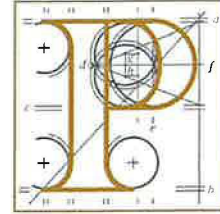


Our Case Number: ABP-315247-22

Planning Authority Reference Number: R22-67



An
Bord
Pleanála

Clare County Council
Planning Department
New Road
Ennis
Co. Clare



Date: 10 MAY 2024

Re: Whether the (i) cleaning and painting of a wall, (ii) replacement of windows, (iii) repair of roof, (iv) erection of internal walls, doors and floors, (v) replacement of stairs, (vi) erection of a boiler house and internal walls and doors, (vii) erection of path, (viii) installation of 12sq.m of solar panels is or is not development and is or is not exempted development.
Main Street, Broadford, Co. Clare

Dear Sir / Madam,

An order has been made by An Bord Pleanála determining the above-mentioned referral under the Planning and Development Acts 2000 to 2022. A copy of the order is enclosed.

In accordance with section 146(5) of the Planning and Development Act 2000, as amended, the Board will make available for inspection and purchase at its offices the documents relating to any matter falling to be determined by it, within 3 days following the making of its decision. The documents referred to shall be made available for a period of 5 years, beginning on the day that they are required to be made available. In addition, the Board will also make available the Inspector's Report, the Board Direction and Board Order in respect of the matter on the Board's website (www.pleanala.ie). This information is normally made available on the list of decided cases on the website on the Wednesday following the week in which the decision is made.

The Public Access Service for the purpose of inspection/purchase of file documentation is available on weekdays from 9.15am to 5.30pm (including lunchtime) except on public holidays and other days on which the office of the Board is closed.

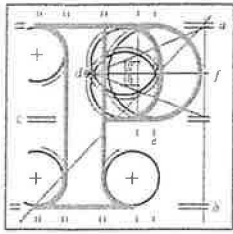
Yours faithfully,

Miriam Baxter
Executive Officer

RL100n

Tel	Tel	(01) 858 8100
Glao Áitiúil	LoCall	1800 275 175
Facs	Fax	(01) 872 2684
Láithreán Gréasáin	Website	www.pleanala.ie
Ríomhphost	Email	bord@pleanala.ie

64 Sráid Maoilbhríde	64 Marlborough Street
Baile Átha Cliath 1	Dublin 1
D01 V902	D01 V902



**An
Bord
Pleanála**

**Board Order
ABP-315247-22**

Planning and Development Acts 2000 to 2022

Planning Authority: Clare County Council

Planning Register Reference Number: R22-67

WHEREAS a question has arisen as to whether –

- (a) the cleaning and painting the front (east) wall and side (south) wall of the house,
- (b) the replacing of the front windows to match the existing and glazing same,
- (c) the repair of the roof using stone slates on the front (south-east) elevation,
- (d) the erection of internal walls and doors and internal floor in the original house area,
- (e) the fitting of a replacement/relocated internal stairs within the area of the original house,
- (f) the erection of a boiler house,

36

- (g) the erection of internal walls and doors within the boiler house (in f. above),
- (h) the erection of a concrete path to the rear and side of the boiler house, and
- (i) the installation of 12 square metres of solar panels,

at Main Street, Broadford, County Clare is or is not development and is or is not exempted development.

AND WHEREAS John Joe Fitzpatrick care of Liam Madden of Vitruvius Hibernicus, 2 Convent Road, Longford requested a declaration on this question from Clare County Council and the said Council issued a declaration on the 9th day of December, 2023 stating that the matter is development and is exempted development by reference to items (a), (b), (c), (d), (e) and (h), set out above, and is development and is not exempted development, by reference to items (f), (g) and (i) set out above.

AND WHEREAS John Joe Fitzpatrick referred the declaration for review to An Bord Pleanála, only insofar as it relates to items (f), (g) and (i) set out above, on the 2nd day of December 2022:

AND WHEREAS An Bord Pleanála, in considering this referral, had regard particularly to –

- (a) Section 2(1) of the Planning and Development Act, 2000, as amended,
- (b) Section 3(1) of the Planning and Development Act, 2000,
- (c) Section 4(1) of the Planning and Development Act, 2000, as amended,

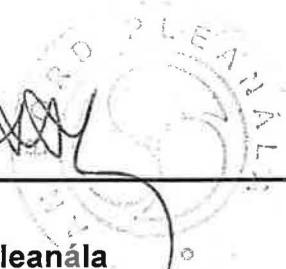

- (d) article 6(1) and article 9(1) of the Planning and Development Regulations, 2001, as amended, and
- (e) Parts 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended:

AND WHEREAS An Bord Pleanála has concluded that -

- (a) the erection of a boiler home, the erection of internal walls and doors within the boiler home and the installation of 12 square metres of solar panels constitute works and constitute development within the meaning of section 2(1) and section 3(1) of the Planning and Development Act 2000, as amended,
- (b) based on an inspection of the site by the Inspector for An Bord Pleanála, and on the documentation on file, the erection of a stated boiler house provides for a number of rooms and circulation areas and is not considered to be part of a heating system of a house and is not considered to fall within the scope of Schedule 2, Part 1, Class 2(a) of the Planning and Development Regulations 2001 (as amended), and
- (c) the erection of internal walls and doors within the stated boiler house and the installation of 12 square metres of solar panels on the roof of the stated boiler house is not exempted development having regard to Article 9(1)(a)(viii) of the Planning and Development Regulations 2001 (as amended),




NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5 (3) (a) of the 2000 Act, hereby decides that the erection of a boiler house, the erection of internal walls and doors within the boiler house and the installation of 12 square metres of solar panels at Main Street, Broadford, County Clare is development and is not exempted development.



Chris McGarry

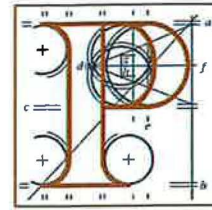
Member of An Bord Pleanála

**duly authorised to authenticate
the seal of the Board.**

Dated this  day of  2024.

Our Case Number: ABP-315247-22

Planning Authority Reference Number: R22-67



**An
Bord
Pleanála**

Clare County Council
Planning Department
New Road
Ennis
Co. Clare



Date: 07 July 2023

Re: Whether the (i) cleaning and painting of a wall, (ii) replacement of windows, (iii) repair of roof, (iv) erection of internal walls, doors and floors, (v) replacement of stairs, (vi) erection of a boiler house and internal walls and doors, (vii) erection of path, (viii) installation of 12sq.m of solar panels is or is not development and is or is not exempted development.
Main Street, Broadford, Co. Clare

Dear Sir / Madam,

I have been asked by the Board to refer to the above-mentioned case and in particular, to the Board's notice to you under section 126 of the Planning and Development Act 2000, in which it was indicated that the Board intended to determine this case before 10th July 2023.

I regret to inform you that, the Board will not now be in a position to determine the case before that date due to a backlog of cases.

There has been a significant turnover of personnel at board level in the organisation over recent months which has resulted in severely restrained capacity at board level and a consequent backlog of cases for determination. The replacement of board members and recruitment of additional overall staff resources is progressing and will provide the necessary capacity to address current delays in determining cases.

This case will be determined as soon as practicable.

The delay in determining the case is regretted.

Yours faithfully,

Karen Hickey

Karen Hickey
Executive Officer
Direct Line: 01-8737295

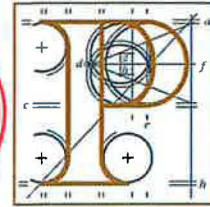
BP91A

Teil	Tel	(01) 858 8100
Glaio Áitiúil	LoCall	1800 275 175
Facs	Fax	(01) 872 2684
Láithreán Gréasáin	Website	www.pleanala.ie
Ríomhphost	Email	bord@pleanala.ie

64 Sráid Maoilbhríde	64 Marlborough Street
Baile Átha Cliath 1	Dublin 1
D01 V902	D01 V902

Our Case Number: ABP-315247-22

Planning Authority Reference Number: R22-67



**An
Bord
Pleanála**

Clare County Council
Planning Department
New Road
Ennis
Co. Clare

Date: 17 April 2023

Re: Whether the (i) cleaning and painting of a wall, (ii) replacement of windows, (iii) repair of roof, (iv) erection of internal walls, doors and floors, (v) replacement of stairs, (vi) erection of a boiler house and internal walls and doors, (vii) erection of path, (viii) installation of 12sq.m of solar panels is or is not development and is or is not exempted development.
Main Street, Broadford, Co. Clare

Dear Sir / Madam,

I have been asked by An Bord Pleanala to refer to the above mentioned referral.

In accordance with section 126(2)(a) of the Planning and Development Act, 2000, (as amended), it is a statutory objective of the Board to ensure that every referral received is determined within 18 weeks beginning on the date of receipt of the referral. Where it appears to the Board that it would not be possible or appropriate to determine a referral within this period, a notice must be sent to the parties to the referral in accordance with section 126(3)(a) of the 2000 Act, (as amended).

The Board hereby serves notice under section 126(3)(a) that it will not be possible to determine the case within the statutory objective period due to due to a backlog of cases.

The Board now intends to determine the above referral before **10th July 2023**. The Board will take all such steps as are open to it to ensure that the referral is determined before that date.

Yours faithfully,

Karen Hickey
Executive Officer
Direct Line: 01-8737295

BPRL90 Registered Post

Teil	Tel	(01) 858 8100
Glaio Áitiúil	LoCall	1800 275 175
Facs	Fax	(01) 872 2684
Láithreán Gréasáin	Website	www.pleanala.ie
Ríomhphost	Email	bord@pleanala.ie

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Baile Átha Cliath 1	Dublin 1
D01 V902	D01 V902



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

By Registered Post

Your Ref: ABP-315247-22

Our Ref: R22-67

6th December 2022

**An Bord Pleanála
64 Marlborough Street
Dublin 1
D01 V902**

Appeal Re Section 5 Declaration: Whereas a question has arisen as to whether the following are or are not exempted development? A. cleaning down and painting the front (east) wall and side (south) wall of the house. B. the replacing of the front windows to match the existing, and glazing same, C. the repair of the roof using stone slates on the front (south-east) elevation, D. the erection of internal walls and doors and internal floor in the original house area, E. the fitting of a replacement / relocated internal stairs within the area of the original house, F. the erection of a boiler house, G. the erection of internal walls and doors within the boiler house (in f. above, H. the erection of a concrete path to the rear and side of the boiler house, I. the installation of 12 sq.m of solar panels.

Dear Sir/Madam,

I refer to the above and **enclose** herewith all documents as requested in your submission dated 2nd December 2022.

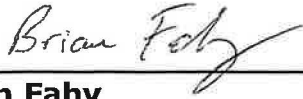
- (i) Details of previous decisions affecting the site – UD-22-030 – Warning letter issued in relation to:
- The carrying out of alterations to an existing dwelling
 - The construction of a new boundary wall
- (ii) Please find enclosed all documentation that has taken place between John Joe Fitzpatrick and the Planning Authority who was issued with a declaration under subsection (2)(a) of Section 5 of the 2000 Act, as amended.
- (iii) Owner of the land in question – John Joe Fitzpatrick, Main Street, Broadford, Co. Clare
- (iv) A declaration was issued to John Joe Fitzpatrick on R22-67 on the 9th November 2022.

**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



Yours sincerely,

A handwritten signature in cursive script that reads "Brian Fahy". The signature is written in black ink and is positioned above a horizontal line.

Brian Fahy
Planning Department
Economic Development Directorate

Enc.

Note: If you have any queries on the appeal, please contact the Planning Section, Clare County Council on telephone number (065) 6846232.

