



COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

**Registered Post**

**Waldemar & Tatiana Barczak**  
C/o Ian Sheehy  
Bansha  
Askeaton  
Co. Limerick

**26th February 2025**

**Section 5 referral Reference R25-10 – Waldemar & Tatiana Barczak**

Is the construction of a 25m<sup>2</sup> single storey extension to the rear of 27 Garden View, Clarecastle, Co. Clare development and if so, is it exempted development?

A Chara,

I refer to your application received on 30th January 2025 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

**Kieran O'Donnell**  
Administrative 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: 85013

Reference Number: R25-10

Date Referral Received: 30th January 2025

Name of Applicant: Waldemar & Tatiana Barczak

Location of works in question: 27 Garden View, Clarecastle, Co. Clare

**Section 5 referral Reference R25-10 – Waldemar & Tatiana Barczak**

Is the construction of a 25m<sup>2</sup> single storey extension to the rear of 27 Garden View, Clarecastle, Co. Clare 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 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.

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

- (a) The construction of a rear ground floor residential extension in the curtilage of a dwelling house 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 development of a rear of dwelling single storey residential extension is exempted development having regard to Section 4(1)(h) of the Planning and Development Act 2000 (as amended) and Class 1 of Schedule 2, Part 1 of the Planning and Development Regulations 2001 (as amended).

**ORDER:** Whereas by Chief Executive's Order No. HR 46 dated 1<sup>st</sup> January 2025, Carmel Kirby, Interim 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 extension to the rear of an existing dwelling at 27 Garden View, Clarecastle, Co. Clare is considered development which is exempted development.

**Signed:**



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

**Date:**

**26th February 2025**

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

Reference No.: R25-10



**Comhairle Contae an Chláir  
Clare County Council**

**Section 5 referral Reference R25-10**

**Is the construction of a 25m<sup>2</sup> single storey extension to the rear of 27 Garden View, Clarecastle, Co. Clare development and if so, is it exempted development?**

**AND WHEREAS, Waldemar & Tatiana Barczak** 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 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.

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

- (a) The construction of a rear ground floor residential extension in the curtilage of a dwelling house 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 development of a rear of dwelling single storey residential extension is exempted development having regard to Section 4(1)(h) of the Planning and Development Act 2000 (as amended) and Class 1 of Schedule 2, Part 1 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 the construction of a single storey extension to the rear of an existing dwelling at 27 Garden View, Clarecastle, Co. Clare **constitutes development** which is **exempted development** as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.



**Kieran O'Donnell**  
**Administrative Officer**  
**Planning Department**  
**Economic Development Directorate**

**26th February 2025**

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

<b>FILE REF:</b>	R25-10
<b>APPLICANT(S):</b>	Waldemar & Tatiana Barczak, 27 Garden View, Clarecastle
<b>REFERENCE:</b>	Is the construction of a 25sqm single storey extension to the rear of 27 Garden View Clarecastle, co. Clare, development, and if so, is it exempted development?
<b>LOCATION:</b>	27 Garden View, Clarecastle, Co Clare
<b>DUE DATE:</b>	26 <sup>th</sup> February 2025

### Site Location

The subject site is located in Clarecastle on lands zoned 'Existing Residential'. The site is located at no. 27 Garden View, a residential estate to the west of Clarecastle town centre. The site comprises a mid-terraced residential dwelling located within a residential estate. The site is in the vicinity of a High-Pressure Gas Pipeline Corridor, a Lesser Horseshoe Bat Foraging Range and the Fergus Estuary Landscape Character Area.

It is not located in or near any Architectural Conservation Area, any Protected Structures or Recorded Monuments, or any European Sites.

### Recent Planning History

On-site

- None.

Wider Site:

- **14/617** – Woodhaven Development Ltd. – to Extend the Appropriate Period of Planning Permission on P04-1583 to construct (a) 4 No. Detached 2 Storey Houses (b) 68 No. Semi-Detached 2 Storey Houses, (c) 16 No. Semi Detched 2 1/2 Storey Houses (d) 50 No. 2 Storey Terraced Houses (e) 50 No. 2 1/2 Storey Terraced Houses (f) 14 No. 2 Bed Semi Detached Bungalows (g) 6 No. 3 Storey Apt. blocks to consist of 36 No. 2 Bed Apts and 12 No. 3 Bed duplex Apts. (h) 1 No. 3 Storey Corner Apt. Building to consist of 5 No. 3 Bed Duplex Apts, 9 No. 2 Bed Apts. 6 No. 1 Bed Apts. (i) 8 No. refuse Storage Bldgs. (j) 1 No. ESB Sub-Station. (k) Demolition of 1 No. existing dwelling and outbuildings. (l) Creation of 1 No. Site Entrance and all assoc. works and site services (m) connection of proposed foul drainage to existing drainage system and storm water connection to the River Fergus. **Granted Permission.**
- **06/371** – M. Fitzgibbon Builders Ltd. – to RETAIN 1 no. site entrance and all associated site works. **Granted Permission.**

