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CONTAE AN CHLÁIR | COUNTY COUNCIL

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**Fintan Mac Coitir
Lisduff
Ruan
Co. Clare
V95 V9K0**

4th December 2024

Section 5 referral Reference R24-87 – Fintan Mac Coitir

(a) Is the proposed porch as indicated on drawing PL003 development and if so, is it exempted development? (b) Is the proposed rear extension as indicated on drawing PL003 development and if so, is it exempted development?

A Chara,

I refer to your application received on 8th November 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.

Mise, le meas



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

**An Roinn Pleanála
An Stiúrthóireacht 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:

84578

Reference Number:

R24-87

Date Referral Received:

8th November 2024

Name of Applicant:

Fintan Mac Coitir

Location of works in question:

1 Church Road, Kilkee, Co. Clare

Section 5 referral Reference R24-87 – Fintan Mac Coitir

(a) Is the proposed porch as indicated on drawing PL003 development and if so, is it exempted development? (b) Is the proposed rear extension as indicated on drawing PL003 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) Class 1, Class 7 and Class 50 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (d) The works as indicated in submitted documents from the referrer on the 08th November 2024.

AND WHEREAS Clare County Council has concluded:

- (a) The (a) the construction of a single storey front porch, (b) the demolition of a single storey extension, and (c) the construction of a new single storey rear extension with a first-floor roof terrace at number 1 Church Road, Kilkee, County Clare, constitute "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 development of the demolition of a single storey rear extension and the construction of a front porch constitutes exempted development having regard to Class 7 and Class 50 of Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended,
- (d) The said development of the the construction of a new single storey rear extension with a first-floor roof terrace does not constitute exempted development having regard to Class 1, of Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended, and Article 9(ii) of the Planning and Development Regulations 2001, as amended, as:
 - i. The proposed rear extension includes a roof terrace,
 - ii. The floor area of the first-floor area would be in excess of 12 square metres,

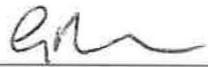
- iii. The first-floor roof terrace would be less than 2 metres from party boundaries,
- iv. A side window is proposed at ground floor level that would be less than 1 metre from the boundary it faces, and
- v. The proposal would include the laying out of a means of pedestrian access to a public road the surfaced carriageway of which exceeds 4 metres in width.

ORDER: Whereas by Chief Executive's Order No. HR 152 dated 9th 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 the construction of a single storey front porch, and the demolition of a single storey extension, at number 1 Church Road, Kilkee, County Clare is **considered development** which is **exempted development**.

Now therefore Clare County Council (Planning Authority), also hereby decides that the construction of a new single storey rear extension with a first-floor roof terrace is **considered development** and is **not exempted development**.

Signed:



GARETH RUANE
SENIOR EXECUTIVE PLANNER

A


Date:

4th December 2024

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

Reference No.: R24-87



**Comhairle Contae an Chláir
Clare County Council**

Section 5 referral Reference R24-87

(a) Is the proposed porch as indicated on drawing PL003 development and if so, is it exempted development? (b) Is the proposed rear extension as indicated on drawing PL003 development and if so, is it exempted development?

AND WHEREAS, Fintan Mac Coitir 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) Class 1, Class 7 and Class 50 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (d) The works as indicated in submitted documents from the referrer on the 08th November 2024.

And whereas Clare County Council has concluded:

- (a) The (a) the construction of a single storey front porch, (b) the demolition of a single storey extension, and (c) the construction of a new single storey rear extension with a first-floor roof terrace at number 1 Church Road, Kilkee, County Clare, constitute “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 development of the demolition of a single storey rear extension and the construction of a front porch constitutes exempted development having regard to Class 7 and Class 50 of Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended,
- (d) The said development of the the construction of a new single storey rear extension with a first-floor roof terrace does not constitute exempted development having regard to Class 1, of Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended, and Article 9(ii) of the Planning and Development Regulations 2001, as amended, as:
 - i. The proposed rear extension includes a roof terrace,
 - ii. The floor area of the first-floor area would be in excess of 12 square metres,

- iii. The first-floor roof terrace would be less than 2 metres from party boundaries,
- iv. A side window is proposed at ground floor level that would be less than 1 metre from the boundary it faces, and
- v. The proposal would include the laying out of a means of pedestrian access to a public road the surfaced carriageway of which exceeds 4 metres in width.

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 the construction of a single storey front porch, and the demolition of a single storey extension, at number 1 Church Road, Kilkee, County Clare **constitutes development** which is **exempted development** as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.

The proposed construction of a new single storey rear extension with a first-floor roof terrace at number 1 Church Road, Kilkee, Co. Clare **constitutes development** which is **not exempted development**.



Anne O'Gorman
Staff Officer
Planning Department
Economic Development Directorate

4th December 2024

CLARE COUNTY COUNCIL
SECTION 5 DECLARATION OF EXEMPTION APPLICATION
PLANNERS REPORT 1

FILE REF:	R24-87
APPLICANT(S):	Fintan Mac Coitir
REFERENCE:	Whether (a) the construction of a single storey front porch, (b) the demolition of a single storey extension, and (c) the construction of a new single storey rear extension with a first-floor roof terrace at number 1 Church Road, Kilkee, County Clare is or is not development and is or is not exempted development.
LOCATION:	1 Church Road, Kilkee, County Clare
DUE DATE:	05 th December 2024

Site Location

The site is located in the town of Kilkee and is zone as “Existing Residential” in the Clare County Development Plan 2023-2029. It is to the west of Church Road and to the south of the access road into Victoria Crescent. The site accommodates an end of terrace 2 storey dwelling with a single storey rear return with a lean-to roof. The dwelling is served by front and rear yard areas. The dwelling to the immediate south has a single storey rear return. The views towards the site are local in range and are from Church Road, Victoria Crescent and Saint Patrick’s Terrace.

