



Tipperary County Council
RECEIVED
03 APR 2024
CASH OFFICE
Civic Offices, Clonmel

*Pls assign
to
Sara
Jane.*

PLANNING & DEVELOPMENT ACT, 2000 (as amended)

Application for a Section 5 Declaration
Development / Exempted Development

1. Applicant's address/contact details:

Applicant	MILLO POWER
Address	BALLYNEILL CARRICK ON SUIR Co. TIPPERARY E32 YT28
Telephone No.	[REDACTED]
E-mail	[REDACTED]

2. Agent's (if any) address:

Agent	JIMMY FLYNN
Address	FLYNN ASSOCIATES COOLNAMUCK ROAD CARRICK BEG CARRICK ON SUIR Co. TIPPERARY
Telephone No.	[REDACTED]
E-mail	
Please advise where all correspondence in relation to this application is to be sent;	
Applicant [<input type="checkbox"/>]	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)	BALLYNEILL CARRICK ON SUIR Co. TIPPERARY EIRCODE: E32YT28.
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TIPPERARY CO. COUNCIL
RECEIVED
03 APR 2024
PLANNING SECTION
FILE NO.

4. Development Details:

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

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

APPLICATION FOR A SECTION 5 DECLARATION
DEVELOPMENT / EXEMPTED DEVELOPMENT
FOR AGRICULTURAL FARM STORE
Proposed floor area of proposed works/uses: 331 sqm

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

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

Signature of Applicant(s) Milo Power

Date: **30th MARCH 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)

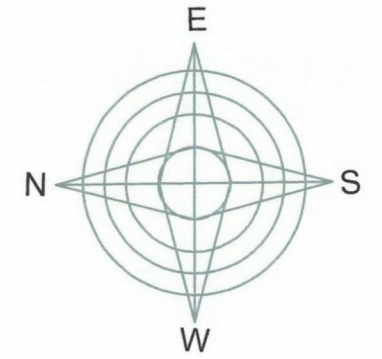
- (3) Where a proper and complete application is received, a decision must be conveyed to the applicant within four (4) weeks except where additional necessary information is required.

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

Fee Recd. € <u>80</u>	<u>DATE STAMP</u>
Receipt No <u>179976</u>	
Date _____	
Received by _____	



PROPOSED FLOOR PLAN OF STORE
FLOOR AREAS: DET. GARAGE 331.00M2 . 3561.00 SQ. FT.

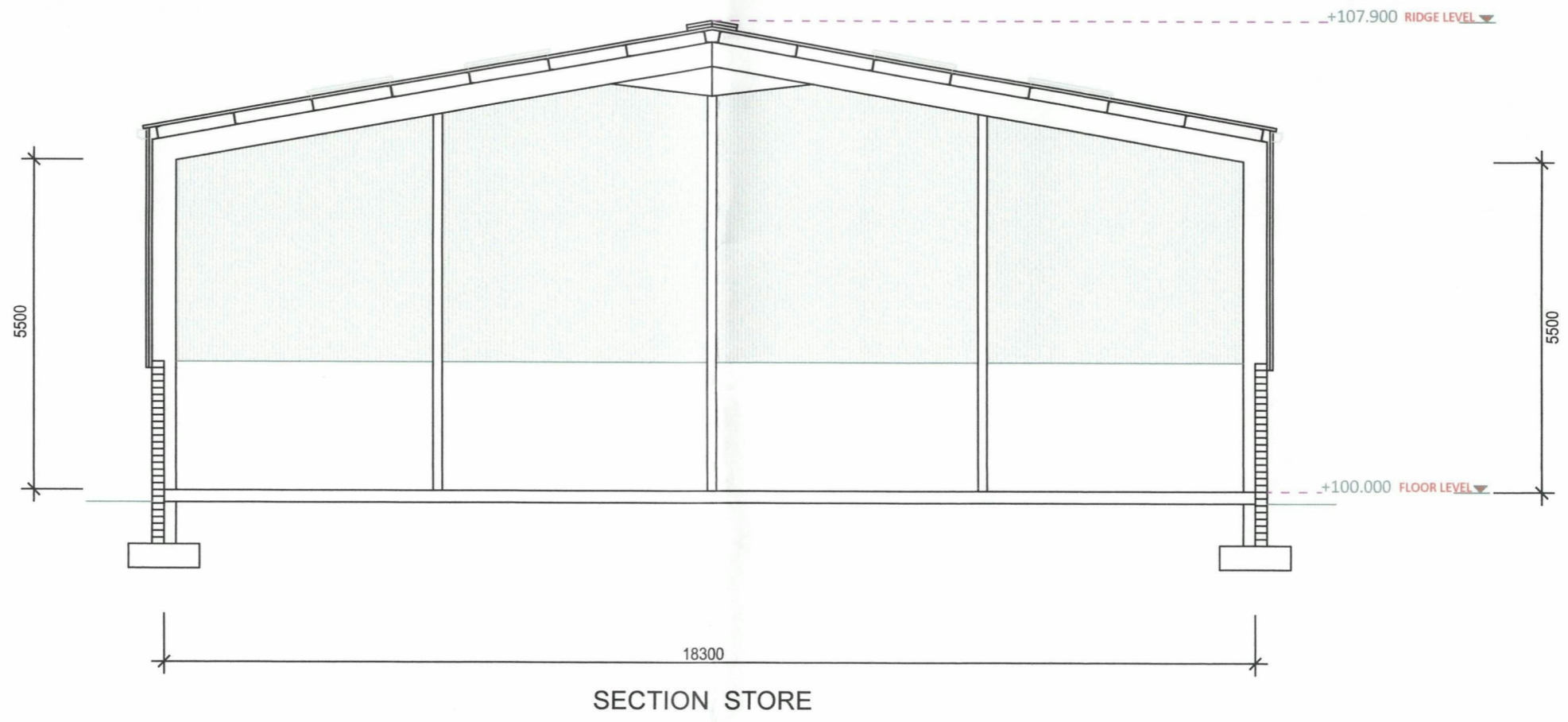
Notes	Revisions		PROJECT	APPLICATION FOR SECTION 5 DECLARATION FOR PROPOSED AGRICULTURAL FARM STORE AT BALLYNEILL , CARRICK-ON-SUIR, CO.TIPPERARY. E32YT28		
			Title	PROPOSED PLAN OF AGRICULTURAL FARM STORE		
			Client	MILO POWER		
			Sheet No.	01.AFS.	Scale	1-100
			Date	MARCH 2024		