- **04/1583** – M. Fitzgibbon Builders Ltd. – to construct (a) 4 No. Detached 2 Storey Houses (b) 68 No. Semi-Detached 2 Storey Houses, (c) 16 No. Semi Detached 2 1/2 Storey Houses (d) 50 No. 2 Storey Terraced Houses (e) 50 No. 2 1/2 Storey Terraced Houses (f) 14 No. 2 Bed Semi Detached Bungalows (g) 6 No. 3 Storey Apt. blocks to consist of 36 No. 2 Bed Apts and 12 No. 3 Bed duplex Apts. (h) 1 No. 3 Storey Corner Apt. Building to consist of 5 No. 3 Bed Duplex Apts, 9 No. 2 Bed Apts. 6 No. 1 Bed Apts. (i) 8 No. refuse Storage Bldgs. (j) 1 No. ESB Sub-Station. (k) Demolition of 1 No. existing dwelling and outbuildings. (l) Creation of 1 No. Site Entrance and all assoc. works and site services (m) connection of proposed foul drainage to existing drainage system and storm water connection to the River Fergus.  
**Granted Permission.**

### Background to Referral

This referral under Section 5(1) of the Planning and Development Act 2000 (as amended) has been made by the applicant's agent, Ian Sheehy.

The applicants are seeking a Section 5 Declaration as to whether the construction of a 25sqm single storey extension to the rear of 27 Garden View Clarecastle, co. Clare, is development, and if so, is it exempted development.

The applicants have stated that the works will comprise a single storey extension to the rear of the dwelling, which will provide a ground floor bedroom and bathroom which is fully wheelchair accessible. It is stated that there will be no development above ground floor level, the height of the walls of the proposed extension will not exceed the height of the rear wall of the house and the rear wall of the house does not contain a gable. It is stated that the total area of any previous or proposed extensions is less than 40sqm.

The applicants have stated that the height of the highest part of the proposed flat roof extension does not exceed the height of the highest part of the roof of the dwelling, the development would not reduce the rear garden private amenity space to less than 25sqm, no windows are proposed within 1m of a boundary wall and the extension flat roof shall not be used as a balcony or roof garden.

A Site Layout Plan, floorplan and sections as proposed have been provided to the Planning Authority.

### 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.

S.4.—(1) The following shall be exempted developments for the purposes of this Act—

*(h) development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures;*

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 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

*Development within the curtilage of a 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.

Conditions and Limitations:

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.

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,*

*(iiia) 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 the construction of a 25sqm single storey extension to the rear of 27 Garden View, Clarecastle, co. Clare, is development, and if so, is it exempted development.

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

In accordance with Sections 2 and 3(1) of the Planning and Development Act 2000 (as amended) (hereafter referred to as 'the Act'), the items listed above do fall under the definition of 'works' and are, resultingly, characterised as 'development'.

*S.4(1) of the Act states that development consisting of works for the alteration of any structure, which affects only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures would be exempted development.*

The construction of a rear single storey extension would materially affect the external appearance of the structure so as to render its appearance inconsistent with the character of the structure or of neighbouring structures, and therefore, would not be exempted under this section of the Act.

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

#### *Development within the curtilage of a 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 applicants are proposing to develop a single storey extension to the rear of the house. There are a number of conditions and limitations to this exemption, which are assessed as follows:

*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 is not stated to have previously been extended and it is noted that the floor area of the proposed extension is less than 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*

The house is terraced; however, the extension does not relate to works above ground level.

*(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.*

N/A

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.*

N/A. The house is not stated to have been extended previously.

(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.*

N/A. The house is not stated to have been extended previously.

(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.*

N/A. The house is not stated to have been extended previously.

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

N/A.

