



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

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**Barry Maguire
Insmallah
Granaghan Beg
Newmarket-on-Fergus
Co. Clare
V95 RX82**

28th November 2022

Section 5 referral Reference R22-74 – Barry Maguire

Is the construction of a garden office at V95 RX82 to the rear of the existing dwelling; which will be less than 25m² in floor area and less than 3m in height development, and if so, is it exempted development?

A Chara,

I refer to your application received on 7th November 2022 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

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

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

Mise, le meas

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

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

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



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

Reference No.: R22-74



Comhairle Contae an Chláir
Clare County Council

Section 5 referral Reference R22-74

Is the construction of a garden office at V95 RX82 to the rear of the existing dwelling; which will be less than 25m² in floor area and less than 3m in height development, and if so, is it exempted development?

AND WHEREAS, Barry Maguire 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) The proposal as detailed in the application and particulars.

And whereas Clare County Council has concluded:

- (a) the development of the construction of a garden office at Inshallah, Granaghan Beg, Newmarket-on-Fergus, County Clare constitutes "works" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended
- (b) the said works constitute "development" which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended
- (c) the said development of the construction of a garden office at Inshallah, Granaghan Beg, Newmarket-on-Fergus, County Clare is not exempted development having regard to Class 3 of Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended, since the total area of the proposed garden office taken together with area of the existing garage would exceed 25 square metres.

THEREFORE: The Planning Authority in exercise of the powers conferred on it by Section 5 of the Planning and Development Act, 2000 (as amended), hereby decides that:

The proposed development consisting of the construction of a garden office at V95 RX82 to the rear of the existing dwelling, which will be less than 25m² in floor area and less than 3m in height at Inshallah, Granaghan Beg, Newmarket-on-Fergus, Co. Clare constitutes development which is not exempted development as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.

A handwritten signature in black ink, appearing to read 'Anne O'Gorman', is written over a horizontal line.

Anne O'Gorman
Staff Officer
Planning Department
Economic Development Directorate

28th November 2022

CLARE COUNTY COUNCIL

SECTION 5 OF THE PLANNING AND DEVELOPMENT ACT 2000 AS AMENDED

DECLARATION ON DEVELOPMENT AND/OR EXEMPTED DEVELOPMENT

Chief Executive's Order No:

80849

Reference Number:

R22-74

Date Referral Received:

7th November 2022

Name of Applicant:

Barry Maguire

**Location of works in question:
Fergus, Co. Clare, V95 RX82**

Inshallah, Granaghan Beg, Newmarket-on-

Section 5 referral Reference R22-74 – Barry Maguire

Is the construction of a garden office at V95 RX82 to the rear of the existing dwelling; which will be less than 25m² in floor area and less than 3m in height 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) The proposal as detailed in the application and particulars.

AND WHEREAS Clare County Council has concluded:

- (a) the development of the construction of a garden office at Inshallah, Granaghan Beg, Newmarket-on-Fergus, County Clare constitutes "works" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended
- (b) the said works constitute "development" which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended
- (c) the said development of the construction of a garden office at Inshallah, Granaghan Beg, Newmarket-on-Fergus, County Clare is not exempted development having regard to Class 3 of Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended, since the total area of the proposed garden office taken together with area of the existing garage would exceed 25 square metres.

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

NOW THEREFORE pursuant to the delegation of the said powers, functions and duties and under Section 5(2)(a) of the Planning & Development Act 2000 (as amended) and having considered the various submissions and reports in connection with the referral described above, I, Gareth Ruane, Senior Executive Planner, hereby declare that the construction of a garden office at V95 RX82 to the rear of the existing dwelling, which will be less than 25m² in floor area and less than 3m in height at Inshallah, Granaghan Beg, Newmarket-on-Fergus, Co. Clare is considered development which is not exempted development.

