



COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

**Registered Post**

**Aoife O'Malley  
C/o Paul Conway FRIAI  
Paul Conway Architects  
Knockbrack  
Ennistymon  
Co. Clare**

**12th March 2024**

**Section 5 referral Reference R24-15 – Aoife O'Malley**

Is the change of use from office to residential of the 2 no. upper floors of the former Bank building at Miltown Malbay development and if so, is it exempted development?  
AND: Is the change of use from Banking Hall to retail of the ground floor of the former Bank Building at Miltown Malbay development and if so, is it exempted development?

A Chara,

I refer to your application received on 19th February 2024 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

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

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

Mise, le meas

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

**An Roinn Pleanála  
An Stiúarthóireacht Forbairt Gheilleagrach**

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

**Planning Department  
Economic Development Directorate**

Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2



**CLARE COUNTY COUNCIL**

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

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

Chief Executive's Order No:

83267

Reference Number:

R24-15

Date Referral Received:

19th February 2024

Name of Applicant:

Aoife O'Malley

Location of works in question:

Old Bank Building, The Square, Miltown  
Malbay, Co. Clare

**Section 5 referral Reference R24-15 – Aoife O'Malley**

Is the change of use from office to residential of the 2 no. upper floors of the former Bank building at Miltown Malbay development and if so, is it exempted development?  
AND: Is the change of use from Banking Hall to retail of the ground floor of the former Bank Building at Miltown Malbay development and if so, is it exempted development?

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

- (a) Sections 2, 3, 4 and 82 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6, 9 and 10 of the Planning and Development Regulations 2001, as amended,
- (c) The provisions of Classes 1, 2 and 14 of Part 1, Schedule 2 of the Planning and Development Regulations 2001, as amended,
- (d) The details and drawings indicated in submitted documents from the referrer as received by the Planning Authority on the 19<sup>th</sup> February 2024 including proposals to construct 2no. balconies on the upper floors.

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

- (a) The proposed change of use constitutes "works" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended,
- (b) The said works constitute "development" which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended,
- (c) The said development consisting of a change of use from offices (class 2) to residential is development which is exempted development having regard to the provisions of Article 10 (6) of the Planning and Development Regulations 2001, as amended,
- (d) The said development consisting of a change of use from ground floor banking hall (class 2) to retail (class 1) is exempted development having regard to Section 2 and 3 of the Planning and Development Act 2000, as amended, and Class 14 of Part 1, Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (e) The said development consisting of the provision of two balconies on the rear elevation of the building is development and is not exempted development having regard to the

provisions of Section 4(1) (h) and Section 82 of the Planning and Development Act 2000, as amended which provides respectively that only works 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 neighbouring structures can be considered exempted development and that the carrying out of works to the exterior of a structure located in an architectural conservation area shall be exempted development only if those works would not materially affect the character of the area.

**ORDER:** Whereas by Chief Executive's Order No. HR 152 dated 9<sup>th</sup> 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 proposed change of use from offices (class 2) to residential and the change of use of the banking hall (Class 2) on the ground floor to retail shop (Class 1) at Old Bank Building, The Square, Miltown Malbay, Co. Clare is considered development which is exempted development and the construction of 2no. new balconies on the rear elevation of the building is considered development which is not exempted development.

Signed:

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



Date:

12th March 2024

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

Reference No.: R24-15



Comhairle Contae an Chláir  
Clare County Council

**Section 5 referral Reference R24-15**

**Is the change of use from office to residential of the 2 no. upper floors of the former Bank building at Miltown Malbay development and if so, is it exempted development?  
AND: Is the change of use from Banking Hall to retail of the ground floor of the former Bank Building at Miltown Malbay development and if so, is it exempted development?**

**AND WHEREAS, Aoife O'Malley** 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, 4 and 82 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6, 9 and 10 of the Planning and Development Regulations 2001, as amended,
- (c) The provisions of Classes 1, 2 and 14 of Part 1, Schedule 2 of the Planning and Development Regulations 2001, as amended,
- (d) The details and drawings indicated in submitted documents from the referrer as received by the Planning Authority on the 19<sup>th</sup> February 2024 including proposals to construct 2no. balconies on the upper floors.

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

- (a) The proposed change of use constitutes "works" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended,
- (b) The said works constitute "development" which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended,
- (c) The said development consisting of a change of use from offices (class 2) to residential is development which is exempted development having regard to the provisions of Article 10 (6) of the Planning and Development Regulations 2001, as amended,
- (d) The said development consisting of a change of use from ground floor banking hall (class 2) to retail (class 1) is exempted development having regard to Section 2 and 3 of the Planning and Development Act 2000, as amended, and Class 14 of Part 1, Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (e) The said development consisting of the provision of two balconies on the rear elevation of the building is development and is not exempted development having regard to the provisions of Section 4(1) (h) and Section 82 of the Planning and Development Act 2000,

as amended which provides respectively that only works 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 neighbouring structures can be considered exempted development and that the carrying out of works to the exterior of a structure located in an architectural conservation area shall be exempted development only if those works would not materially affect the character of the area.

**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 change of use from offices (class 2) to residential and the change of use of the banking hall (Class 2) on the ground floor to retail shop (Class1) at Old Bank Building, The Square, Miltown Malbay, Co. Clare **constitutes development** which is **exempted development** and the construction of 2no. new balconies on the rear elevation of the building **constitutes development** which is **not exempted development** as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.



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

12th March 2024

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

<b>FILE REF:</b>	R24-15
<b>APPLICANT(S):</b>	Aoife O' Malley
<b>REFERENCE:</b>	Whether the change of use from office to from office to residential of the 2 no upper floors of the former bank Building at Miltown Malbay is development and is or is not exempted development <b>and</b> whether the change of use from banking hall to retail on the ground floor of the former bank building at Miltown Malbay is development and is or is not exempted development.
<b>LOCATION:</b>	Miltown Malbay
<b>DUE DATE:</b>	14 <sup>th</sup> March 2023 <sup>+</sup>

**Clare County Development Plan 2023- 2029**

The site is zoned "*Mixed Use*".

*The premises is not a protected structure but is located within the architectural conservation area.*

**Recent Onsite Planning History**

P8/5328 – Erect signs on Bank premises at Miltown Malbay.

P8/25120 – Construct a single storey extension to rear and change of use of upper floors from dwelling to office use at the Square, Main St, Miltown Malbay.

P8/26713 – Replace existing illuminated fascia signs at front and rear of premises with illuminated signs at The Square, Main St, Miltown Malbay.

**Pre-planning History**

Ppi 23/ 138 Aoife O'Malley (Brendan Mullins) 4 Apartments & 2 Townhouses

Ppi 22/ 218 Pat & Aoife O'Malley 1 Building to 3 Apts

**Section 5 Declaration History**

None

## **Drawings Received**

- Site location map.
- Floor plans and elevations of existing layout.
- Floor plans and elevations of proposed layout.
- Completed application form .

## **Background**

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

#### **Section 2**

'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.*

#### **Section 3**

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.

#### **Section 4(1)(H)**

Section 4 (1)(H) states that the following shall be exempted development for the purpose of the Act.-

*'development consisting for the carrying out of works for maintenance, improvement or other alterations 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 neighbouring structures'.*

## Section 82

Section 82 states 'Notwithstanding paragraphs (a), (h), (i), (ia) (j), (k), or (l) of section 41(1) or any regulations made under section 4(2) the carrying out of works to the exterior of a structure located in an architectural conservation area shall be exempted development only if those works would not materially affect the character of the area.

## **Planning & Development Regulations, 2001, as amended**

Part 4 Article 10 Exempted development – classes of use

Class 2

Use for the provision of –

- (a) financial services
- (b) professional services other than health or medical services
- (c) any other services ( including use as a betting office)

## Part 2 Exempted Development

Article 6 (1) states

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

Article 9 -Restrictions on Exemptions states

'Under Article 9 (1) of the same Regulations, development to which Article 10 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,*
  - 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,*
  - 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.*
  - vii. (a) *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,*
  - vii. (b) *comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,*
  - vii. (c) *consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000.”*
  - 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’.*

#### Article 10 Change of use

*Development which consists of a change of use within any one of the classes of use specified in Part 4 of Schedule 2, shall be exempted development for the purposes of the Act, provided that the development, if carried out would not—*

- (a) *involve the carrying out of any works other than works which are exempted development,*
  - (b) *contravene a condition attached to a permission under the Act,*
  - (c) *be inconsistent with any use specified or included in such a permission, or*
  - (d) *be a development where the existing use is an unauthorised use, save where such change of use consists of the resumption of a use which is not unauthorised and which has not been abandoned.*
- (2) (a) *A use which is ordinarily incidental to any use specified in Part 4 of Schedule 2 is not excluded from that use as an incident thereto merely by reason of its being specified in the said Part of the said Schedule as a separate use.*
- (b) *Nothing in any class in Part 4 of the Schedule 2 shall include any use—*

- (i) as an amusement arcade,*
- (ii) as a motor service station,*
- (iii) for the sale or leasing, or display for sale or leasing, of motor vehicles,*
- (iv) for a taxi or hackney business or for the hire of motor vehicles,*
- (v) as a scrap yard, or a yard for the breaking of motor vehicles,*
- (vi) for the storage or distribution of minerals,*
- (vii) as a supermarket, the total net retail sales space of which exceeds 3,500 square metres in the greater Dublin Area and 3,000 square metres in the remainder of the State,*
- (vii) as a retail warehouse, the total gross retail sales space of which exceeds 6,000 square metres (including any ancillary garden centre), or*
- (viii) as a shop, associated with a petrol station, the total net retail sales space of which exceeds 100 square metres.*

- (3) Development consisting of the provision within a building occupied by, or under the control of, a State authority of a shop or restaurant for visiting members of the public shall be exempted development for the purposes of the Act.*
- (4) Development consisting of the use of not more than 4 bedrooms in a house, where each bedroom is used for the accommodation of not more than 4 persons as overnight guest accommodation, shall be exempted development for the purposes of the Act, provided that such development would not contravene a condition attached to a permission under the Act or be inconsistent with any use specified or included in such a permission.*

- (5) *Development consisting of the use of a house for child minding shall be exempted development for the purposes of the Act.*

Planning & Development Regulations, Amendment no. 2 Regulations 2018 , ( s.i.no 30 of 2018)

*Article 2 of these Regulations amends Article 10 of the Principal Regulations, by inserting a new sub-article, to provide that development consisting of the change of use, and any related works, from an existing specified use class to residential use, in certain circumstances and subject to conditions and limitations, is exempt from the requirement to obtain planning permission. The exemption shall apply from when these Regulations come into force until 31 December 2021.*

Statutory Instrument No. 75 of 2022 has extended this exemption to 31/12/2025 and added a new use class (Class 12 - public houses), to the specified use classes that can qualify to avail of the planning exemption, subject to certain conditions and limitations.

Article 10 of the Planning and Development Regulations 2001 (S.I. No. 75 of 2022) is amended by inserting the following sub-article after sub-article (5):

*“(6) (a) In this sub-article—‘habitable room’ means a room used for living or sleeping purposes but does not include a kitchen that has a floor area of less than 6.5 square metres;*

*‘relevant period’ means the period from the 08<sup>th</sup> February 2018 until 31 December 2025.*

*(b) This sub-article relates to a proposed development, during the relevant period, that consists of a change of use to residential use from Class 1, 2, 3, 6 of 12 of Part 4 to Schedule 2.*

*(c) Notwithstanding sub-article (1), where in respect of a proposed development referred to in paragraph (b)—*

*(i) the structure concerned was completed prior to the making of the Planning and Development (Amendment) (No. 2) Regulations 2018, Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 13<sup>th</sup> February 2018.[30]*

*3(ii) the structure concerned has at some time been used for the purpose of its current use class, being Class 1, 2, 3, 6, and 12.*

*(iii) the structure concerned, or so much of it that is the subject of the proposed development, has been vacant for a period of 2 years or more immediately prior to the commencement of the proposed development,*

*then the proposed development for residential use, and any related works, shall be exempted development for the purposes of the Act, subject to the conditions and limitations set out in paragraph (d).*

*(d) (i) The development is commenced and completed during the relevant period.*

*(ii) **Subject to sub-paragraph (iii), any related works, including works as may be required to comply with sub-paragraph (vii), shall***

***(I) affect only the interior of the structure***

- (II) retain 50 per cent or more of the existing external fabric of the building, and**
- (III) not materially affect the external appearance of the structure so as to render its appearance inconsistent with the character of the structure or of neighbouring structures.**

**(iii) Any related works for the alteration of existing ground floor shop fronts shall be consistent with the fenestration details and architectural and streetscape character of the remainder of the structure or of neighbouring structures.**

(iv) No development shall consist of or comprise the carrying out of works to the ground floor area of any structure which conflicts with any objective of the relevant local authority development plan or local area plan, pursuant to the Part 1 of the First Schedule to the Act, for such to remain in retail use, with the exception of any works the purpose of which is to solely provide on street access to the upper floors of the structure concerned.