Recent Onsite Planning History

None.

Background to Referral

This Referral under Section 5(3)(a) of the Planning and Development Act 2000 (as amended) has been made by Fintan Mac Coitir who states that he is the owner of the site. The applicant is seeking a Section 5 Declaration as to whether (a) the construction of a single storey front porch, (b) the demolition of a single storey extension, and (c) the construction of a new single storey rear extension with a first-floor roof terrace at number 1 Church Road, Kilkee, County Clare 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.

Planning & Development Regulations, 2001, as amended

Article 6 refers to Exempted Development and states that subject to Article 9, development of a class specified in column 1 of Part 3 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 3 opposite the mention of that class in the said column 1.

Planning & 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 above ground 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 & 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 metres 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.*

Planning & Development Regulations, 2001, as amended Schedule 2, Part 1, Class 50

(a)

The demolition of a building, or buildings, within the curtilage of—

- (i) *a house,*
- (ii) *an industrial building,*
- (iii) *a business premises, or*
- (iv) *a farmyard complex*

1. *No such building or buildings shall abut on another building in separate ownership.*
2. *The cumulative floor area of any such building, or buildings, shall not exceed:*
 - a) *in the case of a building, or buildings within the curtilage of a house, 40 square metres, and*
 - b) *in all other cases, 100 square metres.*
3. *No such demolition shall be carried out to facilitate development of any class prescribed for the purposes of section 176 of the Act.*

(b)

The demolition of part of a habitable house in connection with the provision of an extension or porch in accordance with Class 1 or 7, respectively, of this Part of this Schedule or in accordance with a permission for an extension or porch under the Act.

Planning & Development Regulations, 2001, as amended, Article 9(1)

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,

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

(iv) 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

Particulars of the Development

		m²
• Demolition	Rear Extension	4
	Front Porch	1.6
• Floor Area	Rear Extension	13.2
	Front Porch	2.7
	Rear Ground Floor Extension	4.075
• Height	Front Porch	2.7
	Rear Ground Floor Extension	4.075
• Roof Profile	Front Porch	Flat
	Rear Ground Floor Extension	Parapet & Roof Terrace

Planning Exemption Assessment

Outlined below is the assessment of the various elements of the development as proposed.

Demolition

Planning & Development Regulations, 2001, as amended Schedule 2, Part 1, Class 50

(a)

The demolition of a building, or buildings, within the curtilage of—

- (i) a house,*
- (ii) an industrial building,*
- (iii) a business premises, or*
- (iv) a farmyard complex*

The demolition works would be within the curtilage of the existing dwelling.

1. *No such building or buildings shall abut on another building in separate ownership.*

The building is terraced. The demolition works do not abut on another building in separate ownership.

2. *The cumulative floor area of any such building, or buildings, shall not exceed:*
 - c) *in the case of a building, or buildings within the curtilage of a house, 40 square metres, and*
 - d) *in all other cases, 100 square metres.*

This threshold would not be exceeded.

3. *No such demolition shall be carried out to facilitate development of any class prescribed for the purposes of section 176 of the Act.*

The demolition would be carried out to facilitate a larger rear extension, and a porch to the front elevation.

(b)

The demolition of part of a habitable house in connection with the provision of an extension or porch in accordance with Class 1 or 7, respectively, of this Part of this Schedule or in accordance with a permission for an extension or porch under the Act.

The demolition would be carried out to facilitate a larger rear extension, and a porch to the front elevation.

Rear Extension

Planning & 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.

The proposed extension would be located to the rear of the dwelling.

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

The floor area of the proposed extension would not exceed 40sqm.

(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.

A roof terrace is proposed at first floor level. This would have an area in excess of 12sqm.

(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.

Not applicable.

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.

The floor area of the proposed rear extension would not be in excess of 40sqm.

(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.

A roof terrace is proposed at first floor level. This would have an area in excess of 12sqm.

(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.

Not applicable.

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

The first-floor roof terrace would be less than 2 metres with the side party 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 proposed height of the rear extension would not exceed this height requirement.

(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.

The proposed height of the rear extension would not exceed this height requirement.

(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.

The proposed height of the rear extension would not exceed this height requirement.

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 area of open space remaining would be in excess of 25sqm.

6. (a)

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

A ground floor window is proposed on the northern boundary of the site.

(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 above ground 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.*

The roof is proposed as a roof terrace.

Front Porch

Planning & 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.

The porch would be located outside of the front door of the dwelling.

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

This is achieved.

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

The floor area would not exceed 2sqm.

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.*

The flat-roofed porch would have a height of 2.7 metres.

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

Article 9 of the Planning and Development Regulations 2001, as amended outlines restrictions on exempted development, and these are assessed below:

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

Not applicable.

(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,*

The side pedestrian access would be relocated and therefore a new access would be created. The access road to Victoria Crescent is in excess of 4 metres in width.

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

Not applicable in this instance.

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

The proposal would not endanger public safety by reason of hazardous glint and/or glare for the operation of airports, aerodromes or aircraft.

(iv) 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 would not interfere with the character of a landscape, or a view or prospect of special amenity value or special interest.

(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,

This is not applicable in this instance.

(vi) 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, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,

This is not applicable in this instance.

(vii)

a. 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,

This is not applicable in this instance.

- b. *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,*

This is not applicable in this instance.

- c. *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."*

This is 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,*

This is not applicable in this instance.

- (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,*

This is 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,*

This is not applicable in this instance.

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

This is 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.

This is not applicable in this instance.

Recommendation

The following question has been referred to the Planning Authority:

Whether (a) the construction of a single storey front porch, (b) the demolition of a single storey extension, and (c) the construction of a new single storey rear extension with a first-floor roof terrace at number 1 Church Road, Kilkee, County 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) Class 1, Class 7 and Class 50 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (d) The works as indicated in submitted documents from the referrer on the 08th November 2024.

