



LIMERICK CITY & COUNTY COUNCIL
PLANNING AND ENVIRONMENTAL SERVICES
SECTION 5 APPLICATION

DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT

Applicant's Name: Thomas Higgins & Shauna Upton

Applicant's Address: Ballygeale, Patrickswell

Co Limerick

V948W25

Telephone No. [REDACTED]

Name of Agent (if any): Hutch O'Malley consulting Engineers

Address: The Railway Station

Attyflin, Patrickswell, Co. Limerick

V94A8N2

Telephone No. 061320260

Address for Correspondence:

Hutch O'Malley consulting Engineers

The Railway Station

Attyflin, Patrickswell Co. Limerick V94A8N2

Location of Proposed development:

Ballygeale, Patrickswell, Co Limerick.

Description of Proposed development:

Construction of two storey dwelling house, garage, entrance, driveway,

Is this a Protected Structure or within the curtilage of a Protected Structure.
YES/NO - No

Applicant's interest in site: Owner

List of plans, drawings, etc. submitted with this application:

24079 - 200 - Site Location Map - A4 - 2500

24079 - 201 - B Sitelayout - A1 - 500, 24079 - Plans - 206 - B Elevations - A3 - 100

24079 - Plans - 207 - B - Elevations - A3 - 100, 24079 - Plans - 205 - B - Elevations - A3 - 100

24079 - Plans - 203 - B - Elevations - A3 - 100, Cover letter - 24079

Have any previous extensions/structures been erected at this location YES/NO - No

If Yes please provide floor areas of all existing structures:

Signature of Applicant (or Agent)

RP.

AGENT

NOTES: Application must be accompanied by:

- (a) Fee of €80
- (b) Site location map
- (c) Site layout plan
- (d) Dimensioned plans and elevations of the structure and any existing structures.
- (e) Where the declaration is in respect of a farm building, a layout identifying the use of each existing building together with floor area of each building.

Application to be forwarded to:

Limerick City & County Council,
Planning and Environmental Services,
City & County Council Offices,
Dooradoyle Road,
Limerick.

OFFICE USE ONLY

Ref. No. _____ Date Received _____

Fee Received _____ Date Due _____

**LIMERICK CITY & COUNTY COUNCIL
CASH OFFICE
CIVIC OFFICES
DOORADOYLE
CO LIMERICK**

25/11/2025 15:56:15

Receipt No.: LA25/25193836

Customer Address:

Hutch O'Malley
The Railway Station
Attyflinn
Patrickswell
Co Limerick

ref Tom Higgins

Code	Ref	Amount	VAT
PL041	PL041 Tom Higgins	80.00 EUR	0.00 EUR

Paid with: Credit / Debit Card

Subtotal: 80.00 EUR

Tax (VAT): 0.00 EUR

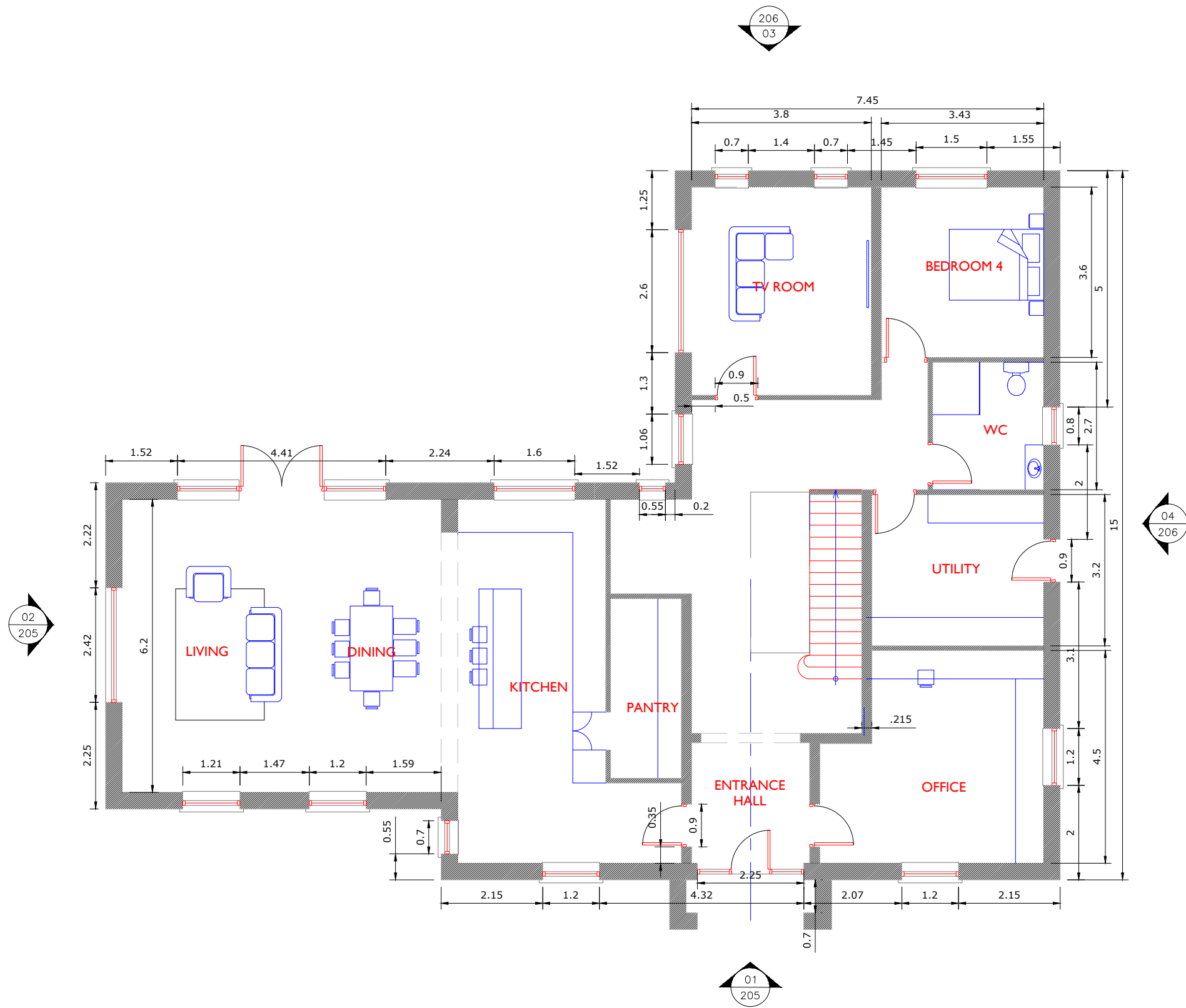
Total: 80.00 EUR

Tendered: 80.00 EUR

From: CASH OFFICE HQ

VAT Reg No: 3267368TH

Please retain this receipt for your records

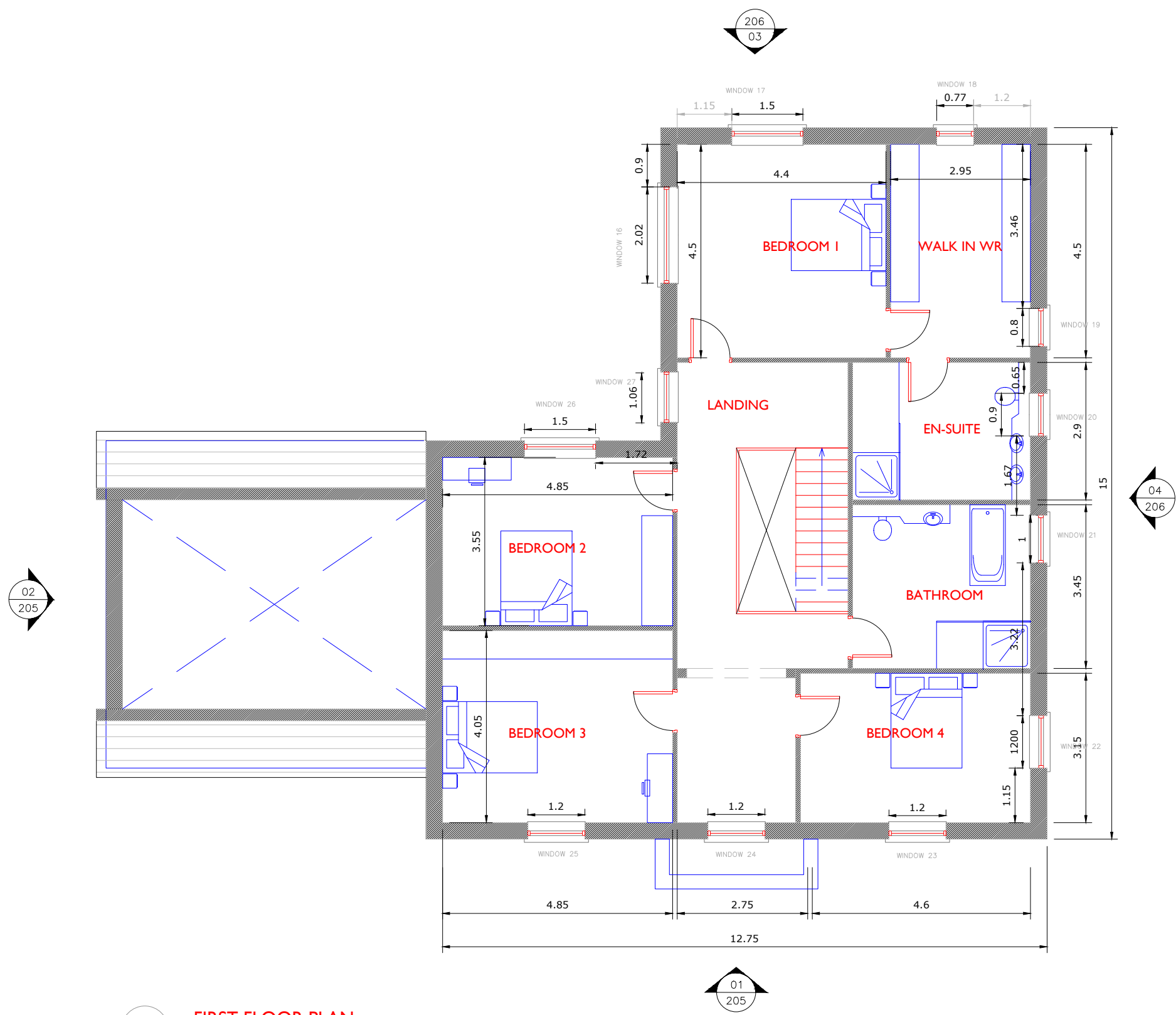


203 **GROUND FLOOR PLAN**
SCALE=1:100

REVISION DETAILS	DATE
B Revised plan	10.11.25

THIS DRAWING AND ANY DESIGN HEREON IS THE COPYRIGHT OF THE CONSULTANTS AND MUST NOT BE REPRODUCED WITHOUT THEIR WRITTEN CONSENT.
ALL DRAWINGS REMAIN THE PROPERTY OF THE CONSULTANTS. ALL DIMENSIONS TO BE VERIFIED AND CHECKED ON SITE. CONSULTANTS TO BE INFORMED OF ANY DISCREPANCIES BEFORE WORK PROCEEDS.

Issue:	Planning		
Project:	Proposed Dwelling House & Garage at Ballygeale Patrickswell, Co Limerick		
Client:	Thomas Higgins & Shauna Upton		
Drawing Title:	Floor Plans		
Drawn:	Scale:	Checked:	Date:
SR	1:500	DOM	22/08/2024
Hutch O'Malley Consulting Engineers The Railway Station, Atyillin, Patrickswell, Co Limerick E-Mail: admin@hutchomalley.ie Phone: 061-320260			
Project No.	Drawing No.	Revision	
24079	203	B	



