



Comhairle Contae Thiobraid Árann  
Tipperary County Council

**PLANNING & DEVELOPMENT ACT, 2000 (as amended)**

Application for a Section 5 Declaration  
Development / Exempted Development

1. Applicant's address/contact details:

Applicant	Martin Murphy
Address	Kilcany Mavagh
Telephone No.	
E-mail	

2. Agent's (if any) address:

Agent	
Address	
Telephone No.	
E-mail	

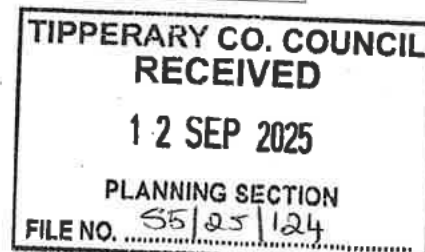
Please advise where all correspondence in relation to this application is to be sent;

Applicant [ ]      Agent [ ]

3. Location of Proposed Development:

Postal Address or Townland or Location (as may best identify the land or structure in question)	39 Kegan Street Mavagh Previously Dowling's Pub
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SCANNED



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.)

This was previously a pub up to 10/15 years ago &	
now it is a commercial unit, I want to change	
it to a commercial unit, Do I need to	
do anything, No change to the inside, it has been	
idle for <del>the</del> almost 15 years.	
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
	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 state the name and address of the owner	Name: Address:	

Signature of Applicant

Date: 11/09/21

**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 0818 06 5000

E-Mail [planning@tipperarycoco.ie](mailto:planning@tipperarycoco.ie)

### FOR OFFICE USE ONLY

#### DATE STAMP

Fee Recd. € \_\_\_\_\_

Receipt No. \_\_\_\_\_

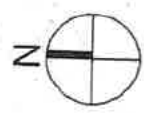
Date \_\_\_\_\_

Received by \_\_\_\_\_



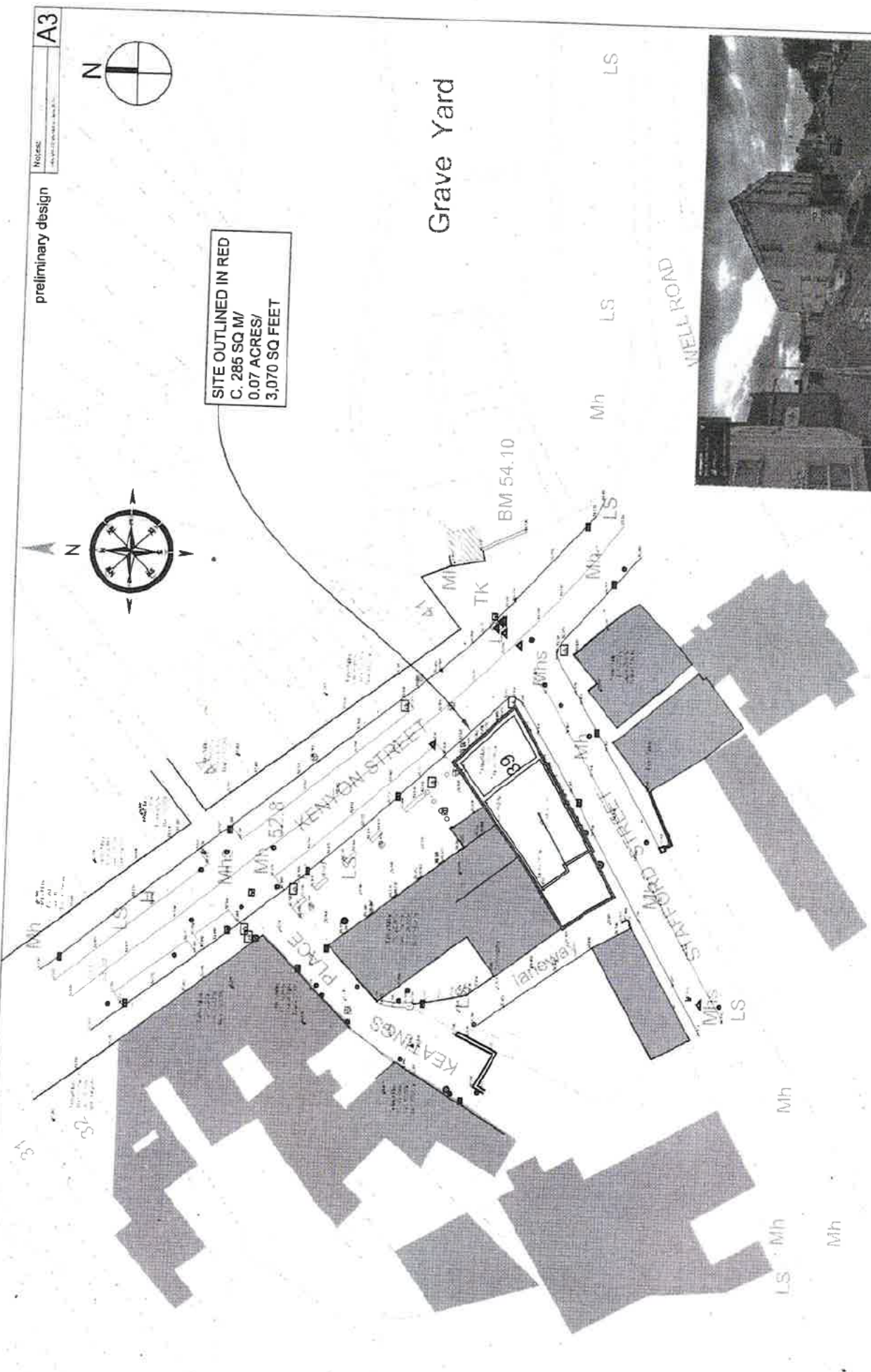
preliminary design

A3



SITE OUTLINED IN RED  
C. 285 SQ M/  
0.07 ACRES/  
3,070 SQ FEET

Grave Yard



Location map  
28th Jan 2019

ITM- co-ordinates  
586695,678923

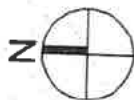


lyons designs architectural services	
project	mixed use development
client	39 Kenyon Street, Nenagh, Co. Tipperary

14 ballwood ballroom GO BRICKS	drawn mike lyons
location map	

28/01/2019	1:500@A3	01	A
T. 087 2768650	E. nlyons@tdg.ie	PRELIM	





**SITE OUTLINED IN RED**  
**C. 285 SQ M/**  
**0.07 ACRES/**  
**3,070 SQ FEET**

Grave Yard

Location map  
28th Jan 2019

ITM- co-ordinates  
586695,678923

lyons designs architectural services

no fix	mixed use development
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39 Kenyon Street, Nenagh, Co. Tipperary