Signed:



GARETH RUANE
SENIOR EXECUTIVE PLANNER *PR*

Date:

28th November 2022

CLARE COUNTY COUNCIL
SECTION 5 DECLARATION OF EXEMPTION APPLICATION
PLANNERS REPORT

FILE REF:	R22-74
APPLICANT(S):	Barry Maguire
REFERENCE:	Is the construction of a garden office at V95 RX82 to the rear of the existing dwelling; which will be less than 25sqm in floor area and less than 3m in height development, and if so, is it exempted development?
LOCATION:	Inshallah, Granaghan Beg, Newmarket-on-Fergus, County Clare
DUE DATE:	01/12/2022

Site Location

The site is located within the defined cluster area of Granaghan Beg, this is located to the north west of Newmarket-on-Fergus. There is an existing two storey dwelling on the site, as well as an existing shed to the front of the existing dwelling. This is located at a lower finished level than the level on the public road at the front of the site. There is a large area of decking at floor level at the rear of the house and a substantial balcony has been constructed at first floor level at the rear of the house and leading from a bedroom at first floor level.

Recent Planning History

On subject site;
10-1095

Applicant Name: Jean & Barry Maguire,
Development Description: to RETAIN the balcony to the rear of the existing dwelling house, as constructed, including ancillary site works
Development Address: Granaghan Beg,, Newmarket-on-Fergus,, Co. Clare.

Application was withdrawn, noted that a refusal recommendation was pending.

02-410

Applicant Name: Jean & Barry Maguire,
Development Description: to construct a dwelling house, garage and septic tank
Development Address: Granaghan Beg,, Newmarket-on-Fergus,, Co. Clare.

Permission was granted subject to conditions.

05-2302

Applicant Name: Barry & Jean Maguire
Development Description: for the alteration of the location of garage on site as granted under Planning Permission Ref. P02-410, including ancillary site works

Development

Granaghan Beg Td., Newmarket on Fergus, Co. Clare

Address:

Permission was granted subject to conditions.

On the adjacent site to the north

10-847

Applicant Name: Rory & Theresa McGann**Development Description:** to construct a dwelling house, garage, entrance, treatment unit and percolation area, access road, entrance gate and related site development works**Development Address:** Granaghan Beg, Newmarket-on-Fergus, Co Clare

Permission was granted subject to conditions.

11-412

Applicant Name: Rory & Theresa McGann**Development Description:** to alter the finished floor level of the dwelling and garage as previously granted under planning permission P10-847**Development Address:** Granaghan Beg, Newmarket-on-Fergus, Co Clare

Permission was granted subject to conditions.

To the north

10-577

Applicant Name: Amanda Deady**Development Description:** to construct dwelling house, garage, septic tank and connect to public watermains**Development Address:** Granaghan Beg, Newmarket-on-Fergus, Co Clare

Permission was granted subject to conditions.

10-645

Applicant Name: Michael Gaffney**Development Description:** for the construction of an extension to dwelling house**Development Address:** Granaghan Beg, Newmarket-on-Fergus, Co Clare

Permission was granted subject to conditions.

Background to Referral

This Referral under Section 5(3)(a) of the Planning and Development Act 2000 (as amended) has been made by Barry Maguire, who is the stated owner of the site. The applicant is seeking a Section 5 Declaration as to whether the construction of a garden office to the rear of the existing dwelling at Inshallah, Granaghan Beg, Newmarket-on-Fergus; which will be less than 25sqm in floor area and less than 3m in height, is 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.

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 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.

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,
- (iv) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan.
- (vii) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,

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

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

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

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

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

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

(xi) obstruct any public right of way,

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

Assessment

Particulars of the Development

- | | |
|----------------|-----------------|
| • Floor Area | Less than 25sqm |
| • Height | 2.65m |
| • Roof Profile | Unknown |

- Location Behind the front building line of dwelling

Planning Exemption Assessment

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.

The structure in this instance would be a garden office.

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

The structure is to the rear of the dwelling.

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.*

There is an existing garage to the front of the dwelling, granted planning permission under P02-410 and P05-2302. The permitted floor area of the garage is 24.84sqm. Therefore the proposed home office in combination with the existing garage would exceed 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.*

In excess of 25sqm of private amenity area remains.

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.*

It is stated that limestone cladding would be used, similar to the existing dwelling and garage. A photograph, presumed to be a sample of the proposed garden office, has been included. It is not clear from the photograph what the roof details are.

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.*

The overall height of the structure is to be not more than 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.*

It is stated that the structure would be used as a garden office and would not be lived in.

