



COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

**Registered Post**

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30th April 2024

**Section 5 referral Reference R24-35 – Lorraine Wall**

Q1: Is the construction of a single storey Sheomra development and if so, is it exempted development? Q2: Is the demolition/renovation of an existing standalone shed building development and if so, is it exempted development?

A Chara,

I refer to your application received on 3rd April 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 Stúirthóireacht 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:

83498

Reference Number:

R24-35

Date Referral Received:

3rd April 2024

Name of Applicant:

Lorraine Wall

Location of works in question:

36 Castlewood Park, Ennis, Co. Clare

**Section 5 referral Reference R24-35 – Lorraine Wall**

Q1: Is the construction of a single storey Sheomra development and if so, is it exempted development? Q2: Is the demolition/renovation of an existing standalone shed building development and if so, is it exempted development?

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

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended,
- (c) Class 3 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (d) Class 50 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (e) The works as indicated in submitted documents from the referrer.

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

- (a) The construction of a replacement garden shed, the construction of a Sheomra room and the connection / joining of same, at 36 Castlewood Park, Ennis 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 construction of a Sheomra in the rear garden of the property is not exempted development having regard to Class 3 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended, as the structure together with the existing shed would exceed a floor area of 25 sqm and would not therefore meet the conditions and limitations of this class.

- (d) The demolition / renovation of an existing standalone shed building is exempted development having regard to Class 50 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (e) The connection / joining of the Sheomra and shed is not exempted development as would not fall within any exempted development provisions.

**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 Kieran O'Donnell, Administrative Officer, 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, Kieran O'Donnell, Administrative Officer, hereby declare that the following works at 36 Castlewood Park, Ennis, Co. Clare are considered as set out below:

- The construction of a Sheomra in the rear garden of the property at 36 Castlewood Park, Ennis, Co. Clare is **considered development** which is **not exempted development** as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.
- The demolition / renovation of an existing standalone shed building is **considered development** which is **exempted development**.
- The connection / joining of the Sheomra and shed is **considered development** which is **not exempted development**.

Signed:

  
KIERAN O'DONNELL  
ADMINISTRATIVE OFFICER 

Date: 30th April 2024



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

**Reference No.: R24-35**



**Comhairle Contae an Chláir  
Clare County Council**

**Section 5 referral Reference R24-35**

**Q1: Is the construction of a single storey Sheomra development and if so, is it exempted development? Q2: Is the demolition/renovation of an existing standalone shed building development and if so, is it exempted development?**

**AND WHEREAS, Lorraine Wall** has requested a declaration from Clare County Council on the said question.

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

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended,
- (c) Class 3 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (d) Class 50 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (e) The works as indicated in submitted documents from the referrer.

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

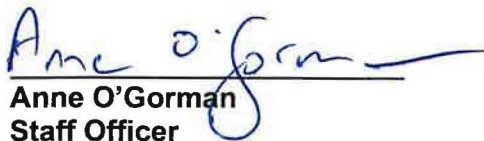
- (a) The construction of a replacement garden shed, the construction of a Sheomra room and the connection / joining of same, at 36 Castlewood Park, Ennis constitutes "works" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended,
- (b) The said works constitute "development" which comes within the scope of Section 3 (1) of the Planning and Development Act 2000, as amended.
- (c) The construction of a Sheomra in the rear garden of the property is not exempted development having regard to Class 3 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended, as the structure together with the existing shed would exceed a floor area of 25 sqm and would not therefore meet the conditions and limitations of this class.
- (d) The demolition / renovation of an existing standalone shed building is exempted development having regard to Class 50 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (e) The connection / joining of the Sheomra and shed is not exempted development as it would not fall within any exempted development provisions.



**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 are considered as set out below:

- The construction of a Sheomra in the rear garden of the property at 36 Castlewood Park, Ennis, Co. Clare **constitutes development** which is **not exempted development** as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.
- The demolition / renovation of an existing standalone shed building **constitutes development** which is **exempted development**.
- The connection / joining of the Sheomra and shed **constitutes development** which is **not exempted development**.