14 bottles

Erika Lyons

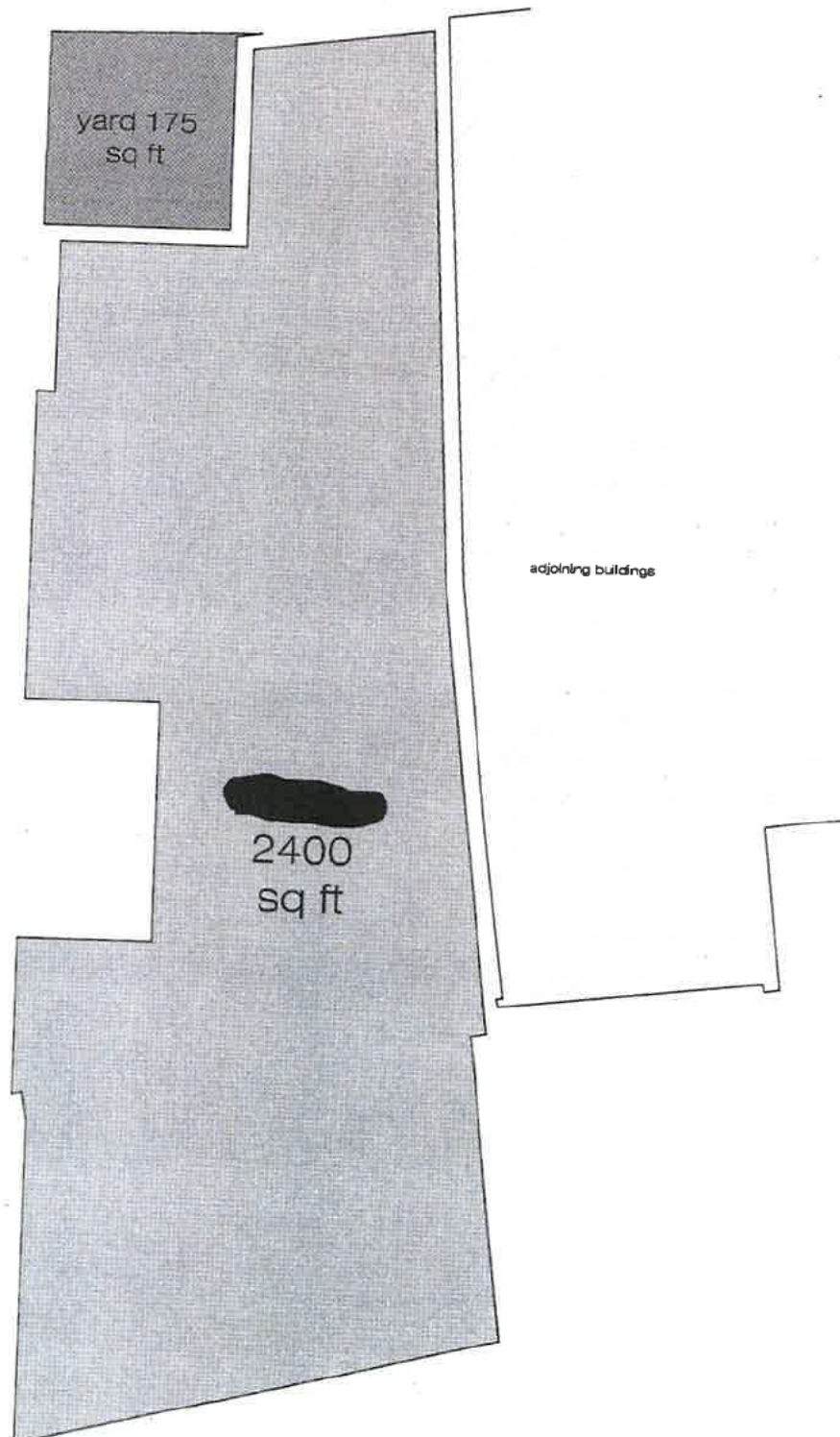
T-087 2768650

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1

## Notes

E-mail: [mike@idus.ie](mailto:mike@idus.ie)



PROPOSED GROUND FLOOR PLAN  
Scale 1:100

lyons designs architectural services

14 bellwood  
ballymore  
co. limerick

drawn: mike lyons

T-087 2708650

E- miked@das.ie

project: Buttery Fit-out

drawing title:

site:

