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
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E45 A099

t 0818 06 5000
e customerservice
@tipperarycoco.ie

tipperarycoco.ie

Date: 10 November 2022 Our Ref: S5/22/98 Civic Offices, Nenagh

Ms Fionnuala McKenna
Main Street
Cloughjordan
Co Tipperary

Dear Ms McKenna

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

I refer to your application for a Section 5 Declaration received on 18 October 2022 in relation to the following proposed works:

Replacement of teak windows and door on the front facing elevation of a house at Main Street, Cloughjordan, Co Tipperary

A question has arisen as to whether the following proposal at Main Street, Cloughjordan, Co. Tipperary constitutes "development" and "exempted development"

Replacement of teak windows and door on the front facing elevation of house with teak windows and door of similar design.

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

(a) Sections 2, 3, 4 and 82 of the Planning and Development Act, 2000, as amended

Tipperary County Council has concluded that:

The proposals as presented in the Declaration application constitute "development" as understood by the Planning and Development Act 2000, as amended and is considered **exempted development**.

Note: The above consideration is based on the understanding that window and door types are being replaced and that no alterations are being made to the window or door openings.

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

File Copy

Original

TIPPERARY COUNTY COUNCIL

DELEGATED EMPLOYEE'S ORDER

File Ref: **S5/22/98** **Delegated Employee's Order No: _____**

SUBJECT: Section 5 Declaration

I, Eamon Lonergan, 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. 28942 dated 14th February, 2022 hereby order that pursuant to the provisions of the Planning and Development Act 2000, as amended, that an application under Section 5 from Fionnuala McKenna, Main Street, Cloughjordan, Co Tipperary for the replacement of teak windows and door on the front facing elevation of a house at Main Street, Cloughjordan, Co Tipperary is development and **is exempted development**.

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

(a) Sections 2, 3, 4 and 82 of the Planning and Development Act, 2000, as amended.

Tipperary County Council has concluded that:

The proposals as presented in the Declaration application constitute "development" as understood by the Planning and Development Act 2000, as amended and is considered **exempted development.**

Note: The above consideration is based on the understanding that window and door types are being replaced and that no alterations are being made to the window or door openings.

Signed: _____ Date: 10th November 2022

Eamon Lonergan
Director of Services
Planning & Water Services

SCANNED

TIPPERARY COUNTY COUNCIL

Application for Declaration under Section 5

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

Planning Ref.:	S5/22/98
Applicant:	Fionnuala McKenna
Development Address:	Main Street, Cloughjordan, Co. Tipperary
Proposed Development:	Replacement of teak windows and door on the front facing elevation of a house

1. GENERAL

A request was made for a declaration under Section 5 of the Planning and Development Act, 2000 as amended in respect of the following development at Main Street, Cloughjordan Co. Tipperary:

Replacement of teak windows and door on the front facing elevation of a house

2. STATUTORY PROVISIONS

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.

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

> 4.— (1) The following shall be exempted developments for the purposes of this Act—
> (h) development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the

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interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures.

Section 82 (1) of the Planning and Development Act, 2000, as amended states:

82.— (1) F372 [Notwithstanding paragraph (a), (h), (i), (ia), (j), (k) or (l) of section 4(1), or any regulations made under section 4(2),] the carrying out of works to the exterior of a structure located in an architectural conservation area shall be exempted development only if those works would not materially affect the character of the area.

3. ASSESSMENT

a. Site Location

The site comprises an existing residential property at Main Street, Cloughjordan, Co. Tipperary. The Main Street has been designated as an Architectural Conservation Area in recognition of its strong character. It is an objective of the Cloughjordan Settlement Plan to "protect the designated Architectural Conservation Area and ensure the use of quality building materials and best conservation practice in relation to protected structures and buildings within the Architectural Conservation Area". Taking into consideration that the house in question is not a protected structure, and the proposal is to replace the windows and door with "like for like" replacements, I am satisfied that the proposed development will have no impact on the ACA.

b. Relevant Planning History

None recently recorded

c. *Assessment*

A) "Is or is not Development"

I consider the proposal constitutes "works" as understood by the Planning and Development Act 2000, as amended and therefore constitutes "development" within the meaning of the Planning and Development Act 2000, as amended.

B) "Is or is not Exempted Development"

I consider replacing of the teak windows and door on the front facing elevation of house meets the planning exemption under Section 4(1) (h) of the Planning and Development Act 2000, as amended.

