

Tipperary County Council
RECEIVED
20 SEP 2024
C S D
Civic Offices, Clonmel

PLANNING & DEVELOPMENT ACT, 2000 (as amended)

Application for a Section 5 Declaration
Development / Exempted Development

1. Applicant's address/contact details:

Applicant	St. Marys Community Hall.
Address	Killenaule, Thurles. Co. Tipperary.
Telephone No.	[REDACTED]
E-mail	

2. Agent's (if any) address:

Agent	N/A.
Address	
Telephone No.	
E-mail	
Please advise where all correspondence in relation to this application is to be sent; FR. Jimmy O'Donnell, Killenaule, Thurles. Co. Tipperary.	
Applicant <input checked="" type="checkbox"/>	Agent <input type="checkbox"/>

3. Location of Proposed Development:

Postal Address or Townland or Location (as may best identify the land or structure in question)	St. Marys Community Hall, Killenaule Thurles, Co. Tipperary: E41. RH99.
---	---

TIPPERARY CO. COUNCIL
RECEIVED
20 SEP 2024
PLANNING SECTION
FILE NO.

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.)

Upgrade the existing surface to
Tarmacadam.
Improve landscaping around the Hall
with appropriate seating and shrubs
line the new layout for car-parking
Proposed floor area of proposed works/uses: 900 sqm

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

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

Signature of Applicant(s) Fa. Jimmy O'Donnell Date: 13th - Sept - 2024.

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 - *not relevant work in outside*
 - 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

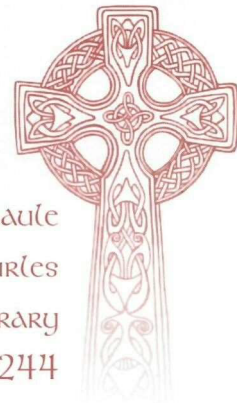
DATE STAMP

Fee Recd. € _____

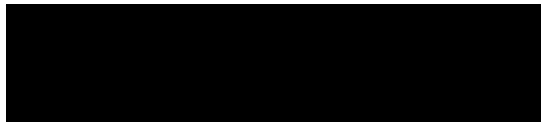
Receipt No _____

Date _____

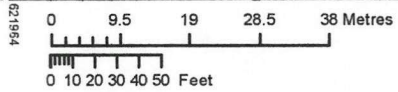
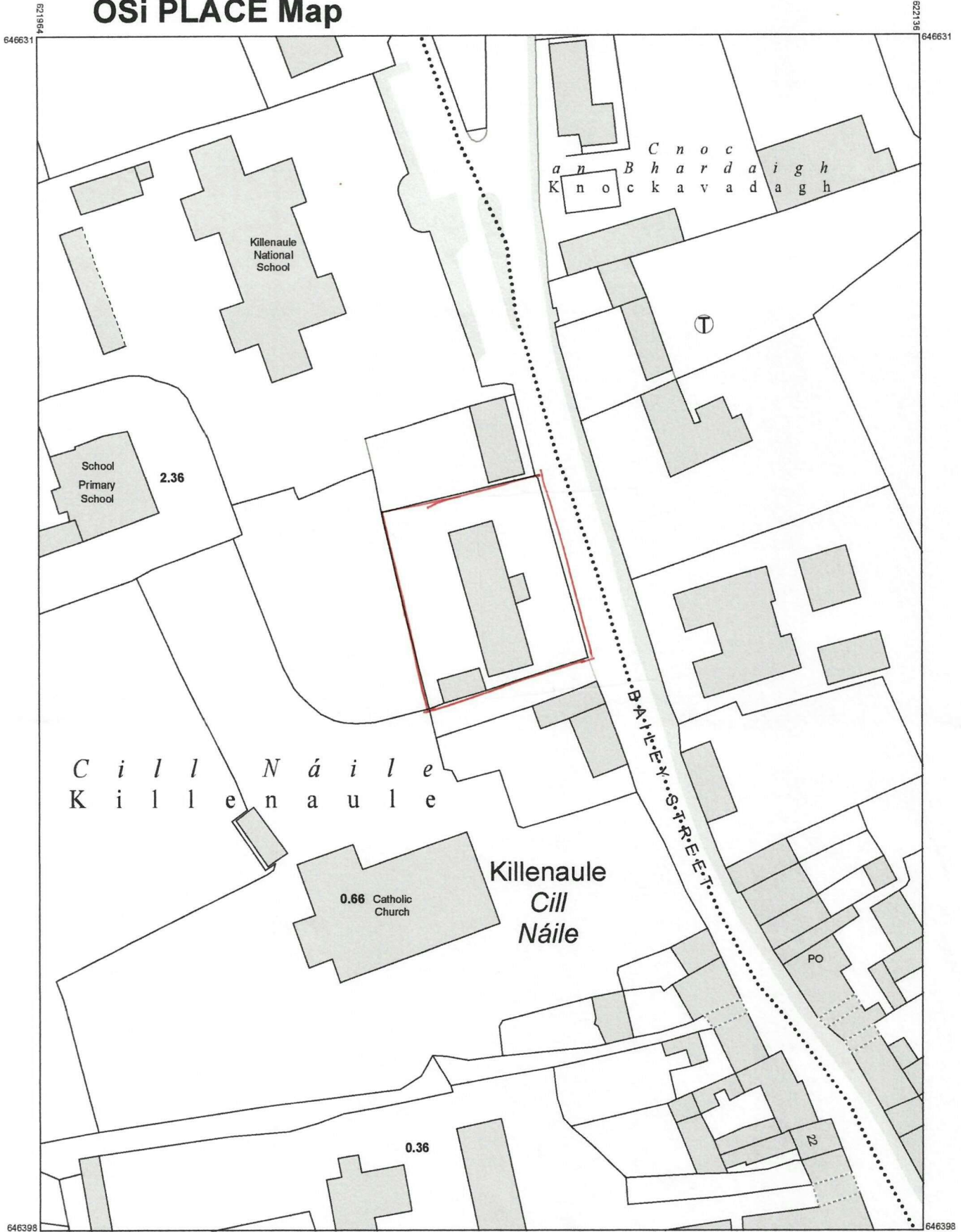
Received by _____