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 (for both the dwelling extension and the garage):

- (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,*

No alterations to the existing access point are proposed.

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

Not applicable in this instance.

- (iv) *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.*

It is considered that same does not interfere with the character of the landscape or views in the area.

- (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,*

This is not applicable in this instance.

- (vi) *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,*

This is not applicable in this instance.

- (vii)
- a. *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,*

This is not applicable in this instance.

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

This is not applicable in this instance.

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

These are not applicable in this instance.

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

This is not applicable in this instance.

- (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,

This is not applicable in this instance.

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

This is not applicable in this instance.

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

This is not applicable in this instance.

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

This is not applicable in this instance.

Recommendation

The following question has been referred to the Planning Authority:

Whether the construction of a garden office to the rear of the existing dwelling at Inshallah, Granaghan Beg, Newmarket-on-Fergus; which will be less than 25sqm in floor area and less than 3m in height, is 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 3 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (d) The proposal as detailed in the application and particulars.


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

- (a) the development of the construction of a garden office at Inshallah, Granaghan Beg, Newmarket-on-Fergus, County Clare constitutes "works" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended
- (b) the said works constitute "development" which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended
- (c) the said development of the construction of a garden office at Inshallah, Granaghan Beg, Newmarket-on-Fergus, County Clare is not exempted development having regard to Class 3 of Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended, since the total area of the proposed garden office taken together with area of the existing garage would exceed 25 square metres.

Now therefore Clare County Council (Planning Authority), hereby decides that the construction of a garden office at Inshallah, Granaghan Beg, Newmarket-on-Fergus, County Clare is development and is not exempted development.


Name: Grainne McCormack
Assistant Planner

Date: 25/11/2022


Name: Garreth Ruane
Senior Executive Planner
Date 28/11/22

Clare County Council

Screening for Appropriate Assessment & Determination

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

Table 1: Project Details

Planning File Reference	R22-74
Applicant Name	Barry Maguire
Development Location	Inshallah, Granaghan Beg, Newmarket-on-Fergus
Application accompanied by an EIS	No
Application accompanied by an NIS	No
Description of the project (To include a site location map):	
detached garden office to the rear of existing dwelling	

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)
Lower River Shannon SAC	Sandbanks which are slightly covered by sea water all the time [1110] Estuaries [1130] Mudflats and sandflats not covered by seawater at low tide [1140] Coastal lagoons [1150] Large shallow inlets and bays [1160] Reefs [1170] Perennial vegetation of stony banks [1220] Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>) [1330] Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] Water courses of plain to montane levels with the <i>Ranunculus fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation [3260] Molinia meadows on calcareous, peaty or clayey-silt-laden soils (<i>Molinion caeruleae</i>) [6410] Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i> , <i>Alnion incanae</i> , <i>Salicion albae</i>) [91E0] <i>Margaritifera margaritifera</i> (Freshwater Pearl Mussel) [1029] <i>Petromyzon marinus</i> (Sea Lamprey) [1095] <i>Lampetra planeri</i> (Brook Lamprey) [1096] <i>Lampetra fluviatilis</i> (River Lamprey) [1099] <i>Salmo salar</i> (Salmon) [1106] <i>Tursiops truncatus</i> (Common Bottlenose Dolphin) [1349] <i>Lutra lutra</i> (Otter) [1355]	2.8
Lough Gash Turlough SAC	Turloughs [3180] Rivers with muddy banks with <i>Chenopodium rubri</i> p.p. and	2.6

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.

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)
	Bidention p.p. vegetation [3270]	
River Shannon and River Fergus Estuaries SPA	Cormorant (<i>Phalacrocorax carbo</i>) [A017] Whooper Swan (<i>Cygnus cygnus</i>) [A038] Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] Shelduck (<i>Tadorna tadorna</i>) [A048] Wigeon (<i>Anas penelope</i>) [A050] Teal (<i>Anas crecca</i>) [A052] Pintail (<i>Anas acuta</i>) [A054] Shoveler (<i>Anas clypeata</i>) [A056] Scaup (<i>Aythya marila</i>) [A062] Ringed Plover (<i>Charadrius hiaticula</i>) [A137] Golden Plover (<i>Pluvialis apricaria</i>) [A140] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Lapwing (<i>Vanellus vanellus</i>) [A142] Knot (<i>Calidris canutus</i>) [A143] Dunlin (<i>Calidris alpina</i>) [A149] Black-tailed Godwit (<i>Limosa limosa</i>) [A156] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Curlew (<i>Numenius arquata</i>) [A160] Redshank (<i>Tringa totanus</i>) [A162] Greenshank (<i>Tringa nebularia</i>) [A164] Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] Wetland and Waterbirds [A999]	2.8