APPLICATION FOR SECTION 5 DECLARATION

TEGRAL SHEETING TO ROOF
AND
GABLES / SIDES

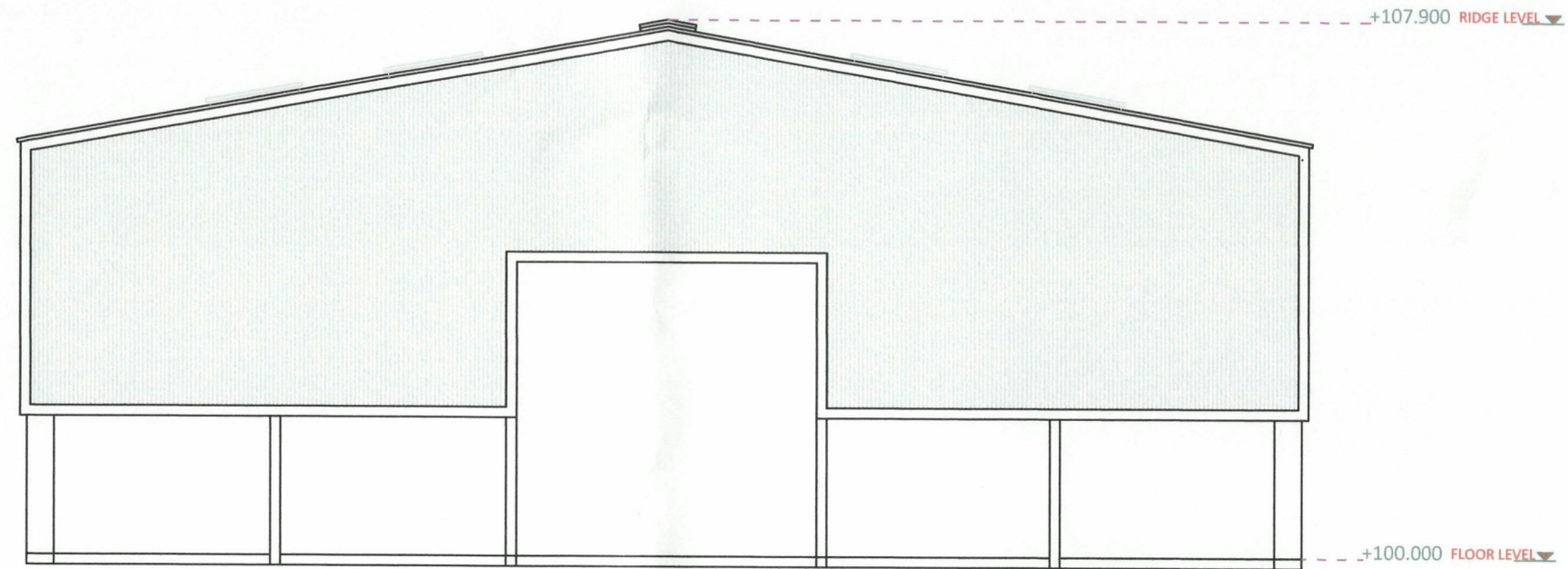
STEEL PORTAL FRAME

CONCRETE FLOOR

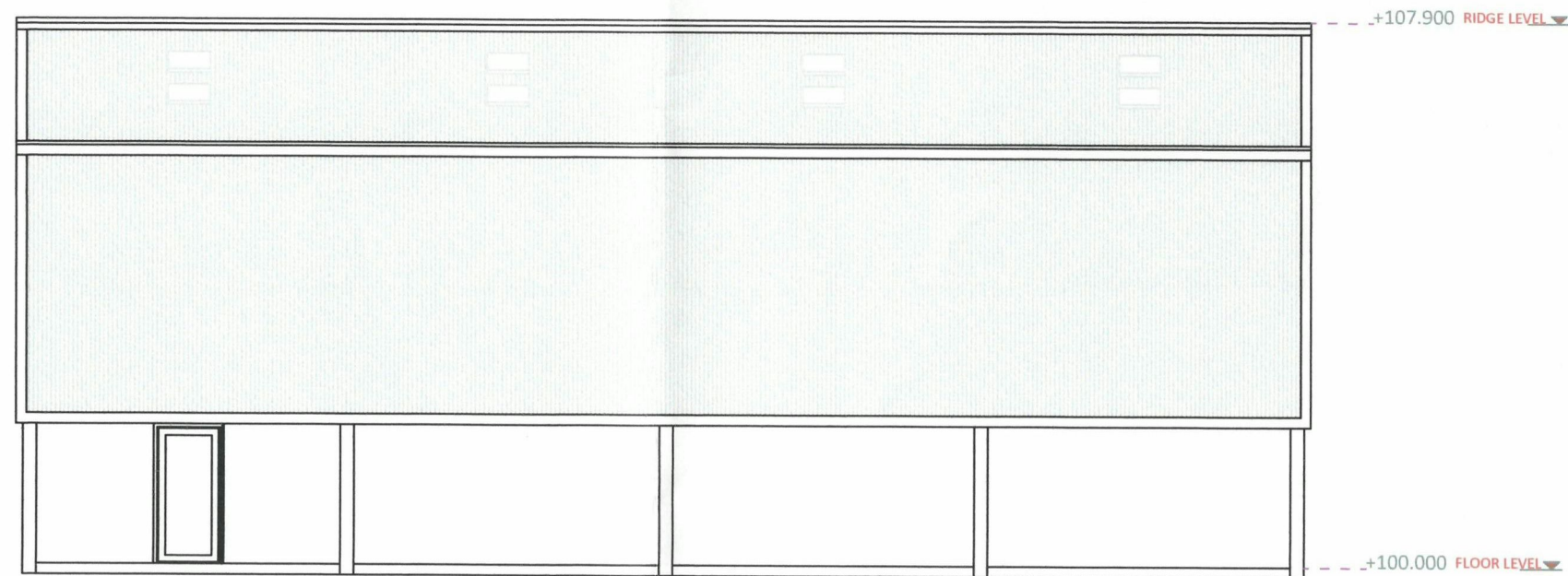


APPLICATION FOR SECTION 5
DECLARATION

Notes	Revisions		PROJECT	APPLICATION FOR SECTION 5 DECLARATION FOR PROPOSED AGRICULTURAL FARM STORE AT BALLYNEILL, CARRICK-ON-SUIR, CO.TIPPERARY. E32YT28		
			Title	SECTION AGRICULTURAL FARM STORE		
			Client	MILO POWER		
			Sheet No.	02.AFS.	Scale	1-100
				Date	MARCH 2024	