(v) No development shall consist of or comprise the carrying out of works which exceeds the provision of more than 9 residential units in any structure.

(vi) Dwelling floor areas and storage spaces shall comply with the minimum floor area requirements and minimum storage space requirements of the "Sustainable Urban Housing: Design Standards for New Apartments — Guidelines for Planning Authorities" issued under section 28 of the Act or any subsequent updated or replacement guidelines.

(vii) Rooms for use, or intended for use, as habitable rooms shall have adequate natural lighting.

(viii) No development shall consist of or comprise the carrying out of works to a protected structure, as defined in section 2 of the Act, save where the relevant planning authority has issued a declaration under section 57 of the Act to the effect that the proposed works would not materially affect the character of the structure or any element, referred to in section 57(1)(b) of the Act, of the structure.

(ix) No development shall contravene a condition attached to a permission under the Act or be inconsistent with any use specified or included in such a permission.

(x) No development shall relate to any structure in any of the following areas:

(I) an area to which a special amenity area order relates;

(II) an area of special planning control;

(III) within the relevant perimeter distance area, as set out in Table 2 of Schedule 8, of any type of establishment to which the Major Accident Regulations apply.

(xi) No development shall relate to matters in respect of which any of the restrictions set out in subparagraph (iv), (vii), (viiA), (viiB), (viiC), (viii) or (ix) of article 9(1)(a), or paragraph (c) or (d) of article (9)(1), would apply.

(xii) No development shall consist of or comprise the carrying out of works for the provision of an onsite wastewater treatment and disposal system to which the code of practice made by the Environmental Protection Agency pursuant to section 76 of the Environmental Protection Agency Act 1992 relates and entitled Code of Practice — Wastewater Treatment and Disposal Systems Serving Single Houses together with any amendment to that Code or any replacement for it.

(e) (i) Where a person proposes to undertake development to which sub-paragraph (b) relates, then he or she shall in the case of development relating to Class 1, 2, 3, 6 or 12 of Part 4 to Schedule 2, notify the planning authority in whose functional area that the change of use concerned will occur in writing at least 2 weeks prior to the commencement of the proposed change of use and any related works.

(ii) Details of each notification under subparagraph (i), which shall include information on—

(I) the location of the structure, and

(II) the number of residential units involved, including the unit sizes and number of bedrooms in each unit, and

(III) the Eircode of the property,

shall be entered in a record by the planning authority maintained for this purpose and the record shall be available for inspection at the offices of the planning authority during office hours and on the planning authority's website.

(iii) During the years 2019, 2020, 2021, 2022, 2023, 2024 and 2025 each planning authority shall provide information to the Minister on the number of notifications received by it under this paragraph during the preceding calendar year, including details of the information so received for the purposes of subparagraph (ii).”

#### Schedule 2 Article 6 part 1 Exempted Development

##### CLASS 14

Development consisting of a change of use—

(a) from use for the sale of hot food for consumption off the premises, or for the sale or leasing or display for sale or leasing of motor vehicles, to use as a shop,

(b) from use as a public house, to use as a shop,

(c) from use for the direction of funerals, as a funeral home, as an amusement arcade or a restaurant, to use as a shop,

**(d) from use to which class 2 of Part 4 of this Schedule applies, to use as a shop,**

(e) from use as 2 or more dwellings, to use as a single dwelling, of any structure previously used as a single dwelling,

(f) from use as a house, to use as a residence for persons with an intellectual or physical disability or a mental illness

*intellectual or physical disability or living in any such residence shall not exceed 6 and the number of resident carers shall not exceed 2.*

## **Appendix 1 Planning and Development (Amendment)(No. 2) Regulations 2018 (S.I. No. 30 of 2018)**

### **Minimum Requirements for Residential Units**

The Regulations set out some minimum standards that apply to any residential units being provided, including minimum floor areas, storage space and the provision of natural light.

- A maximum of 9 residential units can be provided in any structure.
- The minimum floor area and minimum storage space requirements of the 'Sustainable Urban Housing: Design Standards for New Apartments -Guidelines for Planning Authorities', 2018 must be complied with.

### **'Sustainable Urban Housing: Design Standards for New Apartments -Guidelines for Planning Authorities', March 2018 and Appendix 1 Planning and Development (Amendment)(No. 2) Regulations 2018(S.I. No. 30 of 2018)**

This ensures that apartments will be of adequate size and will include adequate storage.

## **Assessment**

### **Primary Legislation**

Having regard to the details submitted it is considered that the proposal constitutes 'works' as defined by section 2 of the Act. It is also considered that the proposal constitutes 'development' having regard to the definition of development which includes for making of any material change in the use of any structures. In respect of Section 4 (1)(H) it is noted that while the section makes provision for development consisting for the carrying out of works for maintenance, improvement or other alterations 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 neighbouring structures' to be considered exempted development, it does not expressly clarify that the internal alterations can result in a change of use and that this new use is exempted development. I therefore consider that section 4 (1) (h) is not relevant to the query.

### **The Regulations**

- I refer to Part 4 Article 10 Exempted Development- Class of use- The nature of the previous commercial use was banking hall on the ground floor and associated

offices on the upper floors. It is considered that entire building formerly constituted banking use and as such falls under the scope of class 2 (a), being the provision of financial services where the services are provided principally to visiting members of the public.

- I refer to Schedule 2 part 1 Article 6 Exempted Development – General, wherein in class 14 sets out changes of use that are considered to be exempted development. I consider that the proposed change of use from banking hall on the ground floor to retail use (on the ground floor) falls under the provision of class 14 of the Planning and Development Regulations 2001 as amended.
- I refer to part 2 Article 6 (1) Exempted Development and Article 9 Restrictions on Exemptions–. It is considered that the provisions of article 9 are not applicable to the query except for article 9 (xii) because the proposed development consist of the construction of 2 balconies on the rear elevation and it is considered such works comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area.
- I refer to Article 10 of the Planning and Development Regulations 2001 (S.I. No. 600 of 2001) as amended by the Planning and Development Regulations 2018 (no 2). Article 10 of the Planning and Development Regulations 2001 (S.I. No. 600 of 2001) is amended by inserting the following sub-article after sub-article (5):

Article 10 of the Planning and Development Regulations 2001 (S.I. No. 75 of 2022) is amended by inserting the following sub-article after sub-article (5):

*“(6) (a) In this sub-article—‘habitable room’ means a room used for living or sleeping purposes but does not include a kitchen that has a floor area of less than 6.5 square metres;*

*‘relevant period’ means the period from the 08<sup>th</sup> February 2018 until 31 December 2025.*

*(b) This sub-article relates to a proposed development, during the relevant period, that consists of a change of use to residential use from Class 1, 2, 3, 6 of 12 of Part 4 to Schedule 2.*

**The former bank building falls under the definition of office ( Class 2(a) Financial services ).**

*(c) Notwithstanding sub-article (1), where in respect of a proposed development referred to in paragraph (b)—*

*(i) the structure concerned was completed prior to the making of the Planning and Development (Amendment) (No. 2) Regulations 2018, Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 13<sup>th</sup> February 2018.[30]*

**The structure was in place before 2018.**

*3(ii) the structure concerned has at some time been used for the purpose of its current use class, being Class 1, 2, 3, 6, and 12.*

**The entire building was used for banking purposes ( Class 2 (a) ).**



*(iii) the structure concerned, or so much of it that is the subject of the proposed development, has been vacant for a period of 2 years or more immediately prior to the commencement of the proposed development, then the proposed development for residential use, and any related works, shall be exempted development for the purposes of the Act, subject to the conditions and limitations set out in paragraph (d).*

**Details submitted confirm the building has been vacant since Sep 2021, which exceeds 2 years.**

*(d) (i) The development is commenced and completed during the relevant period.*

**The application form states works are to proceed in 2024**

*(ii) Subject to sub-paragraph (iii), any related works, including works as may be required to comply with sub-paragraph (vii), shall*

*(I) affect only the interior of the structure*

**Works affect the interior and exterior ( rear elevation).**

*(II) retain 50 per cent or more of the existing external fabric of the building, and*

**100% of the external fabric of the building is to be retained.**

*(III) not materially affect the external appearance of the structure so as to render its appearance inconsistent with the character of the structure or of neighbouring structures.*

**Two enclosed balconies are proposed on the rear elevation , one for each apartment. These are not considered to render the buildings appearance inconsistent with the character of the structure or neighbouring structure given the varied design and appearance of the rear elevations of nearby properties.**

*(iii) Any related works for the alteration of existing ground floor shop fronts shall be consistent with the fenestration details and architectural and streetscape character of the remainder of the structure or of neighbouring structures.*

**It is not proposed to alter fenestration arrangements on the ground floor or upper floor facing the Main St.**

*(iv) No development shall consist of or comprise the carrying out of works to the ground floor area of any structure which conflicts with any objective of the relevant local authority development plan or local area plan, pursuant to the Part 1 of the First Schedule to the Act, for such to remain in retail use, with the exception of any works the purpose of which is to solely provide on street access to the upper floors of the structure concerned.*

**Not applicable.**

*(v) No development shall consist of or comprise the carrying out of works which exceeds the provision of more than 9 residential units in any structure.*

**Only 2 apartments are proposed.**

*(vi) Dwelling floor areas and storage spaces shall comply with the minimum floor area requirements and minimum storage space requirements of the "Sustainable Urban Housing: Design Standards for New Apartments — Guidelines for Planning Authorities" issued under section 28 of the Act or any subsequent updated or replacement guidelines.*

**The internal dimensions exceed the standards set out in the aforementioned document .**

*(vii) Rooms for use, or intended for use, as habitable rooms shall have adequate natural lighting.*

**All rooms have natural day light .**

*(viii) No development shall consist of or comprise the carrying out of works to a protected structure, as defined in section 2 of the Act, save where the relevant planning authority has issued a declaration under section 57 of the Act to the effect that the proposed works would not materially affect the character of the structure or any element, referred to in section 57(1)(b) of the Act, of the structure.*

**The building is not a protected structure.**

*(ix) No development shall contravene a condition attached to a permission under the Act or be inconsistent with any use specified or included in such a permission.*

**Not applicable.**

*(x) No development shall relate to any structure in any of the following areas:*

1. *an area to which a special amenity area order relates;*

**Not applicable.**

2. *an area of special planning control;*

**Not applicable**

3. *within the relevant perimeter distance area, as set out in Table 2 of Schedule 8, of any type of establishment to which the Major Accident Regulations apply.*

**Not applicable.**

*(xi) No development shall relate to matters in respect of which any of the restrictions set out in subparagraph (iv), (vii), (viiA), (viiB), (viiC), (viii) or (ix) of article 9(1)(a), or paragraph (c) or (d) of article (9)(1), would apply.*

Article 9 -Restrictions on Exemptions states 'Under Article 9 (1) of the same Regulations, development to which Article 10 relates shall not be exempted development for the purposes of the Act if the carrying out of such development would (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'. **In this instance it is proposed to construct two balconies of 11 sq.m. each serving each apartment. The enclosed balconies are to be located on the exterior of the building on the rear elevation and the building is located in an ACA. Therefore this aspect of the proposed development is not exempted development.**

*(e) (i) Where a person proposes to undertake development to which sub-paragraph (b) relates, then he or she shall in the case of development relating to Class 1, 2, 3, 6 or 12 of Part 4 to Schedule 2, notify the planning authority in whose functional area that the change of use concerned will occur in writing at least 2 weeks prior to the commencement of the proposed change of use and any related works.*

*(ii) Details of each notification under subparagraph (i), which shall include information on—*

*(I) the location of the structure, and*

*(II) the number of residential units involved, including the unit sizes and number of bedrooms in each unit, and*

*(III) the Eircode of the property,*

*shall be entered in a record by the planning authority maintained for this purpose and the record shall be available for inspection at the offices of the planning authority during office hours and on the planning authority's website.*

**The applicant has not submitted notification under article 10 (6).**

*(iii) During the years 2019, 2020, 2021, 2022, 2023, 2024 and 2025 each planning authority shall provide information to the Minister on the number of notifications received by it under this paragraph during the preceding calendar year, including details of the information so received for the purposes of subparagraph(ii)."*

**Noted.**

## **Environmental Impact Assessment**

In assessing this application I have had regard to the provisions of EU Directive 2014/52/EU (which amends EU Directive 2011/92/EU), and which has been transposed into Irish legislation by the European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018 (SI No. 296 of 2018). The subject development does not fall within the mandatory requirements for EIA as set out in Schedule 7 of the Planning and Development Regulations 2001, as amended. I therefore consider that the proposal constitutes a sub-threshold development and note the requirements of Article 103 (1)(a) and (b) of the Planning and Development Regulations 2001, as amended. As such having regard to the nature and scale of the proposed development and the nature of the receiving environment I consider that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

### **Conclusion**

In considering this notification I have had regard to the following:

(a) Sections 2, 3 and 4(1) (h) and 82 of the Planning and Development Act, 2000, as amended.