Brian Fahy

From: Patrick Buckley <p.buckley@pleanala.ie>
Sent: Friday 2 December 2022 13:32
To: Brian Fahy
Subject: RE: Section 5 Referral R22-67 John Joe Fitzpatrick

Thank you for your quick reply.

Please note that our case number is ABP-315247-22.

Kind regards

Patrick

From: Brian Fahy <bfahy@clarecoco.ie>
Sent: Friday 2 December 2022 13:08
To: Patrick Buckley <p.buckley@pleanala.ie>
Cc: James Sweeney <j.sweeney@pleanala.ie>
Subject: Section 5 Referral R22-67 John Joe Fitzpatrick

A chara,

Please find the below information in relation to a Section 5 declaration application submitted by John Joe Fitzpatrick at Main Stret, Broadford, Co. Clare.

Date Received – 14th October 2022

Referral Question - Whereaas a question has arisen as to whether the following are or are not exempted development? - A. cleaning down and painting the front (east) wall and side (south) wall of the house. B. the replacing of the front windows to match the existing, and glazing same, C. the repair of the roof using stone slates on the front (south-east) elevation, D. the erection of internal walls and doors and internal floor in the original house area, E. the fitting of a replacement / relocated internal stairs within the area of the original house, F. the erection of a boiler house, G. the erection of internal walls and doors within the boiler house (in f. above, H. the erection of a concrete path to the rear and side of the boiler house, I. the installation of 12 sq.m of solar panels.

Decision due date - 10/11/2022 Decision issue date – 09/11/2022

Current Owner – John Joe Fitzpatrick, Main Street, Broadford, Co. Clare.

Agent – Liam Madden, Convent Road, Longford, N39 EE72.

The existing house and lands were purchased by John Joe Fitzpatrick in May 2022 from Mr. Gerard Bond, who had been served with a notice of intent under the Derelict Sites Act to the effect that the premises would be entered onto the Derelict Sites Register unless certain works were undertaken and completed.

Planning Reference Number – R22-67.

Kind Regards,

Brian Fahy
Clerical Officer
Planning Department
Clare County Council, Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2

Brian Fahy

From: Planning Office
Sent: Friday 2 December 2022 12:34
To: Brian Fahy
Subject: FW: Section 5 Referral

From: Patrick Buckley <p.buckley@pleanala.ie>
Sent: Friday 2 December 2022 12:13
To: Planning Office <planoff@clarecoco.ie>
Cc: James Sweeney <j.sweeney@pleanala.ie>
Subject: Section 5 Referral

A Chara,

A Referral under section 5 of the Planning and Development Act, 2000 (as amended) was received on 2nd December 2022 in relation to your reference: R22-67, at Main Street, Broadford, Co. Clare

Can you please confirm the following as applicable;

1. The date the question/request for declaration under Section 5 was submitted to the planning authority.
2. The question put to the planning authority
3. The date the declaration was due to be issued by the planning authority and the actual decision date.
4. The names and addresses of the owners of the land and occupier and their agent (if any) if different, and any other parties involved in the case
5. Please confirm the planners authorities reference number.

Regards

Patrick Buckley
Executive Officer
Ext: 7167

Patrick Buckley
Executive Officer
Processing Section
An Bord Pleanála
64 Marlborough Street
Dublin 1
D01 V902
Teil: 01-8737167
Facs: 01-8722684

Má fhaigheann tú an ríomhphost seo lasmuigh de na gnáthuaireanta oibre, ní bheidh mé ag súil le freagra ná gníomh lasmuigh de d'uaireanta oibre féin.

If you receive this email outside of normal working hours, I do not expect a response or action outside of your own working hours

Smaoinigh ar an timpeallacht sula ndéanann tú an ríomhphost seo a phriontáil.

Brian Fahy

From: Brian Fahy
Sent: Friday 2 December 2022 13:08
To: p.buckley@pleanala.ie
Cc: j.sweeney@pleanala.ie
Subject: Section 5 Referral R22-67 John Joe Fitzpatrick

A chara,

Please find the below information in relation to a Section 5 declaration application submitted by John Joe Fitzpatrick at Main Stret, Broadford, Co. Clare.

Date Received – 14th October 2022

Referral Question - Whereas a question has arisen as to whether the following are or are not exempted development? - A. cleaning down and painting the front (east) wall and side (south) wall of the house. B. the replacing of the front windows to match the existing, and glazing same, C. the repair of the roof using stone slates on the front (south-east) elevation, D. the erection of internal walls and doors and internal floor in the original house area, E. the fitting of a replacement / relocated internal stairs within the area of the original house, F. the erection of a boiler house, G. the erection of internal walls and doors within the boiler house (in f. above, H. the erection of a concrete path to the rear and side of the boiler house, I. the installation of 12 sq.m of solar panels.

Decision due date - 10/11/2022 Decision issue date – 09/11/2022

Current Owner – John Joe Fitzpatrick, Main Street, Broadford, Co. Clare.

Agent – Liam Madden, Convent Road, Longford, N39 EE72.

The existing house and lands were purchased by John Joe Fitzpatrick in May 2022 from Mr. Gerard Bond, who had been served with a notice of intent under the Derelict Sites Act to the effect that the premises would be entered onto the Derelict Sites Register unless certain works were undertaken and completed.

Planning Reference Number – R22-67.

Kind Regards,

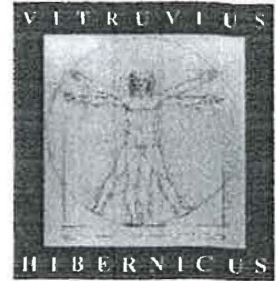
Brian Fahy
Clerical Officer
Planning Department
Clare County Council, Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2
T: 065 6846382 | E: bfahy@clarecoco.ie | W: www.clarecoco.ie



COMHAIRLE CONTAE AN CHLÁIR
CLARE COUNTY COUNCIL



LIAM MADDEN
EU REGISTERED ARCHITECT NETHERLANDS REG. NO. 1.180615.001
UK REGISTERED ARCHITECT REG. NO. 0461701
ENVIRONMENTAL SCIENTIST PLANNING CONSULTANT
LEGAL ADVISOR S.I. 8/2017 SCH. 5



Ms. Aideen Nagle,
Staff Officer,
Planning department,
Áras Chontae an Chláir,
New Road,
ENNIS,
Co. Clare
V95 DXP2

29 Nov. 2022

your ref : R22-67 John Joe Fitzpatrick, Main St., Broadford, Co. Clare

Dear Ms. Nagle,

I refer to your Council's declaration dated 9 Nov. 20232 in the section 5 request.

I write to notify you that three of the nine questions posed are now being referred to An Bord Pleanala for formal review.

Yours faithfully,

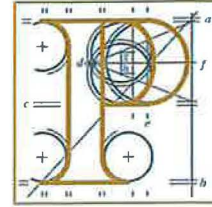
Liam Madden,
Convent Road,
LONGFORD
N39 EE72



L. MADDEN B. ARCH. NUI, M.APPL.ENVIR. SC., CERT. ARCH. PROF., DIP. MICRO-PROC. TECH.
2 THE GATE LODGE, WINDSOR CLOSE, 81 LOWER WINDSOR AVENUE, BELFAST BT9 7DX
POSTBUS 41882, 1009 DB AMSTERDAM, NEDERLAND
RESIDENCE : VITRUVIUS HIBERNICUS, CONVENT ROAD, LONGFORD N39 EE72 Tel./Fax 043-33 41151

Our Case Number: ABP-315247-22

Planning Authority Reference Number: R22-67



**An
Bord
Pleanála**

Clare County Council
Planning Department
New Road
Ennis
Co. Clare



Date: 02 December 2022

Re: Whether the (i) cleaning and painting of a wall, (ii) replacement of windows, (iii) repair of roof, (iv) erection of internal walls, doors and floors, (v) replacement of stairs, (vi) erection of a boiler house and internal walls and doors, (vii) erection of path, (viii) installation of 12sq.m of solar panels is or is not development and is or is not exempted development.
Main Street, Broadford, Co. Clare

Dear Sir / Madam,

Enclosed is a copy of a referral under the Planning and Development Act, 2000, (as amended).

In order to comply with section 128 of the Planning and Development Act, 2000, (as amended), please forward, within a period of 2 weeks beginning on the day on which a copy of the referral is sent to you, copies of any information in your possession which is relevant to the referral, including

- (i) details of previous decisions affecting the site;
- (ii) any correspondence that has taken place between the person(s) issued with a declaration under subsection (2)(a) of section 5 of the 2000 Act, (as amended), and the planning authority.
- (iii) the name and address of the owner of the land in question and the name of the occupier of the said land, if different;
- (iv) where no declaration was issued by you, indicate the date that the referral was due to be issued in accordance with subsection (2) of section 5 of the 2000 Act, (as amended).

In accordance with section 129 of the 2000 Act, (as amended), you may make submissions or observations in writing to the Board in relation to the referral within a period of 4 weeks beginning on the date of this letter.

Please note that in accordance with section 251 of the Planning and Development Act, 2000, (as amended), the period beginning on 24th December and ending on 1st January, both dates inclusive, should be disregarded for the purposes of calculating the last date for lodgement of submissions or observations.

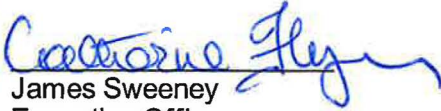
Teil	Tel	(01) 858 8100
Glaó Áitiúil	LoCall	1890 275 175
Facs	Fax	(01) 872 2684
Láithreán Gréasáin	Website	www.pleanala.ie
Ríomhphost	Email	bord@pleanala.ie

64 Sráid Maoilbhríde Baile Átha Cliath 1 D01 V902	64 Marlborough Street Dublin 1 D01 V902
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Any submissions or observations received by the Board outside of that period shall not be considered and where none have been validly received, the Board may determine the referral without further notice to you.

Please quote the above referral number in any further correspondence.

Yours faithfully,



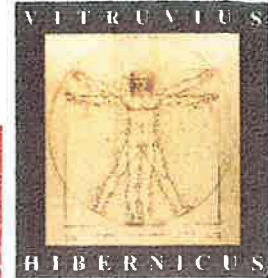
James Sweeney
Executive Officer
Direct Line:

BPRL07 - Xmas

Teil	Tel	(01) 858 8100
Glaó Áitiúil	LoCall	1890 275 175
Facs	Fax	(01) 872 2684
Láithreán Gréasáin	Website	www.pleanala.ie
Ríomhphost	Email	bord@pleanala.ie

64 Sráid Maoilbhríde	64 Marlborough Street
Baile Átha Cliath 1	Dublin 1
D01 V902	D01 V902

LIAM MADDEN
EU REGISTERED ARCHITECT NETHERLANDS REG. NO. 1.180615.001
UK REGISTERED ARCHITECT REG. NO. 0461701
ENVIRONMENTAL SCIENTIST PLANNING CONSULTANT
LEGAL ADVISOR S.I. 8/2017 SCH. 5



An Bord Pleanála,
64 Marlborough Street,
DUBLIN 1
D01 V902

AN BORD PLEANÁLA	
LDG-	<u>059695-22</u>
ABP-	_____
02 DEC 2022	
Fee: €	<u>220.00</u> Type: <u>cheque</u>
Time: _____	By: <u>reg post</u>

29 Nov. 2022

P.A. ref: R22-67 Clare County Council.
John Joe Fitzpatrick, Main St., Broadford, Co., Clare

Dear Sir/Madam,

this is a referral by my client, John Joe Fitzpatrick, Main St., Broadford, Co. Clare made under Section 5 of the Planning and Development Act 2000, as amended.
Attached is the Referral fee €220-00.