30 Kenyon Street, Nenagh, Co. Tipperary

Floor plan- Areas

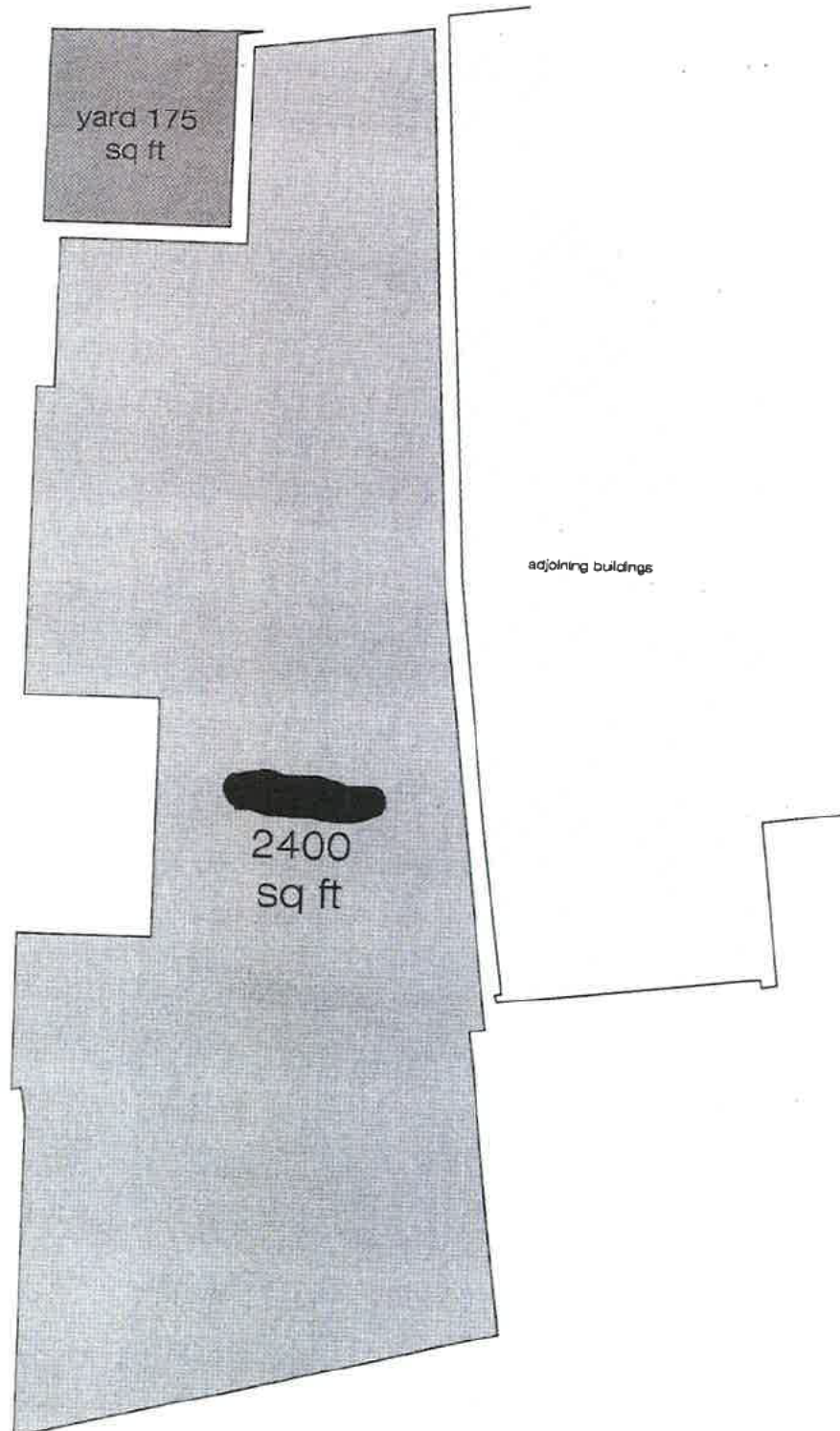
date: 04/06/2019

sheet no. revision

scale: 1:100@A3

B03

stage: PRELIM



PROPOSED GROUND FLOOR PLAN  
Scale 1:100

lyons designs architectural services

14 belvedere  
ballymore  
co. dublin

drawn: mike lyons

T-087 2768650

E- mike@ldas.ie

project Buttery Fitout

drawing title

date: 04/06/2019

sheet no. revision

client: 39 Kenyon Street, Nenagh, Co. Tipperary

Floor plan- Areas

scale: 1:100@A3

stage: PRELIM

B03





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 5000/601  
e customerservice  
@tipperarycoco.ie

[tipperarycoco.ie](http://tipperarycoco.ie)

**Date: 15<sup>th</sup> Sept, 2025    Our Ref: S5/25/124    Civic Offices, Clonmel**

Martin Murphy  
Kilkeary  
Nenagh  
Co. Tipperary

**Re: Application for a Section 5 Declaration – change of use from former public house to a commercial unit at 39 Kenyon Street, Nenagh, Co. Tipperary**

Dear Martin

I acknowledge receipt of your application for a Section 5 Declaration received on 12<sup>th</sup> September 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

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**Planning Reference:** S5/25/124

**Applicant:** Martin Murphy

**Development Address:** 39 Kenyon Street, Nenagh, Co. Tipperary

**Proposed Development:** Change of use from public house to a commercial unit

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#### 1. GENERAL

On 12/09/2025 a request was made for a declaration under Section 5 of the Planning and Development Act, 2000 as amended by Martin Murphy as to whether or not the following works constituted development and if so, whether same was exempted development:

- The change of use from a public house to a commercial unit.

The application form states that the building was previously a public house approximately 10/15 years ago and is now seeking to change its use to a commercial unit.

#### 2. STATUTORY PROVISIONS

The following statutory provisions are relevant to this referral case;

Section 2(1) of the Planning and Development Act, 2000, as amended, states as follows;

*“In this Act, except where the context otherwise requires – “development” has the meaning assigned to it by Section 3 and development shall be construed accordingly.”*

And,

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

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

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

Section 4 provides for Exempted Development and Section 4(1) sets out works which shall be exempted development for the purposes of the Planning and Development Act 2000, as amended. Section 4(2)(a) of the same Act states that ‘the Minister may by regulations provide for any class of development to be exempted development for the purposes of this Act.

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

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

- (i) *by reason of the size, nature or limited effect on its surroundings, of development belonging to that class, the carrying out of such development would not offend against principles of proper planning and sustainable development, or*
- (ii) *the development is authorised, or is required to be authorised, by or under any enactment (whether the authorisation takes the form of the grant of a licence, consent, approval or any other type of authorisation) where the enactment concerned requires there to be consultation (howsoever described) with members of the public in relation to the proposed development prior to the granting of the authorisation (howsoever described).*

Section 4(4) states that notwithstanding paragraphs 9a0, (i), (ia) and (l) of subsection (1) and any regulations under subsection (2), development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required.

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

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

Planning and Development Regulations 2001, as amended

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

Change of use

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.

CLASS 14

Development consisting of a change of use—

- (b) from use as a public house, to use as a shop

Article 10 (1)

Development which consists of a change of use within any one of the classes of use specified in Part 4 of Schedule 2, shall be exempted development for the purposes of the Act, 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 39 Kenyon Street, Nenagh, Co. Tipperary

#### **b. Relevant Planning History**

#### **c. Assessment**

<b>File No.</b>	<b>Decision</b>	<b>Decision Date</b>	<b>Description</b>
95522545	Conditional	09/06/1995	Erect store at rear of premises
92522380	Conditional	23/10/1992	Construct 3 bedroom & bathroom extension to premises.
77521198	Refused	28/09/1977	Retention of current building
74520951	Unconditional	18/05/1974	Erection of porch to side of premises

#### **A) "Is or is not Development"**

Having considered all of the details and documentation on file with regards the question asked the Planning Authority require further information regarding the proposal. The application form states the premises was last used as a public house and the proposal is to change same to commercial.

It is not stated what the commercial use would be and further information is required on same. The information is necessary to determine whether the change of use is a material change of use.

The application form states no works are proposed. This is noted and any Declaration will be limited to a consideration regarding the change of use only.

#### **B) "Is or is not Exempted Development"**

As outlined further information is required on the nature of commercial use proposed to determine whether the proposal is development and is/is not exempted development.

#### **C) Restrictions under Article 9**

This will be examined on receipt of further information.

#### **D) Requirement for Appropriate Assessment and Environmental Impact Assessment**

##### **AA**

The proposal has been assessed having regard to the requirements of the EU Habitats Directive. The proposed development has been screened for AA and it has been determined that an AA is not required. See also Appropriate Assessment (AA) screening report attached.

##### **EIA**

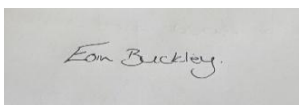
Mandatory EIA is required under Class 10 (b) (iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended for Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.

The proposal is significantly below the mandatory threshold. I have undertaken a preliminary examination of the development that concludes that EIA is not required.

#### 4. RECOMMENDATION

In accordance with Section 5 (2) (b) of the Planning and Development Act 2000, as amended the following further information is required.

1. The Planning Authority require confirmation of the proposed commercial use. Details of the commercial use is required in order for the Planning Authority to determine whether the proposal is / is not development and is/is not exempted development.
2. The applicant is requested to submit a set of building plan drawings (to a scale of not less than 1:100) showing the arrangement of rooms within the building and identifying the previous use / uses contained in the building. In addition confirmation is required on whether the proposed change of use relates to the ground floor only or the entire premises.