(b) Articles 6, 9 and 10 of the Planning and Development Regulations, 2001 as amended and in particular Appendix 1 Planning and Development (Amendment)(No. 2) Regulations 2018 (S.I. No. 30 of 2018) as amended by Sub Article 5 ( 2022).

(d) The Sustainable Urban Housing: Design Standards for New Apartments -Guidelines for Planning Authorities', March 2018 amended 2021 and 2023.

Having regard to the assessment in this report I conclude that:

- The change of use from office to residential of the 2 no upper floors of the former bank building is development which is exempted development,
- The construction of 2 balconies on the rear elevation is development and is not exempted development having regard to the provisions of section 4(1) (h) and Section 82 of the Planning and Development Act,
- The change of use from banking hall to retail on the ground floor of the former bank building at Miltown Malbay is development and is exempted development.

## **Recommendation**

### **The following questions have been referred to the Planning Authority:**

Whether the change of use from office to residential of the 2 no upper floors of the former bank Building at Miltown Malbay is development and is or is not exempted development **and** whether the change of use from banking hall to retail on the ground floor of the former bank building at Miltown Malbay is development and is or is not exempted development

### **The Planning Authority in considering this referral had regard to:**

- (a) Sections 2, 3, 4 and 82 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6, 9 and 10 of the Planning and Development Regulations 2001, as amended
- (c) The provisions of Classes 1, 2 and 14 of Part 1, Schedule 2 of the Planning and Development Regulations 2001, as amended
- (d) The details and drawings indicated in submitted documents from the referrer as received by the Planning Authority on the 19<sup>th</sup> February 2024 including proposals to construct 2no. balconies on the upper floors.

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

- (a) the proposed change of use constitutes “works” which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended
- (b) the said works constitute “development” which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended
- (c) the said development consisting of a change of use from offices (class 2) to residential is development which is exempted development having regard to the provisions of Article 10 (6) of the Planning and Development Regulations 2001, as amended,
- (d) the said development consisting of a change of use from ground floor banking hall ( class 2) to retail ( class 1 ) is exempted development having regard to Section 2 and 3 of the Planning and Development Act 2000, as amended, and Class 14 of Part 1, Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (e) the said development consisting of the provision of two balconies on the rear elevation of the building is development and is not exempted development having regard to the provisions of Section 4(1) (h) and Section 82 of the Planning and Development Act, <sup>2000</sup> as amended which provides respectively that only works 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 neighbouring structures can be considered exempted development and that the carrying out of works to the exterior of a structure located in an architectural conservation area shall be exempted development only if those works would not materially affect the character of the area.

Now therefore Clare County Council (Planning Authority), hereby decides the proposed change of use from offices (class 2) to residential and the change of use of the banking hall ( Class 2) on the ground floor to retail shop (class1) is development which is exempted development. The construction of 2no. new balconies on the rear elevation of the building is development which is not exempted development.

**Signed**

Ellen Coey.

**Executive Planner**

**Date:**

**06/03/24**

[Signature]

**Senior Executive Planner**

**Date:**

**11/03/2024.**

Appropriate Assessment & Determination

<b>STEP 1. Description of the project/proposal and local site characteristics:</b>	
<b>(a) File Reference No:</b>	Section 5
<b>(b) Brief description of the project or plan:</b>	<p>1. Whether the change of use from office to from office to residential of the 2 no upper floors of the former bank Building at Miltown Malbay is development and is or is not exempted development <b>and</b></p> <p>2. Whether the change of use from banking hall to retail on the ground floor of the former bank building at Miltown Malbay is development and is or is not exempted development</p>
<b>(c) Brief description of site characteristics:</b>	Existing building
<b>(d) Relevant prescribed bodies consulted: e.g. DHLGH (NPWS), EPA, OPW</b>	None
<b>(e) Response to consultation:</b>	None

<b>STEP 2. Identification of relevant Natura 2000 sites using Source-Pathway-Receptor model and compilation of information on Qualifying Interests and conservation objectives.</b>				
<b>European Site (code)</b>	<b>List of Qualifying Interest/Special Conservation Interest<sup>1</sup></b>	<b>Distance from proposed development<sup>2</sup> (km)</b>	<b>Connections (Source-Pathway-Receptor)</b>	<b>Considered further in screening Y/N</b>
Mid Clare Coast SPA	Cormorant (Phalacrocorax carbo)	2.3km	None	None

	<p>[A017]  <input type="checkbox"/> Barnacle Goose (<i>Branta leucopsis</i>)</p> <p>[A045]  <input type="checkbox"/> Ringed Plover (<i>Charadrius hiaticula</i>)</p> <p>[A137]  <input type="checkbox"/> Sanderling (<i>Calidris alba</i>)</p> <p>[A144]  <input type="checkbox"/> Purple Sandpiper (<i>Calidris maritima</i>)</p> <p>[A148]  <input type="checkbox"/> Dunlin (<i>Calidris alpina</i>) [A149]</p> <p><input type="checkbox"/> Turnstone (<i>Arenaria interpres</i>) [A169]</p> <p><input type="checkbox"/> Wetland and Waterbirds [A999]</p>			
<p>Carrowmore Point to Spanish Point and the islands</p>	<p>Annex I habitats:</p> <ul style="list-style-type: none"> <li>• *Coastal lagoons [1150]</li> <li>• Perennial vegetation of stony banks [1220]</li> <li>• *Petrifying springs with tufa formation (Cratoneurion) [7220]</li> <li>• Reefs [1170]</li> </ul>	2.3km	None	None



<sup>1</sup> Short paraphrasing and/or cross reference to NPWS is acceptable – it is not necessary to reproduce the full text on the QI/SCI.

<sup>2</sup> If the site or part thereof is within the European site or adjacent to the European site, state here.

<b>STEP 3. Assessment of Likely Significant Effects</b>	
<b>(a) Identify all potential direct and indirect impacts that may have an effect on the conservation objectives of a European site, taking into account the size and scale of the project under the following headings:</b>	
<b>Impacts:</b>	<b>Possible Significance of Impacts: (duration/magnitude etc.)</b>
Construction phase e.g. <ul style="list-style-type: none"> <li>● Vegetation clearance</li> <li>● Demolition</li> <li>● Surface water runoff from soil excavation/infill/landscaping (including borrow pits)</li> <li>● Dust, noise, vibration</li> <li>● Lighting disturbance</li> <li>● Impact on groundwater/dewatering</li> <li>● Storage of excavated/construction materials</li> <li>● Access to site</li> <li>● Pests</li> </ul>	none
Operational phase e.g. <ul style="list-style-type: none"> <li>● Direct emission to air and water</li> <li>● Surface water runoff containing contaminant or sediment</li> <li>● Lighting disturbance</li> <li>● Noise/vibration</li> <li>● Changes to water/groundwater due to drainage or abstraction</li> <li>● Presence of people, vehicles and activities</li> <li>● Physical presence of structures (e.g. collision risks)</li> </ul>	none

<ul style="list-style-type: none"> <li>• Potential for accidents or incidents</li> </ul>	
In-combination/Other	none

**(b) Describe any likely changes to the European site:**

<p>Examples of the type of changes to give consideration to include:</p> <ul style="list-style-type: none"> <li>• Reduction or fragmentation of habitat area</li> <li>• Disturbance to QI species</li> <li>• Habitat or species fragmentation</li> <li>• Reduction or fragmentation in species density</li> <li>• Changes in key indicators of conservation status value (water or air quality etc.)</li> <li>• Changes to areas of sensitivity or threats to QI</li> <li>• Interference with the key relationships that define the structure or ecological function of the site</li> </ul>	none
---	------

**(c) Are 'mitigation' measures necessary to reach a conclusion that likely significant effects can be ruled out at screening?**


Yes  No

**Step 4. Screening Determination Statement**

**The assessment of significance of effects:**  
 Describe how the proposed development (alone or in-combination) is/is **not likely** to have **significant** effects on European site(s) in view of its conservation objectives.

The proposed development comprises a change of use of an existing building which is connected to public services. No new internal floor area is proposed. The proposed development is not likely to have significant effects on European site(s) in view of its conservation objectives.

**Conclusion: The proposed development is not likely to have significant effects on European site(s) in view of its conservation objectives.**

	Tick as Appropriate:	Recommendation:
(i) It is clear that there is <b>no likelihood</b> of significant effects on a European site.	<input checked="" type="checkbox"/>	The proposal can be screened out: Appropriate assessment not required.
(ii) It is <b>uncertain</b> whether the proposal will have a significant effect on a European site.	<input type="checkbox"/>	<input type="checkbox"/> Request further information to complete screening <input type="checkbox"/> Request NIS <input type="checkbox"/> Refuse planning permission
(iii) <b>Significant effects</b> are likely.	<input type="checkbox"/>	<input type="checkbox"/> Request NIS <input type="checkbox"/> Refuse planning permission
<b>Signature and Date of Recommending Officer:</b>	06/03/24	 <b>Name: Ellen Carey E.P.</b>
<b>Signature and Date of the Decision Maker:</b>		

**Sustainable Urban Housing: Design Standards for New Apartments -Guidelines for Planning Authorities', March 2018\* and Appendix 1 Planning and Development (Amendment)(No. 2) Regulations 2018(S.I. No. 30 of 2018)**

**\*Revised in December 2020 and July 2023**

Apartment 01 - 1 Bed, 2 person ( first floor)			
Ground Floor			
	Sustainable Urban Housing: Design Standards for New Apartments	Provided	Compliant
Min. Overall Area	45m <sup>2</sup>	66.50 ( excluding circulation space.	Yes
Aggregate area of Living/Dining/Kitchen	23m <sup>2</sup>	29.5	Yes
Min. Floor area of:			
Main Bedroom	11.4m <sup>2</sup>	18.5	Yes
Aggregate Bedroom floor areas	11.4m <sup>2</sup>	N/A	
Min. Storage	3m <sup>2</sup>	None	Utility , hall and bedroom has built in storage

Apartment 02 - 1 Bed, 2 person ( second floor)			
Ground Floor			
	Sustainable Urban Housing: Design Standards for New Apartments	Provided	Compliant
Min. Overall Area	45m <sup>2</sup>	66.50	Yes
Aggregate area of Living/Dining/Kitchen	23m <sup>2</sup>	27.05	Yes
Min. Floor area of:			
Main Bedroom	11.4m <sup>2</sup>	18.5	Yes
Aggregate Bedroom floor areas	11.4m <sup>2</sup>	n/A	
Min. Storage	3m <sup>2</sup>	None	Utility , hall and bedroom has built in storage