A section 5 request was made by my client to Clare County Council in the following matters:

WHEREAS a question has arisen as to whether the following are or are not exempted development :

- a. cleaning down and painting the front (east) wall and side (south) wall wall of the house,
- b. the replacing of the front windows to match the existing, and glazing same,
- c. the repair of the roof using stone slates on the front (south-east) elevation,
- d. the erection of internal walls and doors and internal floor in the original house area,
- e. the fitting of a replacement/relocated internal stairs within the area of the original house,
- f. the erection of a boiler house,**
- g. the erection of internal walls and doors within the boiler house (in f. above),**
- h. the erection of a concrete path to the rear and side of the boilerhouse,
- i. installation of 12 sq.m. of solar panels,**

is/are exempted development.

Clare County Council made a declaration dated 9 Nov. 2022.

Attached is a copy of that declaration. The questions were all determined to be exempted development except for items **f.**, **g.** and **i.** Above which are highlighted in **bold print** above.

L. MADDEN B. ARCH. NUI, M.APPL.ENVIR. SC., CERT. ARCH. PROF., DIP. MICRO-PROC. TECH.
2 THE GATE LODGE, WINDSOR CLOSE, 81 LOWER WINDSOR AVENUE, BELFAST BT9 7DX
POSTBUS 41882, 1009 DB AMSTERDAM, NEDERLAND
RESIDENCE : VITRUVIUS HIBERNICUS, CONVENT ROAD, LONGFORD N39 EE72 Tel./Fax 043-33 41151

- Accordingly the only questions which are referred to An Bord for review are :
- f. the erection of a boiler house,**
 - g. the erection of internal walls and doors within the boiler house (in f. above),**
 - i. installation of 12 sq.m. of solar panels.**
- that is, whether the above are or are not exempted development.

The supporting arguments in this referral are precisely the same arguments presented in the request to Clare County Council. These arguments are attached.

My client looks forward to a favourable declaration from An Bord Pleanála

Yours faithfully,

Liam Madden,
Convent Road,
LONGFORD
N39 EE72





COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Registered Post

**John Joe Fitzpatrick
c/o Liam Madden
Convent Road
Longford
N39 EE72**

9th November 2022

Section 5 referral Reference R22-67 – John Joe Fitzpatrick

Are the following works; A. cleaning down and painting the front (east) wall and side (south) wall of the house. B. the replacing of the front windows to match the existing, and glazing same, C. the repair of the roof using stone slates on the front (south-east) elevation, D. the erection of internal walls and doors and internal floor in the original house area, E. the fitting of a replacement / relocated internal stairs within the area of the original house, F. the erection of a boiler house, G. the erection of internal walls and doors within the boiler house (in f. above, H. the erection of a concrete path to the rear and side of the boiler house, I. the installation of 12 sq.m of solar panels considered development and if so, are they considered to be exempted development?

A Chara,

I refer to your application received on 14th October 2022 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

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

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

Mise, le meas

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

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

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



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

Reference No.: R22-67



**Comhairle Contae an Chláir
Clare County Council**

Section 5 referral Reference R22-67

Are the following works; A. cleaning down and painting the front (east) wall and side (south) wall of the house. B. the replacing of the front windows to match the existing, and glazing same, C. the repair of the roof using stone slates on the front (south-east) elevation, D. the erection of internal walls and doors and internal floor in the original house area, E. the fitting of a replacement / relocated internal stairs within the area of the original house, F. the erection of a boiler house, G. the erection of internal walls and doors within the boiler house (in f. above, H. the erection of a concrete path to the rear and side of the boiler house, I. the installation of 12 sq.m of solar panels considered development and if so, are they considered to be exempted development?

AND WHEREAS, John Joe Fitzpatrick 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) Classes 1, 2, 12, 13, 41 (b) of Schedule 2, Part 1 of the Planning and Development Regulations 2001 (as amended)
- (d) The works as indicated in submitted documents from the referrer.
- (e) The inspection of the site and building by the Planning Authority and the nature of the works as carried out to date

And whereas Clare County Council has concluded:

- (a) Cleaning down and painting the front (east) wall and side (south) wall of the house, replacing of the front windows to match the existing and glazing of same, the repair of the roof using stone slates on the front (southeast) elevation, the erection of internal walls and doors and internal floor in the original house area, the fitting of a replacement / relocated stairs within the area of the original house, the erection of a boiler house, the erection of internal walls and doors within the boiler house, the erection of a concrete path to the rear and side of the boiler house and the installation of 12m² of solar panels 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 cleaning down and painting the front (east) wall and side (south) wall of the house is exempted development having regard to Schedule 2, Part 1, Class 12 of the Planning and Development Regulations 2001 (as amended)
- (d) The said (i) replacement of the front windows to match the existing and glazing same, (ii) repair of the roof using stone slates on the front (southeast) elevation, (iii) erection of internal walls and doors and internal floor in the original house area and (iv) fitting of a replacement / relocated stairs within the area of the original house is exempted development having regard to Section 4(1)(h) of the Planning and Development Act, 2000 (as amended)
- (e) The said erection of a concrete path to the rear and side of the stated boiler house is exempted development having regard to Schedule 2, Part 1, Class 13 of the Planning and Development Regulations 2001 (as amended)
- (f) The said erection of a stated boiler house is not exempted development having regard to Schedule 2, Part 1 Class 2 of the Planning and Development Regulations 2001 (as amended), as based on inspection of the property the Planning Authority does not consider it meets the criteria as set out in Class 2 as it provides for a number of rooms, including some with ensuites, and is not therefore considered to be part of a heating system of a house.
- (g) The said (i) erection of internal walls and doors within the stated boiler house and (ii) installation of 12m² of solar panels is not exempted development having regard to Article 9(viii) 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:

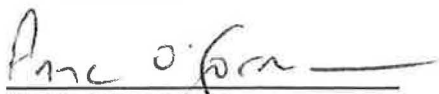
The proposed development consisting of the following works; A. cleaning down and painting the front (east) wall and side (south) wall of the house. B. the replacing of the front windows to match the existing, and glazing same, C. the repair of the roof using stone slates on the front (south-east) elevation, D. the erection of internal walls and doors and internal floor in the original house area, E. the fitting of a replacement / relocated internal stairs within the area of the original house, F. the erection of a boiler house, G. the erection of internal walls and doors within the boiler house (in f. above, H. the erection of a concrete path to the rear and side of the boiler house, I. the installation of 12 sq.m of solar panels at Main Street, Broadford, Co. Clare are defined within the Planning & Development Acts, 2000 (as amended) and associated regulations as follows:

- Cleaning down and painting the front (east) wall and side (south) wall of the house
- Replacing the front windows to match the existing and glazing of same
- The repair of the roof using stone slates on the front (southeast) elevation
- The erection of internal walls and doors and internal floor in the original house area
- The fitting of a replacement / relocated stairs within the area of the original house
- The erection of a concrete path to the rear and side of the stated boiler house

is **development** and is **exempted development**.

- The erection of a structure described as a boiler house
- The erection of internal walls and doors within said structure, and
- the installation of 12m² of solar panels

is **development** which is **not exempted development**.


Anne O'Gorman
Staff Officer

**Planning Department
Economic Development Directorate**

9th November 2022

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:

80756

Reference Number:

R22-67

Date Referral Received:

14th October 2022

Name of Applicant:

John Joe Fitzpatrick

Location of works in question:

Main Street, Broadford, Co. Clare

Section 5 referral Reference R22-67 – John Joe Fitzpatrick

Are the following works; A. cleaning down and painting the front (east) wall and side (south) wall of the house. B. the replacing of the front windows to match the existing, and glazing same, C. the repair of the roof using stone slates on the front (south-east) elevation, D. the erection of internal walls and doors and internal floor in the original house area, E. the fitting of a replacement / relocated internal stairs within the area of the original house, F. the erection of a boiler house, G. the erection of internal walls and doors within the boiler house (in f. above, H. the erection of a concrete path to the rear and side of the boiler house, I. the installation of 12 sq.m of solar panels considered development and if so, are they considered to be 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) Classes 1, 2, 12, 13, 41 (b) of Schedule 2, Part 1 of the Planning and Development Regulations 2001 (as amended)
- (d) The works as indicated in submitted documents from the referrer.
- (e) The inspection of the site and building by the Planning Authority and the nature of the works as carried out to date

AND WHEREAS Clare County Council has concluded:

- (a) Cleaning down and painting the front (east) wall and side (south) wall of the house, replacing of the front windows to match the existing and glazing of same, the repair of the roof using stone slates on the front (southeast) elevation, the erection of internal walls and doors and internal floor in the original house area, the fitting of a replacement / relocated stairs within the area of the original house, the erection of a boiler house, the erection of internal walls and doors within the boiler house, the erection of a concrete path to the rear and side of the boiler house and the installation of 12m² of

solar panels 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 cleaning down and painting the front (east) wall and side (south) wall of the house is exempted development having regard to Schedule 2, Part 1, Class 12 of the Planning and Development Regulations 2001 (as amended)
- (d) The said (i) replacement of the front windows to match the existing and glazing same, (ii) repair of the roof using stone slates on the front (southeast) elevation, (iii) erection of internal walls and doors and internal floor in the original house area and (iv) fitting of a replacement / relocated stairs within the area of the original house is exempted development having regard to Section 4(1)(h) of the Planning and Development Act, 2000 (as amended)
- (e) The said erection of a concrete path to the rear and side of the stated boiler house is exempted development having regard to Schedule 2, Part 1, Class 13 of the Planning and Development Regulations 2001 (as amended)
- (f) The said erection of a stated boiler house is not exempted development having regard to Schedule 2, Part 1 Class 2 of the Planning and Development Regulations 2001 (as amended), as based on inspection of the property the Planning Authority does not consider it meets the criteria as set out in Class 2 as it provides for a number of rooms, including some with ensuites, and is not therefore considered to be part of a heating system of a house.
- (g) The said (i) erection of internal walls and doors within the stated boiler house and (ii) installation of 12m² of solar panels is not exempted development having regard to Article 9(viii) of the Planning and Development Regulations 2001 (as amended).

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

NOW THEREFORE pursuant to the delegation of the said powers, functions and duties and under Section 5(2)(a) of the Planning & Development Act 2000 (as amended) and having considered the various submissions and reports in connection with the referral described above, I, Gareth Ruane, Senior Executive Planner, hereby declare that the following works at Main Street, Broadford, Co. Clare are as follows:

- Cleaning down and painting the front (east) wall and side (south) wall of the house
- Replacing the front windows to match the existing and glazing of same
- The repair of the roof using stone slates on the front (southeast) elevation
- The erection of internal walls and doors and internal floor in the original house area
- The fitting of a replacement / relocated stairs within the area of the original house
- The erection of a concrete path to the rear and side of the stated boiler house

is development and is exempted development.

- The erection of a structure described as a boiler house
- The erection of internal walls and doors within said structure, and
- the installation of 12m² of solar panels

is development which is not exempted development.

Signed:



GARETH RUANE
SENIOR EXECUTIVE PLANNER *A-6*

Date: 9th November 2022

CLARE COUNTY COUNCIL
SECTION 5 DECLARATION OF EXEMPTION APPLICATION

FILE REF:	R22-67
APPLICANT(S):	John Joe Fitzpatrick
REFERENCE:	Whether the following work: (a) cleaning down and painting the front (east) wall and side (south) wall of the house; (b) the replacing of the front windows to match the existing and glazing of same; (c) the repair of the roof using stone slates on the front (southeast) elevation; (d) the erection of internal walls and doors and internal floor in the original house area; (e) the fitting of a replacement / relocated stairs within the area of the original house; (f) the erection of a boiler house; (g) the erection of internal walls and doors within the boiler house; (h) the erection of a concrete path to the rear and side of the boiler house and (i) the installation of 12m ² of solar panels, is or is not development and is or is not exempted development.
LOCATION:	Main Street, Broadford, Co. Clare
DUE DATE:	10 th November 2022

Site Location

The site is located in the centre of the village of Broadford, directly adjoining the R465. The lands on which the subject building is located are zoned Mixed Use. The subject building is located in the designated Village Core of Broadford.

