



**Comhairle Contae
Dhún na nGall**
Donegal County Council



Planning Services

RECEIVED DATE: 11/11/2025

SECTION 5 APPLICATION

FOR DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT

Completed application form & supporting documentation to be returned to the Planning Authority by email to planning@donegalcoco.ie

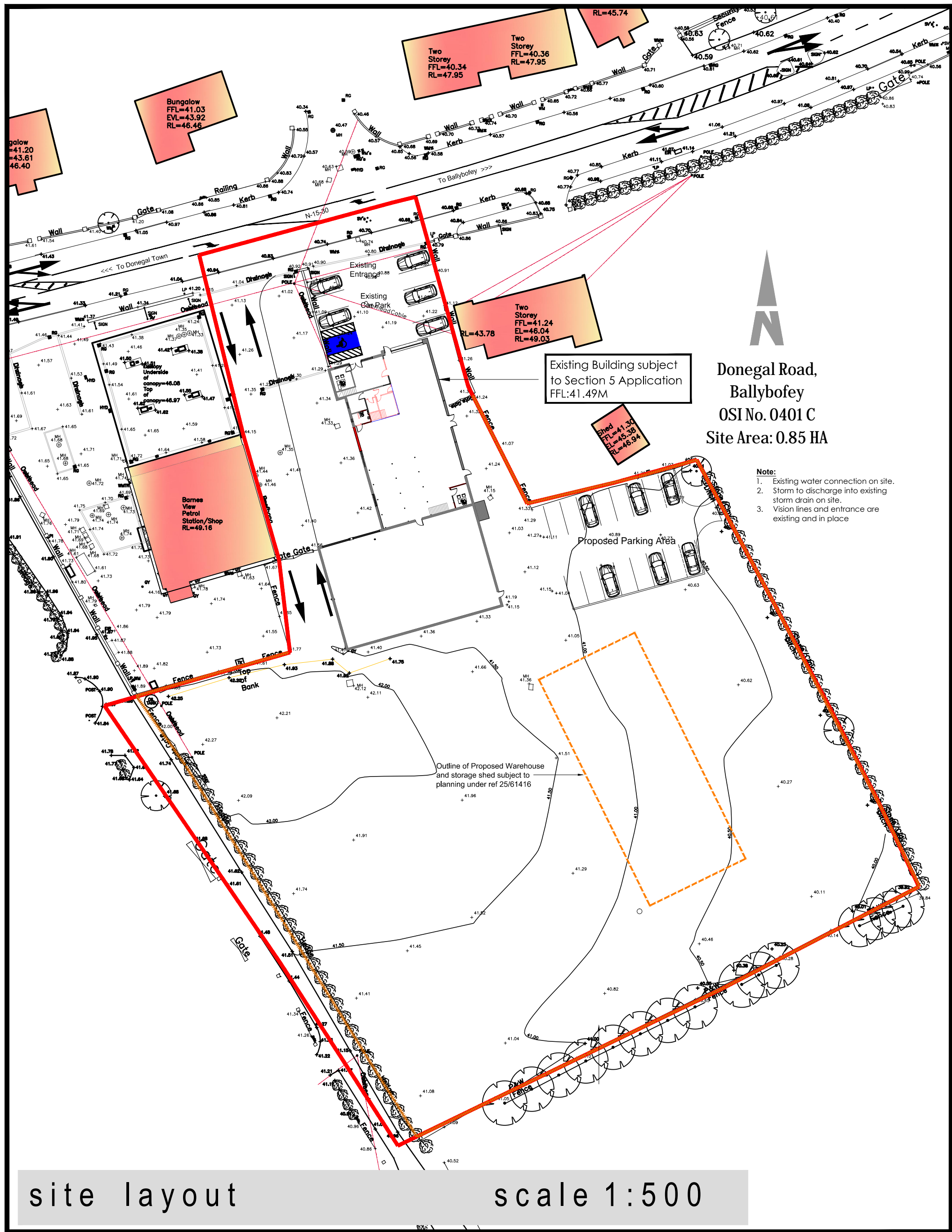
Name of Applicant(s):	
Agent Name: (if applicable)	
Location of Proposed Development / Works: (Townland or postal address as appropriate and Eircode if available)	
Description of Proposed Development including details of works (where applicable): (Only works listed below will be assessed under <u>this</u> section 5 application)	



