration details and architectural and streetscape character.

(iv) No development shall consist of or comprise the carrying out of works to the ground floor area of any structure which conflicts with any objective of the relevant local authority development plan or local area plan, pursuant to the Part 1 of the First Schedule to the Act, for such to remain in retail use, with the exception of any works the purpose of which is to solely provide on street access to the upper floors of the structure concerned.

Not applicable. The building is noted located within a Primary Retail Area.

(v) No development shall consist of or comprise the carrying out of works which exceeds the provision of more than 9 residential units in any structure.

The proposal related to 1 no. unit only. The provisions of Article 10(6)(d)(v) do not therefore apply.

(vi) Dwelling floor areas and storage spaces shall comply with the minimum floor area requirements and minimum storage space requirements of the "Sustainable Urban Housing: Design Standards for New Apartments — Guidelines for Planning Authorities" issued under section 28 of the Act or any subsequent updated or replacement guidelines.

The floor area of unit has provided 35sq.m for a studio apartment. Storage area shown as 3sq.m The current 2025 Apartment Guidelines provide a studio apartment which requires a floor area of 32sq.m.

(vii) Rooms for use, or intended for use, as habitable rooms shall have adequate natural lighting.

There is sufficient natural lighting serving the unit.

(viii) No development shall consist of or comprise the carrying out of works to a protected structure, as defined in section 2 of the Act, save where the relevant planning authority has issued a declaration under section 57 of the Act to the effect that the proposed works would not materially affect the character of the structure or any element, referred to in section 57(1)(b) of the Act, of the structure.

The unit is not a Protected Structure.

(ix) No development shall contravene a condition attached to a permission under the Act or be inconsistent with any use specified or included in such a permission.

This proposal would not be inconsistent with a specified use. The provisions of Article 10(6)(d)(ix) does not therefore apply.

(x) No development shall relate to any structure in any of the following areas:

- (I) an area to which a special amenity area order relates**
- (II) an area of special planning control**
- (III) within the relevant perimeter distance area, as set out in Table 2 of Schedule 8, of any type of establishment to which the Major Accident Regulations apply**

None of the above apply to this property or location. The provisions of Article 10(6)(d)(x) does not therefore apply.

- (xi) No development shall relate to matters in respect of which any of the restrictions set out in subparagraph (iv), (vii), (viiA), (viiB), (viiC), (viii) or (ix) of article 9(1)(a), or paragraph (c) or (d) of article (9)(1), would apply.**

Development subject to this Section 5 is not located within a Zone of Archaeological Potential (ZAP)

An Appropriate Assessment Screening was undertaken which concludes that significant effects of the development on Natura 2000 sites can be excluded. The restriction under (viiB) does not apply.

Whilst the application for the Section 5 Declaration determination issued by the Planning Authority will be limited to the query posed under the application, it appears that the sheds which had been constructed to the rear of the shop has been demolished under Class 50(b) of the Planning and Development Regulations 2001, as amended. It is noted following an inspection of the property (externally) on 13th August 2026, there appears to be a new large rear return constructed onto the west elevation of the structure which appears will form as an extension to the existing building (to create a larger unit) or may be intended to use as another semi-detached unit or shed.

The rear elevation (west) drawing on the Site Layout Plan do not accurately reflect the as constructed structures on the site.

- (xii) No development shall consist of or comprise the carrying out of works for the provision of an onsite wastewater treatment and disposal system to which the code of practice made by the Environmental Protection Agency pursuant to r of the Environmental Protection Agency Act 1992 relates and entitled Code of Practice — Wastewater Treatment and Disposal Systems Serving Single Houses together with any amendment to that Code or any replacement for it.**

The property is to be served by public wastewater. The provisions of Article 10(6)(d)(xii) do not therefore apply.

iii) Restrictions under Article 9

I note no other restrictions under Article 9 i.e. aside from those referenced above, that would apply.

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

AA

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

EIA

The proposed development has been subject to a preliminary examination to determine the requirement for EIA. EIA is not required in respect of the development. See also for Environmental Impact Assessment (EIA) preliminary examination screening report attached.

