

Declan Kirwan

From: Declan Kirwan
Sent: 24 June 2024 3:38 PM
To: planning@tipperarycoco.ie
Subject: Re: Application for a section 5 Declaration
Attachments: MULL_SEC_5_DOC_1.pdf; MULL_SEC_5 DOC_2.pdf; MULL_SEC_5 DOC_3.pdf; SITE LOCATION MAP_1-1000.pdf; MUL_SITE MAP_10.pdf; MUL_EX FRONT ELEV_06.pdf; MUL_EX_REAR ELEV_07.pdf; MUL_EX_SIDE ELEV_08.pdf; MUL_EX_SIDE ELEV_09.pdf; 20230920_090112.jpg; 20230920_090014.jpg; 20230920_085946.jpg

Dear Sir's/Madam

As per telephone conversation with Paul Killeen today 24/June/24 (Planning consultant dealing with this development at Mullinahone) please find attached the following documents required as issued on Tipperary coco guidance notes for section 5 Declaration.

- OSI Site location map (Site outlined in red) _ scale 1:1000
- Floor plans, section & elevations _ scale 1:100
- Site layout map indicating the position of the proposed development
- 4 nos: Pictures _ Front, rear, side elevation and internal picture of existing ground floor structure as see today.

Please note:

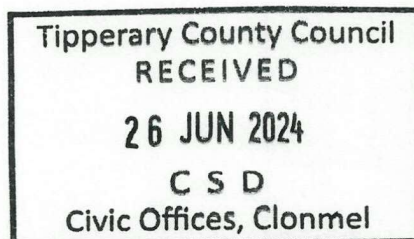
Two copies of all above documents will be in the post this evening to:

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

Could you please contact Declan on 086 8152660 to pay the Section 5 Declaration fee of €80.00 when two sets of documents arrive to Tipperary County Council buildings.

Regards

Declan J Kirwan.....





Comhairle Contae Thiobraid Árann
Tipperary County Council

TIPPERARY CO. COUNCIL
RECEIVED
26 JUN 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	EAMONN O'SHEA
Address	KILRATH MURRY, CLONARD, ENFIELD Co-Kildare, A83 F9 74.
Telephone No.	[REDACTED]
E-mail	[REDACTED]

2. Agent's (if any) address:

Agent	DECLAN J KIRWAN
Address	PRIESTOWN, DUNLEER. Co-LOUTH, A92 P5 Y4.
Telephone No.	[REDACTED]
E-mail	[REDACTED]
Please advise where all correspondence in relation to this application is to be sent;	
Applicant [] Agent [<input checked="" type="checkbox"/>]	

3. Location of Proposed Development:

Postal Address or Townland or Location (as may best identify the land or structure in question)	CARRICK STREET, MULLINATONE Co. TIPPERARY E41 P6 42.
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4. **Development Details:**

Please provide details of the proposed development for which an exemption under Section 5 of the Planning and Development Act is applied for.

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

CHANGE OF USE FROM COMMERCIAL BAR/LOUNGE TO 7 NO. RESIDENTIAL HOUSES @ MULLINA HOME	
UNIT 1: 118m ²	UNIT 2: 102m ² — UNIT 3: 90m ²
UNIT 4: 81m ²	UNIT 5: 120m ²
UNIT 8: 82m ²	UNIT 9: 82m ²
Proposed floor area of proposed works/uses: sqm	

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

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

Signature of Applicant(s) Wendy J. Kraw Date: 24/JUNE/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	<u>OR</u>	Planning Section, Tipperary County Council, Civic Offices, Emmet Street, Clonmel, Co. Tipperary
Enquires:		
Telephone 0818 06 5000		
E-Mail planning@tipperarycoco.ie		

FOR OFFICE USE ONLY	
<u>DATE STAMP</u>	
Fee Recd. € _____	
Receipt No	_____
Date	_____
Received by	_____



2 CARRICK STREET, E41 X Q

E41 P6 42.

Show search results for 2 CARR...

MULLINAHONE



CARRICK STREET

SITE OUTLINED IN RED

© National Mapping Division of Tailte Éireann



30m

633622.51 640133.92 Meters



Google Maps


6 R692

Mullinahone
Co. Tipperary
E41 P6 42

(FRONT ELEVATION:)



Mullinahone, County Tipperary

 Google Street View

Oct 2021

[See more dates](#)

Google

(WEST FACING:)





(3 HR DRIVE !)

Declan Kirwan

From: Eamonn O'Shea <eoshea66@hotmail.com>
Sent: 19 September 2023 1:39 PM
To: Declan Kirwan
Subject: Mullinahone

2 CARRICK STREET
MULLINAHONE
CO. TIPPERARY
E41 P6 42



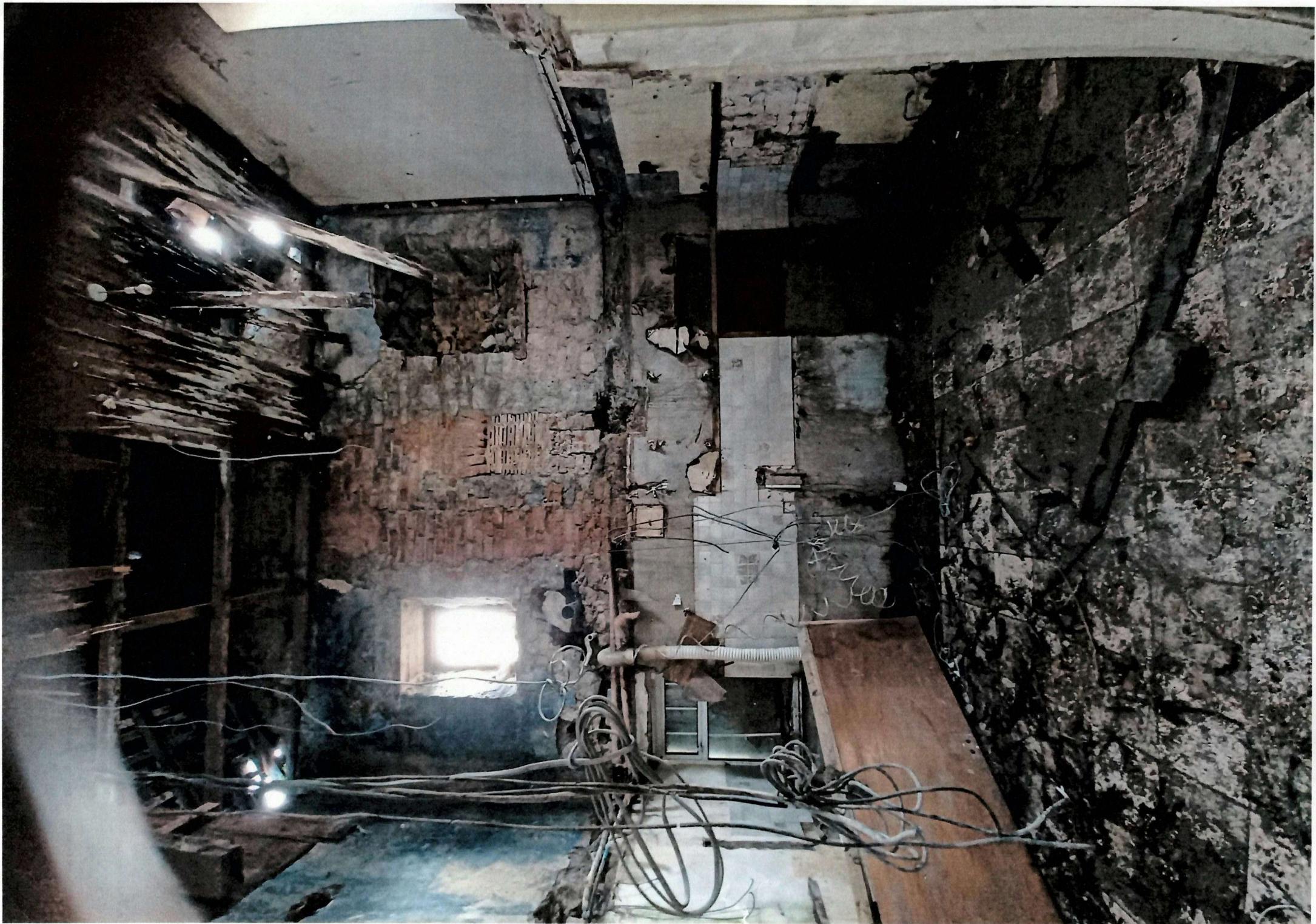
INSIDE ELEVATION WEST FACING.

(SIDE ELEVATION) SOUTH FACING 1

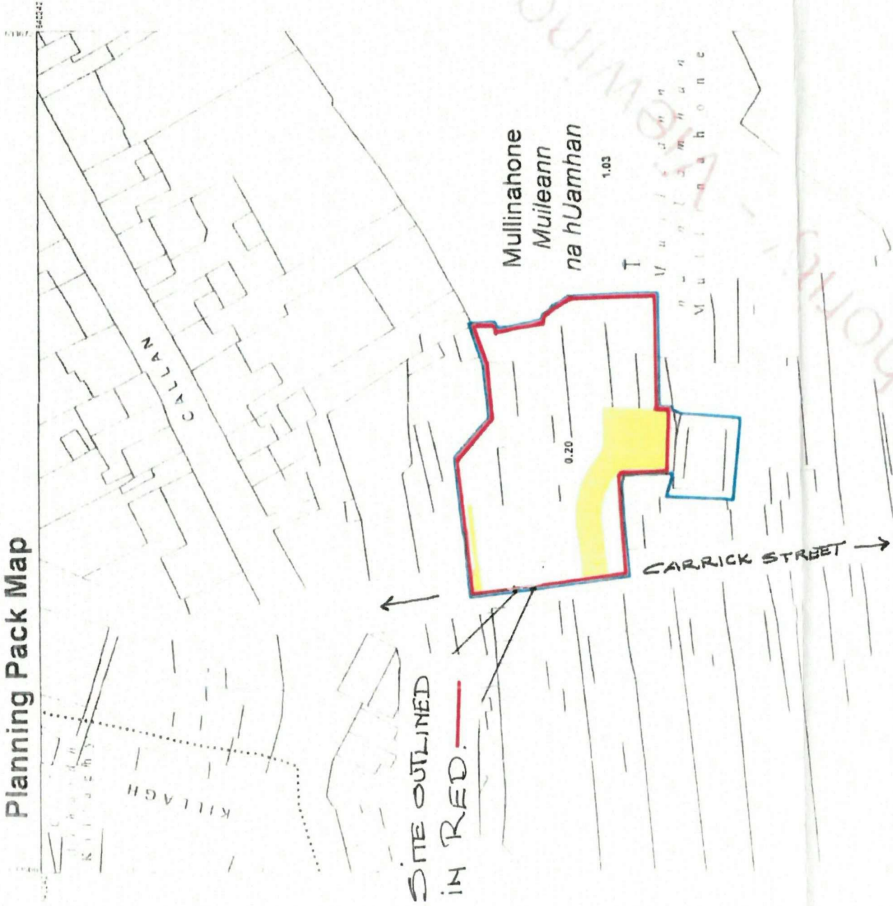




(REAR ELEVATION) EAST FACING



Planning Pack Map



0.48

Total Land Owned by Landowner

Site Shown Outlined Red
Site Area = 0.1869 Hectares

Denotes proposed right of ways

COMPILED AND PUBLISHED BY: Ordnance Survey Ireland
ORDNANCE SURVEY IRELAND
 2015
 www.osi.ie

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THE REPRESENTATION ON THIS MAP: of a road, track or footpath is not evidence of the existence of a right of way.