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

**30th April 2024**

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

<b>FILE REF:</b>	<b>R24-35</b>
<b>APPLICANT(S):</b>	<b>Lorraine Wall</b>
<b>REFERENCE:</b>	<b>1. Whether the construction of a single storey Sheomra is / is not development and is / is not exempted development?</b> <b>2. Whether the demolition / renovation of an existing standalone shed building is / is not development and is / is not exempted development?</b> <b>3. Whether the joining / connection of the two proposals with each other is / is not development and if so is / is not exempted development.</b>
<b>LOCATION:</b>	<b>36 Castlewood Park, Ennis, Co. Clare.</b>
<b>DUE DATE:</b>	<b>30<sup>th</sup> April 2024</b>

### Site Location

The site is located at 36 Castlewood Park, Ennis, Co. Clare, which fronts onto L-4513. The site itself, which is within the Castlewood Park residential development, comprises of an existing semi-detached dwellinghouse with its own paved private driveway and a small-scale boundary wall to the front. The dwelling appears to have undergone some recent renovation works. Access to the rear of the dwelling is through the house. To the rear of the dwelling is the established residential development known as Hazelwood and to the north of the subject site is the long-established residential development of St. Michael's Villas.

### Recent Onsite Planning History

- Pl. Ref. No: 21/1231: Colm Ryan: Permission to replace a flat roof over an attached single storey converted garage space with a pitched roof, all with associated site works. **Granted with 3 conditions.**
- Pl. Ref. No: P8/2655 – original planning permission for Castlewood Park estate.

### Background to Referral

This Referral under Section 5(3)(a) of the Planning and Development Act 2000 (as amended) has been made by Lorraine Wall, the stated owner of the property.

The applicant is seeking a Section 5 Declaration as to:

1. Whether the construction of a single storey Sheomra is / is not development and is / is not exempted development?
2. Whether the demolition / renovation of an existing standalone shed building is / is not development and is / is not exempted development?
3. Whether the joining / connection of the two proposals with each other is / is not development and if so is / is not exempted development.

In relation to the first question, the stated area of the proposed "Sheomra" development is noted as being around 25sqm and will be detached from the existing dwellinghouse and located in the rear garden. Its intended use is not indicated however the application notes that the proposed structure will be for private use by the homeowner only.

Secondly, there is an existing garden shed in situ in the rear garden which is noted as being built around 1972 at the same time as the existing house. The existing shed measures 16sqm and is quoted as being no longer fit for purpose due to its age and poor build. The shed is not attached to the dwelling and is a standalone structure. The referrer intends to demolish the existing shed structure and replace same with a newer shed of the same size / height.

I note that the open space amenity to the rear of the existing dwelling, if the above two proposals are to be constructed / permitted, would be in excess of 60sqm.

The referrer also poses the question in relation to joining the two proposals with each other and whether this is / is not development and if so is / is not exempted development.

### Statutory Provisions

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

To assess this proposal, regard must 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 Part 3 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 3 opposite the mention of that class in the said column 1.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### Planning and Development Regulations 2001 (as amended) Schedule 2, Part 1, Class 3

*The construction, erection or placing within the curtilage of a house of any tent, awning, shade or other object, greenhouse, garage, store, shed or other similar structure.*

*1. No such structure shall be constructed, erected or placed forward of the front wall of a house.*

*2. The total area of such structures constructed, erected or placed within the curtilage of a house shall not, taken together with any other such structures previously constructed, erected or placed within the said curtilage, exceed 25 square metres.*

*3. The construction, erection or placing within the curtilage of a house of any such structure shall not reduce the amount 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.*

*4. The external finishes of any garage or other structure constructed, erected or placed to the side of a house, and the roof covering where any such structure has a tiled or slated roof, shall conform with those of the house.*

*5. The height of any such structure shall not exceed, in the case of a building with a tiled or slated pitched roof, 4 metres or, in any other case, 3 metres.*

*6. The structure shall not be used for human habitation or for the keeping of pigs, poultry, pigeons, ponies or horses, or for any other purpose other than a purpose incidental to the enjoyment of the house as such.*

#### Planning and Development Regulations 2001 (as amended) Schedule 2, Part 1, Class 50

CLASS 50

(a) The demolition of a building or other structure, other than—

- (i) a habitable house,
- (ii) a building which forms part of a terrace of buildings, or
- (iii) a building which abuts on another building in separate ownership.

(b) The demolition of part of a habitable house in connection with the provision of an extension or porch in accordance with class 1 or 7, respectively, of this Part of this Schedule or in accordance with a permission for an extension or porch under the Act.

**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.*

<b>Assessment</b>
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## **Basis of Referral**

The applicant is seeking a Section 5 Declaration as to

1. Whether the construction of a single storey Sheomra is / is not development and is / is not exempted development?
2. Whether the demolition / renovation of an existing standalone shed building is / is not development and is / is not exempted development?
3. Whether the joining / connection of the two proposals with each other is / is not development and if so is / is not exempted development.