204 **FIRST FLOOR PLAN**
SCALE=1:100

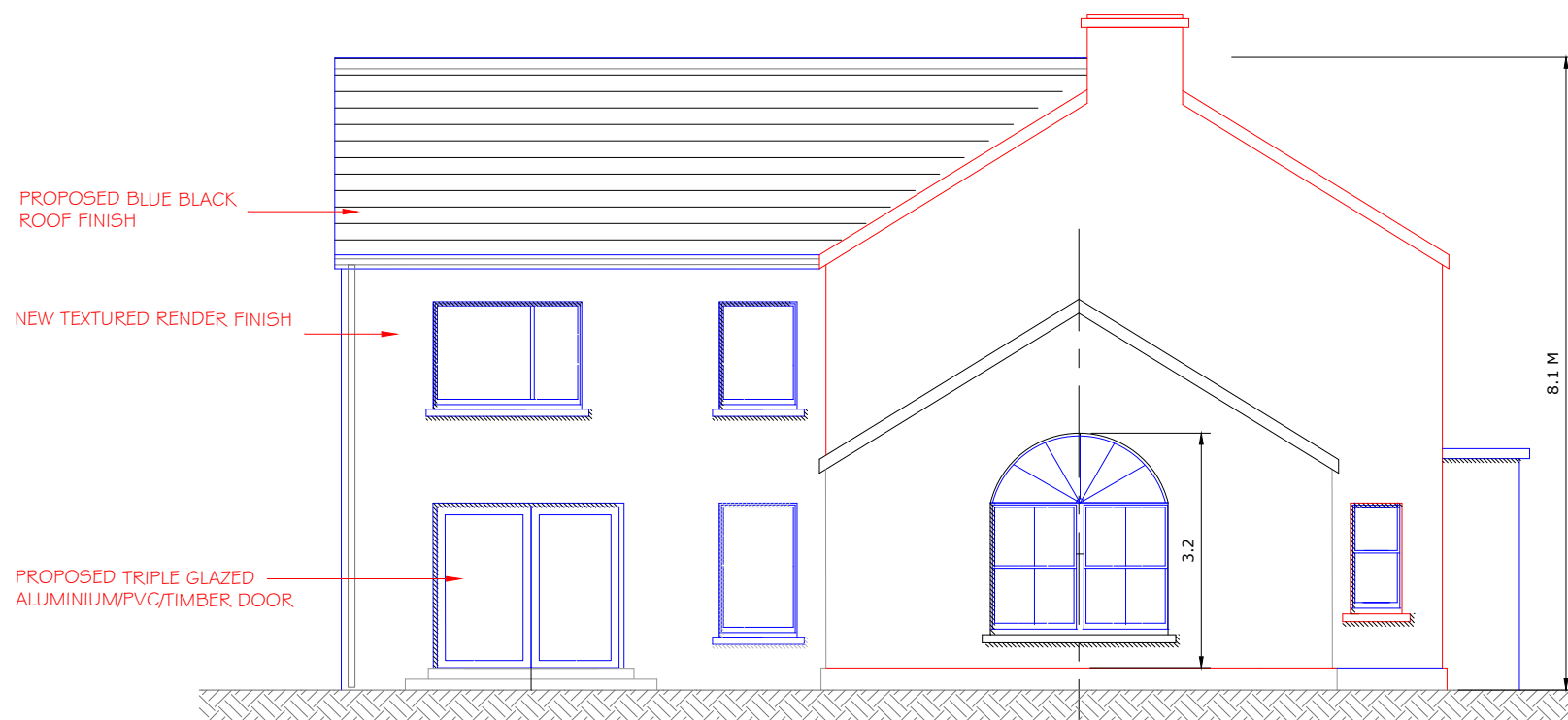
REVISION DETAILS	DATE
B Revised plan	10.11.25

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Issue: Planning			
Project: Proposed Dwelling House & Garage at Ballygeale Patrickswell, Co Limerick			
Client: Thomas Higgins & Shauna Upton			
Drawing Title: Floor Plans			
Drawn: SR	Scale: 1:500	Checked: DOM	Date: 22/08/2024
Hutch O'Malley Consulting Engineers The Railway Station, Abbylin, Patrickswell, Co Limerick E-Mail: admin@hutchomalley.ie Phone: 061-320260			
Project No: 24079	Drawing No: 204	Revision: B	




01
205 **EAST (FRONT) ELEVATION**
SCALE=1:100



02
205 **SOUTH (SIDE) ELEVATION**
SCALE=1:100

REVISION DETAILS	DATE
B Revised plan	10.11.25

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Issue:			
Planning			
Project:			
Proposed Dwelling House & Garage at Ballygeale Patrickswell, Co Limerick			
Client:			
Thomas Higgins & Shauna Upton			
Drawing Title:			
Elevations			
Drawn:	Scale:	Checked:	Date:
SR	1:500	DOM	22/08/2024
 HUTCH O'MALLEY CONSULTING ENGINEERS			
Hutch O'Malley Consulting Engineers The Railway Station, Attylin, Patrickswell, Co Limerick E-Mail: admin@hutchomalley.ie Phone: 061-320260			
Project No.	Drawing No.	Revision	
24079	205	B	



The Railway Station,
Attyflin
Patrickswell,
Co Limerick.
V94 A8N2
☎: 061-320260
E: admin@hutchomalley.ie

Planning Department
Limerick County Council
Dooradoyle, Limerick, V94 WV78

November 14, 2025

Our Ref: 24079/HT/RM

Re: Section 5 Declaration Application – Proposed Modifications to Dwelling
Planning Reference 24/124

Dear Sir/Madam,

We hereby submit a Section 5 Declaration concerning the minor modifications made to the proposed dwelling at Ballygeale, Patrickswell, Co. Limerick. A summary of these minor changes, with all corresponding references, is provided on the enclosed drawings.