OUTPUT SCALE: 1:1,000

ORDNANCE SURVEY MAPS: never a legal document
 show ownership of land, but not ownership of rights

ORDNANCE SURVEY IRELAND
 2015
 www.osi.ie

COORDINATES: ITM 633585 64726

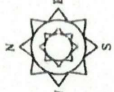
PUBLISHED: 2015

ORDER NO.: 20054216

MAP SERIES: 1:2,500

CAPTURE RESOLUTION: The map objects are only accurate to the resolution at which they were captured. Further information is available at: www.osi.ie

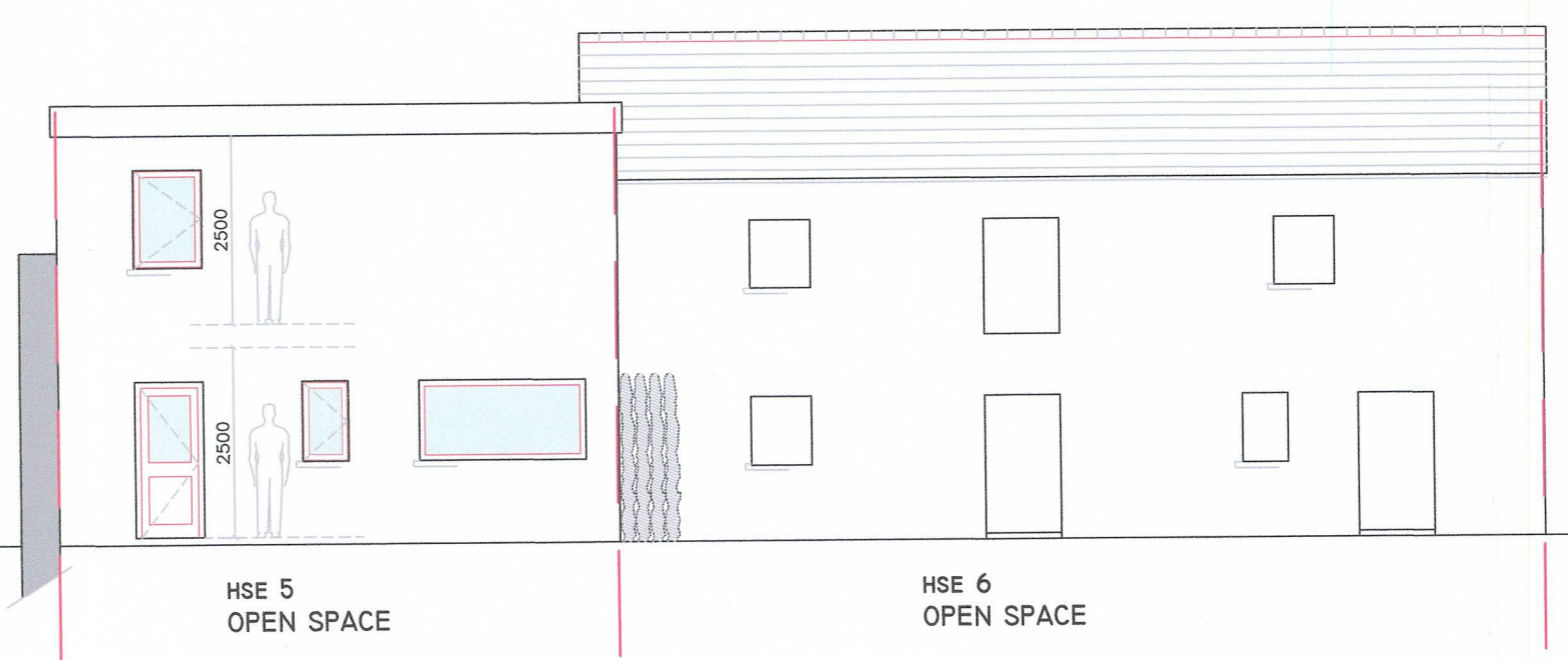
LEGEND:



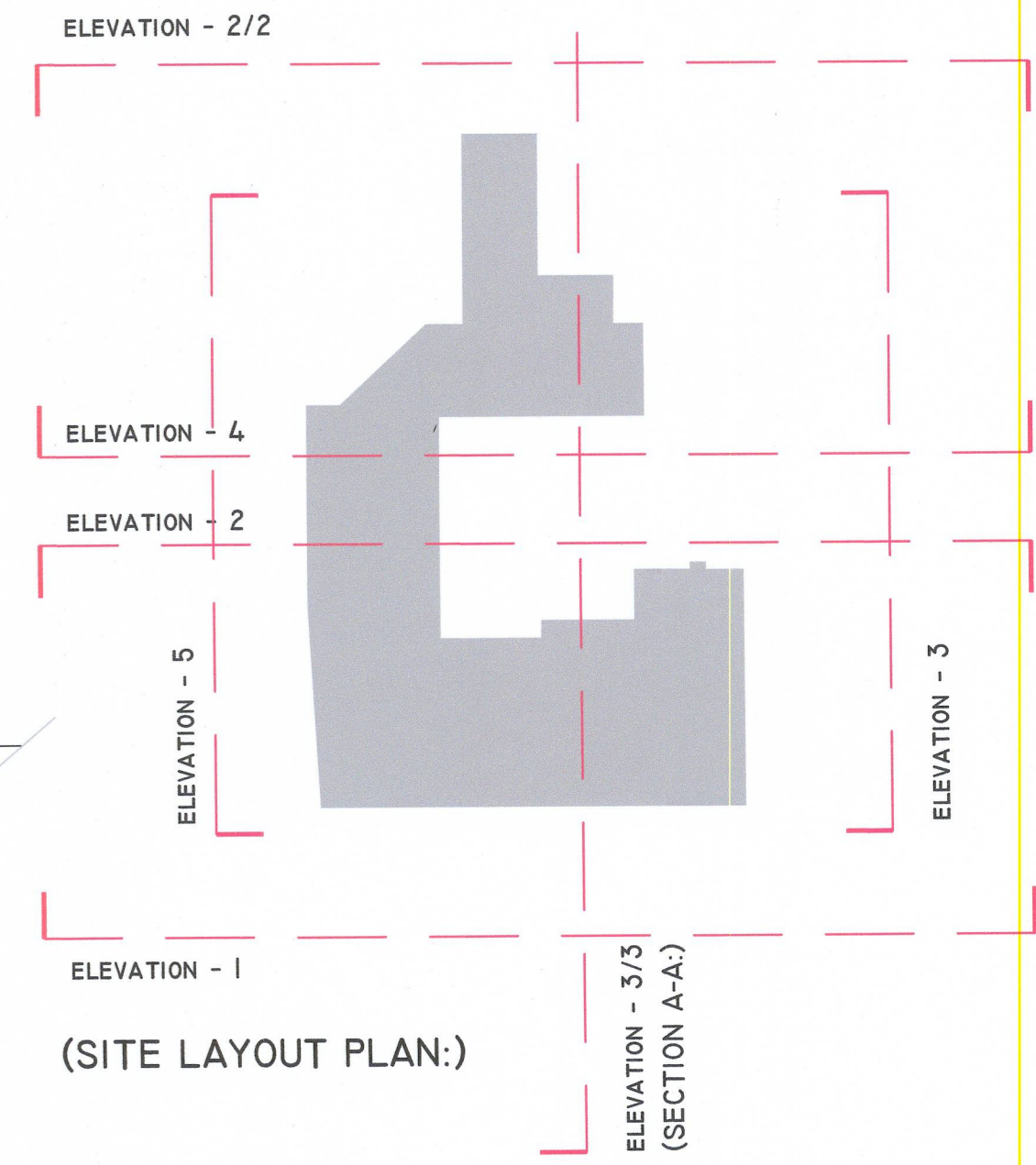
SITE LOCATION & LANDHOLDING MAP
 SCALE: 1/1000 @ A1



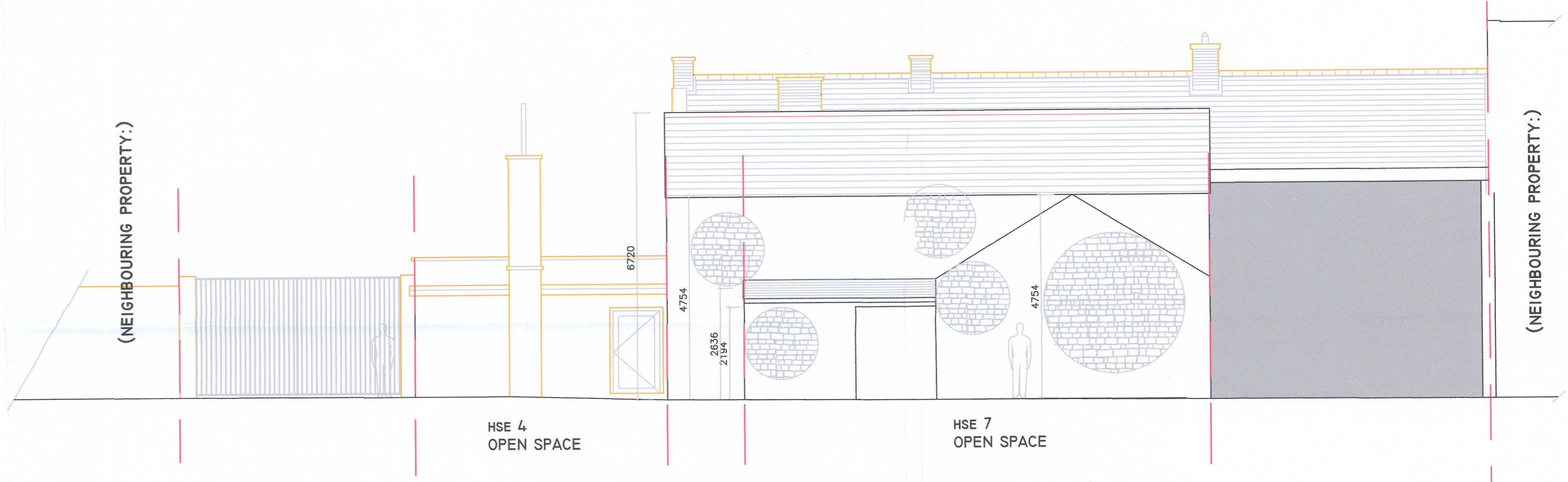
PROPOSED FRONT ELEVATION - 14
 (WEST FACING:)
 SCALE: 1 - 100 @ A1



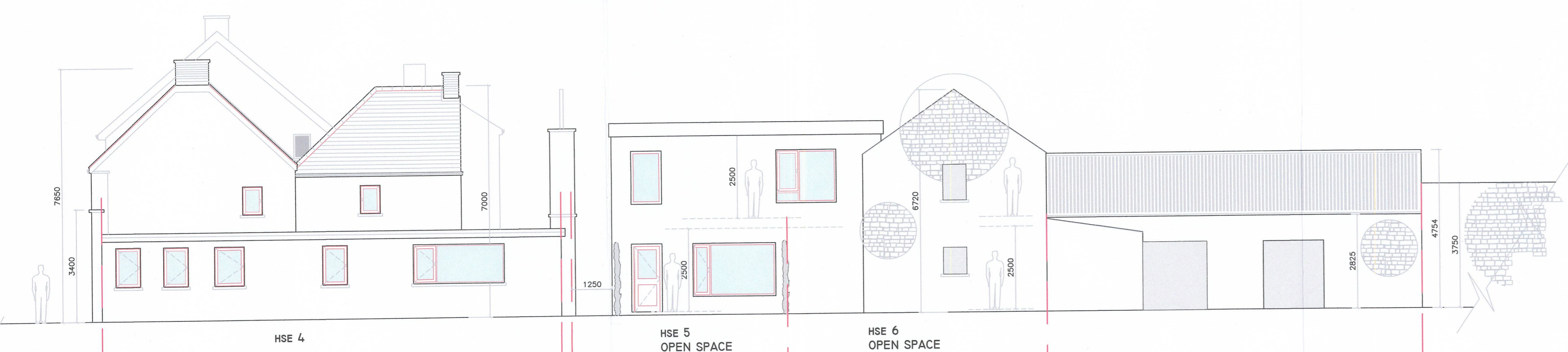
PROPOSED FRONT ELEVATION - 06
 (WEST FACING:)
 SCALE 1 - 100 @ A1