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Donegal County Council

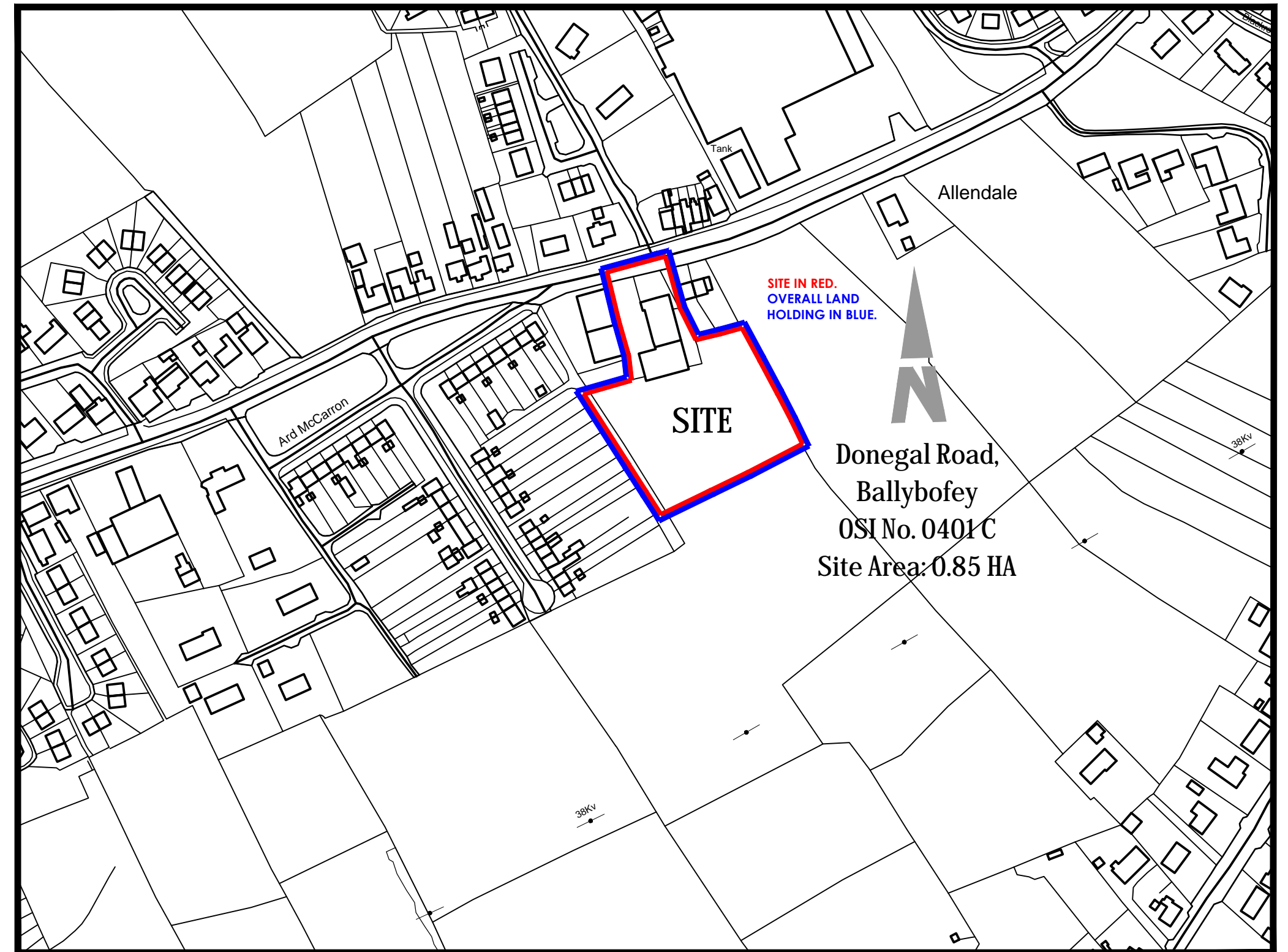
Is the development a Protected Structure or within the curtilage of a Protected Structure?	Yes	No
Has a declaration under Section 57 of the Planning and Development Act 2000 (as amended) been requested or issued in respect of the property.	Yes	No
Applicant(s) Interest in the site:		
If not the Owner of the site, please provide the name of the Landowner:		
Please list types of plans, drawings etc. submitted with this application:		
Planning History - list any relevant planning application reference numbers:		
Are you aware of any enforcement proceedings connected to the site? If so, please supply details:		