The site comprises a low-rise, two-storey, semi-detached dwelling. There is an entrance gate on the south side of the house which provides access to the rear of the property. The site slopes downhill away from the road. There is no formal boundary delineation to the rear of the house. The garden area directly connects to a larger field to the west.

Construction work was on-going on the site at the time of the site inspection (14/10/2022).

Planning History

No recent planning applications on the proposal site.

UD -22-030 - Warning Letter issued in relation to:

- The carrying out of alterations to an existing dwelling
- The construction of a new boundary wall.

To the South

P12/606 – GRANTED - for change of use of part of Broadford Stores from retail to coffee shop with customer seating

Background to Referral

This Referral under Section 5(3)(a) of the Planning and Development Act 2000 (as amended) has been made by John Joe Fitzpatrick. He states that he is the owner of the property. However, it has been recently acquired and the Property Registration is not yet complete.

The applicant is seeking a Section 5 Declaration as to whether the following works at Main Street, Broadford is or is not development and is or is not exempted development:

- (a) cleaning down and painting the front (east) wall and side (south) wall of the house
- (b) replacing of the front windows to match the existing and glazing of same
- (c) the repair of the roof using stone slates on the front (southeast) elevation
- (d) the erection of internal walls and doors and internal floor in the original house area
- (e) the fitting of a replacement / relocated stairs within the area of the original house
- (f) the erection of a boiler house
- (g) the erection of internal walls and doors within the boiler house
- (h) the erection of a concrete path to the rear and side of the boiler house and
- (i) the installation of 12m² of solar panels

Planning and Development Act, 2000 (as amended)

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

S.3.(1) In this Act, “development” means, except where the context otherwise requires, **the carrying out of any works on, in, over or under land** or the making of any material change in the use of any structures or other land.

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

“works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

Planning & Development Regulations, 2001, as amended

Article 6 refers to Exempted Development and states that subject to Article 9, development of a class specified in column 1 of 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 Schedule 2 opposite the mention of the relevant class in the said column 1.

Section 4(1)(h) of the Planning and Development Act, 2000 (as amended)

The following shall be exempted developments for the purposes of this Act—

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 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 367 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. 368
6. (a) Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces.
(b) Any window proposed above ground level in any such extension shall not be less than 11 metres from the boundary it faces.
(c) Where the house is detached and the floor area of the extension above ground level exceeds 12 square metres, any window proposed at above ground level shall not be less than 11 metres from the boundary it faces.
7. The roof of any extension shall not be used as a balcony or roof garden.

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

The provision as part of a heating system of a house, of a chimney or flue, boiler house or fuel storage tank or structure

1. The capacity of an oil storage tank shall not exceed 3,500 litres.

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

The placing or erection on a roof of a house, or within the curtilage of a house, or on a roof of any ancillary buildings within the curtilage of a house (this class does not include apartments) of a solar photo-voltaic and/or a solar thermal collector installation.

1. The distance between the plane of the roof and the solar photo-voltaic or solar thermal collector panels shall not exceed 50cm in the case of a flat roof or 15cm in any other case.
2. The solar photo-voltaic or solar thermal collector panels shall be a minimum of 50cm from the edge of a roof on which it is mounted.
3. Any free-standing solar photovoltaic or solar thermal collector installation shall not be placed or erected forward of the front wall of the house.
4. The total aperture area of any free-standing solar photo-voltaic and solar thermal collector panels taken together with any other such existing free-standing panels shall not exceed 25 square metres.
5. The placing or erection of any free-standing solar photo-voltaic or solar thermal collector installation shall not reduce the remaining area of private open space, reserved exclusively for the use of the occupants of the house, to the rear or to the side of the house to less than 25 square metres.
6. The height of any free-standing solar photo-voltaic or solar thermal collector installation shall not exceed 2.5 metres at its highest point above ground level.

7. *The placing or erection of a solar photo -voltaic or solar thermal collector installation on any wall shall not be exempted development.*
8. *The placing or erection of any free - standing solar photo -voltaic or solar thermal collector installation within an Architectural Conservation Area shall only be exempted development if those works would not materially affect the character of the area.*
9. *Development under this Class which causes hazardous glint and/or glare shall not be exempted development and any solar photo - voltaic or solar thermal collector panels which are causing hazardous glint and/or glare shall either be removed or be covered until such time as a mitigation plan to address the hazardous glint and/or glare is agreed and implemented to the satisfaction of the Planning Authority.*

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 1, Class 12

The painting of any external part of any building or other structure.

1. *Such painting may not, except in the case of a hoarding or other temporary structure bounding land on which development consisting of works is being or will be carried out in pursuance of a permission granted under Part III of the Act or as exempted development, be for the purposes of creating a mural.*

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 1, Class 13

The repair or improvement of any private street, road or way, being works carried out on land within the boundary of the street, road or way, and the construction of any private footpath or paving.

1. *The width of any such private footpath or paving shall not exceed 3 metres.*

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 1, Class 41(b)

Works consisting of or incidental to—

(b) the removal of any structure or object or the carrying out of any works required by a planning authority under the provisions of the Act or any other enactment,

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 applicant is seeking a Section 5 Declaration as to whether works to an existing dwelling house on Main Street, Broadford, Co. Clare is or is not development and is or is not exempted development.

Particulars of the Development

The works are specified as follows:

- cleaning down and painting the front (east) wall and side (south) wall of the house
- replacing of the front windows to match the existing and glazing of same
- the repair of the roof using stone slates on the front (southeast) elevation
- the erection of internal walls and doors and internal floor in the original house area
- the fitting of a replacement / relocated stairs within the area of the original house
- the erection of a boiler house
- the erection of internal walls and doors within the boiler house
- the erection of a concrete path to the rear and side of the boiler house
- the installation of 12m² of solar panels

Assessment of the following elements of the works:

- Cleaning down and painting the front (east) wall and side (south) wall of the house

The exterior of the building has been repainted. No mural has been added to the building.

These works are exempt under Schedule 2, Part 1, Class 12 of the Planning and Development Regulations 2001 (as amended)

Assessment of the following elements of the works:

1. Replacing of the front windows to match the existing and glazing of same
2. The repair of the roof using stone slates on the front (southeast) elevation
3. The erection of internal walls and doors and internal floor in the original house area
4. The fitting of a replacement / relocated stairs within the area of the original house.

Externally, the works undertaken do not materially affect the appearance of the building. They are also consistent with the character of the building and the neighbouring buildings.

The relocation of the stairs and the erection of internal walls and doors affect only the interior of the structure.

These works are exempt under Section 4(1)(h) of the Planning and Development Act, 2000 (as amended)

Assessment of the following elements of the works:

- The erection of a concrete path to the rear and side of the boiler house

Based on the drawings submitted with the referral, the new footpath to the side and rear of the building is less than 3m in width and is entirely contained within the private property of the applicant.

The planning status of the boiler house is discussed further below. However, I consider that the path could have been constructed independently of the boiler house and the status of the two structures is not interlinked.

The footpath is exempt under the provisions of Schedule 2, Part 1, Class 13 of the Planning and Development Regulations 2001 (as amended).

Assessment of the following elements of the works:

- The erection of a boiler house
- The erection of internal walls and doors within the boiler house

The drawings submitted with the Section 5 referral label the ground floor and upper floor extension to the dwelling as a 'boiler house' and the referral queries if said boiler house is exempt. The supporting documents make reference to Schedule 2, Part 1, Class 2 of the Planning Regulations.

The drawings indicate that the ground floor and upper floor of the newly constructed space have a combined floor area of approximately 69.5m² and the space is divided into a number of distinct rooms.

Based on the site inspection it was noted that 3 additional rooms have been added on the ground floor and two additional rooms on the upper floor. The submitted drawings are not accurate in that en-suite bathroom facilities in the new first floor space have not been indicated but were evident during the site inspection. A corridor space on the first floor leads to an outer door. The submitted drawings indicate a future balcony and external stairs at this location.

While the submitted drawings label the extension as a 'boiler house' there is no indication in either the submitted plans and particulars, or from the observations during the site inspection, that the extension has been constructed *as part of a heating system of a house*.

The extension as constructed is not exempt under Schedule 2, Part 1, Class 2 of the Planning and Development Regulations.

The extension has also been considered in the context of the Planning and Development Regulations 2001 (as amended) Schedule 2, Part 1, Class 1. However, the floor space of the extension as constructed exceeds the limitations of that exemption.

The internal walls within the area labelled as a 'boiler house' on the submitted drawings could be considered in the context of Section 4(1)(h) of the Planning Act. However, given the status of the structure itself, as outlined above, internal walls cannot be considered 'exempted development' having regard to Article 9(viii) of the Planning and Development Regulations. This matter is discussed further later in this report.

Assessment of the following elements of the works:

- the installation of 12m² of solar panels

Having regard to the scale of the solar array, it is within the limitations of Schedule 2, Part 1, Class 2 of the Planning and Development Regulations. However, the solar panels have been / will be placed on the roof of the extension, the status of which has been discussed above. The solar panels are not therefore exempt having regard to Article 9(viii) of the Planning and Development Regulations.

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 alterations to the access arrangements to the site are proposed.

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

Cannot be determined. The number of bedrooms in the dwelling and the parking arrangements associated with same have not been specified on the submitted drawings.

(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,

The works do not bring forward the building beyond the front wall of the building on either side.

(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 site is located on zoned land within a settlement. The works to the exterior of the existing building have enhanced the appearance of the building. The extension to the rear is largely screened by existing roadside buildings. The development does not have a negative impact on the visual amenities of the area.

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

Not applicable to this proposal

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

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

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

No likely significant effects on European Sites. An Appropriate Assessment Screening Report and Determination has been carried out and is attached to this report. Appropriate Assessment is not required.

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

Not applicable in this instance

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

The extension to the rear of the existing dwelling has been assessed as part of this referral and the Planning Authority has decided, as outlined above that it is development which is not exempted development.

By virtue of this determination, the construction of internal walls within the extended area and the erection of a solar array on the roof of same, constitute the alteration and renewal of an unauthorized structure and are not exempted development for the purposes of the Act.

(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.

Recommendation

The following questions have been referred to the Planning Authority:

Whether the following work at Main Street, Broadford is or is not development and is or is not exempted development:

- (a) cleaning down and painting the front (east) wall and side (south) wall of the house
- (b) replacing of the front windows to match the existing and glazing of same
- (c) the repair of the roof using stone slates on the front (southeast) elevation
- (d) the erection of internal walls and doors and internal floor in the original house area
- (e) the fitting of a replacement / relocated stairs within the area of the original house
- (f) the erection of a boiler house
- (g) the erection of internal walls and doors within the boiler house
- (h) the erection of a concrete path to the rear and side of the boiler house and
- (i) the installation of 12m² of solar panels

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) Classes 1, 2, 12, 13, 41 (b) of Schedule 2, Part 1 of the Planning and Development Regulations 2001 (as amended)
- (d) The works as indicated in submitted documents from the referrer.
- (e) The inspection of the site and building by the Planning Authority and the nature of the works as carried out to date.