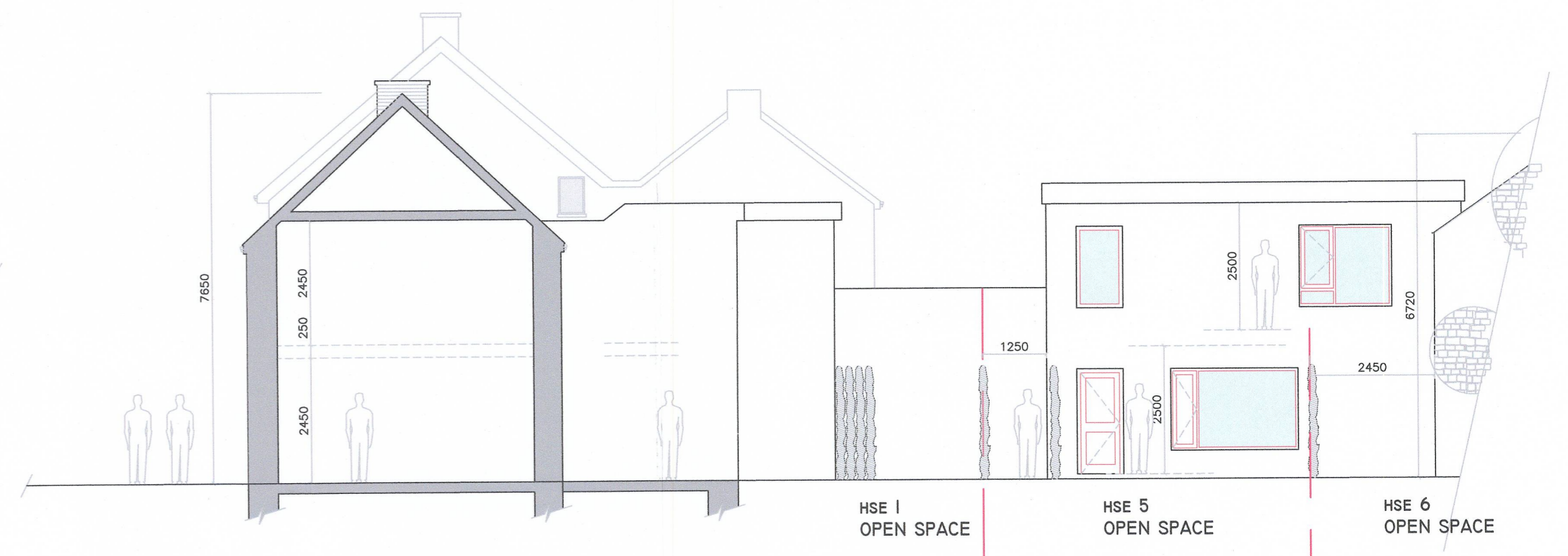
PROPOSED REAR ELEVATION - 15
 (EAST FACING:)
 SCALE 1 - 100 @ A1



PROPOSED REAR ELEVATION - 04/4
 (EAST FACING:)
 SCALE 1 - 100 @ A1



PROPOSED SIDE ELEVATION - 16
 (SOUTH FACING:)
 SCALE: 1 - 100 @ A1



PROPOSED SIDE ELEVATION - 05/5
 (TYPICAL SECTION A-A:)
 SCALE: 1 - 100 @ A1

(LEGEND:)

THIS DRAWING HAS BEEN PREPARED SOLELY FOR THE PURPOSE OF PLANNING PERMISSION. THIS DRAWING IS NOT TO BE RELIED UPON FOR CONSTRUCTION AND NO GUARANTEE IS GIVEN AS TO ITS SUITABILITY FOR CONSTRUCTION.

NOTES:

- = SITE OUTLINED IN RED.
- = EXISTING BOUNDARY LINES.
- = NEW CONSTRUCTION OUTLINED IN BLUE.
- = EXISTING CONSTRUCTION.
- = CONSTRUCTION TO BE DEMOLISHED.
- = PROPOSED NEW CONSTRUCTION.
- = EXISTING STUD PARTITIONS.
- = NEW STUD PARTITIONS.

DECLAN J KIRWAN
 INTERIOR ARCHITECT / DESIGNER

PRIESTOWN, DUNLEER, CO. LOUTH.

Telephone: 086 - 8152660
 Mob: 086 - 8152660
 www.djdesign.ie

CLIENTS: EAMONN O' SHEA

PROJECT NO: 1983 CAD DRAWING NO: DJ 200 REV: DJ 225

CLIENTS: CHANGE OF USE FROM PUBLIC BAR/LOUNGE TO 5 STOREY HOUSES & 4 NO. SINGLE STOREY DWELLING HOUSES @ MULLINAHONE, CO. TIPPERARY, E41 P6 42.

DRAWING: PROPOSED FRONT, REAR & SIDE ELEVATIONS

DRAWN BY: D. J. KIRWAN DATE: 21/12/2023 CHECKED BY: D. J. KIRWAN DATE: 21/12/2023 SCALE: 1:100

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PLEASE NOTE: (THESE ARE DISCUSSION DRAWINGS ONLY:)

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DECLAN J KIRWAN
INTERIOR ARCHITECT / DESIGNER

PRIESTTOWN, DUNLEER, CO. LOUTH.
Telephone: 086 - 8152660. Fax: info@dkdesign.ie
Mob: 086 - 8152660. e-mail: info@dkdesign.ie
www.dkdesign.ie

CLIENTS: EAMONN O' SHEA

PROJECT NO: 1953 CAD DRAWING NO: DJ 200 REV: DJ 225

CLIENTS: CHANGE OF USE FROM PUBLIC BAR/LOUNGE TO 5 STOREY HOUSES & 4 NO. SINGLE STOREY DWELLING HOUSES @ MULLINAHONE, CO. TIPPERARY, E41 P6 42.

DRAWING: PROPOSED GROUND & FIRST FLOOR PLANS:

DRAWN BY: D. J. KIRWAN DATE: 16/02/2024 CHECKED BY: D. J. KIRWAN DATE: 16/02/2024 SCALE: 1:100

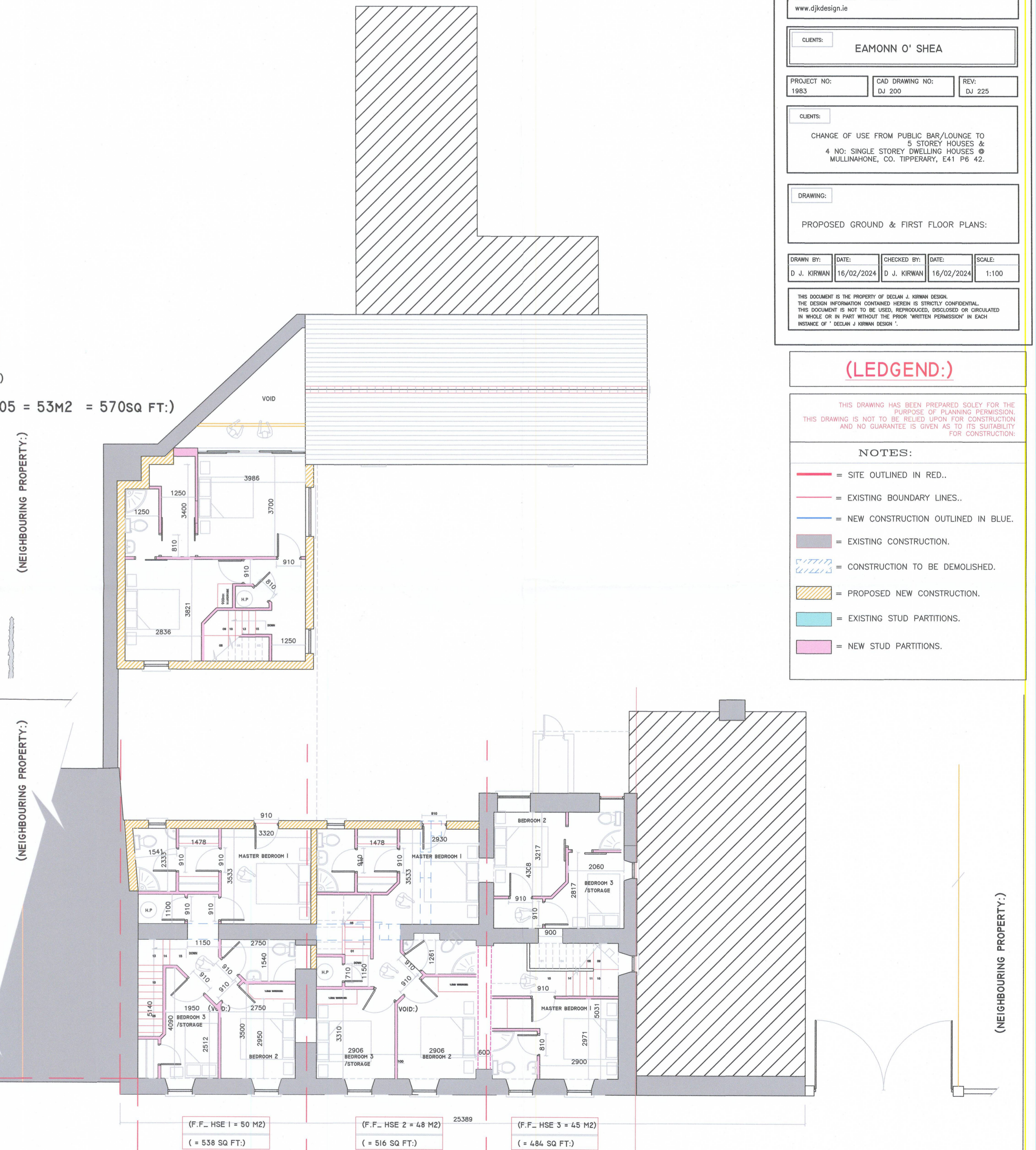
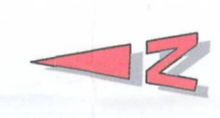
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(LEGEND:)

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NOTES:

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- = NEW CONSTRUCTION OUTLINED IN BLUE.
- = EXISTING CONSTRUCTION.
- = CONSTRUCTION TO BE DEMOLISHED.
- = PROPOSED NEW CONSTRUCTION.
- = EXISTING STUD PARTITIONS.
- = NEW STUD PARTITIONS.



PROPOSED GROUND FLOOR PLAN - 01
G.F - PUB/HSE & SHEDS = 360M2 = 3,874sq FT
G.F - STABLES = 103M2 = 1,108sq FT
(SCALE 1:100)

PROPOSED FIRST FLOOR PLAN - 02
F.F = 123M2 = 1,323sq FT

ELEVATION - 05/5
(SECTION A-A:)



Comhairle Contae Thiobraid Árann
Tipperary County Council

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

Comhairle Contae
Thiobraid Árann,
Oifigí Cathartha,
An tAonach,
Co. Thiobraid Árann
Tipperary County Council,
Civic Offices, Nenagh,
Co. Tipperary
E45 A099

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

Date: 26th June, 2024

Our Ref: S5/24/78

Civic Offices Clonmel

**Declan J Kirwan Design,
Priestown,
Dumleer,
Co. Louth**

SCANNED

Re: Application for a Section 5 Declaration – Change of use from commercial bar/lounge to 7 no residential houses at Carrick Street, Mullinahone, Co. Tipperary

Dear Sir/Madam

I acknowledge receipt of your application for a Section 5 Declaration received on 26th June, 2024, in connection with the above.

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

Yours faithfully

J. Dowling

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.: S5/24/78

Applicant: Eamonn O'Shea

Development Address: Carrick Street, Mullinahone, Co. Tipperary.

Proposed Development: Change of use of bar/lounge to 7 no residential houses.

1. GENERAL

On the 26th of June 2024, a request was made for a declaration under Section 5 of the Planning and Development Act, 2000 as amended as to whether the following is “development” and “exempt development”:

- Change of use of bar/lounge to 7 no residential houses.

The bar is located on Carrick Street, Mullinahone, Co. Tipperary.

Figure 1 Front elevation



Figure 2 Side elevation



Figure 3 Store to rear



Figure 4 Building to rear



2. **STATUTORY PROVISION**

The following statutory provisions are relevant to this referral case;

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 10 6(a) includes for the following exemption;

(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 2025.

(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 2

(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 sub-paragraph (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.

(e)(i) Where a person proposes to undertake development to which paragraph (b) relates, then he or she shall in the case of development relating to Class 1, 2, 3, 6 or 12 of Part 4 to Schedule 2, notify in writing the planning authority in whose functional area that the change of use will occur not less than 14 days prior to the commencement of the works related to the proposed change of use and any related works;

3. ASSESSMENT

a. Site Location

The site comprises of a number of existing structures on Carrick Street, Mullinahone, Co. Tipperary.

b. Relevant Planning History

P34521 Grant of permission for concrete mixing plant.

PI Ref 14600315 Grant of permission for changes to roadside boundary treatment and retention of wall and alterations to store on site.

