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CONTAE AN CHLÁIR | COUNTY COUNCIL

### Registered Post

**Sinéad Smyth & Barry McNamara**  
Church Street  
Scariff  
Co. Clare  
V94CDP8

**6th November 2024**

#### **Section 5 referral Reference R24-79 – Sinéad Smyth & Barry McNamara**

(a) Is a first floor extension to the bedroom over the utility at the rear of the house development and if so, is it exempted development? (b) Is the addition of a small porch to the front of the property development and if so, is it exempted development?

A Chara,

I refer to your application received on 14th October 2024 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

The Planning Authority has considered the matter and I attach herewith the Council's findings in this matter.

Where a declaration is issued by the Planning Authority, any person issued with a declaration, may on payment to an Bord Pleanála of the required fee, refer a declaration for review by An Bord Pleanála within 4 weeks of the date of the issuing of the declaration. Details on making such appeal are available on the Board's website at [www.pleanala.ie](http://www.pleanala.ie)

Mise, le meas

**Anne O'Gorman**  
Staff Officer  
Planning Department  
Economic Development Directorate

**An Roinn Pleanála**  
**An Stiúarthóireacht Forbairt Gheilleagrach**  
Áras Contae an Chláir, Bóthar Nua, Inis, Co. an Chláir, V95 DXP2

**Planning Department**  
**Economic Development Directorate**  
Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2



**CLARE COUNTY COUNCIL**

**SECTION 5 OF THE PLANNING AND DEVELOPMENT ACT 2000 AS AMENDED**

**DECLARATION ON DEVELOPMENT AND/OR EXEMPTED DEVELOPMENT**

Chief Executive's Order No: 84430

Reference Number: R24-79

Date Referral Received: 14th October 2024

Name of Applicant: Sinéad Smyth & Barry McNamara

Location of works in question: 4 An Garrán, Mountshannon, Co. Clare,  
V94 X00N

**Section 5 referral Reference R24-79 – Sinéad Smyth & Barry McNamara**

(a) Is a first floor extension to the bedroom over the utility at the rear of the house development and if so, is it exempted development? (b) Is the addition of a small porch to the front of the property development and if so, is it exempted development?

**AND WHEREAS** Clare County Council, in considering this referral, had regard in particular to –

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended
- (c) Schedule 2, Part 1, Class 1 and Class 7 of the Planning and Development Regulations 2001, as amended.
- (d) The works as indicated in submitted documents from the referrer.

**AND WHEREAS** Clare County Council has concluded:

- (a) The construction of (a) a first floor extension to the bedroom over the utility at the rear of the house and (b) the addition of a small porch to the front of the property at 4 An Garrán, Mountshannon, Co. Clare constitutes "works" which come within the scope of section 2(1) of the Planning and Development Act 2000, as amended
- (b) The said works constitute "development" which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended
- (c) The said construction of a first floor extension to the bedroom over the utility at the rear of the house at 4 An Garrán, Mountshannon, Co. Clare is not exempted development by virtue of Schedule 2, Part 1, Class 1 (Limitation 4(a)) of the Planning and Development Regulations 2001 (as amended).
- (d) The said addition of a small porch to the front of the property at 4 An Garrán, Mountshannon, Co. Clare is exempted development by virtue of Schedule 2, Part 1, Class 7 of the Planning and Development Regulations 2001 (as amended).

**ORDER:** Whereas by Chief Executive's Order No. HR 152 dated 9<sup>th</sup> April 2021, Pat Dowling, Chief Executive for Clare County Council, did, pursuant to the powers conferred on him by Section 154 of the Local Government Act 2001, delegate to Gareth Ruane, Senior Executive Planner, the powers, functions and duties as set out herein,

**NOW THEREFORE** pursuant to the delegation of the said powers, functions and duties and under Section 5(2)(a) of the Planning & Development Act 2000 (as amended) and having considered the various submissions and reports in connection with the referral described above, I, Gareth Ruane, Senior Executive Planner, hereby declare that (a) A first-floor extension to the bedroom over the utility at the rear of the house at 4 An Garrán, Mountshannon, Co. Clare is **considered development** which is **not exempted development** and (b) The addition of a small porch to the front of the property at 4 An Garrán, Mountshannon, Co. Clare is **considered development** which is **exempted development**.

Signed:

  
\_\_\_\_\_  
GARETH RUANE  
SENIOR EXECUTIVE PLANNER 

Date: 6th November 2024

**DECLARATION ISSUED UNDER SECTION 5 OF THE  
PLANNING & DEVELOPMENT ACT 2000 (AS AMENDED)**

**Reference No.: R24-79**



Comhairle Contae an Chláir  
Clare County Council

**Section 5 referral Reference R24-79**

**(a) Is a first floor extension to the bedroom over the utility at the rear of the house development and if so, is it exempted development? (b) Is the addition of a small porch to the front of the property development and if so, is it exempted development?**

**AND WHEREAS, Sinéad Smyth & Barry McNamara** has requested a declaration from Clare County Council on the said question.

**AND WHEREAS Clare County Council, in considering this referral, had regard in particular to –**

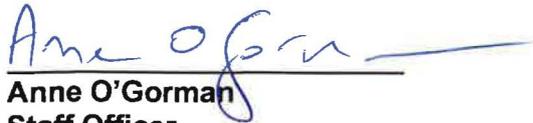
- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended,
- (c) Schedule 2, Part 1, Class 1 and Class 7 of the Planning and Development Regulations 2001, as amended.
- (d) The works as indicated in submitted documents from the referrer.

**And whereas Clare County Council has concluded:**

- (a) The construction of (a) a first floor extension to the bedroom over the utility at the rear of the house and (b) the addition of a small porch to the front of the property at 4 An Garrán, Mountshannon, Co. Clare constitutes “works” which come within the scope of section 2(1) of the Planning and Development Act 2000, as amended
- (b) The said works constitute “development” which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended
- (c) The said construction of a first floor extension to the bedroom over the utility at the rear of the house at 4 An Garrán, Mountshannon, Co. Clare is not exempted development by virtue of Schedule 2, Part 1, Class 1 (Limitation 4(a)) of the Planning and Development Regulations 2001 (as amended).
- (d) The said addition of a small porch to the front of the property at 4 An Garrán, Mountshannon, Co. Clare is exempted development by virtue of Schedule 2, Part 1, Class 7 of the Planning and Development Regulations 2001 (as amended).