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.*

There is no gable to the rear wall of the house, and it is noted there are no extensions proposed to 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.*

There is no gable to the rear wall of the house, and it is noted there are no extensions proposed to exceed the height of the side wall 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.*

It is stated that the highest part of the eaves or parapet will 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.*

The extension has reduced the private open space to the rear of the house to a stated 33sqm, which is greater than the minimum set out.

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

It is stated that there will be no windows within 1m of 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.

N/A.

(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.

N/A.

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

It is stated that the roof shall not be used as a balcony or roof garden.

It is, therefore, considered that this development is exempted under Class 1 of Schedule 2, Part 1.

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*

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,*

Not applicable – the site is located within the curtilage of a dwelling and no alterations to the parking area or footpath are noted.

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

Not applicable – the site is located within the curtilage of a dwelling and no alterations to the parking area, road or footpath are noted to have taken place.

- (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 site is located on zoned land within a settlement and in the curtilage of an existing residential estate and the works relate to residential development to an existing dwelling. The development will not have a negative impact on the visual amenities of the area.

- (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 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, 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 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,*

No likely significant effects on European Sites.

- 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 questions have been referred to the Planning Authority:**

Whether the construction of a 25sqm single storey extension to the rear of 27 Garden View Clarecastle, co. Clare, is development, and if so, is it 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 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.

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

- (a) The <sup>construction</sup> placement of a rear ground floor residential extension in the curtilage of a dwellinghouse 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 development of a rear of dwelling single storey residential extension is exempted development having regard to Section 4(1)(h) of the Planning and Development Act 2000 (as amended) and Class 1 of Schedule 2, Part 1 of the Planning and Development Regulations 2001 (as amended).

#### **Recommendation**

Now, therefore, Clare County Council has concluded that the construction of a single storey extension to the rear of an existing dwelling constitutes development which is exempted development.



Áine Bourke

Executive Planner

Date: 24/02/2025



Gareth Ruane

Senior Executive Planner

Date: 25/02/25



COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

**Waldemar & Tatiana Barczak**  
C/o Ian Sheehy  
Bansha  
Askeaton  
Co. Limerick

**31/01/2025**

**Section 5 referral Reference R25-10 – Waldemar & Tatiana Barczak**

Is the construction of a 25m<sup>2</sup> single storey extension to the rear of 27 Garden View, Clarecastle, Co. Clare development and if so, is it exempted development?

A Chara,

I refer to your application received on 30th January 2025 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 Stiúirthóireacht 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)



R25-10

**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>	
<b>(a) Name and Address of person seeking the declaration</b>	Waldemar & Tatiana Barczak <hr/> 27 Garden View <hr/> Clarecastle <hr/> Clare <hr/>
<b>(b) Telephone No.:</b>	
<b>(c) Email Address:</b>	
<b>(d) Agent's Name and address:</b>	Ian Sheehy <hr/> Bansha <hr/> Askeaton <hr/> Co. Limerick <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?*

Is the construction of a 25m<sup>2</sup> single storey extension to the rear of 27 Garden View, Clarecastle,  
Co. Clare development and if so, is it exempted development?

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

Construction of a single storey extension to provide a ground floor bedroom and accessible

WC for the applicants son who has cerebral palsy and is confined to a wheelchair.

There is no above ground level floor area proposed

The total area of any previous or proposed extensions is less than 40 square meters

The height of the walls of the proposed extension do not exceed the height of the rear wall of the house

The rear wall of the existing house does not contain a gable.

The height of the highest part of the proposed flat roof of the extension does not exceed the height of the highest part of the roof of the dwelling.

The construction of the extension to the rear of the house does 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.

Any windows proposed at ground level are not less than 1 metre from the boundary it faces.

There are no above ground level windows proposed.

The roof of the proposed extension is not to be used as a balcony or roof garden.

(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)*

22/DWG15 - Site Layout Plan Elevations, Floor Plans, sections

Site Location Map

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT	
(a) Postal Address of the Property/Site/Building for which the declaration sought:	27 Garden View Clarecastle Clare
(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>	NO
(g) Were there previous planning application/s on this site? <i>If so please supply details:</i>	N/A
(h) Date on which 'works' in question were completed/are likely to take place:	March 2025

