



Comhairle Contae Thiobraid Árann
Tipperary County Council

TIPPERARY CO. COUNCIL
RECEIVED
 21 OCT 2024
 PLANNING SECTION
 FILE NO.

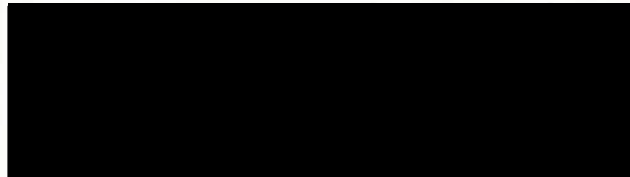
PLANNING & DEVELOPMENT ACT, 2000 (as amended)

Application for a Section 5 Declaration
Development / Exempted Development

1. Applicant's address/contact details:

Applicant	
Address	
Telephone No.	
E-mail	

Joe FEWER
 2 LIBERTY SQUARE
 THURLES



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 FILE NO. 55/24/121

2. Agent's (if any) address:

Agent	
Address	
Telephone No.	
E-mail	
Please advise where all correspondence in relation to this application is to be sent;	
Applicant []	Agent []

3. Location of Proposed Development:

Postal Address or
 Townland or
 Location
 (as may best
 identify the land or
 structure in
 question)

2 Liberty Square
 Thurles
 E41 FK07

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 of first floor from
residential to commercial for use
as Tattoo Studio/Beauty Salon No
additions or alterations required to
existing layout.
Proposed floor area of proposed works/uses: 50 sqm

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

Please tick appropriate box to show A. Owner B. Occupier applicant's legal interest in the land or structure

C. Other

Where legal interest is 'Other', please expand further on your interest in the land or structure

If you are not the legal owner, please Name: state the name and address of the Address: owner

Signature of Applicant(s) Joe Feeley

Date: 21/10/2024

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
 - 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 <u>0818 06 5000</u> E-Mail planning@tipperarycoco.ie	

FOR OFFICE USE ONLY

DATE STAMP

Fee Recd. €	80-00
Receipt No	NENAM 1/0/123817.
Date	2/10/2024
Received by	Maura Lillis





Comhairle Contae Thiobraid Árann
Tipperary County Council

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Oifigí Cathartha,
Cluain Meala,
Co. Thiobraid Árann
Tipperary County Council,
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Co. Tipperary
E91 N512

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Co. Tipperary
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t 0818 06 5000
e customerservice
@tipperarycoco.ie
tipperarycoco.ie

Date: 21st October, 2024

Our Ref: S5/24/121

Civic Offices, Nenagh

Joe Fewer
2 Liberty Square
Thurles
Co. Tipperary

Re: Application for a Section 5 Declaration – Change of use of 1st floor from residential to commercial for use as a tattoo studio/beauty salon at 2 Liberty Square, Thurles, Co. Tipperary.

Dear Mr Fewer,

I acknowledge receipt of your application for a Section 5 Declaration received on 21st October, 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.: S5/24/121
Applicant: Joe Fewer
Development Address: 2 Liberty Square, Thurles, Co. Tipperary
Proposed Development: Change of use from residential to commercial use as tattoo parlour/beauty salon.

1. GENERAL

On 21.10.2024 a request was made for a declaration under Section 5 of the Planning and Development Act, 2000 as amended as to whether or not the following works constituted development and if so, whether same was exempted development:

Change of use from residential to commercial use as tattoo parlour/beauty salon.

No physical alterations are required to the building layout and the proposal relates to a change of use only.

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.

Planning and Development Regulations 2001, as amended:

Article 6 of the Planning and Development Regulations 2001, as amended states:

Exempted Development.

6. (1) Subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1.

Schedule 2, Part 1 'Exempted Development - General:

Class 14 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended sets out planning exemptions of changes of use. There is no exemption under this Class for the change of use of a residence to a commercial unit.

Article 10 of the Planning and Development Regulations 2001, as amended provides an exemption for development which consists of a change of use within any one of the classes of use specified in Part 4 of Schedule 2, provided that the development if carried out would not

- (a) involve the carrying out of any works other than works which are exempted development,
- (b) contravene a condition attached to a permission under the Act,
- (c) be inconsistent with any use specified or included in such a permission, or
- (d) be a development where the existing use is an unauthorised use, save where such change of use consists of the resumption of a use which is not unauthorised and which has not been abandoned

3. ASSESSMENT

a. Site Location

The site is located at 2 Liberty Square, Thurles, Co. Tipperary

b. Relevant Planning History

84540971 – Planning permission granted for change of ground floor to opticians

c. Assessment

A) “Is or is not Development”

It is considered that the above listed proposal constitutes “development” within the meaning of the Planning and Development Act 2000, as amended as it would result in a material change of use of the premises from residential use to commercial use (use as a tattoo parlour/beauty salon).

B) “Is or is not Exempted Development”

I note no exemptions under the Planning and Development Regulations 2001, as amended or the Planning and Development Act 2000, as amended that apply to the proposal.