**THEREFORE:** The Planning Authority in exercise of the powers conferred on it by Section 5 of the Planning and Development Act, 2000 (as amended), hereby decides that:

The proposed development consisting of (a) A first-floor extension to the bedroom over the utility at the rear of the house at 4 An Garrán, Mountshannon, Co. Clare **constitutes development** which is **not exempted development** and (b) The addition of a small porch to the front of the property at 4 An Garrán, Mountshannon, Co. Clare **constitutes development** which is **exempted development** as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.



**Anne O'Gorman**  
**Staff Officer**  
**Planning Department**  
**Economic Development Directorate**

**6th November 2024**

**CLARE COUNTY COUNCIL**  
**SECTION 5 DECLARATION OF EXEMPTION APPLICATION**

<b>FILE REF:</b>	R24-79
<b>APPLICANT(S):</b>	Sinéad Smyth and Barry McNamara
<b>REFERENCE:</b>	Whether (a) a first floor extension to the bedroom over the utility at the rear of the house and (b) the addition of a small porch to the front of the property is or is not development and is or is not exempted development.
<b>LOCATION:</b>	4 An Garrán, Mountshannon, Co. Clare V94X00N
<b>DUE DATE:</b>	08 <sup>th</sup> November 2024

**Site Location**

The subject dwelling is located in the village of Mountshannon on lands zoned Existing Residential. The site comprises a detach 1.5 storey dwelling with a single storey element of the rear. The house is unoccupied and has been completed to *builder's finish* only. The site appears to have been recently cleared of dense vegetation. The site is located within a small development of detached houses. All other houses appear to be completed and occupied.

**Planning History**

P01/2031 – Patrick and Mary Bugler granted permission to construction 15 houses.

P06/279 – Brendan Nolan granted permission for development of a new dwelling house which previous permission Ref: P00-466 and P03-1683 has expired

**Background to Referral**

This Referral under Section 5(3)(a) of the Planning and Development Act 2000 (as amended) has been made by Sinéad Smyth and Barry McNamara. They state that they are the owners of the dwelling which is the subject of this referral.

The applicants are seeking a Section 5 Declaration as to whether (a) a first floor extension to the bedroom over the utility at the rear of the house and (b) the addition of a small porch to the front of the property is or is not development and is or is not exempted development.

**Statutory Provisions**

**Planning and Development Act, 2000 (as amended)**

In order to assess this proposal, regard has to be had to the *Planning and Development Act 2000, as amended*.

S.3.(1) In this Act, “development” 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.

‘Works’ are defined in Section 2 of the *Planning and Development Act 2000, as amended* as follows:

“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.*

Article 6(1) of the Planning & Development Regulations, 2001, as amended

Subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 1, Class 1

*The extension of a house, by the construction or erection of an extension (including a conservatory) to the rear of the house or by the conversion for use as part of the house of any garage, store, shed or other similar structure attached to the rear or to the side of the house.*

1. (a)

*Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres.*

(b)

*Subject to paragraph (a), where the house is terraced or semi-detached, the floor area of any extension above ground level shall not exceed 12 square metres.*

(c)

*Subject to paragraph (a), where the house is detached, the floor area of any extension above ground level shall not exceed 20 square metres.*

2. (a)

*Where the house has been extended previously, the floor area of any such extension, taken together with the floor area of any previous extension or extensions constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 40 square metres.*

(b)

*Subject to paragraph (a), where the house is terraced or semi-detached and has been extended previously, the floor area of any extension above ground level taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 12 square metres.*

(c)

*Subject to paragraph (a), where the house is detached and has been extended previously, the floor area of any extension above ground level, taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 20 square metres.*

3. *Any above ground floor extension shall be a distance of not less than 2 metres from any party boundary.*

4. (a)

*Where the rear wall of the house does not include a gable, the height of the walls of any such extension shall not exceed the height of the rear wall of the house.*

(b)

*Where the rear wall of the house includes a gable, the height of the walls of any such extension shall not exceed the height of the side walls of the house.*

*(c)*

*The height of the highest part of the roof of any such extension shall not exceed, in the case of a flat roofed extension, the height of the eaves or parapet, as may be appropriate, or, in any other case, shall not exceed the height of the highest part of the roof of the dwelling.*

*5. The construction or erection of any such extension to the rear of the house shall not reduce the area of private open space, reserved exclusively for the use of the occupants of the house, to the rear of the house to less than 25 square metres.*

*6. (a)*

*Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces.*

*(b)*

*Any window proposed above ground level in any such extension shall not be less than 11 metres from the boundary it faces.*

*(c)*

*Where the house is detached and the floor area of the extension aboveground level exceeds 12 square metres, any window proposed at above ground level shall not be less than 11 metres from the boundary it faces.*

*7. The roof of any extension shall not be used as a balcony or roof garden.*

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 1, Class 7

*The construction or erection of a porch outside any external door of a house.*

- 1. Any such structure shall be situated not less than 2 meters from any road.*
- 2. The floor area of any such structure shall not exceed 2 square metres.*
- 3. The height of any such structure shall not exceed, in the case of a structure with a tiled or slated pitched roof, 4 metres or, in any other case, 3 metres.*

Under Article 9 (1) of the same Regulations, 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 –*

*(i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act*

*(ii) consist of or compromise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,*

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

*(iiiia) endanger public safety by reason of hazardous glint and/or glare for the operation of airports, aerodromes or aircraft,*

*(iv) except in the case of a porch to which class 7 specified in column 1 of Part 1 of Schedule 2 applies and which 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, comprise the construction, erection, extension or renewal of a building on any street so as to bring forward the building, or any part of the building, beyond the front wall of the building on either side thereof or beyond a line determined as the building line in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,*

*(v) consist of or comprise the carrying out under a public road of works other than a connection to a wired broadcast relay service, sewer, water main, gas main or electricity supply line or cable, or any works to which class 25, 26 or 31 (a) specified in column 1 of Part 1 of Schedule 2 applies,*

*(vii) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan.*

*(vii) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,*

*(viiA) consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12(1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to and in accordance with a consent granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended,*

*(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,*

*(viiC) consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000."*

*(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,*

*(ix) consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,*

*(x) consist of the fencing or enclosure of any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility,*

*(xi) obstruct any public right of way,*

*(xii) further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an*

area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area.

