



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Registered Post

Michelle O’Gorman
C/o Brian Foudy & Associates Ltd
Osprey House
Carmody Street
Ennis
Co. Clare

2nd May 2025

Section 5 referral Reference R25-29 – Michelle O’Gorman

(1) Is the balcony as constructed considered to be in substantial compliance with P00-143 or exempted development? (2) Can the blocking up of two small windows to the southern side be considered exempted development? (3) Can the rear extension as constructed be considered exempted development?

A Chara,

I refer to your application received on 7th April 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.

Mise, le meas

Kieran O’Donnell
Administrative 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



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

Reference No.: R25-29



**Comhairle Contae an Chláir
Clare County Council**

Section 5 referral Reference R25-29

(1) Is the balcony as constructed considered to be in substantial compliance with P00-143 or exempted development? (2) Can the blocking up of two small windows to the southern side be considered exempted development? (3) Can the rear extension as constructed be considered exempted development?

AND WHEREAS, Michelle O’Gorman 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 alterations to the balcony, the blocking up of windows on the side elevation and the construction of a 10sqm extension to the rear of the development 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 alterations to the balcony on the first floor, which comprised the conversion of the existing ground floor roof to the front of the dwelling is not exempted development having regard to Section 4(1)(h) of the Planning and Development Act 2000 (as amended) and the Conditions and Limitations (item no. 7) of Class 1 of Schedule 2, Part 1 of the Planning and Development Regulations 2001 (as amended).
- (d) The blocking up of the side windows and the construction of a 10sqm ground floor rear 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 blocking up of the 2 no. side windows on the southern elevation and the ground floor rear extension at 17 Lifford Road, Ennis, Co. Clare, V95 A97P **constitutes development** which is **exempted development** as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.

The extension of the first-floor balcony **constitutes development** which is **not 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

2nd May 2025

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:

85399

Reference Number:

R25-29

Date Referral Received:

7th April 2025

Name of Applicant:

Michelle O'Gorman

Location of works in question:

17 Lifford Road, Ennis, Co. Clare, V95 A97P

Section 5 referral Reference R25-29 – Michelle O'Gorman

(1) Is the balcony as constructed considered to be in substantial compliance with P00-143 or exempted development? (2) Can the blocking up of two small windows to the southern side be considered exempted development? (3) Can the rear extension as constructed be considered 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:

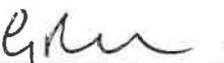
- (a) The alterations to the balcony, the blocking up of windows on the side elevation and the construction of a 10sqm extension to the rear of the development constitutes "works" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended;
- (b) The said works constitute "development" which comes within the scope of section 3(1) of the Planning and Development Act 2000, as amended;
- (c) The alterations to the balcony on the first floor, which comprised the conversion of the existing ground floor roof to the front of the dwelling is not exempted development having regard to Section 4(1)(h) of the Planning and Development Act 2000 (as amended) and the Conditions and Limitations (item no. 7) of Class 1 of Schedule 2, Part 1 of the Planning and Development Regulations 2001 (as amended).
- (d) The blocking up of the side windows and the construction of a 10sqm ground floor rear 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 1st January 2025, Carmel Kirby, Interim Chief Executive for Clare County Council, did, pursuant to the powers conferred on her by Section 154 of the Local Government Act 2001, delegate to Garreth 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, Garreth Ruane, Senior Executive Planner, hereby declare that the blocking up of the 2 no. side windows on the southern elevation and the ground floor rear extension at 17 Lifford Road, Ennis, Co. Clare, V95 A97P is considered development which is exempted development.

The extension of the first-floor balcony is considered development which is not exempted development.

Signed:



GARRETH RUANE
SENIOR EXECUTIVE PLANNER

Date:

2nd May 2025

CLARE COUNTY COUNCIL
SECTION 5 DECLARATION OF EXEMPTION APPLICATION
PLANNERS REPORT

FILE REF: R25-29
APPLICANT(S): Michelle O’Gorman C/O Brian Foudy, Osprey House, Carmody Street, Ennis
REFERENCE: (1) Is the balcony as constructed considered to be in substantial compliance with P00-143 or exempted development? (2) Can the blocking up of two small windows to the southern side be considered exempted development? (3) Can the rear extension as constructed be considered exempted development?
LOCATION: 17 Lifford Road, Ennis, Co Clare, V95 A97P
DUE DATE: 2nd May 2025

Site Location

The subject site is located in Ennis, at 17 Lifford Road, on lands zoned ‘Existing Residential’. The site is located at no. 17 Lifford Road, a residential area to the north of Ennis town centre and to the east of Tim Smythe Park. The site comprises a detached residential dwelling located close to the junction of Lifford Road and the R352.

The edge of the site is located in an Architectural Conservation Area, however, it is noted that the footprint of the subject dwelling is not located in the ACA. While the dwelling is not a Protected Structure or Recorded Monument, I note it is adjacent to a protected structure which is a dwellinghouse (RPS no. 805) and the associated piers and gates (RPS no. 808), which is also a Recorded Monument. The site is not located within, or in close proximity to any European Sites.

Recent Planning History

- **00/143** – C & S Lucey – (a) remove existing garage/shed; (b) erect bedroom extension and patios; and (c) complete renovations to dwelling. **Granted Permission.**
- **05/148** – Clara & Shelly Lucey – for development consisting of the subdivision of dwelling into 2 No. self contained apartments. **Granted Permission**, however, noted this application was never enacted.

Background to Referral

This referral under Section 5(1) of the Planning and Development Act 2000 (as amended) has been made by Brian Foudy & Associates Ltd. C/O Michell O’Gorman.

The applicants are seeking a Section 5 Declaration as to the following:

(1) Is the balcony as constructed considered to be in substantial compliance with P00-143 or exempted development? (2) Can the blocking up of two small windows to the southern side be considered exempted development? (3) Can the rear extension as constructed be considered exempted development?

The applicants have stated that the works have been carried out and have provided detailed descriptions of the works. They have advised that the rear extension is constructed to the rear of the property and is approximately 10sqm in area

is located to the rear of the dwelling. It is noted that the windows marked 'B' and 'E' on the plans submitted have been omitted from the side elevation of the dwelling, and the balcony was constructed with blockwork and glass rather than the permitted block wall with capping (under P00/143).

An as constructed Site Layout Plan, Floor Plans or Elevations have been furnished to the Planning Authority, nor have any dimensions been provided.

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 the following: (1) Is the balcony as constructed considered to be in substantial compliance with P00-143 or exempted development? (2) Can the blocking up of two small windows to the southern side be considered exempted development? (3) Can the rear extension as constructed be considered 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.

While no internal works are included in this section 5 referral, external works carried out comprising the omitting of 2 no. small windows, as granted, are noted to be minor and would not be considered to materially affect the external appearance of the structure. It is considered that the blocking up of the windows are exempted development under Section 4(1)(h) of the Act, not materially affecting the external character of the structure.

The alterations to the balcony area at first floor level and the additional rear extension would be materially different to that as granted, and resultingly, would materially affect the 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 have constructed a side extension, for which permission was granted under P00/143. This permitted extension measured at approximately 17.28sqm, while I note the additional rear extension subject to this referral is stated to have measured at 10sqm in total, totalling 27.28sqm. The applicant's have also extended the balcony at first floor level.