1. Addition of Window to Hall
A window measuring 0.55m in length has been added to the hall area besides the stairs as indicated on drawing 24079-Plans-203_B-Ground Floor Plan-A3-100.
2. Change to Arch Window Height
The height of the arch window has been adjusted from 3.46m to 3.2m from FFL, as shown in drawing 24079-Plans-205_B-Elevations-A3-100.
3. Minor Rotation of House Placement
The house has been rotated by 0.66 degrees from the south-east corner. This slight adjustment is illustrated on 24079-201_B-Sitelayout-A1-500
4. Alteration to TV Room Window
The former long window of 3.8m in the TV room has been replaced with two separate windows, each measuring 0.7m in length, as shown on 24079-Plans-203_B-Ground Floor Plan-A3-100.



5. Repositioning of Front Door

The front door has been moved back from the front face of the porch and is now aligned with the main front wall of the house, also detailed on 24079-Plans-203_B-Ground Floor Plan-A3-100.

I respectfully request that Limerick County Council to assess these amendments

Should you require any additional information, clarification, please do not hesitate to contact us.

Thank you for your time and consideration.

Yours faithfully,

Heming Thomas

Design Engineer

Hutch O' Malley Consulting LTD

Patrickswell

Co Limerick

heming@hutchomalley.ie

Report on application under Section 5 of the Planning and Development Act 2000 (as amended)

File Reference number	EC-052-26
Applicant(s)	Thomas Higgins & Shauna Upton
Location	Ballygeale, Patrickswell, Co. Limerick

Description of Site and Surroundings:

The site is located within the rural townland of Ballygeale, southwest of the settlement of Patrickswell. The site features a partially constructed two-storey dwelling house with a gable roof and proposed detached garage to the rear of the dwelling. The site is accessed from the L-8054 local road and the site itself covers an area of approximately 0.3 hectares.

Proposal:

This is an application requesting a Section 5 Declaration on whether the following works are or are not development or are or are not exempted development:

- The applicants are proposing 'minor modifications' to an existing planning permission for a two-storey dwelling house, these stated modifications include:
 - Changes to the ground floor fenestration with an additional window proposed in the hall area, adjusted height of the arch window and alteration to the rear windows in the TV room
 - Changes are also proposed including the rotation of the house placement by 0.66 degrees from the south-west corner and recess of the front door from the front face of the porch to the front face of the front wall of the house

This Section 5 declaration includes the following:

- Application form
- Site location
- Elevations
- Floor plans

Planning History:

Subject site:

21/479 – Refused – Construction of a two-storey dwelling house, garage, entrance, driveway, mechanical wastewater treatment unit, polishing filter and all ancillary site works.

24/124 – Conditional Permission – The construction of a two-storey dwelling house, garage, entrance, driveway, mechanical wastewater treatment unit, polishing filter and all ancillary site works.

Adjacent:

92/27 – Unconditional Permission – Erection of two storey domestic extension.

92/1193 – Conditional Permission – Erection of dwellinghouse, entrance, boundary fence and installation of septic tank.

94/1130 – Conditional Permission – Construction of dwellinghouse, septic tank and recessed entrance.

95/1250 – Conditional Permission – Construction of house, entrance and septic tank.

95/411 – Conditional Permission – Construction of dwellinghouse, entrance and installation of septic tank.

06/3062 – Conditional Permission – Conversion of existing garage into living area which includes an extension to side of house and for the construction of a new standalone garage and associated site works

Enforcement History:

N/A.

Relevant An Coimisiún Pleanála referrals:

No relevant An Coimisiún Pleanála referrals found for the site.

Assessment:

Consideration as to whether a development constitutes exempted development or not is governed by Sections 4 and 5 of the Planning and Development Act 2000 (as amended) and Articles 5, 6, 7, 8, 9, 10 and 11 of the Planning and Development Regulations 2001 (as amended).

Is the proposal development?

Section 2(1) in this Act, except where otherwise requires –

‘**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.