SIGNED:     Ian Sheehy    

DATE:     20/01/2025

**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

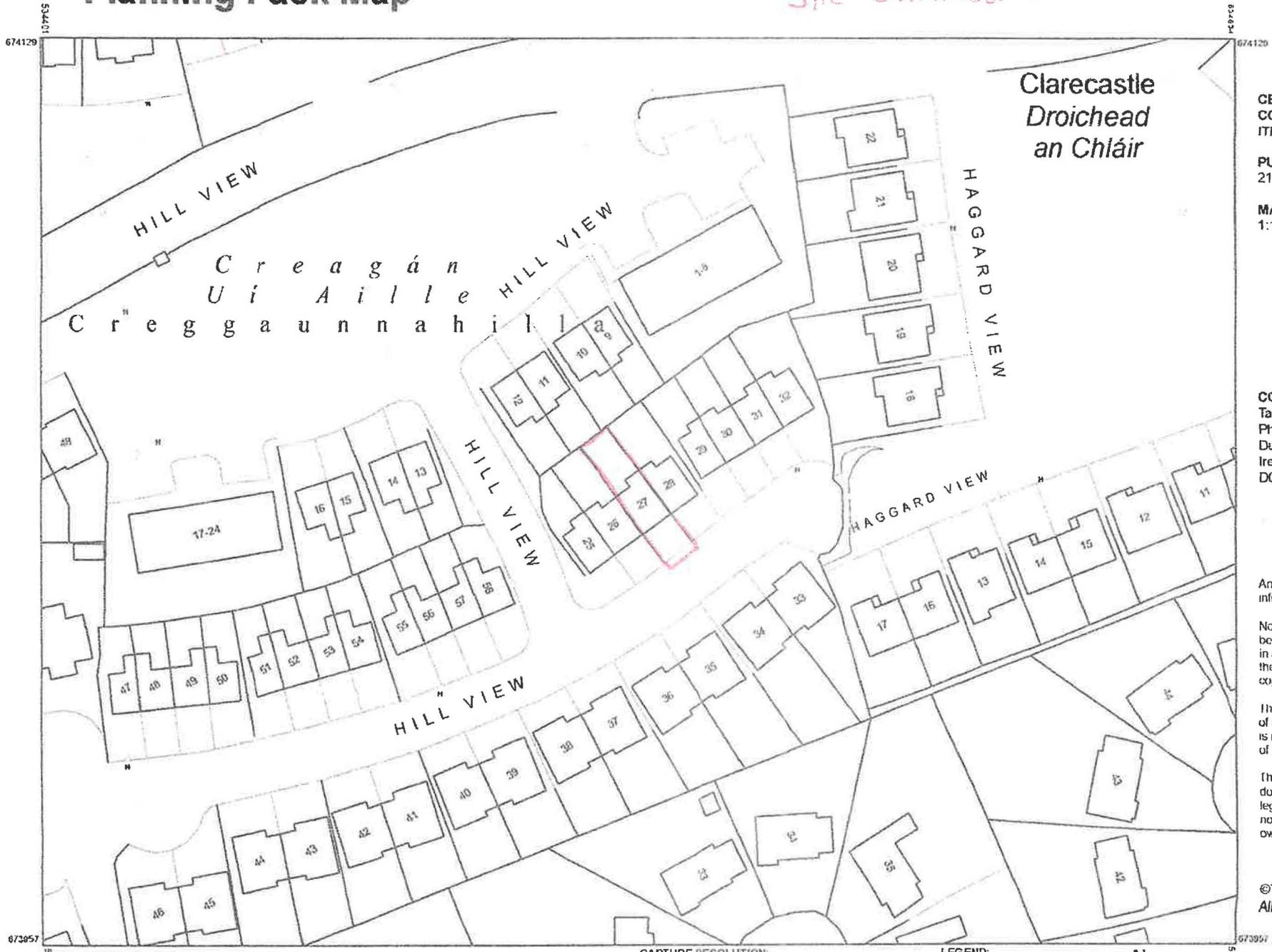
**FOR OFFICE USE ONLY**

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

# Planning Pack Map

*Site Outlined in Red*

Tailte Éireann



Clarecastle  
Droichead  
an Chláir

**CENTRE COORDINATES:**  
ITM 534518,674043

**PUBLISHED:** 21/01/2025  
**ORDER NO.:** 50444334\_1

**MAP SERIES:** 1:1,000  
**MAP SHEETS:** 4380-09

**COMPILED AND PUBLISHED BY:**  
Tailte Éireann,  
Phoenix Park,  
Dublin 8,  
Ireland.  
D08F6E4

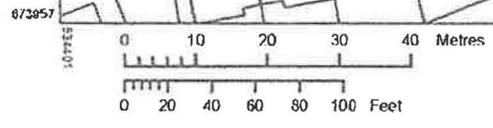
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The representation on this map of a road, track or footpath is not evidence of the existence of a right of way.