## Assessment

### **Basis of Referral**

The applicants are seeking a Section 5 Declaration as to whether (a) a first floor extension to the bedroom over the utility at the rear of the house and (b) the addition of a small porch to the front of the property at 4 An Garrán, Mountshannon, Co. Clare is or is not development and is or is not exempted development

### **Particulars of the Development**

Having regard to Section 2(1) of the Planning and Development Act 2001 (as amended), I consider that the proposed developments, come within the scope of "works" and hence constitutes development in accordance with Section 3(1) of the Planning and Development Act 2001 (as amended).

The proposed extension element of the referral is assessed under Schedule 2, Part 1, Class 1 of the Planning and Development Regulations and the proposed porch element of the development is assessed on the context of Schedule 2, Part 1, Class 7 of the Regulations.

### **Assessment of the following elements of the works:**

- A first floor extension to the bedroom over the utility at the rear of the house.

*The extension of a house, by the construction or erection of an extension (including a conservatory) to the rear of the house or by the conversion for use as part of the house of any garage, store, shed or other similar structure attached to the rear or to the side of the house.*

The proposed extension will be located to the rear of the existing dwelling house.

1. (a) *Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres.*

The house has not been previously extended.

- (b) *Subject to paragraph (a), where the house is terraced or semi-detached, the floor area of any extension above ground level shall not exceed 12 square metres.*

The house is detached.

- (c) *Subject to paragraph (a), where the house is detached, the floor area of any extension above ground level shall not exceed 20 square metres.*

The proposed extension is at first floor level and the proposed floor area is 11.97m<sup>2</sup>.

2. *(a) Where the house has been extended previously, the floor area of any such extension, taken together with the floor area of any previous extension or extensions constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 40 square metres.*

Not applicable. No previous extensions have been undertaken.

*(b) Subject to paragraph (a), where the house is terraced or semi-detached and has been extended previously, the floor area of any extension above ground level taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 12 square metres.*

The house is detached.

*(c) Subject to paragraph (a), where the house is detached and has been extended previously, the floor area of any extension above ground level, taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 20 square metres.*

The house has not been previously extended.

3. *Any above ground floor extension shall be a distance of not less than 2 metres from any party boundary.*

The proposed extension is greater than 2m from all site boundaries.

4. *(a) Where the rear wall of the house does not include a gable, the height of the walls of any such extension shall not exceed the height of the rear wall of the house.*

The rear wall of the dwelling does not include a gable. The height of the walls of the proposed extension exceeds the height of the rear wall of the dwelling. The proposal exceeds this limitation of the exemption.

*(b) Where the rear wall of the house includes a gable, the height of the walls of any such extension shall not exceed the height of the side walls of the house.*

Not applicable. The rear wall of the house does not include a gable.

*(c) The height of the highest part of the roof of any such extension shall not exceed, in the case of a flat roofed extension, the height of the eaves or parapet, as may be appropriate, or, in any other case, shall not exceed the height of the highest part of the roof of the dwelling.*

This is complied with.

5. *The construction or erection of any such extension to the rear of the house shall not reduce the area of private open space, reserved exclusively for the use of the occupants of the house, to the rear of the house to less than 25 square metres.*

The dwelling occupies a large site. In excess of 25m<sup>2</sup> remains.

6. (a) Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces.

This is complied with.

(b) Any window proposed above ground level in any such extension shall not be less than 11 metres from the boundary it faces.

Not applicable.

(c) Where the house is detached and the floor area of the extension aboveground level exceeds 12 square metres, any window proposed at above ground level shall not be less than 11 metres from the boundary it faces.

Not applicable.

7. The roof of any extension shall not be used as a balcony or roof garden.

Not applicable.

**Assessment of the following elements of the works:**

- The addition of a small porch to the front of the property

This element of the development is assessed having regard to the Planning and Development Regulations 2001 (as amended) Schedule 2, Part 1, Class 7:

*The construction or erection of a porch outside any external door of a house.*

1. Any such structure shall be situated not less than 2 meters from any road.

This limitation is complied with

2. The floor area of any such structure shall not exceed 2 square metres.

This limitation is complied with.

3. The height of any such structure shall not exceed, in the case of a structure with a tiled or slated pitched roof, 4 metres or, in any other case, 3 metres.

This limitation is complied with.

**Conclusion**

Having regard to the above I consider that the proposed extension does not comply with the limitations of the exemption provided under Schedule 2, Part 1, Class 1 of the Planning and Development Regulations 2001 (as amended) and the proposed porch constitutes works that benefit from exempted development status under Schedule 2, Part 1, Class 7 of the Planning and Development Regulations 2001 (as amended).

**Article 9 of the Planning and Development Regulations 2001, as amended**

Under Article 9 (1) of the same Regulations, *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 –*

*(i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act*

The proposal does not contravene a condition of any previous permission.

*(ii) consist of or compromise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width.*

No access points onto the public road network are affected by the proposal.

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

The proposal does not create a traffic hazard or obstruct road users in the area.

*(iiia) endanger public safety by reason of hazardous glint and/or glare for the operation of airports, aerodromes or aircraft,*

The proposal site is not located in a solar safeguard zone.

*(iv) except in the case of a porch to which class 7 specified in column 1 of Part 1 of Schedule 2 applies and which 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, comprise the construction, erection, extension or renewal of a building on any street so as to bring forward the building, or any part of the building, beyond the front wall of the building on either side thereof or beyond a line determined as the building line in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,*

No applicable to the proposal

*(v) consist of or comprise the carrying out under a public road of works other than a connection to a wired broadcast relay service, sewer, water main, gas main or electricity supply line or cable, or any works to which class 25, 26 or 31 (a) specified in column 1 of Part 1 of Schedule 2 applies*

Not applicable to this proposal

*(vi) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan.*

The proposal will not have a negative impact on the character of visual amenities of the area.