4. RECOMMENDATION

WHEREAS a question has arisen as to whether Change of use from Commercial (former Shop) to Residential (Studio Apartment) at Kilknockan Road, Fethard, Co. Tipperary constitutes “development” and 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, Article 9 and Article 10 of the Planning and Development Regulations, 2001, as amended,
- (c) The planning history and details submitted by the applicant.

AND WHEREAS Tipperary County Council has concluded that

The change of use from Commercial (former Shop) to Residential (Studio Apartment) at Kilknockan Road, Fethard constitutes “development” within the meaning of the Planning and Development Act 2000, as amended, and is NOT “exempted development”.

Reason: The proposal does not satisfy the requirements of Article 10(6) (d) (xi) of the Planning and Development Regulations 2001, as amended. Pre-existing sheds attached to rear of the structure have been demolished and a new structure, attached to the rear of the structure to which this Declaration relates, is under development. There is no prior grant of permission for this development.

The Planning Authority is not satisfied that the proposal is not restricted by Article 9(1)(a)(viii) of the above-mentioned Regulations.

District Planner:



Date: 14/08/2026

Senior Executive Planner:



Date: 17/8/2026

HABITATS DIRECTIVE APPROPRIATE ASSESSMENT (AA) SCREENING REPORT

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

(a) File Reference No:	S5/26/129
(b) Brief description of the project or plan:	Change of use from Commercial (former Shop) to Residential (Studio Apartment)
(c) Brief description of site characteristics:	Urban Serviced Area
(d) Relevant prescribed bodies consulted: e.g. DHLGH (NPWS), EPA, OPW	None
(e) Response to consultation:	None

STEP 2. Identification of relevant Natura 2000 sites using Source-Pathway-Receptor model and compilation of information on Qualifying Interests and conservation objectives.

European (code)	Site	List of Qualifying Interest/Special Conservation Interest ¹	Distance from proposed development ² (km)	Connections (Source-Pathway-Receptor)	Considered further in screening Y/N
002137	Lower River Suir	https://www.npws.ie/protected-sites/sac/002137	Within 10km	None	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. - 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	No potential impacts. Change of use only
Operational phase e.g. - Direct emission to air and water - Surface water runoff containing contaminant or	No potential impacts. Change of use only

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										
In-combination/Other	No potential 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	No potential impacts									
(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.										
The proposed development is not likely to have significant effects.										
Conclusion:										
	<table border="1"> <thead> <tr> <th></th> <th>Tick as Appropriate:</th> <th>Recommendation:</th> </tr> </thead> <tbody> <tr> <td>(i) It is clear that there is no likelihood of significant effects on a European site.</td> <td>☒</td> <td>The proposal can be screened out: Appropriate assessment not required.</td> </tr> <tr> <td>(ii) It is uncertain whether the proposal will have a significant effect on a European site.</td> <td>☐</td> <td> ☐ Request further information to complete screening ☐ Request NIS ☐ Refuse planning permission </td> </tr> </tbody> </table>		Tick as Appropriate:	Recommendation:	(i) It is clear that there is no likelihood of significant effects on a European site.	☒	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.	☐	☐ Request further information to complete screening ☐ Request NIS ☐ Refuse planning permission
	Tick as Appropriate:	Recommendation:								
(i) It is clear that there is no likelihood of significant effects on a European site.	☒	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.	☐	☐ Request further information to complete screening ☐ Request NIS ☐ Refuse planning permission								

(iii) Significant effects are likely.	☐	☐ Request NIS ☐ Refuse planning permission
--	--------------------------	---

EIA Pre-Screening	
Establishing a development is a 'sub-threshold development'	
File Reference:	S5/26/129
Development Summary:	Change of use from Commercial (former Shop) to Residential (Studio Apartment)
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 <i>sub-threshold</i> : _____	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