1	Impacts on designated rivers, streams, lakes and fresh water dependant habitats and species.	<i>Is the development in the catchment of or immediately upstream of a watercourse that has been designated as a European site?</i>	Yes
2	Impacts on terrestrial habitats and species.	<i>Is the development within 1km of a European site with terrestrial based habitats or species?</i>	No
3	Impacts on designated marine habitats and species.	<i>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: Mudflats, sandflats, saltmarsh, shingle, reefs, sea cliffs</i>	No
4	Impacts on birds in SPAs	<i>Is the development within 1km of a Special Protection Area</i>	No
5	Indirect effects	<i>Is the development, in</i>	No – minor nature of works, distance

		<i>combination with other existing or proposed developments likely to impact on an adjacent European site?</i> <i>Is any emission from the development (including noise) likely to impact on an adjacent habitat or species?</i>	from designation and no direct hydrological link
--	--	---	--

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.

Appropriate Assessment Screening Determination	
Planning File Reference	R22-74
Proposed Development	Garden office
Development Location	Inshallah, Granaghan Beg, Newmarket-on-Fergus
European sites within impact zone	Lower River Shannon SAC River Shannon and River Fergus Estuaries SPA Lough Gash Turlough SAC
Description of the project	
Garden office	
Qualifying Interests (QIs)/Special Conservation Interests (SCIs) of European site	
As per report	
Describe how the project or plan (alone or in combination) is likely to affect the European site(s).	
No impacts envisaged.	
If there are potential negative impacts, explain whether you consider if these are likely to be significant, and if not, why not?	
minor nature of works, distance from designation and no direct hydrological link	
Documentation reviewed for making this statement	
NPWS website Plans and particulars received GIS mapping database	
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 Sites ³	Yes
(c) The potential for significant effects to European Site(s) cannot be ruled out ⁴	

³ Appropriate Assessment is not required and therefore Planning permission may be granted at this stage subject to all other planning considerations. However, no 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.

(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	Grainne McCormack
Date	25.11.2022

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.

AN CHLÁIR

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

07/11/2022 15:44:35

Receipt No. L1CASH/0/340889
***** REPRINT *****

JEAN MAGUIRE
INSHALLAH
GRANAGHAN BEG
NEWMARKET ON FERGUS
CO. CLARE
R2274



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 - Patricia Quinlivan
From : MAIN CASH OFFICE LODGEMENT AF
Vat reg No. 0033043E

R22-74

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	<u>BARRY MAGUIRE</u> <u>INSMALLAH, GRANAGHAN BEG,</u> <u>NEWMARKET-ON-FERGUS, CO. CLARE.</u> <u>Eircode: V95RX82</u>
(b) Telephone No.:	
(c) Email Address:	
(d) Agent's Name and address:	<u>BARRY MAGUIRE</u> <u>INSMALLAH, GRANAGHAN BEG.</u> <u>NEWMARKET-ON-FERGUS, CO. CLARE.</u> <u>EIRCODE: V95RX82</u>

2. DETAILS REGARDING DECLARATION BEING SOUGHT

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

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

IS the construction of a garden office at V95RX82 to the rear of the existing dwelling; which will be less than 25m² in FLOOR AREA AND LESS THAN 3m IN HEIGHT BE EXEMPTED FOR DEVELOPEMENT?

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

MY WIFE WORKS FROM HOME AND NEEDS A SEPERATE WORK AREA, ^{OFFICE} TO CONDUCT HER BUSINESS AND STORE FILES, EQUIPMENT AND MEET CLIENTS IN A PRIVATE, QUIET AND COMFORTABLE SETTING WHICH IS NOT FEASIBLE FROM THE FAMILY HOME.