Killenaule
Thurles
Co. Tipperary
052 915 6244



OSi PLACE Map



OUTPUT SCALE: 1:1,000



COMPILED AND PUBLISHED BY:
 Tailte Éireann,
 Phoenix Park,
 Dublin 8,
 Ireland.
 D08F6E4

No part of this publication may be copied, reproduced or transmitted in any form or by any means without the prior written permission of the copyright owner.

This topographic map does not show legal property boundaries, nor does it show ownership of physical features.

CENTRE COORDINATES:
 ITM 622050,646515
PUBLISHED: 13/09/2024
MAP SERIES: 1:2,500
 1:2,500
ORDER NO.: 50422453_1
MAP SHEETS: 4944-B
 4944-D

CAPTURE RESOLUTION:
 The map objects are only accurate to the resolution at which they were captured. Output scale is not indicative of data capture scale. Further information is available at: www.tailte.ie; search 'Capture Resolution'
LEGEND: To view the legend visit www.tailte.ie and search for 'Large Scale Legend'

www.tailte.ie
 Any unauthorised reproduction infringes Tailte Éireann copyright.

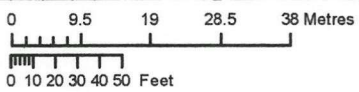
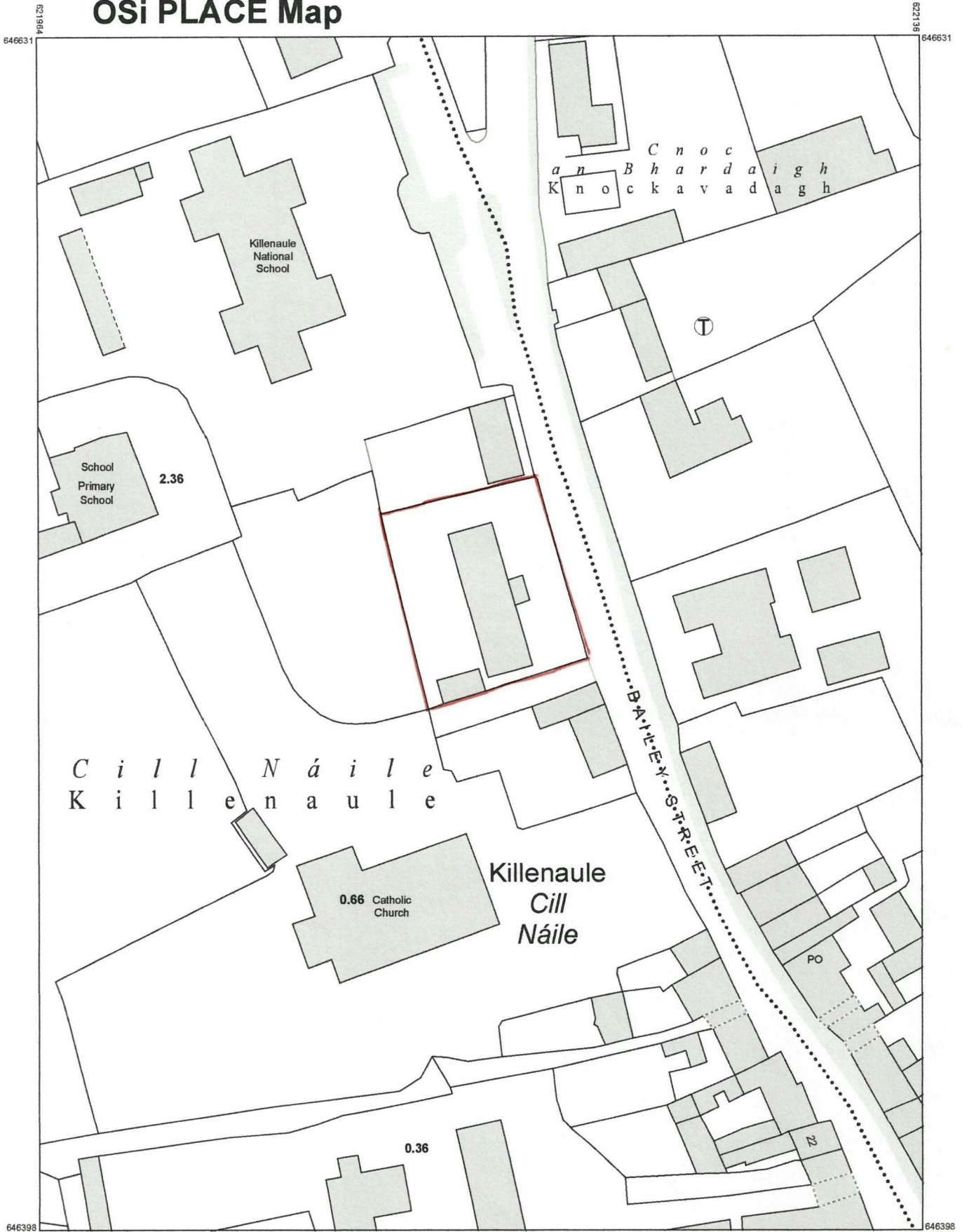
The representation on this map of a road, track or footpath is not evidence of the existence of a right of way.

© Tailte Éireann, 2024
 All rights reserved



Tailte Éireann

OSi PLACE Map



OUTPUT SCALE: 1:1,000



COMPILED AND PUBLISHED BY:
 Tailte Éireann,
 Phoenix Park,
 Dublin 8,
 Ireland.
 D08F6E4

No part of this publication may be copied, reproduced or transmitted in any form or by any means without the prior written permission of the copyright owner.

This topographic map does not show legal property boundaries, nor does it show ownership of physical features.

CENTRE COORDINATES:
 ITM 622050,646515

PUBLISHED: 13/09/2024
ORDER NO.: 50422453_1
MAP SERIES: 1:2,500
MAP SHEETS: 4944-B
 1:2,500 4944-D

CAPTURE RESOLUTION:
 The map objects are only accurate to the resolution at which they were captured. Output scale is not indicative of data capture scale. Further information is available at: www.tailte.ie; search 'Capture Resolution'
LEGEND: To view the legend visit www.tailte.ie and search for 'Large Scale Legend'

www.tailte.ie
 Any unauthorised reproduction infringes Tailte Éireann copyright.

The representation on this map of a road, track or footpath is not evidence of the existence of a right of way.