C) Restrictions under Article 9

I note no exemptions under Article 9 of the Planning and Development Regulations 2001, as amended that would apply.

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

The proposal has been screened as to the requirements for AA and the screening assessment (attached) considers that the proposal does not impact on any Natura 2000 site.

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.

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4. RECOMMENDATION

A question has arisen as to whether the following proposal at Main Street, Cloughjordan, Co. Tipperary constitutes "development" and "exempted development"

Replacement of teak windows and door on the front facing elevation of house with teak windows and door of similar design.

Tipperary County Council, in considering this referral, had regard particularly to -
(a) Sections 2, 3 , 4 and 82 of the Planning and Development Act, 2000, as amended.

Tipperary County Council has concluded that –

- The proposals as presented in the Declaration application constitute "development" as understood by the Planning and Development Act 2000, as amended and is considered **exempted development.**

Note: The above consideration is based on the understanding that window and door types are being replaced and that no alterations are being made to the window or door openings.

Signed: A Martin Date: 09/11/2022
Aoife Martin
GP

Signed: Marie Ryan Date: 09/11/2022
Marie Ryan
SEP

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APPENDIX 1

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HABITATS DIRECTIVE APPROPERIATE ASSESSMENT (AA) SCREENING REPORT	
STEP 1. Description of the project/proposal and local site characteristics:	
(a) File Reference No:	S5/22/98
(b) Brief description of the project or plan:	Replacement of teak windows and door on the front facing elevation of house
(c) Brief description of site characteristics:	Existing house
(d) Relevant prescribed bodies consulted: e.g. DHLGH (NPWS), EPA, OPW	N/A
(e) Response to consultation:	N/A

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

European Site (code)	List of Qualifying Interest/Special Conservation Interest[1]	Distance from proposed development[2] (km)	Connections (Source-Pathway-Receptor)	Considered further in screening Y/N
001683 Liskeenan Fen	https://www.npws.ie/protected-sites/sac/001683	15km	No	N
000585 Sharavogue Bog	https://www.npws.ie/protected-sites/sac/000585	15km	No	N
000641 Ballyduff/Clonfinane Bog	https://www.npws.ie/protected-sites/sac/000641	15km	No	N
000647 Kilcarren-Firville Bog	https://www.npws.ie/protected-sites/sac/000647	15km	No	N
002241 Lough Derg, North-East Shore	https://www.npws.ie/protected-sites/sac/002241	15km	No	N
004058 Lough Derg (Shannon) SPA	https://www.npws.ie/protected-sites/spa/004058	15km	No	N

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

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project under the following headings:	
Impacts:	**Possible Significance of Impacts: (duration/magnitude etc.)**
Construction phase e.g. • Vegetation clearance • Demolition • Surface water runoff from soil excavation/infill/landscaping (including borrow pits) • Dust, noise, vibration • Lighting disturbance • Impact on groundwater/dewatering • Storage of excavated/construction materials • Access to site • Pests	None
Operational phase e.g. • Direct emission to air and water • Surface water runoff containing contaminant or sediment • Lighting disturbance • Noise/vibration • Changes to water/groundwater due to drainage or abstraction • Presence of people, vehicles and activities • Physical presence of structures (e.g. collision risks) • Potential for accidents or incidents	None
In-combination/Other	
(b)Describe any likely changes to the European site:	
Examples of the type of changes to give consideration to include: • Reduction or fragmentation of habitat area • Disturbance to QI species • Habitat or species fragmentation • Reduction or fragmentation in species density • Changes in key indicators of conservation status value (water or air quality etc.) • Changes to areas of sensitivity or threats to QI • Interference with the key relationships that define the structure or ecological function of the site	None

(c) Are *'mitigation'* measures necessary to reach a conclusion that likely significant effects can be ruled out at screening?