**Sustainable Urban Housing: Design Standards for New Apartments -Guidelines for Planning Authorities', March 2018\* and Appendix 1 Planning and Development (Amendment)(No. 2) Regulations 2018(S.I. No. 30 of 2018)**

**\*Revised in December 2020 and July 2023**

Required minimum floor areas and standards are set out in appendix 1 of these guidelines. Same are set out below:

Minimum overall apartment floor areas

- Studio apartment 37 sq.m
- 1-bedroom apartment 45 sq.m
- 2-bedroom apartment (3 person) 63sq.m
- 2-bedroom apartment (4 persons) 73 sq.m
- 3-bedroom apartment 90 sq.m

Minimum aggregate floor areas for living/dining/kitchen rooms, and minimum widths for the main living/dining rooms

- Studio apartment 30 sq.m
- 1-bedroom apartment 23 sq.m
- 2-bedroom apartment (3 person) 28 sq.m
- 2-bedroom apartment (4 persons) 30 sq.m
- 3-bedroom apartment 34 sq.m

Minimum bedroom floor areas

- Studio 30sqm
- Single bedroom 7.1 sq.m
- Double bedroom 11.4 sq.m
- Twin bedroom 13 sq.m

Minimum aggregate bedroom floor areas

- 1-bedroom apartment 11.4 sq.m
- 2-bedroom apartment (3 person) 20.1 sq.m
- 2-bedroom apartment (4 persons) 24.4 sq.m
- 3-bedroom apartment 31.5 sq.m

Minimum storage space requirements

- Studio apartment 3 sq.m
- 1-bedroom apartment 3 sq.m
- 2-bedroom apartment (3 person) 5 sq.m

- 2-bedroom apartment (4 person) 6 sq.m
- 3-bedroom apartment 9 sq.m



COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

**Aoife O'Malley**  
C/o Paul Conway FRIAI  
Paul Conway Architects  
Knockbrack  
Ennistymon  
Co. Clare

19/02/2024

**Section 5 referral Reference R24-15 – Aoife O'Malley**

Is the change of use from office to residential of the 2 no. upper floors of the former Bank building at Miltown Malbay development and if so, is it exempted development?

A Chara,

I refer to your application received on 19th February 2024 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

Please note that the Planning Authority is considering the matter and a reply will issue to you in due course.

Mise, le meas

**Brian Fahy**  
Planning Department  
Economic Development Directorate

**An Roinn Pleanála**  
**An Stiúarthóireacht Forbairt Gheilleagrach**

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

**Planning Department**  
**Economic Development Directorate**

Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2



***Forward Planning Section***

Planning Department  
Economic Development Directorate  
Clare County Council,  
Aras an Contae  
New Road  
Ennis,  
Co. Clare



DATE: 16<sup>th</sup> February 2024

**Re: MBO-23 Former Bank Building at Miltown Malbay, Co Clare  
Aoife O'Malley: Request for a Section 5 Declaration**

Dear Sir/ Madam

I refer to the above and enclose one copy of the following:


- Application Form
- Cheque for €80 being the fee applicable

and 2 Copies of the following:

- Site Location map
- Survey drawing of the existing building
- Drawing showing the overall proposed changes of use
- Letter from the applicant's solicitor

I trust that this is satisfactory, and that your positive decision will issue at your earliest convenience.

Yours sincerely,

  
Paul Conway FRIAI  
Registered Architect  
Enclosures  
Cc/ Aoife O'Malley



# AN CHLÁIR

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



19/02/2024 10:29:59

Receipt No. : L1CASH/0/360727  
\*\*\*\*\* REPRINT \*\*\*\*\*

AOIFE O'MALLEY  
C/O PAUL CONWAY FRIAL  
PAUL CONWAY ARCHITECTS  
KNOCKBRACK  
ENNISTYMON  
CO. CLARE  
RE24-15

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

Total : **COMHAIRLE** 80.00 EUR

Tendered : **CONTAE**  
CHEQUES 80.00

Change : **AN CHLÁIR** 0.00

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

P07

**CLARE COUNTY COUNCIL  
COMHAIRLE CONTAE AN CHLÁIR**

Planning Department,  
Economic Development Directorate,  
Clare County Council,  
New Road, Ennis,  
Co. Clare.  
V95DXP2

Telephone No. (065) 6821616  
Fax No. (065) 6892071  
Email: [planoff@clarecoco.ie](mailto:planoff@clarecoco.ie)  
Website: [www.clarecoco.ie](http://www.clarecoco.ie)



Comhairle Contae an Chláir  
Clare County Council



R24-15

**REQUEST FOR A DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT  
(Section 5 of the Planning & Development Act 2000 (as amended))**

**FEE: €80**

*This following form is a non-statutory form which has been prepared by Clare County Council for the purpose of obtaining the necessary information required for a declaration to be made under Section 5 by the Planning Authority*

<b>1. CORRESPONDENCE DETAILS.</b>	
(a) Name and Address of person seeking the declaration	<i>Aoife O'Malley Spanish Point, Co Clare</i>
(b) Telephone No.:	
(c) Email Address:	
(d) Agent's Name and address: <b><u>FOR CORRESPONDANCE</u></b>	<i>Paul Conway FRIAI Paul Conway Architects, Knockbrack, Ennistymon, Co Clare</i>  <i>Telephone: /</i>

**2. DETAILS REGARDING DECLARATION BEING SOUGHT**

(a) PLEASE STATE THE SPECIFIC QUESTION FOR WHICH A DECLARATION IS SOUGHT  
*Note: only works listed and described under this section will be assessed.*

Sample Question: *Is the construction of a shed at 1 Main St., Ennis development and if so is it exempted development?*

*Is the change of use from office to residential of the 2No upper floors of the former Bank Building at Miltown Malbay development and if so, is it exempted development*

*AND: Is the change of use from Banking Hall to Retail of the ground floor of the former Bank Building at Miltown Malbay development and if so, is it exempted development*

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

~~*The Bank building was constructed circa 1890, and consists of ground floor, first floor and second floor with Yard on a corner site at the junction of Ennis Road and Mullagh Road. Originally, the ground floor was the Banking Hall with the residence for the Bank Manager on the upper two floors. In 1988, change of use of the upper floors to offices was granted Planning Permission by Clare Co Co ref P8-25,120.*~~

*In 2021, the bank branch ceased to operate, and the building has been vacant since then. The property was purchased by the applicant and her late husband in 2022.*

*Her proposal is to return the upper floors to residential, with a one bedroom self-contained apartment on each floor, served by the existing staircase which will be fully separated from the ground floor. We believe this change of use would be Exempted based on SI 75 of 2022*

*The ground floor Banking Hall will be used as a Retail space. We believe this change of use would be Exempted based on Banking Hall being Class 2 of Part 4 of Schedule 2 Change of Use to Retail permitted underclass Class 14 (d) of the Planning Acts, as amended.*

(c) List of plans, drawings etc. submitted with this request for a declaration:  
*(Note: Please provide a site location map to a scale of not less than 1:2500 based on Ordnance Survey map for the areas, to identify the lands in question)*

*Site Location map*

*Survey of Existing building*

*Proposed alterations and change of use*

*Letter from Applicant's Solicitor*

**3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT**

(a) Postal Address of the Property/Site/Building for which the declaration sought:

*Old Bank Building  
 The Square, Miltown Malbay, Co Clare  
 Eircode: V95 AF53*

(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?

*Not Applicable*

(c) Legal interest in the land or structure in question of the person requesting the declaration (Give Details):

*Full Owner*

(d) If the person in (c) above is not the owner and/or occupier, state the name and address of the owner of the property in question:

*Not Applicable*

*Note: Observations in relation to a referral may be requested from the owner/occupier where appropriate.*

(e) Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?:

*Yes*

(f) Are you aware of any enforcement proceedings connected to this site? <i>If so please supply details:</i>	<i>No information</i>
(g) Were there previous planning application/s on this site? <i>If so please supply details:</i>	<i>P8-5,328; P8-25,120; P8-26,713 P93-640; P01-2,163</i>
(h) Date on which 'works' in question were completed/are likely to take place:	<i>Proposed during 2024</i>

SIGNED: \_\_\_\_\_  \_\_\_\_\_

DATE: \_\_\_\_\_16-02-2024\_\_\_\_\_

Paul Conway Architects on behalf of the Applicant

**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:	.....		

# MICHEÁL GLYNN & CO., SOLICITORS

## COMMISSIONERS FOR OATHS

98 O'Connell Street,  
Limerick,  
V94 WK3R

Telephone (061) 418518  
Fax (061) 418519

Branch Office:  
Gaurus, Ennis, Co., Clare.

Telephone: (065) 6840823  
Email: [info@michealglynn.ie](mailto:info@michealglynn.ie)

To whom it concerns

Our ref: MG/JOR

Your Ref:

Date: 16.2.24

Re: **Our client: Aoife O'Malley**  
**Property: Bank of Ireland, The Square, Miltown Malbay, Co. Clare**

Dear Sirs,

We as Solicitors for Aoife O'Malley hereby confirm the property situate and known as The Bank of Ireland, The Square, Miltown Malbay, Co. Clare is vacant since September 2021 when Bank of Ireland ceased trading there as a Bank and the property was subsequently acquired by our client and has remained vacant since the date of acquisition up to the present date.

We trust you will note the position accordingly and should require anything further by way of clarification do not hesitate to contact the writer.

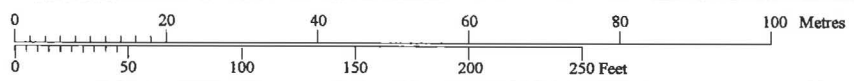
Yours faithfully,

  
MICHEÁL GLYNN & CO.,  
SOLICITORS

MICHEÁL GLYNN B.C.L. SOLICITOR

JOANNE LANE L.L.B SOLICITOR      CLODAGH GLYNN L.L.B SOLICITOR  
V.A.T. Reg. No. IE 3207991W

# Urban PLACE Map



SCALE 1:1,000 at A4

Plot Date 16-02-2024

### ITM CENTRE PT.COORDS.

X,Y = 508998,689568

### DESCRIPTION

Reference: XXXX

XXXX

XXXX

### MAP SHEETS

Map Series | Map Sheets  
1:2,500 | 4257-C

Data Source / Reference:  
PRIME2

File Format:  
Autodesk AutoCAD (DWG\_R2013)

File Name:  
v\_50383631\_1.dwg

Clip Extent / Area of Interest (AOI):  
LLX,LLY= 505513.52,679012.52  
LRX,LRY= 505746.52,679012.52  
ULX,ULY= 505513.52,679184.52  
URX,URY= 505746.52,679184.52

Projection / Spatial Reference:  
Projection=  
IRENET95\_Irish\_Transverse\_Mercator

Reference Index:  
Source Data Release:  
DCMLS Release V1.173.118  
License / Copyright:  
© Ordnance Survey Ireland, 2024