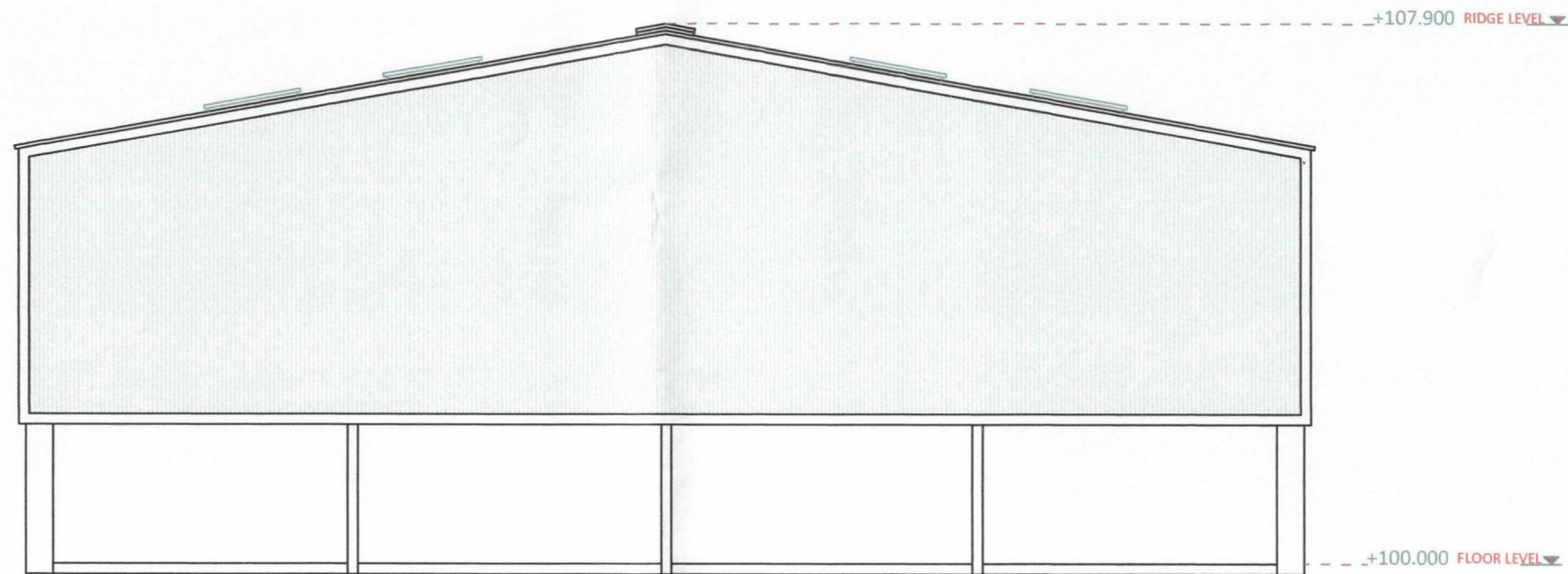
PROPOSED WEST ELEVATION



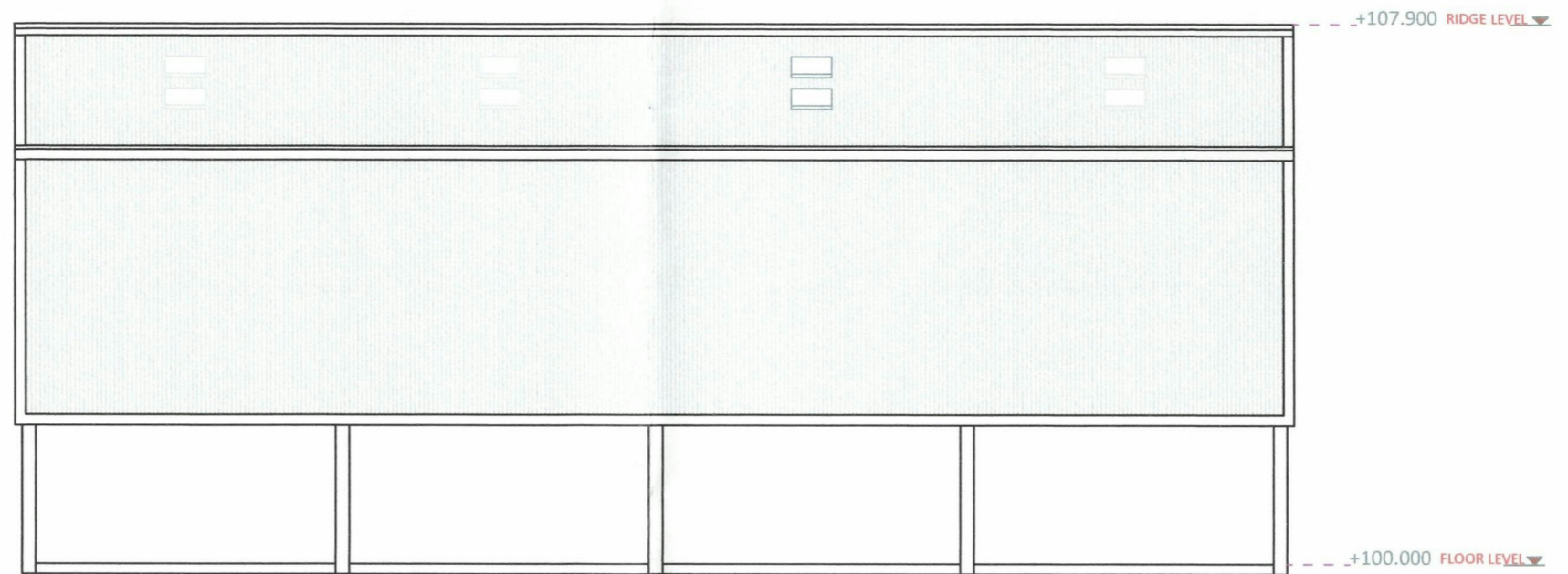
PROPOSED SOUTH ELEVATION

Notes	Revisions		PROJECT	APPLICATION FOR SECTION 5 DECLARATION FOR PROPOSED AGRICULTURAL FARM STORE AT BALLYNEILL, CARRICK-ON-SUIR, CO.TIPPERARY. E32YT28		
			Title	ELEVATIONS SOUTH AND WEST AGRICULTURAL FARM STORE		
			Client	MILO POWER		
			Sheet No.	03.AFS.	Scale	1-100
			Date	MARCH 2024		

APPLICATION FOR SECTION 5 DECLARATION