☐ **Yes** ☒ **No**

STEP 4. Screening Determination Statement

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The assessment of significance of effects: Describe how the proposed development (alone or in-combination) is/is **not likely** to have **significant** effects on European site(s) in view of its conservation objectives.		
The proposed development is not likely to have significant effects.		
Conclusion:		
	Tick as Appropriate:	**Recommendation:**
(i) It is clear that there is **no likelihood** of significant effects on a European site.	☒	The proposal can be screened out: Appropriate assessment not required.
(ii) It is **uncertain** whether the proposal will have a significant effect on a European site.	☐	☐ Request further information to complete screening ☐ Request NIS ☐ Refuse planning permission
(iii) **Significant effects** are likely.	☐	☐ Request NIS ☐ Refuse planning permission
Signature and Date of Recommending Officer:	Aoife Martin	**Date:** 09/11/2022

APPENDIX 2

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:**
Nature of the development: *Is the nature of the proposed development exceptional in the context of the existing environment?* *Will the development result in the production of any significant waste, or result in significant emissions or pollutants?*	**No significant Impacts**	**No**

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Size of the development: Is the size of the proposed development exceptional *in the context of the existing environment?* *Are there cumulative considerations having regard to other existing and/or permitted projects?*	**No significant Impacts**	**No**
Location: *Is the proposed development located on, in, adjoining or does it have the potential to impact on an ecologically sensitive site or location?* *Does the proposed development have the potential to affect other significant environmental sensitivities in the area?*	**No significant Impacts**	**No**

Preliminary Examination Conclusion:		
Based on a preliminary examination of the **nature, size or location** of the development. (Tick as appropriate)		
☒ There is **no real likelihood** of significant effects on the environment. EIA is not required.	☐ There is **real likelihood of** significant effects on the environment. An **EIAR is required**.	☐ There is **significant and realistic doubt** regarding the likelihood of significant effects on the environment. Request the applicant to submit the **Information specified in Schedule 7A** for the purposes of a screening determination. Proceed to Screening Determination.

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Fitzgerald, Tracy

From: Martin, Aoife
Sent: 03 November 2022 14:27
To: Fitzgerald, Tracy
Subject: FW: [External] Photos. F McKenna

Hi Tracy

Can the below e-mail with the pictures be added to the file S5/22/98 please. I have saved it in the file folder.

Thanks
Aoife

From: fionnualamckenna <fionnualamck@gmail.com>
Sent: 02 November 2022 14:45
To: Martin, Aoife <aoife.martin@tipperarycoco.ie>
Subject: [External] Photos. F McKenna

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.

Hi Aoife, it was lovely chatting to you on the phone yesterday, I was a bit frazzled the second time as was running for a train from Limerick. Anyway I took some fresh photos this morning, how the wind didn't knock the phone from my hand I don't know, so I hope they are not blur.
You will see clearly on the second photo, the white cement to the right of window. This is what I referred to yesterday , the original opening when the occupiers had a tailor business. If I continue to take this cement off , I am left with horrible rubble which does not look well with the rest of the stone work, some of which I intend to leave exposed. I want to either replace the door with another door or a window. The windows are made of teak, I would like to replace with same. However I don't like the lead design as it blocks out much needed light. The front of house is south facing. I would prefer plain windows. (Similar to the windows in the Black house which you saw yesterday, it is three doors down from me to the left.). The house boundary is from the drain pipe to the end of green gate.

Chat soon.

Sincerely
Fionnuala

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Comhairle Contae Thiobraid Árann
Tipperary County Council

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tipperarycoco.ie

Our Ref: S5/22/98 Date: 19 October 2022 Civic Offices, Nenagh

Ms Fionnuala McKenna
Main Street
Cloughjordan
Co Tipperary

Re: Application for a Section 5 Declaration – Main Street, Cloughjordan, Co Tipperary

Dear Ms McKenna

I acknowledge receipt of your application for a Section 5 Declaration received on 18 October 2022 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

For Director of Services

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.

WINDOWS + DOOR ON FRONT FACING ELEVATION OF HOUSE IN QUESTION, ALL NEED REPLACEMENT, TEAK DOOR + WINDOWS.
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 ✓	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(s) Fionnuala Mc Keown Date: 13/10/2022.

