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CONTAE AN CHLÁIR | COUNTY COUNCIL

**Patricia McKee
Seafield Cottage,
Tromora West,
Quilty,
Ennis,
Co. Clare
V95 Y0P4**

18th June, 2021

Section 5 referral Reference R21-33 – Patricia McKee

Whether the construction of a 40 sqm extension at the back of the property at Seafield Cottage, Baile an tSagart, Tromora West, Quilty, Ennis, Co. Clare V95 Y0P4 considered development and if so, is it exempted development.

A Chara,

I refer to your application received on 25th May 2021 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

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

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

Mise, le meas

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

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:

77852

Reference Number:

R21-33

Date Referral Received:

25th May 2021

Name of Applicant:

Patricia McKee

Location of works in question: Property at Seafield Cottage, Baile an tSagart, Tromora West, Quilty, Ennis, Co. Clare V95 Y0P4

Section 5 referral Reference R21-33 – Patricia McKee

Whether the construction of a 40 sqm extension at the back of the property at Seafield Cottage, Baile an tSagart, Tromora West, Quilty, Ennis, Co. Clare V95 Y0P4 considered 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 1 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended;
- (d) The proposal as represented in the submitted documents from the referrer.

AND WHEREAS Clare County Council has concluded:

- (a) The construction of an extension at the back of the property at Seafield Cottage, Baile an tSagart, Tromora West, Quilty, Ennis, Co. Clare V95 Y0P4 constitute "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 at the back of the property at Seafield Cottage, Baile an tSagart, Tromora West, Quilty, Ennis, Co. Clare V95 Y0P4 is not exempted development having regard to Limitation No. 2 (a) of Class 1 of Part 1, Schedule 2 of the Planning and Development Regulations 2001, which states that where the house has been extended previously, the floor area of any proposed extension, taken together with the floor area of any previous extension or extensions constructed or erected after 1 October 1964, including

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

Reference No.: R21-33



Comhairle Contae an Chláir
Clare County Council

Section 5 referral Reference R21-33

Whether the construction of a 40 sqm extension at the back of the property at Seafeld Cottage, Baile an tSagart, Tromora West, Quilty, Ennis, Co. Clare V95 Y0P4 considered development and if so, is it exempted development.

AND WHEREAS, Patricia McKee has requested a declaration from Clare County Council on the said question.

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

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

And whereas Clare County Council has concluded:

(a) The construction of an extension at the back of the property at Seafeld Cottage, Baile an tSagart, Tromora West, Quilty, Ennis, Co. Clare V95 Y0P4 constitute "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 at the back of the property at Seafeld Cottage, Baile an tSagart, Tromora West, Quilty, Ennis, Co. Clare V95 Y0P4 is not exempted development having regard to Limitation No. 2 (a) of Class 1 of Part 1, Schedule 2 of the Planning and Development Regulations 2001, which states that where the house has been extended previously, the floor area of any proposed 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. In this regard it is noted that the applicant was granted permission to retain an extension under Clare County Council Planning Register Reference No. P18/664 / An Bord Pleanála Reference No PL03.302931.

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 declare the construction of a 40 sqm extension at the back of the property at Seafeld Cottage, Baile an tSagart, Tromora West, Quilty, Ennis, Co. Clare V95 Y0P4 Co. Clare **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

18th June, 2021

CLARE COUNTY COUNCIL
SECTION 5 DECLARATION OF EXEMPTION APPLICATION
PLANNERS REPORT

FILE REF: R21-33

APPLICANT(S): Patricia McKee

REFERENCE: Whether the construction of a 40 sqm extension at the back of the property at Seafeld Cottage, Baile an tSagart, Tromora West, Quilty, Ennis, Co. Clare V95 Y0P4 considered development and if so, is it exempted development.

LOCATION: Tromora West, Quilty, Co. Clare

DUE DATE: 21st June 2021

Site Location

The site is located 1.4km southwest of Quilty village, on the L2088, at a location where that road is alongside the coastline.

The site contains an existing part dormer, part single-storey dwelling house. It is one of 5 individual houses on adjoining sites, between the junction of the L2088 and the L6206. The coastline is on the opposite side of the L2088 road from those houses. The roadside boundary is a low sod and stone ditch. The rear boundary is an open drain. The adjoining houses to the northeast and southwest are bungalows.

There is a pumping station associated with the public sewerage network located to the rear/south of the property, and a recently-constructed dormer bungalow next to that, i.e. directly west of the site and accessed via the access roadway into the pumping station.

I inspected the site on 16th June 2021.

Planning Policy:

Clare County Development Plan 2017-2023, as varied.

Clare County Development Plan 2017 -2023 Section 3.2.2 'Settlement Hierarchy and Strategy'.