PI Ref 20/508 demolish 2 no existing buildings and also for Planning Permission to construct 8 no. apartments and 4 no. houses together with the construction of a new vehicular entrance, roads, footpaths, common areas, underground services, foul and surface water networks, bin storage area, all boundary treatments, general lighting and all associated site development works. The works as listed are located within the curtilage of Record of Protected Structures, being a medieval castle (RPS) Ref S517 – incomplete

PI Ref 20/654 demolition of 2 no existing buildings and also for Planning Permission to construct 8 no. apartments and 4 no. houses together with the construction of a new vehicular entrance, roads, footpaths, common areas, underground services, foul and surface water networks, bin storage area, all boundary treatments, general lighting and all associated site development works. The works as listed are located within the curtilage of Record of Protected Structures, being a medieval castle (RPS) Ref S517 - incomplete

PL Ref 20/1012 demolition of 2 no existing buildings and also for Planning Permission to construct 8 no. apartments and 4 no. houses together with the construction of a new vehicular entrance, roads, footpaths, common areas, underground services, foul and surface water networks, bin storage area, all boundary treatments, general lighting and all associated site development works. The works as listed are located within the curtilage of Record of Protected Structures, being a medieval castle (RPS) Ref S517 – incomplete

PI Ref 20/1109 demolition of 2 no existing buildings and also for Planning Permission to construct 8 no. apartments and 4 no. houses together with the construction of a new vehicular entrance, roads, footpaths, common areas, underground services, foul and surface water networks, bin storage area, all boundary treatments, general lighting and all associated site

development works. The works as listed are located within the curtilage of Record of Protected Structures, being a medieval castle (RPS) Ref S517 - withdrawn

Pl. Ref. No. 24/159 – Application seeking permission for the change of use from stables to 2 no. dwelling houses, 1 consisting of ground floor open plan/kitchen/dining/sitting room area, entrance hall with W/C and first floor two bedroom ensuite and the other consisting of a single storey dwelling house with an entrance hall, study, sitting room, kitchen, W/C, and one double bedroom ensuite and all associated site development works. Deemed invalid.

ENF 179-07 – Unauthorised development consisting of a change of use of a public house to residential use.

Figure 5 Planning history



c. Assessment

A) “Is or is not Development”

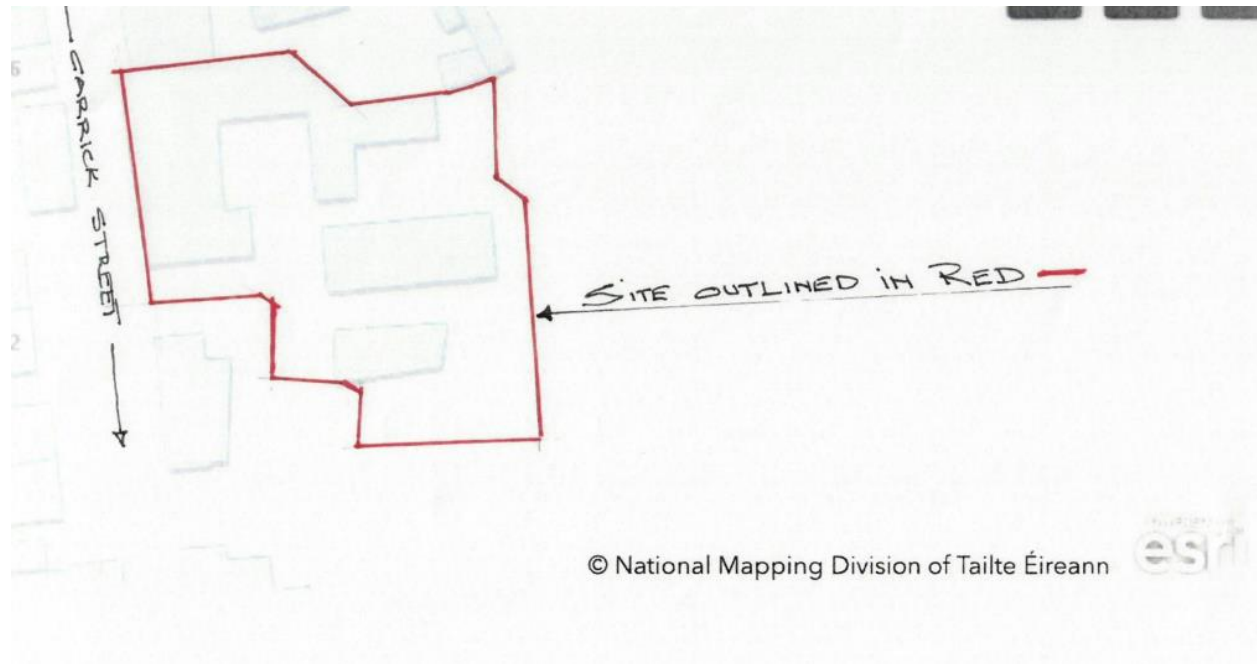
It is considered that the above listed proposals constitute “works” and a “material change of use” as understood by the Planning and Development Act 2000, as amended. The above listed proposals therefore constitute “development” within the meaning of the Planning and Development Act 2000, as amended.

B) “Is or is not Exempted Development”

Article 10(6) identifies conditions and limitations associated with the change of use of a commercial building to residential use. The subject proposal will be assessed against these requirements.

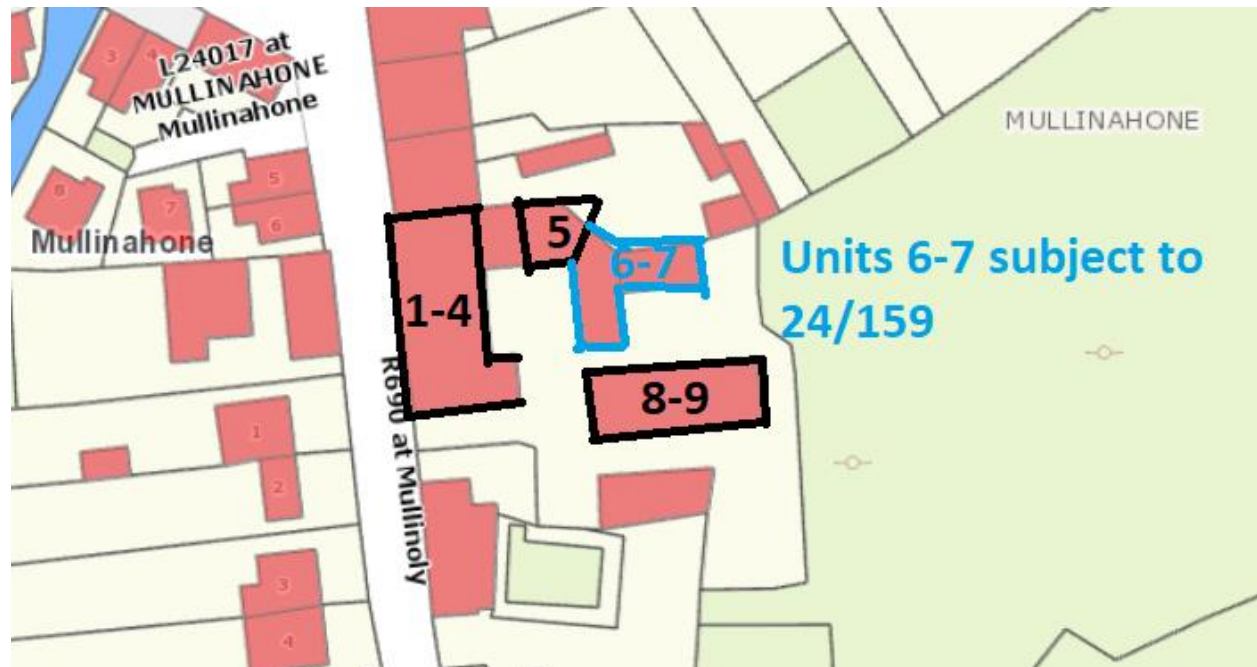
It is noted that the applicant has submitted a comprehensive schedule of drawings with the Declaration documentation.

Figure 6 Site location



There are multiple elements to the proposal and each will be assessed separately.

Figure 7 Location of works



Change of use of Public House (house numbers 1-4)

The first part of the scheme relates to the change of use of the public house that fronts onto Carrick Street (see figure 1 above). The proposal is to change this former public house to four dwellings (one single storey and three two storey).

Change of use of Store (house number 5)

The second part of the scheme relates to the change of use of a store to the rear of the public house to a 2 storey dwelling

Change of Use of Former Theatre (House numbers 8 and 9)

The final part of the scheme relates to the change of use of a stand alone former theatre to the rear of the site that is to be converted to 2 no, 2 bed units.

In relation to the requirements of the Regulations I note as follows;

Article 10(6)(b) - consists of a change of use to residential use from Class 1, 2, 3, 6 or 12 of Part 4 to Schedule 2

With respect to units 1-4, the development consists of a change of use to residential use from Class 12 of Part 4 to Schedule 2.

Unit 5 is a store in the rear yard of the public house and I do not consider that same falls within Class 12.

With respect to proposed units 8-9, it is noted that this structure was a former cinema/ hall (Class 11).

As such, it is considered that the store and former cinema/hall do not satisfy 10(6)(b).

Article 10(6)(c)

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

I am satisfied that the structure concerned was completed prior to the making of the subject 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,

I am satisfied that the public house, to accommodate units 1-4, has at some time been used for Class 12 purposes. As set out above it is considered that the store (unit 5) and cinema/hall (units 8/9) do not meet this requirement.

(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,

While the applicant has not provided any details to confirm that the structure concerned, has been vacant for a period of 2 years, a review of Google streetview clearly indicates that the structure as of October 2021 was not in use. The condition of the structure has deteriorated since then. The Planning Authority is satisfied that the subject structure has been vacant since at least October 2021. A review of previous applications on site also demonstrates that the subject structures were vacant at the time of the assessment of these applications.

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

It is not clear when the development is to be commenced.

(d) (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

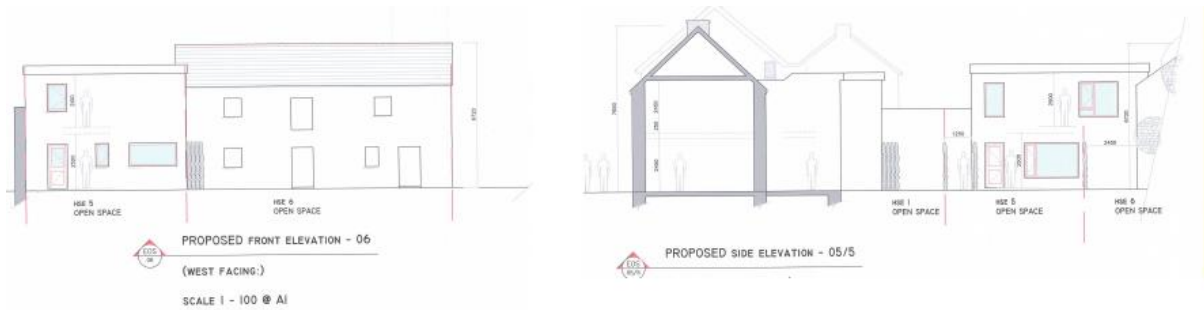
(III) not materially affect the external appearance of the structure so as to render its appearance inconsistent with the character of the structure or of neighbouring structures.

- No substantive external modifications are proposed to the front of units 1-4.
- The submitted drawings show extensions to the rear of units 1 and 2 at first floor level. Delivery of unit No. 1 also requires the demolition of the existing A Gable shed and construction of a new rear wall within a ZAP. These works would not avail of an exemption.
- It is noted that a number of new boundary treatments are proposed to the rear so as to provide enclosed private open space for the units proposed. It is not clear what exemption is to be availed of for the construction of these units.
- Unit 5 however is to be substantially changed. Currently the structure comprises of a concrete store. It is noted that an adjoining store is to be demolished to facilitate the proposal
- This store is to be converted to a two bed, 2 storey unit.

Figure 8 Unit 5



Figure 9 Front and side elevation of Unit 5



- The changes to this structure, and the provision of a second floor are beyond the scope of the exemptions allowed for under Article 10(6)(a).

(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.

See above no significant changes proposed to front elevation.

(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

The subject site is located within the village centre of Mullinahone as defined in the Tipperary County Development Plan 2022. It is not an objective of this plan to retain ground floor uses for retail uses.

(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.

Proposal is for 7 units only

(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.

Article 10(6)(d)(vi) states that 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 current proposal relates to dwellings as opposed to apartments. I note that Section 1.19 of the Design Standards for New Apartments refers to “*Complementary policy advice published by the Department, which should be considered along with these guidelines in assisting planning authorities, designers and communities within the overall planning process, includes:*

- *Best Practice Guidelines, Quality Housing for Sustainable Communities, (2007)*”;

Therefore it is considered that the 2007 guidelines are most applicable in this instance and that regard can be had to same. The applicant has not submitted a schedule of floor areas to allow for

a comparison with the recommended standards set out in Quality housing for Sustainable Residential Communities.

Table 1 Required floor areas by house type

	3 bed 2 storey	2 bed single storey
TARGET GROSS FLOOR AREA	83	60
MINIMUM MAIN LIVING ROOM	13	13
AGGREGATE LIVING AREA	30	28
AGGREGATE BEDROOM AREA	28	20
STORAGE	4	3

(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.

The subject site is not within an Architectural Conservation Area, nor is the building on the Record of Protected Structures.

(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.