I hereby certify that the information provided is true and accurate	
Signature of Applicant/Agent:	
Date:	



site layout

scale 1:500



site location

scale 1:2500



Rev.	Date	Details	Revisions
A			
B			
C			
D			
Section 5			
Project:			
SECTION 5 APPLICATION FOR PREMISES AT DONEGAL ROAD, BALLYBOFEY			
Client: Glenside Stores Limited			
Drawing Title: Site Location & Site Layout			
Date: November 2025		Scale: 1:1000, 1:2000	
Job Ref: BMC / UD / 25 / 001 / 02			
Ordnance Survey Ireland Licence No: AR 0094320			





**Comhairle Contae
Dhún na nGall**
Donegal County Council

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Our Ref: S525/100

12 November 2025

Glenside Stores Limited
C/o McCullagh Architecture & Surveying

Re: Section 5 - Use existing shop premises for hardware sales and undertake the following proposed minor alterations

A Chara,

I wish to acknowledge receipt of your application received on 11th November 2025 in relation to the above.

Yours sincerely,

Donegal County Council
Planning Services



SECTION 5 REFERRAL REPORT – Ref. No: S5 25-98

1.0 BACKGROUND

1.1 Location:

Donegal Road, Ballybofey, Co Donegal, F93 T324(Formerly TSA Tyres).

Applicant: Glenside Stores Limited

1.2 Planning History:

16818 – T.S.A. – Proposed erection of tyre depot – 10/05/1974

21129 – National Garages Limited – 03/07/1977

95/1017: Permission granted to Barnesmore Filling Station (located adjacent to, but previously all part of one site) for Demolition And Rebuilding Of Shops And Filling Station To Include Canopy, Carwash, Store And Ancillary Works.

95/1164: Permission granted to **TSA Tyres Ltd.**, for Construction of Extension And Carrying Out Of Alterations To Provide Waiting Area, Toilets And Additional Work Space To Premises.

25/61416: Current planning permission on FI for 1) Construction Of A Warehouse And Store Ancillary To Existing Retail And Commercial Premises Located On Site, (2) Development Of An Accessible Storage Yard Which Includes Vehicle Turning And Parking Provision And (3) All Site Drainage Works, Development Of Secure Boundary Treatments And All Ancillary And Associated Site Development Works

1.3 Proposed Development:

The development the subject of this Section 5 referral relates to whether the following works are exempted development?

Development works proposed as follows;

- 1) Use of existing shop premises for hardware sales and
- 2) undertake the following proposed minor alterations to external wall openings as follows;
 - (a) remove existing roller door on front (north) elevation and replace with glazing.
 - (b) remove existing roller door on side (west) elevation and replace with 2 no windows.
 - (c) remove existing roller door on side (east) elevation and replace with double doors.
 - (d) provision of 1 no single pedestrian escape door (east) elevation

Details and pictures submitted for consideration regarding issues with the existing windows and doors.