Certified as a True Digital Map

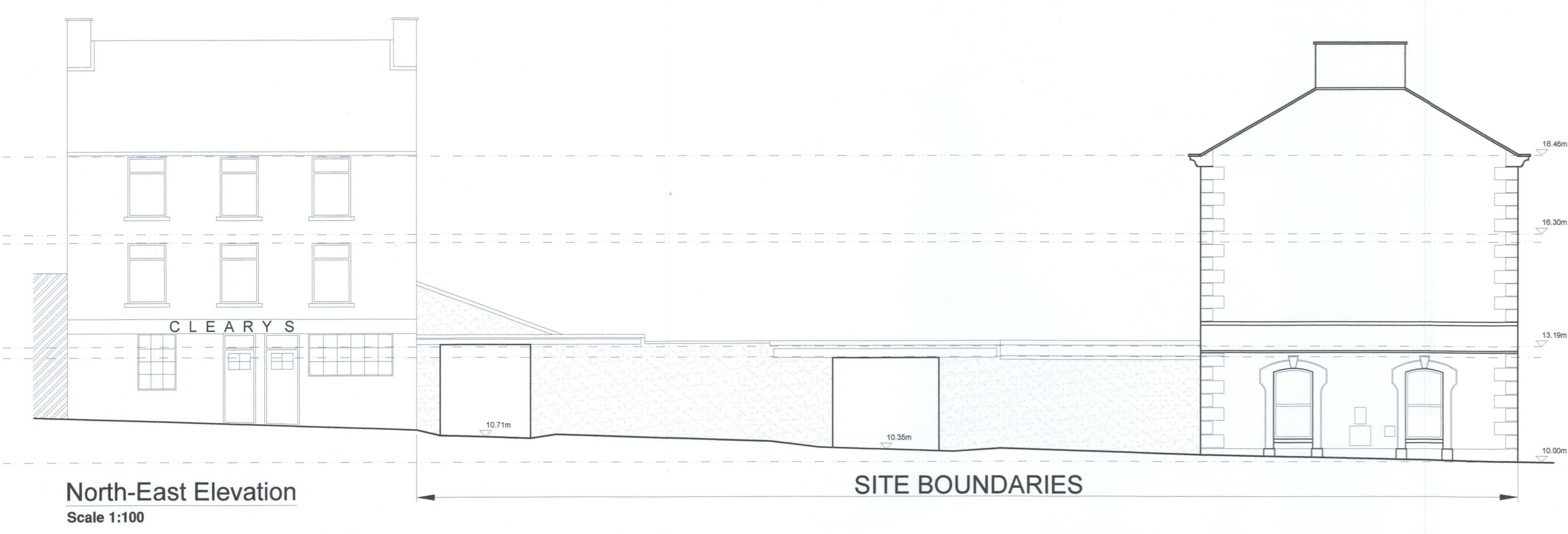
**PAUL CONWAY**  
**ARCHITECTS**

office: @paulconwayarchitects.ie  
www.paulconwayarchitects.ie

Knockbrack, Ennistymon  
Co.Clare, Ireland  
Tel: 065 682 1155

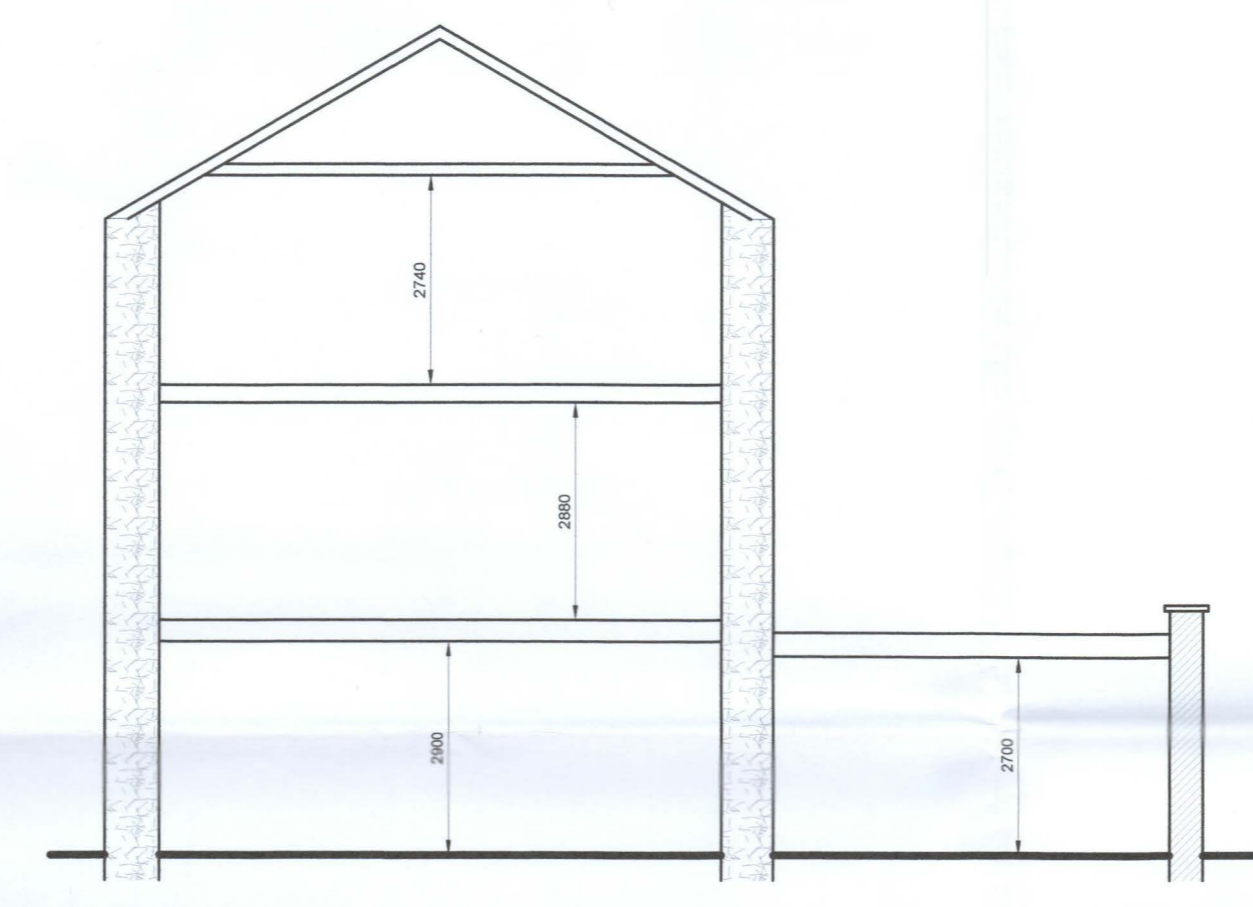
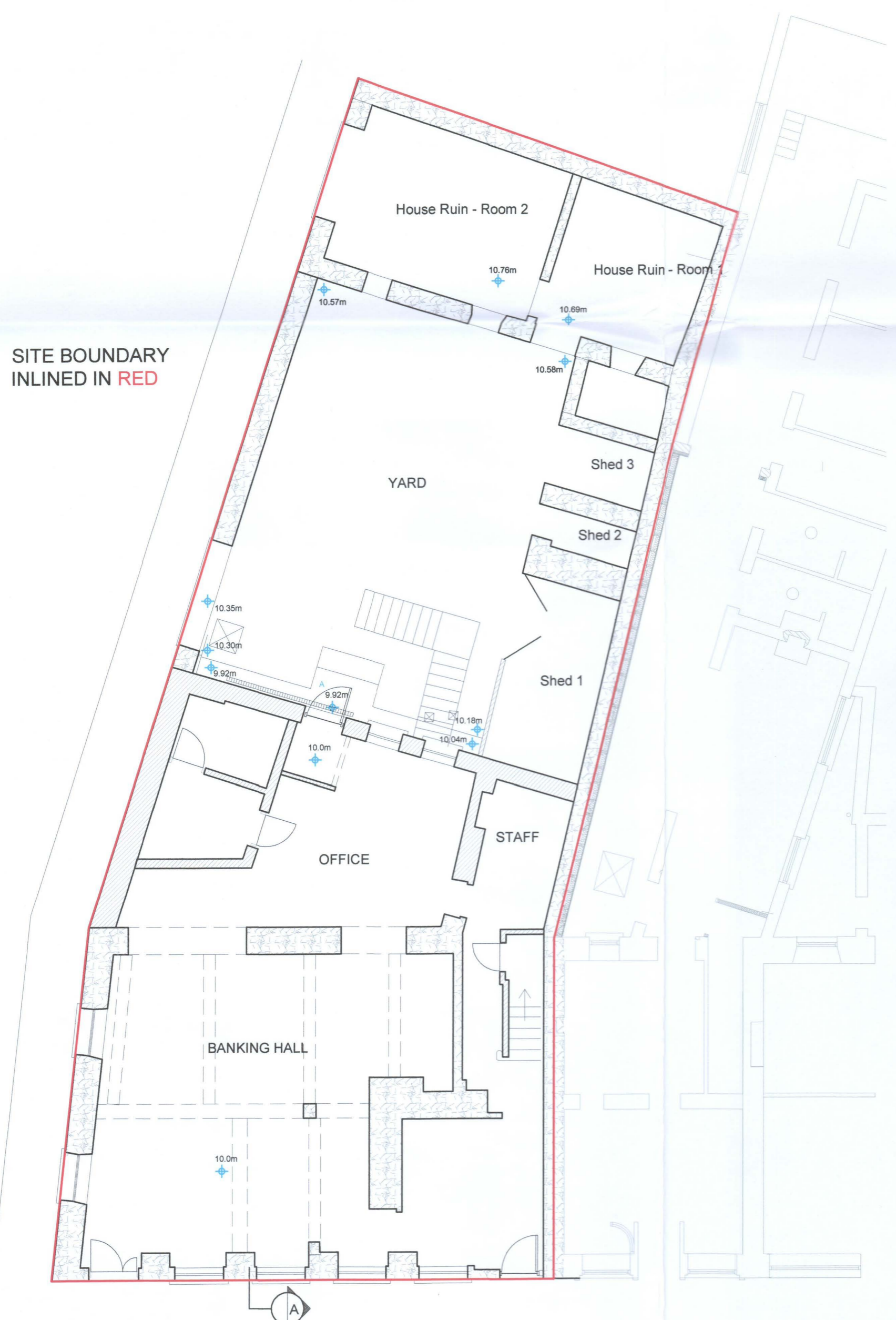


THEY MUST BE CORRECTED ON SITE BEFORE COMMENCING ANY WORK OR PREPARING ANY SHOP-FITTING DRAWINGS. REPORT ANY OMISSIONS OR ALTERATIONS TO THE ARCHITECT IMMEDIATELY.