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

SITE PLAN SCALE 1/2500

SITE LAYOUT SCALE 1/20

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

(a) Postal Address of the Property/Site/Building for which the declaration sought:	<u>INSHALLAH,</u> <u>GRANAGHAN BEG.</u> <u>NEWMARKET-ON-FERGUS.</u> <u>CO. CLARE.</u> <u>V95 RX82</u>
(b) Do the works in question affect a Protected Structure or are within the curtilage of a Protected Structure? If yes, has a Declaration under Section 57 of the Planning & Development Act 2000 (as amended) been requested or issued for the property by the Planning Authority?	<u>NO</u>
(c) Legal interest in the land or structure in question of the person requesting the declaration (Give Details):	<u>OWNER/OCCUPIER OF THE</u> <u>LAND IN QUESTION</u>
(d) If the person in (c) above is not the owner and/or occupier, state the name and address of the owner of the property in question: <i>Note: Observations in relation to a referral may be requested from the owner/occupier where appropriate.</i>	
(e) Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?:	<u>NO</u>
(f) Are you aware of any enforcement proceedings connected to this site? <i>If so please supply details:</i>	<u>NO</u>
(g) Were there previous planning application/s on this site? <i>If so please supply details:</i>	<u>YES P02 410</u>
(h) Date on which 'works' in question were completed/are likely to take place:	<u>APRIL 2023</u>

SIGNED: Bang MaguireDATE: 7/11/22

GUIDANCE NOTES

This following are non-statutory advice notes prepared by Clare County Council for the purpose of advising people what information is required for a decision to be made under Section 5 by the Planning Authority

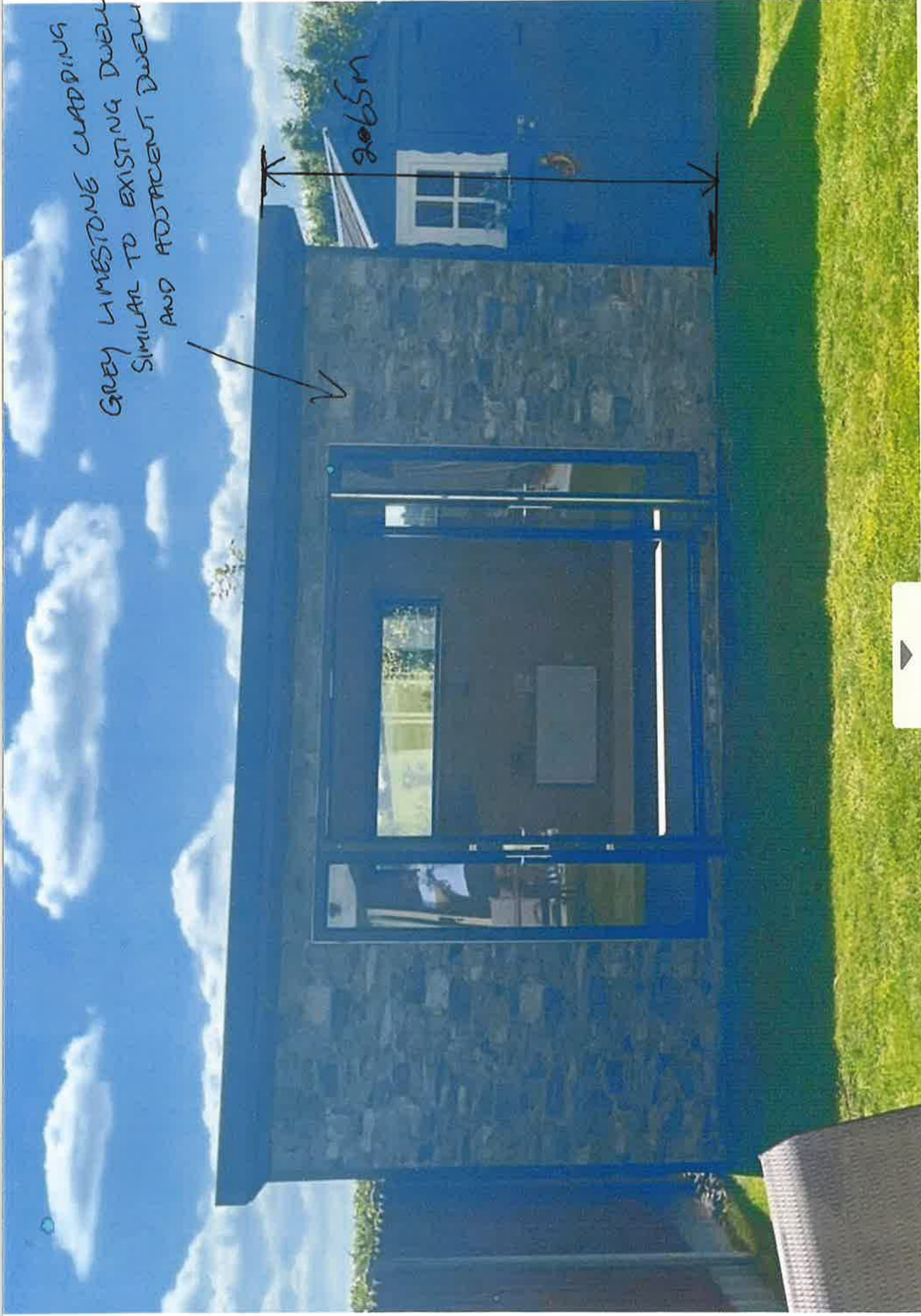
- (i) The request for a declaration under Section 5 must be accompanied by 2 copies of site location map based on the Ordnance Survey map for the area of a scale not less than 1:1000 in urban areas and 1:2500 in rural areas and should clearly identify the site in question.
- (ii) The request for a declaration under Section 5 must be accompanied by the required fee of €80.00.
- (iii) If submitting any additional plans/reports etc. as part of the request for a declaration, please submit 2 copies.
- (iv) The request for a declaration should be sent to the following address:

Planning Department,
Economic Development Directorate,
Clare County Council
Aras Contae an Chlair,
New Road,
Ennis,
Co. Clare
V95DXP2

- (v) Notwithstanding the completion of the above form, the Planning Authority may require the submission of further information with regard to the request in order to enable the Authority to issue a declaration on the question.
- (vi) The Planning Authority may also request other persons to submit information on the question which has arisen and on which the declaration is sought

FOR OFFICE USE ONLY

Date Received:	Fee Paid:
Date Acknowledged:	Reference No.:
Date Declaration made:	CEO No.:
Decision:	



GREY LIMESTONE CLADDING
SIMILAR TO EXISTING DWELLINGS
AND ADJACENT DWELLINGS

2065mm

CG JOINERY



Phone No: 07799 236 703
 Phone No: 0894 266178
 Email: info@cg-joinery.com

INVOICE NO:

Customer's Name: John Maguire

Customer's Address:
C/o. Clare

Post Code:

Mobile: 0868384440

Email: john.maguire@eircom.net

WORK REQUIRED:

- Garden Room
- 12' x 13' x 13' ft
- Grey French Doors
- 1 x Window
- PVC External Finish

SIZE/MEASUREMENTS: 20'6" x 13'6"

EXTERNAL FINISH: PVC CLADDING

INCLUDE: ☒ ELECTRICS ☒ PLASTERED ☒ INSULATION

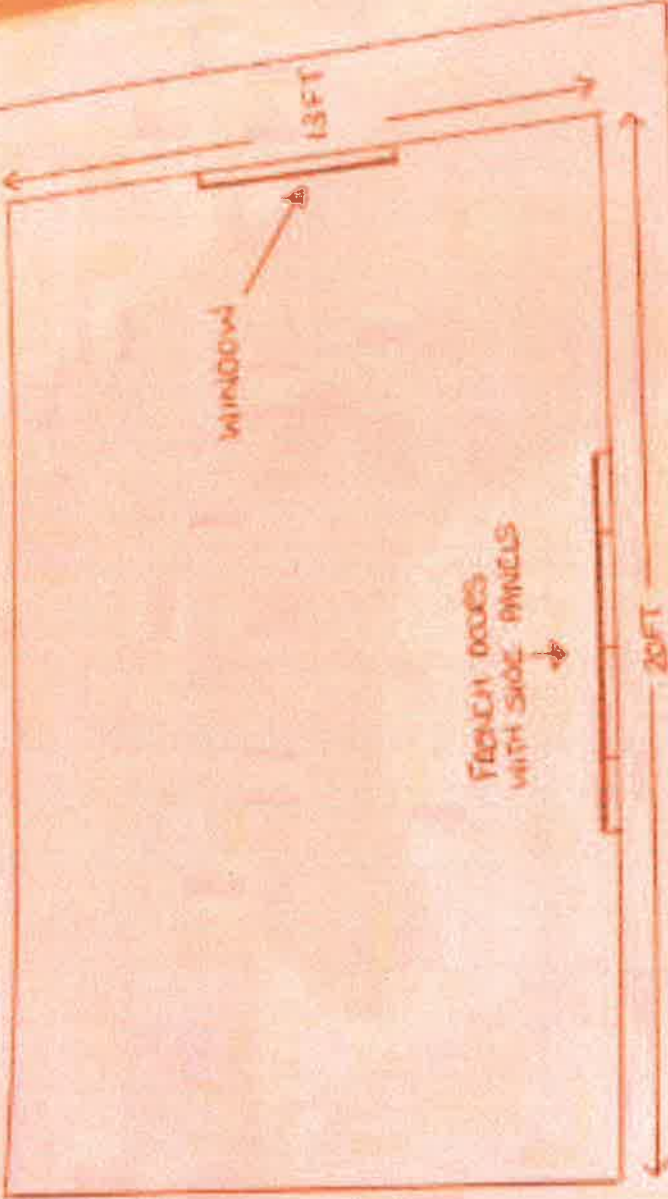
PRICE AGREED: ☐ Euro ☐ Sterling

DEPOSIT PAID: ☐ DATE:

REMAINING BALANCE:

LEAD TIME:

FINANCE OPTION: ☐ Flexi ☐ accepted



WINDOWS

Internal	No.	Colour	Slur
External	No.	Colour	Size

DOORS

Internal	No.	Colour	Size
External	No. <td>Colour <th>Size</th> </td>	Colour <th>Size</th>	Size

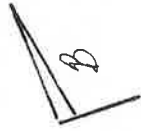
SPECIAL REQUESTS

Special Request:

ADJACENT
DWELLING.