The site is located within the Cluster of Tromra, as shown in the Clare County Development Plan 2017 -2023 Volume 3D West Clare Municipal District. The strategy for these settlements is to facilitate a small number of additional dwellings and/or small enterprises to consolidate the existing pattern of development around the focal points and utilise existing services in the area. To meet the needs of those wishing to settle in rural areas, the provisions of Objective CDP 3.11 (i.e. 'Local Need' requirement) will not apply to applicants for single houses within the designated cluster boundaries.

CDP 3.7 It is an objective of the Development Plan:

To ensure that clusters throughout the county maintain their existing character providing only for very small scale growth.

Development Plan Objective.

• *Heritage Landscape*

The subject site adjoins a *Heritage Landscape*. Therefore Development Plan Objective CDP 13.5 is applicable in this instance.

It is an objective of the Development Plan to require that all proposed developments in Heritage Landscapes, demonstrate that every effort has been made to reduce visual impact. This must be demonstrated for all aspects of the proposal- from site selection through to details of siting & design. All other relevant provisions of the Development Plan must be complied with. All proposed developments in these areas will be required to demonstrate:

- (i) That sites have been selected to avoid visually prominent locations
- (ii) That site layouts avail of existing topography and vegetation to minimise visibility from scenic routes, walking trails, public amenities and roads.
- (iii) That design for buildings and structures minimise height and visual contrast through careful choice of forms, finishes and colour and that any site works seek to reduce the visual impact of the development.

Planning History

P18/664 (ABP Ref. No. PL03.302931): Application to:

- (a) RETAIN side extension to dwelling house;
- (b) Construct new side extension and
- (c) Construct new detached Garage and Studio, together with all ancillary site development works and services;

Clare County Council issued a split decision, granting permission to retain the side extension to the dwelling house;, and to construct a new side extension, and refusing permission to construct the detached Garage and Studio.

On appeal, An Bord Pleanála issued a Split Decision granting permission to retain the side extension and refusing permission for the proposed extension and refusing permission for the Garage & Studio.

Adjoining Site to southeast:

16/567: Permission granted to Extend the Appropriate Period of planning permission Planning Ref P11/288 to erect 2 no. dwelling houses and connect to existing public services;

11/288: Permission granted to erect 2 no. dwelling houses and connect to existing public services;

10/450: to erect dwelling house, garage and connect to existing public services – Application Withdrawn;

10/156: Permission Refused to erect dwelling house, garage and connect to existing public services

Enforcement History

None

Background to Referral

This Referral under Section 5(3)(a) of the Planning and Development Act 2000 (as amended) has been made by Patricia McKee. She states that she is the full owner of the land the subject of this referral.

The referrer is requesting a Section 5 Declaration from the Planning Authority:

Whether the construction of a 40 sqm extension at the back of the property at Seafield Cottage, Baile an tSagart, Tromora West, Quilty, Ennis, Co. Clare V95 Y0P4 considered development and if so, is it exempted development.

Statutory Provisions

Planning and Development Act, 2000 (as amended)

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

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

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

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

Section 4 of the *Planning and Development Act 2000, as amended*, provides for certain types of development that are exempted development, and further provides for Ministerial Regulations to define certain other development types that are exempted development subject to conditions and limitations.

Planning & Development Regulations, 2001, as amended

Article 6 refers to Exempted Development and states that subject to Article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1.

Article 9:

(1) 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,*
 - (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) 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.*

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 above ground level exceeds 12 square metres, any window proposed at above ground level shall not be less than 11 metres from the boundary it faces.

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

Assessment

Basis of Referral

The referrer is seeking a Section 5 Declaration whether the construction of a 40 sqm extension at the back of the property at Seafeld Cottage, Baile an tSagart, Tromora West, Quilty, Ennis, Co. Clare V95 Y0P4 considered development and if so, is it exempted development.

The particulars of the proposal are set out below:

- | | |
|----------------|------------------------------|
| • Floor Area | Extension: 40 sqm |
| • Height | Extension: not shown |
| • Roof Profile | Extension: not shown |
| • Location | Extension: Rear of Dwelling; |
| • Status | Under construction. |

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.

The house has been extended previously. An Bord Pleanála authorised the retention of that 37.1 sqm extension under ABP Ref. No. PL03.302931 (P18/664).

(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.

House is detached.

(c)

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

It is not clear from the development that has taken place whether there will be a floor area above ground floor level. No drawings of the proposed development have been submitted.

2. (a)

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

The house has been extended previously. An Bord Pleanála authorised the retention of that 37.1 sqm extension under ABP Ref. No. PL03.302931 (P18/664). The new extension which is under construction is described by the applicant as 40 sqm in area. It will cause the combined extensions to measure 77.1 sqm. Therefore the proposed development is not exempt.

(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.

Detached house.

(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.

It is not clear from the development that has taken place whether there will be a floor area above ground floor level. No drawings of the proposed development have been submitted.

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

It is not clear from the development that has taken place whether there will be a floor area above ground floor level. No drawings of the proposed development have been submitted.

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

The rear wall does not include a gable. It appears that the height of the walls of the extension that have been constructed so far may exceed the height of the rear wall of the existing house.