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

- (a) Cleaning down and painting the front (east) wall and side (south) wall of the house, replacing of the front windows to match the existing and glazing of same, the repair of the roof using stone slates on the front (southeast) elevation, the erection of internal walls and doors and internal floor in the original house area, the fitting of a replacement / relocated stairs within the area of the original house, the erection of a boiler house, the erection of internal walls and doors within the boiler house, the erection of a concrete path to the rear and side of the boiler house and the installation of 12m² of solar panels 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 cleaning down and painting the front (east) wall and side (south) wall of the house is exempted development having regard to Schedule 2, Part 1, Class 12 of the Planning and Development Regulations 2001 (as amended)
- (d) The said (i) replacement of the front windows to match the existing and glazing same, (ii) repair of the roof using stone slates on the front (southeast) elevation, (iii) erection of

internal walls and doors and internal floor in the original house area and (iv) fitting of a replacement / relocated stairs within the area of the original house is exempted development having regard to Section 4(1)(h) of the Planning and Development Act, 2000 (as amended)

- (e) The said erection of a concrete path to the rear and side of the stated boiler house is exempted development having regard to Schedule 2, Part 1, Class 13 of the Planning and Development Regulations 2001 (as amended)
- (f) The said erection of a stated boiler house is not exempted development having regard to Schedule 2, Part 1 Class 2 of the Planning and Development Regulations 2001 (as amended), as based on inspection of the property the Planning Authority does not consider it meets the criteria as set out in Class 2 as it provides for a number of rooms, including some with ensuites, and is not therefore considered to be part of a heating system of a house.
- (g) The said (i) erection of internal walls and doors within the stated boiler house and (ii) installation of 12m² of solar panels is not exempted development having regard to Article 9(viii) of the Planning and Development Regulations 2001 (as amended).

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


- Cleaning down and painting the front (east) wall and side (south) wall of the house
- Replacing the front windows to match the existing and glazing of same
- The repair of the roof using stone slates on the front (southeast) elevation
- The erection of internal walls and doors and internal floor in the original house area
- The fitting of a replacement / relocated stairs within the area of the original house
- The erection of a concrete path to the rear and side of the stated boiler house

is development and is exempted development.

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

- The erection of a structure described as a boiler house
- The erection of internal walls and doors within said structure, and
- the installation of 12m² of solar panels

is development which is not exempted development



Name: Caroline Balfe

Executive Planner

Date 08/11/2022



Name: Garreth Ruane

Senior Executive Planner

Date 08/11/22

Clare County Council
Screening for Appropriate Assessment & Determination

1. Table 1 to be filled in for all development applications.
2. Where proposed development is within a European site(s) site, go directly to table 3.
3. For all other development proposals, fill in table 2, and if required, table 3.
4. A Habitats Directive Screening Statement should be sought for all developments regardless of location which require an EIS

Table 1: Project Details

Planning File Reference	R22-67
Applicant Name	John Joe Fitzpatrick
Development Location	at Main Street, Broadford, Co. Clare
Application accompanied by an EIS	No
Application accompanied by an NIS	No
Description of the project (To include a site location map):	
<p>Whether the following work is or is not development and is or is not exempted development:</p> <p>(a) cleaning down and painting the front (east) wall and side (south) wall of the house;</p> <p>(b) replacing of the front windows to match the existing and glazing of same;</p> <p>(c) the repair of the roof using stone slates on the front (southeast) elevation;</p> <p>(d) the erection of internal walls and doors and internal floor in the original house area;</p> <p>(e) the fitting of a replacement / relocated stairs within the area of the original house;</p> <p>(f) the erection of a boiler house;</p> <p>(g) the erection of internal walls and doors within the boiler house;</p> <p>(h) the erection of a concrete path to the rear and side of the boiler house; and</p> <p>(i) the installation of 12m² of solar panels</p>	

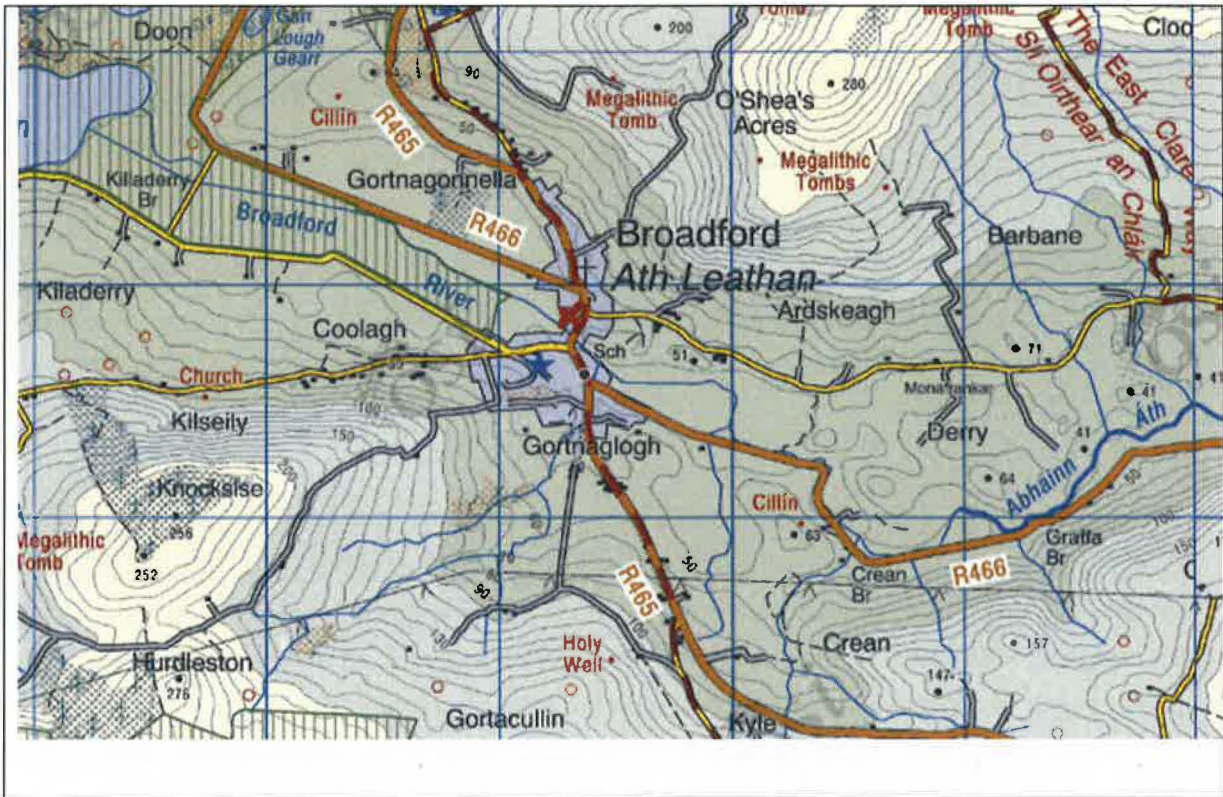


Table 2: Identification of European sites which may be impacted by the proposed development.

This section identifies the European Sites within the likely zone of impact of the plan or project. For plans an initial 15km zone of influence (NPWS-DAHG)¹ is recommended. For projects, the distance could be much less than 15km, and in some cases less than 100m, but this must be evaluated on a case-by-case basis.

Having regard to the nature of the proposed development, which relates to the refurbishment and extension of an existing building on a zoned site in the centre of an existing settlement, I consider the likely zone of impact of the proposed development to be no greater than 2km.

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

There are no European Sites within 2km of the applicant site

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

Appropriate Assessment Screening Determination	
Planning File Reference	R22-67
Proposed Development	The renovation and extension of an existing dwelling
Development Location	At Main Street, Broadford, Co. Clare
European sites within impact zone	None
Description of the project:	
<p>(a) cleaning down and painting the front (east) wall and side (south) wall of the house;</p> <p>(b) replacing of the front windows to match the existing and glazing of same;</p> <p>(c) the repair of the roof using stone slates on the front (southeast) elevation;</p> <p>(d) the erection of internal walls and doors and internal floor in the original house area;</p> <p>(e) the fitting of a replacement / relocated stairs within the area of the original house;</p> <p>(f) the erection of a boiler house;</p> <p>(g) the erection of internal walls and doors within the boiler house;</p> <p>(h) the erection of a concrete path to the rear and side of the boiler house; and</p> <p>(i) the installation of 12m² of solar panels</p> <p>At Main Street, Broadford, Co. Clare</p>	
Qualifying Interests (QIs)/Special Conservation Interests (SCIs) of European site	
N/A – there are no European sites within the likely zone of impact of the proposed development	
Describe how the project or plan (alone or in combination) is likely to affect the European site(s).	
No likely direct or indirect effects due to the nature and scale of the proposed development which relates to the renovation and extension of an existing building which is located on lands in the centre of a settlement. There is no proximity or connectivity to European Sites.	
If there are potential negative impacts, explain whether you consider if these are likely to be significant, and if not, why not?	
N/A – not likely effects	

Documentation reviewed for making this statement	
<ul style="list-style-type: none"> - County Development Plan (including Flood Maps, SEA & AA) - NPWS website - Documents received as part of the planning application 	
Conclusion of assessment (a, b, c or d)	
(a) The proposed development is directly connected with or necessary to the nature conservation management of a European Site(s) ²	
(b) There is no potential for significant effects to European Sites ³	Yes
(c) The potential for significant effects to European Site(s) cannot be ruled out ⁴	
(d) Significant effects to European sites are certain or likely or where potential for significant effects to European sites remains following receipt of Further Information requested under S177U of the Planning and Development (Amendment) Act 2010 ⁵	
Completed By	Caroline Balfe
Date	07/11/2022

² Appropriate Assessment is not required and therefore Planning permission may be granted at this stage subject to all other planning considerations. However, no material changes may be made to the proposed development after this conclusion has been reached as this would invalidate the findings of the screening exercise.

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

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

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

P07

**CLARE COUNTY COUNCIL
COMHAIRLE CONTAE AN CHLÁIR**

R22-67

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



**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	<p>JOHN JOE FITZPATRICK</p> <hr/> <p>MAIN STREET</p> <hr/> <p>BROAD FORD, Co. CLARE</p> <hr/>
(b) Telephone No.:	<p>—</p>
(c) Email Address:	<p>—</p>
(d) Agent's Name and address:	<p>LIAM MADDEH</p> <hr/> <p>CONVENT ROAD</p> <hr/> <p>LONGFORD N39 EE72</p> <hr/> <p>043-33-41151</p> <hr/> <p>VITRUVIUS.HIBERNICUS@hotmail.com</p>

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?

