



COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

**Registered Post**

**Adrian Chaplin  
Naomh Eoin  
Cappagh South  
Sixmilebridge  
Co. Clare**

**10th March 2025**

**Section 5 referral Reference R25-5 – Adrian Chaplin**

Is the construction of an extension to the rear of the cottage at Cloonanass, Kilmurry, Sixmilebridge, V95 WD89 development and if so, is it exempted development?

A Chara,

I refer to your application received on 14th 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

**Anne O'Gorman  
Staff Officer  
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**

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

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

Chief Executive's Order No:

85085

Reference Number:

R25-5

Date Referral Received:

14th January 2025

Date Further Information Received:

19th February 2025

Name of Applicant:

Adrian Chaplin

Location of works in question:

Cloonanass, Kilmurry, Sixmilebridge,  
Co. Clare, V95 WD89

**Section 5 referral Reference R25-5 – Adrian Chaplin**

Is the construction of an extension to the rear of the cottage at Cloonanass, Kilmurry, Sixmilebridge, V95 WD89 development and if so, is it exempted development?

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

- (a) The details as received from the referrer on 15/01/25 and the revised details received on 19/02/25.
- (b) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- (c) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended
- (d) Class 1 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.

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

- (a) The construction of an extension with a floor area of 39m<sup>2</sup> to the rear of the dwelling at Cloonanass, Kilmurry, Sixmilebridge, County Clare (as per the revised details received on 19/02/25) 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 extension at Cloonanass, Kilmurry, Sixmilebridge, County Clare meets the requirements of Schedule 2, Part 1, Class 1 of the Planning and Development Regulations 2001, as (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 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 construction of a single storey rear extension of 39m<sup>2</sup> at Cloonanass, Kilmurry, Sixmilebridge, Co. Clare, V95 WD89 is **considered development** which is **exempted development**.

**Signed:**

  
\_\_\_\_\_  
**GARRETH RUANE**  
**SENIOR EXECUTIVE PLANNER** 

**Date:**

**10th March 2025**

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

**Reference No.: R25-5**



**Comhairle Contae an Chláir  
Clare County Council**

**Section 5 referral Reference R25-5**

**Is the construction of an extension to the rear of the cottage at Cloonanass, Kilmurry, Sixmilebridge, V95 WD89 development and if so, is it exempted development?**

**AND WHEREAS, Adrian Chaplin** 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) The details as received from the referrer on 15/01/25 and the revised details received on 19/02/25.
- (b) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- (c) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended
- (d) Class 1 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.

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

- (a) The construction of an extension with a floor area of 39m<sup>2</sup> to the rear of the dwelling at Cloonanass, Kilmurry, Sixmilebridge, County Clare (as per the revised details received on 19/02/25) 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 extension at Cloonanass, Kilmurry, Sixmilebridge, County Clare meets the requirements of Schedule 2, Part 1, Class 1 of the Planning and Development Regulations 2001, as (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 rear extension of 39m<sup>2</sup> at Cloonanass, Kilmurry, Sixmilebridge, Co. Clare, V95 WD89 **constitutes development** which is **exempted development** as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.





Anne O'Gorman  
Staff Officer  
Planning Department  
Economic Development Directorate

10th March 2025

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

<b>FILE REF:</b>	R25- 5
<b>APPLICANT(S):</b>	Adrian Chaplin
<b>REFERENCE:</b>	Is the construction of an extension to the rear of a cottage at Cloonass Kilmurry Sixmilebridge development and if so, is it exempted development,
<b>LOCATION:</b>	Cloonanass Kilmurry Sixmilebridge
<b>DUE DATE:</b>	10 <sup>th</sup> March 2025

This Section V Referral was received from the Referrer on 14/01/25. On 10/02/25 the Planning Authority sought Further Information in relation to the development. On 19/02/25 the Referrer submitted further information to the Planning Authority.

The following is the further information as was requested;

*I wish to advise that in accordance with Section 5 (2) (b) of the Planning & Development Act, 2000, as amended, the following further information is required:*

*With regard to the Section V Referral, Reference R 25- 5 in relation to a proposed extension onto a cottage at Cloonanass, Kilmurry, County Clare, this proposed development has been considered under the provisions of Schedule 2, Part 1, Class1 of the Planning and Development Regulations 2001 (as amended) which provides for the following class of exempted development.*

*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.*

*Having regard to the design of the proposed extension, two of the conditions and limitations as apply to the above class of exempted development have not been met, as follows;*

*Condition and Limitation 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.***

*In the case of the proposed extension, the rear wall of this house does not have a gable. As per the details submitted, the rear wall of the proposed extension is marginally higher than the rear wall of the house.*

*Condition and Limitation 4(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.***

*In this case the height of the proposed flat roofed extension is higher than the height of the roof eaves of the existing house and hence this condition has not been complied with.*

*Having regard to the design of the proposed extension and to the conditions and limitations as apply in terms of the exempted development provisions for domestic extensions, the proposed extension in its current form cannot be considered to be exempted development. However, should minor amendment to the proposed design be made, then reconsideration could be given to this matter.*

*Please submit your response in this regard, to include revised proposals if deemed appropriate.*

**Applicants response;** In response to the request for Further information, the referrer has submitted revised proposals for the proposed extension which show the proposed development of a rear extension whereby the height of the walls of the extension do not exceed the height of the rear wall of the house and the height of the highest part of the roof of the proposed extension ( which is flat roofed in form) does not exceed the height of the eaves or parapet of the existing house.

**Assessment**

The details as submitted in response to the request for Further Information are sufficient to address the matters as were raised in the request for FI ands the extension as proposed is now considered to be exempted development.

**Conclusions**

The following question has been referred to the Planning Authority:

*"Whether the construction of an extension with a floor area of 39m<sup>2</sup> to the rear of a cottage at Cloonass Kilmurry Sixmilebridge is development and if so, is it exempted development".*

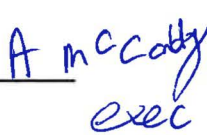
The Planning Authority in considering this referral had regard to:

- (a) The details as received from the referrer on 15/01/25 and the revised details received on 19/02/25.
- (b) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- (c) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended
- (d) Class 1 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.

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

- (a) The construction of an extension with a floor area of 39m<sup>2</sup> to the rear of the dwelling at Cloonanass, Kilmurry, Sixmilebridge, County Clare ( as per the revised details received on 19/02/25) 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 extension at Cloonanass, Kilmurry, Sixmilebridge, County Clare meets the requirements of Schedule 2, Part 1, Class 1 of the Planning and Development Regulations 2001, as (as amended).

Now therefore Clare County Council (Planning Authority), hereby decides that the construction of a single storey rear extension of 39m<sup>2</sup>, as per the details received on 19/02/25, **is development and is exempted development.**

  
\_\_\_\_\_  
Annemarie McCarthy  
Executive Planner  
Date: 06/03/25

06/03/25  
planner

  
06/03/25



**CLARE  
COUNTY COUNCIL**

19 FEB 2025

**Received  
Planning Section**

To whom it concerns,

With regards to the section 5 application, reference R 25- 5, in response to the communication received, the height of the walls of the extension are now not higher than the height of the rear wall of the house and the height of the eaves are now not higher than the height of the highest part of the roof of the dwelling.

This is represented and can be seen in the amended drawings of the cottage attached.

Communication received:

I wish to advise that in accordance with Section 5 (2) (b) of the Planning & Development Act, 2000, as amended, the following further information is required:

With regard to the Section V Referral, Reference R 25- 5 in relation to a proposed extension onto a cottage at Cloonanass, Kilmurry, County Clare, this proposed development has been considered under the provisions of Schedule 2, Part 1, Class1 of the Planning and Development Regulations 2001 (as amended) which provides for the following class of exempted development.

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.

Having regard to the design of the proposed extension, two of the conditions and limitations as apply to the above class of exempted development have not been met, as follows;

Condition and Limitation 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.

In the case of the proposed extension, the rear wall of this house does not have a gable. As per the details submitted, the rear wall of the proposed extension is marginally higher than the rear wall of the house.