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

Not applicable.

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

It appears that the height of the walls of the extension that have been constructed so far may exceed the height of the rear wall of the existing house.

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

The extent of remaining open space is above 25sqm. I am satisfied that this limitation has not been breached.

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

Windows have not been installed but this can be complied with. No drawings of the proposed development have been submitted.

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

Windows have not been installed. No drawings of the proposed development have been submitted.

(c)

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

Windows have not been installed. No drawings of the proposed development have been submitted.

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

No drawings of the proposed development have been submitted.

Having regard to the above I would consider that the proposed extension constitutes works that do not benefit from exempted development status under Part 1, Class 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended).

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

Article 9 of the Planning and Development Regulations 2001, as amended outlines restrictions on exempted development, and these are assessed below:

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

Not applicable.

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

Not applicable.

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

Not applicable.

- (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.

- (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.

- (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 Heritage Landscape designation is the subject of Objective CDP 13-5 in the Clare County Development Plan 2017-2023 which seeks to preserve the character of the coastal landscape. This site is within the mapped area of the Heritage Landscape. The subject site is within the Cluster designation of Tromora. I consider that since the development site is in the Cluster, where residential development is encouraged through the policies of the development plan, it is not likely that extensions of the type proposed will interfere with the character of this landscape.

- (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.

- (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,*

Not applicable.

- (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,*

See Screening for Appropriate Assessment & Determination attached to this report, which concludes with a finding out of no likelihood of significant effects on the nearby European Sites and therefore no requirement to proceed to Appropriate Assessment.

- (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,*

Noting that the existing extension has the benefit of permission under ABP Ref. No. PL03.302931 (P18/664), this is 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.*

Not applicable.

Conclusion

The following questions have been referred to the Planning Authority:

Whether the construction of a 40 sqm extension at the back of the property at Seafeld Cottage, Baile an tSagart, Tromora West, Quilty, Ennis, Co. Clare V95 Y0P4 considered development and if so, is it exempted development.

The Planning Authority in considering this referral had regard to:

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


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

- (a) The construction of an extension at the back of the property at Seafeld Cottage, Baile an tSagart, Tromora West, Quilty, Ennis, Co. Clare V95 Y0P4 constitute "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 at the back of the property at Seafeld Cottage, Baile an tSagart, Tromora West, Quilty, Ennis, Co. Clare V95 Y0P4 is not exempted development having regard to Limitation No. 2 (a) of Class 1 of Part 1, Schedule 2 of the Planning and Development Regulations 2001, which states that where the house has been extended previously, the floor area of any proposed 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. In this regard it is noted that the applicant was granted permission to retain an extension under Clare County Council Planning Register Reference No. P18/664 / An Bord Pleanala Reference No PL03.302931.

Now therefore Clare County Council (Planning Authority) hereby decides that construction of a 40 sqm extension at the back of the property at Seafeld Cottage, Baile an tSagart, Tromora West, Quilty, Ennis, Co. Clare V95 Y0P4 is development and is not exempted development.


Assistant Planner

Date: 17th June 2021


Name: Garreth Ruane
Senior Executive Planner
Date 18/06/21.

Clare County Council
Screening for Appropriate Assessment & Determination

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

Table 1: Project Details

Planning File Reference	R21-33
Applicant Name	Patricia McKee
Development Location	at Tromora West, Quilty, Co. Clare
Application accompanied by an EIS	NO
Application accompanied by an NIS	NO

Description of the project (To include a site location map):

Declaration of exempt development –domestic extension.