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

- (a) The (a) the construction of a single storey front porch, (b) the demolition of a single storey extension, and (c) the construction of a new single storey rear extension with a first-floor roof terrace at number 1 Church Road, Kilkee, County Clare, constitute "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 development of the demolition of a single storey rear extension and the construction of a front porch constitutes exempted development having regard to Class 7 and Class 50 of Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended,
- (d) the said development of the the construction of a new single storey rear extension with a first-floor roof terrace does not constitute exempted development having regard to Class 1, of Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended, and Article 9(ii) of the Planning and Development Regulations 2001, as amended, as:

- i. The proposed rear extension includes a roof terrace,
- ii. The floor area of the first-floor area would be in excess of 12 square metres,
- iii. The first-floor roof terrace would be less than 2 metres from party boundaries,
- iv. A side window is proposed at ground floor level that would be less than 1 metre from the boundary it faces, and
- v. The proposal would include the laying out of a means of pedestrian access to a public road the surfaced carriageway of which exceeds 4 metres in width.

Now therefore Clare County Council (Planning Authority), hereby decides that the construction of a single storey front porch, and the demolition of a single storey extension, at number 1 Church Road, Kilkee, County Clare is development and is exempted development.

Now therefore Clare County Council (Planning Authority), also hereby decides that the construction of a new single storey rear extension with a first-floor roof terrace is development and is not exempted development.


Executive Planner
Date: 27th November 2024


Senior Executive Planner
Date: 27/11/24.

Table 2: Identification of European sites which may be impacted by the proposed development.

This section identifies the European Sites within the likely zone of impact of the plan or project. For plans an initial 15km zone of influence (NPWS-DAHG)¹ is recommended. For projects, the distance could be much less than 15km, and in some cases less than 100m, but this must be evaluated on a case-by-case basis with reference to the nature, size and location of the project, and the sensitivities of the ecological receptors, and the potential for in combination effects. Qualifying Interests/Special conservation Interests for each site and the distance relevant to the proposal are listed (Table 2 (a)).

Table 2 (a): European Sites within 15km of Applicant Site

European Sites ²	Qualifying Interests (QIs)/Special Conservation Interests (SCIs) and conservation objectives (either generic or detailed) (available on www.npws.ie/protectedsites) or through Intranet.	Distance to Applicant Site (km)
Kilkee Reefs SAC	Large shallow inlets and bays [1160] Reefs [1170] Submerged or partially submerged sea caves [8330]	0.28

1	Impacts on designated rivers, streams, lakes and fresh water dependant habitats and species.	<i>Is the development in the catchment of or immediately upstream of a watercourse that has been designated as a European site?</i>	Yes
2	Impacts on terrestrial habitats and species.	<i>Is the development within 1km of a European site with terrestrial based habitats or species?</i>	Yes
3	Impacts on designated marine habitats and species.	<i>Is the development located within marine or intertidal areas and within 5 km of a European site whose qualifying habitats or species include the following: Mudflats, sandflats, saltmarsh, shingle, reefs, sea cliffs</i>	No
4	Impacts on birds in SPAs	<i>Is the development within 1km of a Special Protection Area</i>	No

¹ European Sites that are more than 15km from the proposal may have to be considered. For example in the case of sites with water dependent habitats or species and where a proposal could affect water quality or quantity it may be necessary to consider the full extent of the upstream and/or downstream catchment.

² European Site details are available on <http://webgis.npws.ie/npwsviewer/> or maybe obtained from internal mapping systems.

5	Indirect effects	<i>Is the development, in combination with other existing or proposed developments likely to impact on an adjacent European site? Is any emission from the development (including noise) likely to impact on an adjacent habitat or species?</i>	No impacts envisaged
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Conclusion: If the answer to all of the above is no, significant impacts on European sites are unlikely. No further assessment is required; go directly to the conclusion statement.
If the answer is "unknown" or "yes" proceed to Table 3 and refer to the relevant sections of Table 3.

Appropriate Assessment Screening Determination	
Planning File Reference	R24-87
Proposed Development	Dwelling alterations
Development Location	1 Church Road Kilkee
European sites within impact zone	As per report
Description of the project	
(a) the construction of a single storey front porch, (b) the demolition of a single storey extension, and (c) the construction of a new single storey rear extension with a first-floor roof terrace	
Qualifying Interests (QIs)/Special Conservation Interests (SCIs) of European site	
As per report	
Describe how the project or plan (alone or in combination) is likely to affect the European site(s).	
No impacts envisaged	
If there are potential negative impacts, explain whether you consider if these are likely to be significant, and if not, why not?	
No impacts envisaged – limited nature of works, and nature of designations	
Documentation reviewed for making this statement	
NPWS website Plans and particulars received GIS mapping database	
Conclusion of assessment (a, b, c or d)	
(a) The proposed development is directly connected with or necessary to the nature conservation management of a European Site(s) ³	
(b) There is no potential for significant effects to European Sites ³	Yes
(c) The potential for significant effects to European Site(s) cannot be ruled out ⁴	

³ Appropriate Assessment is not required and therefore Planning permission may be granted at this stage subject to all other planning considerations. However, no changes may be made to the proposed development after this conclusion has been reached as this would invalidate the findings of the screening exercise.

⁴ In accordance with S177U of the Planning and Development (Amendment) Act 2010, the applicant should be requested to submit an 'Appropriate Assessment Screening Matrix' completed by a suitably qualified ecologist, by way of Further Information. Following receipt of this information a new Appropriate Screening Report should be completed. The requested 'Appropriate Assessment Screening Matrix' should be in accordance with the template outlined in Annex 2, Figure 1 of the EU (2001) guidance document 'Assessment of plans and projects significantly affecting European Sites – Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC. This guidance document is available from http://ec.europa.eu/environment/nature/natura2000/management/docs/art6/natura_2000_assess_en.pdf

(d) Significant effects to European sites are certain or likely or where potential for significant effects to European sites remains following receipt of Further Information requested under S177U of the Planning and Development (Amendment) Act 2010⁵	
Completed By	John O’Sullivan
Date	27 th November 2024

Alternatively, where other planning concerns arise the proposal could be refused planning permission.