Not applicable

Restrictions set out under (x) and (xi)

In considering the above exemptions I note that the site is located within a Zone of Archaeological Potential (ZAP) and the demolition of an existing shed and the construction of a new rear wall would be required to facilitate the delivery of Unit No. 1. I consider that same is restricted by Article 9(1)(VII) and (VIA) (the works being located within a ZAP would not avail of an exemption in any event. 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.

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

The development does not include the provision of an on-site wastewater treatment and disposal system.

C) Requirement for Appropriate Assessment (AA) and Environmental Impact Assessment (EIA)
The subject site is located c. 2 kilometres from the Lower River Suir SAC (002137), 3 kms from the River Barrow And River Nore SAC (002162) and 10 Kms from the River Nore SPA (004233).

The proposed development is located within a long established urban area and comprises of the change of use of a structure from commercial to residential use. The property is connected to the mains waste water infrastructure.

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 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

Query

A question has arisen as to whether the

- Change of use of bar/lounge to 7 no residential houses on Carrick Street, Mullinahone, Co. Tipperary

is or is not development and is or is not exempted development.

Part 5 of the Planning and Development Act 2000 (as amended) requires a Planning Authority to make a declaration on any question that arises as to what is or is not development. In determining this query, the Planning Authority had regard to;

- Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended),
- Articles 6, 9 and 10 of the Planning and Development Regulations 2001, as amended and,
- the nature and scale of the proposed use, as outlined in submissions on file by the owner/occupier.

Determination

Having considered the information received, the Planning Authority is satisfied that units 1, 2, 5, 7 and 9 do not avail of an exemption under Article 10(6)(a) of the Planning and Development Regulations 2001, as amended. The applicant should be advised accordingly at this stage.

There is insufficient information provided to enable the Planning Authority to determine if units 3 and 4 satisfy the available exemption and further information is required.

A Further Information Request should issue under Section 5(2) of the Planning and Development Act 2000, as amended, stating as follows;

1. The applicant is advised that having regard to the insufficient information provided, the Planning Authority cannot consider if the proposed units 3 and 4 meet the exemption under Article 10(6)(a) of the Planning and Development Regulations 2001, as amended.

The applicant is requested to provide a schedule of floor areas for these units so as to enable the Planning Authority determine if the residential areas provided fall within the definition of habitable space (ie greater than 6.5 sqms) and comply with minimum space requirements for dwellings as set out in Quality Housing for Sustainable Communities (2007).

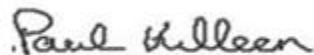
2. The applicant is to confirm when the development is to be commenced.
3. It is noted that a number of additional boundary walls are proposed to the rear of units 3 and 4 so as to provide some private amenity space. No details of these walls were provided. The provision of these walls is not considered under Art 10(6)(a). Please clarify if these structures are required and if so, what exemptions are to be availed of for their construction.

Advice Note:

The applicant is advised of the following with respect to proposed units 1, 2, 5, 8 and 9.

- The change of use of the structures to accommodate units 5 (store), 8 and 9 (cinema/hall) are not considered to consist of a change of use to residential use from Class 1, 2, 3, 6 or 12 of Part 4 to Schedule 2 of the Regulations and therefore do not satisfy Article 10(6)(b) and (c)(ii).
- The works required to deliver units 1, 2 and 5 are considered to be outside of the scope of the works allowed under Article 10(6)(d)(ii) i.e. extensions to the rear of units 1 and 2 at first floor level. Delivery of unit No. 1 also requires the demolition of the existing A Gable shed and construction of a new rear wall within a Zone of Archaeological Potential. The works required to deliver unit 5 are considered to be substantial.

Signed:



Paul Killeen
District planner

Date: 22/07/24

Signed:



Senior Executive Planner

Date: 23.07.2024

EIA Pre-Screening	
Establishing a development is a 'sub-threshold development'	
File Reference:	S5/23/78
Development Summary:	Change of use from commercial to residential
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
<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,
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,
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Co. Tipperary
E45 A099

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

Date: 23rd July, 2024

Our Ref: S5/24/78

Civic Offices, Nenagh

Eamonn O'Shea
C/O Declan J Kirwan Design
Priestown
Dumleer
Co. Louth

Re: Application for a Section 5 Declaration –the Change of use of bar/lounge to 7 no residential houses **at** Carrick Street, Mullinahone, Co. Tipperary

Dear Mr O'Shea

I refer to an application received from you on 26th June, 2024 requesting a Declaration from this Planning Authority as to whether or not certain works constitute development within the meaning of the Planning and Development Act 2000, as amended.

Further information is requested as follows;

1. The applicant is advised that having regard to the insufficient information provided, the Planning Authority cannot consider if the proposed units 3 and 4 meet the exemption under Article 10(6)(a) of the Planning and Development Regulations 2001, as amended.

The applicant is requested to provide a schedule of floor areas for these units so as to enable the Planning Authority determine if the residential areas provided fall within the definition of habitable space (ie greater than 6.5 sqms) and comply with minimum space requirements for dwellings as set out in Quality Housing for Sustainable Communities (2007).

2. The applicant is to confirm when the development is to be commenced.

3. It is noted that a number of additional boundary walls are proposed to the rear of units 3 and 4 so as to provide some private amenity space. No details of these walls were provided. The provision of these walls is not considered under Art 10(6)(a). Please clarify if these structures are required and if so, what exemptions are to be availed of for their construction.

Advice Note:

The applicant is advised of the following with respect to proposed units 1, 2, 5, 8 and 9.

- The change of use of the structures to accommodate units 5 (store), 8 and 9 (cinema/hall) are not considered to consist of a change of use to residential use from Class 1, 2, 3, 6 or 12 of Part 4 to Schedule 2 of the Regulations and therefore do not satisfy Article 10(6)(b) and (c)(ii).
- The works required to deliver units 1, 2 and 5 are considered to be outside of the scope of the works allowed under Article 10(6)(d)(ii) i.e. extensions to the rear of units 1 and 2 at first floor level. Delivery of unit No. 1 also requires the demolition of the existing A Gable shed and construction of a new rear wall within a Zone of Archaeological Potential. The works required to deliver unit 5 are considered to be substantial.

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

Yours faithfully

Geraldine Quinn

for **Director of Services**

Ryan, Siobhan Anne

From: Declan Kirwan <[REDACTED]>
Sent: 22 January 2025 14:16
To: Planning Group
Subject: [External] Re: Further information - Ref no: S5/24/78
Attachments: MULL_ REV COVER LETTER_TIPP COCO.pdf; MULL_FLOOR SCHEDULE_210125.pdf; MULL_FUR INFO_S5-24-78-210125_A1.pdf; MULL_FUR INFO_S5-24-78_210125_A2.pdf

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

Dear sir's/Madam

We are acting on behalf of our client Eamonn O' Shea Kilrathmurry, Clonard, Enfield, Co. Kildare, A83 F9 74.

Planning ref no: S5/24/78

Please find attached further information as requested on 23rd/July/2024

- 1 no: Cover letter
- 1 " : Floor schedule
- 1 " : Existing ground & first floor plans indicating position of main bar counter, lounge, pool room, ladies, gents' toilets and galvanised pitched roof over lounge area.
- 1 " : Proposed ground & first floor plans indication open space, wheelie bin storage and access to the rear of houses 1,2,3,4

If you require any further information, please do not hesitate to contact Declan on 086 8152660

Regards

Declan.....

Tipperary County Council
Civic Offices
Nenagh
Co. Tipperary
E45 A099

20th/January/2025

Dear Sir's / Madam

We are acting on behalf of our client Eamonn O' Shea, Kilrathmurry, Clonard, Enfield, Co. Kildare, A83 F9 74. Application for section 5 Declaration – The change of use of bar/lounge to 7no: residential houses at Carrick Street, Mullinahone, Co. Tipperary, E41 HK52

Please find attached 1 copy of the following documents as requested as further information received on 23rd/July/2024 Ref: S5/24/78

1. Please find enclosed / attached the existing ground floor layout plans, indicating the position of the main bar/ lounge counter running into unit 3, the pool room and meeting room was positioned in propose unit 4. The ladies and gents' toilets for the bar/ pool room/ lounge are positioned as when the Castleview bar/ lounge was operating as a licensed premises.

Schedule of floor areas for each residential unit.

Please find as requested a detailed schedule of floor plans for each of the housing units, to comply within definition of habitable space greater than 6.5m².

2. Confirmation for commencement of works.

I can confirm that works have already started, Eamonn O' Shea has been in contact with P. F. Quirk Auctioneers, 44 Gladstone Street, Burgagery – Lane West, Clonmel, Co. Tipperary, E91 HD77 with the view of selling the housing units to first time buyers, who would qualify for the Vacant Properties Refurbishment Grant of €50,000 and Derelict Property Top – Up Grant of €20,000.

(Total grant funding possibly available of €70,000) for potential property buyers.

Our office has submitted existing and proposed plans, elevations, sections for the proposed development at Carrick Street, Mullinahone, Co. Tipperary, E41 HK52 to P.F Quirk Auctioneers who are very optimistic that with the lack of housing units' available country wide that our proposed development with 3- 2- and 1-bedroom units would appeal to a much wider market.

3. Question of boundary walls to rear of house 3 and 4.

All boundary walls to rear of house 1, 2, 3, 4, are 1.5m high timber fencing as shown on ground & first floor plans included. This fencing to the front and side of house 5 will also be 1.5m high. Fencing to the front of house 6 will also be similar finish. This 1.5m high fencing provides privacy and wheelie bin storage to all housing units.

Proposed ground & first floor plan enclosed indicates open space and wheelie bin storage for houses 1 to 6 and an image of proposed fencing with proposed planting.

4. Advice Note received:

Change of use of the structures unit 5 (Store), 8 and 9 Cinema/hall).

Planning permission was granted by Tipperary Council on 6th/December/1993. Ref: P315174 conversion of existing toilet and chill room areas to lounge area and additional toilet facilities.

House type 5 has been designed on the foot print of existing concrete block structure where the existing toilets and keg room was located. Where the existing lounge area was located is to be demolished to create open space, wheelie bin storage and access to the rear of house 1 and 2.

The old (cinema/hall) where units 8 and 9 are located was used for additional keg storage space and other nonperishable goods storage by Michael & Nellie Cahill when the bar/lounge was open and running as Castle View Bar / Lounge. Carrick Street, Mullinahone, E41 HK52.

We are proposing do minor changes externally to units 8 and 9 with alterations, remodelling and improvements to the interior of the existing building to create two-bedroom en-suite dwelling houses as per plans submitted. The old existing timber roof trusses are to be retained and re-used as part of the new interior design concept to the new units 8 and 9.

The works required to deliver units 1 and 2 on the first floor are considered to be important minor changes built up over the existing concrete block walls on the ground floor to create a third master bedroom en-suite to units 1 and 2. There will be minor changes to the rear roof structure over units 1 and 2 that will not change the overall look of the existing ridge line of units 1, 2, 3, and 4 from Carrick Street.

No 1: Requires the demolition of an existing red rusty galvanized roof Structure (**only**) supported on existing boundary walls, existing block walls of unit 1 and walls of toilets and previous keg store. There is **no** gable wall to be demolished under the existing galvanized roof structure. We are proposing to construct a new 300mm cavity block wall from ground floor level to line up with existing rear block work wall structure and built up on the first floor of units 1 and 2 as per plans enclosed.

The proposed building works required to construct unit no: 5 as mentioned will be on the foot print of the existing toilets and keg store. The overall height of the parapet wall above the new flat roof construction will be approximately 1.2 meters above the highest part of the existing galvanized lean-to roof structure.

5. Archaeological Impact Assessment Carried out April 2020:

This report was prepared in April 2020 by Dr Rory Sherlock, Consultant Archaeologist, following a site visit, consultation with the site engineer, and a short programme of documentary research.

Site Location:

The development site lies in the townland and village of mullinahone, Co. Tipperary, at ITM 633581, 640139. The site is located on the eastern side of Carrick Street, Eircode for is E41 HK52 and the Folio no: Is TY42334F.

The Castle:

Only the northern side of the castle faces into the proposed development Site, as other properties abut the other three sides of the structure. On the northern side of the structure, the bedrock on which the castle is built is clearly visible above the current level of the yard surface. Suggested that the ground level in the vicinity of the castle are probably lowered significantly than they were originally. During the site visit made in advance of the preparing this report, it was found no evidence to suggested that any archaeological evidence was left on this site.

MITIGAN:

While the proposed development does not include the castle, this important building should be protected from negative impacts that arise during the construction phase. An 8 - meter buffer zone should be established before on-site works commence and this should be fenced securely.