Image 1: Existing Premises

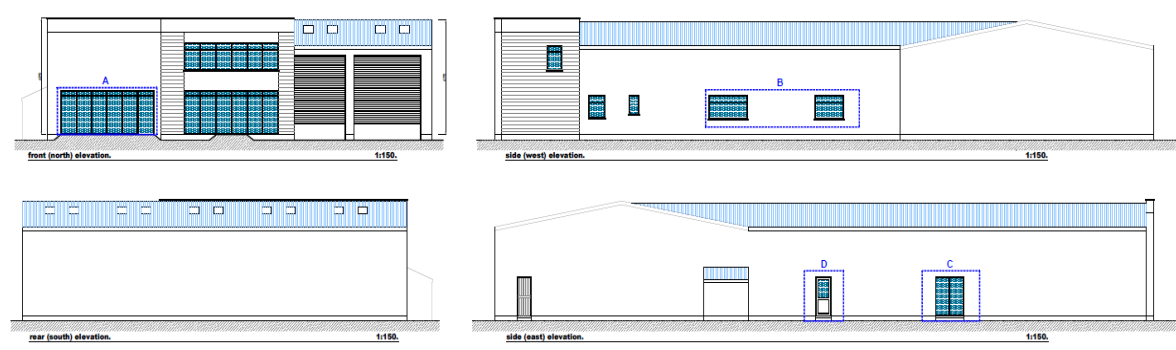


Image 2: Proposed Alterations

THE QUESTION

The referrer seeks a declaration that 1) the above-mentioned use of existing shop premises for hardware sales and 2) proposed minor alterations to external wall openings are exempted development.

2.0 EVALUATION

2.1 Planning and Development Act, 2000 (as amended)

Section 2(1)

In this Act, except where the context otherwise requires –

“alteration” includes –

- (a) plastering or painting or the removal of plaster or stucco, or
- (b) the replacement of a door, window or roof,**

That materially alters the external appearance of a structure so as to render the appearance inconsistent with the character of the structure or neighbouring structures;

“development” has the meaning assigned to it by Section 3, and development shall be constructed accordingly

“protection”, in relation to a structure or part of a structure , includes conservation , preservation and improvement compatible with maintaining the character and interest of the structure or part:

“Structure” means any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined, and

(a) Where the context so admits, includes the land on, in or under which the structure is situate...

(b) In relation to a protected structure or proposed protected structure, includes-

- (i) the interior of the structure
- (ii) The land lying within the cartilage of the structure
- (iii) Any other structures and features which form part of the interior or exterior of any structure or structures referred to in subparagraph (i) or (ii)

“**works**” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal....

Section 3(1):

Section 3(1) of the Act states:

“**Development**” in this Act means, except where the context otherwise requires, 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.

Section 4(1):

Section 4(1) of the Act specifies a series of categories of development considered to be exempted development for the purposes of the Act.

Section 4(1)(h):

Section 4(1)(h) of the Act states that the following shall be exempted development for the purposes of the Act:

‘Development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the 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 177U(9)

“In deciding upon a declaration for the purposes of Section 5 of this Act a planning authority or the Board, as the case maybe, shall where appropriate, conduct a screening for appropriate assessment in accordance with the provisions of this Section.”

2.2

2.3 Planning and Development Regulations, 2001 (as amended)

Part 2 Exempted Development

Article 5 (1) In this Part—

“shop” means a structure used for any or all of the following purposes, where the sale, display or service is principally to visiting members of the public—

(a) for the retail sale of goods,

- (b) as a post office,
- (c) for the sale of tickets or as a travel agency,
- (d) for the sale of sandwiches or other food for consumption off the premises, where the sale of such food is subsidiary to the main retail use,
- (e) for hairdressing,
- (f) for the display of goods for sale,
- (g) for the hiring out of domestic or personal goods or articles,
- (h) as a launderette or dry cleaners,
- (i) for the reception of goods to be washed, cleaned or repaired,

but does not include any use associated with the provision of funeral services or as a funeral home, or as a hotel, a restaurant or a public house, or for the sale of hot food for consumption off the premises, except under paragraph (d) above, or any use to which class 2 or 3 of Part 4 of Schedule 2 applies;