North-East Elevation  
Scale 1:100

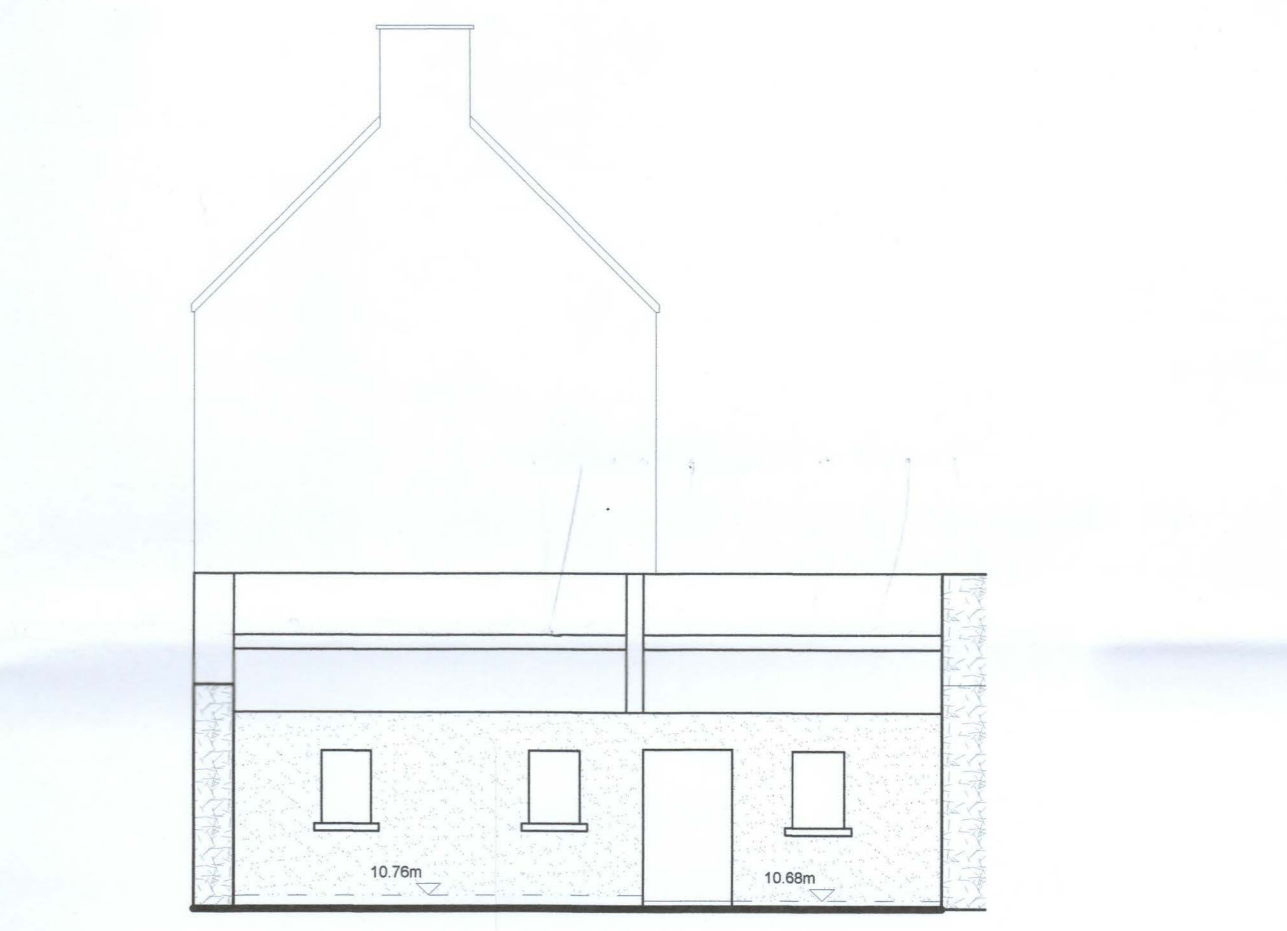
North-West Elevation  
Scale 1:100



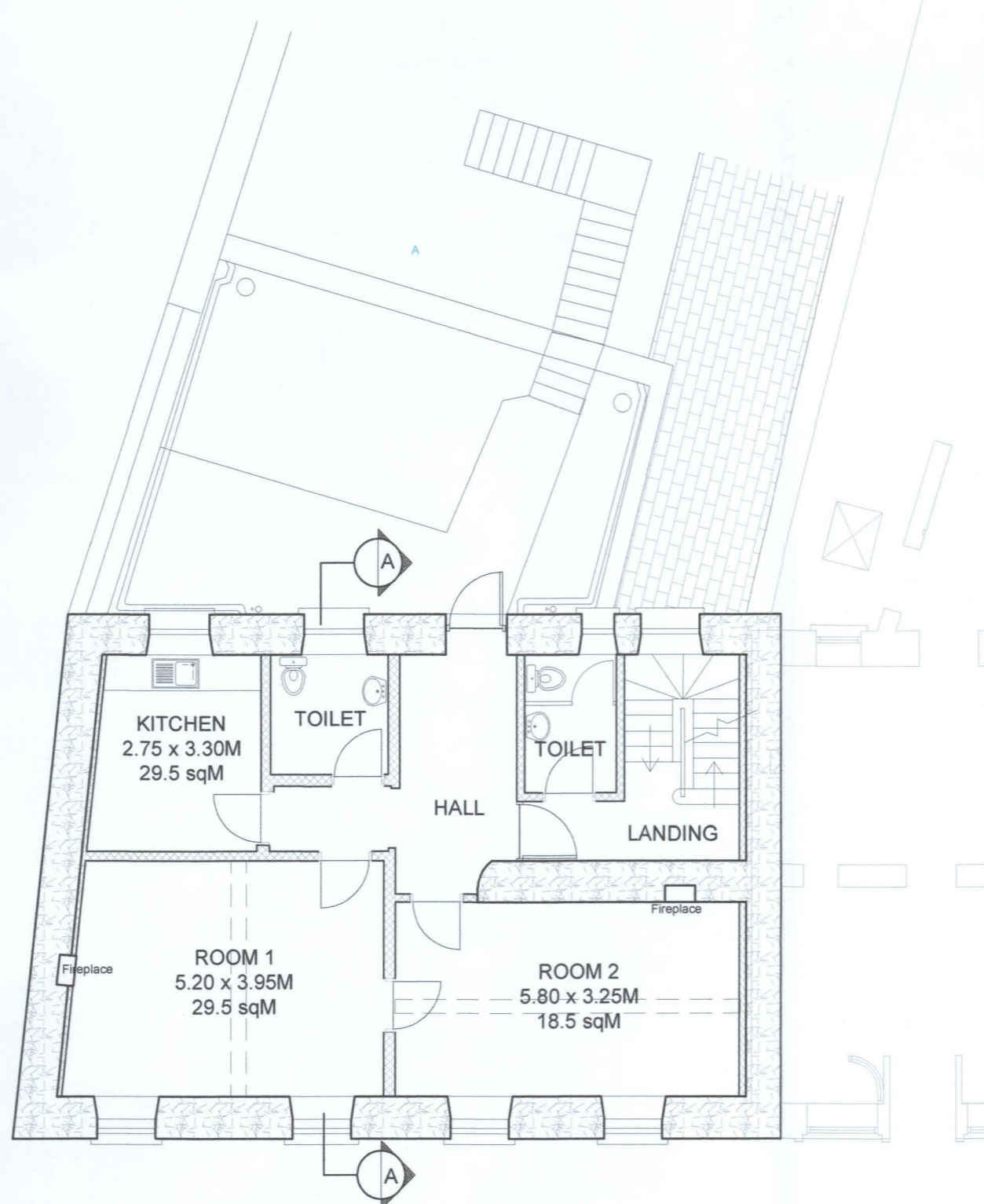
Section A-A  
Scale 1:100 North-West Elevation



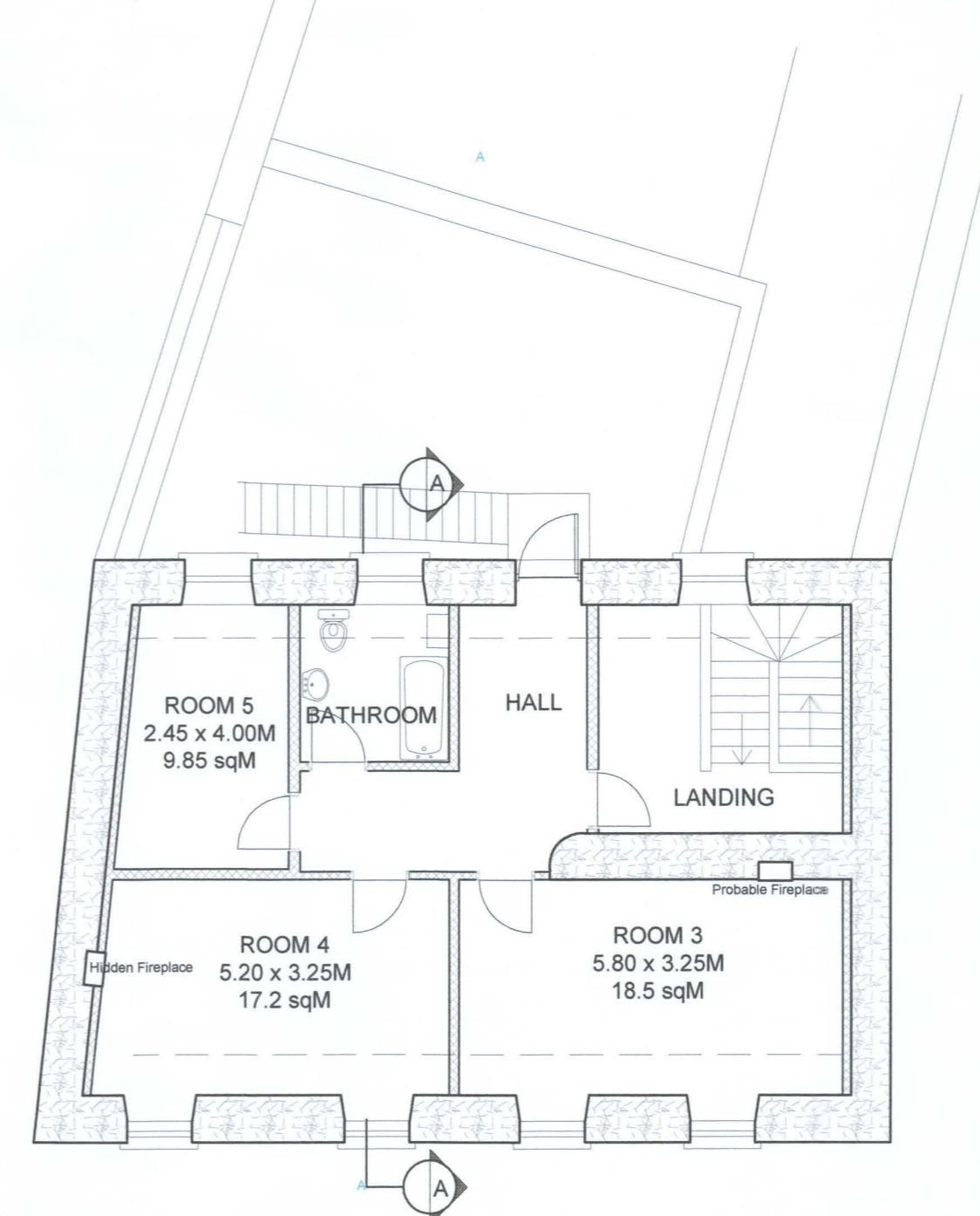
South-East Elevation  
Scale 1:100



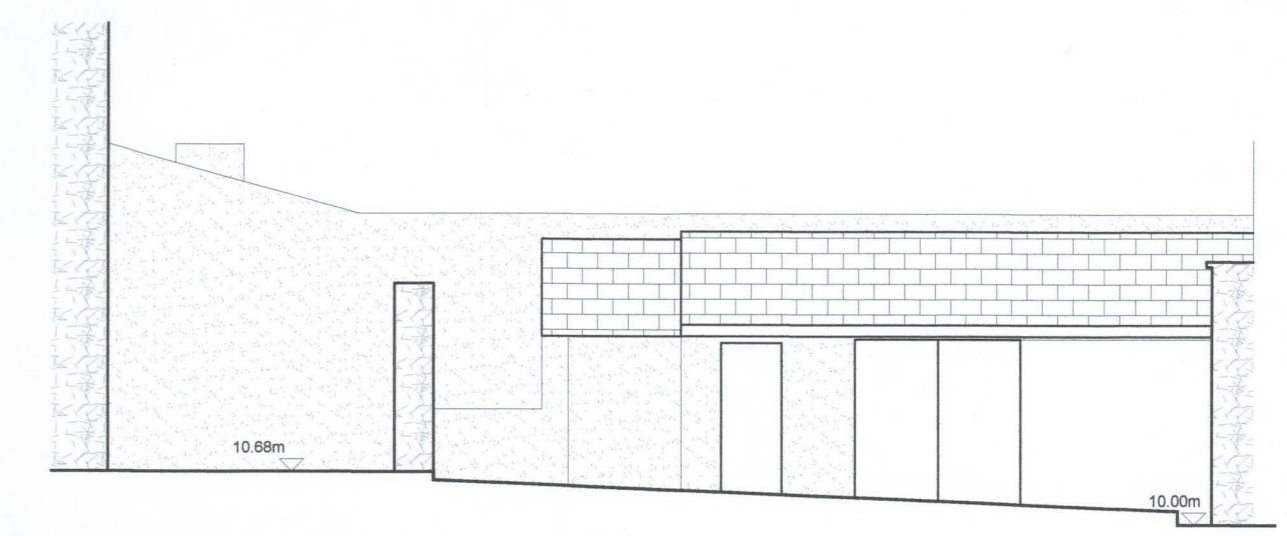
North-West Elevation (inner courtyard)  
Scale 1:100



FIRST FLOOR PLAN  
Scale 1:100 USABLE FLOOR AREA = 66.50m<sup>2</sup>  
OVERALL FLOOR AREA = 82.00m<sup>2</sup>



SECOND FLOOR PLAN  
Scale 1:100 USABLE FLOOR AREA = 66.50m<sup>2</sup>  
OVERALL FLOOR AREA = 82.00m<sup>2</sup>