Condition and Limitation 4(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.

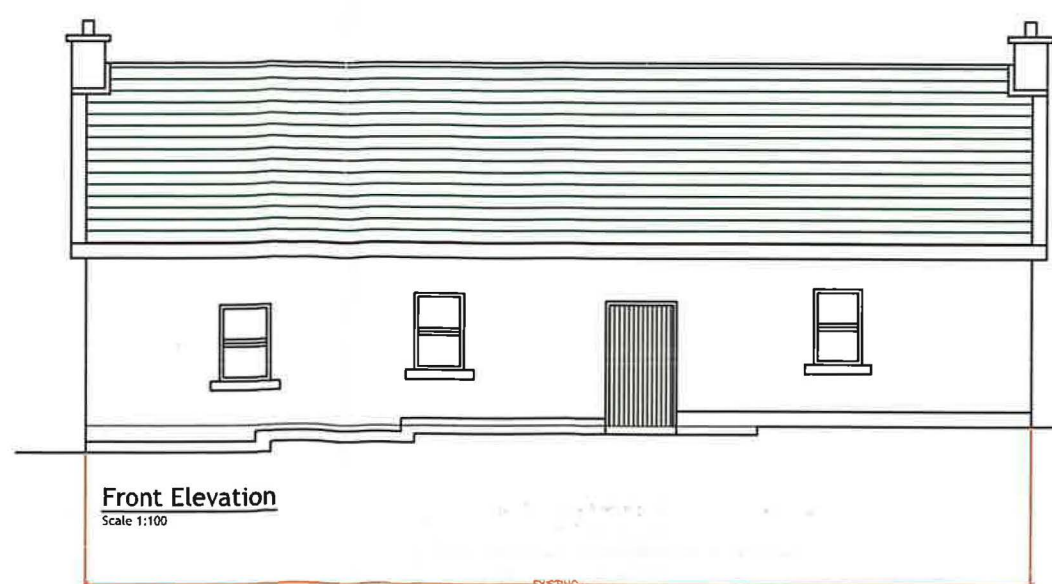
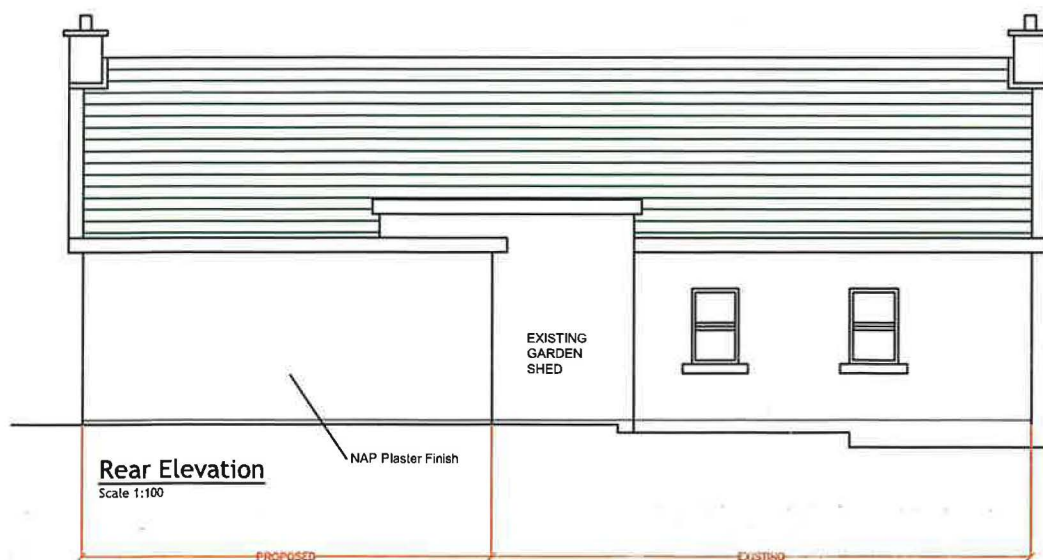
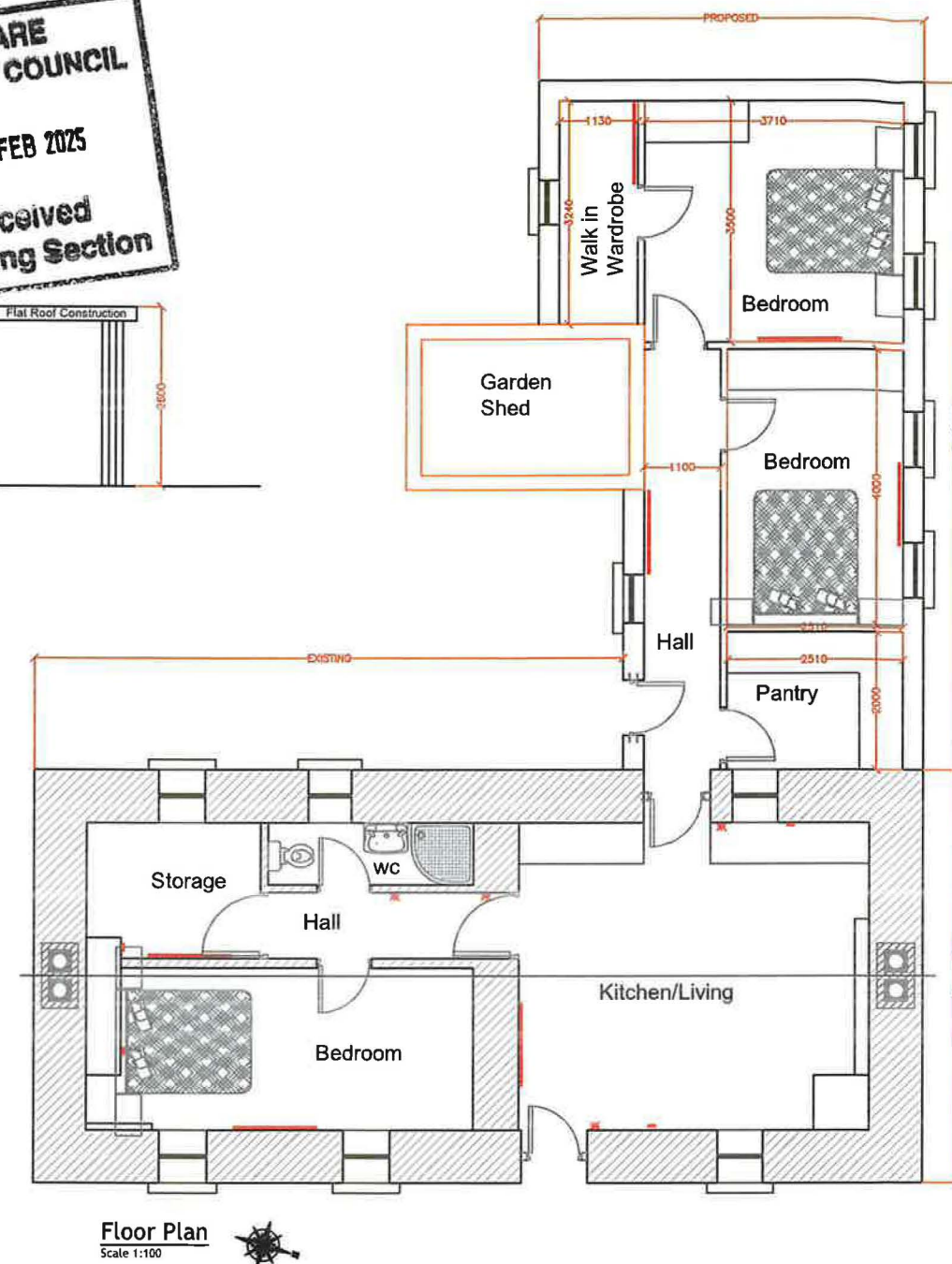
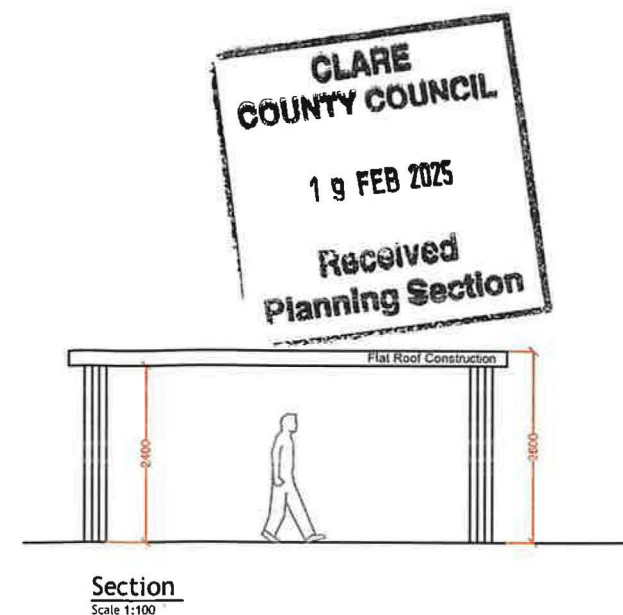
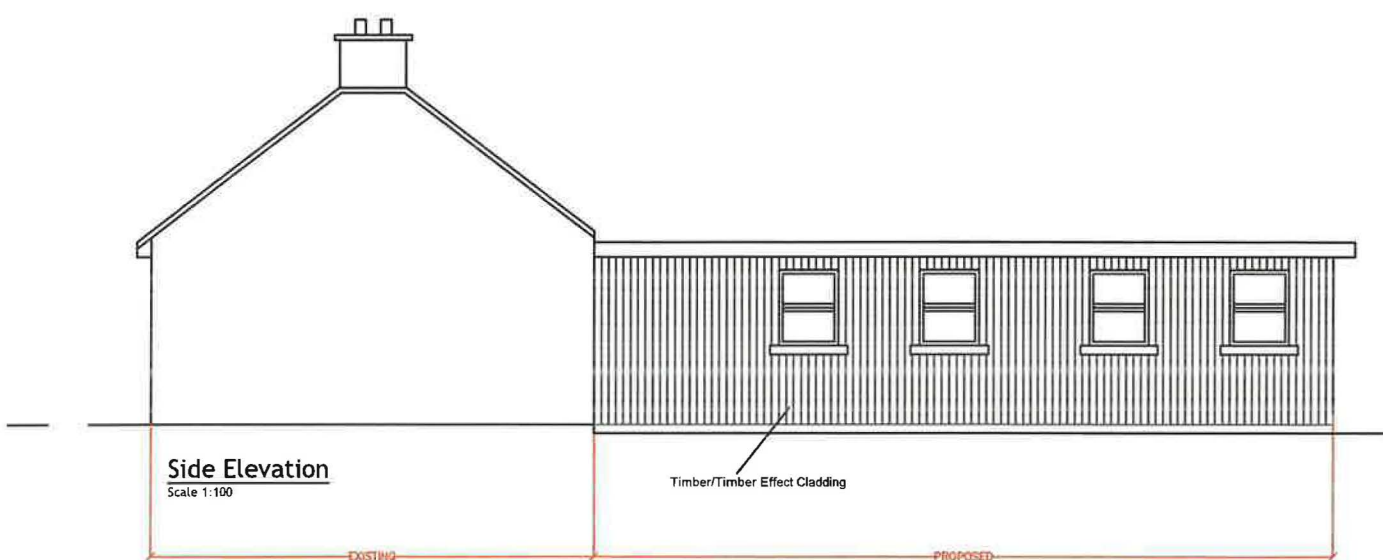
In this case the height of the proposed flat roofed extension is higher than the height of the roof eaves of the existing house and hence this condition has not been complied with.