⁵ The proposed development must either be refused planning permission or alternatively an ‘Appropriate Assessment’ (AA) should be carried out by the Planning Authority. In order to facilitate the preparation of an AA the applicant should be requested to submit a Natura Impact Statement (NIS) in accordance with S177 (T) of the Planning and Development (Amendment) Act 2010. However, in the case of an application to retain unauthorised development of land and where the authority decides that an ‘appropriate assessment’ should have been carried out prior to the commencement of development, the application is required to be invalidated by the Planning Authority as per S34 (12) of the Planning and Development (Amendment) Act 2010 and accordingly an NIS should not be requested in such instances.

R24-87













COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Fintan Mac Coitir
Lisduff
Ruan
Co. Clare
V95 V9K0

12/11/2024

Section 5 referral Reference R24-87 – Fintan Mac Coitir

(a) Is the proposed porch as indicated on drawing PL003 development and if so, is it exempted development? (b) Is the proposed rear extension as indicated on drawing PL003 development and if so, is it exempted development?

A Chara,

I refer to your application received on 8th November 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



Clare County Council
Aras Contae an Chláir
New Road
Ennis
Co Clare

=====

08/11/2024 15:13:23

Receipt No. : L1CASH/0/371707

***** REPRINT *****

FINTAN MAC COITIR
RUAN, CO CLARE

COMHAIRLE
CONTAE
AN CHLÁIR

SECTION 5 REFERENCES	80.00
GOODS	80.00
VAT Exempt/Non-vatable	

Total : 80.00 EUR

Tendered :
CREDIT CARDS 80.00

Change : 0.00



Issued By : L1CASH - Colm Murphy
From : MAIN CASH OFFICE LODGEMENT AF
Vat reg No.0033043E

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
Website: www.clarecoco.ie



R24-87

**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

1. CORRESPONDENCE DETAILS.									
(a) Name and Address of person seeking the declaration	<table style="width: 100%; border-collapse: collapse;"> <tr> <td colspan="2" style="border-bottom: 1px solid black;">FINIAN Mac GILIR</td> </tr> <tr> <td style="border-bottom: 1px solid black; width: 60%;">1 Church Rd.</td> <td style="border-bottom: 1px solid black;">Lisduff</td> </tr> <tr> <td style="border-bottom: 1px solid black;">Kilkee</td> <td style="border-bottom: 1px solid black;">Rural</td> </tr> <tr> <td style="border-bottom: 1px solid black;">V15 DT28</td> <td style="border-bottom: 1px solid black;">V95 U9K0</td> </tr> </table>	FINIAN Mac GILIR		1 Church Rd.	Lisduff	Kilkee	Rural	V15 DT28	V95 U9K0
FINIAN Mac GILIR									
1 Church Rd.	Lisduff								
Kilkee	Rural								
V15 DT28	V95 U9K0								
(b) Telephone No.:	-								
(c) Email Address:	-								
(d) Agent's Name and address:	AS ABOVE. <hr/> <hr/> <hr/> <hr/>								

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., Ennis development and if so is it exempted development?*

- a) Is the proposed porch as indicated on drg PL003 exempted dev?
- b) Is the proposed rear extension as indicated on PL003 exempted dev?

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

- a) A porch is necessary to provide weather protection in the high wind area of Killree.
- b) There is an existing lean-to toilet block at the property. This is not fit for purpose (no insulation etc). The proposal is to demolish this and replace it with a c. 14m² extension which will incorporate new toilet, new kitchen and roof terrace.

(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)

- 2x Existing floor plan PL001 . 2x Existing Sections & Elevations PL002
- 2x Proposed floor plan PL003 2x Proposed Sections & Elevations PL004.

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT	
(a) Postal Address of the Property/Site/Building for which the declaration sought:	I Church Rd. KILKEE. Co. C1925. VIS DT 28
(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):	Owner
(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)?:	Yes.
(f) Are you aware of any enforcement proceedings connected to this site? <i>If so please supply details:</i>	None.
(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:	EARLY 2025.

SIGNED: Prof. [Signature]