*(vii) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,*

Not applicable to this proposal

*(viiA) consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12(1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to and in accordance with a consent granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended,*

There are no known archaeological features in the vicinity of the proposal site.

*(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,*

Having regard to the nature, scale and location of the proposed development and the established use of the site, the likely zone of influence is no greater than 1km no Appropriate Assessment issues arise and I do not consider 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.

Appropriate assessment is not therefore required.

*(viiC) consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000."*

Not applicable in this instance

*(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,*

Not applicable to this proposal.

*(ix) consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,*

Not applicable in this instance

*(x) consist of the fencing or enclosure of any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility,*

Not applicable in this instance

*(xi) obstruct any public right of way,*

Not applicable in this instance

*(xii) further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area.*

The development site is not within an Architectural Conservation Area.

## Conclusions

The following question has been referred to the Planning Authority:

Whether (a) a first floor extension to the bedroom over the utility at the rear of the house and (b) the addition of a small porch to the front of the property at 4 An Garrán, Mountshannon, Co. Clare is or is not development and is or is not exempted development.

The Planning Authority in considering this referral had regard to:

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended
- (c) Schedule 2, Part 1, Class 1 and Class 7 of the Planning and Development Regulations 2001, as amended.
- (d) The works as indicated in submitted documents from the referrer.

And whereas Clare County Council (Planning Authority) has concluded:

- (a) The construction of (a) a first floor extension to the bedroom over the utility at the rear of the house and (b) the addition of a small porch to the front of the property at 4 An Garrán, Mountshannon, Co. Clare constitutes "works" which come within the scope of section 2(1) of the Planning and Development Act 2000, as amended
- (b) the said works constitute "development" which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended
- (c) the said construction of a first floor extension to the bedroom over the utility at the rear of the house at 4 An Garrán, Mountshannon, Co. Clare is not exempted development by virtue of Schedule 2, Part 1, Class 1 (Limitation 4(a)) of the Planning and Development Regulations 2001 (as amended).
- (d) The said addition of a small porch to the front of the property at 4 An Garrán, Mountshannon, Co. Clare is exempted development by virtue of Schedule 2, Part 1, Class 7 of the Planning and Development Regulations 2001 (as amended).

Now therefore Clare County Council (Planning Authority), hereby decides that:

- (a) A first-floor extension to the bedroom over the utility at the rear of the house at 4 An Garrán, Mountshannon, Co. Clare is development and is not exempted development
- (b) The addition of a small porch to the front of the property at 4 An Garrán, Mountshannon, Co. Clare is development and is exempted development.

  
\_\_\_\_\_  
Caroline Balfe

Executive Planner

Date 31/10/2024

  
\_\_\_\_\_  
Garreth Ruane

Senior Executive Planner

Date 04/11/24

R24-79 Mountshannon.









COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

**Sinéad Smyth & Barry McNamara**  
Church Street  
Scariff  
Co. Clare  
V94CDP8

14/10/2024

**Section 5 referral Reference R24-79 – Sinéad Smyth & Barry McNamara**

(a) Is a first floor extension to the bedroom over the utility at the rear of the house development and if so, is it exempted development? (b) Is the addition of a small porch to the front of the property development and if so, is it exempted development?

A Chara,

I refer to your application received on 14th October 2024 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

Please note that the Planning Authority is considering the matter and a reply will issue to you in due course.

Mise, le meas

**Brian Fahy**  
Planning Department  
Economic Development Directorate

**An Roinn Pleanála**  
**An Stúirthóireacht Forbairt Gheilleagrach**

Áras Contae an Chláir, Bóthar Nua, Inis, Co. an Chláir, V95 DXP2

**Planning Department**  
**Economic Development Directorate**

Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2



P07

**CLARE COUNTY COUNCIL  
COMHAIRLE CONTAE AN CHLÁIR**

Planning Department,  
Economic Development Directorate,  
Clare County Council,  
New Road, Ennis,  
Co. Clare.  
V95DXP2

Telephone No. (065) 6821616  
Fax No. (065) 6892071  
Email: [planoff@clarecoco.ie](mailto:planoff@clarecoco.ie)  
Website: [www.clarecoco.ie](http://www.clarecoco.ie)



R24-79

**REQUEST FOR A DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT  
(Section 5 of the Planning & Development Act 2000 (as amended))**

**FEE: €80**

*This following form is a non-statutory form which has been prepared by Clare County Council for the purpose of obtaining the necessary information required for a declaration to be made under Section 5 by the Planning Authority*

<b>1. CORRESPONDENCE DETAILS.</b>	
(a) Name and Address of person seeking the declaration	<p>SINEAD SMYTH &amp; BARRY MCNAMARA</p> <p>CHURCH STREET, SCARIFF,</p> <p>CO. CLARE</p> <p style="text-align: right;">Eircode: V94CDP8</p>
(b) Telephone No.:	
(c) Email Address:	
(d) Agent's Name and address:	<p>_____</p> <p>_____</p> <p>_____</p> <p style="text-align: right;">EIRCODE: _____</p>

**CLARE COUNTY COUNCIL**

14 OCT 2024

Received

Planning Section

**2. DETAILS REGARDING DECLARATION BEING SOUGHT**

(a) PLEASE STATE THE SPECIFIC QUESTION FOR WHICH A DECLARATION IS SOUGHT  
*Note: only works listed and described under this section will be assessed.*

Sample Question: *Is the construction of a shed at 1 Main St., Emnis development and if so is it exempted development?*

1) Is a first floor extension to the bedroom over the utility at the rear of the house exempted?

2) Is the addition of a small porch to the front of the property exempted?

(b) Provide a full description of the question/matter/subject which arises wherein a declaration of the question is sought.

1) Extension to the first floor bedroom at the rear of the house coming out over the existing utility room to allow for a dressing room. Proposed floor area of extension : 11.97sqm

2) Addition of small porch to front of house  
Proposed area 2sqm.

