



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Registered Post

**Sara Carson-Smith
4 Woodview
Ennis
Co. Clare
V95 P2Y5**

RL 4096 6275 31E

03rd March, 2022

Section 5 referral Reference R22-9 – Sara Carson-Smith

Is the change of size on the window marked 'X', and the construction of a wheelchair ramp in front of it (as shown in the accompanying drawings) at 4 Woodview, Ennis, Co. Clare considered to be development and if so, are they exempted development?

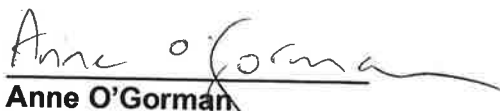
A Chara,

I refer to your application received on 9th February 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 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**



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

Reference No.: R22-9



Comhairle Contae an Chláir
Clare County Council

Section 5 referral Reference R22-9

Is the change of size on the window marked 'X', and the construction of a wheelchair ramp in front of it (as shown in the accompanying drawings) at 4 Woodview, Ennis, Co. Clare considered to be development and if so, are they exempted development?

AND WHEREAS, Sara Carson-Smith 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 –

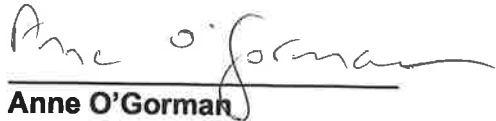
- a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended
- c) Class 5, Class 6 (a) and Class 6 (b)(ii) of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- d) The works as indicated in submitted documents received by the Planning Authority on 9th Feb. 2022.

And whereas Clare County Council has concluded:

- a) the change of size of a window on the front elevation of the existing dwelling and the construction of a wheelchair ramp at No. 4 Woodview, Ennis, 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 consisting of the change of size of a window on the front elevation of the existing dwelling and the construction of a wheelchair ramp at No. 4 Woodview, Ennis, County Clare is exempted development having regard to Section 4(1)(h) of the Planning and Development Act 2000, as amended and Class 5, Class 6(a) and Class 6 (b)(ii) of Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended.

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

The proposed development consisting of the change of size of a window on the front elevation of the existing dwelling and the construction of a wheelchair ramp at No. 4 Woodview, Ennis, County Clare is development and is 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

03rd March, 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:

74379

Reference Number:

R22-9

Date Referral Received:

9th February 2022

Name of Applicant:

Sara Carson-Smith

Location of works in question:

4 Woodview, Ennis, Co. Clare

Section 5 referral Reference R22-9 – Sara Carson-Smith

Is the change of size on the window marked 'X', and the construction of a wheelchair ramp in front of it (as shown in the accompanying drawings) at 4 Woodview, Ennis, Co. Clare considered to be development and if so, are they 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 5, Class 6 (a) and Class 6 (b)(ii) of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (d) The works as indicated in submitted documents received by the Planning Authority on 9th Feb. 2022.

AND WHEREAS Clare County Council has concluded:

- (a) the change of size of a window on the front elevation of the existing dwelling and the construction of a wheelchair ramp at No. 4 Woodview, Ennis, 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 consisting of the change of size of a window on the front elevation of the existing dwelling and the construction of a wheelchair ramp at No. 4 Woodview, Ennis, County Clare is exempted development having regard to Section 4(1)(h) of the Planning and Development Act 2000, as amended and Class 5, Class 6(a) and Class 6 (b)(ii) of Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended.

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

NOW THEREFORE pursuant to the delegation of the said powers, functions and duties and under Section 5(2)(a) of the Planning & Development Act 2000 (as amended) and having considered the various submissions and reports in connection with the referral described above, I, Gareth Ruane, Senior Executive Planner, hereby decides that the change of size of a window on the front elevation of the existing dwelling and the construction of a wheelchair ramp at No. 4 Woodview, Ennis, County Clare is development and is exempted development.