Signed: \_\_\_\_\_

Date: 01/10/2025

Signed: *Jonathan Flood*

Date: 01/10/2025

## HABITATS DIRECTIVE APPROPRIATE ASSESSMENT (AA) SCREENING REPORT

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

(a) File Reference No:	S5/25/124
(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:	None

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

European Site (code)	List of Qualifying Interest/Special Conservation Interest <sup>1</sup>	Distance from proposed development <sup>2</sup> (km)	Connections (Source-Pathway-Receptor)	Considered further screening Y/N
002165 Lower River Shannon SAC	<a href="https://www.npws.ie/protected-sites/spa/004165">https://www.npws.ie/protected-sites/spa/004165</a>	Within 15km	None	No
004058 Lough Derg Shannon SPA	<a href="https://www.npws.ie/protected-sites/spa/004058">https://www.npws.ie/protected-sites/spa/004058</a>	Within 15km	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.)
<b>Construction phase e.g.</b> <ul style="list-style-type: none"> <li>Vegetation clearance</li> <li>Demolition</li> <li>Surface water runoff from soil excavation/infill/landscaping (including borrow pits)</li> <li>Dust, noise, vibration</li> <li>Lighting disturbance</li> <li>Impact on groundwater/dewatering</li> <li>Storage of excavated/construction materials</li> </ul>	No impacts



<ul style="list-style-type: none"> <li>Access to site</li> <li>Pests</li> </ul>										
<b>Operational phase e.g.</b> <ul style="list-style-type: none"> <li>Direct emission to air and water</li> <li>Surface water runoff containing contaminant or sediment</li> <li>Lighting disturbance</li> <li>Noise/vibration</li> <li>Changes to water/groundwater due to drainage or abstraction</li> <li>Presence of people, vehicles and activities</li> <li>Physical presence of structures (e.g. collision risks)</li> <li>Potential for accidents or incidents</li> </ul>	No impacts									
In-combination/Other										
<b>(b) Describe any likely changes to the European site:</b>										
Examples of the type of changes to give consideration to include: <ul style="list-style-type: none"> <li>Reduction or fragmentation of habitat area</li> <li>Disturbance to QI species</li> <li>Habitat or species fragmentation</li> <li>Reduction or fragmentation in species density</li> <li>Changes in key indicators of conservation status value (water or air quality etc.)</li> <li>Changes to areas of sensitivity or threats to QI</li> <li>Interference with the key relationships that define the structure or ecological function of the site</li> </ul>	No impacts									
<b>(c) Are 'mitigation' measures necessary to reach a conclusion that likely significant effects can be ruled out at screening?</b>										
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No										
<b>STEP 4. Screening Determination Statement</b>										
<b>The assessment of significance of effects:</b> Describe how the proposed development (alone or in-combination) is/is <b>not likely</b> to have <b>significant</b> effects on European site(s) in view of its conservation objectives.										
The proposal presents no impacts on any Natura 2000 site.										
<b>Conclusion:</b>										
	<table border="1"> <thead> <tr> <th></th> <th>Tick as Appropriate:</th> <th>Recommendation:</th> </tr> </thead> <tbody> <tr> <td>(i) It is clear that there is <b>no likelihood</b> of significant effects on a European site.</td> <td><input checked="" type="checkbox"/></td> <td>The proposal can be screened out: Appropriate assessment not required.</td> </tr> <tr> <td>(ii) It is <b>uncertain</b> whether the proposal will have a significant effect on a</td> <td><input type="checkbox"/></td> <td><input type="checkbox"/> Request further information to complete screening</td> </tr> </tbody> </table>		Tick as Appropriate:	Recommendation:	(i) It is clear that there is <b>no likelihood</b> of significant effects on a European site.	<input checked="" type="checkbox"/>	The proposal can be screened out: Appropriate assessment not required.	(ii) It is <b>uncertain</b> whether the proposal will have a significant effect on a	<input type="checkbox"/>	<input type="checkbox"/> Request further information to complete screening
	Tick as Appropriate:	Recommendation:								
(i) It is clear that there is <b>no likelihood</b> of significant effects on a European site.	<input checked="" type="checkbox"/>	The proposal can be screened out: Appropriate assessment not required.								
(ii) It is <b>uncertain</b> whether the proposal will have a significant effect on a	<input type="checkbox"/>	<input type="checkbox"/> Request further information to complete screening								

European site.		<input type="checkbox"/> Request NIS <input type="checkbox"/> Refuse planning permission
(iii) <b>Significant effects</b> are likely.	<input type="checkbox"/>	<input type="checkbox"/> Request NIS <input type="checkbox"/> Refuse planning permission
<b>Signature and Date of Recommending Officer:</b>	Eoin Buckley, Graduate Planner	<b>Date:</b> xxx

EIA Pre-Screening Establishing a development is a 'sub-threshold development'		
File Reference:	S5/25/124	
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 <b>Part A</b>	
<b>A. Schedule 5 Part 1</b> - Does the development comprise a project listed in Schedule 5, <b>Part 1</b> , of the Planning and Development Regulations 2001 (as amended)? (Tick as appropriate)		
<input type="checkbox"/> Yes, specify class _____		<b>EIA is mandatory</b>  No Screening required
<input checked="" type="checkbox"/> No		Proceed to <b>Part B</b>
<b>B. Schedule 5 Part 2</b> - Does the development comprise a project listed in Schedule 5, <b>Part 2</b> , of the Planning and Development Regulations 2001 (as amended) <b>and</b> does it meet/exceed the thresholds? (Tick as appropriate)		
<input type="checkbox"/> No, the development is not a project listed in Schedule 5, Part 2		<b>No Screening required</b>
<input type="checkbox"/> Yes the project is listed in Schedule 5, Part 2 <b>and</b> meets/exceeds the threshold, specify class (including threshold): _____		<b>EIA is mandatory</b>  No Screening required
<input checked="" type="checkbox"/> Yes the project is of a type listed <b>but is sub-threshold</b> : <u>Class 10 (b) (v) of Part 2</u> _____		Proceed to <b>Part C</b>
<b>C. If Yes, has Schedule 7A information/screening report been submitted?</b>		
<input type="checkbox"/> Yes, Schedule 7A information/screening report has been submitted by the applicant		<b>Screening Determination required</b>
<input type="checkbox"/> No, Schedule 7A information/screening report has not been submitted by the applicant		<b>Preliminary Examination required</b>
<b>EIA PRELIMINARY EXAMINATION:</b> The Planning Authority shall carry out a preliminary examination of, at the least, the nature, size or location of the development.		
	Comment:	Yes/No/ Uncertain:



<p><b>Nature of the development:</b>  <i>Is the nature of the proposed development exceptional in the context of the existing environment?</i></p> <p><i>Will the development result in the production of any significant waste, or result in significant emissions or pollutants?</i></p>		No.
<p><b>Size of the development:</b>  <i>Is the size of the proposed development exceptional in the context of the existing environment?</i></p> <p><i>Are there cumulative considerations having regard to other existing and/or permitted projects?</i></p>		No.
<p><b>Location:</b>  <i>Is the proposed development located on, in, adjoining or does it have the potential to impact on an ecologically sensitive site or location?</i></p> <p><i>Does the proposed development have the potential to affect other significant environmental sensitivities in the area?</i></p>		No.
<p align="center"><b>Preliminary Examination Conclusion:</b></p>		
<p>Based on a preliminary examination of the <b>nature, size or location</b> of the development. (Tick as appropriate)</p>		
<p align="center"><input checked="" type="checkbox"/></p> <p>There is <b>no real likelihood</b> of significant effects on the environment.</p> <p>EIA is not required.</p>	<p align="center"><input type="checkbox"/></p> <p>There is <b>real likelihood</b> of significant effects on the environment.</p> <p>An <b>EIAR</b> is required.</p>	<p align="center"><input type="checkbox"/></p> <p>There is <b>significant and realistic doubt</b> regarding the likelihood of significant effects on the environment.</p> <p>Request the applicant to submit the <b>Information specified in Schedule 7A</b> for the purposes of a screening determination.</p> <p>Proceed to Screening Determination.</p>

**Include screening shot of digitised map of section 5 point**





Comhairle Contae Thiobraid Árann  
Tipperary County Council

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t 0818 06 5000/600  
e customerservice  
@tipperarycoco.ie  
tipperarycoco.ie

Date: 2<sup>nd</sup> October, 2025

Our Ref: S5/25/124

Civic Offices, Nenagh

Martin Murphy  
Kilkeary  
Nenagh  
Co. Tipperary

**Re: Application for a Section 5 Declaration** – Change of use from public house to a commercial unit at 39 Kenyon Street, Nenagh, Co. Tipperary

Dear Mr Murphy,

I refer to an application received from you on 12<sup>th</sup> September 2025 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;**

sh It is recommended to request the following further information pursuant to Section 5 (2) (b) of the Planning and Development Act 2000, as amended

1. The Planning Authority require confirmation of the proposed commercial use. Details of the commercial use is required in order for the Planning Authority to determine whether the proposal is / is not development and is/is not exempted development.

2. The applicant is requested to submit a set of building plan drawings (to a scale of not less than 1:100) showing the arrangement of rooms within the building and identifying the previous use / uses contained in the building. In addition confirmation is required on whether the proposed change of use relates to the ground floor only or the entire premises.

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

Yours sincerely

  
for **Director of Services**

**To:** Tipperary County Council – Planning Department

**Subject:** Response to Section 5 Request – Number 39 Kenyon Street

Your reference S5/25/124

Dear Sir/Madam,

In response to your request for further information under Section 5 of the Planning and Development Act, we wish to provide the following regarding Number 39 Kenyon Street:

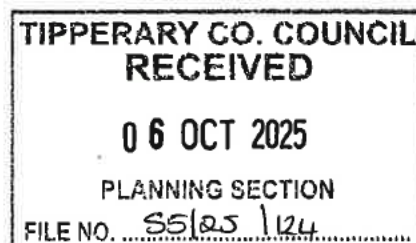
- The property has been vacant for over 10 years.
- The premises were previously occupied as Dowling's Pub, and the pub licence has been sold separately.
- We have recently received enquiries for its use as a meeting room, Pilates studio, and consultancy room.
- No alterations to the interior layout or exterior of the building are proposed.

Given the extended vacancy and the absence of structural or external changes, we seek confirmation as to whether the proposed uses can proceed without requiring formal planning permission.

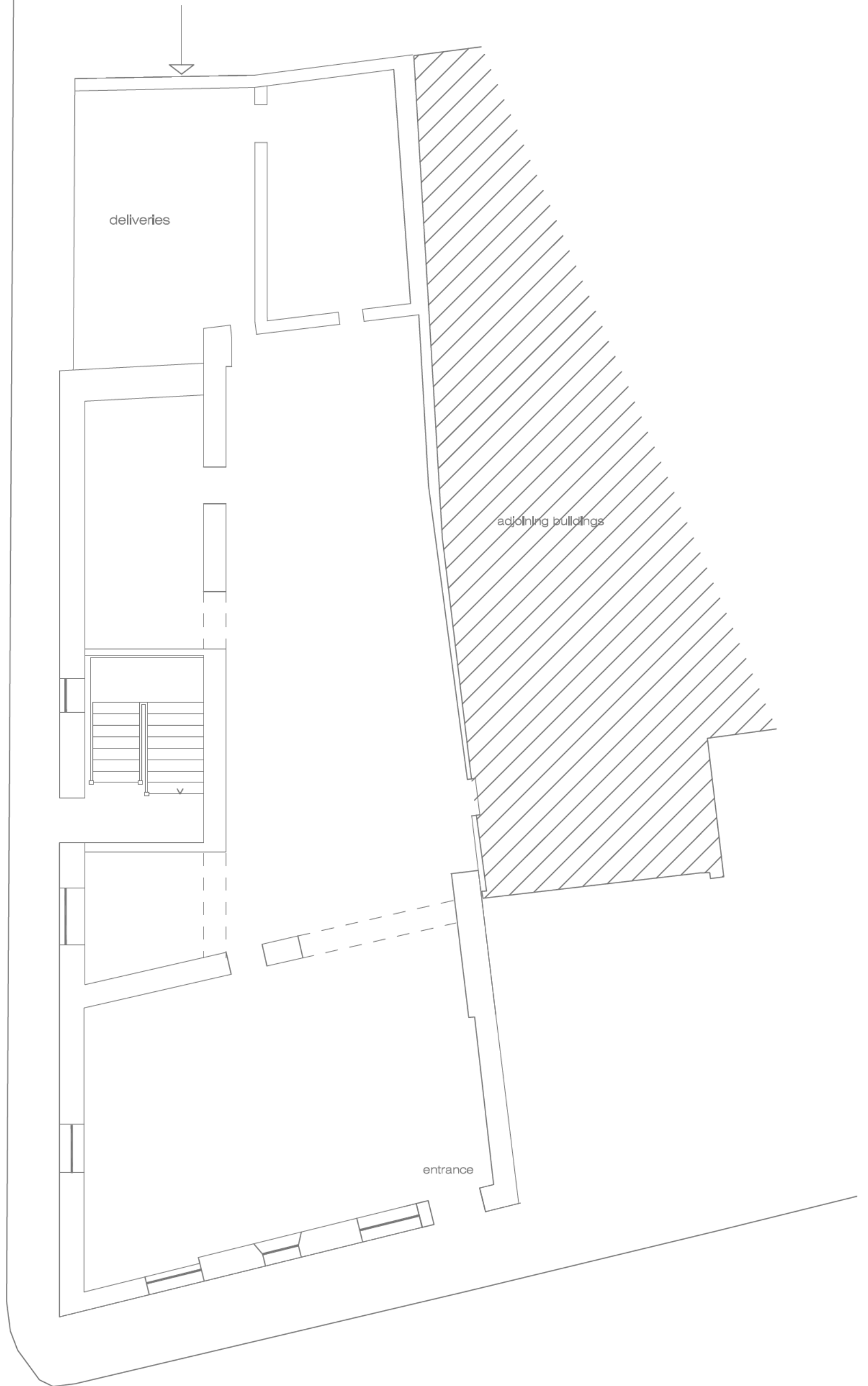
We would be grateful for the Council's determination in this matter and any guidance on compliance with relevant planning regulations.