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 has previously been extended by approximately 17.28sqm to the side of the dwelling. The addition of 10sqm at ground floor level to the rear of this side extension would result in a total extension of 27.28sqm, which remains below the overall 40sqm threshold.

(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

N/A

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

The house is detached; however, the extension does not relate to internal extensions above ground level, only relating to the balcony area.

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 house has previously been extended by approximately 17.28sqm the side of the dwelling. The addition of 10sqm at ground floor level to the rear of this side extension would result in a total extension of 27.28sqm, which remains below the overall 40sqm threshold.

(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 terraced or semi-detached.

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

N/A – The above ground works only relate to alterations to the balcony, with no roofed or fully walled extensions subject to this referral.

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.

The ground floor extension does 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.

The ground floor extension does not exceed the height of the rear 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.

The ground floor extension does not exceed the height of the rear wall of the house.

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 not reduced the private open space to the rear of the house below 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.

N/A.

(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.

The extension of the dwelling includes an extension to the first-floor balcony area.

While the rear extension is considered to be exempted under the above Schedule 2, Part 1, Class 1, the extension of the balcony at first floor level, which comprised the conversion of part of the roof to a balcony is not exempted under Part 7 of the Conditions and Limitations set out under Schedule 2, Part 1, Class 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 does 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.*

While the front of the site is located within an ACA, the dwelling itself is not within the ACA.

Recommendation

The following questions have been referred to the Planning Authority:

(1) Is the balcony as constructed considered to be in substantial compliance with P00-143 or exempted development? (2) Can the blocking up of two small windows to the southern side be considered exempted development? (3) Can the rear extension as constructed be considered 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 alterations to the balcony, the blocking up of windows on the side elevation and the construction of a 10sqm extension to the rear of the development 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 alterations to the balcony on the first floor, which comprised the conversion of the existing ground floor roof to the front of the dwelling is not exempted development having regard to Section 4(1)(h) of the Planning and Development Act 2000 (as amended) and the Conditions and Limitations (item no. 7) of Class 1 of Schedule 2, Part 1 of the Planning and Development Regulations 2001 (as amended).
- (d) the blocking up of the side windows and the construction of a 10sqm ground floor rear 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).

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

1. The blocking up of the 2 no. side windows on the southern elevation and the ground floor rear extension is considered development and is exempted development, and
2. The extension of the first-floor balcony is considered development, and is not exempted development.



Áine Bourke

Executive Planner

Date: 30/04/2025



Gareth Ruane

Senior Executive Planner

Date: 30/04/25



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Michelle O’Gorman
C/o Brian Foudy & Associates Ltd
Osprey House
Carmody Street
Ennis
Co. Clare

09/04/2025

Section 5 referral Reference R25-29 – Michelle O’Gorman

(1) Is the balcony as constructed considered to be in substantial compliance with P00-143 or exempted development? (2) Can the blocking up of two small windows to the southern side be considered exempted development? (3) Can the rear extension as constructed be considered exempted development?

A Chara,

I refer to your application received on 7th April 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



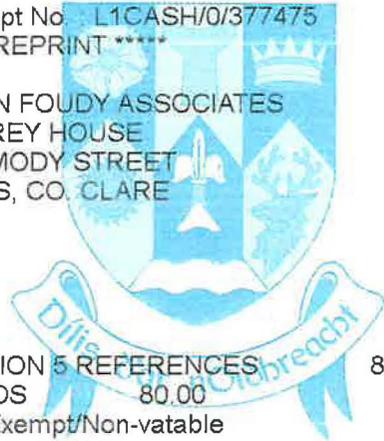
Clare County Council
Aras Contae an Chlair
New Road
Ennis
Co Clare

COMHAIRLE
CONTAE
AN CHLAIR

07/04/2025 15:40:56

Receipt No. L1CASH/0/377475
***** REPRINT *****

BRIAN FOU DY ASSOCIATES
OSPREY HOUSE
CARMODY STREET
ENNIS, CO. CLARE



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

Total : 80.00 EUR

COMHAIRLE

Tendered :
CREDIT CARDS 80.00

CONTAE

Change : 0.00

AN CHLAIR

Issued By : L1CASH - Noelette Barry
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



R25-29

**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 style="width: 50%; border-bottom: 1px solid black;">Michelle O'Gorman</td> <td style="width: 50%; border-bottom: 1px solid black;">C/O Brian Foudy</td> </tr> <tr> <td style="border-bottom: 1px solid black;">32 Silvergrove</td> <td style="border-bottom: 1px solid black;">Brian Foudy & Associates Ltd</td> </tr> <tr> <td style="border-bottom: 1px solid black;">Ballybeg</td> <td style="border-bottom: 1px solid black;">Osprey House</td> </tr> <tr> <td style="border-bottom: 1px solid black;">Ennis</td> <td style="border-bottom: 1px solid black;">Carmody Street</td> </tr> <tr> <td style="border-bottom: 1px solid black;">Co. Clare</td> <td style="border-bottom: 1px solid black;">Ennis, Co. Clare</td> </tr> </table>	Michelle O'Gorman	C/O Brian Foudy	32 Silvergrove	Brian Foudy & Associates Ltd	Ballybeg	Osprey House	Ennis	Carmody Street	Co. Clare	Ennis, Co. Clare
Michelle O'Gorman	C/O Brian Foudy										
32 Silvergrove	Brian Foudy & Associates Ltd										
Ballybeg	Osprey House										
Ennis	Carmody Street										
Co. Clare	Ennis, Co. Clare										
(b) Telephone No.:											
(c) Email Address:											
(d) Agent's Name and address:	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="border-bottom: 1px solid black;">Brian Foudy & Associates Ltd</td> </tr> <tr> <td style="border-bottom: 1px solid black;">Osprey House</td> </tr> <tr> <td style="border-bottom: 1px solid black;">Carmody Street</td> </tr> <tr> <td style="border-bottom: 1px solid black;">Ennis, Co. Clare</td> </tr> <tr> <td style="border-bottom: 1px solid black;">V95 F720</td> </tr> </table>	Brian Foudy & Associates Ltd	Osprey House	Carmody Street	Ennis, Co. Clare	V95 F720					
Brian Foudy & Associates Ltd											
Osprey House											
Carmody Street											
Ennis, Co. Clare											
V95 F720											

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?*

1 - Is the balcony as constructed considered to be in substantial compliance with P00-143 or exempt development

2 - Can the blocking up of a two small windows to the southern side be considered exempt development

3 - Can the rear extension as constructed be considered exempt development.

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

1 - A balcony / deck was granted planning under P00-143 to the southern side of the dwelling. See granted drawings attached.

The balcony as constructed has been altered to include glass guarding and blockwork (photos attached).

2 - To small windows marked as E & B on the granted elevations have been omitted (photos attached)

Can the variations to the balcony and side windows be considered a minor amendment to the granted plans or considered exempt development under section 4(1)(h) of the Planning and Development Act 2000, as amended

3 - A small single storey extension has been constructed to the rear of the property. The rear extension has an internal floor area of approximately 10m² and is within all thresholds and limitations for exempt development. Can this rear extension be considered exempt development under Schedule 2, Part 1, Class 1 of the Planning & Development Regulations 2001 as amended.

(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)

Plans granted under P00-143. Please note that P05-148 was not acted on.