Signed:



GARETH RUANE
SENIOR EXECUTIVE PLANNER *no 6*

Date: 03rd March, 2022

CLARE COUNTY COUNCIL
SECTION 5 DECLARATION OF EXEMPTION APPLICATION
PLANNERS REPORT

FILE REF:	R22 9
APPLICANT(S):	Sara Carson – Smith
REFERENCE:	Whether the change of size of a window on the front elevation of the existing dwelling and the construction of a wheelchair ramp at No. 4 Woodview, Ennis, County Clare is or is not development and is or is not exempted development.
LOCATION:	4 Woodview, Ennis, County Clare
DUE DATE:	8 th March 2022

Site Location

The site is located in the settlement of Ennis and is zoned as “*Existing Residential*” as per the Clare County Development Plan 2017-2023 (as varied). It accommodates a detached bungalow within the Woodview housing estate, which is located off the Shanaway Road. Houses in this development are primarily detached bungalows, of varying designs. More recently dwelling of a story and a half natures have been constructed. The site is bound to the front by a low block wall. Side boundaries consists of mature shrubbery.



Site Context



Recent Planning History

Onsite

R21 12 a Section 5 declaration was sought on the following:

the demolition of the front extension and replacement of windows at No. 4 Woodview, Ennis, County Clare.

Clare County Council declared that the proposal is development and is exempted development.

South

- P16 656 Application by Patrick Keane for outline planning permission to subdivide the existing site with attached garage, and to construct a dwelling house with connection to public sewer, new entrance from public road and all associated site works. Permission granted subject to 9 no. conditions.
- P17 243 Application by Patrick Keane for planning permission to construct a two storey extension to the side of existing dwelling, to be used as a granny flat, and all associated site works. Permission granted subject to 4 no. conditions
- P18 704 Application by Patrick Hegarty for planning permission to sub divide the existing site containing a dwelling with attached garage, and to construct a dwelling house with connection to public sewer, new entrance from public road, and all associated site works in the sub divided area. Permission granted subject to 9 no. conditions.
- P19 903 Application by Patrick Hegarty for planning permission to construct a private garage to the rear of a dwelling granted under p18-704 but not yet constructed, with all associated site works. Permission granted subject to 5 no. conditions.

North

- R17 10 Application by Damian Siggins regarding a question as to whether the construction of a rear sunroom at No 10 Garran na Coille, Shanaway Road, Ennis, Co. Clare is or is not development, and is or is not exempted development. The Planning Authority declare that the construction of a rear sunroom at No 10 Garran na Coille, Shanaway Road, Ennis, Co. Clare, is development and is exempted development as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations

Background to Referral

This Referral under Section 5(3)(a) of the Planning and Development Act 2000 (as amended) has been made by Sara Carson Smith. The applicant's legal interest in the site is stated as owner of the property.

The applicant is seeking a Section 5 Declaration as to whether the change of size of a window on the front elevation of the existing dwelling and the construction of a wheelchair ramp at No. 4 Woodview, Ennis, County Clare is or is not development and is or is not 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.

Exempted Development

4.—(1) *The following shall be exempted developments for the purposes of this Act—*

(h) development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures;

5. - (7) *A planning authority, before making a declaration under this section, shall consider the record forwarded to it in accordance with subsection (6)(c).*

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.

CLASS 5

The construction, erection or alteration, within or bounding the curtilage of a house, of a gate, gateway, railing or wooden fence or a wall of brick, stone, blocks with decorative finish, other concrete blocks or mass concrete.

Conditions and Limitations

1. The height of any such structure shall not exceed 2 metres or, in the case of a wall or fence within or bounding any garden or other space in front of a house, 1.2 metres.
2. Every wall other than a dry or natural stone wall bounding any garden or other space shall be capped and the face of any wall of concrete or concrete block (other than blocks with decorative finish) which will be visible from any road, path or public area, including public open space, shall be rendered or plastered.
3. No such structure shall be a metal palisade or other security fence.

CLASS 6 (a)

The construction of any path, drain or pond or the carrying out of any landscaping works within the curtilage of a house.

Conditions and Limitations

The level of the ground shall not be altered by more than 1 metre above or below the level of the adjoining ground.