Yours faithfully,

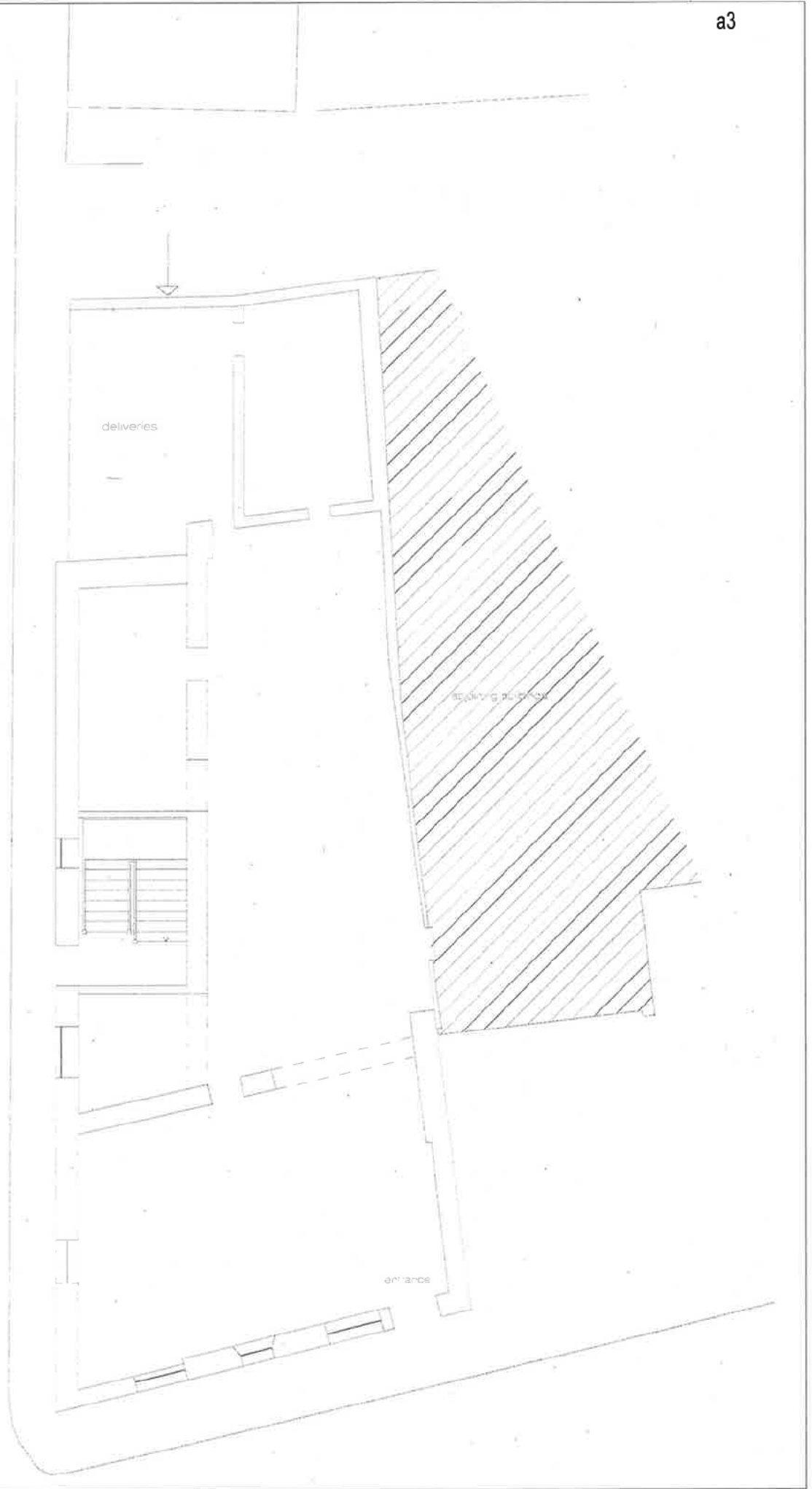
Martin murphy







TIPPERARY CO. COUNCIL  
RECEIVED  
06 OCT 2025  
PLANNING SECTION  
035/25/12V





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 5000/600  
e customerservice  
@tipperarycoco.ie  
tipperarycoco.ie

**Date: 7th October, 2025    Our Ref: S5/25/124    Civic Offices, Clonmel**

Martin Murphy  
Kilkeary  
Nenagh  
Co. Tipperary

**Re: Application for a Section 5 Declaration – Change of use from public house to a commercial unit at 39 Kenyon Street, Nenagh, Co. Tipperary**

Dear Mr Murphy

I acknowledge receipt of further information received on 6<sup>th</sup> October, 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

Claire Conner  
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

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**Planning Reference:** S5/25/124  
**Applicant:** Martin Murphy  
**Development Address:** 39 Kenyon Street, Nenagh, Co. Tipperary  
**Proposed Development:** Change of use from public house to a commercial unit

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#### 1. GENERAL

On 12/09/2025 a request was made for a declaration under Section 5 of the Planning and Development Act, 2000 as amended by Martin Murphy as to whether or not the following works constituted development and if so, whether same was exempted development:

- The change of use from a public house to a commercial unit.

The application form states that the building was previously a public house approximately 10/15 years ago and is now seeking to change its use to a commercial unit.

A request for further information issued on 2nd October, 2025. A reply was received on 6/10/2025. The Fi reply advises that no alterations to the layout at ground floor are proposed and the previous use was a public house. The applicant has received enquiries regarding the use of the premises as meeting room, consultancy room or pilates studio.

#### 2. STATUTORY PROVISIONS

The following statutory provisions are relevant to this referral case;

Section 2(1) of the Planning and Development Act, 2000, as amended, states as follows;

*"In this Act, except where the context otherwise requires – "development" has the meaning assigned to it by Section 3 and development shall be construed accordingly."*

And,

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

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

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

Section 4 provides for Exempted Development and Section 4(1) sets out works which shall be exempted development for the purposes of the Planning and Development Act 2000, as amended. Section 4(2)(a) of the same Act states that 'the Minister may by regulations provide for any class of development to be exempted development for the purposes of this Act.



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

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

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

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

Section 4(4) states that notwithstanding paragraphs 9a0, (i), (ia) and (l) of subsection (1) and any regulations under subsection (2), development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required.

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

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

Planning and Development Regulations 2001, as amended

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

Change of use

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.

CLASS 14

Development consisting of a change of use—

(b) from use as a public house, to use as a shop

Article 10 (1)

Development which consists of a change of use within any one of the classes of use specified in Part 4 of Schedule 2, shall be exempted development for the purposes of the Act, 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 39 Kenyon Street, Nenagh, Co. Tipperary

#### **b. *Relevant Planning History***

#### **c. *Assessment***

<b>File No.</b>	<b>Decision</b>	<b>Decision Date</b>	<b>Description</b>
95522545	Conditional	09/06/1995	Erect store at rear of premises
92522380	Conditional	23/10/1992	Construct 3 bedroom & bathroom extension to premises.
77521198	Refused	28/09/1977	Retention of current building
74520951	Unconditional	18/05/1974	Erection of porch to side of premises

#### **A) "Is or is not Development"**

Having considered all of the details and documentation on file with regards the question asked the Planning Authority require further information regarding the proposal. The application form states the premises was last used as a public house and the proposal is to change same to commercial. The FI reply clarifies the commercial uses as meeting rooms, pilates studio or consultancy rooms.