DATE: 08.11.2024

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

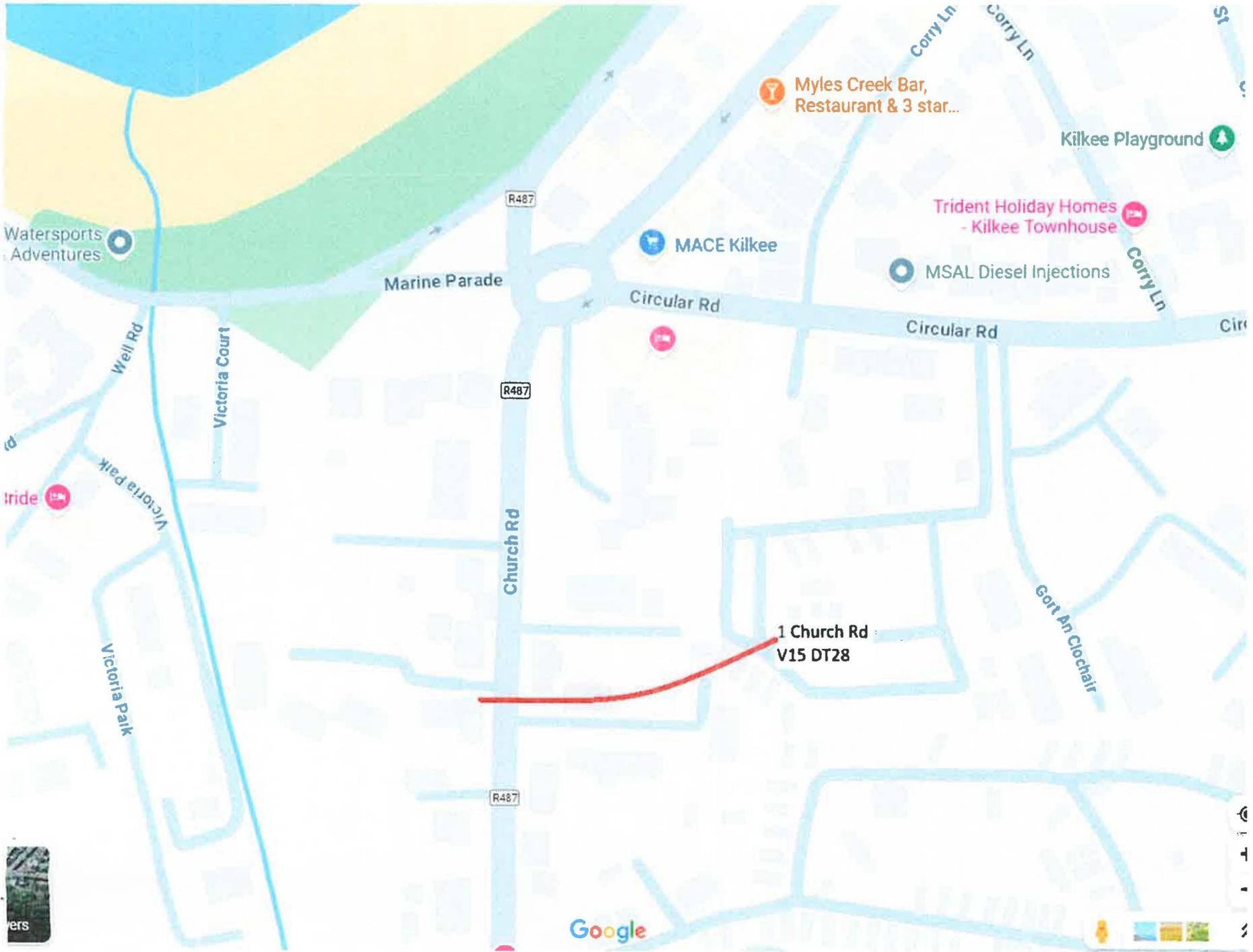
- (i) The request for a declaration under Section 5 must be accompanied by 2 copies of site location map based on the Ordnance Survey map for the area of a scale not less than 1:1000 in urban areas and 1:2500 in rural areas and should clearly identify the site in question.
- (ii) The request for a declaration 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:	.....	



Watersports
Adventures

Myles Creek Bar,
Restaurant & 3 star...