CLASS 2, Part 4 Exempted Development- Classes of Use, of Schedule 2

Use for the provision of—

- (a) financial services,
- (b) **professional services (other than health or medical services),**
- (c) **any other services (including use as a betting office),**

where the services are provided principally to visiting members of the public.

Article 6(1)

Subject to Article 9, development of 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.

Article 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 -

Sub-paragraphs (i) – (xii) (inclusive)

Class 1 of Part 1 of Schedule 1 (*Exempted Development – Classes of Use*) Article 10
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-vii).

3.0. ASSESSMENT

The current adopted plan is the County Donegal Development Plan 2024-2030 (herein referred to as 'CDDP 2024-2030').

The subject site is located within the Plan Boundary for **Ballybofey-Stranolar Area Plan (contained within the aforementioned CDDP 2024-30)** on lands zoned as Established Development 1: with lands to the rear forming part of a large parcel of lands that are zoned Opportunity Site 2.

Table 17.1 land use zoning objective for this zoning is as follows:

Established Development 1: *To conserve and enhance the quality and character of the area, to protect residential amenity and allow for development appropriate to the sustainable growth of the settlement, including new residential development, subject to all relevant material planning considerations, all the policies of this Plan, relevant national/regional policy/guidance including environmental designations and subject to the proper planning and sustainable development of the area.*

- Do not prejudice the achievement of TS-TC-O-1* to sustain and enhance the town centre's role as the retail, hospitality, tourism and cultural hub of the Finn Valley (*typo BS-TC-O-1)

-No other relevant designation considerations. The subject dwelling is not listed on the RPS nor the NIAH buildings of Ireland.

3.1 Consideration Of Proposed Development:

3.2.1 Consideration in respect of the established use of the premises as a tyre depot from the mid 1970s (with minor modifications subsequently permitted in the form of ancillary waiting area, office WC) and the proposed use of the premises as a hardware shop. It is noted that the present development as a tyre dept provides a service (in addition to selling tyres) rather than a shop as indicated by the agent. As such, the existing development would be considered under Class 2 of Part 4 of Schedule 2 of the Planning & Development Regulations, 2001 (as amended) as a *service (including use as a betting office), where the services are provided principally to visiting members of the public.*

The use of the premises as a hardware shop would be classified under Class 1 of Part 4 of Schedule 2

As the existing and proposed development represent two different classes of use as specified under Part 4 of Schedule 2, they do not fall within the categories of exempted development as per Article 10 (1) of the Regulations.

3.2 in terms of consideration of the proposed alterations to external wall openings being;

- (a) remove existing roller door on front (north) elevation and replace with glazing.
- (b) remove existing roller door on side (west) elevation and replace with 2 no windows.
- (c) remove existing roller door on side (east) elevation and replace with double doors.
- (d) provision of 1 no single pedestrian escape door (east) elevation

It is noted that the works (a-c) above relate to modifications to existing openings, with item (d) relating to an additional single pedestrian escape door on an elevation that heretofore has door openings and, as such, represents alterations to the structure, 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'

Therefore the proposed amendments accord with Section 4(1)(h) of the Planning & Development Act, 2000(As Amended) states that the following shall be exempted development for the purposes of the Act:

4.0 Determination:

4.1 The Planning Authority is satisfied that the proposed development(as noted above) constitutes development within the meaning given in the Planning and Development Act, 2000 (as amended).

4.2 The use of the existing premises falls within the scope of Class 2 of Part 4 of Schedule 2 of the Planning & Development Regulations, 2001 (as amended) as a service (including use as a betting office), where the services are provided principally to visiting members of the public.