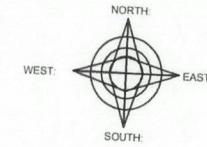
PROPOSED EAST ELEVATION



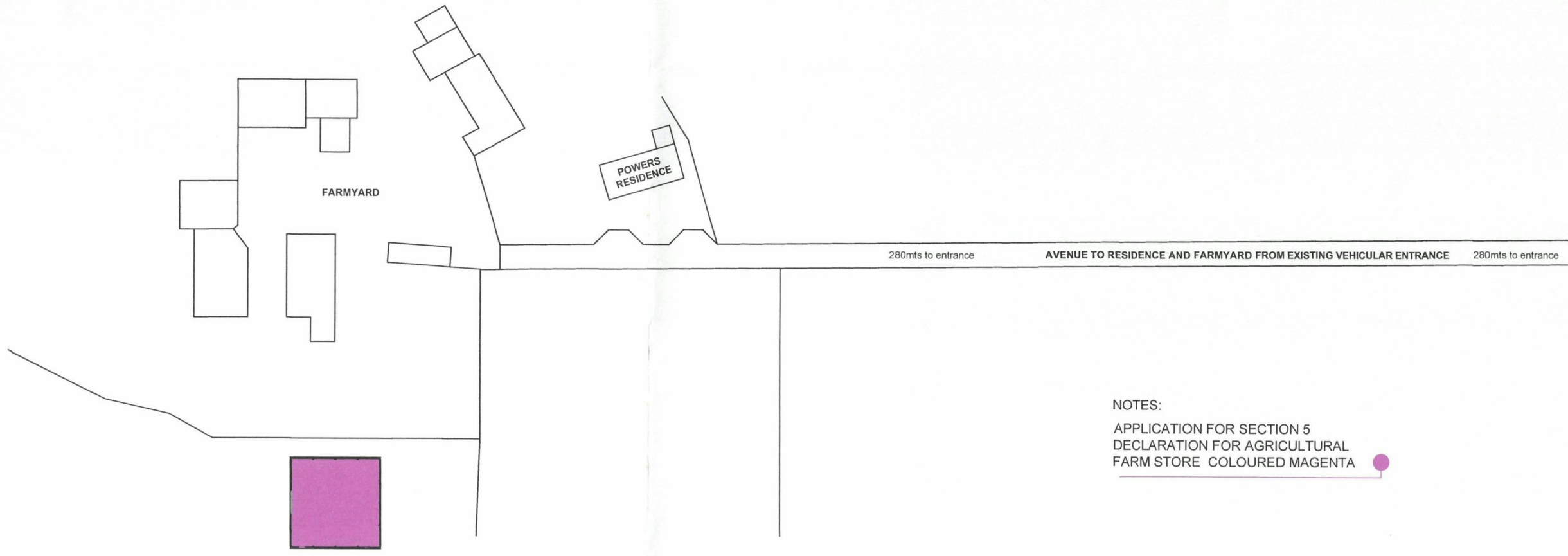
PROPOSED NORTH ELEVATION

Notes	Revisions		PROJECT	APPLICATION FOR SECTION 5 DECLARATION FOR PROPOSED AGRICULTURAL FARM STORE AT BALLYNEILL, CARRICK-ON-SUIR, CO.TIPPERARY. E32YT28		
			Title	ELEVATIONS NORTH AND EAST AGRICULTURAL FARM STORE		
			Client	MILO POWER		
			Sheet No.	04.AFS.	Scale	1-100@A3
			Date	MARCH 2024		