It is not clear if the floor space would be for one single use or for a mixture of the uses outlined.

The change of use of the ground floor from a public house to use as meeting rooms, pilates studio or consultancy rooms constitutes a material change of use and the proposal thereby constitutes development within the meaning of the Act.

#### **B) "Is or is not Exempted Development"**

The change from use as a public house to uses or uses as meeting rooms, pilates studio or consultancy rooms is not exempted development.

Class 14 b) of Part 1 of Schedule 2 allows for the change of sue from a public house to use as a shop. The uses identified do not come within the definition of a shop.

The change of use is not exempt pursuant to Article 10 of the Regulations. The proposed uses do not come within the same use class specified in part 4 of Schedule 2 of the Regulations as the existing use.

#### **C) Restrictions under Article 9**

N/a as no exemption under Article 6 confirmed.

#### **D) Requirement for Appropriate Assessment and Environmental Impact Assessment**

**AA**

The proposal has been assessed having regard to the requirements of the EU Habitats Directive. The proposed development has been screened for AA and it has been determined that an AA is not required. See also Appropriate Assessment (AA) screening report attached.

#### **EIA**

Mandatory EIA is required under Class 10 (b) (iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended for Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.

The proposal is significantly below the mandatory threshold. I have undertaken a preliminary examination of the development that concludes that EIA is not required.

#### **4. RECOMMENDATION**

A question has arisen as to whether the change of use from a public house to a commercial use (meeting room, Pilates Studio, Consultancy room) at 39 Kenyon Street, Nenagh, Co. Tipperary

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

- **Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended.**
- **Article 6 and 10 Planning and Development Regulations 2001, as amended.**
- **The planning history of the site.**
- **The details submitted with the Declaration application.**

Tipperary County Council has concluded that –

The development consisting of the change of use from a public house to a commercial use (meeting room, Pilates Studio, Consultancy room) at 39 Kenyon Street, Nenagh, Co. Tipperary is development and is **not exempted development** as it does not fall under the exempted development provisions as set out under the Planning and Development Act 2000, as amended or Planning and Development Regulations 2001, as amended.

Tipperary County Council, in exercise of the powers conferred on it by section 5(2)(a) of the Planning and Development Act 2000 as amended, it is hereby decided that the change of use from a public house to a commercial use (meeting room, Pilates Studio, Consultancy room) at 39 Kenyon Street, Nenagh, Co. Tipperary is **development and IS NOT exempted development.**

Signed: *Jonathan Flood*  
Senior Executive Planner

Date: 21/10/2025

## HABITATS DIRECTIVE APPROPRIATE ASSESSMENT (AA) SCREENING REPORT

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

(a) File Reference No:	S5/25/124
(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:	None

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

European Site (code)	List of Qualifying Interest/Special Conservation Interest <sup>1</sup>	Distance from proposed development <sup>2</sup> (km)	Connections (Source-Pathway-Receptor)	Considered further screening Y/N
002165 Lower River Shannon SAC	<a href="https://www.npws.ie/protected-sites/spa/004165">https://www.npws.ie/protected-sites/spa/004165</a>	Within 15km	None	No
004058 Lough Derg Shannon SPA	<a href="https://www.npws.ie/protected-sites/spa/004058">https://www.npws.ie/protected-sites/spa/004058</a>	Within 15km	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.)
<b>Construction phase e.g.</b> <ul style="list-style-type: none"> <li>Vegetation clearance</li> <li>Demolition</li> <li>Surface water runoff from soil excavation/infill/landscaping (including borrow pits)</li> <li>Dust, noise, vibration</li> <li>Lighting disturbance</li> <li>Impact on groundwater/dewatering</li> <li>Storage of excavated/construction materials</li> <li>Access to site</li> <li>Pests</li> </ul>	No impacts

<b>Operational phase e.g.</b> <ul style="list-style-type: none"> <li>• Direct emission to air and water</li> <li>• Surface water runoff containing contaminant or sediment</li> <li>• Lighting disturbance</li> <li>• Noise/vibration</li> <li>• Changes to water/groundwater due to drainage or abstraction</li> <li>• Presence of people, vehicles and activities</li> <li>• Physical presence of structures (e.g. collision risks)</li> <li>• Potential for accidents or incidents</li> </ul>	No impacts						
In-combination/Other							
<b>(b) Describe any likely changes to the European site:</b>							
Examples of the type of changes to give consideration to include: <ul style="list-style-type: none"> <li>• Reduction or fragmentation of habitat area</li> <li>• Disturbance to QI species</li> <li>• Habitat or species fragmentation</li> <li>• Reduction or fragmentation in species density</li> <li>• Changes in key indicators of conservation status value (water or air quality etc.)</li> <li>• Changes to areas of sensitivity or threats to QI</li> <li>• Interference with the key relationships that define the structure or ecological function of the site</li> </ul>	No impacts						
<b>(c) Are 'mitigation' measures necessary to reach a conclusion that likely significant effects can be ruled out at screening?</b>							
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No							
<b>STEP 4. Screening Determination Statement</b>							
<b>The assessment of significance of effects:</b> Describe how the proposed development (alone or in-combination) is/is <b>not likely</b> to have <b>significant</b> effects on European site(s) in view of its conservation objectives.							
The proposal presents no impacts on any Natura 2000 site.							
<b>Conclusion:</b>							
	<table border="1"> <thead> <tr> <th>Tick as Appropriate:</th> <th>Recommendation:</th> </tr> </thead> <tbody> <tr> <td><input checked="" type="checkbox"/></td> <td>The proposal can be screened out: Appropriate assessment not required.</td> </tr> <tr> <td><input type="checkbox"/></td> <td> <input type="checkbox"/> Request further information to complete screening  <input type="checkbox"/> Request NIS  <input type="checkbox"/> Refuse planning permission               </td> </tr> </tbody> </table>	Tick as Appropriate:	Recommendation:	<input checked="" type="checkbox"/>	The proposal can be screened out: Appropriate assessment not required.	<input type="checkbox"/>	<input type="checkbox"/> Request further information to complete screening <input type="checkbox"/> Request NIS <input type="checkbox"/> Refuse planning permission
Tick as Appropriate:	Recommendation:						
<input checked="" type="checkbox"/>	The proposal can be screened out: Appropriate assessment not required.						
<input type="checkbox"/>	<input type="checkbox"/> Request further information to complete screening <input type="checkbox"/> Request NIS <input type="checkbox"/> Refuse planning permission						
(i) It is clear that there is <b>no likelihood</b> of significant effects on a European site.							
(ii) It is <b>uncertain</b> whether the proposal will have a significant effect on a European site.							