Kind regards



Declan J Kirwan
Interior Architect/Designer T.D.S R.H.D I.E.D M.I.D.I

**SCHEDULE OF ACCOMMODATION FOR ALL HOUSE TYPES
PLUS
OVERALL FLOOR AREAS CALCULATIONS**

Development At:

Proposed residential development at Carrick Street, Mullinahone, Co. Tipperary, E41 HK52

Client:

Eamonn O' Shea

House Type:	Number of Bedrooms:	Number as on Site layout plan:	Total Floor Area m ²	Ground Floor Area m ²	First Floor Area m ²	Wheeler Bin Area m ²	Enclosed Open Space m ²
House 1:	3	1	118m ²	68m ²	50m ²	2.45m ²	20m ²
House 2:	3	2	101m ²	53m ²	48m ²	2.45m ²	20m ²
House 3:	3	3	90m ²	45m ²	45m ²	2.45m ²	17m ²
House 4:	2	4	81m ²	81m ²		2.45m ²	22m ²
House 5:	2	5	113m ²	63m ²	50m ²	2.45m ²	45m ²
House 6:	2	6	103m ²	53m ²	50m ²	2.45m ²	27m ²
House 7:	1	7	50m ²	50m ²		2.45m ²	
House 8:	2	8	70m ²	70m ²		2.45m ²	

House 9: 2,45m²

70m²

70m²

9

2

Overall Floor Area Calculations:

House no 1: 3-bed semi-detached type (118m²)

“ 2: 3-bed semi-detached type (101m²)

“ 3: 3-bed semi-detached type (90m²)

“ 4: 2-bed semi-detached type (81m²)

“ 5: 2-bed detached type (113m²)

“ 6: 2-bed semi-detached type (103m²)

“ 7: 1-bed semi-detached type (50m²)

“ 8: 2-bed semi-detached type (70m²)

“ 9: 2-bed semi-detached type (70m²)

Regards



Declan J Kirwan
Interior Architect/Designer T.D.S R.H.D I.E.D M.I.D.I

PLEASE NOTE: (THESE ARE DISCUSSION DRAWINGS ONLY.)

DECLAN J KEIRWAN
INTERIOR ARCHITECT / DESIGNER

PRESTON, DUNKER, CO. LOUPEL
Tel: 01 856 81100
www.djkeirwan.ie

PROJECT NO: **01/202**
DATE: **02/202**

OWNER: **EAMONN O' SHEA**

EXISTING GROUND FLOOR LAYOUT FOR AN
EXISTING PUB/STABLES AND SHEDS WITH
POOL ROOM, LOUNGE & PUBLIC TOILETS

LEGEND:

NEW CONSTRUCTION
EXISTING CONSTRUCTION
CONSTRUCTION TO BE DEMOLISHED
PROPOSED NEW CONSTRUCTION
EXISTING STUB PARTITIONS
NEW STUB PARTITIONS

(LEGEND:)

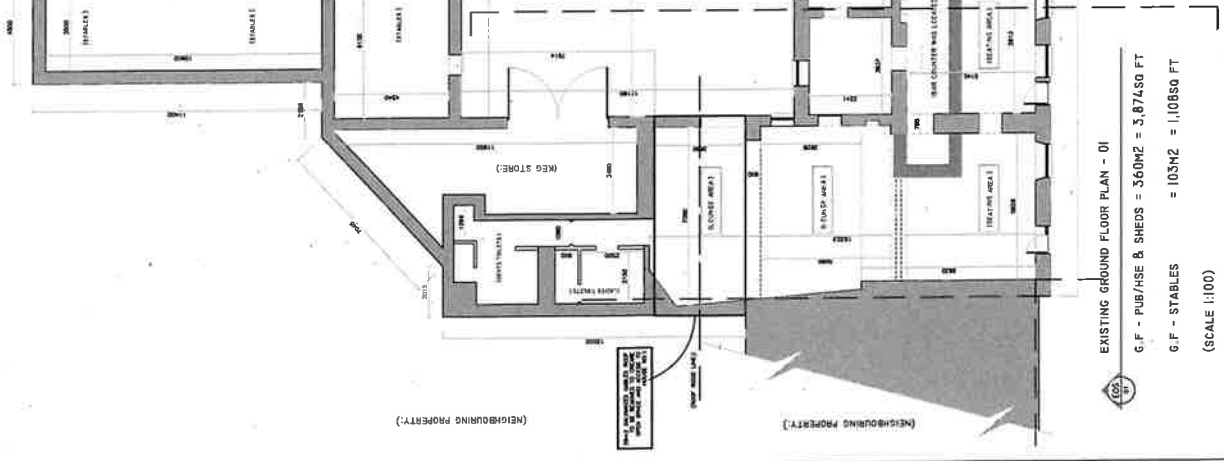
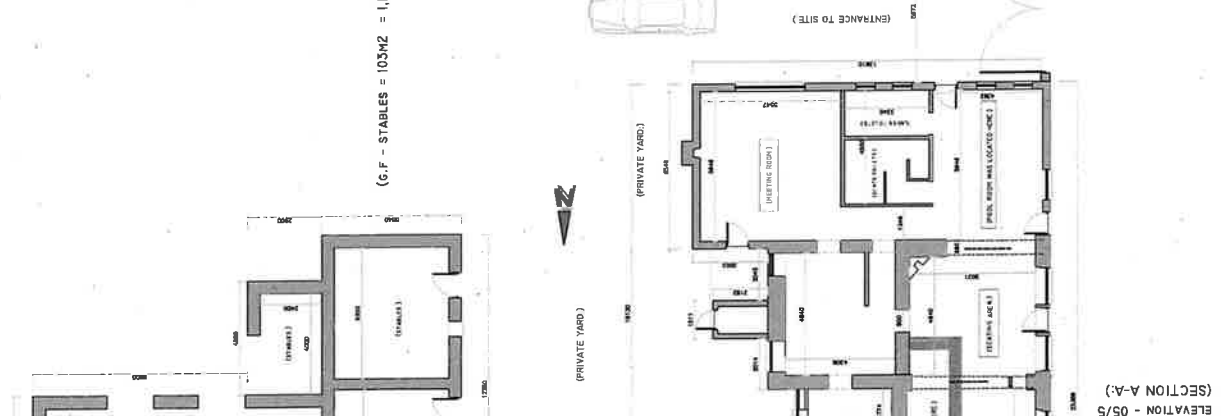
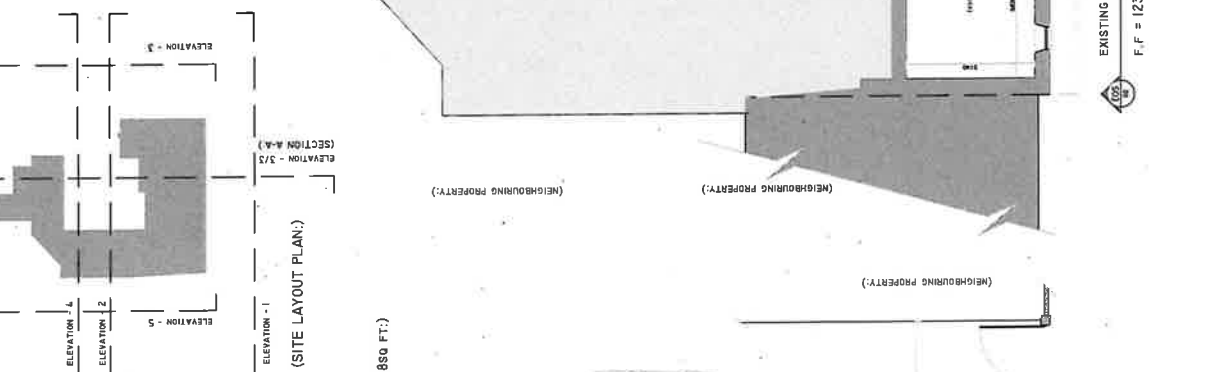
THIS DRAWING HAS BEEN PREPARED SOLELY FOR THE
PURPOSES OF THE DESIGN OF THE BUILDING AND THE
CONSTRUCTION OF THE BUILDING. IT IS NOT TO BE
USED FOR ANY OTHER PURPOSES WITHOUT THE
CONSENT OF THE ARCHITECT.

NOTES:

- SEE DIMENSIONS IN RED.
- EXISTING BOUNDARY LINES.
- NEW CONSTRUCTION OUTLINED IN BLUE.
- EXISTING CONSTRUCTION.
- CONSTRUCTION TO BE DEMOLISHED.
- PROPOSED NEW CONSTRUCTION.
- EXISTING STUB PARTITIONS.
- NEW STUB PARTITIONS.

CHANGE OF USE FROM PUBLIC BAR/LOUNGE OF
EXISTING PUB/STABLES AND SHEDS TO
POOL ROOM, LOUNGE & PUBLIC TOILETS
CO. TIPPERARY, E41 1N52

EXISTING GROUND FLOOR LAYOUT FOR AN
EXISTING PUB/STABLES AND SHEDS WITH
POOL ROOM, LOUNGE & PUBLIC TOILETS



DECLAN J. KEIRYAN
 INTERIOR ARCHITECT / DESIGNER

PRIZERTOWN DUNLEER, CO. DOUTH,
 1145
 018 - 512-860

EAMONN O'SHA
 1145
 018 - 512-860

PROJECT NO. 2023-001
DATE 12/20/23

CHANGE OF USE FROM PUBLIC BUILDINGS OF BR/TOURISM TO 7 AND RESIDENTIAL, HOUSES AT PRIZERTOWN, CO. DOUTH, LEA. 1145

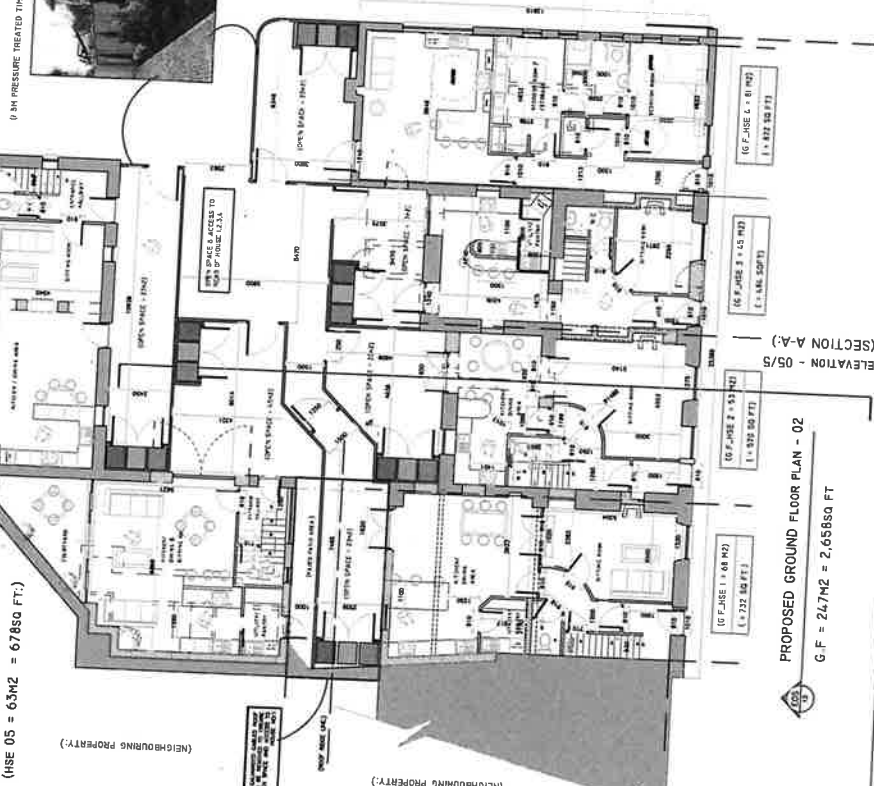
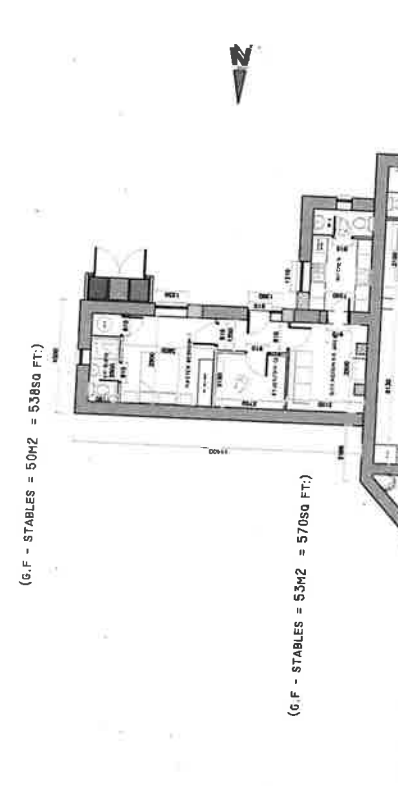
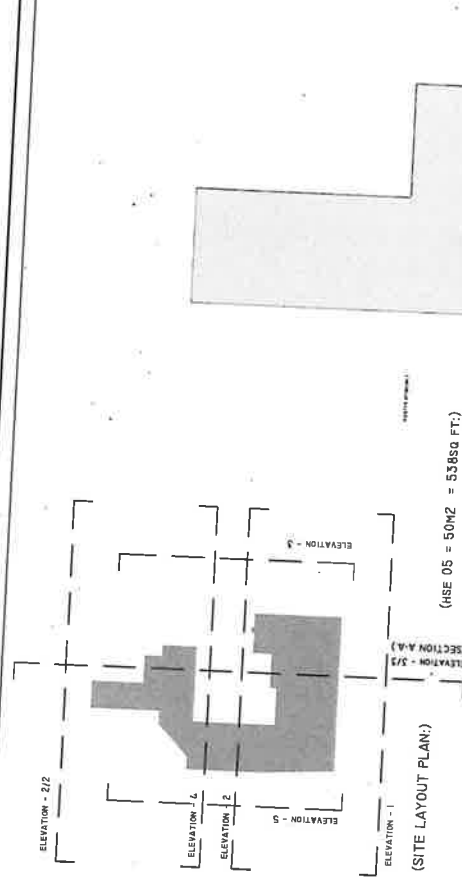
PROPOSED GROUND, FIRST FLOOR PLANS UPON SPACE & WHEELIE BIN STORAGE (SECTION A-A)