Having regard to the design of the proposed extension and to the conditions and limitations as apply in terms of the exempted development provisions for domestic extensions, the proposed extension in its current form cannot be considered to be exempted development. However, should minor amendment to the proposed design be made, then reconsideration could be given to this matter.

Please submit your response in this regard, to include revised proposals if deemed appropriate.

Kind regards,

Adrian Chaplin



DATE - FEB 2025

LOCATION - CLOONANASS, KILMURRY,  
SIXMILEBRIDGE, CO. CLARE

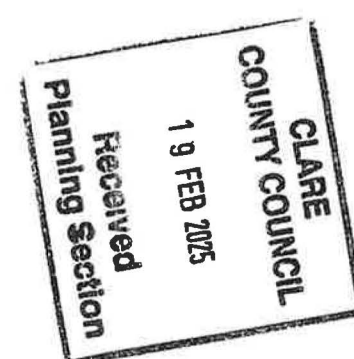
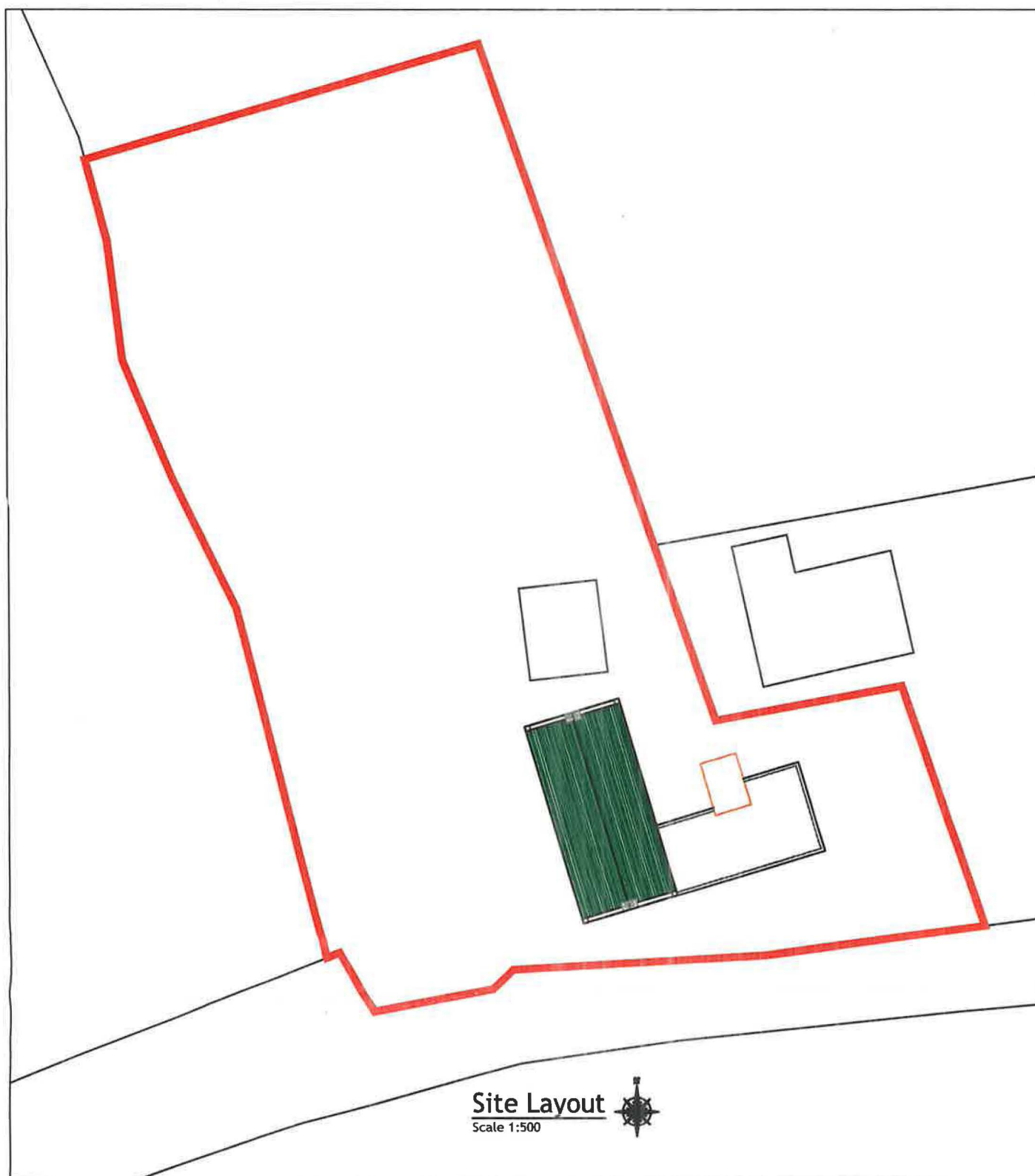
PROJECT - PROPOSED COTTAGE RENNOVATION