C) Restrictions under Article 9

N/a as no exemption under Article 6 confirmed.

d. Requirement for Appropriate Assessment (AA) and Environmental Impact Assessment (EIA)

Appropriate Assessment (AA)

The proposed development has been screened as to the requirement for AA and it has been determined that the requirement for Stage 2 AA does not arise. See Screening Report 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.

4. RECOMMENDATION

A question has arisen as to whether the following is development and is or is not exempted development;

Change of use from residential to commercial use as tattoo parlour/beauty salon.

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 6,9 and 10 of the Planning and Development Regulations 2001, as amended.

Tipperary County Council has concluded that –

The proposed development as presented on the drawings provided with the Declaration application, constitutes “**development**” within the meaning of the Planning and Development Act 2000, as amended and is “ **NOT exempted development**”.

The proposal does not avail of any planning exemption contained under the Planning and Development Act 2000, as amended or the Planning and Development Regulations 2001, as amended.

A/Senior Executive Planner: *Jonathan Flood*

Date: 12/11/2024

Senior Planner: *Andrew Dany* Date: 12/11/2024



HABITATS DIRECTIVE APPROPRIATE ASSESSMENT (AA) SCREENING REPORT

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

(a) File Reference No:	S/24/121
(b) Brief description of the project or plan:	As per planners report
(c) Brief description of site characteristics:	As per planners report
(d) Relevant prescribed bodies consulted: e.g. DHLGH (NPWS), EPA, OPW	None
(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 (km)	Connections (Source-Pathway-Receptor)	Considered further in screening Y/N
002137 Lower River Suir	Lower River Suir SAC National Parks & Wildlife Service	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. <ul style="list-style-type: none"> • Vegetation clearance • Demolition • Surface water runoff from soil excavation/infill/landscaping (including borrow pits) • Dust, noise, vibration • Lighting disturbance • Impact on groundwater/dewatering • Storage of excavated/construction materials • Access to site • Pests 	None.
Operational phase e.g. <ul style="list-style-type: none"> • Direct emission to air and water • Surface water runoff containing contaminant or sediment 	None.

<ul style="list-style-type: none"> • 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 	
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In-combination/Other	None.
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(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 	None.
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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 proposed development, the proposed 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.

The proposed development is not likely to have significant effects.

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:	<i>Jonathan Flood</i>	Date:	12/11/2024

EIA Pre-Screening
Establishing a development is a 'sub-threshold development'

File Reference:	S5/24/121		
Development Summary:	As per 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 No Screening required	
<input checked="" type="checkbox"/> No		Proceed to Part B	
B. Schedule 5 Part 2 - Does the development comprise a project listed in Schedule 5, Part 2, of the Planning and Development Regulations 2001 (as amended) and does it meet/exceed the thresholds? (Tick as appropriate)			
<input checked="" type="checkbox"/> No, the development is not a project listed in Schedule 5, Part 2		No Screening required	
<input type="checkbox"/> Yes the project is listed in Schedule 5, Part 2 and meets/exceeds the threshold, specify class (including threshold): _____		EIA is mandatory No Screening required	
No, the project is not 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	
Signature and Date of Recommending Officer:	<i>Jonathan Flood</i>	Date:	12/11/2024



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@tipperarycoco.ie
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Date: 13th November, 2024

Our Ref: S5/24/121

Civic Offices, Nenagh

**Joe Fewer
Clongour
Thurles
Co. Tipperary
E41 VP96**

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

Dear Mr Fewer,

I refer to your application for a Section 5 Declaration received on 21st October, 2024, in relation to the following proposed works:

Change of use from residential to commercial use as tattoo parlour/beauty salon at 2 Liberty Square, 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 6,9 and 10 of the Planning and Development Regulations 2001, as amended.

Tipperary County Council has concluded that –

The proposed development as presented on the drawings provided with the Declaration application, constitutes "**development**" within the meaning of the Planning and Development Act 2000, as amended and is "**NOT exempted development**".

The proposal does not avail of any planning exemption contained under the Planning and Development Act 2000, as amended or the Planning and Development Regulations 2001, as amended.

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

Yours sincerely

Geraldine Quinn

for **Director of Services**

Original

TIPPERARY COUNTY COUNCIL

DELEGATED EMPLOYEE'S ORDER

File Ref: **S5/24/121** **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 Joe Fewer, Clongour, Thurles, Co. Tipperary, E41 VP96 re: Change of use from residential to commercial use as tattoo parlour/beauty salon at 2 Liberty Square, Thurles, Co. Tipperary is development and 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 6,9 and 10 of the Planning and Development Regulations 2001, as amended.

Tipperary County Council has concluded that –

The proposed development as presented on the drawings provided with the Declaration application, constitutes "**development**" within the meaning of the Planning and Development Act 2000, as amended and is "**NOT exempted development**".

Signed: 

Date: 13/11/2024

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