APPLICATION FOR SECTION 5 DECLARATION



BALLYNEILL



NOTES:
 APPLICATION FOR SECTION 5
 DECLARATION FOR AGRICULTURAL
 FARM STORE COLOURED MAGENTA

SITE LAYOUT
 SCALE :1:500

Notes	Revisions		PROJECT APPLICATION FOR SECTION 5 DECLARATION FOR PROPOSED AGRICULTURAL FARM STORE AT BALLYNEILL, CARRICK-ON-SUIR, CO. TIPPERARY. E32YT8.			
			Title	SITE LAYOUT.		
			Client	MILO POWER		
			Sheet No.	06.AFS.	Scale	1-500@a3
				Date	MARCH 2024	

**APPLICATION FOR SECTION 5
 DECLARATION**



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: 8th April 2024

Our Ref: S5/24/41

Civic Offices, Clonmel

**Milo Power
C/o Jimmy Flynn
Flynn Associates
Coolnamuck Road
Carrickbeg
Carrick on Suir
Co. Tipperary**

Re: Application for a Section 5 Declaration – An agricultural farm store at Ballyneill, Carrick on Suir, Co. Tipperary.

Dear Sir/Madam,

I acknowledge receipt of your application for a Section 5 Declaration received on 3rd April, 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

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.: S5/24/41
Applicant: Milo Power
Development Address: Ballyneill, Carrick on Suir, Co. Tipperary E32 YT28
Proposed Development: Construction of an agricultural storage shed (331sqm)

1. GENERAL

On the 3rd April 2024 a request was made for a declaration under Section 5 of the Planning and Development Act, 2000 (as amended) by Jimmy Flinn of Flynn Associates acting on behalf of Milo Power, as to whether or not the following works constituted development and if so, whether same was exempted development:

- Construction of an agricultural storage shed to store machinery (331sqm).

2. STATUTORY PROVISIONS

The following statutory provisions are relevant to this referral case;

Planning and Development Act 2000, as amended

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

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:

Exempted Development.

6. (3) Subject to article 9, in areas other than a city, a town or an area specified in section 19(1)(b) of the Act or the excluded areas as defined in section 9 of the Local Government (Reorganisation) Act, 1985 (No. 7 of 1985), development of a class specified in column 1 of Part 3 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 3 opposite the mention of that class in the said column 1.

Class 9, Schedule 2, Part 3 of the Planning and Development Regulations 2001, as amended sets out an exemption for:

*Works consisting of the provision of any store, barn, shed, glass-house or other structure, not being of a type specified in class 6, 7 or 8 of this Part of this Schedule, and having a gross floor space **not exceeding 300 square metres.***

This exemption is subject to the following conditions/limitations:

- 1. No such structure shall be used for any purpose other than the purpose of agriculture or forestry, but excluding the housing of animals or the storing of effluent.*
- 2. The gross floor space of such structures together with any other such structures situated within the same farmyard complex or complex of such structures or within 100 metres of that complex **shall not exceed 900 square metres gross floor space** in aggregate.*
- 3. No such structure shall be situated within 10 metres of any public road.*
- 4. No such structure within 100 metres of any public road shall exceed 8 metres in height.*
- 5. **No such structure shall be situated within 100 metres of any house** (other than the house of the person providing the structure) or other residential building or school, hospital, church or building used for public assembly, save with the consent in writing of the owner and, as may be appropriate, the occupier or person in charge thereof.*
- 6. No unpainted metal sheeting shall be used for roofing or on the external finish of the structure*

Article 9 of the Planning and Development Regulations 2001, as amended sets out restrictions on exemptions and states:

9. (1) Development to which article 6 relates shall not be exempted development for the purposes of the Act—

(a) if the carrying out of such development would—

(ii) endanger public safety by reason of traffic hazard or obstruction of road users,

(viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,

(viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site.

3. ASSESSMENT

a) **Site Location**

The site is located on lands at Ballyneill, Carrick On Suir. The wider site accommodates a detached residence adjoining a large farmyard within the applicants landholding. It is noted that the site is located in a rural area under Urban Influence in the countryside. The R696 is a designated Strategic Road within the Tipperary County Development Plan 2022

b) **Relevant Planning History**

Development Site

Pre-Planning

PPC Ref: PP10229 – one-off residential property for Darren Power.