TITLE - COTTAGE PLANS & SITE LAYOUT

CLIENT - ADRIAN CHAPLIN

DRAWN - AC

DWG. NO. AC/002 REV A



DATE - FEB 2025

LOCATION - CLOONANASS, KILMURRY,  
SIXMILEBRIDGE, CO. CLARE

PROJECT - PROPOSED COTTAGE RENNOVATION

TITLE - COTTAGE PLANS & SITE LAYOUT

CLIENT - ADRIAN CHAPLIN

DRAWN - AC

DWG. NO. AC/003 REV A





COMHAIRLE | CLARE  
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Adrian Chaplin  
Naomh Eoin  
Cappagh South  
Sixmilebridge  
Co. Clare

10/02/2025

**Section 5 referral Reference R25-5 – Adrian Chaplin**

Is the construction of an extension to the rear of the cottage at Cloonanass, Kilmurry, Sixmilebridge, V95 WD89 development and if so, is it exempted development?

A Chara,

I refer to your application received on 14th January 2025 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

I wish to advise that in accordance with Section 5 (2) (b) of the Planning & Development Act, 2000, as amended, the following further information is required:

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Having regard to the design of the proposed extension, two of the conditions and limitations as apply to the above class of exempted development have not been met, as follows;

*Condition and Limitation 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.***

In the case of the proposed extension, the rear wall of this house does not have a gable. As per the details submitted, the rear wall of the proposed extension is marginally higher than the rear wall of the house.

*Condition and Limitation 4(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.***

An Roinn Pleanála  
An Stiúrthóireacht Forbairt Gheilleagrach

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

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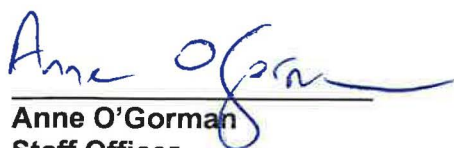


In this case the height of the proposed flat roofed extension is higher than the height of the roof eaves of the existing house and hence this condition has not been complied with.

Having regard to the design of the proposed extension and to the conditions and limitations as apply in terms of the exempted development provisions for domestic extensions, the proposed extension in its current form cannot be considered to be exempted development. However, should minor amendment to the proposed design be made, then reconsideration could be given to this matter.

Please submit your response in this regard, to include revised proposals if deemed appropriate.

Mise, le meas



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

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

<b>FILE REF:</b>	R25- 5
<b>APPLICANT(S):</b>	Adrian Chaplin
<b>REFERENCE:</b>	Is the construction of an extension to the rear of a cottage at Cloonass Kilmurry Sixmilebridge development and if so, is it exempted development,
<b>LOCATION:</b>	Cloonanass Kilmurry Sixmilebridge
<b>DUE DATE:</b>	10 <sup>th</sup> February 2025

**Site Location**

The subject property is located in a rural area to the south of Kilmurray and is accessed via a local road. There is an existing older single storey cottage and outbuilding on this site. The side gable of the older cottage addresses the public road and the front of the cottage faces in a western direction.



**Figure 1:** Subject cottage.

### Planning History

No recent planning applications on the proposal site.

PPI 24 – 243 this was a Pre Planning Inquiry from the Referrer whereby the referred asked if the proposed extension of the cottage could be carried out as exempted development, The referee was advised that this could potentially be done but that it would be a good idea to submit a Section V request to clarify this matter.

### Background to Referral

This Referral under Section 5(3)(a) of the Planning and Development Act 2000 (as amended) has been made by Adrain Chaplin.

The referral question is as follows- Is the construction of an extension to the rear of a cottage at Cloonass Kilmurry Sixmilebridge development and if so, is it exempted development.

### Statutory Provisions

#### (1) 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.*

**(2) Planning & Development Regulations, 2001, as amended**

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

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

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

1. (a)

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

(b)

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

(c)

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

2. (a)

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

(b)

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

(c)

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

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

4. (a)

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



(b)

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

(c)

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

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

6. (a)

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

(b)

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

(c)

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

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

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 unauthorized structure or a structure the use of which is an unauthorized 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 applicant is seeking a Section 5 Declaration as to whether the construction of an extension to the rear of a cottage at Cloonass Kilmurry Sixmilebridge development and if so, is it exempted development. As per the application form submitted it is stated that the applicant is the owner of this property.

### **Particulars of the Development**

- Floor area of extension:39m<sup>2</sup>
- It is proposed to construct the extension to the rear of the existing cottage.
- Elevation and layout drawings that show the existing cottage and the proposed extension to this have been submitted.
- A flat roofed extension to the rear of the cottage with a timer cladding effect on the external walls is proposed.



**Figure 2: View of Cottage.**



**Figure 3;** View of side gable.

The proposed extension to the rear of the cottage is considered in the context of Schedule 2, Part 1, Class1 of the Planning and Development Regulations 2001 ( as amended) which provides for the following class of exempted development.

*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 extension is located to the rear of the existing dwelling house.

1. (a)

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

The house has not been previously extended. The floor area of the extension is 39m<sup>2</sup>.

(b)

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

The house is detached.



(c)

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

The subject dwelling is a single storey structure.

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.*

No previous extensions were undertaken. The floor area of the subject extension is less than 40m<sup>2</sup>

(b)

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

The house is detached.

(c)

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

The proposed extension is located on the ground floor area only.

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

Not applicable – extension is at ground floor level.

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.***

In this case the rear wall of this house does not have a gable. As per the details submitted, the rear wall of the proposed extension are marginally higher than 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.*

Not applicable.

(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.***

In this case the height of the proposed flat roofed extension is higher than the height of the roof eaves of the existing house and hence this condition has not been complied with.

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

In excess of 25m<sup>2</sup> remains.

6. (a)

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

This is complied with.

(b)

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

Not applicable.

(c)

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

Not applicable.

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

Not applicable.

Having regard to the above and to the details as submitted, I consider that the extension as constructed is not exempt from the requirement to obtain permission under Schedule 2, Part 1, Class 1 of the Planning and Development Regulations 2001 (as amended) as the conditions and limitations on this form of exempted development as are set out in of Schedule 2, Part 1, Class1 of the Planning and Development Regulations 2001 ( as amended) have not been met, as follows;

- Conditions and Limitations 4(a) and 4(c) have not been met.

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

Under Article 9 (1) of the same Regulations, *development to which Article 6 relates shall not be exempted development for the purposes of the Act:*

*(a) if the carrying out of such development would –*

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

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

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

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

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

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

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

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

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

No applicable to the proposal

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

Not applicable to this proposal

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

The subject extension is located to the rear of a rural residence. The development does not interfere with the character of the area.

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

Not applicable to this proposal

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

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

*(viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,*

Having regard to the nature, scale and location of the proposed development, the likely zone of influence is no greater than 1km.

There are no European sites within 1km of the proposed development location.

In the absence of proximity or connectivity to a European Site, no Appropriate Assessment issues arise and I do not consider that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects, on a European Site.

Appropriate assessment is not therefore required.

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

No applicable in this instance

*(viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorized structure or a structure the use of which is an unauthorized use,*

Not applicable to this proposal

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

Not applicable in this instance

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

Not applicable in this instance

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

Not applicable in this instance

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

The development site is not within an Architectural Conservation Area.

**Assessment;**

The following question has been referred to the Planning Authority:

*"Is the construction of an extension to the rear of a cottage at Cloonass Kilmurry Sixmilebridge development and if so, is it exempted development".*

In this case the proposed extension meets most of the conditions and limitation that apply to the class of exempted development as set out under Schedule 2, Part 1, Class1 of the Planning and Development Regulations 2001 ( as amended) which provides for the following class of exempted development.