EXISTING TREE LINE 4m

↑
GROUND LEVEL



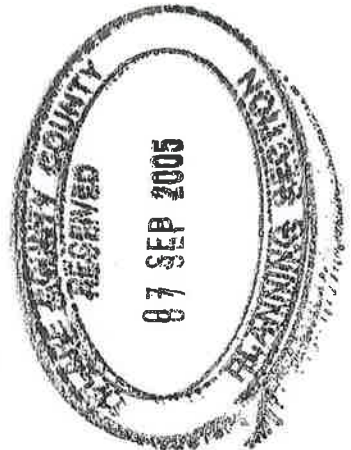
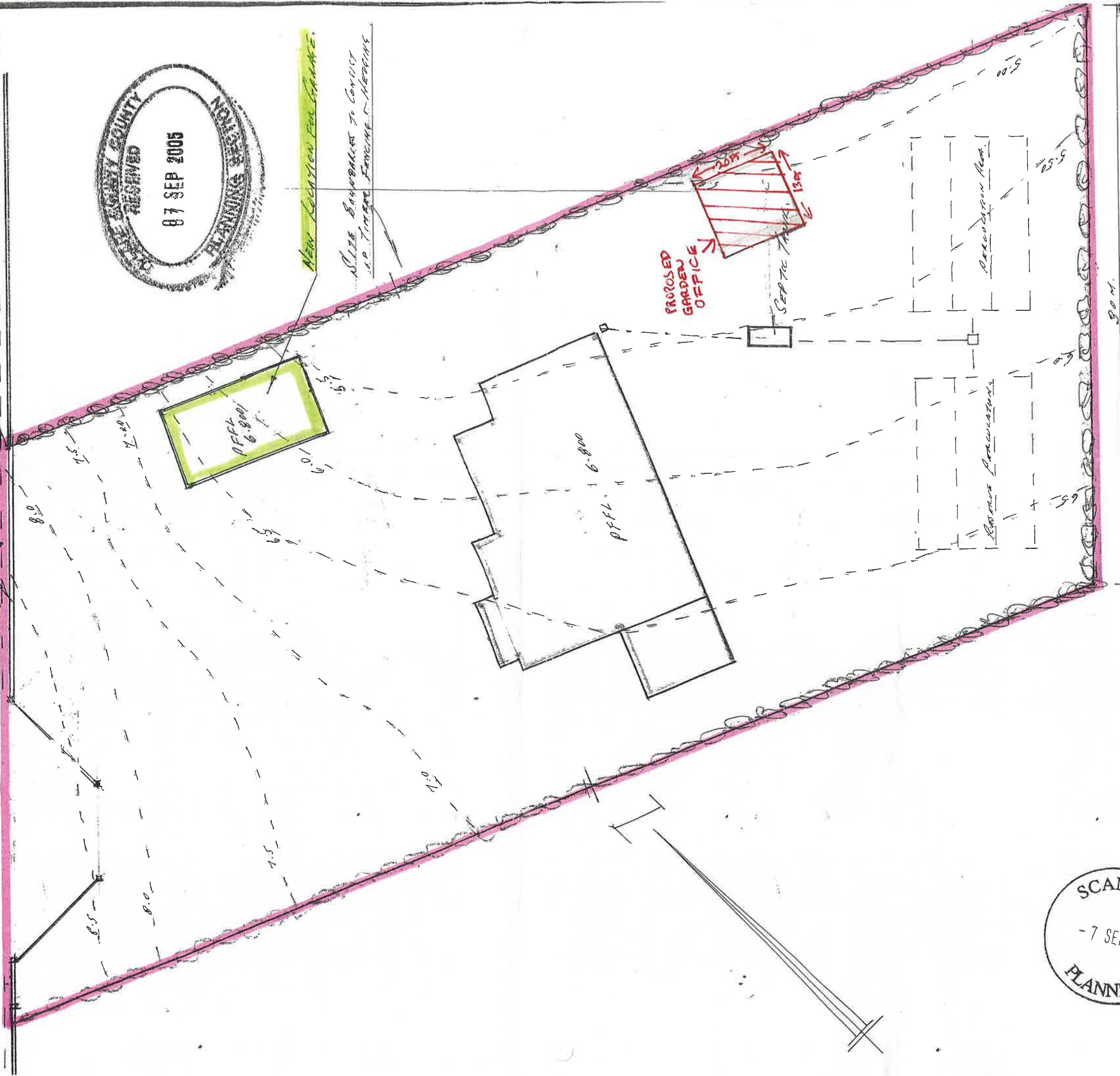
CONNECT TO GROUND WATER DRAINAGE

1" DRAIN 10.000

10.000

SITE NATURE HERE

DR FENCE TO 5.140
BE REMOVED



NEW LOCATION FOR GARDEN

SITE BOUNDARIES TO CORRECT
O.P. LINE FENCE - HEADING

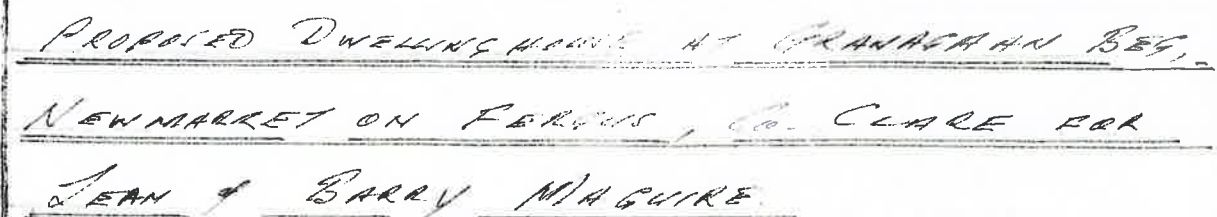


30 m.



Scale 1:100

LAYOUT PLAN SHOWING PROPOSED DWELLING HOUSE & GARAGE AT GRANTHAM ST. 75.
NEWHARLEY ON PAPER FOR BRICK & LAMP MAGAZINE.
DRAWN BY: S. J. HARRIS, R.N.S.



DATE Mar. 2002