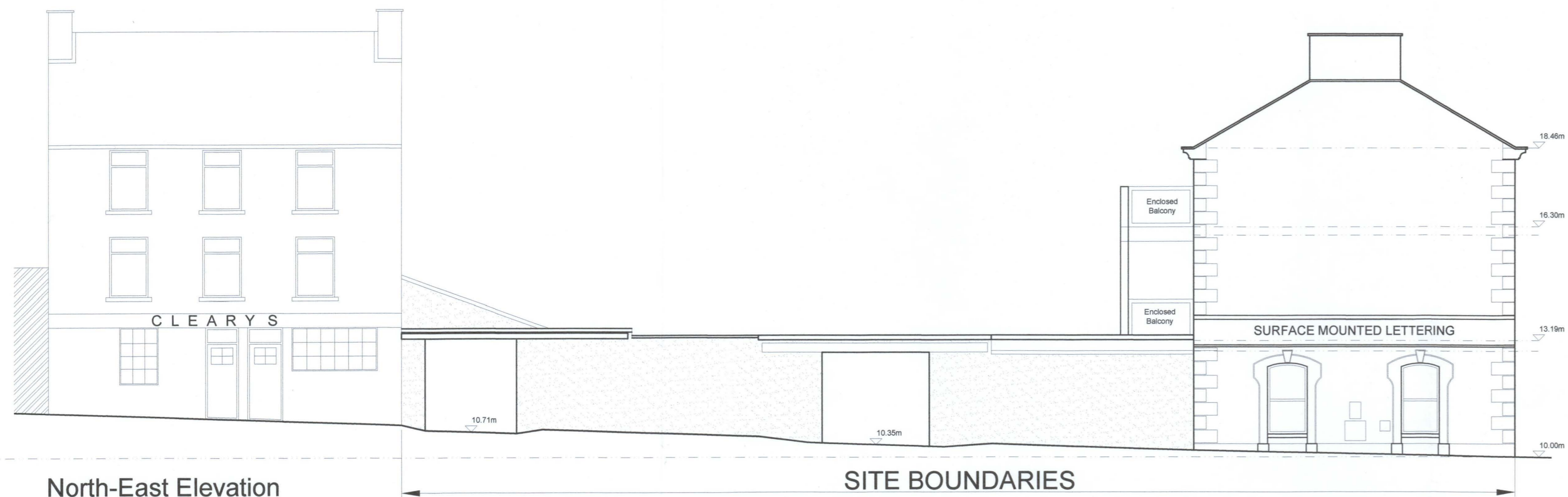
North-East Elevation (inner courtyard)  
Scale 1:100

FIRST FLOOR PLAN  
Scale 1:100 OVERALL FLOOR AREA = 143.50m<sup>2</sup>

Survey By:  

**McKenna Consulting Engineers**  
 Civil & Structural  
 Bank Place, Miltown Malbay, Co. Clare.  
 Email - info@mckennace.com  
 Tel. - 065 7085651

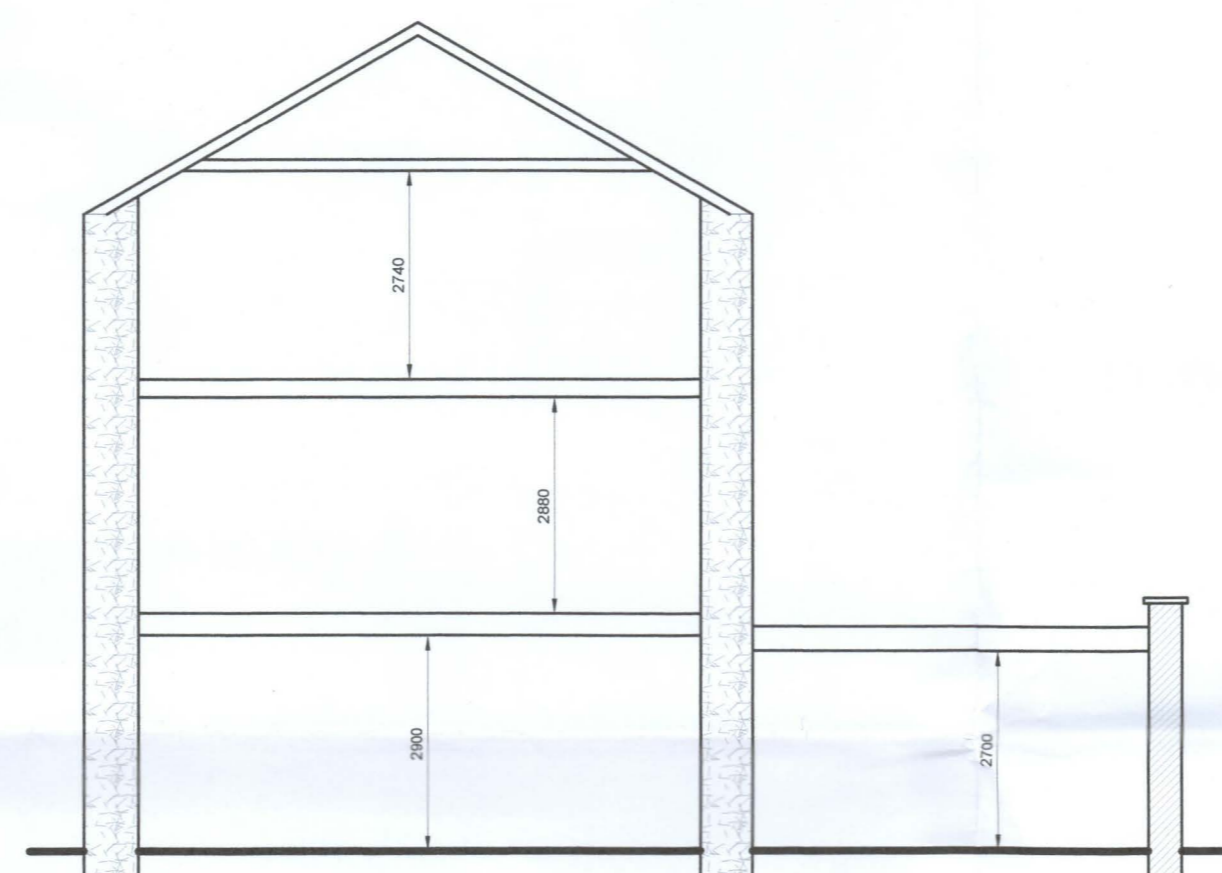
 <b>PAUL CONWAY ARCHITECTS</b> <small>office@paulconwayarchitects.ie www.paulconwayarchitects.ie</small>		<b>Knockbrack Ennistymon Co. Clare</b> <small>Tel : (065) 682 1155</small>
<small>Rev.</small> Project Name : <b>Old Bank Building, Miltown Malbay</b> Title : <b>SURVEY OF EXISTING</b>	<small>Client :</small> <b>Aoife O'Malley</b> <small>Project Architect :</small> <b>Paul Conway</b> <small>Status :</small> <b>SURVEY</b> <small>Scale :</small> 1:100 @ A1	<small>By :</small> <small>Date :</small> <b>Oct 23</b> <small>Checked :</small> <b>PC</b> <small>Drawing No. :</small> <b>MBO-23-00-01</b> <small>Rev. :</small>



North-East Elevation  
Scale 1:100



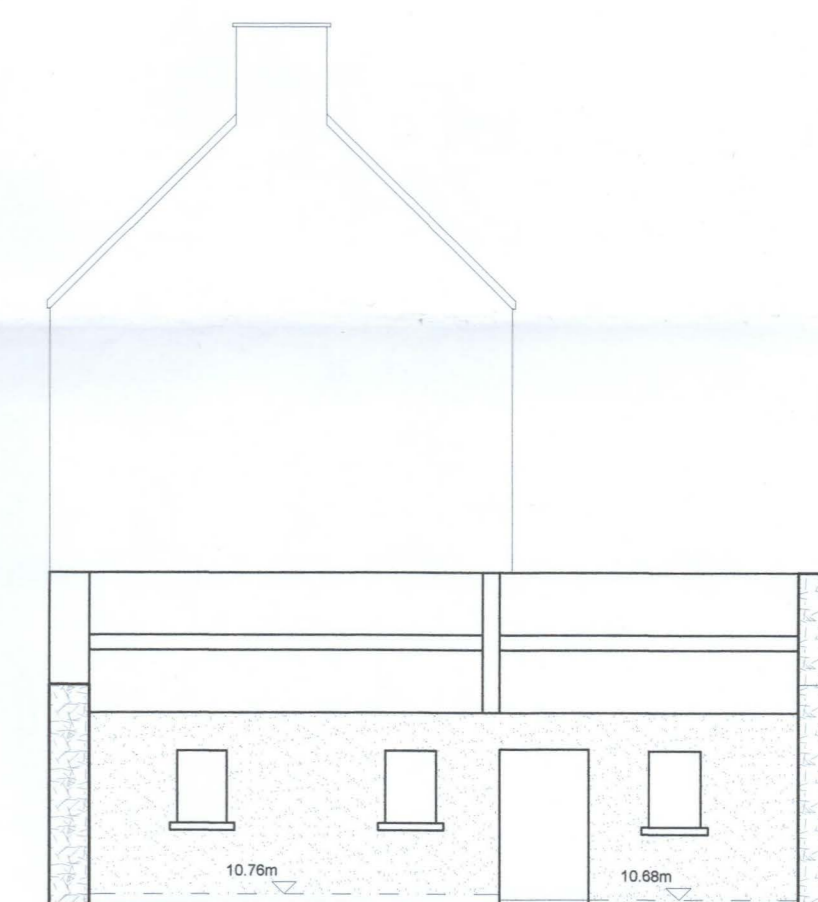
North-West Elevation  
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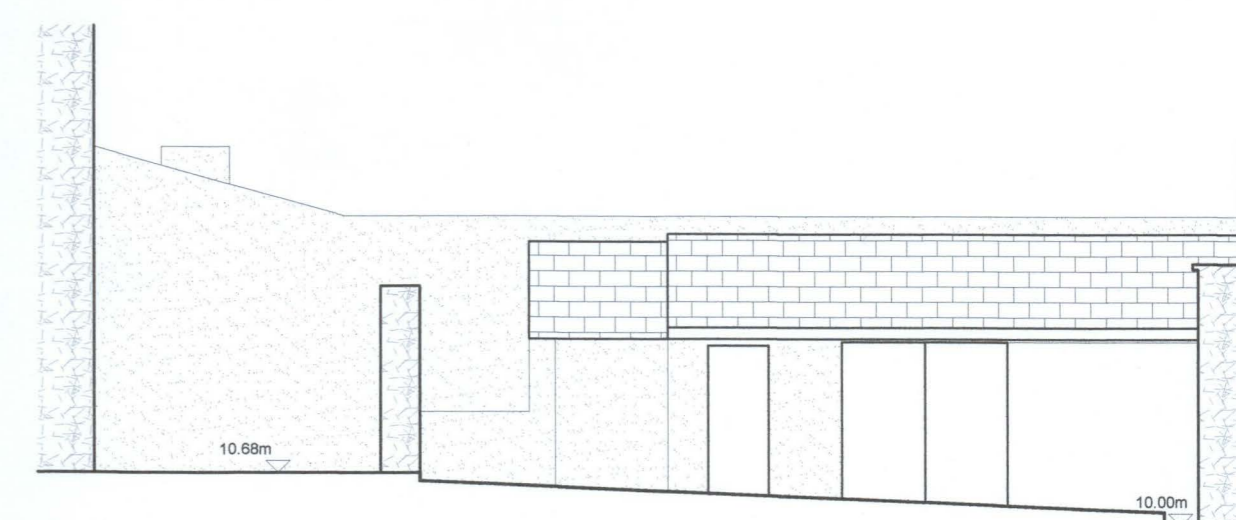
Section A-A  
Scale 1:100