Kilkee Playground

Trident Holiday Homes
- Kilkee Townhouse

MACE Kilkee

MSAL Diesel Injections

Marine Parade

Circular Rd

Circular Rd

Well Rd

Victoria Court

Victoria Park

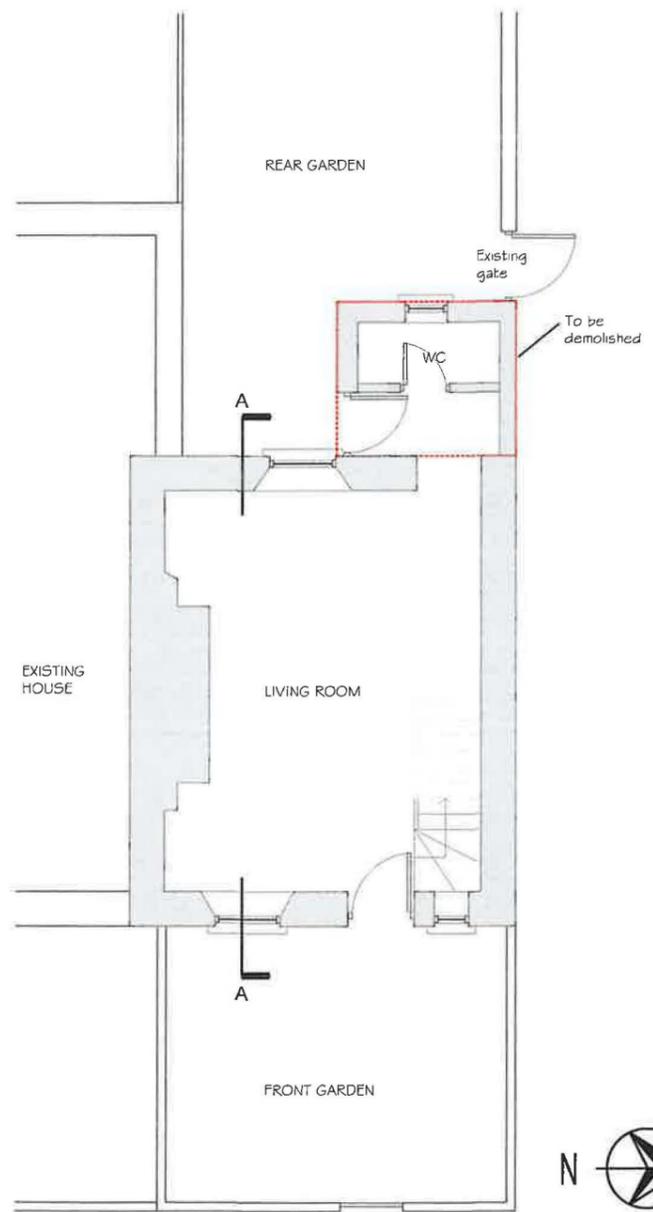
Church Rd

Gort An Clochair

1 Church Rd
V15 DT28

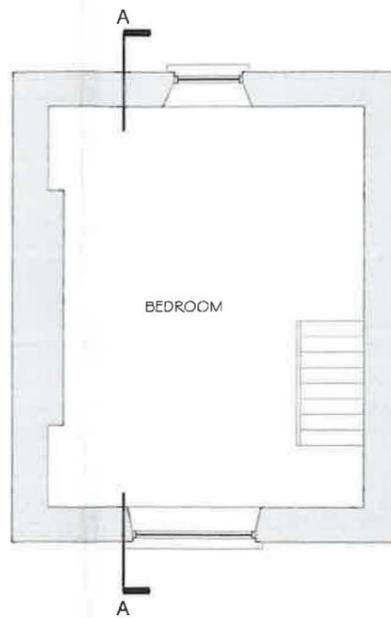
Google





Existing Ground Floor Plan
SCALE 1: 100

Total Internal Area: 52.7m²
Area to be Demolished: 4.0m²

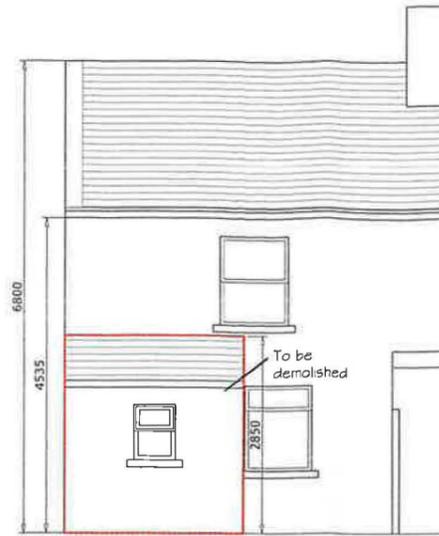


Existing First Floor Plan
SCALE 1: 100

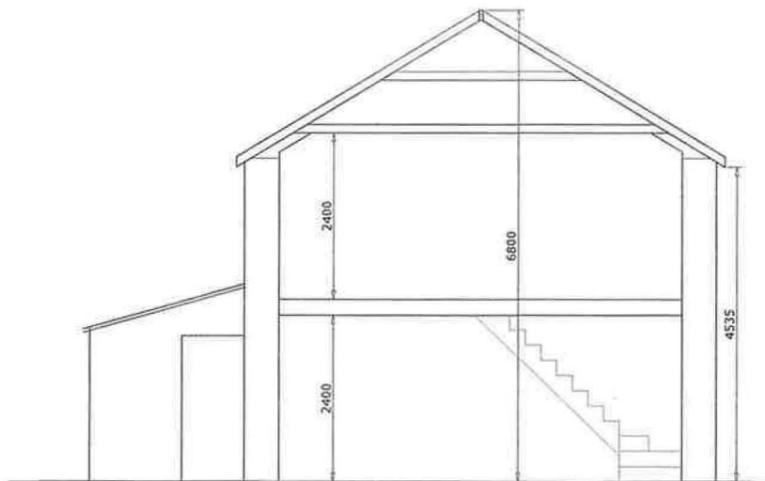
rev.	date	description	by
EKO Integrated Services Anas Smith O'Brien Bank Place Ennis Co. Clare Tel: +353 (0) 85 - 4887878 Fax: +353 (0) 85 - 6848652 Email: info@eko.ie  www.eko.ie			project Townhouse Kilkee client Fintan Mac Coltir drawing Existing Floor Plans
purpose	drawn by	approved	date
Planning	CR	FC	Nov 24
scale	project no.	drawing no.	
1:100 A3		PL001	