© Tailte Éireann, 2024
 All rights reserved



Tailte Éireann

Bailey Street

Bailey Street

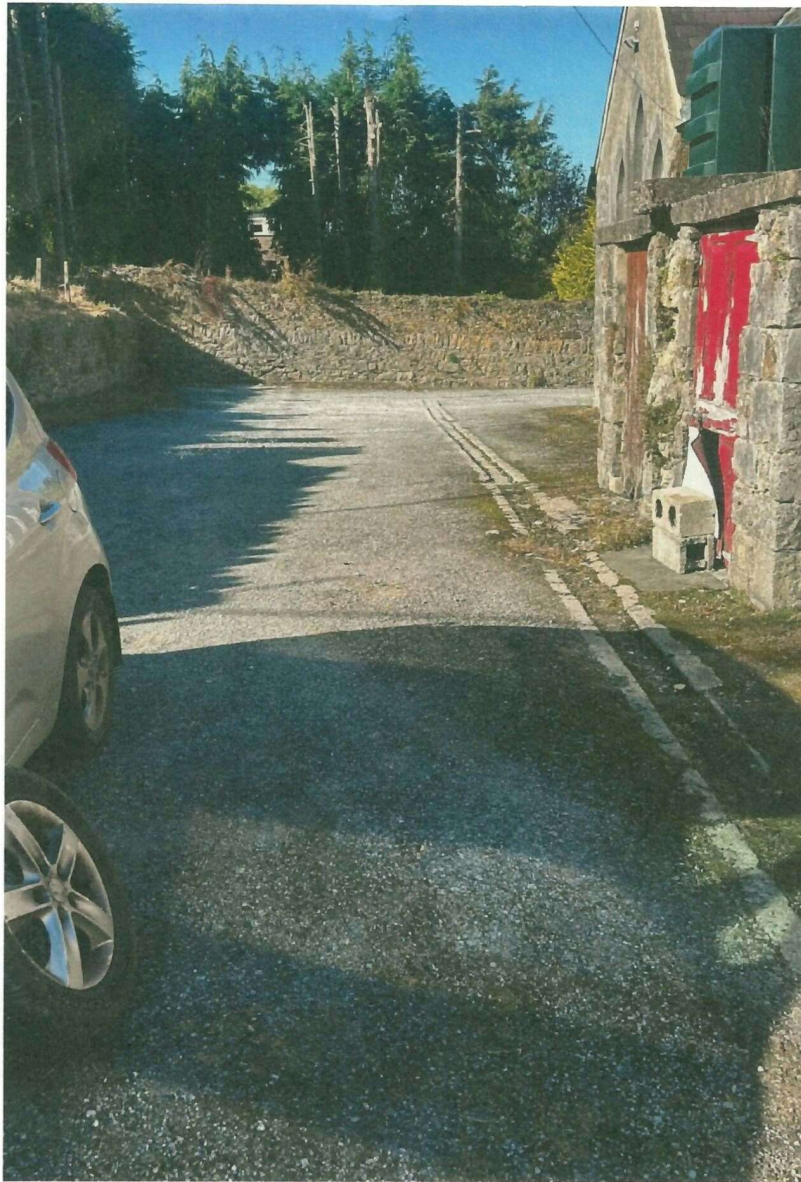
900 sqm







Site layout plan - Front view



Site layout plan Rear view



Comhairle Contae Thiobraid Árann
Tipperary County Council

Comhairle Contae
Thiobraid Árann,
Oifigi Cathartha,
Cluain Meala,
Co. Thiobraid Árann
Tipperary County Council,
Civic Offices, Clonmel,
Co. Tipperary
E91 N512

Comhairle Contae
Thiobraid Árann,
Oifigi 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: 23-09-2024

Our Ref: S5/24/105

Civic Offices, Clonmel

**St. Marys Community Hall
C/o Fr. Jimmy O Donnell
Killenaule
Thurles
Co. Tipperary**

Re: Application for a Section 5 Declaration – the upgrading of the existing surface to tarmacadam and improvement of landscaping at St. Marys Community Hall, Killenaule, Thurles, Co. Tipperary.

Dear Sir/Madame,

I acknowledge receipt of your application for a Section 5 Declaration received on 20th September, 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 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 Ref.: S5/24/105
Applicant: Fr Jimmy O'Donnell
Development Address: St Mary's Community Hall, Killenaule, Co. Tipperary.
Proposed Development: Upgrading of existing surface tarmacadam and associated landscaping improvements.

1. GENERAL

A request was made on the 20th September 2024 for a declaration under Section 5 of the Planning and Development Act, 2000 (as amended) as to whether or not the following is development and exempted development:

- a) *Upgrading of existing surface tarmacadam and associated landscaping improvements. The car parking area is to be lined to provide designated parking spaces. The landscaping works include the planting of shrubs and the provision of seating.*

The works are to be provided on the grounds of St Mary's Community Hall in Killenaule, a protected structure (S050). St Mary's Community Hall is also listed on the National inventory of Architectural Heritage (Ref. 22103004).