(iii) <b>Significant effects</b> are likely.	<input type="checkbox"/>	<input type="checkbox"/> Request NIS <input type="checkbox"/> Refuse planning permission
<b>Signature and Date of Recommending Officer:</b>	Jonathan Flood SEP	<b>Date:</b> 21/10/2025

EIA Pre-Screening Establishing a development is a 'sub-threshold development'	
<b>File Reference:</b>	S5/25/124
<b>Development Summary:</b>	As per planners report.
<b>Was a Screening Determination carried out under Section 176A-C?</b>	<input type="checkbox"/> Yes, no further action required <input checked="" type="checkbox"/> No, Proceed to <b>Part A</b>
<b>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)?</b> (Tick as appropriate)	
<input type="checkbox"/> Yes, specify class _____	<b>EIA is mandatory</b> No Screening required
<input checked="" type="checkbox"/> No	Proceed to <b>Part B</b>
<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?</b> (Tick as appropriate)	
<input type="checkbox"/> No, the development is not a project listed in Schedule 5, Part 2	<b>No Screening required</b>
<input type="checkbox"/> Yes the project is listed in Schedule 5, Part 2 and meets/exceeds the threshold, specify class (including threshold): _____	<b>EIA is mandatory</b> No Screening required
<input checked="" type="checkbox"/> Yes the project is of a type listed but is <i>sub-threshold</i> : <u>Class 10 (b) (v) of Part 2</u>	Proceed to <b>Part C</b>
<b>C. If Yes, has Schedule 7A information/screening report been submitted?</b>	
<input type="checkbox"/> Yes, Schedule 7A information/screening report has been submitted by the applicant	<b>Screening Determination required</b>
<input type="checkbox"/> No, Schedule 7A information/screening report has not been submitted by the applicant	<b>Preliminary Examination required</b>

EIA PRELIMINARY EXAMINATION:		
The Planning Authority shall carry out a preliminary examination of, at the least, the nature, size or location of the development.		
	Comment:	Yes/No/ Uncertain:
<b>Nature of the development:</b> <i>Is the nature of the proposed development exceptional in the context of the existing environment?</i>  <i>Will the development result in the production of any significant waste, or result in significant emissions or pollutants?</i>		No.

<p><b>Size of the development:</b> Is the size of the proposed development exceptional <i>in the context of the existing environment</i>?</p> <p><i>Are there cumulative considerations having regard to other existing and/or permitted projects?</i></p>		No.
<p><b>Location:</b> Is the proposed development located on, in, adjoining or does it have the potential to impact on an ecologically sensitive site or location?</p> <p><i>Does the proposed development have the potential to affect other significant environmental sensitivities in the area?</i></p>		No.
<p align="center"><b>Preliminary Examination Conclusion:</b></p>		
<p>Based on a preliminary examination of the <b>nature, size or location</b> of the development. (Tick as appropriate)</p>		
<p align="center"><input checked="" type="checkbox"/></p> <p>There is <b>no real likelihood</b> of significant effects on the environment.</p> <p>EIA is not required.</p>	<p align="center"><input type="checkbox"/></p> <p>There is <b>real likelihood</b> of significant effects on the environment.</p> <p>An <b>EIAR</b> is required.</p>	<p align="center"><input type="checkbox"/></p> <p>There is <b>significant and realistic doubt</b> regarding the likelihood of significant effects on the environment.</p> <p>Request the applicant to submit the <b>Information specified in Schedule 7A</b> for the purposes of a screening determination.</p> <p>Proceed to Screening Determination.</p>

**Include screening shot of digitised map of section 5 point**



Date: 22<sup>nd</sup> October 2025

Our Ref: S5/25/124

Civic Offices, Nenagh

Martin Murphy  
Kilkeary  
Nenagh  
Co. Tipperary

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

Dear Mr Murphy,

I refer to your application for a Section 5 Declaration received on 12<sup>th</sup> September, 2025, and Further Information received on 6<sup>th</sup> October, 2025 in relation to the following proposed works:

Change of use from public house to a commercial unit at 39 Kenyon Street, Nenagh, 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 –

- Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended.
- Article 6 and 10 Planning and Development Regulations 2001, as amended.
- The planning history of the site.
- The details submitted with the Declaration application.

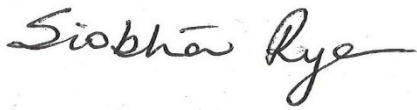
Tipperary County Council has concluded that-

The development consisting of the change of use from a public house to a commercial use (meeting room, Pilates Studio, Consultancy room) at 39 Kenyon Street, Nenagh, Co. Tipperary is development and is **not exempted development** as it does not fall under the exempted development provisions as set out under the Planning and Development Act 2000, as amended or Planning and Development Regulations 2001, as amended.

Tipperary County Council, in exercise of the powers conferred on it by section 5(2)(a) of the Planning and Development Act 2000 as amended, it is hereby decided that the change of use from a public house to a commercial use (meeting room, Pilates Studio, Consultancy room) at 39 Kenyon Street, Nenagh, Co. Tipperary is **development and IS NOT exempted development.**

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

Yours sincerely

A handwritten signature in black ink, reading "Siobhán Rye". The signature is fluid and cursive, with the first name "Siobhán" and the surname "Rye" clearly distinguishable.

---

for **Director of Services**



**Original**

**TIPPERARY COUNTY COUNCIL**

**DELEGATED EMPLOYEE'S ORDER**

File Ref: **S5/25/124**      **Delegated Employee's Order No:** \_\_\_\_\_

**SUBJECT: Section 5 Declaration**

I, Brian Beck, 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. 44188 dated 3<sup>rd</sup> October, 2025, hereby order that pursuant to the provisions of the Planning and Development Act 2000, as amended, that an application under Section 5 from Martin Murphy, Kilkeary, Nenagh, Co. Tipperary re: Change of use from public house to a commercial unit at 39 Kenyon Street, Nenagh, Co. Tipperary is development and is exempted development.


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

- Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended.
- Article 6 and 10 Planning and Development Regulations 2001, as amended.
- The planning history of the site.
- The details submitted with the Declaration application.

Tipperary County Council has concluded that the development consisting of the change of use from a public house to a commercial use (meeting room, Pilates Studio, Consultancy room) at 39 Kenyon Street, Nenagh, Co. Tipperary is development and is **not exempted development** as it does not fall under the exempted development provisions as set out under the Planning and Development Act 2000, as amended or Planning and Development Regulations 2001, as amended.

Tipperary County Council, in exercise of the powers conferred on it by section 5(2)(a) of the Planning and Development Act 2000 as amended, it is hereby decided that the change of use from a public house to a commercial use (meeting room, Pilates Studio, Consultancy room) at 39 Kenyon Street, Nenagh, Co. Tipperary is **development and IS NOT exempted development.**

**Signed:**

  
\_\_\_\_\_

**Brian Beck**  
**Director of Services**

**Date: 22/10/2025**