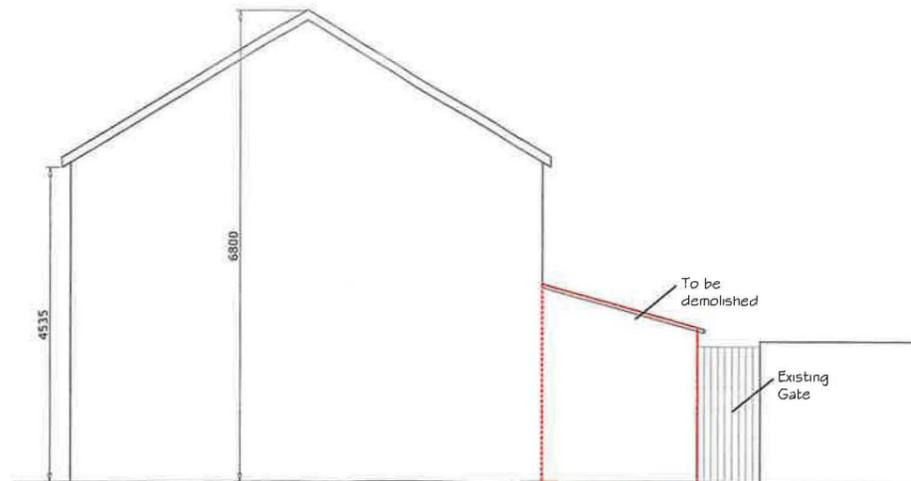
Existing Front Elevation
SCALE 1: 100



Existing Rear Elevation
SCALE 1: 100

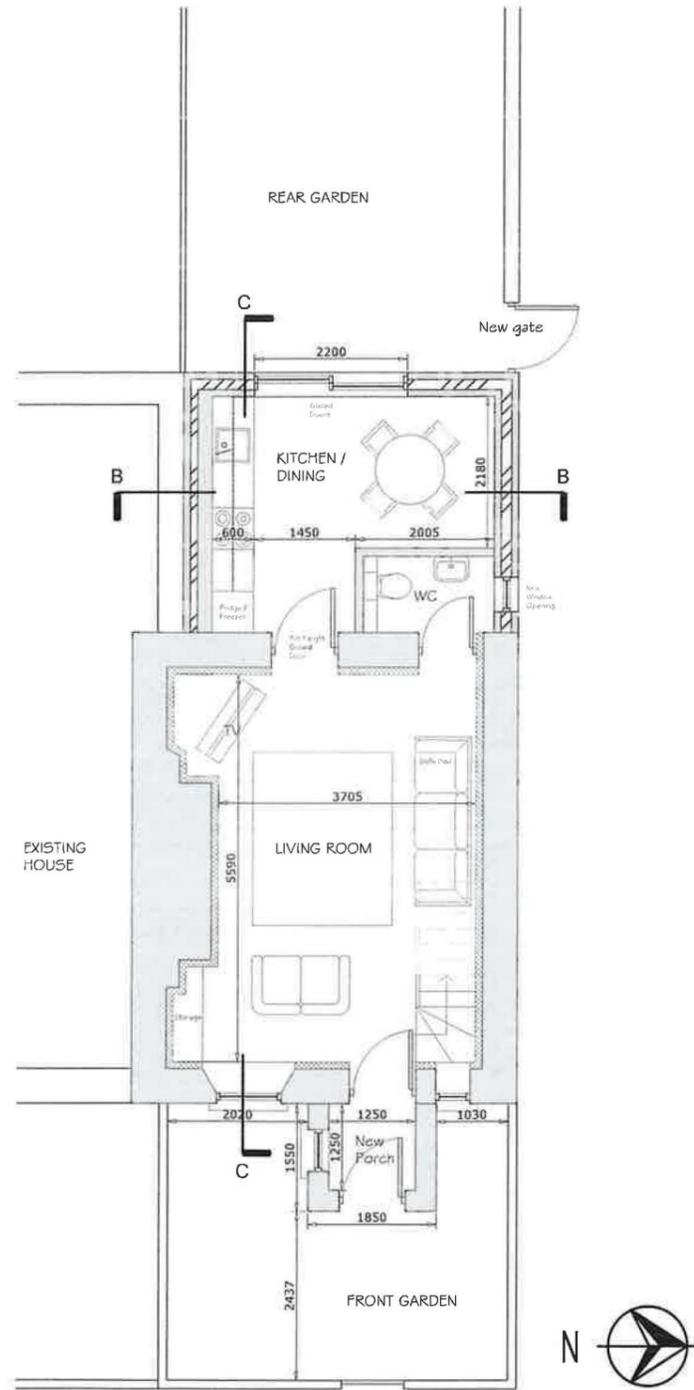


Existing Section A-A
SCALE 1: 100



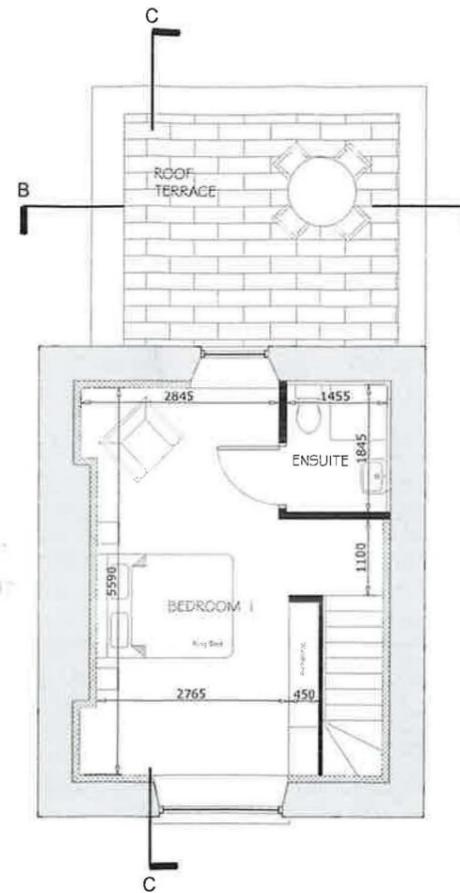
Existing Gable Elevation
SCALE 1: 100

rev.	date	description	by
EKO Integrated Services Aras Smith O'Brien Bank Place Ennis Co. Clare Tel: +353 (0) 85 - 6887978 Fax: +353 (0) 85 - 6846652 Email: info@eko.ie  www.eko.ie EKO Ltd. Reg No. 481932			project Townhouse Kilkee client Fintan Mac Coitir drawing Existing Section & Elevations
purpose Planning	drawn by CR	approved FC	date Nov 24
scale 1:100 A3	project no.	drawing no. PL002	



Proposed Ground Floor Plan
SCALE 1: 100

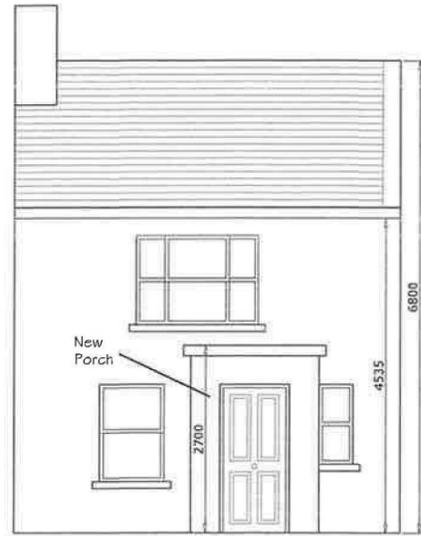
Total Refurbishment Area: 48.7m²
Total Extension Area: 13.7m²
Total Proposed Internal Area: 62.4m²