OSI map

Photographs of dwelling as constructed

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT	
(a) Postal Address of the Property/Site/Building for which the declaration sought:	17 Lifford Road Ennis Co. Clare V95 A97P
(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 House is currently up for sale
(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>	N/A
(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>	P00-143 & P05-148
(h) Date on which 'works' in question were completed/are likely to take place:	Unknown

SIGNED: Brian Joudy

DATE: 07th April 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:	.....	

Photos Of Existing Dwelling



Front (West) Elevation



South/West Elevation

Photos Of Existing Dwelling



South Elevation



Rear (East) Elevation

ENNIS URBAN DISTRICT COUNCIL
LOCAL GOVERNMENT (PLANNING & DEVELOPMENT) ACTS, 1963 TO 2000
NOTIFICATION OF A GRANT OF PERMISSION, (SUBJECT TO CONDITIONS)

C & S Lucey,
c/o Michael Lucey,
"The Lodge",
Cahercalla Cross,
ENNIS.

Ref. No. in
Planning Register: 00/143

APPLICATION BY: C & S Lucey,

OF: c/o Michael Lucey,
"The Lodge",
Cahercalla Cross,
Ennis.

ON: 4th August, 2000

FOR: *permission to (a) remove existing garage/shed; (b) erect bedroom extension and patios and (c) complete renovations to dwelling at 17, Lifford Road, Ennis in accordance with details submitted on 4th August, 2000 and 17th October, 2000.*

A permission has been granted for the development described above subject to the following conditions.

1. The development shall be carried out in accordance with the revised drawings submitted to the Planning Authority on the 17th October, 2000, except where altered or amended by conditions in this permission.
2. The external wall finishes of the extension shall match those of the existing building in colour and texture.
3. The existing dwelling and proposed extension shall be jointly occupied as a single dwelling unit and shall not be sold, let or otherwise transferred or conveyed save as part of the dwelling.
4. (a) The applicant shall be responsible for the immediate reinstatement to make safe, to the satisfaction of the Planning Authority, any damage to the roadway fronting the development as a result of the works carried out.

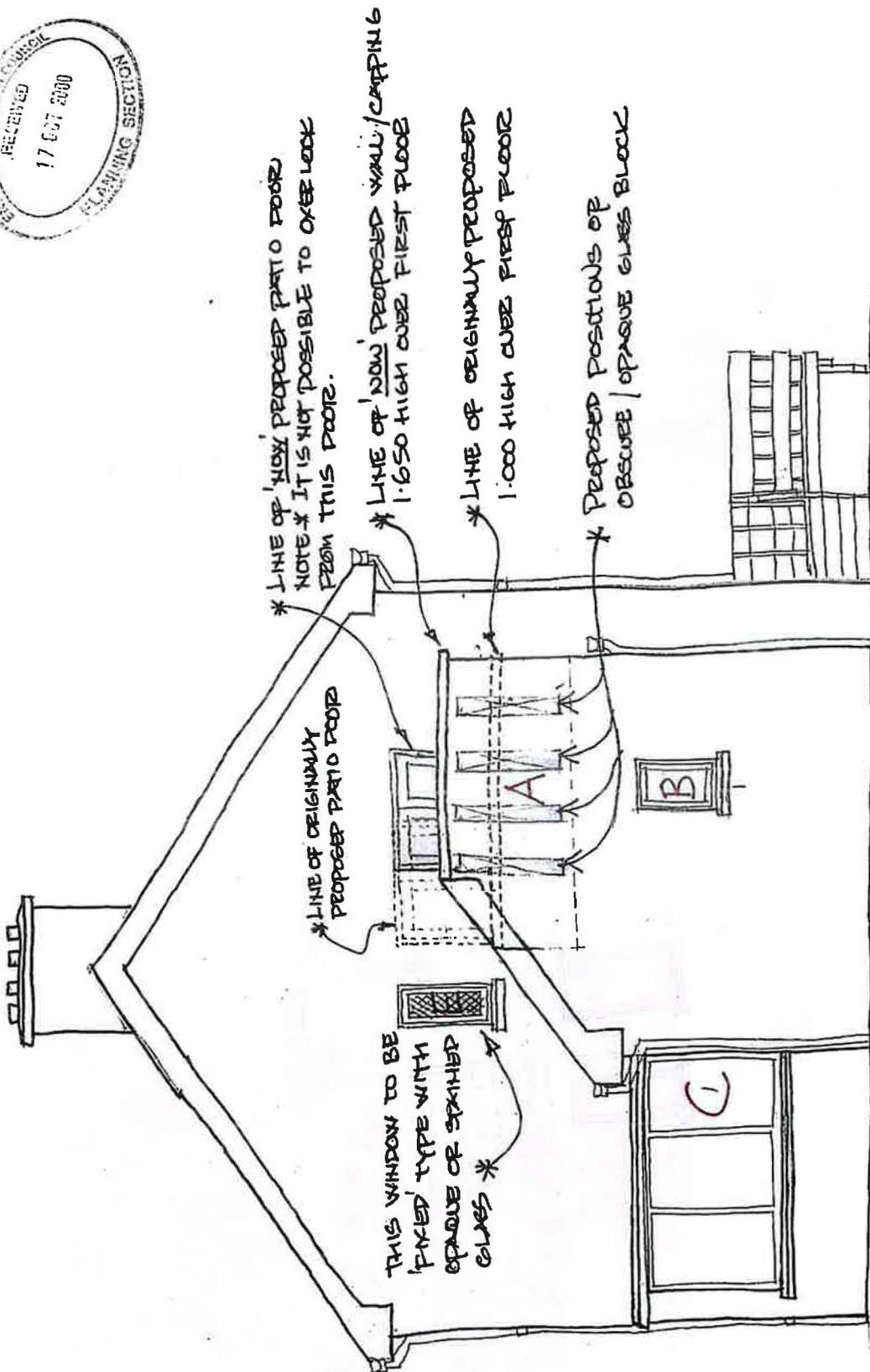
(b) No surface water from the site shall run onto the public road or footpath.

Signed on behalf of Ennis U.D.C.