‘**structure**’ as any building, structure, excavation, or other thing constructed or made on, in or under any land, or part of a structure so defined, and –

(b) in relation to a protected structure or proposed protected structure, includes—

(i) the interior of the structure,

(ii) the land lying within the curtilage of the structure,

(iii) any other structures lying within that curtilage and their interiors, and

(iv) all fixtures and features which form part of the interior or exterior of any structure or structures referred to in subparagraph (i) or (iii);

Section 3(1) defines ‘**development**’ as ‘the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land’.

The proposal concerns minor modifications, including changes to the ground floor fenestration, house placement rotation and recess of the front door placement related to an existing planning permission for a two-storey dwelling, constituting ‘works’ and ‘development’.

Is the proposal exempted development?

It is noted that the applicants previously sought agreement to a series of minor amendments to the development permitted under planning ref. 24124, including the relocation of the site entrance, dwelling, garage, well, percolation area and soakaway. As set out in the Minor Amendment Memo dated 27/11/2024, these changes were considered through the compliance process in accordance with the relevant conditions of the permission and were deemed minor in nature and acceptable.

The applicants now propose further modifications by way of an application under Section 5 of the Planning and Development Act 2000 (as amended). It is noted that there are discrepancies in the drawings submitted and when comparing the drawing to those approved under ref. 24124 not all alterations appear to be included. As the dwelling is currently under construction, the proposed changes would result in a development that differs from the development as permitted, including changes to the external appearance, layout and orientation of the dwelling. A declaration under Section 5 is declaratory in nature and cannot be used to amend, vary or substitute a granted planning permission. Accordingly, the proposal merits further planning consideration beyond the procedural scope of a Section 5 determination.

Article 9 Restrictions

As the proposed development does not fall to be assessed under Section 5 of the Planning and Development Act 2000 (as amended), the exempted development provisions do not arise, and it is therefore not necessary to consider the restrictions set out under Article 9 of the Planning and Development Regulations 2001 (as amended).

Appropriate Assessment

Having regard to the nature and scale of the proposed development and the absence of proximity or connectivity to a Natura 2000 European Site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects, on a European Site. An appropriate assessment screening report and determination is attached to this report.

Environmental Impact Assessment

Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations it has been concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.



Conclusion/Recommendation

Having regard to the nature and extent of the works proposed, and noting that the proposal would result in a development that differs from the development as permitted and forms part of the ongoing implementation of permission ref. 24124, it is considered that the works cannot be assessed by way of a declaration under Section 5 of the Planning and Development Act 2000 (as amended). A declaration under Section 5 is declaratory in nature and cannot be used to amend, vary or substitute a granted planning permission.

Regard has been had to –

- (a) Section 2, 3, 4 & 5 of the Planning and Development Act 2000 (as amended)
- (b) Article 6 and 9 of the Planning and Development Regulations, 2001, as amended.
- (c) The plans & particulars submitted with the application received on the 31st of March 2026.

It is therefore considered that said works are development but not exempted development under Section 5 of the Planning and Development Act 2000 (as amended).

Graduate Planner	Isaac Cunningham	Date: 13/04/2026
Signature:		
Senior Executive Planner	Gráinne O'Keeffe	Date: 23/04/2026
Signature		

Appendix 1: AA PN01 Screening Form

STEP 1: Description of the project/proposal and local site characteristics:	
(e) File Reference No:	EC-052-26
(e) Brief description of the project or plan:	The proposal concerns minor modifications, including changes to the ground floor

	fenestration, house placement rotation and recess of the front door placement related to an existing planning permission for a two-storey dwelling
(e) Brief description of site characteristics:	The site is located within the rural townland of Ballygeale, southwest of the settlement of Patrickswell. The site features a partially constructed two-storey dwelling house with a gable roof and proposed detached garage to the rear of the dwelling. The site is accessed from the L-8054 local road and the site itself covers an area of approximately 0.3 hectares.
(e) 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-Receptors)	Considered further in screening Y/N
Lower River Shannon SAC	https://www.npws.ie/protected-sites/sac/00216	4.025	None	N
Tory Hill SAC	https://www.npws.ie/protected-sites/sac/000439	4.625	None	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 project under the following headings:



Impacts:	Possible Significance of Impacts: (duration/Magnitude etc)
Construction phase e.g <ul style="list-style-type: none"> - Vegetation clearance - Demolition - Surface water runoff from soil excavation/infill/landscaping (including borrow pits) - Dust, noise, vibration - Lighting disturbance - Impact on groundwater/dewatering - Storage of excavated/construction materials - Access to site - Pests 	None. No direct encroachment or hydrological connection
Operation phase e.g.	None. No direct encroachment or

<ul style="list-style-type: none"> - 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 risk) - Potential for accidents or incidents 	hydrological connection
In-combination/Other	N/A.