The site is in the ownership of a religious order.

2. STATUTORY PROVISIONS

The following statutory provisions are relevant to this referral case;

Planning and Development Act 2000 (as amended)

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

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

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

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

Section 4 conveys power on the Minister to make regulations to provide for any class of development to be exempted development for the purposes of the Act.

Section 4(1)(h) of the Act considers 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; to be exempted development.

Section 57 (1) of the Planning and Development Act, 2000, as amended, notes that the carrying out of works to a protected structure, or a proposed protected structure, shall be exempted development only if those works would not materially affect the character of—

(a) the structure, or

(b) any element of the structure which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest.

Planning and Development Regulations 2001 (as amended).

Of relevance to this declaration are the following classes of development,

Column 1 Description of Development	Column 2 Conditions and Limitations
<p>CLASS 11</p> <p>The construction, erection, lowering, repair or replacement, other than within or bounding the curtilage of a house, of –</p> <p>(a) any fence (not being a hoarding or sheet metal fence), or</p> <p>(b) any wall of brick, stone, blocks with decorative finish, other concrete blocks or mass concrete.</p>	<p>1. The height of any new structure shall not exceed 1.2 metres or the height of the structure being replaced, whichever is the greater, and in any event shall not exceed 2 metres.</p> <p>2. Every wall, other than a dry or natural stone wall, constructed or erected bounding a road shall be capped and the face of any wall of concrete or concrete blocks (other than blocks of a decorative finish) which will be visible from any road, path or public area, including a public open space, shall be rendered or plastered.</p>
<p>CLASS 33</p> <p>Development consisting of the laying out and use of land—</p> <p>(a) as a park, private open space or ornamental garden,</p> <p>(b) as a roadside shrine, or</p> <p>(c) for athletics or sports (other than golf or pitch and putt or sports involving the use of motor vehicles, aircraft or firearms), where no charge is made for admission of the public to the land.</p>	<p>The area of any such shrine shall not exceed 2 square metres, the height shall not exceed 2 metres above the centre of the road opposite the structure and it shall not be illuminated.</p>

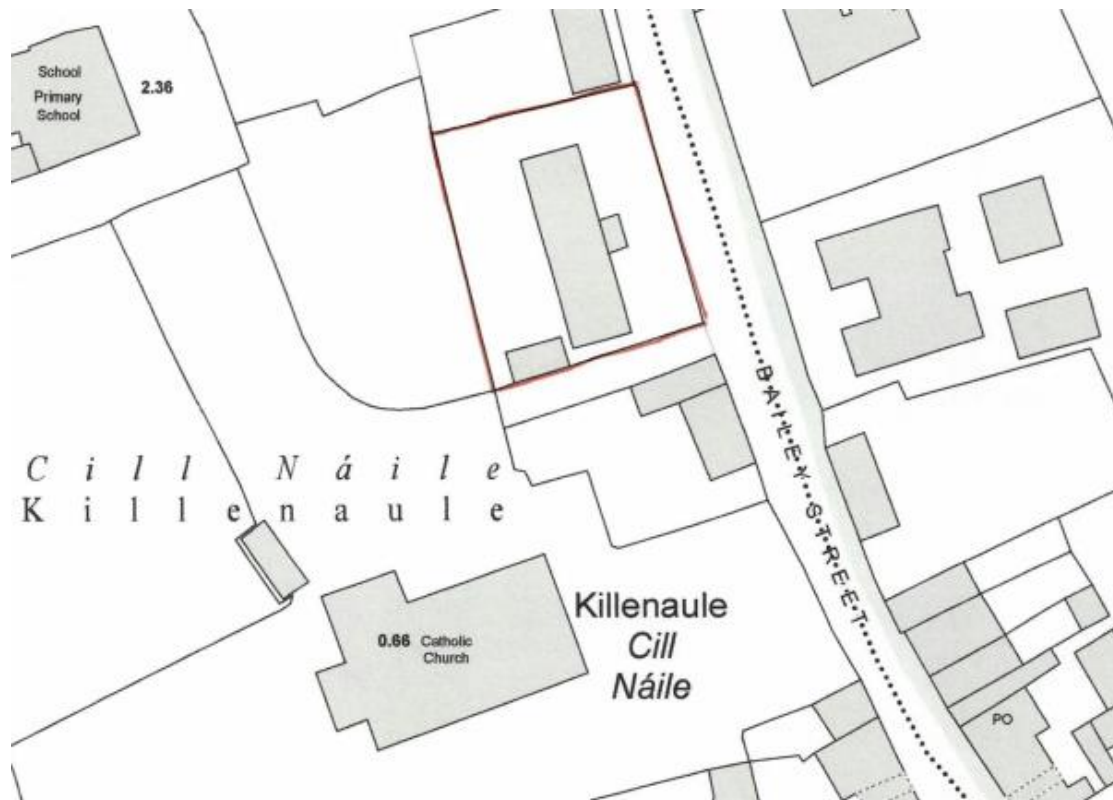
Column 1 Description of Development	Column 2 Conditions and Limitations
<p>CLASS 36</p> <p>(a) Development consisting of the carrying out by or on behalf of a State authority or other public body, on land used by the authority or body as a public park, of works incidental to that use, including the provision, construction or erection of any structure in connection with or for the purposes of the enjoyment of the park or which is required in connection with or for the purposes of the management or operation of the park.</p> <p>(b) Development consisting of the carrying out by or on behalf of a State authority or other public body on a nature reserve established in accordance with section 15 of the Wildlife Act, 1976, as amended by sections 26 and 27 of the Wildlife (Amendment) Act, 2000, of works (including the provision, construction or erection of structures) in connection with or for the purposes of the enjoyment of the reserve or which are required in connection with the management or operation of the reserve.</p>	<ol style="list-style-type: none"> 1. The floor area of any building constructed or erected shall not exceed 40 square metres. 2. The height of any building or other structure constructed or erected shall not exceed 10 metres. 3. Any car park provided or constructed shall incorporate parking space for not more than 40 cars.