SEE ATTACHED COVER LETTER + QUESTIONS
& SUPPORTING ARGUMENTS

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

SEE ATTACHED COVER LETTER
WITH QUESTIONS & SUPPORTING
ARGUMENTS

(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)

LAND REGISTRY PRA (OWNERSHIP) LAND REGISTRY SITE
LOCATION, SITE LAYOUT 1/500, PLANS & SECTIONS
& ELEVATIONS & PHOTOGRAPHS

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT	
(a) Postal Address of the Property/Site/Building for which the declaration sought:	MAIN ST. BROADFORD CO. CLARE
(b) Do the works in question affect a Protected Structure or are within the curtilage of a Protected Structure? If yes, has a Declaration under Section 57 of the Planning & Development Act 2000 (as amended) been requested or issued for the property by the Planning Authority?	NO
(c) Legal interest in the land or structure in question of the person requesting the declaration (Give Details):	NEW OWNER - PRA REGISTRATION PENDING
(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)?:	N/A
(f) Are you aware of any enforcement proceedings connected to this site? If so please supply details:	NO
(g) Were there previous planning application/s on this site? If so please supply details:	NO
(h) Date on which 'works' in question were completed/are likely to take place:	ON-GOING: SEE ATTACHED COVER LETTER

SIGNED: Dean Reader

DATE: 12/10/22

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

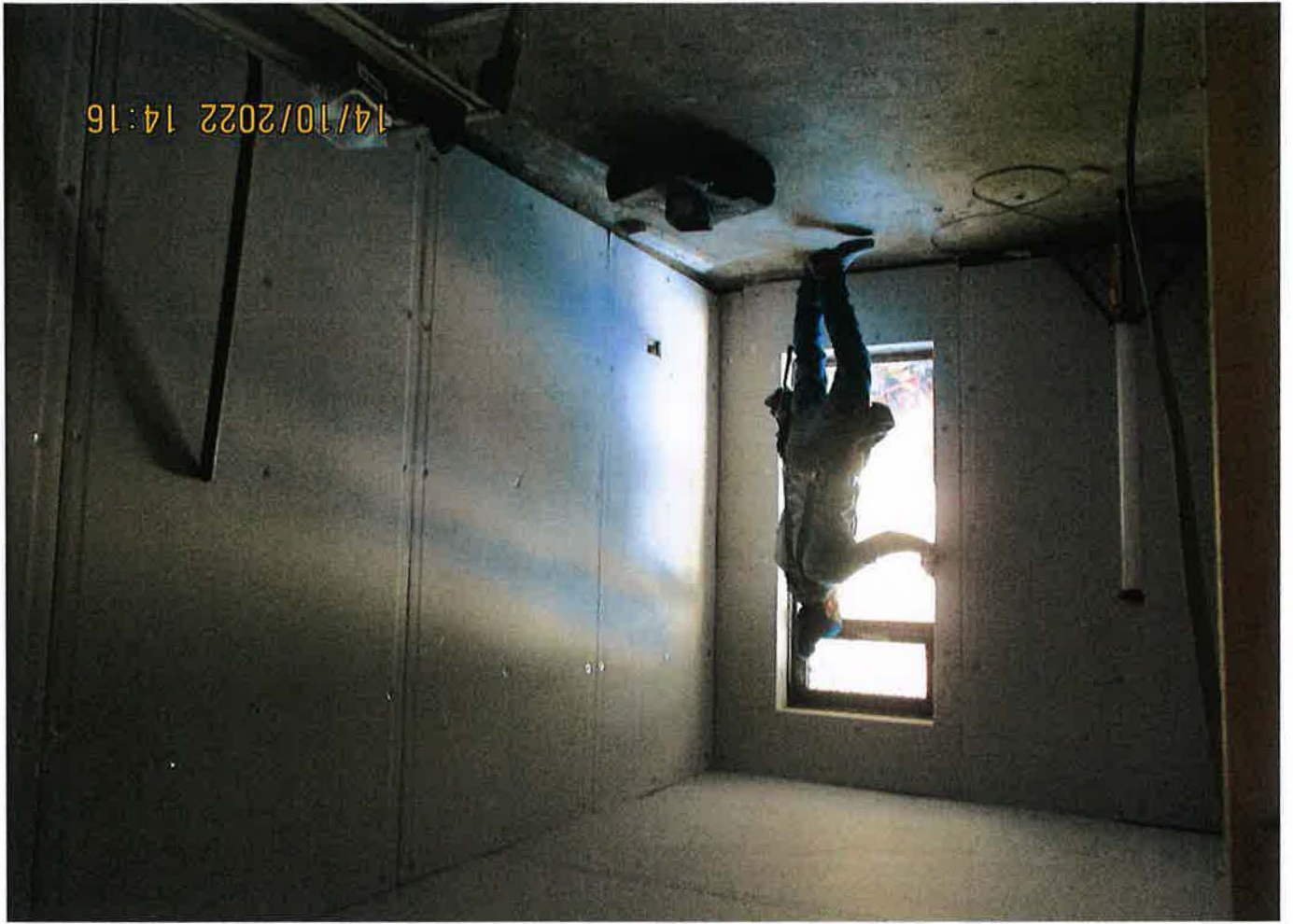
- (i) The request for a declaration under Section 5 must be accompanied by 2 copies of site location map based on the Ordnance Survey map for the area of a scale not less than 1:1000 in urban areas and 1:2500 in rural areas and should clearly identify the site in question.
- (ii) The request for a declaration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



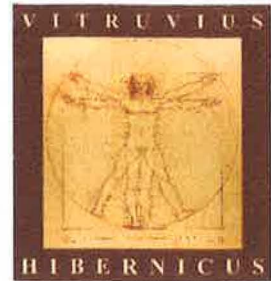
R22-67







LIAM MADDEN
EU REGISTERED ARCHITECT NETHERLANDS REG. NO. 1.180615.001
UK REGISTERED ARCHITECT REG. NO. 0461701
ENVIRONMENTAL SCIENTIST PLANNING CONSULTANT
LEGAL ADVISOR S.I. 8/2017 SCH. 5



Planning Office,
Clare County Council,
Áras Contae an Chláir,
New Road,
ENNIS,
Co. Clare
V95 DXP2

13 Oct. 2022

Attention : Mr. Brian Fahy.

re : Section 5 Request : Main St., Broadford, Co. Clare – John Joe Fitzpatrick

Dear Mr. Fahy,

thank you for your telephone call.

Attached please find signed cheque in the amount of €80-00, as requested.

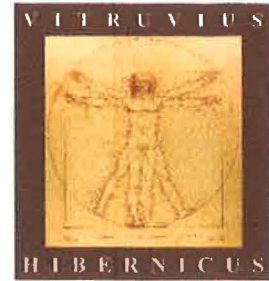


Yours faithfully,

Liam Madden,
Convent Road,
LONGFORD
N39 EE72

L. MADDEN B. ARCH. NUI, M. APPL. ENVIR. SC., CERT. ARCH. PROF., DIP. MICRO-PROC. TECH.
2 THE GATE LODGE, WINDSOR CLOSE, 81 LOWER WINDSOR AVENUE, BELFAST BT9 7DX
POSTBUS 41882, 1009 DB AMSTERDAM, NEDERLAND
RESIDENCE : VITRUVIUS HIBERNICUS, CONVENT ROAD, LONGFORD N39 EE72 Tel./Fax 043-33 41151

LIAM MADDEN
EU REGISTERED ARCHITECT NETHERLANDS REG. NO. 1.180615.001
UK REGISTERED ARCHITECT REG. NO. 0461701
ENVIRONMENTAL SCIENTIST PLANNING CONSULTANT
LEGAL ADVISOR S.I. 8/2017 SCH. 5



Ms. Aileen Nagle,
Staff Officer,
Planning Department,
Áras Contae an Chláir,
New Road,
ENNIS,
Co. Clare.
V95 DXP2



12 Oct. 2022



your ref : UD22-030 Main Street, Broadford, Co. Clare.
my ref : T 2030 John Joe Fitzpatrick.Ms. Aileen Nagle,

Dear Ms. Nagle,

attached is the completed Section 5 Request form with €80-00 fee.

Also attached are 2 no. Copies of various plans, drawings, maps and photos which locate and describe the existing house at Main St., Broadford, Co. Clare.

I address below some of simpler background matters in your correspondence with my client and me.

1. BACKGROUND

- (i) The existing house and lands were purchased by John Joe Fitzpatrick in May 2022. The previous owner, Mr. Gerard Bond, had been served with a Notice of intent under the Derelict Sites Act to the effect that the premises would be entered onto the Derelict Sites Register unless certain works were undertaken and completed.
- (ii) John Joe Fitzpatrick gave, through his Solicitor, a written confirmation that he was the new purchaser of the premises and lands. Further, he gave the undertaking through his Solicitor that the required works and measures would be carried out and completed within a timeframe agreed with your Council's Officer, Ms. Carmel Greene. Indeed Ms. Greene congratulated John Joe Fitzpatrick on his ahead-of-time completion of the works.
- (iii) At the time of Notice the premises was in an advanced state of delapidation.



L. MADDEN B. ARCH. NUI, M.APPL.ENVIR. SC., CERT. ARCH. PROF., DIP. MICRO-PROC. TECH.
2 THE GATE LODGE, WINDSOR CLOSE, 81 LOWER WINDSOR AVENUE, BELFAST BT9 7DX
POSTBUS 41882, 1009 DB AMSTERDAM, NEDERLAND
RESIDENCE : VITRUVIUS HIBERNICUS, CONVENT ROAD, LONGFORD N39 EE72 Tel./Fax 043-33 41151

2. DERELICT SITES – works and measures

(i) Works carried out in foot of notice/requirements of an enactment other than the Planning and Development Act(s), as amended, are Exempted Development under the Planning and Development 2000 Act.
Indeed it would have been an offence and counter-productive not to have complied with the provisions of the Derelict Site Act.
My client is not, however, relying solely on the Derelict Sites Act as evidence of exemption under the Planning and Development Act 2000, as amended, and the Regulations made thereunder.

(ii) The measures to be carried out under the Derelict Sites Act are within the procurement of your own Council. It is not necessary or appropriate to recite to you your own information.

The measures and works sought were, as interpreted, generally :

- (1) replacing rotten windows,
- (2) repair cracked/broken/missing/slipped stone roof slates
- (3) clean down and paint the premises.

I mention in passing that your Council offered to grant-aid certain of the above.

(iii) The works are measures set out in the Derelict Sites Notice are exempted under Schedule 1 Part 1 Class 41(b) **Miscellaneous** :

“Works consisting of or incidental to -

- (b) *the removal of any structure or object or the carrying out of any works required by a planning authority under the provisions of the Act or any other enactment.”*

There are no Conditions/Limitations attaching to Class 41(b).

This works and measures do not fall foul of any of the provisions of Article 9 of the Planning and Development Regulations, as amended, which would otherwise de-exempt what would ordinarily be exempted.

(iv) Those parts of the required works and measures carried out and which affect only the interior of the structure are, of course, also Exempted Development under Section 4.-(1)(h) of the Act, as amended.

There are no Conditions and/or Limitations affecting this exemption.

The relevant works are identified on the attached drawing(s).

3. ORIGINAL 'FOOTPRINT' of existing house.

The extent of the original house is shown on the attached mapping.

The then return (i.e. the rear section) of the house is also identified on the attached drawing(s).

The area of the return is incorporated into and enclosed by further development works.

You will also note the existence of a former independent shed/store to the rear of the site along the northern boundary which may be the subject of reinstatement at a later date.

4. LEGISLATION

The relevant legislative framework is the Planning and Development Act 2000, as amended, and the Regulations made thereunder, as amended.

It is acknowledged that 'works', as defined, have been carried out and therefore 'development', as defined, has taken place. This acknowledgement simplifies the matter before the P.A.

5. SECTION 5 REQUEST

WHEREAS a question has arisen as to whether the following are or are not exempted development :

- a. cleaning down and painting the front (east) wall and side (south) wall wall of the house,
 - b. the replacing of the front windows to match the existing, and glazing same,
 - c. the repair of the roof using stone slates on the front (south-east) elevation,
 - d. the erection of internal walls and doors and internal floor in the original housen area,
 - e. the fitting of a replacement/relocated internal stairs within the area of the original house,
 - f. the erection of a boiler house,
 - g. the erection of internal walls and doors within the boiler house (in f. above),
 - h. the erection of a concrete path to the rear and side of the boilerhouse,
 - i. installation of 12 sq.m. of solar panels,
- is/are exempted development.

6. SUPPORTING ARGUMENTS

I say and argue as follows.

- a. Cleaning down and painting the front and side wall is exempted under Schedule 2 Part 1 Sundry Works Class 12
"The painting of any external part of any building or other structure".
There is one Condition/Limitation which does not apply to this premises.
It is inconceivable that this would be anything other than exempted as the P.A. has offered to grant-aid the works.
This does not fall foul of any of the provisions of Article 9 of the Planning and Development Regulations, as amended, which would otherwise de-exempt what would ordinarily be exempted.
- b. The replacing of front windows was executed at the behest of the P.A.
It is inconceivable that this would be anything other than exempted as the P.A. has offered to grant-aid the works.
This is exempted under Section 4.-(1)(h) of the Act being :
"works for the maintenance, improvement or other alteration of any structure ... [and] ... which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure of of neighbouring structures".