(c) List of plans, drawings etc. submitted with this request for a declaration:

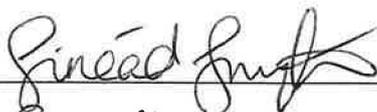
*(Note: Please provide a site location map to a scale of not less than 1:2500 based on Ordnance Survey map for the areas, to identify the lands in question)*

Site Location Map

Detailed plans for extension & porch.

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT	
(a) Postal Address of the Property/Site/Building for which the declaration sought:	4 AN GARRAN MOUNTS HANNON CO. CLARE V94X00N
(b) Do the works in question affect a Protected Structure or are within the curtilage of a Protected Structure? If yes, has a Declaration under Section 57 of the Planning & Development Act 2000 (as amended) been requested or issued for the property by the Planning Authority?	NO
(c) Legal interest in the land or structure in question of the person requesting the declaration (Give Details):	OWNERS
(d) If the person in (c) above is not the owner and/or occupier, state the name and address of the owner of the property in question:  <i>Note: Observations in relation to a referral may be requested from the owner/occupier where appropriate.</i>	
(e) Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?:	
(f) Are you aware of any enforcement proceedings connected to this site? <i>If so please supply details:</i>	NO
(g) Were there previous planning application/s on this site? <i>If so please supply details:</i>	NO
(h) Date on which 'works' in question were completed/are likely to take place:	NOVEMBER 2024

SIGNED:

  
Barry McNamara

DATE: 13-10-24

**GUIDANCE NOTES**

*This following are non-statutory advice notes prepared by Clare County Council for the purpose of advising people what information is required for a decision to be made under Section 5 by the Planning Authority*

- (i) The request for a declaration under Section 5 must be accompanied by 2 copies of site location map based on the Ordnance Survey map for the area of a scale not less than 1:1000 in urban areas and 1:2500 in rural areas and should clearly identify the site in question.
- (ii) The request for a declaration under Section 5 must be accompanied by the required fee of €80.00.
- (iii) If submitting any additional plans/reports etc. as part of the request for a declaration, please submit 2 copies.
- (iv) The request for a declaration should be sent to the following address:

Planning Department,  
Economic Development Directorate,  
Clare County Council  
Aras Contae an Chlair,  
New Road,  
Ennis,  
Co. Clare  
V95DXP2

- (v) Notwithstanding the completion of the above form, the Planning Authority may require the submission of further information with regard to the request in order to enable the Authority to issue a declaration on the question.
- (vi) The Planning Authority may also request other persons to submit information on the question which has arisen and on which the declaration is sought

**FOR OFFICE USE ONLY**

Date Received:	.....	Fee Paid:	.....
Date Acknowledged:	.....	Reference No.:	.....
Date Declaration made:	.....	CEO No.:	.....
Decision:	.....		

# Planning Pack Map

PROPOSED ALTERATION, RENOVATION AND EXTENSION TO DWELLING HOUSE AT 4 GARRAN, MOUNTSHANNON, CO. CLARE FOR SINEAD SMYTH AND BARRY McNAMARA.

CONTENTS: SITE LOCATION MAP.

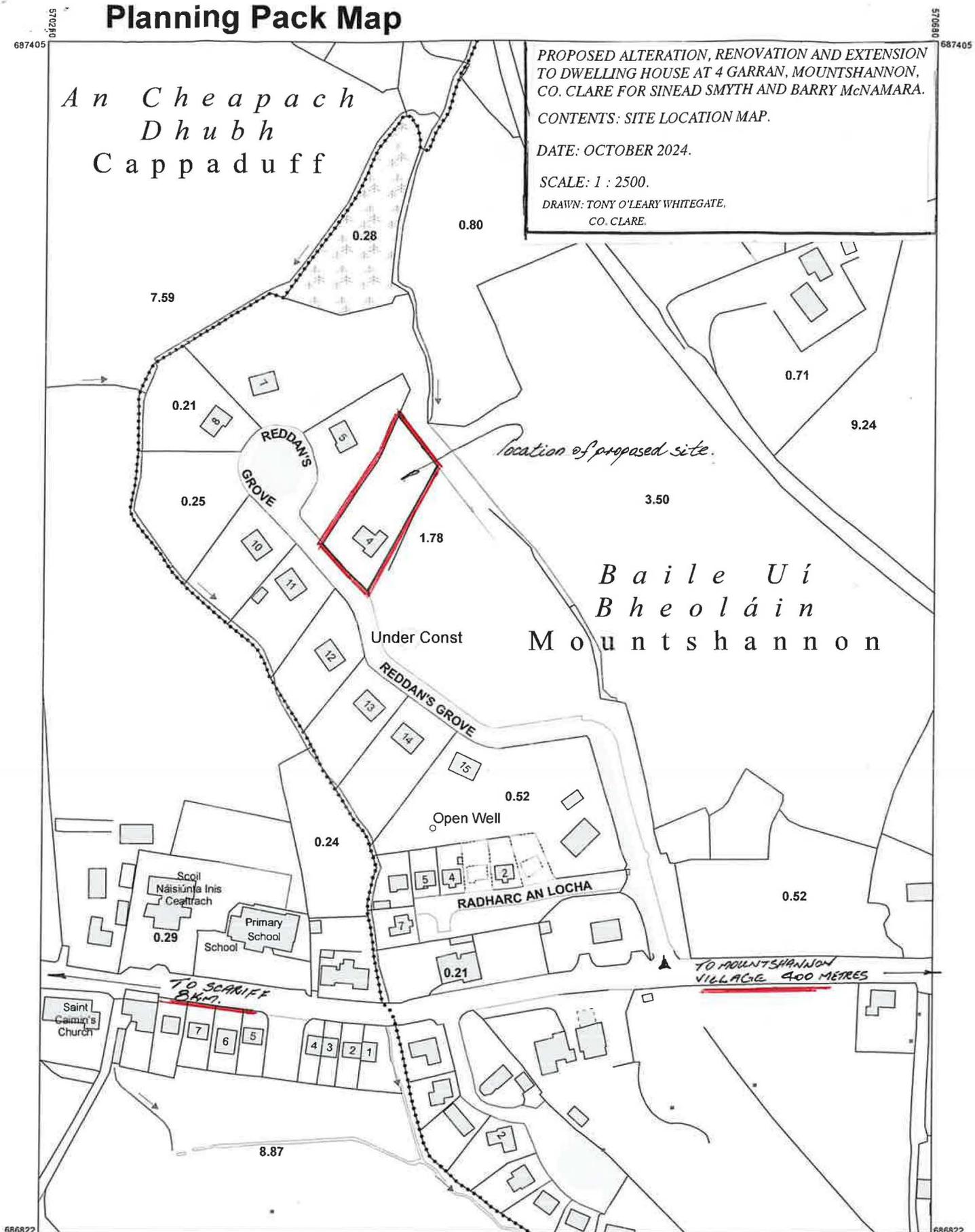
DATE: OCTOBER 2024.