Class 6 (b) (ii)

Any works within the curtilage of a house for—

the provision of a hard surface in the area of the garden forward of the front building line of the house, or in the area of the garden to the side of the side building line of the house, for purposes incidental to the enjoyment of the house as such

Conditions and Limitations

Provided that the area of the hard surface is less than 25 square metres or less than 50% of the area of the garden forward of the front building line of the house, or 50% of the area of the garden to the side of the side building line of the house, as the case may be, whichever is the smaller, or if the area of the hard surface is 25 square metres or greater or comprises more than 50% of the area of the garden forward of the front building line of the house, or 50% of the area of the garden to the side of the side building line of the house, as the case may be, it shall be constructed using permeable materials or otherwise allow for rainwater to soak into the ground.

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

- Window increase from 1953 x 1200 to 1800mm x 1950mm
- Ramp travelling from front to side of dwelling with a gradient of 1:30
- Wall along the outer side of the ramp ranging in height from 1m – 1.2m

Planning Exemption Assessment

Planning and Development Act 2000 (as amended) Section 4

4.—(1) The following shall be exempted developments for the purposes of this Act—

(h) development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures;

Having regard to the nature of the proposed work, which it is noted will affect the exterior of the dwelling, I do not consider same will materially affect the external appearance of the structure so as to render it inconsistent with the character of the structure / neighbouring structures. It is noted from the submitted documentation that originally there was a double garage door at the location of the proposed window. The placement of same with a window (in an area which was previously deemed to be exempted development under ref. no. R21 12) would not materially affect the external appearance of the structure such that same would be inconsistent with the character of the existing dwelling.

Likewise it is considered that the proposed ramp and bounding wall would not materially affect the external appearance of the structure such that same would be inconsistent with the character of the existing dwelling.

- 5 (7) A planning authority, before making a declaration under this section, shall consider the record forwarded to it in accordance with *subsection (6)(c)*. **I have carried out a review of ABP website and there is no other development of a similar nature to that as proposed under the subject declaration.**

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 1, Class 5

The construction, erection or alteration, within or bounding the curtilage of a house, of a gate, gateway, railing or wooden fence or a wall of brick, stone, blocks with decorative finish, other concrete blocks or mass concrete.

Conditions and Limitations

1. The height of any such structure shall not exceed 2 metres or, in the case of a wall or fence within or bounding any garden or other space in front of a house, 1.2 metres. **As per the documentation submitted the maximum height of the proposed wall (along the ramp) will not exceed 1.2 meters**
2. Every wall other than a dry or natural stone wall bounding any garden or other space shall be capped and the face of any wall of concrete or concrete block (other than blocks with decorative finish) which will be visible from any road, path or public area, including public open space, shall be rendered or plastered. **As per the documentation submitted the proposed wall will be rendered / plastered.**
3. No such structure shall be a metal palisade or other security fence. **A block wall is being proposed in this instance.**

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 1, Class 6 (a)

The construction of any path, drain or pond or the carrying out of any landscaping works within the curtilage of a house.

Conditions and Limitations

The level of the ground shall not be altered by more than 1 metre above or below the level of the adjoining ground. **From the information submitted with the application, it would appear that the ramp will not require the ground to be altered by more than 1 meter.**

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 1, Class 6 (b)(ii)

Any works within the curtilage of a house for—

the provision of a **hard surface** in the area of the garden forward of the front building line of the house, or in the area of the garden to the side of the side building line of the house, for purposes incidental to the enjoyment of the house as such

Conditions and Limitations

Provided that the area of the hard surface is less than 25 square metres or less than 50% of the area of the garden forward of the front building line of the house, or 50% of the area of the garden to the side of the side building line of the house, as the case may be, whichever is the smaller, or

if the area of the hard surface is 25 square metres or greater or comprises more than 50% of the area of the garden forward of the front building line of the house, or 50% of the area of the garden to the side of the side building line of the house, as the case may be, it shall be constructed using permeable materials or otherwise allow for rainwater to soak into the ground. **The area of the proposed ramp is less than 25sqm in total and more than 50% of the garden forward of same would remain in situ.**

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 change of size of a window on the front elevation of the existing dwelling and the construction of a wheelchair ramp at No. 4 Woodview, Ennis, County Clare is or is not development and is or is not exempted development

The Planning Authority in considering this referral had regard to:

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended
- (c) Class 5, Class 6 (a) and Class 6 (b)(ii) of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (d) The works as indicated in submitted documents received by the Planning Authority on 9th Feb. 2022.