## **Particulars of the Development**

- Proposed Sheomra Structure: 25sqm.
- Existing Garden Shed: 16sqm (To be replaced with same size shed).
- Height: Single storey
- Location: Rear of existing dwelling.
- Status: Not commenced

## **Planning and Development Regulations 2001 (as amended) Schedule 2, Part 1, Class 3**

*The construction, erection or placing within the curtilage of a house of any tent, awning, shade or other object, greenhouse, garage, store, shed or other similar structure.*

**While it does not specifically say what the proposed Sheomra is, I believe it is a structure akin to a garden room. Nonetheless, the area of the proposed is 25sqm. The second proposed development in question is a replacement garden shed (16sqm). The total area of the propose development amounts to 41sqm.**

*1. No such structure shall be constructed, erected or placed forward of the front wall of a house.*

**Both proposals shall be located in the rear garden.**

*2. The total area of such structures constructed, erected or placed within the curtilage of a house shall not, taken together with any other such structures previously constructed, erected or placed within the said curtilage, exceed 25 square metres.*

**The overall measurements of the proposed development are 25sqm and 16sqm. Totalling 41sqm which exceeds 25sqm.**

*3. The construction, erection or placing within the curtilage of a house of any such structure shall not reduce the amount 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.*

**The applicant has indicated that the private open space shall remain in excess of 60sqm.**

4. *The external finishes of any garage or other structure constructed, erected or placed to the side of a house, and the roof covering where any such structure has a tiled or slated roof, shall conform with those of the house.*

**Overall design details have not been received.**

5. *The height of any such structure shall not exceed, in the case of a building with a tiled or slated pitched roof, 4 metres or, in any other case, 3 metres.*

**Both proposals are of single storey.**

6. *The structure shall not be used for human habitation or for the keeping of pigs, poultry, pigeons, ponies or horses, or for any other purpose other than a purpose incidental to the enjoyment of the house as such.*

**The exact use for the proposed Sheomra development has not been forthcoming however it is believed to be a structure similar to a garden room. It is noted as being for the owners use only. The proposed replacement shed shall remain as a garden shed.**

#### **Planning and Development Regulations 2001 (as amended) Schedule 2, Part 1, Class 50**

CLASS 50

(a) The demolition of a building or other structure, other than—

(i) a habitable house,

(ii) a building which forms part of a terrace of buildings, or

(iii) a building which abuts on another building in separate ownership.

(b) The demolition of part of a habitable house in connection with the provision of an extension or porch in accordance with class 1 or 7, respectively, of this Part of this Schedule or in accordance with a permission for an extension or porch under the Act.

**The applicant proposes to remove / demolish the existing old shed in the rear garden and replace same with a like sized shed (16sqm). Under Class 50 of the Planning and Development Regulations 2001, as amended, the replacement shed works is exempted development.**

#### **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 appear to contravene a condition of any previous permission.**



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

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

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

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

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

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

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

**Not applicable to the proposal**

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

**Not applicable to this proposal**

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

**The proposals are indicated as being located in the rear garden of an existing semi-detached dwelling. The proposed development would not be readily visible from the public roadway and therefore it is considered that the proposal would have a negative impact on the character of 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,*

**The proposed development will not have a significant effect on European sites.**

*(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.**

*(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,*

**Not applicable.**

*(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.**

*(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.**

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

**Not applicable.**

*(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.**

### **Conclusions**

The following question has been referred to the Planning Authority:

1. Whether the construction of a single storey Sheomra is / is not development and is / is not exempted development?
2. Whether the demolition / renovation of an existing standalone shed building is / is not development and is / is not exempted development?
3. Whether the joining / connection of the two proposals with each other is / is not development and if so is / is not exempted development.

The Planning Authority in considering this referral had regard to:

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended
- (c) Class 3 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (d) Class 50 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (e) The works as indicated in submitted documents from the referrer.

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

- (a) the construction of a replacement garden shed, the construction of a Sheomra room and the connection / joining of same, at 36 Castlewood Park, Ennis 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 construction of a Sheomra in the rear garden of the property is not exempted development having regard to Class 3 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended, *as the structure together with the existing shed would exceed a floor area of 25sqm and would not therefore meet the conditions and limitations of this class.*

(d) The demolition / renovation of an existing standalone shed building is exempted development having regard to Class 50 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.