The proposed use of the premises as a hardware shop would be classified under Class 1 of Part 4 of Schedule 2

4.3 As the existing and proposed development represent two different classes of use as specified under Part 4 of Schedule 2, they do not fall within the categories of exempted development as per Article 10 (1) of the Regulations.

4.4 In terms of the proposed alterations to external wall openings being;

- (a) removal existing roller door on front (north) elevation and replacement with glazing.
- (b) removal existing roller door on side (west) elevation and replacement with 2 no windows.
- (c) removal existing roller door on side (east) elevation and replacement with double doors.
- (d) provision of 1 no single pedestrian escape door (east) elevation

(i) The Planning Authority is satisfied that the proposed works noted above constitute “development” within the meaning of the Act, being works, but is exempted development coming within the scope of Section 4- (1) (h) of the Planning and Development Act 2000, (as amended).

(ii) Regard has also been had to Section 177U(9) of the Planning & Development Act 2000 (as amended). A screening report will not be carried out in respect of the above mentioned works on the basis that development considered under Section 4(1)(h) cannot be de-exempted in respect of Section 177U(9).

Recommendation:

IT IS HEREBY RECOMMENDED THAT A DECLARATION BE MADE THAT THE SUBJECT MATTER OF THE REQUEST AS ABOVE –

- 1) The Proposal in respect of the use of an existing tyre depot premises for hardware sales

IS Development

&

IS NOT Exempted Development

WITHIN THE MEANING OF THE ABOVE ACT

AND

- 2) The Proposal to undertake the following proposed minor alterations to external wall openings as follows;
 - (a) remove existing roller door on front (north) elevation and replace with glazing.
 - (b) remove existing roller door on side (west) elevation and replace with 2 no windows.
 - (c) remove existing roller door on side (east) elevation and replace with double doors.
 - (d) provision of 1 no single pedestrian escape door (east) elevationDetails and pictures submitted for consideration regarding issues with the existing windows and doors.

IS Development

&

IS Exempted Development

WITHIN THE MEANING OF THE ABOVE ACT

The Planning Authority in considering this referral, had regard particularly to:

- a) Section 2, 3, 4 and 177U of the Planning and Development Act, 2000 (as amended),
- b) Article 6, 9 & 10(1) and Classes 1 & 2 of Part 4 of Schedule 2 of the Planning and Development Regulations, 2001 (as amended)

And concluded that:

- a) The proposal being the use of an existing premises for hardware sales **is development** within the meaning of the Planning and Development Act, 2000 (as amended) and **is not exempted** development as the use of the existing premises falls within the scope of Class 2 of Part 4 of Schedule 2 of the Planning & Development Regulations, 2001 (as amended) as a service, where the services are provided principally to visiting members of the public. Whilst the proposed use of the premises as a hardware shop would be classified under Class 1 of Part 4 of Schedule 2 of the aforementioned Regulations. As the existing and proposed development represent two different classes of use as specified under Part 4 of Schedule 2, they do not fall within the categories of exempted development as per Article 10 (1) of the aforementioned Regulations.
- b) The proposal to undertake the following proposed minor alterations to external wall openings as follows;
 - (a) remove existing roller door on front (north) elevation and replace with glazing.
 - (b) remove existing roller door on side (west) elevation and replace with 2 no windows.
 - (c) remove existing roller door on side (east) elevation and replace with double doors.
 - (d) provision of 1 no single pedestrian escape door (east) elevation

is development within the meaning of the Planning and Development Act, 2000 (as amended) and **is exempted development** under Class 1 of Part 1 of Schedule 2 'Exempted Development – General' of the Planning and Development Regulations, 2001 (as amended).