This is, in addition or in the alternative, exempted under Class 41(b), mentioned above.

- c. The repair of the roof on the front (east) elevation involved the removal and salvaging of the existing stone slates, storing same for re-use, replacing rotten timbers/battens/felt/flashings and re-slatting in the salvaged stone slates. This is exempted under Section 4.-(1)(h) of the Act being repair :
“works for the maintenance, improvement or other alteration of any structure .. [and] .. which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure of neighbouring structures”.
 This is, in addition or in the alternative, exempted under Class 41(b), mentioned above.
- d. The erection of internal walls and doors and internal floor within the area of the original house are exempted under Section 4.-(1)(h) of the Act being :
“works for the maintenance, improvement or other alteration of any structure which affect only the interior of the structure “
- e. The fitting of a replacement internal stairs within the area of the original house is exempted under Section 4.-(1)(h) of the Act being :
“works for the maintenance, improvement or other alteration of any structure which affect only the interior of the structure “
- f. The erection of a boiler house is exempted under Schedule 2 Part 1 Class 2 (a) being :
“The provision as part of a heating system of a house, of a chimney or flue, boiler house or fuel storage tank or structure.

Class 2(a) has one Condition/Limitation :

“The capacity of an oil storage tank shall not exceed 3500 litres.”

There is no Condition/Limitation restricting the area, height, location or appearance.

This work is incomplete and does not fall foul of any of the provisions of Article 9 of the Planning and Development Regulations, as amended, which would otherwise de-exempt what would ordinarily be exempted.

- g. The erection of internal walls and doors within a boiler house are exempted under Section 4.-(1)(h) of the Act being ***“works for the maintenance, improvement **or other alteration of any structure which affect only the interior of the structure “*****

(The relevant part is in bold.)

The important word is **“or”**. That is, the internal walls and doors do not have to be works for maintenance, improvement.

In this case the walls and doors constitute alterations to any structure which affect only the interior of the structure.

There are no Conditions/Limitations attaching to Section 4.-(1)(h) of the Act.

- h. The erection of a concrete path round the rear and side of the boiler house is exempted under Schedule 2 Part 1 Class 13 :
*“The repair or improvement of any private street, road or way, being works which are carried out within the boundary of the street, road or way, and **the construction of any private footpath or paving.**”* (The relevant part is in bold.)

The is one Condition/Limitation :

“The width of any private footpath or paving shall not exceed 3 metres.”

The concrete path does not exceed 3 metres : it not yet built.

This does not fall foul of any of the provisions of Article 9 of the Planning and Development Regulations, as amended, which would otherwise de-exempt what would ordinarily be exempted.

The path is exempted under Class 6 also and complies with the Conditions/Limitations.

- (i) The installation or erection of 12 sq.m. of solar panels is exempted under Schedule 2 Part 1 Class 2 (c) :
The installation or erection of a solar panel on, or within the curtilage of a house, or any buildings within the curtilage of a house.

There are 7 no. attached Conditions/Limitations. No.s 5, 6 and 7 refer to free-standing solar arrays and do not apply to this situation as the panels are to be mounted on the roof. The solar panels comply with Conditions/Limitations 1, 2, 3 and 4.

This does not fall foul of any of the provisions of Article 9 of the Planning and Development Regulations, as amended, which would otherwise de-exempt what would ordinarily be exempted.

It is noteworthy that the making of a new Statutory Instrument is imminent which, by the time this Request has been dealt with, will be in place. The new S.I. is to amend Class 2(c) to the effect that there will be no limit on the area of the solar array. My client intends to avail of the new S.I.

The purpose of this Section 5 Request is to regularise the structure which is on site, well advanced, but not completed. It is possible that my client will seek to change the use of part of the new works to the rear to residential use. However, that is not part of this request.

Whether the possible change of use constitutes 'development' as defined is a question for another day. Whether any putative change of use is a material change of use, and is or is not exempted development is also a matter for another day.

If such a possible change of use is a material change of use and if it is not exempted development, then that change may require permission, that is of course, if it is to be carried out. However, that is for another day : first things first, the structure should be regularised.

I look forward to your declarations.

Yours faithfully,



Liam Madden,
Convent Road,
LONGFORD.
N39 EE72

ENCLOSURES – 2 no. Copies of :-

OS PRA Folio ownership print
OS PRA site location map
Site Layout 1:500
Ground Floor Plan 1:100
First Floor Plan 1:100
Elevations, Section. 1:100

External photo (from rear lands)
External photo (from side passage)
Street View May 2022
Google Street View May 2009
Google Street View June 2022
Google Street View May 2009
Google Street View June 2022
Interior View – work in progress Oct. 2022 : Ground Floor facing Main St.
Interior View – work in progress Oct. 2022 : Ground floor relocated stairs.

L. MADDEN B. ARCH. NUI, M.APPL.ENVIR. SC., CERT. ARCH. PROF., DIP. MICRO-PROC. TECH.
2 THE GATE LODGE, WINDSOR CLOSE, 81 LOWER WINDSOR AVENUE, BELFAST BT9 7DX
POSTBUS 41882, 1009 DB AMSTERDAM, NEDERLAND
RESIDENCE : VITRUVIUS HIBERNICUS, CONVENT ROAD, LONGFORD N39 EE72 Tel./Fax 043-33 41151

Create Form 17

- Folios
- Application Type
- Documents
- Lodging Party
- Applicant Details
- Confirm

Affecting

Please enter Folio Number(s) or Select County if no Folio is required. Include County prefix before Folio Number e.g DN1234.

No folio Required

Folio Number

Add Folio

Folio Number	County	Registered Owner
	Clare	Gerard Bond

Delete

- Next
- Retrieve Saved Form 17
- Save Form
- Cancel



Form 17

- Back
- Create Form 17
- Help

Please Note
Your current balance is
€1.5

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 Scale 1: 1000
 Townland Coolagh
 Barony Tulla Lower
 County Clare

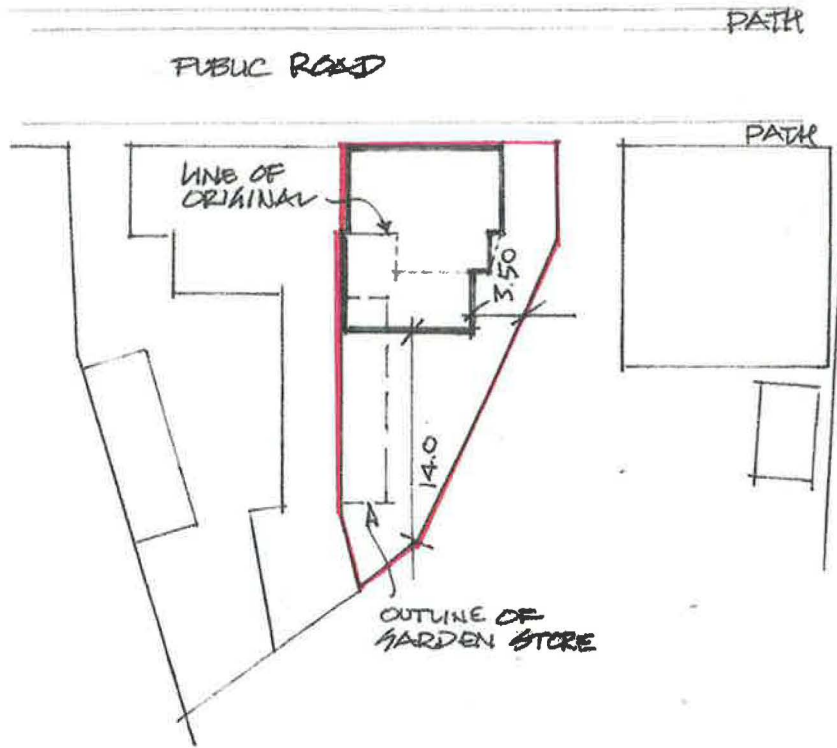


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- Logout



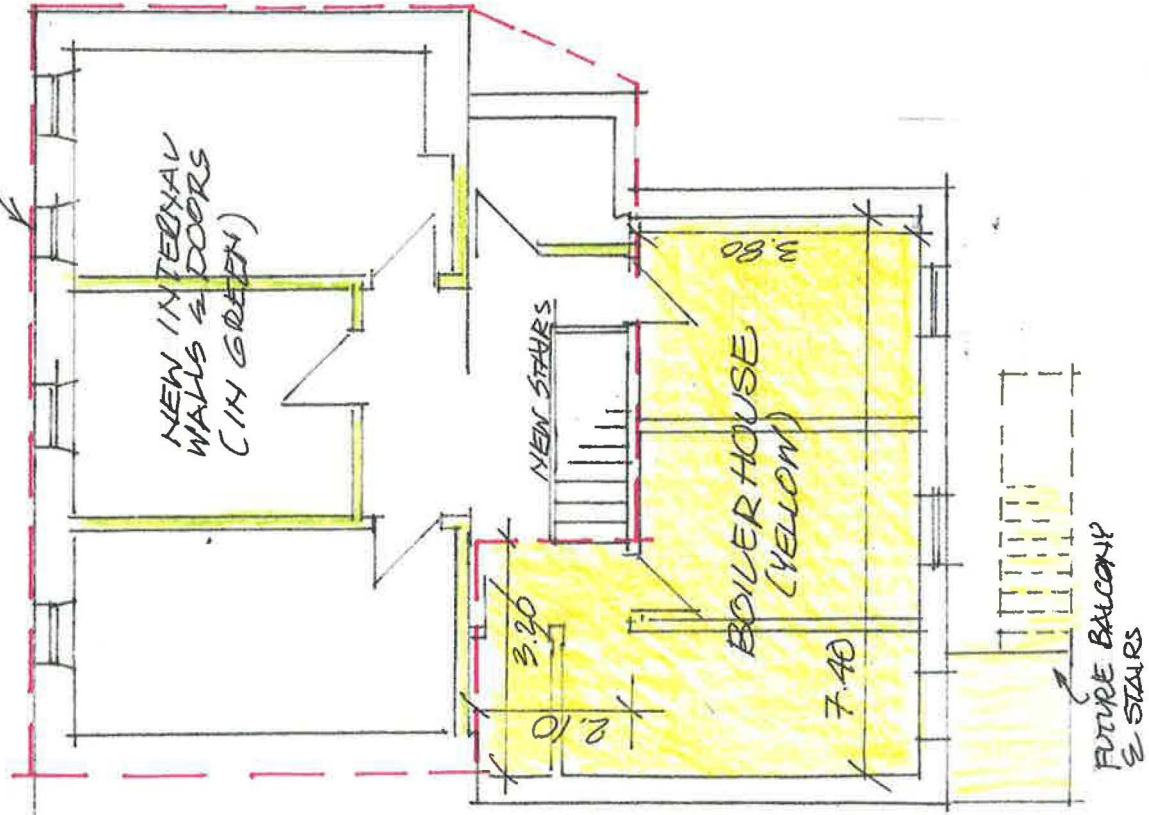
Please Note
Your current balance is
€1.5

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Scale 1:1000
Townland Cooligh
Barony Tulla Lower
County Clare