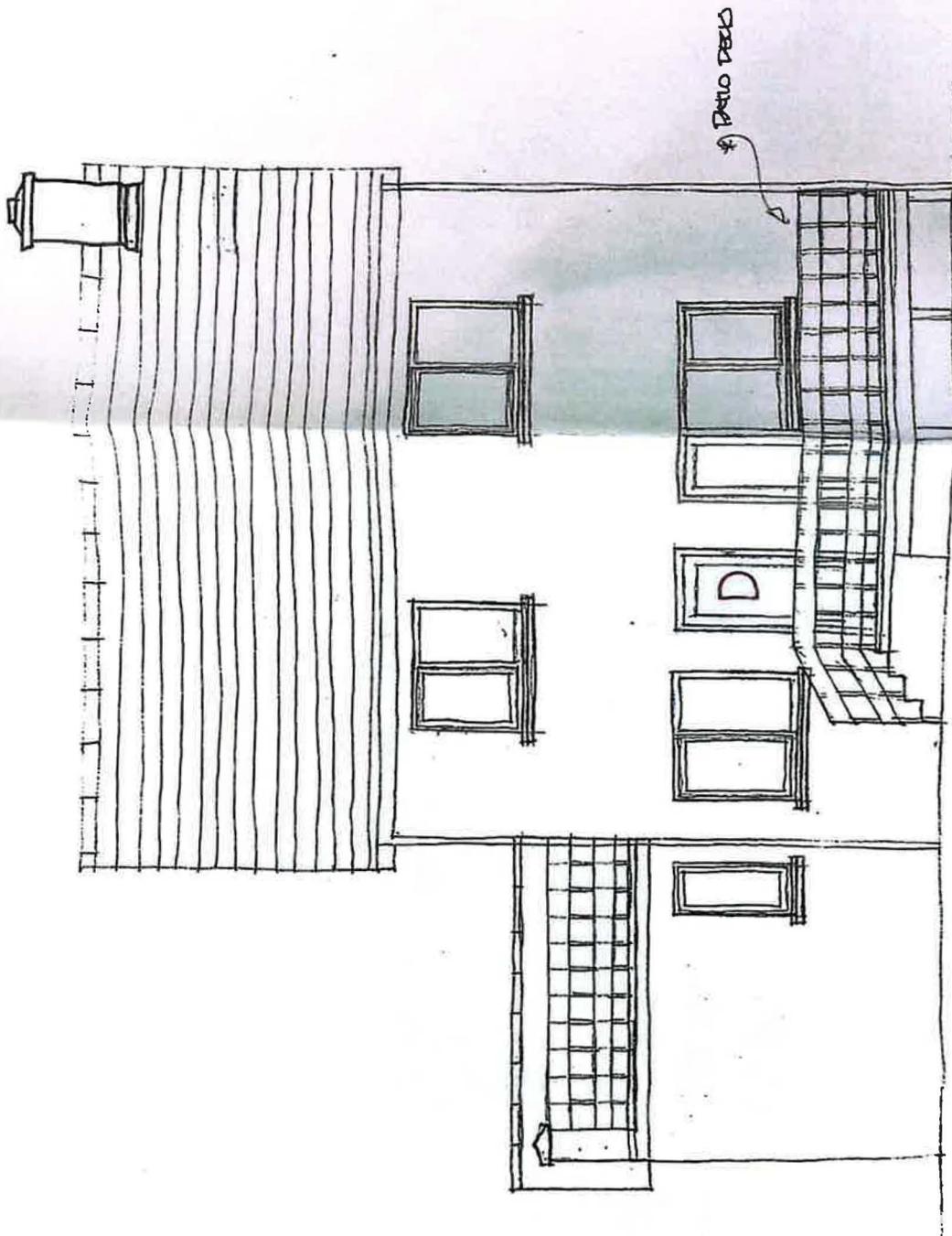
Marion Keane
Marion Keane,
Assistant Staff Officer.

Date:

19th January, 2001.

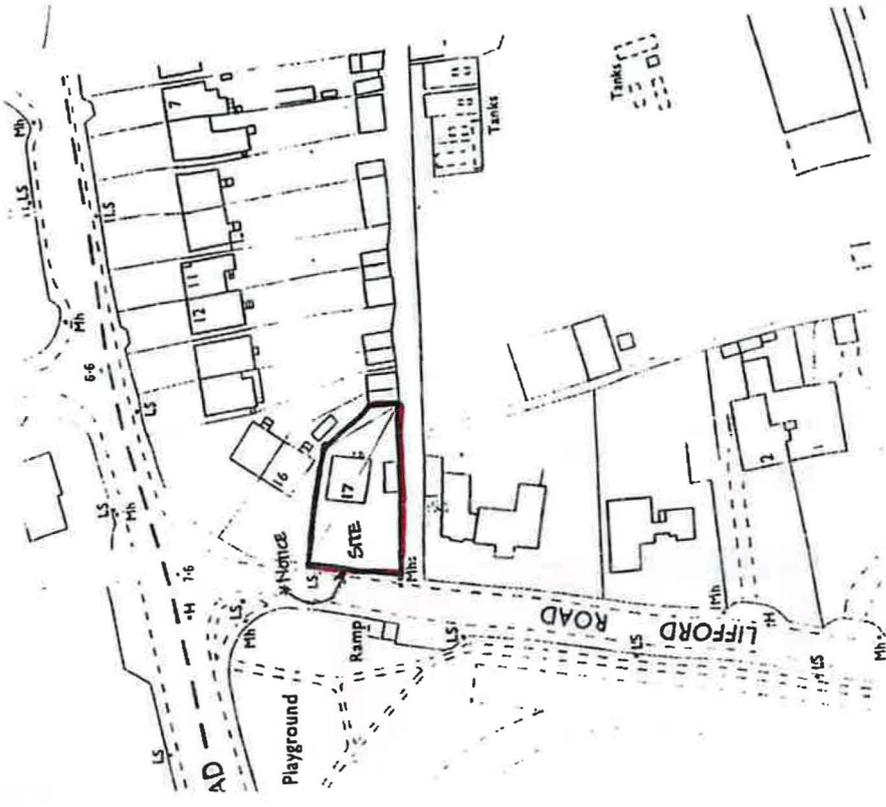


SIDE ELEVATION SCALE 1:50 (SOUTH).