(a) Describe any likely changes to the European site:	
<p>Examples of the type of changes to give consideration to include:</p> <ul style="list-style-type: none"> - Reduction or fragmentation of habitat area - Disturbance to QI species - Habitat or species fragmentation - Reduction or fragmentation in species density - Changes in key indicators of conservation status value (water or air quality etc) - Changes to areas of sensitivity or threats to QI - Interference with the key relationships that define the structure or ecological function of the site 	None. No direct encroachment or hydrological connection

(a) (Are 'mitigation' measures necessary to reach a conclusion that likely significant effects can be ruled out at screening?)	
<input type="checkbox"/>	Yes
<input checked="" type="checkbox"/>	No

STEP 4: Screening Determination Statement	
The assessment of significance of effects:	
Describe how the proposed development alone or in-combination is/is not likely to have significant effects on European site (s) in view of its conservation objectives.	
Given the sites size, no hydrological connection to any SAC/SPA, no encroachment on any SAC/SPA and the limited scale of the development proposed, an AA is not required.	
Conclusion: AA is not required.	
	Tick as appropriate:
	Recommendation:

i. It is clear that there is no likelihood of significant effects on a European Site	<input checked="" type="checkbox"/>	The proposal can be screened out: Appropriate Assessment not required.
ii. It is uncertain whether the proposal will have a significant effect on a European Site	<input type="checkbox"/>	<input type="checkbox"/> Request further information to complete screening <input type="checkbox"/> Request NIS <input type="checkbox"/> Refuse planning permission
iii. Significant effects are likely	<input type="checkbox"/>	<input type="checkbox"/> Request NIS <input type="checkbox"/> Refuse planning permission
Signature and Date of Recommending Officer:	 Isaac Cunningham, Graduate Planner _____ 13/04/2026	
Signature and Date of the Decision Maker:	 _____ 23/04/2026	

Appendix 2: EIA Screening

Establishing if the proposal is a 'sub-threshold development':	
Planning Register Reference:	EC-052-26
Development Summary:	The proposal concerns minor modifications, including changes to the ground floor fenestration, house placement rotation and recess of the front door placement related to an existing planning permission for a two-storey dwelling.
Was a Screening Determination carried out under Section 176A-C?	Yes. no further action required

		No. Proceed to Part A
A. Schedule 5 Part 1 - Does the development comprise a project listed in Schedule 5, Part 1 , of the Planning and Development Regulations 2001 (as amended)? (Tick as appropriate)		
Yes. specify class: [insert here] _		EIA is mandatory No Screening required
<input checked="" type="checkbox"/>	No	Proceed to Part B
B. Schedule 5 Part 2 - Does the development comprise a project listed in Schedule 5, Part 2 , of the Planning and Development Regulations 2001 (as amended) and does it meet/exceed the thresholds? (Tick as appropriate)		
<input checked="" type="checkbox"/>	No. the development is not a project listed in Schedule 5, Part 2	No Screening required
<input type="checkbox"/>	Yes the project is listed in Schedule 5, Part 2 and meets/exceeds the threshold, specify class (including threshold): _[specify class & threshold here]_	EIA is mandatory No Screening required
Yes the project is of a type listed but is <i>sub-threshold</i> : [insert here] _		Proceed to Part C
c. If Yes , has Schedule 7A information/screening report been submitted?		
Yes, Schedule 7A information/screening report has been submitted by the applicant		Screening Determination required
No, Schedule 7A information/screening report has not been submitted by the applicant		Preliminary Examination required
Signature and Date of Recommending Officer:		

IC

Isaac Cunningham, Graduate Planner

13/04/2026

Signature and Date of the Decision Maker:

G. Huddle

23/04/2026

Appendix 3. Site Visit Photos 08/04/2026







Comhairle Cathrach
& Contae **Luimnigh**

Limerick City
& County Council

Pleanáil, Oidhreacht agus Corn Ryder
Comhairle Cathrach agus Contae Luimnigh
Bóthar Thuar an Dail
Tuar an Dail
Luimneach. V94 WV78

Planning, Heritage and Ryder Cup
Limerick City and County Council
Dooradoyle Road
Dooradoyle
Limerick. V94 WV78

t: +353 (0) 61 556 000

DEVELOPMENT MANAGEMENT, PLANNING

REG POST:

Thomas Higgins & Shauna Upton
c/o Hutch O'Malley Consulting Engineers,
The Railway Station,
Attyflin,
Patrickswell,
Co. Limerick.