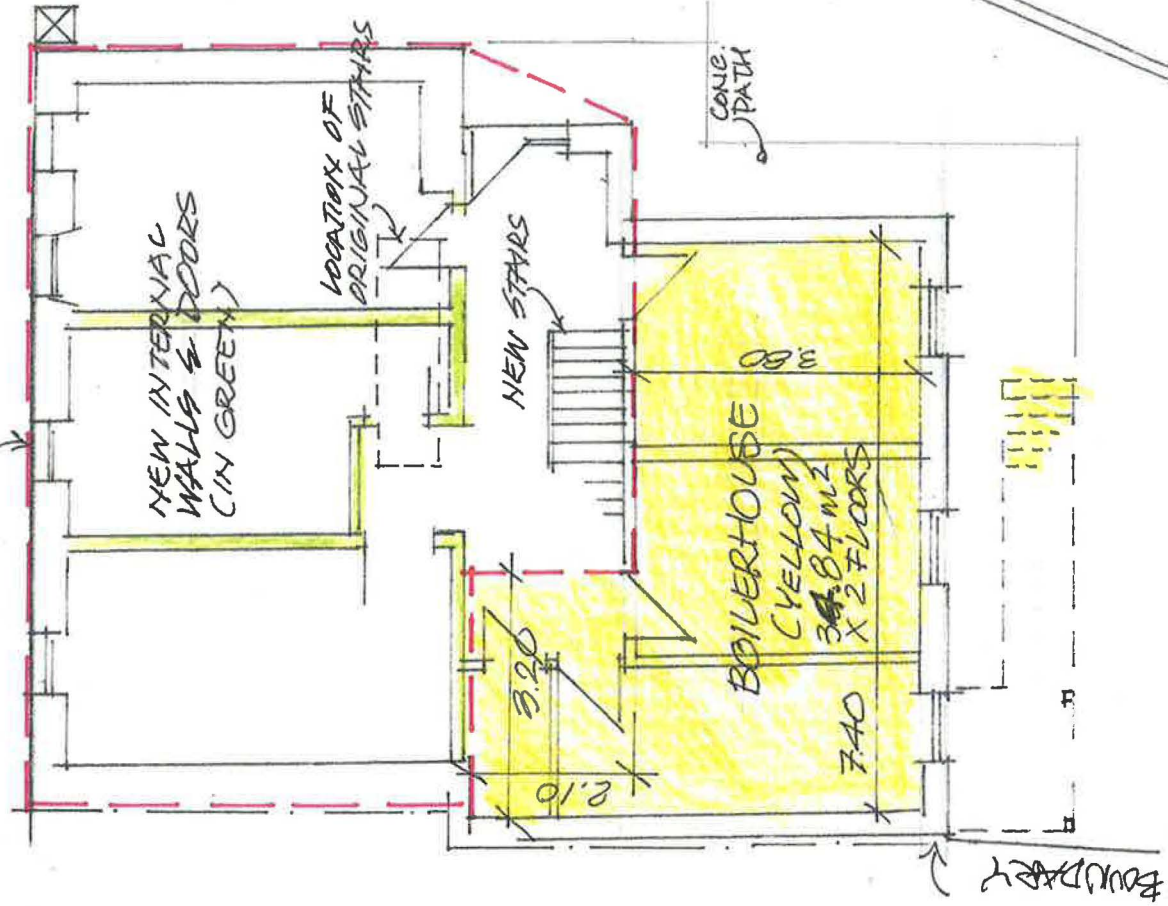


SITE LAYOUT 1:500

OUTLINE OF ORIGINAL HOUSE IN RED
-SEE LAND REGISTRY MAP



FIRST FLOOR 1:100



GROUND FLOOR 1:100

RAISED SEAM INSULATED
METAL ROOFING

REPAIRED
& RESLATED
ROOF (STONE
SLATES)

UPVE DOUBLE
GLAZED WINDOWS
CONC. SILL + DPC
PLASTERED CAVITY
WALL

RELOCATED
STAIRS

NEW TIMBER
FLOORS

UPVE
WINDOWS
& DOUBLE
GLAZING

POSITION OF
ORIGINAL
STAIRS

FOOTPATH

CONC. PATH
ON HARDWARE

SECTION 1:100

CONC. FLOOR
INSULATION + DPM
HARDWARE

12 m² SOLAR PANELS

OUTLINE OF
FUTURE
BALCONY
& STAIRS

WAP
PLASTER
& PAINT

H/W FRAME

SOUTH - WEST 1:100



SOUTH - EAST 1:100

NEW REPLACEMENT
UPVE FRAMES

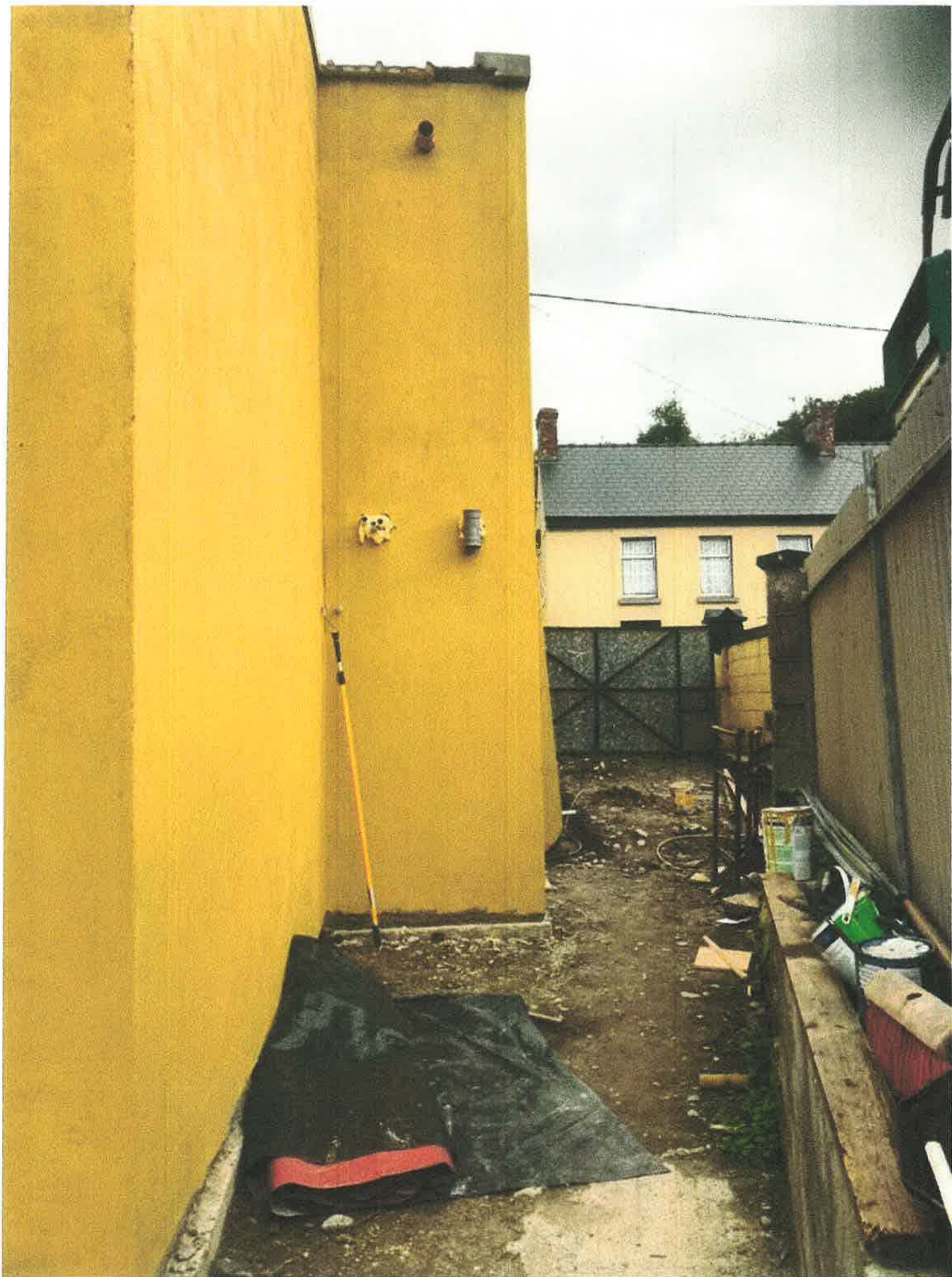
SOLAR
ARRAY
12 m²

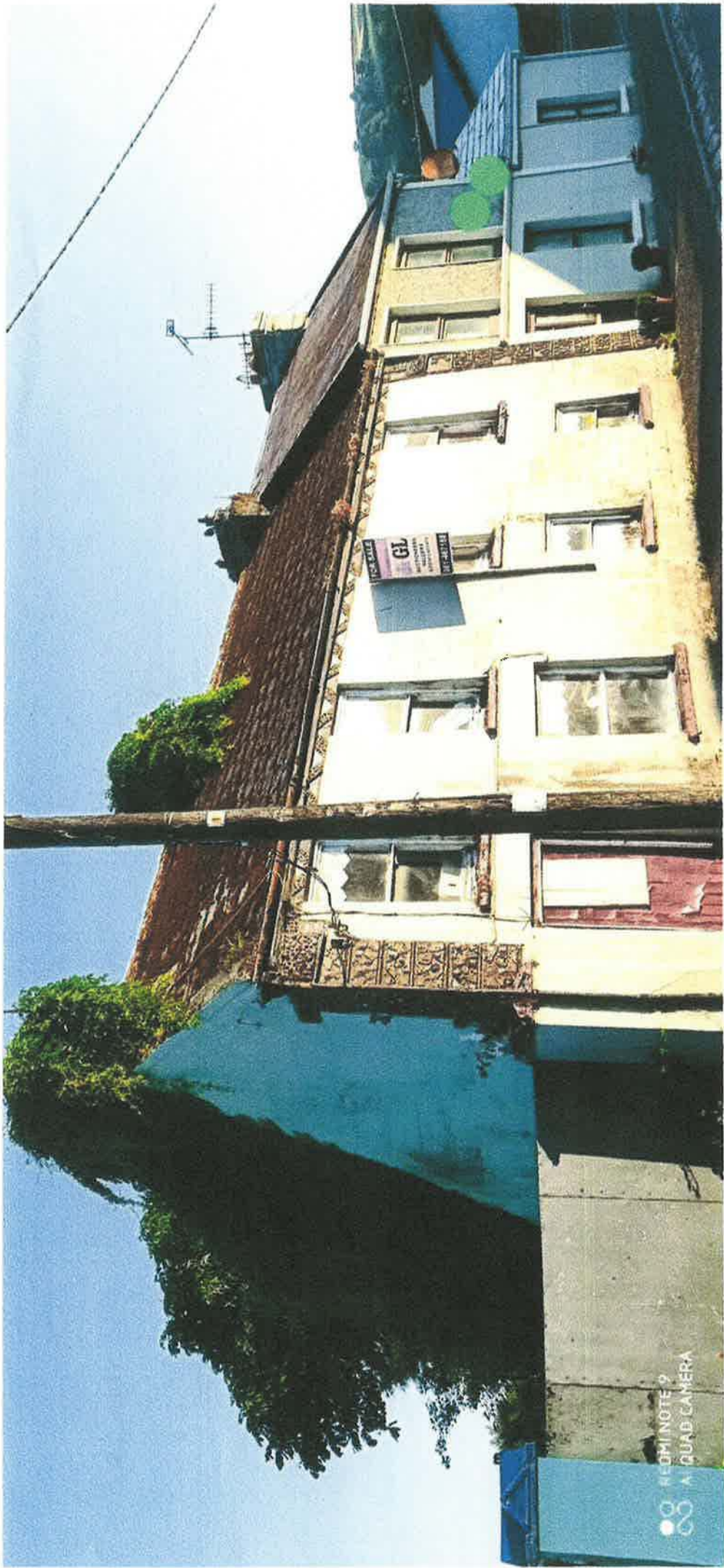
UPVE
FRAMES

NORTH - WEST
1:100









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