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

- (a) the change of size of a window on the front elevation of the existing dwelling and the construction of a wheelchair ramp at No. 4 Woodview, Ennis, 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 consisting of the change of size of a window on the front elevation of the existing dwelling and the construction of a wheelchair ramp at No. 4 Woodview, Ennis, County Clare is exempted development having regard to Section 4(1)(h) of the Planning and Development Act 2000, as amended and Class 5, Class 6(a) and Class 6 (b)(ii) of Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended.

Now therefore Clare County Council (Planning Authority), hereby decides that the change of size of a window on the front elevation of the existing dwelling and the construction of a wheelchair ramp at No. 4 Woodview, Ennis, County Clare is development and is exempted development.



Fiona Barry
Executive Planner
Date: 01.03.2022



Garreth Ruane
Senior Executive Planner
Date: 02/03/22 .

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 9
Applicant Name	Sara Carson Smith
Development Location	4 Woodview, Ennis
Application accompanied by an EIS	No
Application accompanied by an NIS	No
Description of the project (To include a site location map):	
<p style="text-align: center;">Alterations to existing dwelling</p> 	

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

This section identifies the European Sites within the likely zone of impact of the plan or project. For plans an initial 15km zone of influence (NPWS-DAHG)¹ is recommended. For projects, the distance could be much less than 15km, and in some cases less than 100m, but this must be evaluated on a case-by-case basis 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>Glaucopuccinellietalia maritima</i>) [1330] Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] Water courses of plain to montane levels with the <i>Ranunculus fluitans</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] Margaritifera margaritifera (Freshwater Pearl Mussel) [1029] <i>Petromyzon marinus</i> (Sea Lamprey) [1095]	1.4

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)
	Lampetra planeri (Brook Lamprey) [1096] Lampetra fluviatilis (River Lamprey) [1099] Salmo salar (Salmon) [1106] Tursiops truncatus (Common Bottlenose Dolphin) [1349] Lutra lutra (Otter) [1355]	
Lough Gash Turlough SAC	Turloughs [3180] Rivers with muddy banks with Chenopodion rubri p.p. and Bidention p.p. vegetation [3270]	3.8

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>	No
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 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?</i>	No – minor nature of works, distance 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 9
Proposed Development	Alterations to existing dwelling
Development Location	Woodview, Ennis
European sites within impact zone	As above
Description of the project	
Alterations to existing dwelling	
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?	
<p>The subject site is located approx. 1.5km from Lower River Shannon SAC.</p> <p>The proposed works are minor in nature, comprising of alterations to the existing dwelling. The site is located in an urban, developed area, with existing water and water water services present.</p> <p>Having regard to:</p> <ul style="list-style-type: none"> • The minor nature of the proposed works • The location of the site in an urban, developed area • The consequent absence of a pathway to an European site <p>I am satisfied that the proposed development, either alone or in combination with any other plans/projects will not be likely to have a significant effect on any European site.</p>	
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 Sites³	✓
(c) The potential for significant effects to European Site(s) cannot be ruled out⁴	

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

(d) Significant effects to European sites are certain or likely or where potential for significant effects to European sites remains following receipt of Further Information requested under S177U of the Planning and Development (Amendment) Act 2010 ⁵	
Completed By	Fiona Barry, Executive Planner
Date	01.03.2022

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

Sara Carson-Smith
4 Woodview
Ennis
Co. Clare
V95 P2Y5

09/02/2022

Section 5 referral Reference R22-9 – Sara Carson-Smith

Is the change of size on the window marked 'X', and the construction of a wheelchair ramp in front of it (as shown in the accompanying drawings) at 4 Woodview, Ennis, Co. Clare considered to be development and if so, are they exempted development?