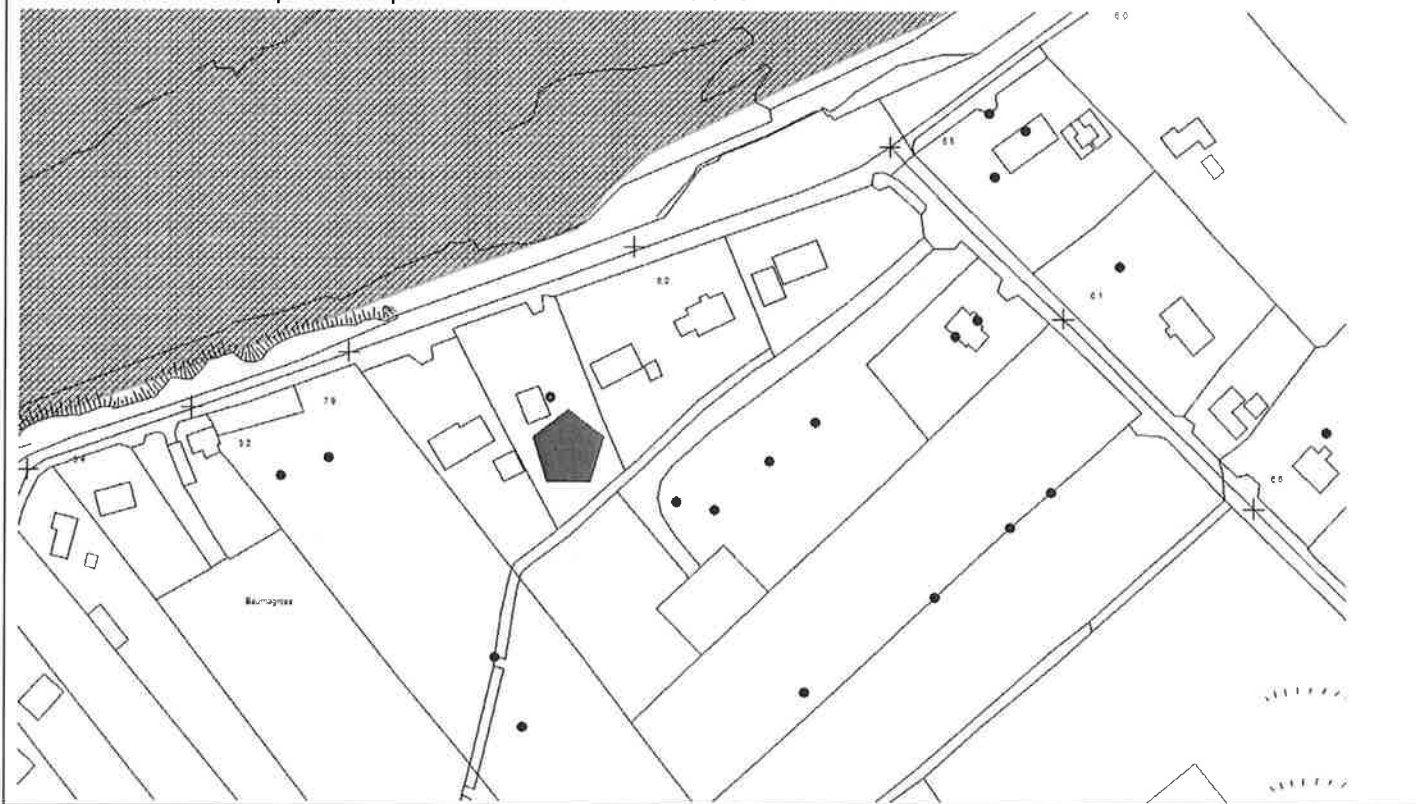


Table 2: Identification of European sites which may be impacted by the proposed development.

This section identifies the European Sites within the likely zone of impact of the plan or project. For plans an initial 15km zone of influence (NPWS-DAHG)¹ is recommended. For projects, the distance could be much less than 15km, and in some cases less than 100m, but this must be evaluated on a case-by-case basis with reference to the nature, size and location of the project, and the sensitivities of the ecological receptors, and the potential for in combination effects. Qualifying Interests/Special conservation Interests for each site and the distance relevant to the proposal are listed (Table 2 (a)).

Table 2 (a): European Sites within 15km of Applicant Site

European Sites ²	Qualifying Interests (QIs)/Special Conservation Interests (SCIs) and conservation objectives (either generic or detailed) (available on www.npws.ie/protectedsites) or through Intranet.	Distance to Applicant Site (km)
Mid Clare Coast SPA	Cormorant (<i>Phalacrocorax carbo</i>) [A017] Barnacle Goose (<i>Branta leucopsis</i>) [A045] Ringed Plover (<i>Charadrius hiaticula</i>) [A137] Sanderling (<i>Calidris alba</i>) [A144] Purple Sandpiper (<i>Calidris maritima</i>) [A148] Dunlin (<i>Calidris alpina</i>) [A149] Turnstone (<i>Arenaria interpres</i>) [A169] Wetland and Waterbirds [A999]	20m
Carrowmore Point to Spanish Point and Islands SAC	Coastal lagoons [1150] Reefs [1170] Perennial vegetation of stony banks [1220] Petrifying springs with tufa formation (Cratoneurion) [7220]	20m

1	Impacts on designated rivers, streams, lakes and fresh water dependant habitats and species.	Is the development in the catchment of or immediately upstream of a watercourse that has been designated as a European site?	No
2	Impacts on terrestrial habitats & species.	Is the development within 1km of a European site with terrestrial based habitats or species?	No
3	Impacts on designated marine habitats & species.	Is the development located within marine or intertidal areas and within 5 km of a European site whose qualifying habitats or species include the following: <i>Mudflats, sandflats, saltmarsh, shingle, reefs, sea cliffs</i>	No
4	Impacts on birds in SPAs	Is the development within 1km of a Special Protection Area	Yes
5	Indirect effects	Is the development, in combination with other existing or proposed developments likely to impact on an adjacent European site? Is any emission from the development (including noise) likely to impact on an adjacent habitat or species?	No

Conclusion:

- If the answer to all of the above is *no*, significant impacts on European sites are unlikely. No further assessment is required; go directly to the conclusion statement.
- If the answer is *unknown* or *yes* proceed to Table 3 and refer to the relevant sections of Table 3.