*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.*

However the following conditions and limitations as apply to this class of exempted development have not been met;

Conditions and Limitations;

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.*

In this case the rear wall of this house does not have a gable. As per the details submitted, the rear wall of the proposed extension is marginally higher than 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.*

In this case the height of the proposed flat roofed extension is higher than the height of the roof eaves of the existing house and hence this condition has not been complied with.

It is considered that the above matters could be addressed by way of minor design modifications to the proposed extension and it is considered appropriate that the Referrer be made aware of the required changes in order for the proposed development to be deemed to be exempted development, by way of a request for Further Information.



## Recommendation

I request that **Further Information** be requested from the Referrer, as follows

With regard to the Section V Referral, Reference R 25- 5 in relation to a proposed extension onto a cottage at Cloonanass Kilmurphy County Clare, this proposed development has been considered under the provisions of Schedule 2, Part 1, Class1 of the Planning and Development Regulations 2001 ( as amended) which provides for the following class of exempted development.

*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.*

Having regard to the design of the proposed extension, two of the conditions and limitations as apply to the above class of exempted development have not been met, as follows;

### *Condition and Limitation 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.***

In the case of the proposed extension, the rear wall of this house does not have a gable. As per the details submitted, the rear wall of the proposed extension is marginally higher than the rear wall of the house.

### *Condition and Limitation 4(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.***

In this case the height of the proposed flat roofed extension is higher than the height of the roof eaves of the existing house and hence this condition has not been complied with.

Having regard to the design of the proposed extension and to the conditions and limitations as apply in terms of the exempted development provisions for domestic extensions, the proposed extension in its current form cannot be considered to be exempted development. However, should minor amendment to the proposed design be made , then reconsideration could be given to this matter.

Please submit your response in this regard, to include revised proposals if deemed appropriate.

A m cCarthy 07/02/25  
gn

**Name: Annemarie Mccarthy**

**Executive Planner**

**Date: 07/02/25.**

**Name: Garreth Ruane**

**Senior Executive Planner**

**Date 10/02/25.**



COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

**Adrian Chaplin**  
**Naomh Eoin**  
**Cappagh South**  
**Sixmilebridge**  
**Co. Clare**

**15/01/2025**

**Section 5 referral Reference R25-5 – Adrian Chaplin**

Is the construction of an extension to the rear of the cottage at Cloonanass, Kilmurry, Sixmilebridge, V95 WD89 development and if so, is it exempted development?

A Chara,

I refer to your application received on 14th 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



**CLARE  
COUNTY COUNCIL**

14 JAN 2025

**Received  
Planning Section**

**CLARE COUNTY COUNCIL  
COMHAIRLE CONTAE AN CHLÁIR**

*P07 Request for a Declaration on Development and Exempted Development (March 2017)*

P07

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)



Comhairle Contae an Chláir  
Clare County Council

R25-5

**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	Adrian Chaplin Naomh Eoin Cappagh South Sixmilebridge Co. Clare
(b) Telephone No.:	
(c) Email Address:	
(d) Agent's Name and address:	N/A

## 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 the extension to the rear of the cottage at V95 WD89, Cleonahass, Kilmurry, Sixmilecross exempted development?

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

Construction of an extension that is 39m<sup>2</sup> and is to the rear of the existing cottage.

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

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

Site location map

Plans and drawings of existing cottage

Plans and drawings of existing cottage and extension



3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT	
(a) Postal Address of the Property/Site/Building for which the declaration sought:	<u>Cloonanass</u> <u>Kilmurry</u> <u>Sixmilebridge</u> <u>Co. Clare</u> <u>V95 W089</u>
(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?	<u>No</u>
(c) Legal interest in the land or structure in question of the person requesting the declaration (Give Details):	<u>Owner</u>
(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>	<u>N/A</u>
(e) Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?:	<u>Yes</u>
(f) Are you aware of any enforcement proceedings connected to this site? If so please supply details:	<u>No</u>
(g) Were there previous planning application/s on this site? If so please supply details:	<u>No</u>
(h) Date on which 'works' in question were completed/are likely to take place:	<u>May 2025</u>

SIGNED: Adrian O'LearyDATE: 13/1/25



### **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:.....			

548980 mE, 668630 mN

Tailte  
ÉireannClárúcháin, Luacháil,  
Súilbhíreacht  
Registration, Valuation,  
Surveying

Folio: CE57054F

This map should be read in conjunction with the folio.

Tailte Éireann (TÉ) Registration mapping is based on TÉ Surveying mapping. Where TÉ Registration maps are printed at a scale that is larger than the TÉ Surveying scale, accuracy is limited to that of the TÉ Surveying map scale.

For details of the terms of use and limitations of scale, accuracy and other conditions relating to TÉ Registration maps, see [www.tailte.ie](http://www.tailte.ie).

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(centre-line of parcel(s) edged)

Freehold

Leasehold

SubLeasehold

Burdens (may not all be represented on map)