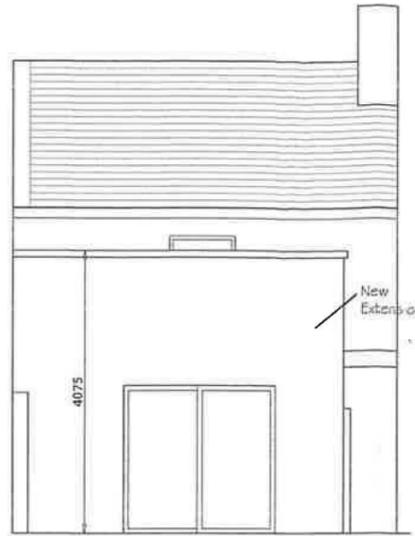
Proposed First Floor Plan
SCALE 1: 100



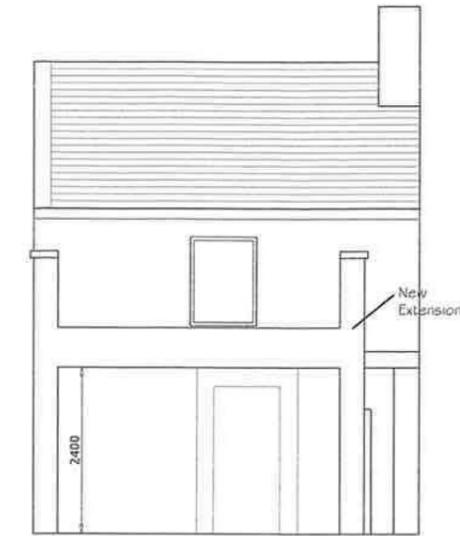
rev.	date	description	by
<p>EKO Integrated Services</p> <p>Aras Smith O'Brien Bank Place Ennis Co. Clare</p> <p>Tel: +353 (0) 85 - 6697979 Fax: +353 (0) 85 - 6648652 Email: info@eko.ie</p> <p>eko integrated services www.eko.ie EKO Ltd, Reg No. 481932</p>			
<p>project Townhouse Kilkee</p>			
<p>client Fintan Mac Coltir</p>			
<p>drawing Proposed Floor Plans</p>			
purpose Planning	drawn by CR	approved FC	date Nov 24
scale 1:100 A3		project no.	drawing no. PL003



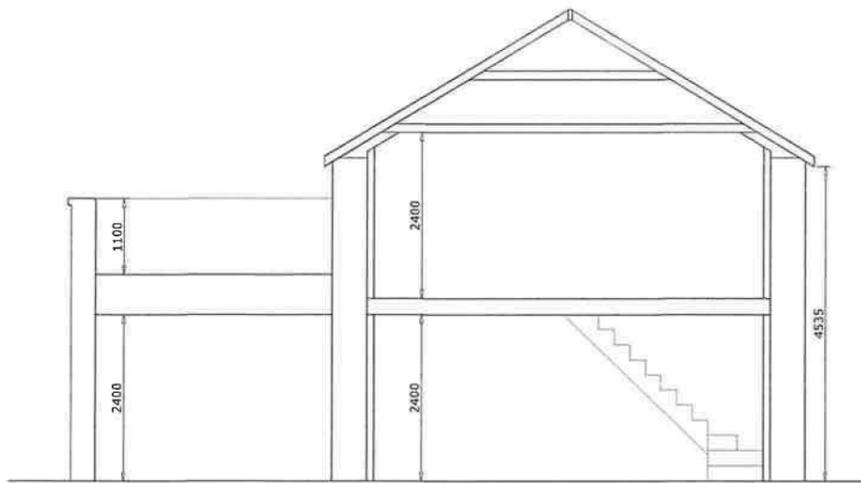
Proposed Front Elevation
SCALE 1: 100



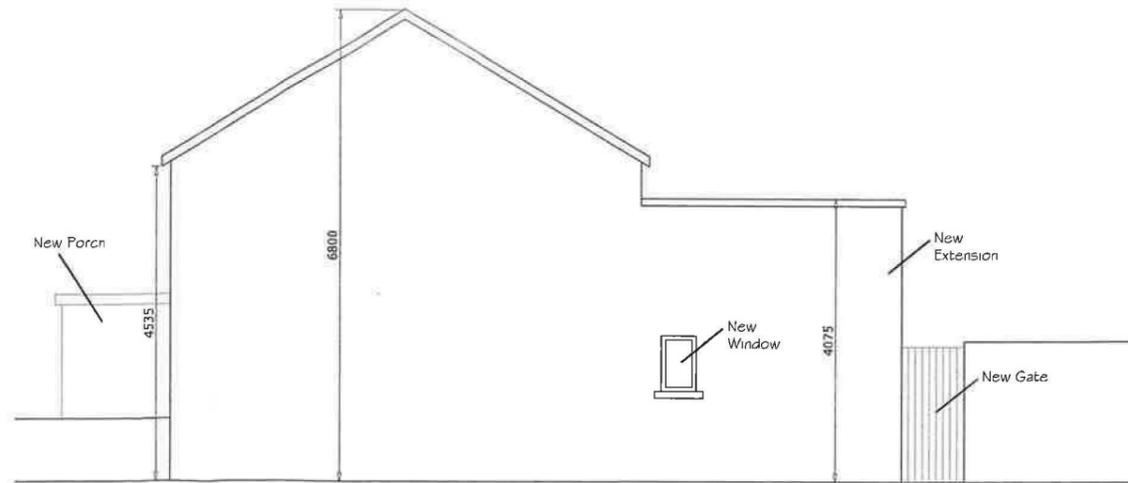
Proposed Rear Elevation
SCALE 1: 100



Proposed Section B-B
SCALE 1: 100



Proposed Section C-C
SCALE 1: 100



Proposed North Gable Elevation
SCALE 1: 100

rev	date	description	by
<p>EKO Integrated Services</p> <p>Aras Smith O'Brien Bank Place Ennis Co. Clare</p> <p>Tel.: +353 (0) 65 - 6807670 Fax.: +353 (0) 65 - 6548652 Email: info@eko.ie</p> <p>eko integrated services www.eko.ie EKO Ltd. Reg No. 481932</p>			
purpose Planning		drawn by CR	approved FC
date Nov 24		scale 1:100 A3	project no. PL004
project Townhouse Kilkee		client Fintan Mac Coitir	
drawing Proposed Sections & Elevations		drawing no. PL004	