Signed:

Position: Executive Planner

Date: 26/11/2025



26/11/2025

Chief Executive's Order No: 2025PH3483

Planning and Development Acts 2000 (as amended)

SECTION 5:-

Request received 11th November 2025 from Glenside Stores Limited C/o McCullagh Architecture & Surveying, Glenfin Road, Ballybofey, Co. Donegal F93 A520 in relation to the use of existing shop premises for hardware sales and undertake the following minor alterations to external wall openings as follows: (a) removal of existing roller door on front (north) elevation and replace with gazing, (b) removal of existing roller door on side (west) elevation and replace with 2 no. windows, (c) removal of existing roller door on side (east) elevation and replace with double doors and (d) provision of 1 no. single pedestrian escape door (east) elevation at Donegal Road, Ballybofey, Co. Donegal.

SUBMITTED:-

Written request received 11th November 2025 as above and report date 26th November 2025 from the Executive Planner (Ref. No: S5 25/100 refers).

ORDER:-

Having considered the said request, the report of the Executive Planner and the record forwarded to the Council by An Bord Pleanála in compliance with Sub-Section 6(c) of the said Section I have concluded that a declaration on the questions in the said request should be made in the terms of that in the Schedule to this Order, the main reasons and considerations therefore being detailed therein. I therefore Order that the declaration issue to the said requester and the owners/occupiers of the land concerned and, further, that it be entered in the Council's Planning Register in compliance with Sub-Section (5) of the said Section.


SENIOR EX. PLANNER

DATED THIS 2nd DAY OF DECEMBER 2025

LMG

SCHEDULE

IT IS HEREBY DECLARED THAT THE SUBJECT MATTER OF THE REQUEST AS ABOVE –

IS Development
IS IN PART Exempted Development
IS IN PART NOT Exempted Development

WITHIN THE MEANING OF THE ABOVE ACT

The Planning Authority, in considering this referral, had regard particularly to:

- Section 2, 3, 4 and 177U of the Planning and Development Act, 2000 (as amended),
- Article 6, 9 & 10(1) and Classes 1 & 2 of Part 4 of Schedule 2 of the Planning and Development Regulations, 2001 (as amended)

And concluded that:

THE PROPOSAL:

The proposal being the use of an existing premises for hardware sales **IS DEVELOPMENT** within the meaning of the Planning and Development Act, 2000 (as amended) and **IS NOT EXEMPTED** development as the use of the existing premises falls within the scope of Class 2 of Part 4 of Schedule 2 of the Planning & Development Regulations, 2001 (as amended) as a service, where the services are provided principally to visiting members of the public. Whilst the proposed use of the premises as a hardware shop would be classified under Class 1 of Part 4 of Schedule 2 of the aforementioned Regulations. As the existing and proposed development represent two different classes of use as specified under Part 4 of Schedule 2, they do not fall within the categories of exempted development as per Article 10 (1) of the aforementioned Regulations.

AND THE PROPOSAL:

The proposal to undertake the following proposed minor alterations to external wall openings as follows:

- (a) Removal of existing roller door on front (north) elevation and replace with glazing.
- (b) Removal of existing roller door on side (west) elevation and replace with 2 no windows.
- (c) Removal of existing roller door on side (east) elevation and replace with double doors.
- (d) Provision of 1 no single pedestrian escape door (east) elevation

IS DEVELOPMENT within the meaning of the Planning and Development Act, 2000 (as amended) and **IS EXEMPTED DEVELOPMENT** under Class 1 of Part 1 of Schedule 2 'Exempted Development – General' of the Planning and Development Regulations, 2001 (as amended).

ys 02/12

Planning and Development Acts 2000 (as amended)
(Declaration and Referral on Development and Exempted Development)

DECLARATION

Chief Executive's Order No: 2025PH3483

Reference No: S5 25/100

Name of Requester: GLENSIDE STORES LIMITED
C/O MCCULLAGH ARCHITECTURE & SURVEYING
GLENFIN ROAD
BALLYBOFEY
CO. DONEGAL
F93 A520

Summarised Description of development the subject matter of request:

Use of existing shop premises for hardware sales and undertake the following minor alterations to external wall openings as follows: (a) removal of existing roller door on front (north) elevation and replace with gazing, (b) removal of existing roller door on side (west) elevation and replace with 2 no. windows, (c) removal of existing roller door on side (east) elevation and replace with double doors and (d) provision of 1 no. single pedestrian escape door (east) elevation

Location of Development: Donegal Road, Ballybofey, Co. Donegal.