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

² European Site details are available on <http://webgis.npws.ie/npwsviewer/> or maybe obtained from internal mapping systems.

Table 3.

4	Impacts on birds in SPAs <i>Please answer the following if the answer to question 4 in table 2 was yes.</i> <i>Does the development involve any of the following:</i>	
4a	Removal of or interference with habitats within an SPA. This includes consideration of indirect and in combination effects on the feeding, breeding and nesting grounds of Annex 1 birds	No
4b	Erection of wind turbines within 1km of an SPA.	No
4c	All construction works within 100m of intertidal areas – Coastal SPAs, including indirect and in combination effects on the feeding, breeding and nesting grounds of Annex 1 birds	No
4d	Infilling of coastal habitats within 500m of SPA, including indirect and in combination effects on the feeding, breeding and nesting grounds of Annex 1 birds	No
4e	Discharges to coastal SPA, including any element of a discharge liable to give rise to disturbance of this habitat, either by direct, indirect, or in combination effects	No, wastewater effluent drains to public sewerage network.
4f	Development of cycleways or walking routes within 100m of intertidal areas. This includes consideration of indirect and in combination effects on the feeding, breeding and nesting grounds of Annex 1 birds	No
4g	Development within 1km of SPA of a scale or type which involves the production of an EIS. This includes consideration of indirect and in combination effects on the feeding, breeding and nesting grounds of Annex 1 birds	No

Appropriate Assessment Screening Determination	
Planning File Reference	R21/33
Proposed Development	Declaration of exempt development –domestic extension.
Development Location	at Seafeld Cottage, Tromora West, Quilty, Co. Clare
European sites within impact zone	Mid Clare Coast SPA; Carrowmore Point to Spanish Point and Islands SAC
Description of the project: Declaration of exempt development –domestic extension	
Qualifying Interests (QIs)/Special Conservation Interests (SCIs) of European site See above	
Describe how the project or plan (alone or in combination) is likely to affect the European site(s).	
No Effect Likely, property is connected to public wastewater sewer.	
If there are potential negative impacts, explain whether you consider if these are likely to be significant, and if not, why not?	
N/A	
Documentation reviewed for making this statement	
<ul style="list-style-type: none"> - County Development Plan (including Flood Maps, SEA & AA) - NPWS website - Documents received as part of the planning application 	
Conclusion of assessment (a, b, c or d)	
(a) The proposed development is directly connected with or necessary to the nature conservation management of a European Site(s)³	
(b) There is no potential for significant effects to European Sites³	Yes
(c) The potential for significant effects to European Site(s) cannot be ruled out⁴	
(d) Significant effects to European sites are certain or likely or where potential for significant effects to European sites remains following receipt of Further Information requested under S177U of the Planning and Development (Amendment) Act 2010⁵	
Completed By	Tadhg MacNamara
Date	17 th June 2021

³ Appropriate Assessment is not required and therefore Planning permission may be granted at this stage subject to all other planning considerations. However, no material changes may be made to the proposed development after this conclusion has been reached as this would invalidate the findings of the screening exercise.

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

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









COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Patricia McKee
Seafield Cottage,
Tromora West,
Quilty,
Ennis,
Co. Clare
V95 Y0P4

25th May 2021

Section 5 referral Reference R21-33 – Patricia McKee

Whether the construction of a 40 sqm extension at the back of the property at Seafield Cottage, Baile an tSagart, Tromora West, Quilty, Ennis, Co. Clare V95 Y0P4 considered development and if so, is it exempted development.

A Chara,

I refer to your application received on 25th May 2021 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

Mark Kerin
Planning Department
Economic Development Directorate

An Roinn Pleanála
An Stiúthóireacht 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



P07

CLARE COUNTY COUNCIL
COMHAIRLE CONTAE AN CHLÁIR

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

Telephone No. (065) 6821616
 Fax No. (065) 6892071
 Email: planoff@clarecoco.ie
 Website: www.clarecoco.ie



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

FEE: €80

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

1. CORRESPONDENCE DETAILS.

(a) Name and Address of person seeking the declaration	PATRICIA MCKEE SEAFIELD COTTAGE, TRIMORA W/ QUILTY, ENNIS V95 YOP4 CO. CLARE
(b) Telephone No.:	
(c) Email Address:	
(d) Agent's Name and address:	<hr/> <hr/> <hr/> <hr/>

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?

I AM CONSTRUCTING AN EXTENSION
AT THE BACK OF MY PROPERTY OF 40sqm
IS IT EXEMPT FROM PLANNING?

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

I AM SEEKING TO CONFIRM THE
ADVICE GIVEN TO ME AS A RESULT
OF A PREPLANNING MEETING REGARDING
THIS BETWEEN MY AGENT, CIARIAN
O'DEA AND A MEMBER OF THE
CLARE CO. COUNCIL PLANNING
DEPARTMENT. (2020)

I WAS ADVISED I COULD
ADD ON 40sqm TO THE BACK OF
MY HOUSE TO BRING IT UP
TO HABITABE, (21st LIVING
STANDARDS.