Right of Way / Wayleave

Turbary

Pipeline

Well

Pump

Septic Tank

Soak Pit



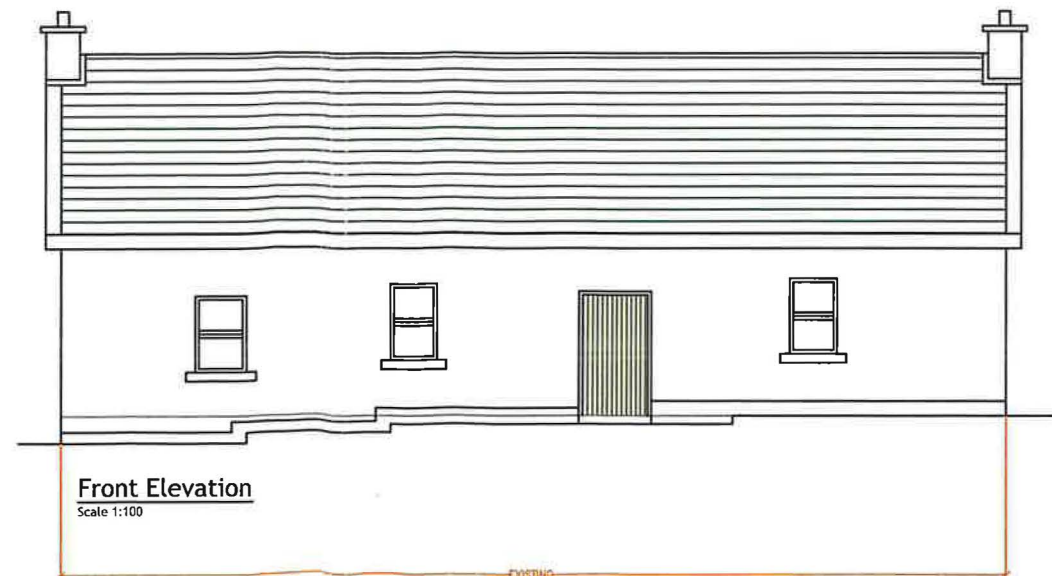
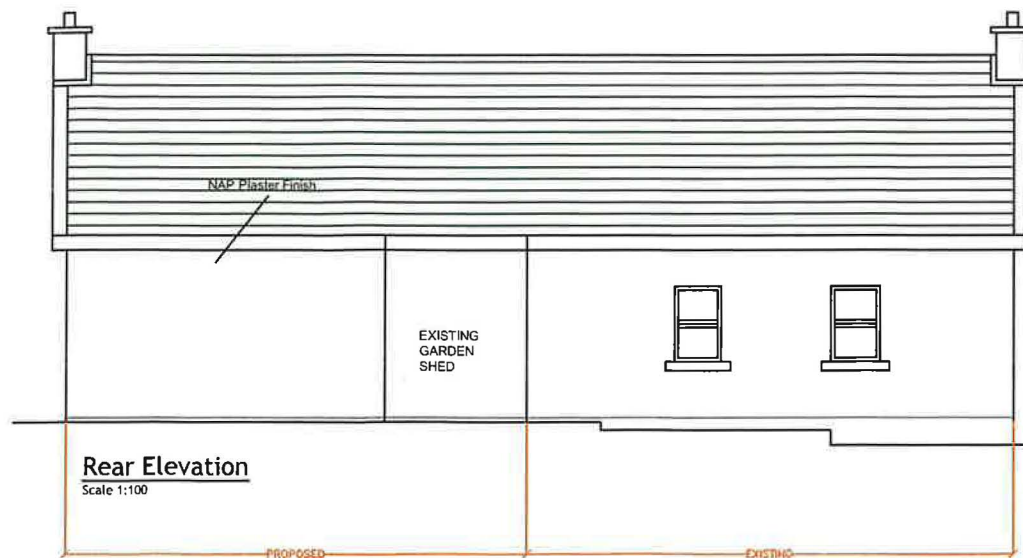
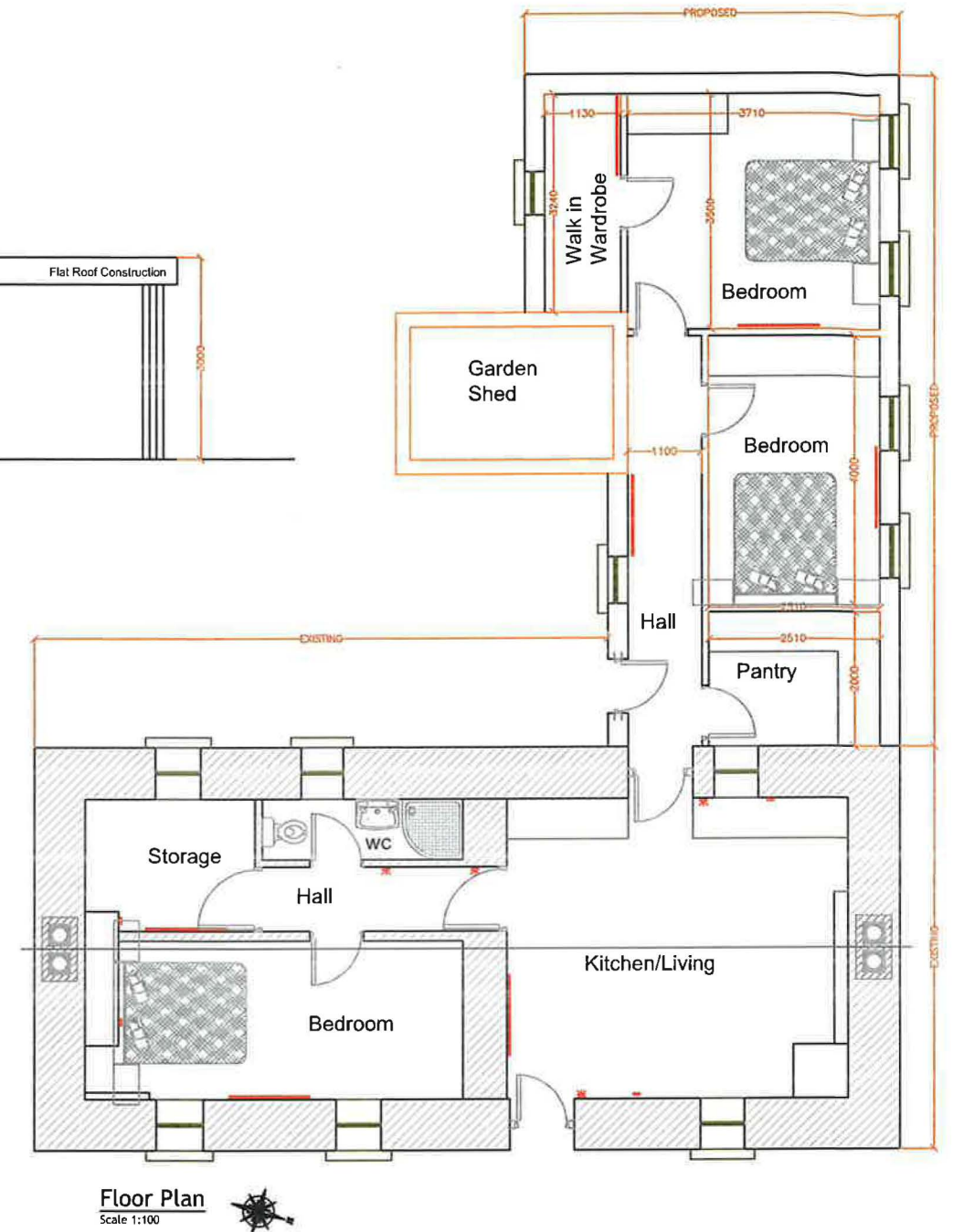
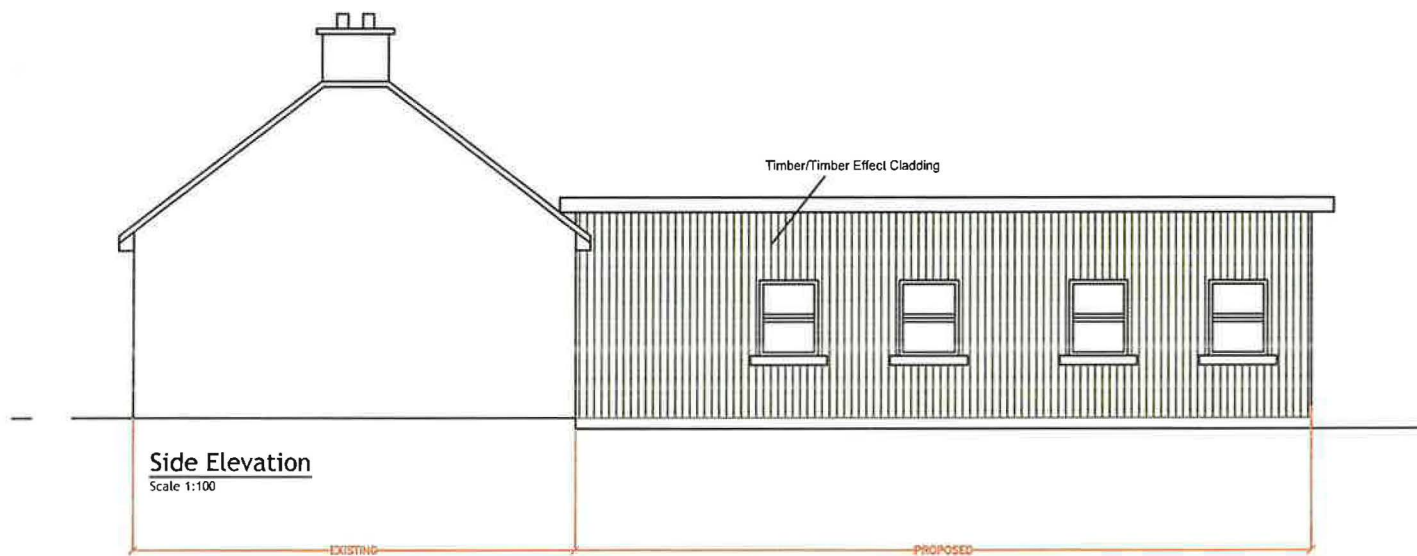
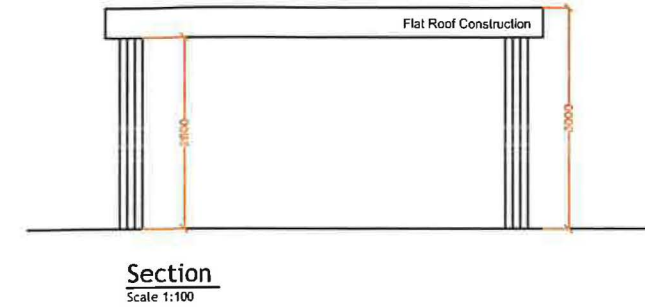
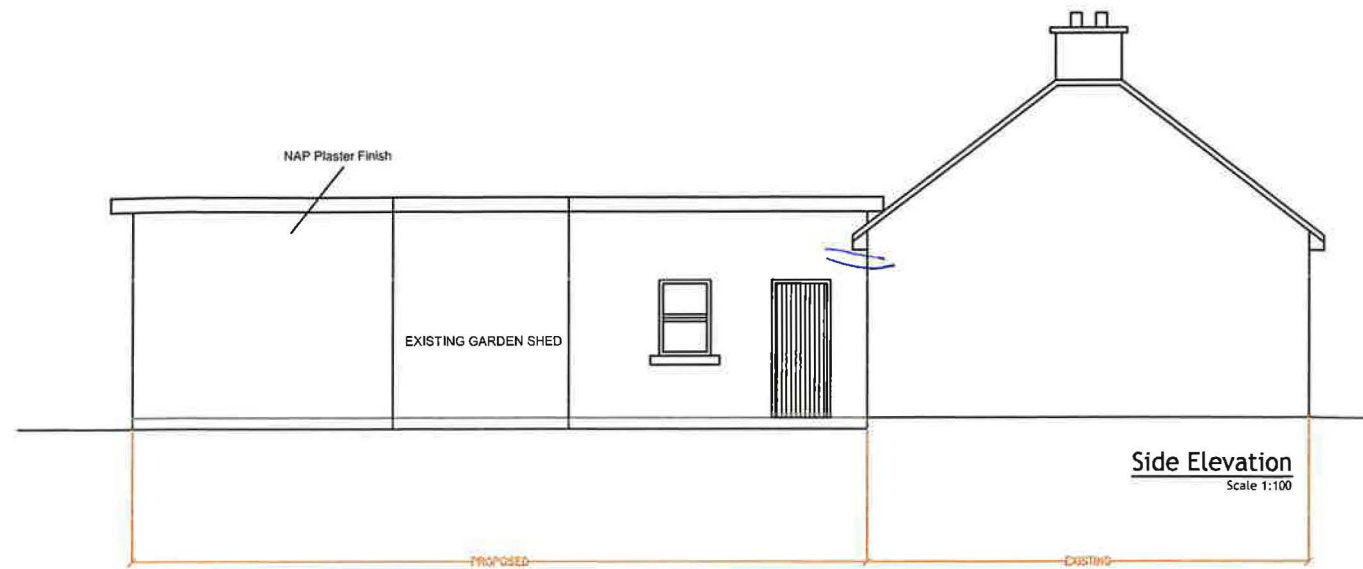
A full list of burdens and their symbology can be found at:

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

**Tailte Éireann Registration operates a non-conclusive boundary system. The TÉ Registration map identifies properties not boundaries meaning neither the description of land in a folio nor its identification by reference to a TÉ Registration map is conclusive as to the boundaries or extent.** (see Section 85 of the Registration of Title Act, 1964), As Inserted by Section 62 of the Registration of Deed and Title Act 2006.

CASTLECRINE





DATE - JAN 2025

LOCATION - CLOONANASS, KILMURRY,  
SIXMILEBRIDGE, CO. CLARE

PROJECT - PROPOSED COTTAGE RENNOVATION

TITLE - COTTAGE PLANS & SITE LAYOUT

CLIENT - ADRIAN CHAPLIN

DRAWN - AC

DWG. NO. AC/002



548980 mE, 668630 mN

**Tailte  
Éireann**Clárúcháin, Luacháil,  
Suirbhéireacht  
Registration, Valuation,  
Surveying

Folio: CE57054F

This map should be read in conjunction with the folio.

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(centre-line of parcel(s) edged)

Freehold

Leasehold

SubLeasehold

**Burdens** (may not all be represented on map)

Right of Way / Wayleave

Turbary

Pipeline

Well

Pump

Septic Tank

Soak Pit

A full list of burdens and their symbology can be found at:

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

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Creation Date: 15-August 2024 13:30:23