IT IS HEREBY DECLARED THAT THE SUBJECT MATTER OF THE REQUEST AS ABOVE-

IS	Development
IS IN PART	Exempted Development
IS IN PART	NOT Exempted Development

WITHIN THE MEANING OF THE ABOVE ACT

The Planning Authority, in considering this referral, had regard particularly to:

- Section 2, 3, 4 and 177U of the Planning and Development Act, 2000 (as amended),
- Article 6, 9 & 10(1) and Classes 1 & 2 of Part 4 of Schedule 2 of the Planning and Development Regulations, 2001 (as amended)

And concluded that:

THE PROPOSAL:

The proposal being the use of an existing premises for hardware sales **IS DEVELOPMENT** within the meaning of the Planning and Development Act, 2000 (as amended) and **IS NOT EXEMPTED** development as the use of the existing premises falls within the scope of Class 2 of Part 4 of Schedule 2 of the Planning & Development Regulations, 2001 (as amended) as a service, where the services are provided principally to visiting members of the public. Whilst the proposed use of the premises as a hardware shop would be classified under Class 1 of Part 4

of Schedule 2 of the aforementioned Regulations. As the existing and proposed development represent two different classes of use as specified under Part 4 of Schedule 2, they do not fall within the categories of exempted development as per Article 10 (1) of the aforementioned Regulations.

AND THE PROPOSAL:

The proposal to undertake the following proposed minor alterations to external wall openings as follows:

- (a) Removal of existing roller door on front (north) elevation and replace with glazing.
- (b) Removal of existing roller door on side (west) elevation and replace with 2 no windows.
- (c) Removal of existing roller door on side (east) elevation and replace with double doors.
- (d) Provision of 1 no single pedestrian escape door (east) elevation

IS DEVELOPMENT within the meaning of the Planning and Development Act, 2000 (as amended) and **IS EXEMPTED DEVELOPMENT** under Class 1 of Part 1 of Schedule 2 'Exempted Development – General' of the Planning and Development Regulations, 2001 (as amended).

DATED THIS 2nd DAY OF DECEMBER 2025



For Senior Ex. Planner
Planning Services

/JMCC



**Comhairle Contae
Dhún na nGall**
Donegal County Council

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Ref. No: S5 25/100

2nd December 2025

GLENSIDE STORES LIMITED
C/O MCCULLAGH ARCHITECTURE & SURVEYING
GLENFIN ROAD
BALLYBOFEY
CO. DONEGAL
F93 A520

Re: Use of existing shop premises for hardware sales and undertake the following minor alterations to external wall openings as follows: (a) removal of existing roller door on front (north) elevation and replace with gazing, (b) removal of existing roller door on side (west) elevation and replace with 2 no. windows, (c) removal of existing roller door on side (east) elevation and replace with double doors and (d) provision of 1 no. single pedestrian escape door (east) elevation at Donegal Road, Ballybofey, Co. Donegal.

A Chara,

I refer to your request received on 11th November 2025 as above under Section 5 of the Planning and Development Act, 2000 (as amended). Same has now been decided and I now issue to you herewith the Council's Declaration thereon. You are now advised that, in accordance with Section 5 (3) (a) of the Planning & Development Act, 2000 (as amended) where a Declaration is issued, any person issued with such a Declaration may, on payment to An Bord Pleanála of such fee as may be prescribed, refer a Declaration for review by the Board within 4 weeks of the date of issuing of the Declaration.

Mise, le meas,

For Senior Ex. Planner
Planning Services
/JMCC