ELMISTON URBAN DISTRICT
COUNCIL
- 4 AUG 2000
Ref No. 00 - 143
RECEIVED

REAR ELEVATION (EAST)
SCALE 1:50

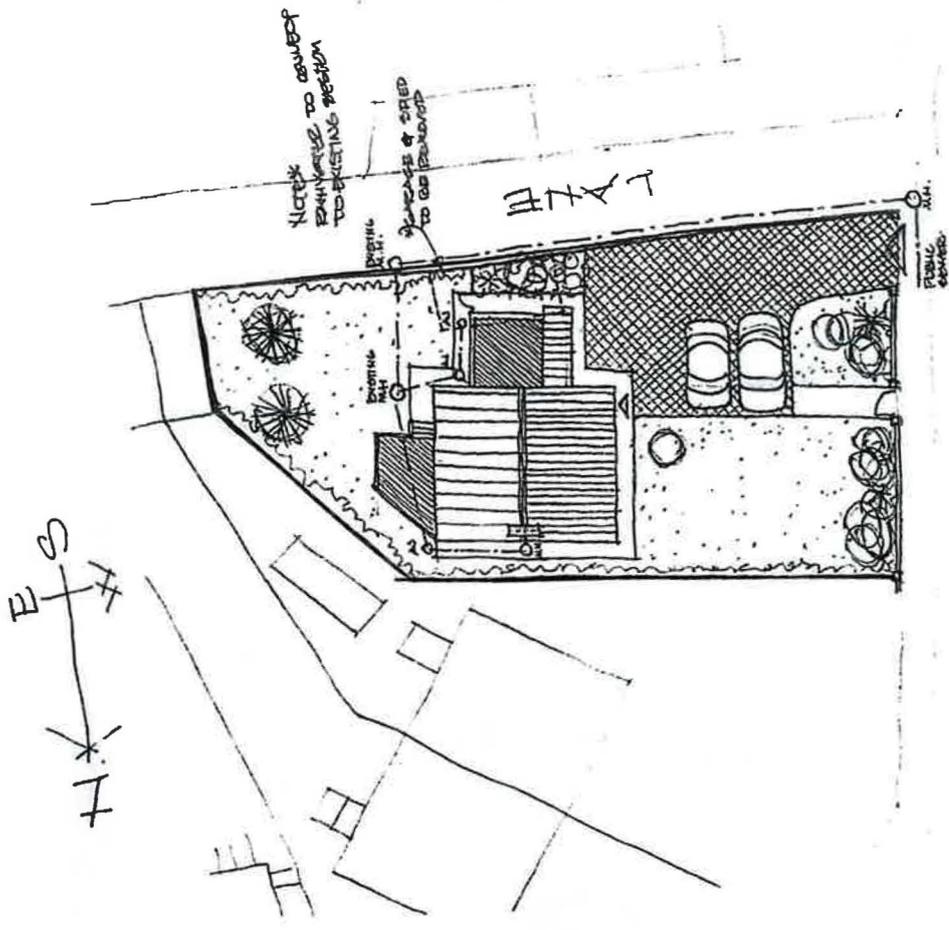


SITE LOCATION MAP SCALE 1:1000

PROJECT: © REMOVE EXISTING GARAGE / SHEP
 © ERECT PERENNIAL RETENTION PATIOS
 © RENOVATIONS TO HOUSE

ADDRESS: 8 17 LIFFORD RD, ENNIS.
 CLIENT: 8 MS C. JOCEY

ENNIS URBAN DISTRICT COUNCIL
 -4 AUG 2000
 Ref No. 00-143
 RECEIVED

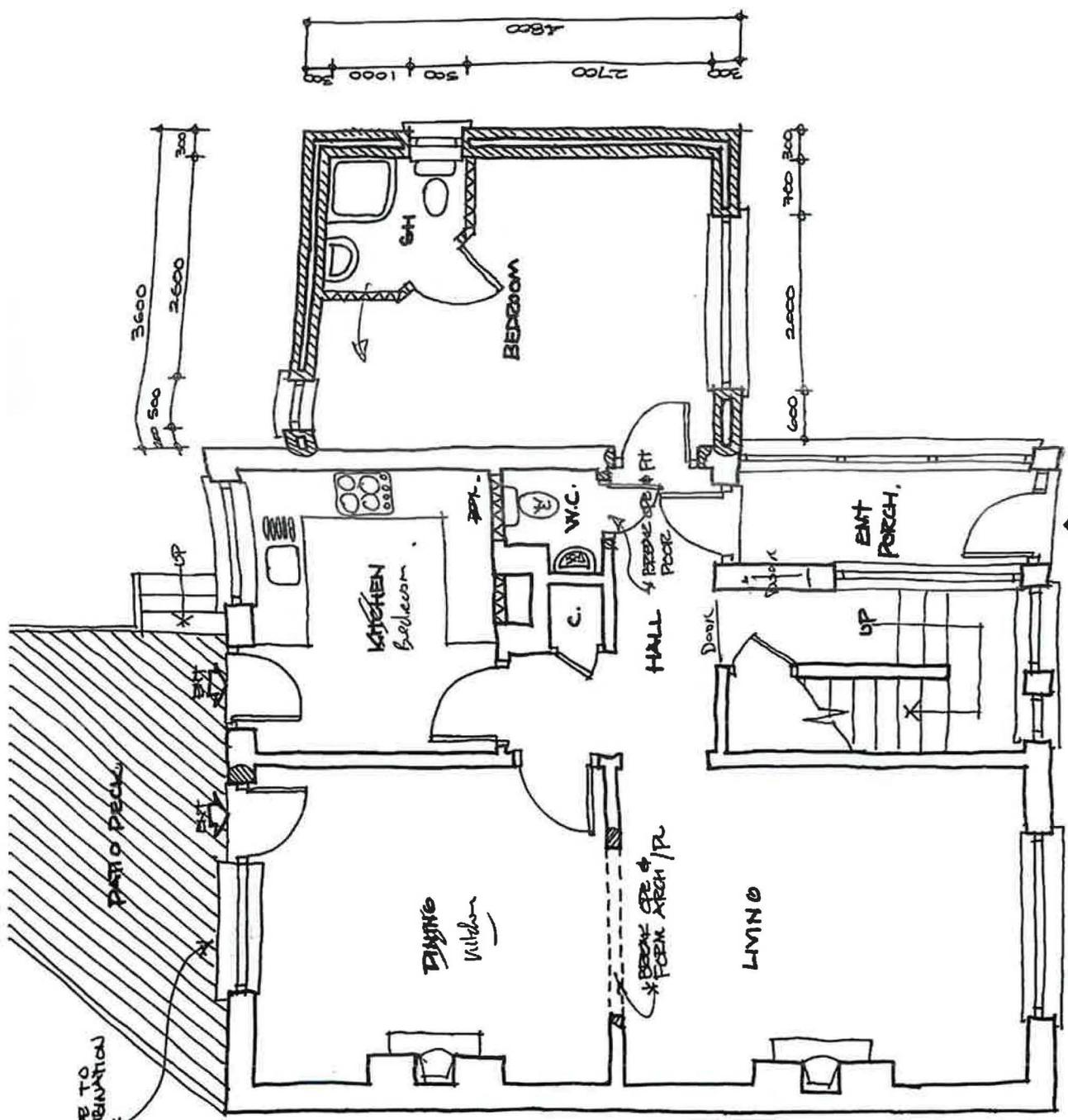


LIFFORD ROAD

SITE LAYOUT PLAN SCALE 1:250

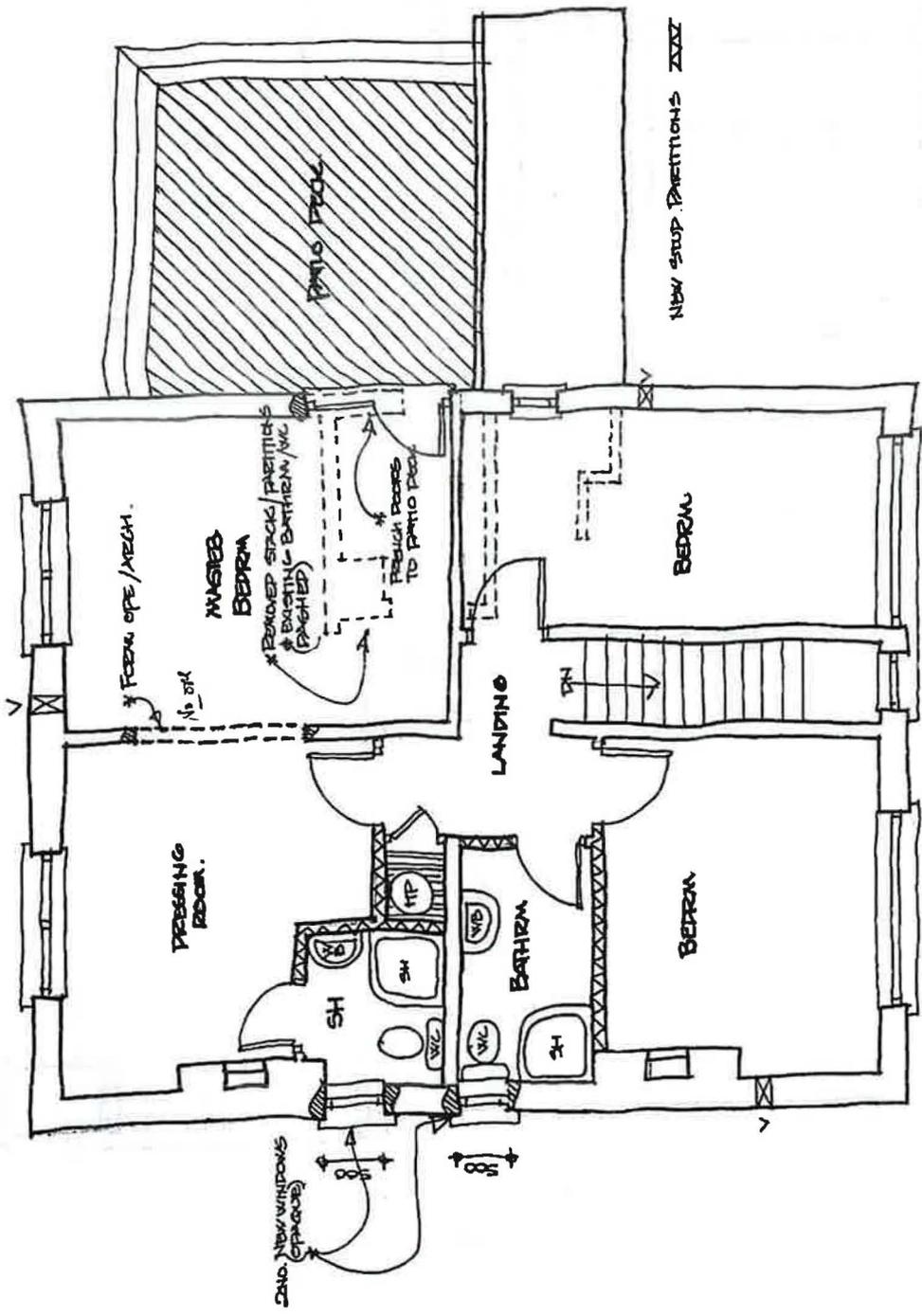
EMIS DISTRICT COUNCIL
 - 4 AUG 2000
 Ref NO. 09 - 143
RECEIVED