(e) ~~Therefore,~~ The connection / joining of the Sheomra and shed is not exempted development. *as it would not fall within any exempted development provisions*



**Assistant Planner**  
**Date: 25<sup>th</sup> April 2024**



**Senior Executive Planner**  
**Date: 29/04/24.**



**36 Castlewood Park – Section 5 application**











COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

Lorraine Wall  
C/o Aisling Leahy  
VHA Architects  
Suite 4, Clock Mhíle  
Dublin Road, Galway  
H91 V97E

03/04/2024

**Section 5 referral Reference R24-35 – Lorraine Wall**

Q1: Is the construction of a single storey Sheomra development and if so, is it exempted development? Q2: Is the demolition/renovation of an existing standalone shed building development and if so, is it exempted development?

A Chara,

I refer to your application received on 3rd April 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 Stiúirthóireacht Forbairt Gheilleagrach**  
Áras Contae an Chláir, Bóthar Nua, Inis, Co. an Chláir, V95 DXP2

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





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

03/04/2024 15:18:20

Receipt No. L1CASH/0/362560  
\*\*\*\*\* REPRINT \*\*\*\*\*

LORRAINE WALL  
C/O AISLING LEAHY  
VHA Architects, Suite 4, Cloch Mhile,  
Dublin Road, Galway H91 V97E  
REF. R24-35

CONTAE

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

Total : 80.00 EUR

Tendered :  
CREDIT CARDS 80.00

Change : 0.00

Issued By : L1CASH - Colm Murphy  
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)



R24-35

**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	Lorraine Wall  36 Castlewood Park, Ennis, Co. Clare  Eircode: V95 V32P
(b) Telephone No.:	
(c) Email Address:	aisling@vha.ie
(d) Agent's Name and address:	Aisling Leahy  VHA Architects, Suite 4, Cloch Mhíle, Dublin Road, Galway H91 V97E



**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.*

Q 1: Is the construction of a single storey Sheomra considered exempt development?

Q2: Is the demolition / renovation of an existing standalone shed building considered exempted development?

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

My clients home and rear shed building were built in 1972, per the original planning application (Reference: P8/2655).

Q1: My clients wishes to build a new Sheomra (up to 25sqm). The proposed will be detached from the house, and positioned to the back of the rear garden. This will be for private use only / by my client. As the proposed will be no more than 25sqm, can you confirm this is considered exempt development.

Q2: The existing shed building, measuring 16sqm, is no longer fit for purpose due to its age and poor build quality. The shed is located to the rear of my clients private property, and separate from / not connected to the house. It is desired to demolish and rebuild the shed per the existing floor area and height. As the shed was built per the original planning application, it is the view the proposed is considered as exempt development. Can this be confirmed please.

Lastly, if my client wishes to join the two above proposed, would this be acceptable and considered exempt development?.

To confirm, if both the above proposed were to be carried out, in excess of 60sqm of private garden space will remain at the rear of my clients property.

(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)*

2 no. 1:1000 Site Location Plans



<b>3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT</b>	
(a) Postal Address of the Property/Site/Building for which the declaration sought:	36 Castlewood Park, Ennis, Co. Clare, V95 V32P
(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?	N/A
(c) Legal interest in the land or structure in question of the person requesting the declaration (Give Details):	Cient is sole legal owner and occupier
(d) If the person in (c) above is not the owner and/or occupier, state the name and address of the owner of the property in question:  <i>Note: Observations in relation to a referral may be requested from the owner/occupier where appropriate.</i>	N/A
(e) Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?:	Yes
(f) Are you aware of any enforcement proceedings connected to this site? <i>If so please supply details:</i>	None
(g) Were there previous planning application/s on this site? <i>If so please supply details:</i>	File Refs: P8/2655 and 211231
(h) Date on which 'works' in question were completed/are likely to take place:	Autumn / Winter 2024

**SIGNED:** Aisling Leahy

**DATE:** 03.04.2024

**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:	.....		

# OSi PLACE Map



**Tailte  
Éireann**



**CENTRE  
COORDINATES:**  
ITM 533960,676581

**PUBLISHED:** 02/04/2024  
**ORDER NO.:** 50392064\_1

**MAP SERIES:** 1:1,000  
**MAP SHEETS:** 4322-13

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

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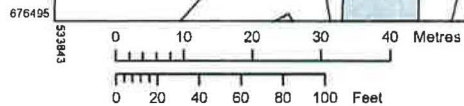
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