SCALE: 1 : 2500.

DRAWN: TONY O'LEARY WHITEGATE,  
CO. CLARE.

An Cheapach  
Dhubh  
Cappaduff

Baile Uí  
Bheoláin  
Mountshannon



**COMPILED AND PUBLISHED BY:**

Tailte Éireann,  
Phoenix Park,  
Dublin 8,  
Ireland.  
D08F6E4

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**CENTRE COORDINATES:**  
ITM 570465,687114

**PUBLISHED:** 08/10/2024

**ORDER NO.:** 50427252\_1

**MAP SERIES:** 1:2,500  
1:2,500

**MAP SHEETS:** 4098-D  
4157-B

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[www.tailte.ie](http://www.tailte.ie)

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**Tailte  
Éireann**

Photos taken 13-10-24





*PROPOSED ALTERATION, RENOVATION AND EXTENSION  
TO DWELLING HOUSE AT 4 GARRAN, MOUNTSHANNON,  
CO. CLARE FOR SINEAD SMYTH AND BARRY McNAMARA.*



*EXISTING FRONT ELEVATION (SOUTH-WEST). SCALE: 1 : 100.*



*EXISTING BACK ELEVATION (NORTH-EAST). SCALE: 1 : 100.*

*existing lean-to type slated roof to be removed, walls built up new upper floor roof to be cut into existing slate roof to create new upper floor bedroom.*



*EXISTING END ELEVATION (SOUTH-EAST). SCALE: 1 : 100.*



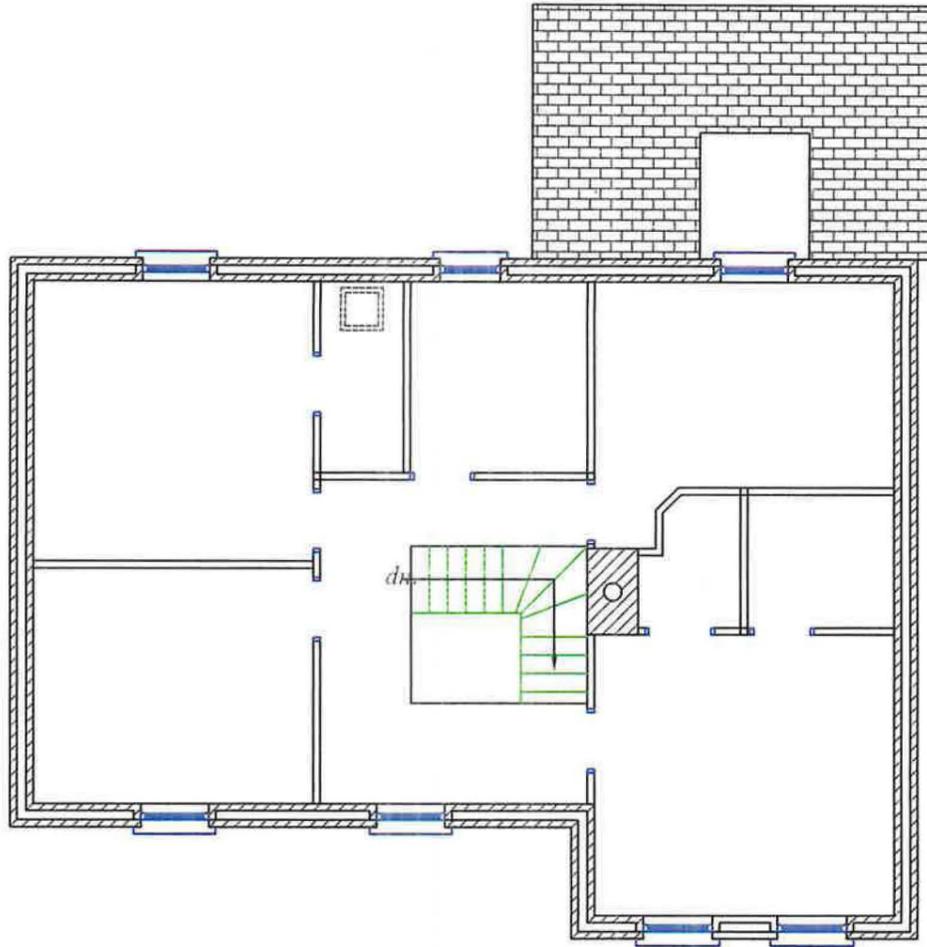
*EXISTING END ELEVATION (NORTH-WEST). SCALE: 1 : 100.*

*existing lean-to type slated roof to be removed, walls built up new upper floor roof to be cut into existing slate roof to create new upper floor bedroom.*