KEY
 100MM SUSPENDED
 200MM CAVITY WALL
 EPS



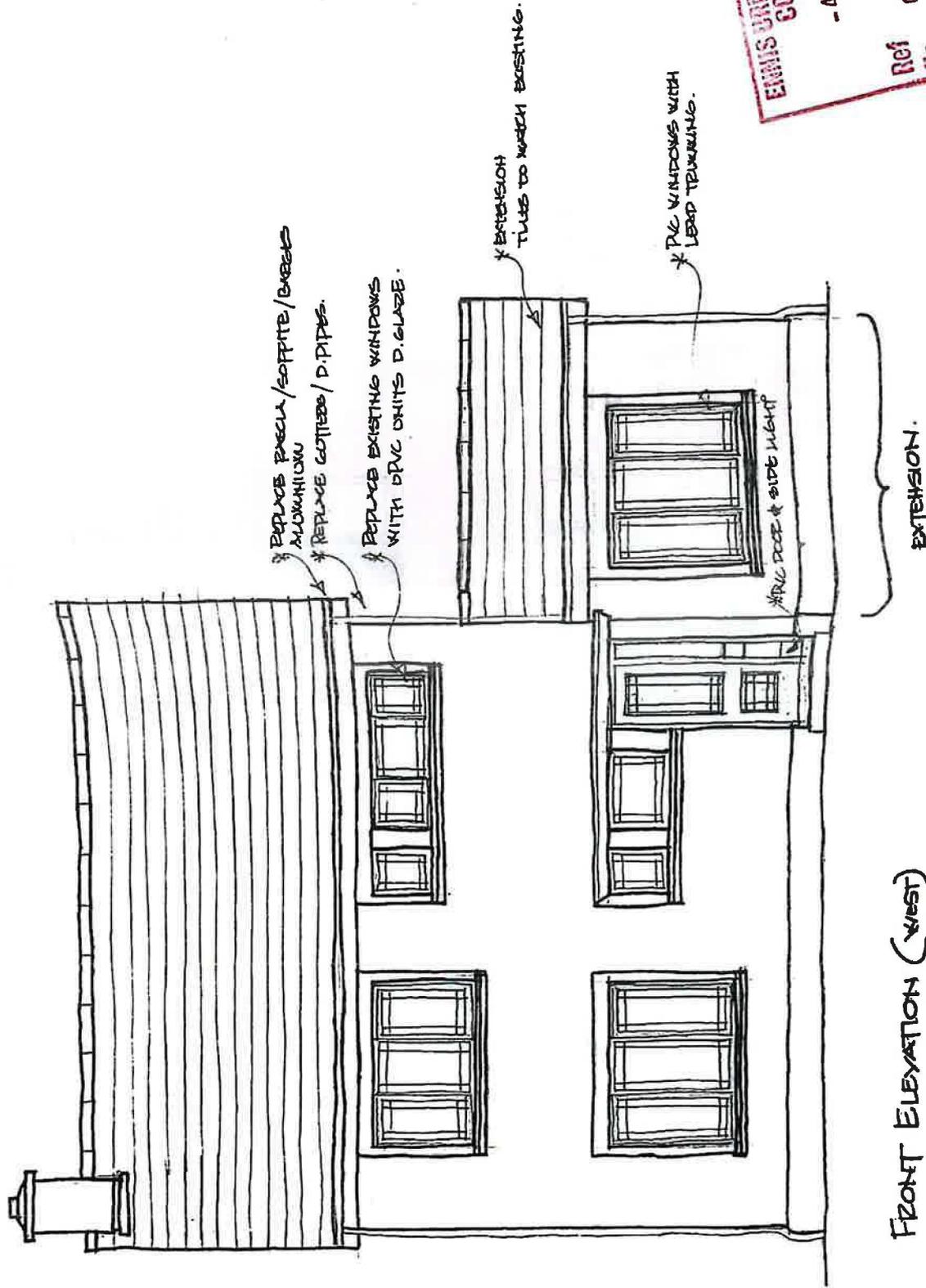
* WIDER WINDOW OR TO ACCOMMODATE COMBINATION WINDOW/DOOR *

GROUND FLOOR PLAN SCALE 1:50



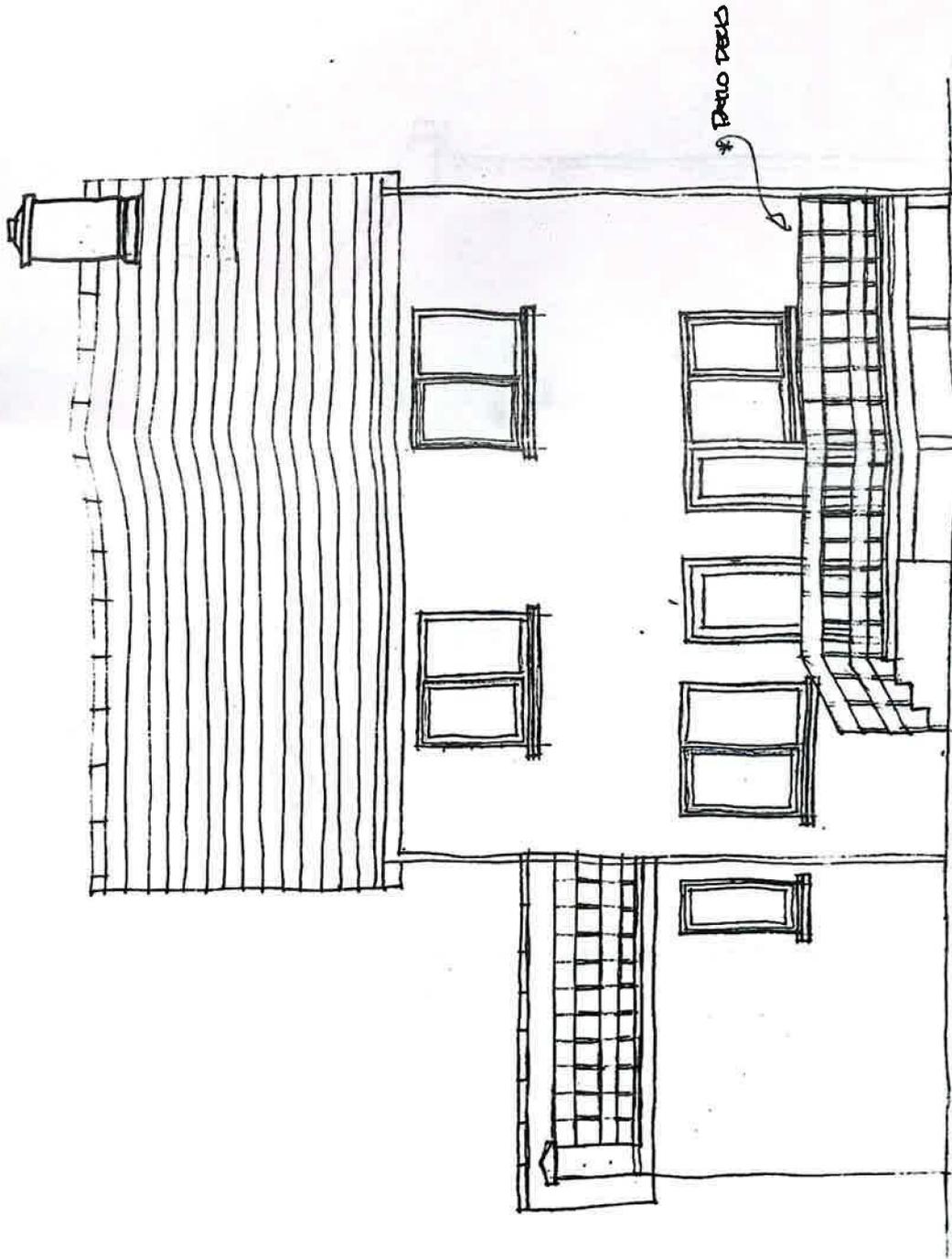
ENNIS URBAN DISTRICT
 COUNCIL
 -4 AUG 2000
 Ref NO. 00-143
 RECEIVED