Adjoining dwelling:

PI Ref: P34412 – Planning permission granted in 1977, to Mr. and Mrs. Milo Power, for the development of a bungalow with a septic tank.

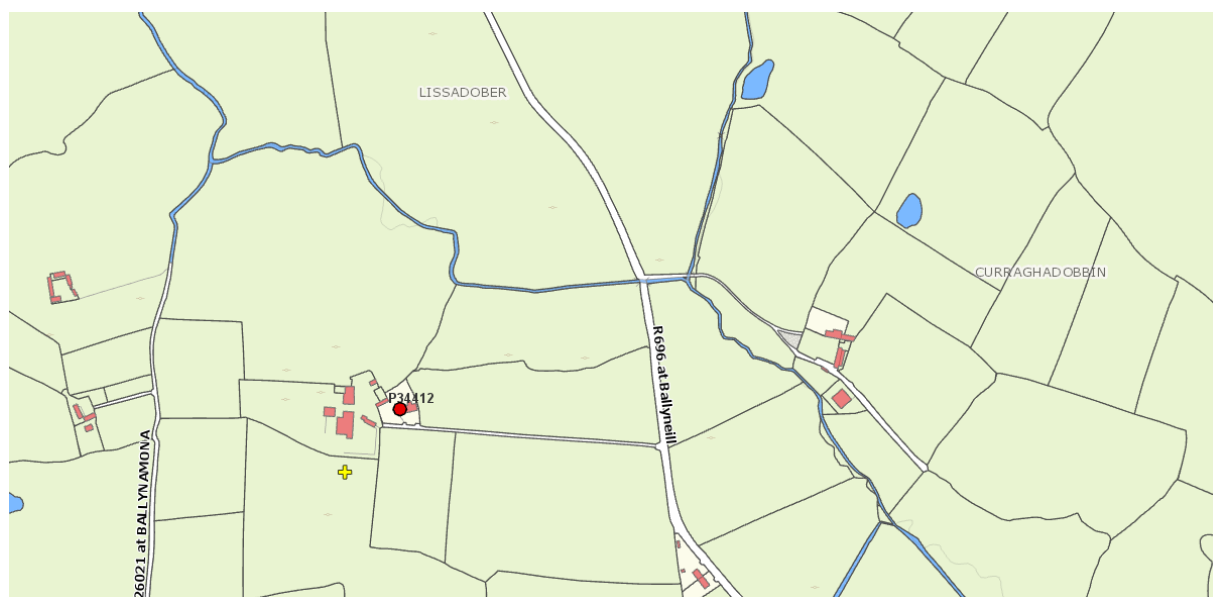


Figure 1 Planning history

c) **Assessment**

The proposal comprises the construction of a storage shed (331 sqms). The shed has a height of 5.5 metres, a width of 18.30 metres and a length of 18.30 metres. It is set back over 100 metres from the public road, R696 to the east of the site. The proposed storage shed is surrounded by an existing farmyard.

A) “Is or is not Development”

Having considered all of the details and documentation on file with regards the question asked the Planning Authority is satisfied that the proposals involve “works” and such works would constitute “development” within the meaning of Section 3 of the Act.

B) “Is or is not Exempted Development”

The applicant is proposing to construct an agricultural storage shed, 331sqms and is querying if the shed would avail of the exemption under Schedule 2 Part 3 Class 9 of the Planning and Development Regulations 2001, as amended. Class 9 specifies the area of

a structure not exceed 300 sqms and therefore the proposal does not avail of the Class 9 exemption.

C) Is the exemption restricted under Article 9 / are there any other restrictions that would apply

Notwithstanding that the agricultural store does not avail of an exemption, there are no considerations with respect to restrictions on exemptions that need to be considered.

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

EIA

The proposed development is not a type of development included for under Schedule 5 of the Planning and Development Regulations 2001, as amended. EIA is not required in respect of the development. See attached.

AA

The proposal has been assessed having regard to the requirements of the EU Habitats Directive, the proposal has been screened as to the requirements for AA and the screening assessment considers that the proposal is not likely to impact on any European Designated Natura 2000 Sites.

4. RECOMMENDATION

WHEREAS a question has arisen as to whether the construction of an agricultural storage shed (331sqm) is “development” and is or is not “exempted development”,

AND WHERE AS Tipperary County Council in considering this referral had regard particularly to

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000 as amended,
- (b) Article 6 and Article 9 of the Planning and Development Regulations, 2001, as amended,
- (c) Schedule 2, Part 3, Class 9 of the Planning and Development Regulations, 2001, as amended.