EC/052/26

27 April 2026

Re: Declaration under Section 5

Dear Sir/Madam,

I refer to the above application for Section 5 Declaration on Development and Exempted Development.

Please find herewith a copy of Council's decision on same.

Yours faithfully,

(for) Senior Planner,
Development Management

LIMERICK CITY & COUNTY COUNCIL

APPROVED OFFICER'S ORDER

SECTION 5 – DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT

No. AOO/DC/2026/479

File Ref No. EC/052/26

SUBJECT: Declaration under Section 5.
Planning and Development Act 2000 as amended
Planning and Development Regulations 2001 as amended

RE: **A minor modifications' to an existing planning permission for a two-storey dwelling house at Ballygeale, Patrickswell, Co. Limerick**

ORDER: Whereas by Director General's Order No. DG/2026/031 dated 18th March 2026, Dr. Pat Daly, Director General, Limerick City & County Council did, pursuant to the powers conferred on him by Section 154 of the Local Government Act, 2001, (as amended by the Local Government Reform Act, 2014 and the Local Government (Mayor of Limerick) and Miscellaneous Provisions Act, 2024), delegate unto Grainne O'Keeffe, Senior Executive Planner the functions as defined in the Local Government Acts, 1925 to 2024.

Q Now therefore pursuant to the delegation of the functions aforesaid, I, Grainne O'Keeffe, Senior Executive Planner, having considered the report and recommendation of Isaac Cunningham, Graduate Planner dated 13/04/2026, hereby order that a Declaration under Section 5 of the Planning and Development Act 2000 (as amended) be issued to Thomas Higgins & Shauna Upton, c/o Hutch O'Malley Consulting Engineers, The Railway Station, Attyflin, Patrickswell, Co. Limerick to state that the works as described above is

Development and is NOT Exempt Development.

Signed



SENIOR EXECUTIVE PLANNER, DEVELOPMENT MANAGEMENT,
PLANNING

Date

28/4/26



Comhairle Cathrach
& Contae Luimnigh
Limerick City
& County Council

Pleanáil, Oidhreacht agus Com Ryder
Comhairle Cathrach agus Contae Luimnigh
Bóthar Thuar an Daill
Tuair an Daill
Luimneach. V94 WV78

Planning, Heritage and Ryder Cup
Limerick City and County Council
Dooradoyle Road
Dooradoyle
Limerick. V94 WV78

t: +353 (0) 61 556 000

SECTION 5 – DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT

DECLARATION NO.

EC/052/26

Name and Address of Applicant: Thomas Higgins & Shauna Upton, Ballygeale, Patrickswell, Co. Limerick

Agent: Hutch O'Malley Consulting Engineers, The Railway Station, Attyflin, Patrickswell, Co. Limerick

Whether the minor modifications' to an existing planning permission for a two-storey dwelling house at Ballygeale, Patrickswell, Co. Limerick is or is not Development or is or is not Exempted Development. The works as described on the plans submitted with the application on the 31st day of March 2026.

AND WHEREAS the Planning Authority has concluded that the minor modifications' to an existing planning permission for a two-storey dwelling house at Ballygeale, Patrickswell, Co. Limerick **DOES NOT** come within the scope of exempted development under Section 5 of the Planning and Development Act 2000 (as amended). See Report attached.

NOW THEREFORE the Planning Authority in exercise of the powers conferred on it by Section 5(2) (a) of the Planning and Development Act 2000 (as amended) hereby decides that the said development as described above is **Development and is NOT Exempt Development.**

Signed on behalf of the said Council 

Date: 27.4.2026

NOTE: A Declaration on Development or Exemption issued by Limerick City & County Council may be referred to An Coimisiún Pleanála on payment of €220 for review within 4 weeks after the issuing of the declaration.