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 0761 06 5000

E-Mail planning@tipperarycoco.ie

FOR OFFICE USE ONLY

DATE STAMP

Fee Recd. €_____

Receipt No_____

Date_____

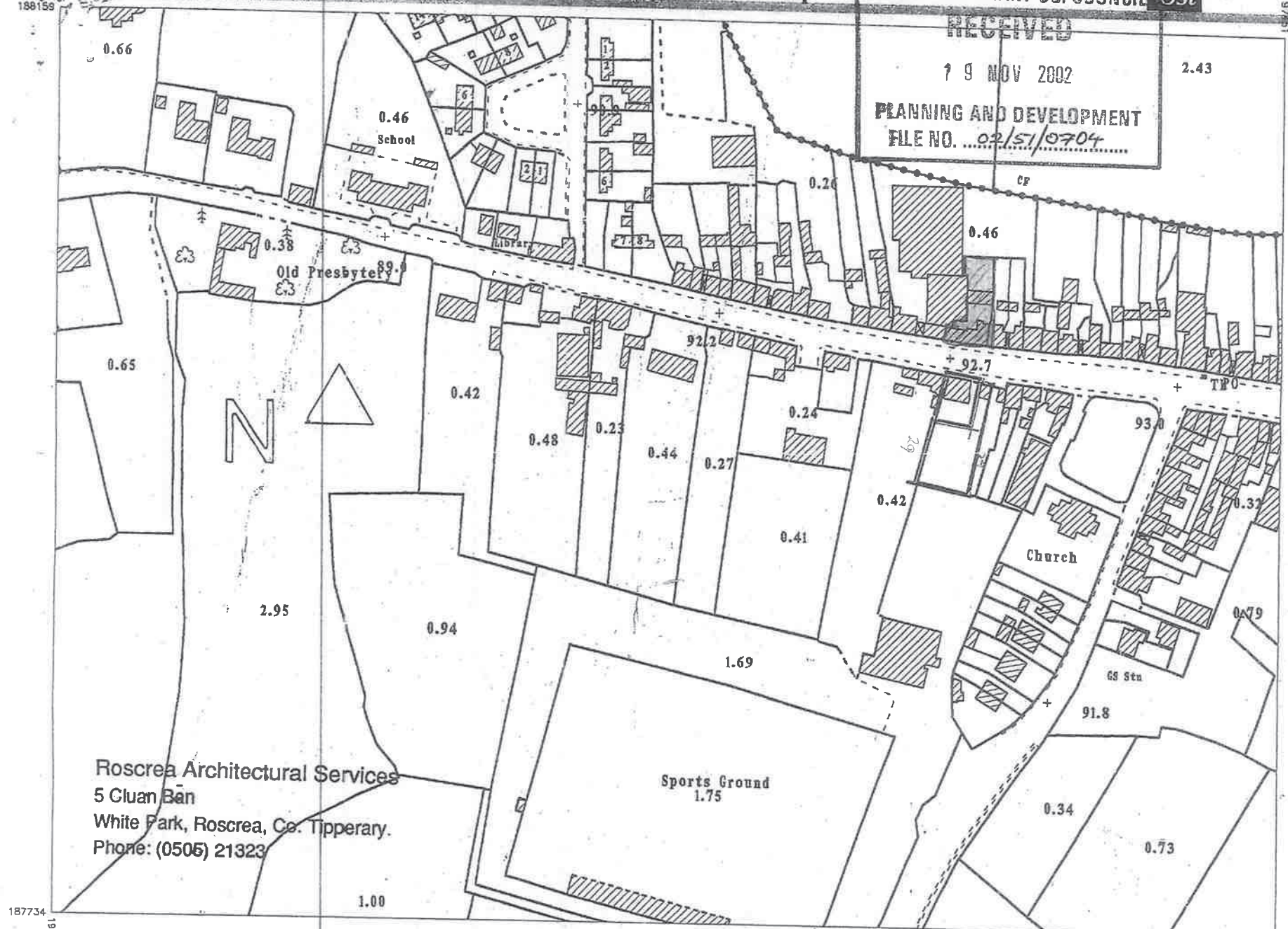
Receipted by _____

Surveyed 2002
Revised 0
Levelled 0

Rural PLACE Map

NORTH TIPPERARY CO. COUNCIL

RECEIVED
19 NOV 2002
PLANNING AND DEVELOPMENT
FILE NO. 02/57/0704



Roscrea Architectural Services
5 Cluan Ban
White Park, Roscrea, Co. Tipperary.
Phone: (0505) 21323