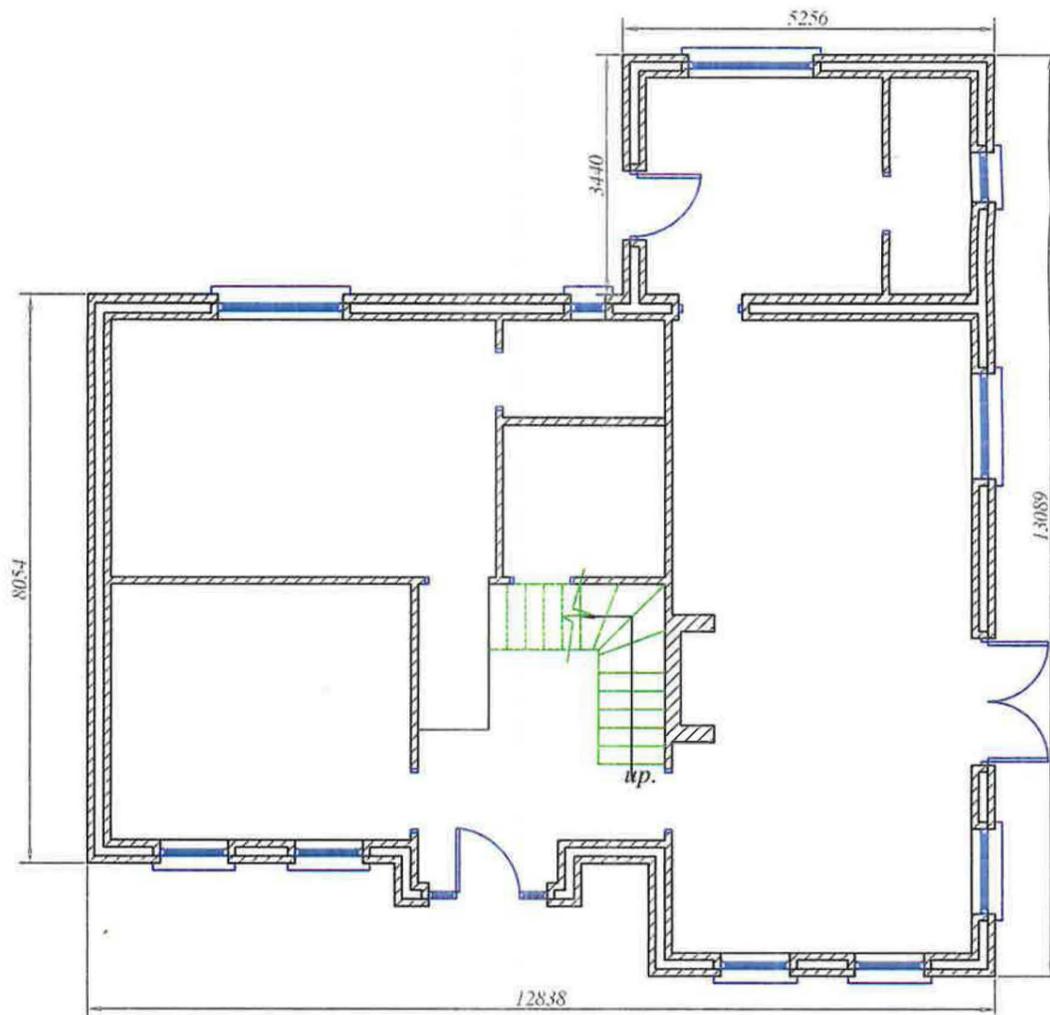
**EXISTING ELEVATIONS.**

*PROPOSED ALTERATION, RENOVATION AND EXTENSION TO DWELLING HOUSE AT 4 GARRAN, MOUNTSHANNON, CO. CLARE FOR SINEAD SMYTH AND BARRY McNAMARA.*

*CONTENTS: EXISTING ELEVATIONS.  
DATE: OCTOBER 2024.  
SCALE: 1 : 100.  
DRAWN: TONY O'LEARY WHITEGATE,  
CO. CLARE.*



*EXISTING UPPER FLOOR PLAN. SCALE: 1 : 100.*



*EXISTING GROUND FLOOR PLAN. SCALE: 1 : 100.*

**EXISTING FLOOR PLANS.**

PROPOSED ALTERATION, RENOVATION AND EXTENSION  
TO DWELLING HOUSE AT 4 GARRAN, MOUNTSHANNON,  
CO. CLARE FOR SINEAD SMYTH AND BARRY McNAMARA.

CONTENTS: EXISTING GROUND AND UPPER FLOOR PLANS.  
DATE: OCTOBER 2024.  
SCALE: 1 : 100.  
DRAWN: TONY O'LEARY WHITEGATE,  
CO. CLARE.



PROPOSED FRONT ELEVATION (SOUTH-WEST). SCALE: 1 : 100.



PROPOSED BACK ELEVATION (NORTH-EAST). SCALE: 1 : 100.



PROPOSED END ELEVATION (SOUTH-EAST). SCALE: 1 : 100.

slated roof to proposed upper floor extension.  
outline of existing roof line (to be removed) shown dotted.



PROPOSED END ELEVATION (NORTH-WEST). SCALE: 1 : 100.

**PROPOSED ELEVATIONS.**

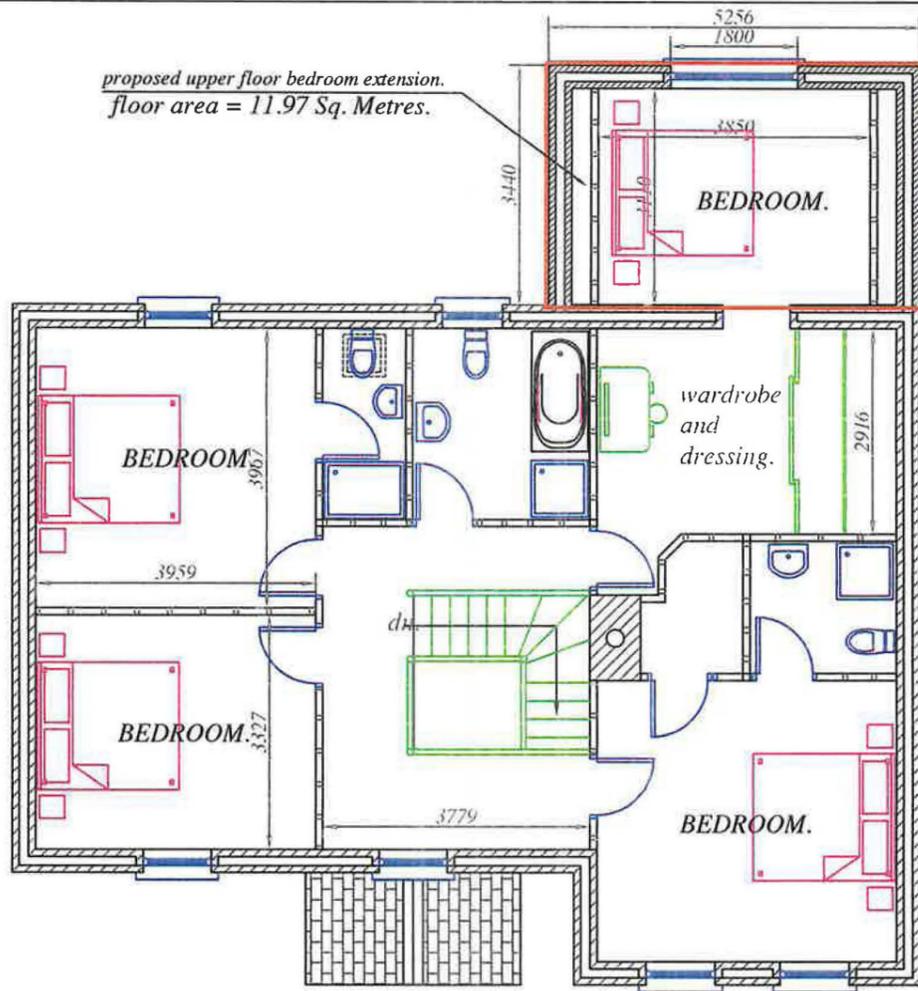
PROPOSED ALTERATION, RENOVATION AND EXTENSION TO DWELLING HOUSE AT 4 GARRAN, MOUNTSHANNON, CO. CLARE FOR SINEAD SMYTH AND BARRY McNAMARA.