FIRST FLOOR PLAN SCALE 1:50



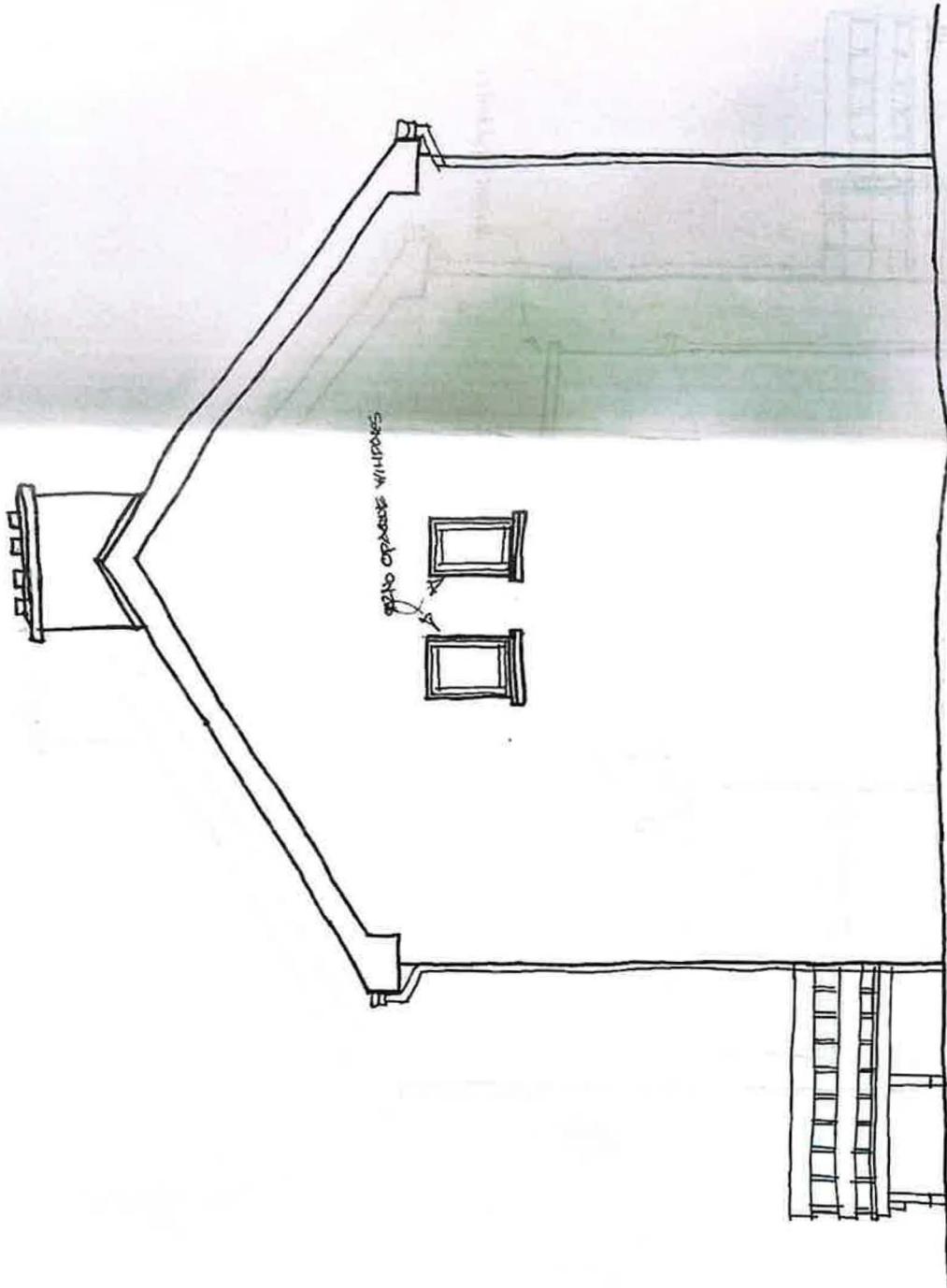
FRONT ELEVATION (WEST)
SCALE 1:50

ERINIS URBAN DISTRICT
COUNCIL
- 4 AUG 2000
Ref No. 09 - 14 3
RECEIVED

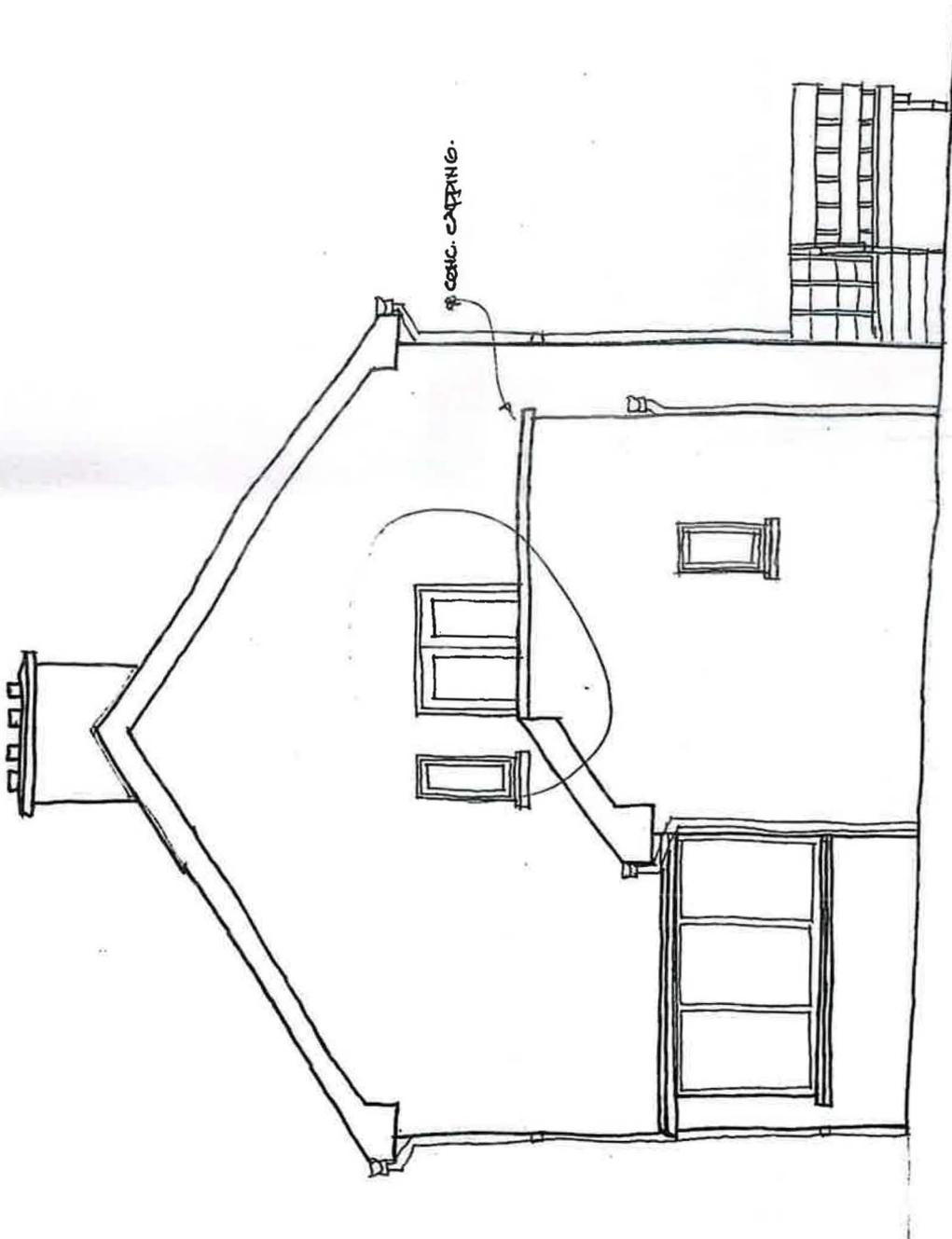


REAR ELEVATION (LEFT)
SCALE 1:50

ENNIS URBAN DISTRICT
COUNCIL
- 4 AUG 2000
Ref No. 00 - 143
RECEIVED