Application Number: D2024LR106057W

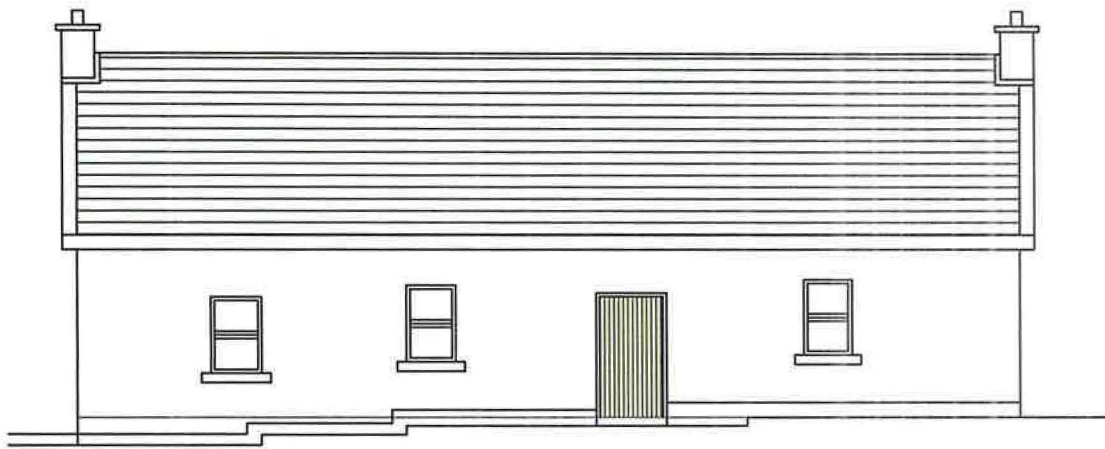
Page 6 of 6

1:2500 Scale

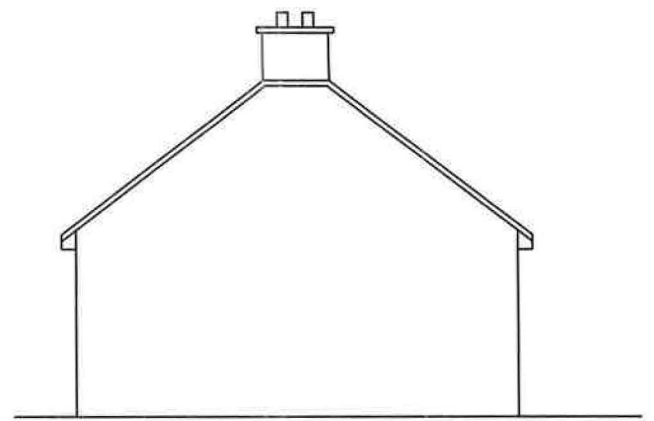


Page 6 of 6

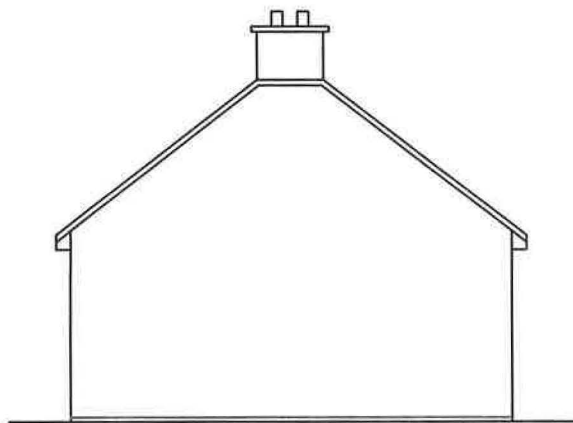




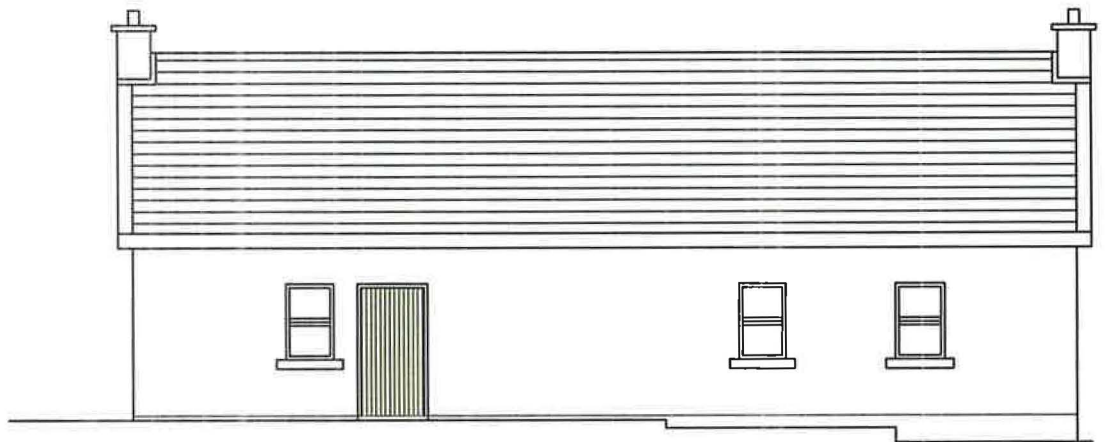
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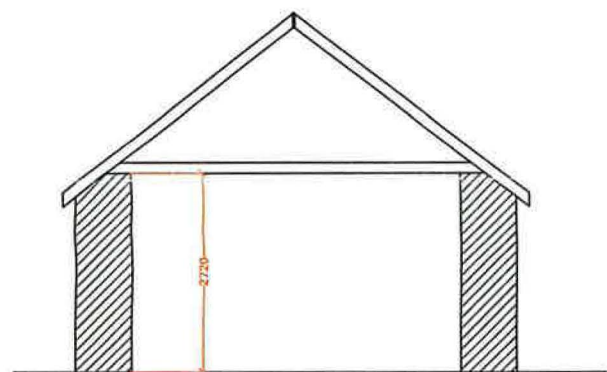
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Scale 1:100



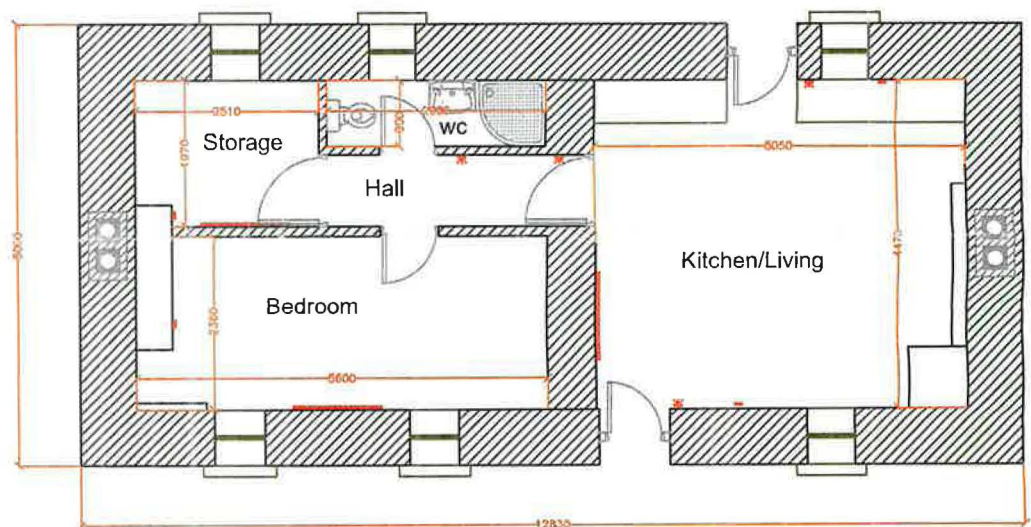
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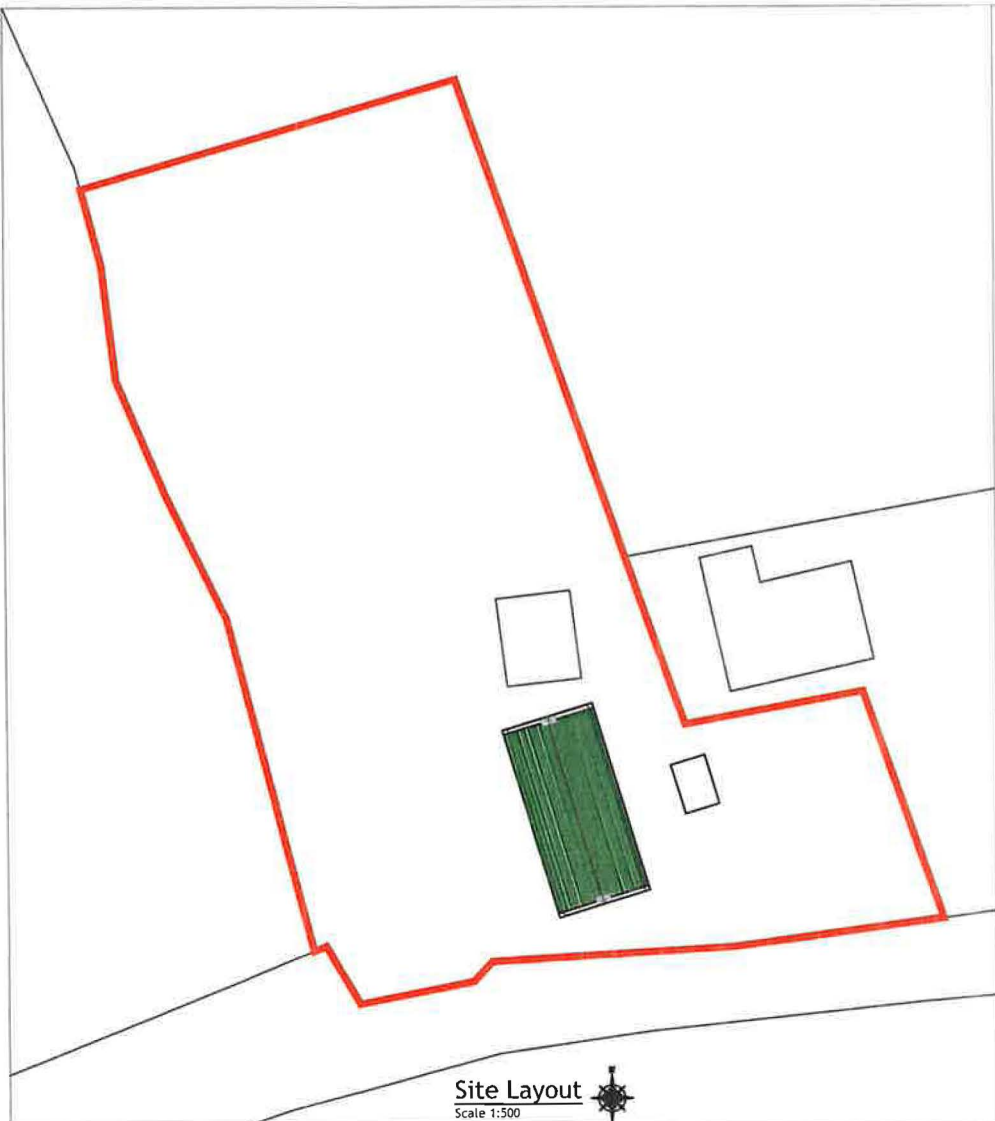
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Scale 1:100



Section  
Scale 1:100



Floor Plan  
Scale 1:100



Site Layout  
Scale 1:500



DATE - SEP 2024

LOCATION - MOUNTCASHEL, SIXMILEBRIDGE, CO. CLARE

PROJECT - COTTAGE RENNOVATION

TITLE - EXISTING COTTAGE PLANS & SITE LAYOUT

CLIENT - ADRIAN CHAPLIN

DRAWN - AC

DWG. NO. AC/001





DATE - JAN 2025

LOCATION - CLOONANASS, KILMURRY,  
SIXMILEBRIDGE, CO. CLARE

PROJECT - PROPOSED COTTAGE RENNOVATION

TITLE - COTTAGE PLANS & SITE LAYOUT

CLIENT - ADRIAN CHAPLIN

DRAWN - AC

DWG. NO. AC/003