CONTENTS: PROPOSED ELEVATIONS.

DATE: OCTOBER 2024.

SCALE: 1 : 100.

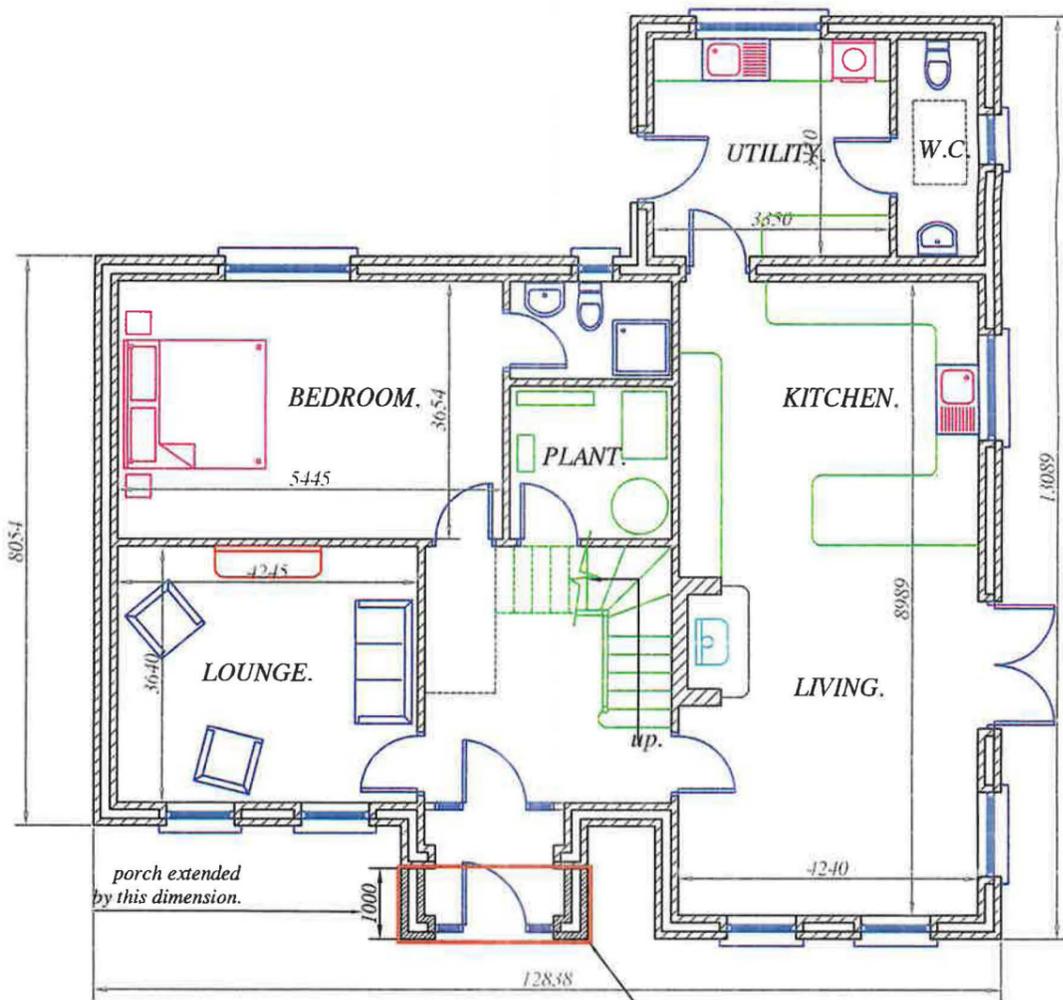
DRAWN: TONY O'LEARY WHITEGATE, CO. CLARE.



proposed upper floor bedroom extension.  
 floor area = 11.97 Sq. Metres.

PROPOSED EXTENSION OUTLINED  
 IN RED THUS: ———

PROPOSED UPPER FLOOR PLAN. SCALE: 1 : 100.



porch extended  
 by this dimension.

proposed from porch extension (outlined in red).  
 floor area = 2 Sq. Metres.

PROPOSED GROUND FLOOR PLAN. SCALE: 1 : 100.

**PROPOSED FLOOR PLANS.**

PROPOSED ALTERATION, RENOVATION AND EXTENSION  
 TO DWELLING HOUSE AT 4 GARRAN, MOUNTSHANNON,  
 CO. CLARE FOR SINEAD SMYTH AND BARRY McNAMARA.

CONTENTS: PROPOSED GROUND AND UPPER FLOOR PLANS.

DATE: OCTOBER 2024.

SCALE: 1 : 100.

DRAWN: TONY O'LEARY WHITEGATE,  
 CO. CLARE.