3. ASSESSMENT

a. Site Location

The site is located on lands within the curtilage of the existing Community Hall in Killenaule, Co. Tipperary. The Community Hall, a former National School, is listed on The Record of Protected Structures as set out in the Tipperary County Development Plan 2022.

Figure 1 Site layout



b. Relevant Planning History

None recorded

Figure 2 Planning history



c. Assessment

A) Is or is not Development

As set out above, development is defined, in the context of the Planning and Development Act 2000 (as amended) as 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. Works are defined as any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal.

There are a number of elements to the subject proposal, the laying of tarmacadam, the provision of additional landscaping and the provision of seating. The proposal involves works and, as such, constitutes “development” within the meaning of the Planning and Development Act 2000, as amended.

B) Is or is not Exempted Development

As noted, there are multiple elements to the proposal. There were limited details submitted with the application. No details in respect to the changes in ground levels arising from the laying of tarmacadam were provided. No details of the existing or proposed surface water management arrangements on site were provided. No details of the proposed landscaping measures/features or the form and location of the seating proposed were provided.

More significantly however, no consideration appears to have been given to the impact of the works proposed on the setting and structural integrity of the protected structure were provided.

Section 57 (1) of the Planning and Development Act, 2000, as amended, notes that the carrying out of works to a protected structure, or a proposed protected structure, shall be exempted development only if those works would not materially affect the character of—

(a) the structure, or

(b) any element of the structure which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest.

It is noted that the Planning Authority has not issued a Section 57 Declaration in relation to this project.

While the proposal does not provide for works to the Hall, works are proposed within the curtilage of the Hall that have the potential to impact upon both the setting and structural integrity of the protected structure.

The proposal was discussed with the Executive Conservation Officer, who noted that no consideration appears to have been given to the impact the raising of ground levels will have on the existing door opening. The lack of any details in respect of proposed surface water management arrangements on site is a further concern as if not properly managed, there is the potential for surface water to collect at the base of the structure, undermining its integrity.

Given the substantive lacunae in information presented and in the absence of a Section 57 Declaration considering the impact of the works on the Protected Structure, the Planning Authority does not consider that the works can be considered exempted development having regard to the provision of Section 4(1)(h) of the Planning and Development Act 2000, as amended.

C) Is the exemption restricted under Article 9

As the works proposed do not constitute exempted development, the restrictions set out under Article 9 are not relevant.

D) Environmental Impact Assessment and Appropriate Assessment (AA)

The subject site is located c.73 metres from the River Barrow And River Nore SAC and 11.2 kms from the Lower River Suir SAC.

The proposed development is located within the curtilage of a community hall and comprises of resurfacing works and the provision of additional landscaping and seating on site.