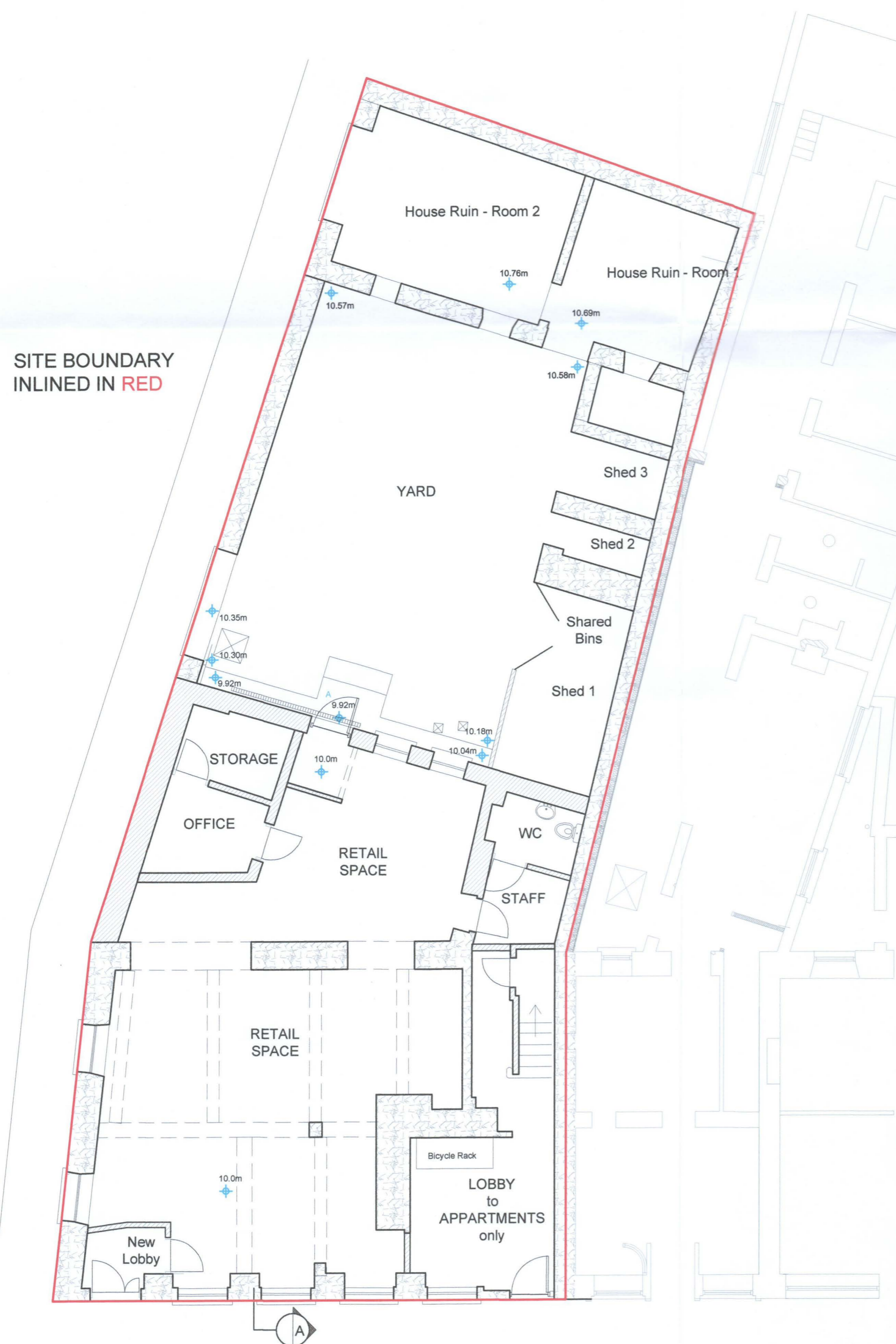
South-East Elevation  
Scale 1:100



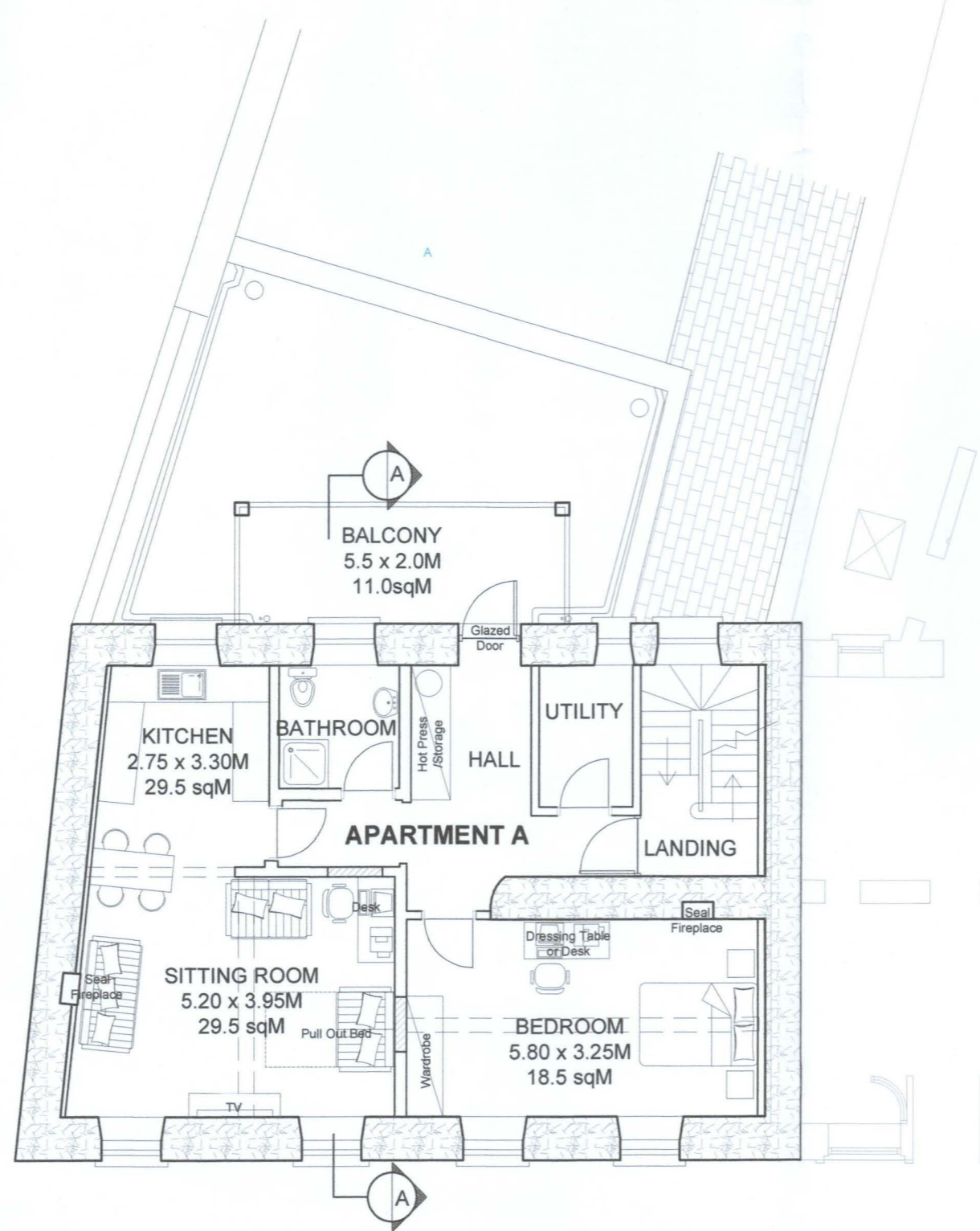
North-West Elevation (inner courtyard)  
Scale 1:100



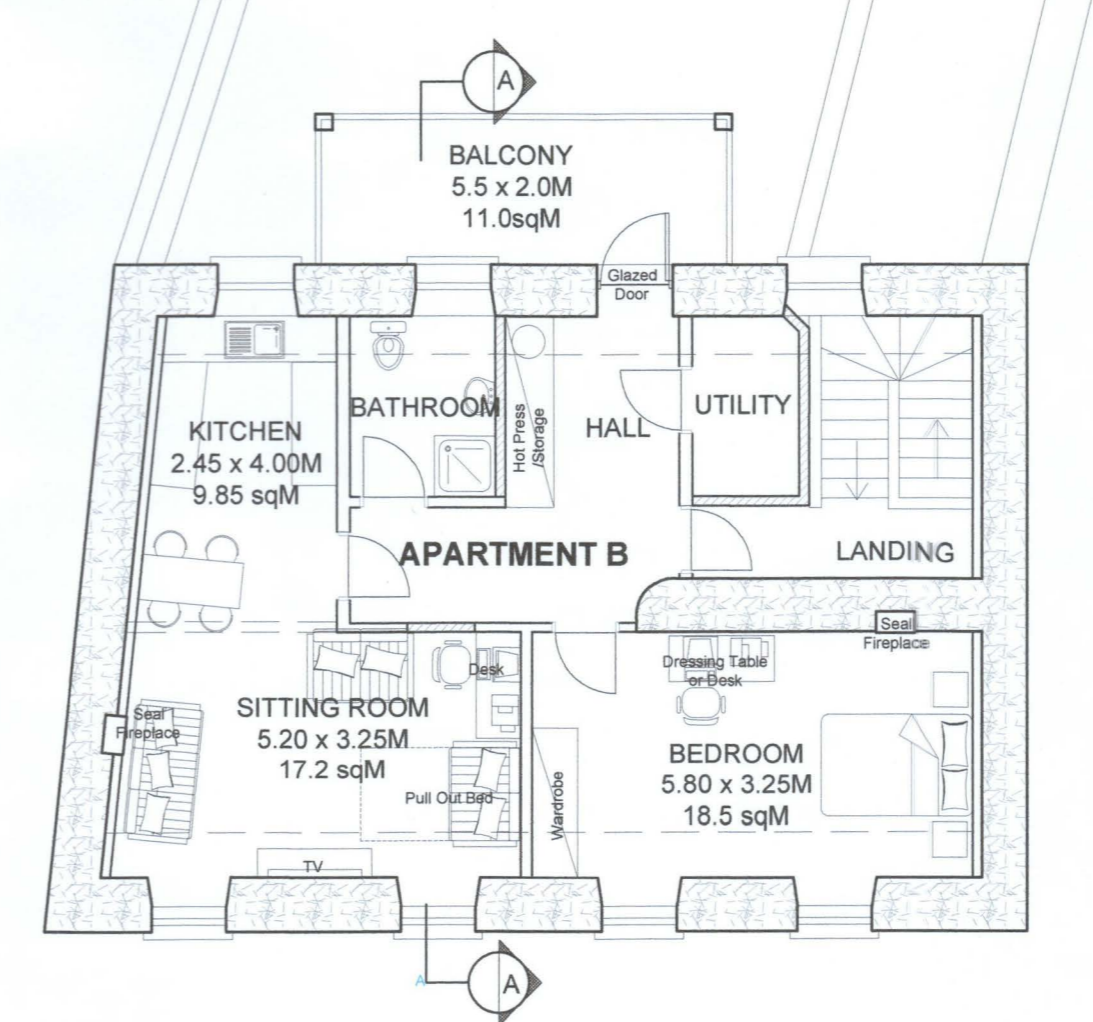
North-East Elevation (inner courtyard)  
Scale 1:100



FIRST FLOOR PLAN  
Scale 1:100  
USABLE FLOOR AREA = 100.00m<sup>2</sup>  
OVERALL FLOOR AREA = 143.50m<sup>2</sup>



FIRST FLOOR PLAN  
Scale 1:100  
USABLE FLOOR AREA = 66.50m<sup>2</sup>  
OVERALL FLOOR AREA = 82.00m<sup>2</sup>



SECOND FLOOR PLAN  
Scale 1:100  
USABLE FLOOR AREA = 66.50m<sup>2</sup>  
OVERALL FLOOR AREA = 82.00m<sup>2</sup>

 <b>PAUL CONWAY ARCHITECTS</b> office@paulconwayarchitects.ie www.paulconwayarchitects.ie		Client: <b>Knockbrack Ennistymon Co.Clare</b> Date: <b>January 2024</b>
Project Name: <b>Old Bank Building, Miltown Malbay</b>	Project Architect: <b>Paul Conway</b>	Checked: <b>Drawn: PC</b>
Title: <b>PROPOSED LAYOUT</b>	Set: <b>1 OF 1</b> Scale: <b>1:100 @ A1</b>	Status: <b>PROPOSED</b> Drawing No.: <b>MBO-23-01-01</b>