DATE 12/20/23
SCALE 1/8" = 1'-0"

(LEGEND)

NOTES:

- EXISTING BOUNDARY LINES
- NEW CONSTRUCTION OUTLINED IN BLUE
- EXISTING CONSTRUCTION
- CONSTRUCTION TO BE DEMOLISHED
- PROPOSED NEW CONSTRUCTION
- EXISTING STUB PARTITIONS
- NEW STUB PARTITIONS



PROPOSED GROUND FLOOR PLAN - 02

G.F = 247M2 = 2,658SQ FT

ELEVATION - 05/5 (SECTION A-A')



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Tipperary County Council

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Date: 29th January, 2025

Our Ref: S5/24/78

Civic Offices, Nenagh

Eamonn O'Shea
C/O Declan J Kirwan Design
Priestown
Drumleer
Co. Louth

Re: Application for a Section 5 Declaration re change of use of bar/lounge to 7 no residential houses at Carrick Street, Mullinahone, Co. Tipperary

Dear Mr O'Shea

I acknowledge receipt of Further Information received on 22nd January, 2025 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.: S5/24/78

Applicant: Eamonn O'Shea

Development Address: Carrick Street, Mullinahone, Co. Tipperary.

Proposed Development: Change of use of bar/lounge to 7 no residential houses.

1. GENERAL

On the 26th of June 2024, a request was made for a declaration under Section 5 of the Planning and Development Act, 2000 as amended as to whether the following is “development” and “exempt development”:

- Change of use of bar/lounge to 7 no residential houses.

The bar is located on Carrick Street, Mullinahone, Co. Tipperary.

Figure 1 Front elevation



Figure 2 Side elevation



Figure 3 Store to rear



Figure 4 Building to rear



2. STATUTORY PROVISION

The following statutory provisions are relevant to this referral case;

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 10 6(a) includes for the following exemption;

(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 2025.

(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 2

(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 sub-paragraph (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.

(e)(i) Where a person proposes to undertake development to which paragraph (b) relates, then he or she shall in the case of development relating to Class 1, 2, 3, 6 or 12 of Part 4 to Schedule 2, notify in writing the planning authority in whose functional area that the change of use will occur not less than 14 days prior to the commencement of the works related to the proposed change of use and any related works;

3. ASSESSMENT

a. Site Location

The site comprises of a number of existing structures on Carrick Street, Mullinahone, Co. Tipperary.

b. Relevant Planning History

P34521 Grant of permission for concrete mixing plant.

PI Ref 14600315 Grant of permission for changes to roadside boundary treatment and retention of wall and alterations to store on site.

PI Ref 20/508 demolish 2 no existing buildings and also for Planning Permission to construct 8 no. apartments and 4 no. houses together with the construction of a new vehicular entrance, roads, footpaths, common areas, underground services, foul and surface water networks, bin storage area, all boundary treatments, general lighting and all associated site development works. The works as listed are located within the curtilage of Record of Protected Structures, being a medieval castle (RPS) Ref S517 – incomplete

PI Ref 20/654 demolition of 2 no existing buildings and also for Planning Permission to construct 8 no. apartments and 4 no. houses together with the construction of a new vehicular entrance, roads, footpaths, common areas, underground services, foul and surface water networks, bin storage area, all boundary treatments, general lighting and all associated site development works. The works as listed are located within the curtilage of Record of Protected Structures, being a medieval castle (RPS) Ref S517 - incomplete

PL Ref 20/1012 demolition of 2 no existing buildings and also for Planning Permission to construct 8 no. apartments and 4 no. houses together with the construction of a new vehicular entrance, roads, footpaths, common areas, underground services, foul and surface water networks, bin storage area, all boundary treatments, general lighting and all associated site development works. The works as listed are located within the curtilage of Record of Protected Structures, being a medieval castle (RPS) Ref S517 – incomplete

PI Ref 20/1109 demolition of 2 no existing buildings and also for Planning Permission to construct 8 no. apartments and 4 no. houses together with the construction of a new vehicular entrance, roads, footpaths, common areas, underground services, foul and surface water networks, bin storage area, all boundary treatments, general lighting and all associated site

development works. The works as listed are located within the curtilage of Record of Protected Structures, being a medieval castle (RPS) Ref S517 - withdrawn

Pl. Ref. No. 24/159 – Application seeking permission for the change of use from stables to 2 no. dwelling houses, 1 consisting of ground floor open plan/kitchen/dining/sitting room area, entrance hall with W/C and first floor two bedroom ensuite and the other consisting of a single storey dwelling house with an entrance hall, study, sitting room, kitchen, W/C, and one double bedroom ensuite and all associated site development works. Deemed invalid.

ENF 179-07 – Unauthorised development consisting of a change of use of a public house to residential use.

Figure 5 Planning history



c. Assessment

A) “Is or is not Development”

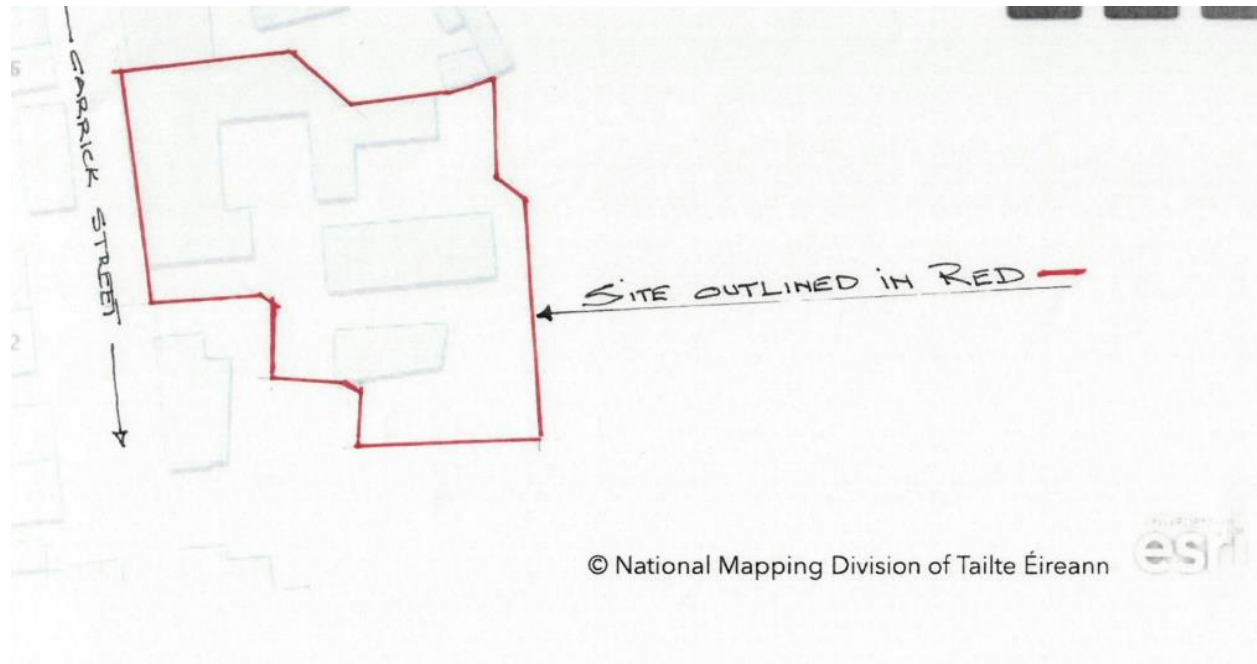
It is considered that the above listed proposals constitute “works” and a “material change of use” as understood by the Planning and Development Act 2000, as amended. The above listed proposals therefore constitute “development” within the meaning of the Planning and Development Act 2000, as amended.

B) “Is or is not Exempted Development”

Article 10(6) identifies conditions and limitations associated with the change of use of a commercial building to residential use. The subject proposal will be assessed against these requirements.

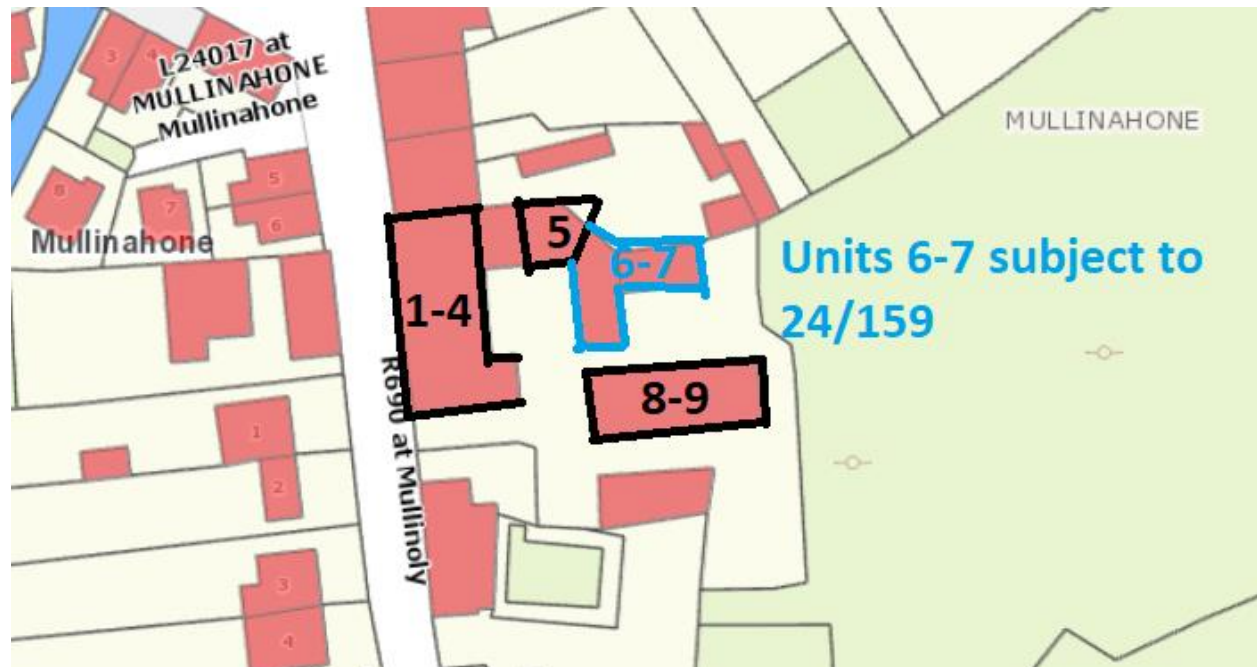
It is noted that the applicant has submitted a comprehensive schedule of drawings with the Declaration documentation.

Figure 6 Site location



There are multiple elements to the proposal and each will be assessed separately.

Figure 7 Location of works



Change of use of Public House (house numbers 1-4)

The first part of the scheme relates to the change of use of the public house that fronts onto Carrick Street (see figure 1 above). The proposal is to change this former public house to four dwellings (one single storey and three two storey).

Change of use of Store (house number 5)

The second part of the scheme relates to the change of use of a store to the rear of the public house to a 2 storey dwelling

Change of Use of Former Theatre (House numbers 8 and 9)

The final part of the scheme relates to the change of use of a stand alone former theatre to the rear of the site that is to be converted to 2 no, 2 bed units.