Having regard to:

- the small scale nature of the development,
- the location of the development relevant to the closest European site (lower River Suir,
- The intervening land uses between the subject site and the SAC's referenced above and
- the consequent absence of a direct pathway to these European sites,

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.

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 attached.

4. RECOMMENDATION

A question has arisen as to whether the following proposal in on the grounds of the Community Hall in Killenaule, Co. Tipperary is development and if so, is or is not exempted development:

Upgrading of existing surface tarmacadam and associated landscaping improvements. The car parking area is to be lined to provide designated parking spaces. The landscaping works include the planting of shrubs and the provision of seating.

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

- (a) Sections 2, 3, 4 and 57 of the Planning and Development Act, 2000, as amended
- (b) Articles 6 and 9 of the Planning & Development Regulations 2001, as amended.
- (c) Part 1 Classes 11, 33 and 36, of Schedule 2 Planning & Development Regulations 2001, as amended.

Tipperary County Council has determined that –

the proposal constitutes works and development but the development is **not** deemed to be exempted development as the works proposed, in the absence of sufficient details in relation to;

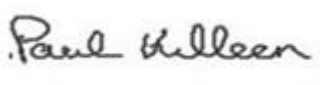
- Existing and proposed ground levels arising from the laying of tarmacadam.
- Existing or proposed surface water management arrangements on site.
- Proposed landscaping measures/features or the form and location of the seating proposed were provided.

- The impact of the works proposed on the setting and structural integrity of the protected structure.

have the potential to materially affect the character, setting and integrity of the Protected Structure.

Advice Note:

Please note that limited details were presented with the Declaration. If a second declaration is sought, it would need to be accompanied by a Section 57 Declaration issued by the Planning Authority, details in respect of the changes in ground levels on site, existing and proposed surface water drainage, the landscaping proposals and the form and location of proposed seating.

Signed: 

Paul Killeen E.P., Planning

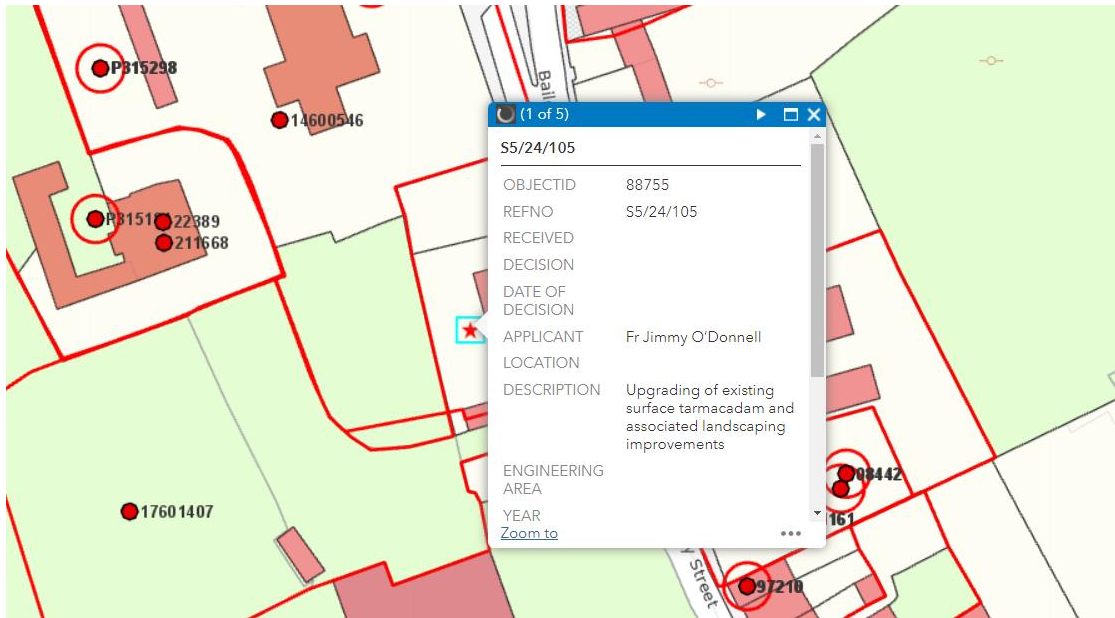
Date: 15/10/24


Signed:

Caroline Conway, SEP Planning

Date: 15.10.2024

Figure 3 Site entered on Planning register



Appendix 1

EIA Pre-Screening Establishing if the proposal is a 'sub-threshold development':	
Planning Register Reference:	S5/24/105
Development Summary:	Resurfacing of Car park
Was a Screening Determination carried out under Section 176A-C?	<input type="checkbox"/> Yes, no further action required <input checked="" type="checkbox"/> No, Proceed to Part A
A. Schedule 5 Part 1 - Does the development comprise a project listed in Schedule 5, Part 1 , of the Planning and Development Regulations 2001 (as amended)? (Tick as appropriate)	
<input type="checkbox"/> Yes, specify class	EIA is mandatory No Screening required
<input checked="" type="checkbox"/> No	Proceed to Part B
B. Schedule 5 Part 2 - Does the development comprise a project listed in Schedule 5, Part 2 , of the Planning and Development Regulations 2001 (as amended) and does it meet/exceed the thresholds? (Tick as appropriate)	
<input checked="" type="checkbox"/> No, the development is not a project listed in Schedule 5, Part 2	No Screening required
<input type="checkbox"/> Yes the project is listed in Schedule 5, Part 2 and meets/exceeds the threshold, specify class (including threshold): _____ [specify class & threshold here] _____	EIA is mandatory No Screening required
<input type="checkbox"/> Yes the project is of a type listed but is <i>sub-threshold</i> .	Proceed to Part C
C. If Yes , has Schedule 7A information/screening report been submitted?	
<input type="checkbox"/> Yes, Schedule 7A information/screening report has been submitted by the applicant	Screening Determination required
<input type="checkbox"/> No, Schedule 7A information/screening report has not been submitted by the applicant	Preliminary Examination required



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: 17th October, 2024

Our Ref: S5/24/105

Civic Offices, Nenagh

**St. Mary's Community Hall
C/O Fr. Jimmy O'Donnell
Killenaule
Thurles
Co. Tipperary**

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

Dear Fr. Donnell,

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

Upgrading of existing surface tarmacadam and associated landscaping improvements

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 –

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

- (a) Sections 2, 3, 4 and 57 of the Planning and Development Act, 2000, as amended
- (b) Articles 6 and 9 of the Planning & Development Regulations 2001, as amended.
- (c) Part 1 Classes 11, 33 and 36, of Schedule 2 Planning & Development Regulations 2001, as amended.

Tipperary County Council has determined that –

the proposal constitutes works and development but the development is **not deemed to be exempted development** as the works proposed, in the absence of sufficient details in relation to;

- Existing and proposed ground levels arising from the laying of tarmacadam.
- Existing or proposed surface water management arrangements on site.
- Proposed landscaping measures/features or the form and location of the seating proposed were provided
- The impact of the works proposed on the setting and structural integrity of the protected structure.
- have the potential to materially affect the character, setting and integrity of the Protected Structure

Advice Note:

Please note that limited details were presented with the Declaration. If a second declaration is sought, it would need to be accompanied by a Section 57 Declaration issued by the Planning Authority, details in respect of the changes in ground levels on site, existing and proposed surface water drainage, the landscaping proposals and the form and location of proposed seating.

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

DELEGATED EMPLOYEE'S ORDER

File Ref: **S5/24/105** **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 St. Marys Community Hall, C/O Fr. Jimmy O Donnell, Killenaule, Thurles, Co.Tipperary re: Upgrading of existing surface tarmacadam and associated landscaping improvements at St Mary's Community Hall, Killenaule, Co. Tipperary is development and is not exempted development.

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

- (a) (a) Sections 2, 3, 4 and 57 of the Planning and Development Act, 2000, as amended
- (b) Articles 6 and 9 of the Planning & Development Regulations 2001, as amended.
- (c) Part 1 Classes 11, 33 and 36, of Schedule 2 Planning & Development Regulations 2001, as amended.

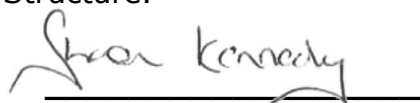
Tipperary County Council has determined that –

the proposal constitutes works and development but the development is **not** deemed to be exempted development as the works proposed, in the absence of sufficient details in relation to;

- Existing and proposed ground levels arising from the laying of tarmacadam.
- Existing or proposed surface water management arrangements on site.
- Proposed landscaping measures/features or the form and location of the seating proposed were provided.
- The impact of the works proposed on the setting and structural integrity of the protected structure.

have the potential to materially affect the character, setting and integrity of the Protected Structure.

Signed:



Date: 17/10/2024

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