Scale:– 1:2500
Scála:– 1:2500

100 50 0 100 Metres
100 0 200 Feet

Plot Ref. No. 209086_2_6
Plot Date 14–NOV–2002

DESCRIPTION

MAP SCALES
1:2500
4105–C

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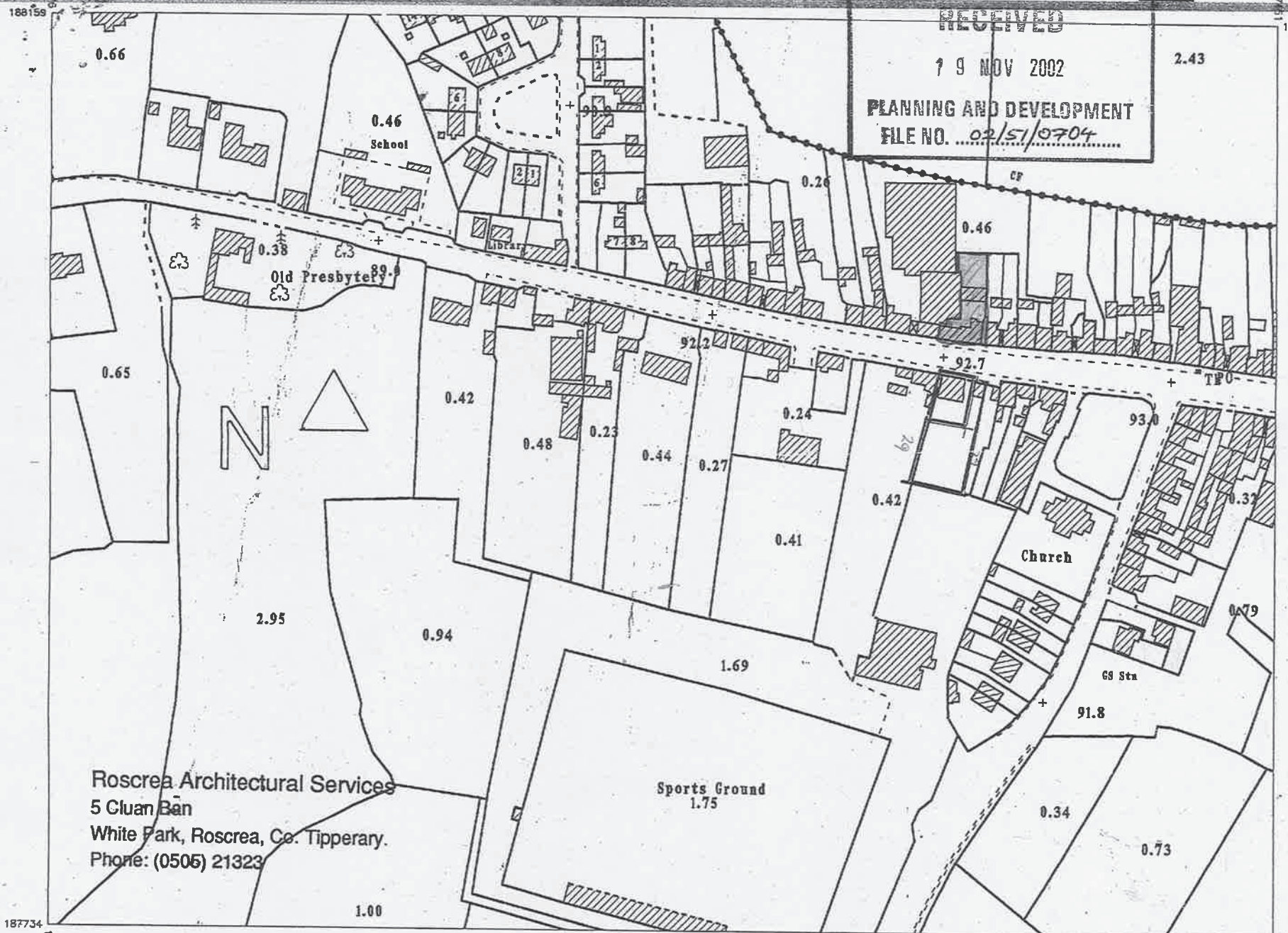
Rural PLACE Map

NORTH TIPPERARY CO. COUNCIL

RECEIVED
19 NOV 2002
PLANNING AND DEVELOPMENT
FILE NO. 02/51/0704



DESCRIPTION

MAP SCALES
1:2500
4105-C

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Scale:- 1:2500
Scála:- 1:2500

100 50 0 100 Metres
100 0 200 Feet

Plot Ref. No. 209086_2_6
Plot Date 14-NOV-2002

LOCATION M