AND WHEREAS Tipperary County Council has concluded that –

The agricultural storage shed at Ballyneill, Carrick On Suir, Co. Tipperary, is development and **IS NOT** exempted development as;

- The proposal does not avail of the exemption set out under Schedule 2, Part 3, Class 9 of the Planning and Development Regulations, 2001, as amended, as same exceeds the 300 sqms provided for under this exemption.

NOW THEREFORE Tipperary County Council, in exercise of the powers conferred on it by Section 5 (3) (a) of the 2000 Act, as amended, hereby decides that the construction of an Agricultural Storage Shed at Ballyneill, Carrick On Suir, Co. Tipperary, is development and **IS NOT** exempted development.

The development has been screened as to the requirement for Appropriate Assessment and Environmental Impact Assessment and it has been determined that an Appropriate Assessment would be required.

Signed: Sara Jane Condon

Date: 9th April 2024

Assistant Planner



Signed:

Date: 17.04.2024

Senior Executive Planner

Original

TIPPERARY COUNTY COUNCIL

DELEGATED EMPLOYEE'S ORDER

File Ref: **S5/24/41** **Delegated Employee's Order No:** _____

SUBJECT: Section 5 Declaration

I, Sharon Kennedy, Director of Services, Tipperary County Council, by virtue of the powers delegated to me in accordance with the provisions of Section 154 of the Local Government Act 2001, as amended by Schedule 1, Part 1 of the Local Government Reform Act 2014 under Chief Executive's Order No. 37256 dated 4th March, 2024, hereby order that pursuant to the provisions of the Planning and Development Act 2000, as amended, that an application under Section 5 from Milo Power, Ballyneill, Carrick on Suir, Co. Tipperary E32 YT28 re: Construction of An agricultural storage shed to store machinery (331sqm) at Ballyneill, Carrick on Suir, Co. Tipperary is development and is not exempted development.

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

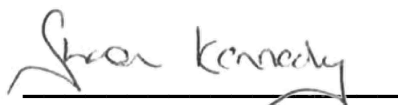
- a) Sections 2, 3 and 4 of the Planning and Development Act, 2000 as amended,
- b) Article 6 and Article 9 of the Planning and Development Regulations, 2001, as amended,
- c) Schedule 2, Part 3, Class 9 of the Planning and Development Regulations, 2001, as amended.

AND WHEREAS Tipperary County Council has concluded that – The agricultural storage shed at Ballyneill, Carrick On Suir, Co. Tipperary, is development and **IS NOT** exempted development as;

- The proposal does not avail of the exemption set out under Schedule 2, Part 3, Class 9 of the Planning and Development Regulations, 2001, as amended, as same exceeds the 300 sqms provided for under this exemption.

NOW THEREFORE Tipperary County Council, in exercise of the powers conferred on it by Section 5 (3) (a) of the 2000 Act, as amended, hereby decides that the construction of an Agricultural Storage Shed at Ballyneill, Carrick On Suir, Co. Tipperary, is development and **IS NOT exempted development.**

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: 17/4/2024



Date: 17th April, 2024

Our Ref: S5/24/41

Civic Offices, Nenagh

Milo Power
C/O Jimmy Flynn
Flynn Associates
Coolnamuck Rd, Carrickbeg
Carrick on Suir, Co. Tipperary

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

Dear Mr Power,

I refer to your application for a Section 5 Declaration received on 3rd April, 2024, in relation to the following proposed works:

Construction of an agricultural storage shed (331sqm) at Ballyneill, Carrick on Suir, Co. Tipperary E32 YT28

WHEREAS a question has arisen as to whether the proposed development is or is not exempted development:

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

- a) Sections 2, 3 and 4 of the Planning and Development Act, 2000 as amended,
- b) Article 6 and Article 9 of the Planning and Development Regulations, 2001, as amended,
- c) Schedule 2, Part 3, Class 9 of the Planning and Development Regulations, 2001, as amended.

AND WHEREAS Tipperary County Council has concluded that – The agricultural storage shed at Ballyneill, Carrick On Suir, Co. Tipperary, is development and **IS NOT** exempted development as;

- The proposal does not avail of the exemption set out under Schedule 2, Part 3, Class 9 of the Planning and Development Regulations, 2001, as amended, as same exceeds the 300 sqms provided for under this exemption.

NOW THEREFORE Tipperary County Council, in exercise of the powers conferred on it by Section 5 (3) (a) of the 2000 Act, as amended, hereby decides that the construction of an Agricultural Storage Shed at Ballyneill, Carrick On Suir, 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 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

A handwritten signature in blue ink, reading "Geraldine Quinlan". The signature is enclosed in a thin blue rectangular border.

for **Director of Services**