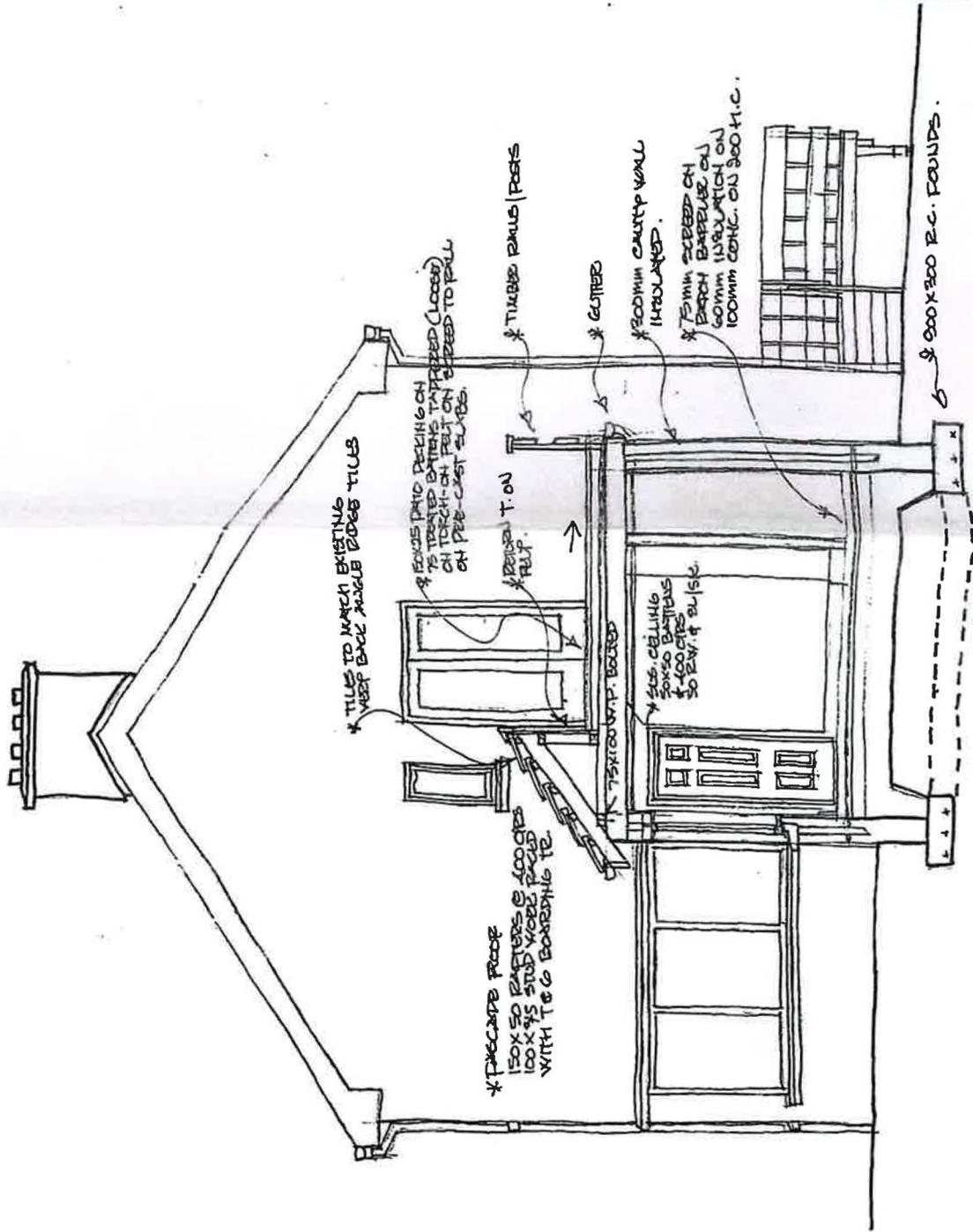
ENNIS URBAN DISTRICT
COUNCIL
-4 AUG. 2000
Ref NO. 03-143
RECEIVED



CONC. CAPPING.

SIDE ELEVATION SCALE 1:50
(SOUTH)

ENNIS URBAN DISTRICT
COUNCIL
-4 AUG 2000
Ref No. 00-143
RECEIVED



LENNIS URBAN DISTRICT
COUNCIL
 - 4 AUG 2000
 Ref No. 00 - 14 3
RECEIVED

SECTION B-B.
 SCALE 1:50