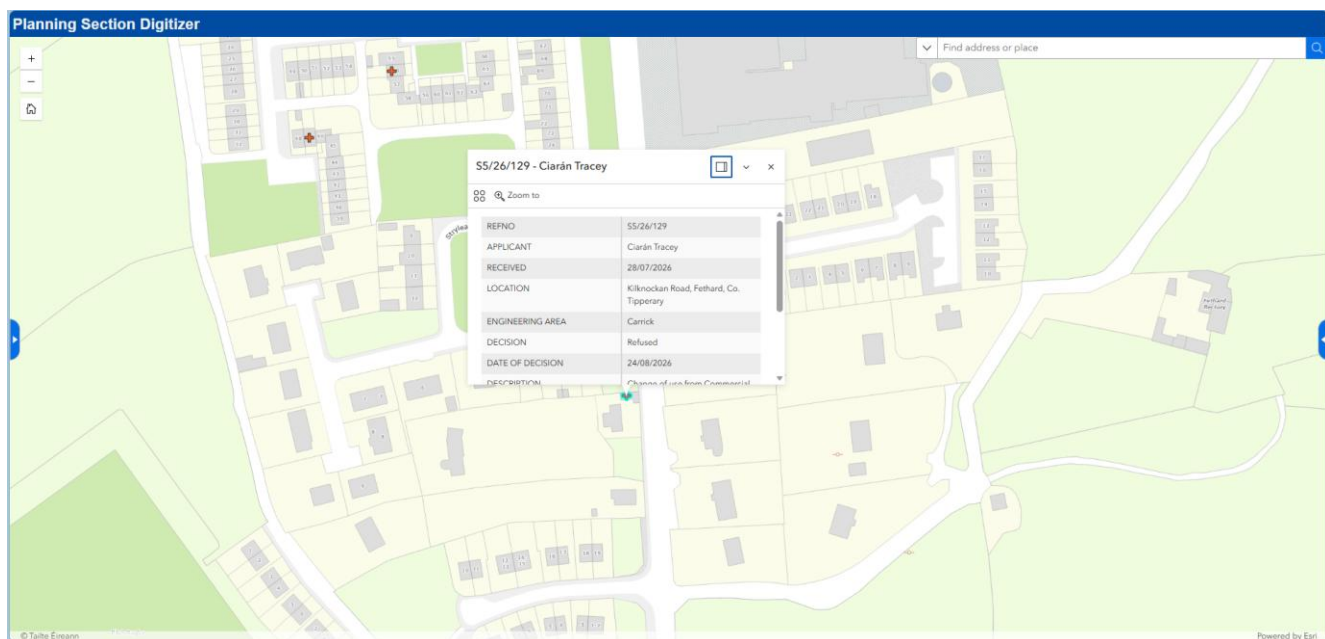


Figure 12 Planning Register

DELEGATED EMPLOYEE'S ORDER

SUBJECT: Section 5 Declaration

Date: 18/08/2026



Date: 19th August 2026 Our Ref: S5/26/129 Civic Offices, Nenagh

Ciaran Treacy
Kilnockin
Fethard
Co Tipperary

Re: Declaration under Section 5 of the Planning and Development Act 2000, as amended.

Dear Ciaran,

I refer to your application for a Section 5 Declaration received on 28th July 2026 in relation to the following proposed works:

Change of use from Commercial (former Shop) to Residential (Studio Apartment) at Kilnockan Road, Fethard, 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, Article 9 and Article 10 of the Planning and Development Regulations, 2001, as amended,
- c) The planning history and details submitted by the applicant.

AND WHEREAS Tipperary County Council has concluded that

The change of use from Commercial (former Shop) to Residential (Studio Apartment) at Kilnockan Road, Fethard constitutes “development” within the meaning of the Planning and Development Act 2000, as amended, and is **NOT “exempted development”**.

Reason: The proposal does not satisfy the requirements of Article 10(6) (d) (xi) of the Planning and Development Regulations 2001, as amended. Pre-existing sheds attached to rear of the structure have been demolished and a new structure, attached to the rear of the structure to which this Declaration relates, is under development. There is no prior grant of permission for this development.

The Planning Authority is not satisfied that the proposal is not restricted by Article 9(1)(a)(viii) of the above-mentioned Regulations.

NOTE: Any person issued with a Declaration of a Planning Authority may refer the Declaration for review to An Coimisiún 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**