This topographic map does not show legal property boundaries, nor does it show ownership of physical features.

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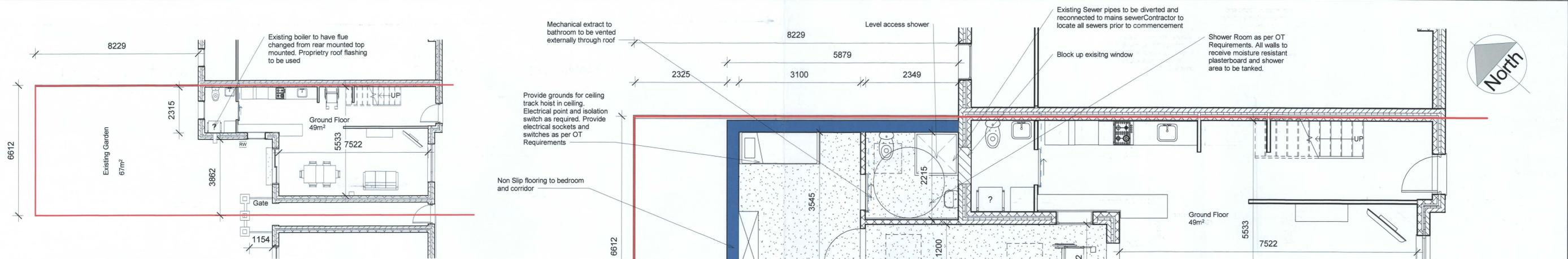


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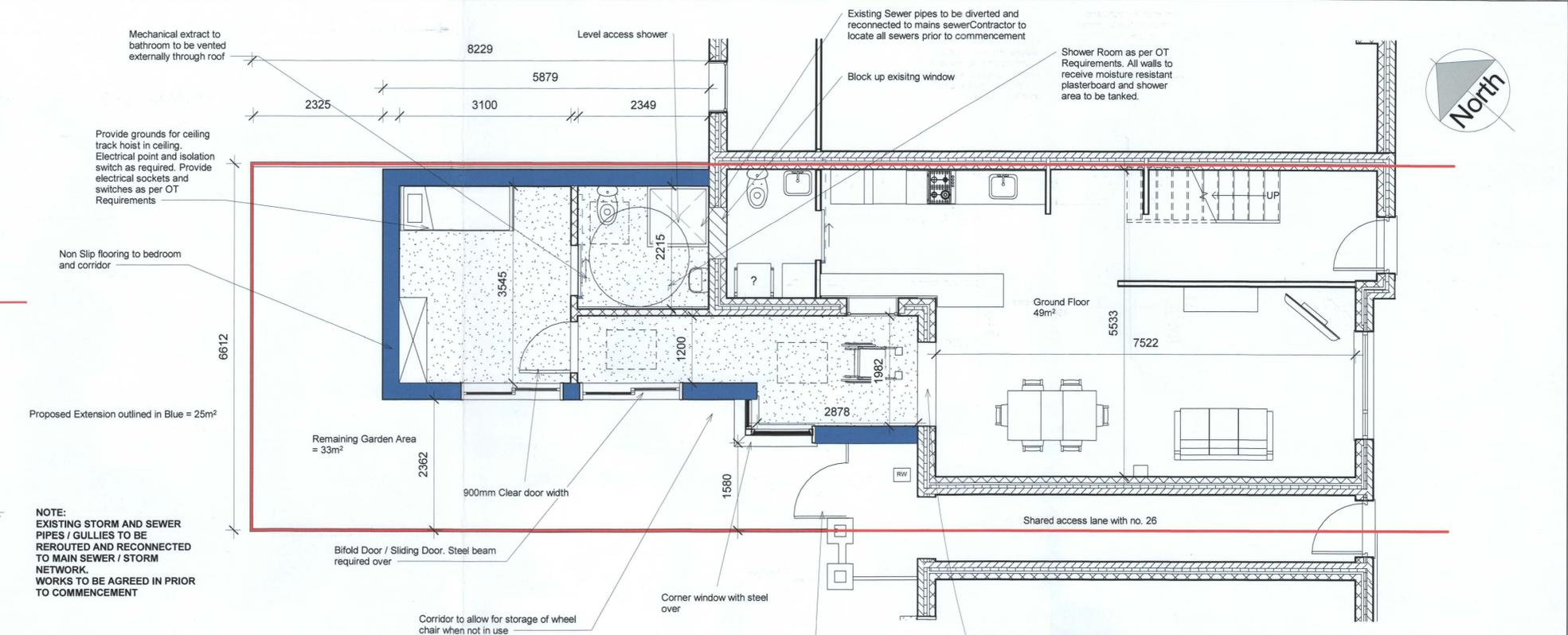
**CAPTURE RESOLUTION:**  
The map objects are only accurate to the resolution at which they were captured. Output scale is not indicative of data capture scale. Further information is available at [www.tailte.ie](http://www.tailte.ie), search 'Capture Resolution'