- (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)

LOC8 coordinates for aerial view: P4W -14-T54
ORD SURVEY MAP 1:2 (Co-ordinates 500631; 674173)
(LAND REGISTRY MAP)

NB ORD SURVEY MAP ONLINE SIG. OUT OF DATE
As per ...

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT	
(a) Postal Address of the Property/Site/Building for which the declaration sought:	SEAFIELD COTTAGE, BAILE AN tSAGART TRO MORA WEST, QUILTY, ENNIS CO. CLARE V95Y0P4
(b) Do the works in question affect a Protected Structure or are within the curtilage of a Protected Structure? If yes, has a Declaration under Section 57 of the Planning & Development Act 2000 (as amended) been requested or issued for the property by the Planning Authority?	NO
(c) Legal interest in the land or structure in question of the person requesting the declaration (Give Details):	NO
(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>	
(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? If so please supply details:	NO
(g) Were there previous planning application/s on this site? If so please supply details:	(2018) EXEMPTED for Kitchen YES - REFUSED replace for SIDE EXT. Schell, et on site for
(h) Date on which 'works' in question were completed/are likely to take place:	CURRENTLY

SIGNED: Patricia E. McKee

DATE: 24th May 2021

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:

The Property Registration Authority An tÚdarás Clárúcháin Maoin



Official Property Registration Map

This map should be read in conjunction with the folio.

Registry maps are based on OSI topographic mapping. Where registry maps are printed at a scale that is larger than the OSI published scale, accuracy is limited to that of the original OSI Map Scale.

For details of the terms of use, and limitations as to scale, accuracy and other conditions relating to Land Registry Maps, see www.pral.ie.

This map incorporates Ordnance Survey Ireland (OSI) mapping data under a licence from OSI. Copyright © OSI and Government of Ireland.

(unit/s of area of parcel(s) edged)

Freehold

Leasehold

Sub-Leasehold

'S' Register

(see Section 8(b)(8) of Registration of Title Act 1964 and Rule 224 & 225 Land Registration rules 1972 - 2010).

Burdens (may not all be represented on map)