In relation to the requirements of the Regulations I note as follows;

Article 10(6)(b) - consists of a change of use to residential use from Class 1, 2, 3, 6 or 12 of Part 4 to Schedule 2

With respect to units 1-4, the development consists of a change of use to residential use from Class 12 of Part 4 to Schedule 2.

Unit 5 is a store in the rear yard of the public house and I do not consider that same falls within Class 12.

With respect to proposed units 8-9, it is noted that this structure was a former cinema/ hall (Class 11).

As such, it is considered that the store and former cinema/hall do not satisfy 10(6)(b).

Article 10(6)(c)

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

I am satisfied that the structure concerned was completed prior to the making of the subject 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,

I am satisfied that the public house, to accommodate units 1-4, has at some time been used for Class 12 purposes. As set out above it is considered that the store (unit 5) and cinema/hall (units 8/9) do not meet this requirement.

(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,

While the applicant has not provided any details to confirm that the structure concerned, has been vacant for a period of 2 years, a review of Google streetview clearly indicates that the structure as of October 2021 was not in use. The condition of the structure has deteriorated since then. The Planning Authority is satisfied that the subject structure has been vacant since at least October 2021. A review of previous applications on site also demonstrates that the subject structures were vacant at the time of the assessment of these applications.

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

It is not clear when the development is to be commenced.

(d) (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.

- No substantive external modifications are proposed to the front of units 1-4.
- The submitted drawings show extensions to the rear of units 1 and 2 at first floor level. Delivery of unit No. 1 also requires the demolition of the existing A Gable shed and construction of a new rear wall within a ZAP. These works would not avail of an exemption.
- It is noted that a number of new boundary treatments are proposed to the rear so as to provide enclosed private open space for the units proposed. It is not clear what exemption is to be availed of for the construction of these units.
- Unit 5 however is to be substantially changed. Currently the structure comprises of a concrete store. It is noted that an adjoining store is to be demolished to facilitate the proposal
- This store is to be converted to a two bed, 2 storey unit.

Figure 8 Unit 5



Figure 9 Front and side elevation of Unit 5



- The changes to this structure, and the provision of a second floor are beyond the scope of the exemptions allowed for under Article 10(6)(a).

(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.

See above no significant changes proposed to front elevation.

(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

The subject site is located within the village centre of Mullinahone as defined in the Tipperary County Development Plan 2022. It is not an objective of this plan to retain ground floor uses for retail uses.

(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.

Proposal is for 7 units only

(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.

Article 10(6)(d)(vi) states that 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 current proposal relates to dwellings as opposed to apartments. I note that Section 1.19 of the Design Standards for New Apartments refers to “*Complementary policy advice published by the Department, which should be considered along with these guidelines in assisting planning authorities, designers and communities within the overall planning process, includes:*

- *Best Practice Guidelines, Quality Housing for Sustainable Communities, (2007)*”;

Therefore it is considered that the 2007 guidelines are most applicable in this instance and that regard can be had to same. The applicant has not submitted a schedule of floor areas to allow for

a comparison with the recommended standards set out in Quality housing for Sustainable Residential Communities.

Table 1 Required floor areas by house type

	3 bed 2 storey	2 bed single storey
TARGET GROSS FLOOR AREA	83	60
MINIMUM MAIN LIVING ROOM	13	13
AGGREGATE LIVING AREA	30	28
AGGREGATE BEDROOM AREA	28	20
STORAGE	4	3

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

Acceptable for the units which may avail of exemption.

(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 subject site is not within an Architectural Conservation Area, nor is the building on the Record of Protected Structures.

(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.

Not applicable

Restrictions set out under (x) and (xi)

In considering the above exemptions I note that the site is located within a Zone of Archaeological Potential (ZAP) and the demolition of an existing shed and the construction of a new rear wall would be required to facilitate the delivery of Unit No. 1. I consider that same is restricted by Article 9(1)(VII) and (VIA) (the works being located within a ZAP would not avail of an exemption in any event. 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.

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

The development does not include the provision of an on-site wastewater treatment and disposal system.

C) Requirement for Appropriate Assessment (AA) and Environmental Impact Assessment (EIA)
The subject site is located c. 2 kilometres from the Lower River Suir SAC (002137), 3 kms from the River Barrow And River Nore SAC (002162) and 10 Kms from the River Nore SPA (004233).

The proposed development is located within a long established urban area and comprises of the change of use of a structure from commercial to residential use. The property is connected to the mains waste water infrastructure.

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 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. FURTHER INFORMATION

The following further information was requested on the 23rd of July 2024;

1. The applicant is advised that having regard to the insufficient information provided, the Planning Authority cannot consider if the proposed units 3 and 4 meet the exemption under Article 10(6)(a) of the Planning and Development Regulations 2001, as amended.

The applicant is requested to provide a schedule of floor areas for these units so as to enable the Planning Authority determine if the residential areas provided fall within the definition of habitable space (ie greater than 6.5 sqms) and comply with minimum space requirements for dwellings as set out in Quality Housing for Sustainable Communities (2007).

2. The applicant is to confirm when the development is to be commenced.
3. It is noted that a number of additional boundary walls are proposed to the rear of units 3 and 4 so as to provide some private amenity space. No details of these walls were provided. The provision of these walls is not considered under Art 10(6)(a). Please clarify if these structures are required and if so, what exemptions are to be availed of for their construction.

The following Advice Note also issued:

The applicant is advised of the following with respect to proposed units 1, 2, 5, 8 and 9.

- The change of use of the structures to accommodate units 5 (store), 8 and 9 (cinema/hall) are not considered to consist of a change of use to residential use from Class 1, 2, 3, 6 or 12 of Part 4 to Schedule 2 of the Regulations and therefore do not satisfy Article 10(6)(b) and (c)(ii).
- The works required to deliver units 1, 2 and 5 are considered to be outside of the scope of the works allowed under Article 10(6)(d)(ii) i.e. extensions to the rear of units 1 and 2 at

first floor level. Delivery of unit No. 1 also requires the demolition of the existing A Gable shed and construction of a new rear wall within a Zone of Archaeological Potential. The works required to deliver unit 5 are considered to be substantial.

The applicant replied on the 22nd of January 2025.

Appraisal.

Point 1

The applicant has confirmed the floor areas for each of the units proposed.

Figure 10 Schedule of floor areas

Eamonn O' Shea

House Type:	Number of Bedrooms:	Number as on Site layout plan:	Total Floor Area m ²	Ground Floor Area m ²	First Floor Area m ²	Wheelie Bin Area m ²	Enclosed Open Space m ²
House 1:	3	1	118m ²	68m ²	50m ²	2.45m ²	20m ²
House 2:	3	2	101m ²	53m ²	48m ²	2.45m ²	20m ²
House 3:	3	3	90m ²	45m ²	45m ²	2.45m ²	17m ²
House 4:	2	4	81m ²	81m ²		2.45m ²	22m ²
House 5:	2	5	113m ²	63m ²	50m ²	2.45m ²	45m ²
House 6:	2	6	103m ²	53m ²	50m ²	2.45m ²	27m ²
House 7:	1	7	50m ²	50m ²		2.45m ²	
House 8:	2	8	70m ²	70m ²		2.45m ²	

With respect to the recommended floor areas for new dwellings as set out in Quality housing for Sustainable Communities, the minimum total floor areas have been achieved for the units under consideration i.e. Unit 3 and 4.

Point 2

The applicant has confirmed that works have commenced on tidying up the site.

Point 3

The applicant has confirmed that the walls to the rear of the houses 1-4 are 1.5 metre high timber fences. The applicant has not confirmed, what exemption is being availed of in order to build these walls.

The applicant submitted a commentary in respect of the advice note.

With respect to the first point, it was noted that house type 5 is to be constructed on the footprint of the existing keg store. Notwithstanding, as set out in the original planning assessment, the works proposed to unit 5 are considered to be substantial and outside the scope of the exemption allowed for under Article 10(6)(a).

With respect to units 8 and 9, the applicant has indicated that the old cinema was used as a keg store for the bar lounge. It is noted that there is no record of permission for that change of use.

It is considered, that the change of use of the cinema/ hall to residential use is not exempted development as the existing use does not fall under Class 1, 2, 3, 6 or 12.

With respect to unit 1, the applicant has confirmed that the only modification to the exiting building is the removal of a rusty galvanised roof that is supported on the existing boundary walls. This does not correspond with the information detailed on the submitted drawings.

Conclusion and Determination

WHEREAS a question has arisen as to whether the change of use of bar/lounge to 7 no residential houses on Carrick Street, Mullinahone, Co. Tipperary is 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) Articles 6, 9 and 10 of the Planning and Development Regulations 2001, as amended and,
- (c) the nature and scale of the proposed use, as outlined in submissions on file by the owner/occupier.

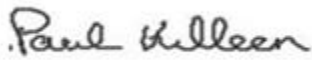
AND WHEREAS Tipperary County Council has concluded that –

The development consisting of the change of use of the bar/lounge to residential use in so far as it relates to Units 3 and 4 **only** is development and is exempted development as it DOES fall under the exempted development provisions as set out under Section 4 of the Planning and Development Act 2000, as amended.

And,

The development consisting of the change of use of the bar/lounge to residential use in so far as it relates to Units 1, 2, 5, 8 and 9 is development and is **NOT exempted development** as it DOES NOT fall under the exempted development provisions as set out under Section 4 of the Planning and Development Act 2000, as amended.

Advice Note: The above declaration relates to a change of use only and does not refer to any required works to provide for new boundary walls.

Signed: 

Paul Killeen
District planner

Date: 11/02/24

Signed: 
Senior Executive Planner

Date: 23.07.2024

EIA Pre-Screening	
Establishing a development is a 'sub-threshold development'	
File Reference:	S5/23/78
Development Summary:	Change of use from commercial to residential
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
<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

Original

TIPPERARY COUNTY COUNCIL

DELEGATED EMPLOYEE'S ORDER

File Ref: **S5/24/78** **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. 40781 dated 2nd January, 2025, hereby order that pursuant to the provisions of the Planning and Development Act 2000, as amended, that an application under Section 5 from Eamonn O'Shea, C/O Declan J Kirwan Design, Prieststown, Drumleer, Co. Lough re: Change of use of bar/lounge to 7 no. residential Houses at Carrick Street, Mullinahone, Co. Tipperary is development and is 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) Articles 6, 9 and 10 of the Planning and Development Regulations 2001, as amended and,
- (c) the nature and scale of the proposed use, as outlined in submissions on file by the owner/occupier.

AND WHEREAS Tipperary County Council has concluded that –

The development consisting of the change of use of the bar/lounge to residential use in so far as it relates to Units 3 and 4 **only** is development and is exempted development as it DOES fall under the exempted development provisions as set out under Section 4 of the Planning and Development Act 2000, as amended.

And,

The development consisting of the change of use of the bar/lounge to residential use in so far as it relates to Units 1, 2, 5, 8 and 9 is development and is **NOT exempted development** as it DOES NOT fall under the exempted development provisions as set out under Section 4 of the Planning and Development Act 2000, as amended.

Advice Note: The above declaration relates to a change of use only and does not refer to any required works to provide for new boundary walls.

Signed:



Sharon Kennedy
Director of Services

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

Date: 11/02/2025



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

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Date: 11th February, 2025

Our Ref: S5/24/78

Civic Offices, Nenagh

Eamonn O'Shea
C/O Declan J Kirwan Design
Priestown
Drumleer
Co. Louth

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

Dear Mr O'Shea,

I refer to your application for a Section 5 Declaration received on 26th June, 2024 and Further Information received 22nd January, 2025, in relation to the following proposed works:

Change of use of bar/lounge to 7 no residential houses at Carrick Street, Mullinahone, 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) Articles 6, 9 and 10 of the Planning and Development Regulations 2001, as amended and,
- (c) the nature and scale of the proposed use, as outlined in submissions on file by the owner/occupier.

AND WHEREAS Tipperary County Council has concluded that –

The development consisting of the change of use of the bar/lounge to residential use in so far as it relates to Units 3 and 4 **only** is development and is exempted

development as it DOES fall under the exempted development provisions as set out under Section 4 of the Planning and Development Act 2000, as amended.

And,

The development consisting of the change of use of the bar/lounge to residential use in so far as it relates to Units 1, 2, 5, 8 and 9 is development and is **NOT exempted development** as it DOES NOT fall under the exempted development provisions as set out under Section 4 of the Planning and Development Act 2000, as amended.

Advice Note: The above declaration relates to a change of use only and does not refer to any required works to provide for new boundary walls.

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**