**LEGEND:**  
To view the legend visit [www.tailte.ie](http://www.tailte.ie) and search for 'Large Scale Legend'

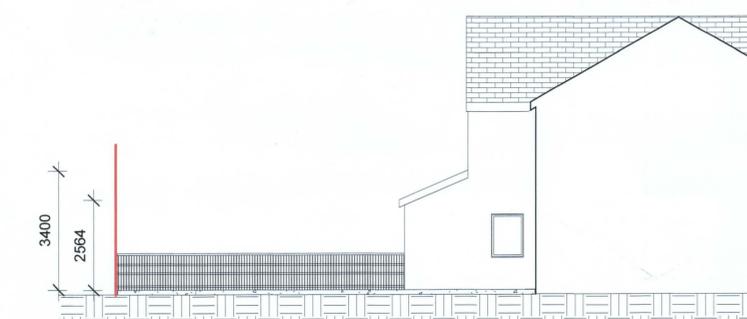




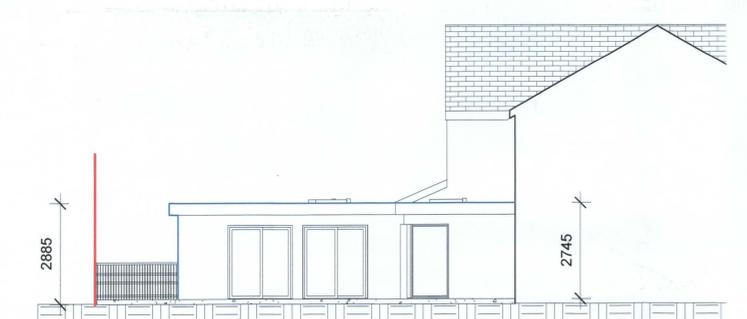
1 Existing GFL Plan  
1 : 100



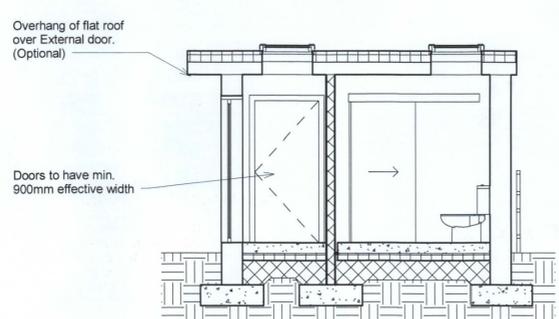
6 Proposed GFL Plan  
1 : 50



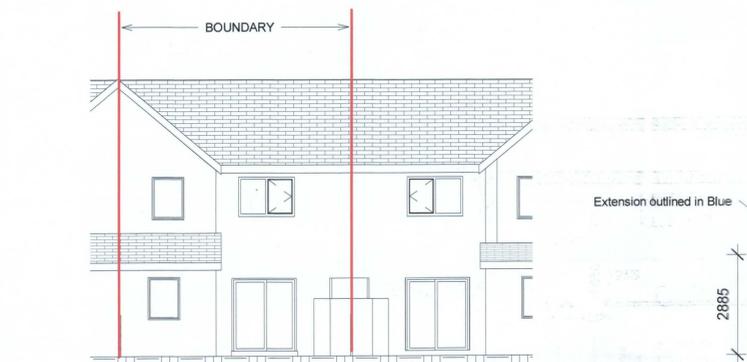
2 Existing West Elevation  
1 : 100



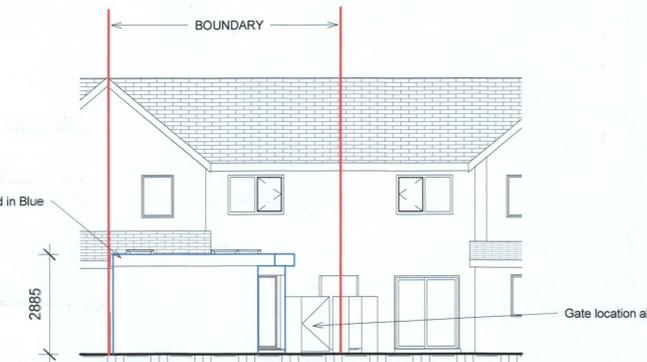
3 Proposed West Elevation  
1 : 100



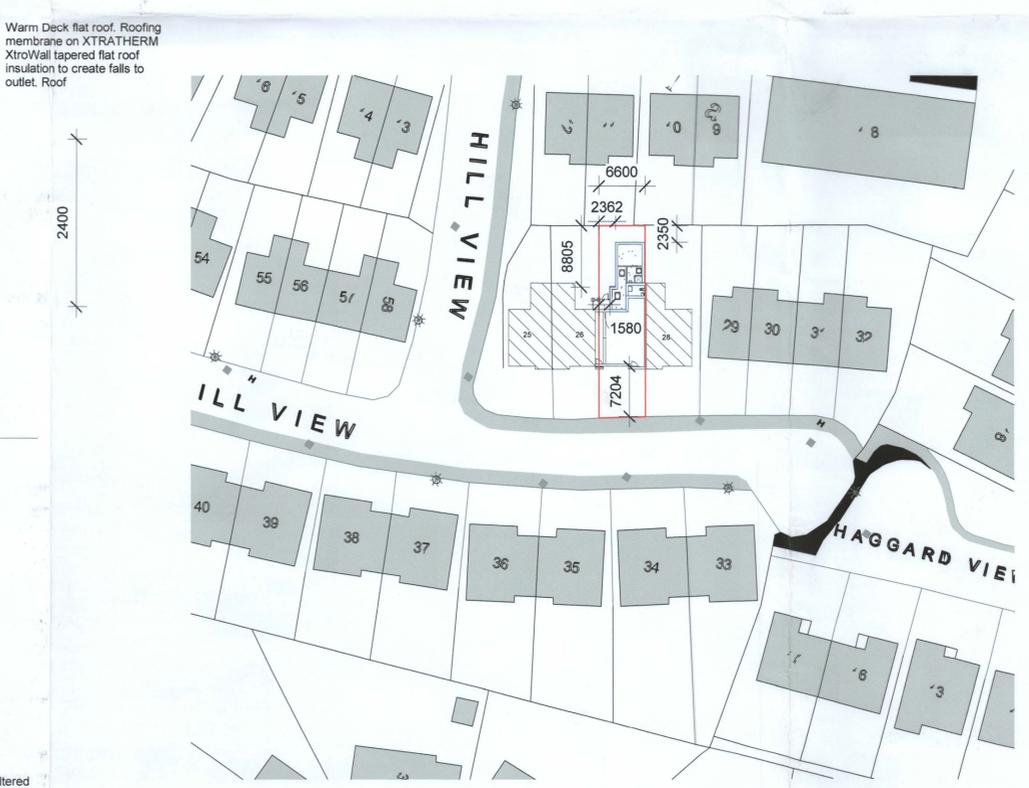
7 Section 2  
1 : 50



4 Existing Rear Elevation  
1 : 100



5 Proposed Rear Elevation  
1 : 100



8 Site  
1 : 500

<p><b>Ian Sheehy Building Surveyor</b> Architecture and Engineering Registered Building Surveyors</p>		
<p>Bansha, Askeaton, Co. Limerick</p>		<p>Phone: 0879202500 email: ian@technicalolutions.ie</p>
<p>PROJECT <b>Proposed Adaptation Works 27 Garden View Clarecastle Clare</b></p>		
<p>TITLE Elevations, Floor Plans and section</p>		
<p>CLIENT <b>Waldemar &amp; Tatiana Barczak</b></p>		
<p>DRAWN BY IS</p>	<p>CHECKED BY IS</p>	<p>DATE 21/01/2025</p>
<p>SCALE (@ A1) As indicated</p>		<p>PROJECT NUMBER 22/018</p>
<p>DRAWING NUMBER <b>22/DWG15</b></p>		<p>REV <b>01</b></p>