Right of Way / Wayleave

Turbary

Pipeline

Well

Pump

Septic Tank

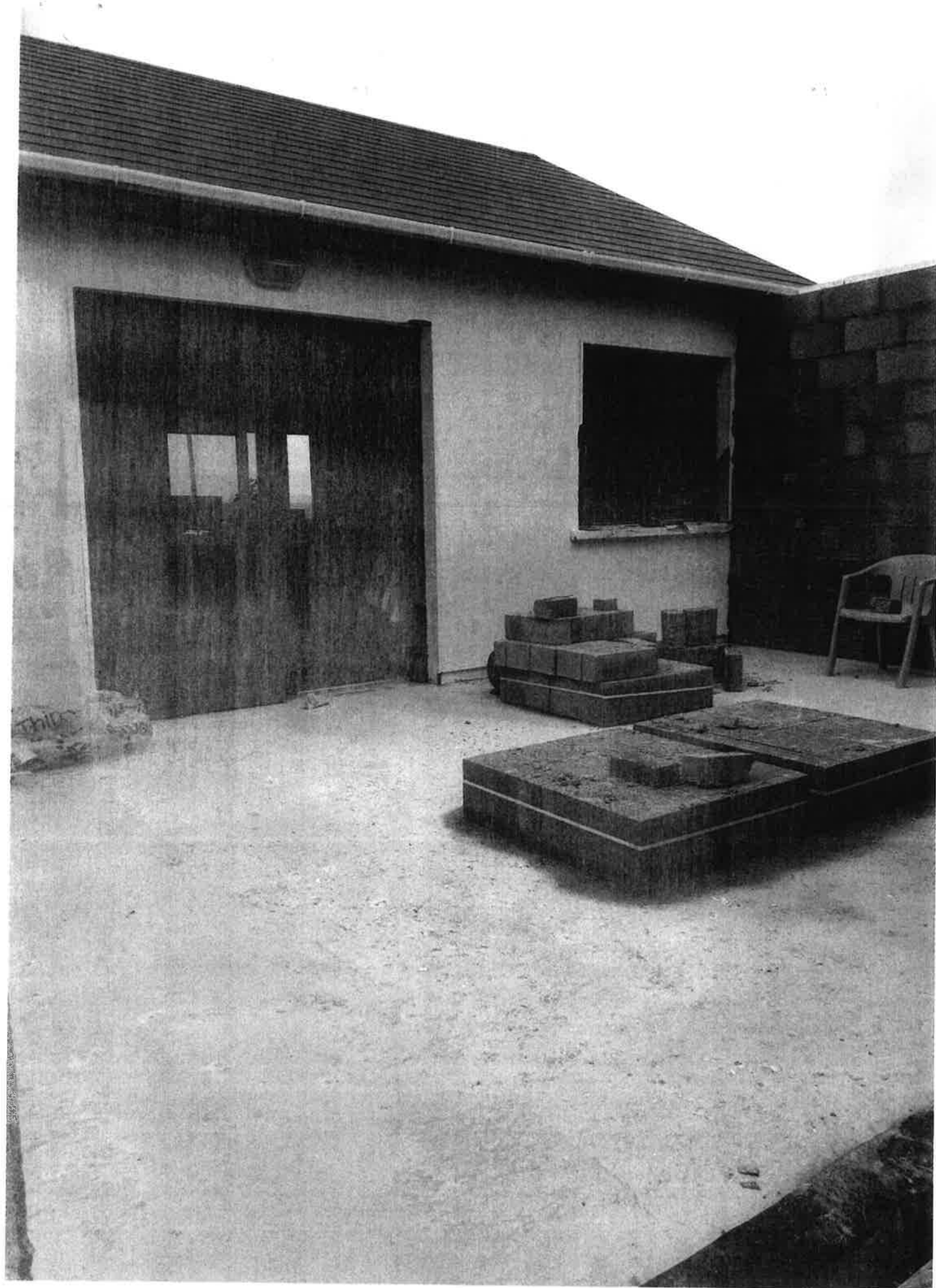
Soak Pit

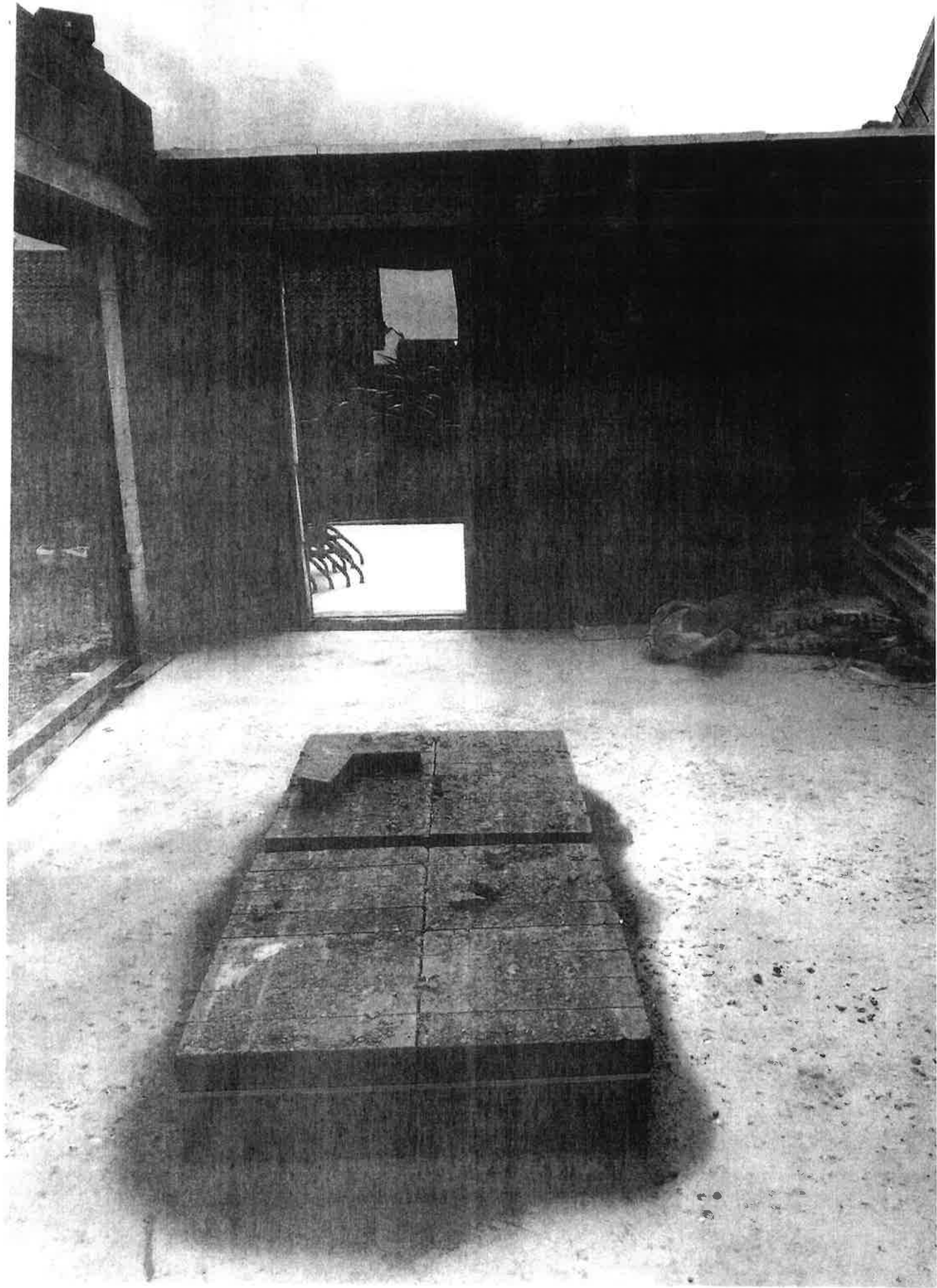
A full list of burdens and their symbology can be found at www.landtract.ie

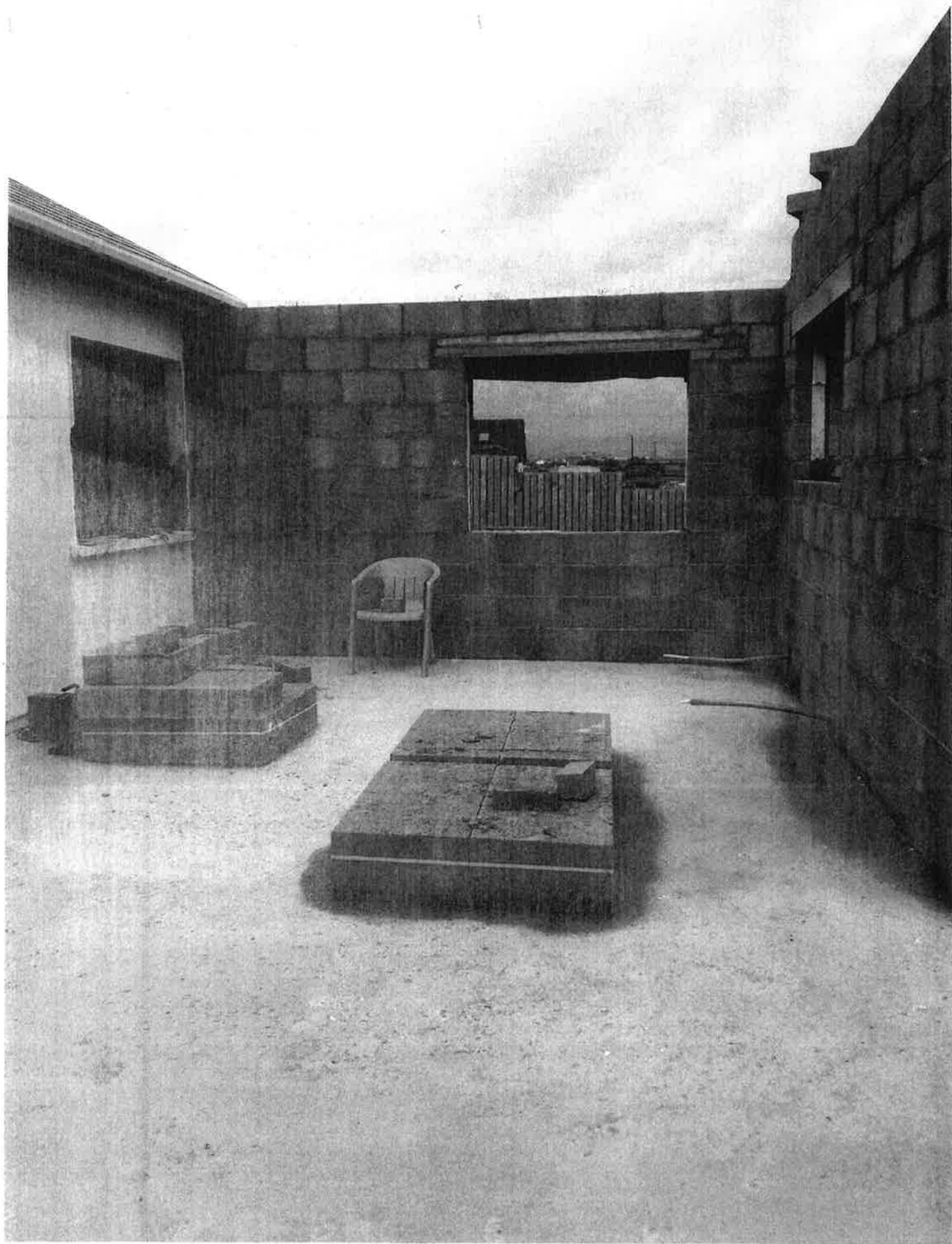
The registry operates a non-conclusive boundary system. The Registry Map identifies properties not boundaries meaning neither the description of land in a register nor its identification by reference to a registry map is conclusive as to the boundaries or extent

(see Section 65 of the Registration of Title Act, 1964). As inserted by Section 62 of the Registration of Deed and Title Act 2006









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

25/05/2021 13:47:00

Receipt No. : LICASH/0/316944

REPRINT

PATRICIA MCKEE
SEAFIELD COTTAGE
TROMORD WEST
QUILTY
ENNIS
CO CLARE
V95 YOP4 R21-33

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

Total :

80.00 EUR

Tendered :
Cash

80.00

Change :

0.00

Issued By : LICASH - Ann Carey