A Chara,

I refer to your application received on 9th February 2022 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

Tadhg Holmes

Tadhg Holmes
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

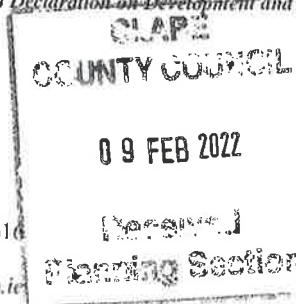


P07

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



Comhairle Contae an Chláir
 Clare County Council

P21-117

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	SARA CARSON-SMITH 4 WOODVIEW ENNIS CO. CLARE V95 P2Y5
(b) Telephone No.:	
(c) Email Address:	
(d) Agent's Name and address:	none

2. DETAILS REGARDING DECLARATION BEING SOUGHT

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

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

Is the change of size of window marked 'X' and the wheelchair ramp in front of it development and if so, are they exempted development?

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

We are not extending the house. We have demolished a front-side porch pursuant to a S.5 approval ref 21/12 (attached). We would like to elongate the proposed replacement window (from 1935mm x 1200mm to 1800mm x 1950mm) for greater solar gain and to be in proportion with the West (right) hand side windows. We would also like to provide wheelchair access to the side of the house, as described in the attachment "4 Woodview, Ennis", namely a walled ramp which, due to the falling outside levels, would need to wrap around the front of the house by about 4 metres (gradient = 1:30, the wall would be between 1m and 1.2m, due to the falling ground levels). The overall footprint isn't being enlarged. The proposed window is still ^{slightly} smaller than the original windowed-door.

- (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)

1) S.5 Declaration Ref 21/12, together with original attachments;
 A101 Site Location Map A104 Existing elevations
 A102 Existing Site Layout Plan
 A103 Existing Floor Plan

2) Proposed Site Floor Plan

3) 4 Woodview, Ennis Proposal

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT	
(a) Postal Address of the Property/Site/Building for which the declaration sought:	4 Woodview Ennis Co. Clare V95 P2Y5
(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):	Owner of the Property
(d) If the person in (c) above is not the owner and/or occupier, state the name and address of the owner of the property in question: <i>Note: Observations in relation to a referral may be requested from the owner/occupier where appropriate.</i>	N/A
(e) Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?:	Yes
(f) Are you aware of any enforcement proceedings connected to this site? If so please supply details:	No
(g) Were there previous planning application/s on this site? If so please supply details:	S-5 application and approval attached.
(h) Date on which 'works' in question were completed/are likely to take place:	Pending

SIGNED:

S. O'Sullivan Smith

DATE:

9/2/2022

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:	



COMHAIRLE CLARE
CONTAE AN CHLÁIR COUNTY COUNCIL

Registered Post

Sara Carson-Smith
c/o Miles Sampson,
OARAD Ltd.
Croilar
Mountshannon,
Co. Clare.

1st April, 2021

Section 5 referral Reference R21-12 – Sara Carson-Smith

Whether the demolition of the front extension and replacement of windows at No. 4 Woodview, Ennis, County Clare is or is not development and is or is not exempted development.

A Chara,

I refer to your application received on 11th March, 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

Kieran O'Donnell
Administrative 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



NSAI Certified

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

Reference No.: R21-12



Comhairle Contae an Chláir
Clare County Council

Section 5 referral Reference R21-12

Whether the demolition of the front extension and replacement of windows at No. 4 Woodview, Ennis, County Clare is or is not development and is or is not exempted development.

AND WHEREAS, Sara Carson-Smith 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 50 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (d) The works as indicated in submitted documents from the referrer on the 11th March 2021.

And whereas Clare County Council has concluded:

- (a) The demolition of the front extension and replacement with windows at No. 4 Woodview, Ennis, 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 consisting of the demolition of the front extension and replacement of windows at No. 4 Woodview, Ennis, County Clare is exempted development having regard to Section 4(1)(h) of the Planning and Development Act 2000, as amended and Class 50 of Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended.

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

The proposed development consisting of the demolition of the front extension and replacement of windows at No. 4 Woodview, Ennis, County Clare constitutes development which is exempted development as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.



Kieran O'Donnell
Administrative Officer
Planning Department
Economic Development Directorate

1st April, 2021

3)

4 Woodview, Ennis

Proposal

This is the front of the house as it was about 10 years ago, before I bought the house. The house is on two levels; the higher west side of the house (the left hand side) – accessed by the front door – does not provide wheelchair access to the patio at the back nor to the wheelchair accessible bathroom, whereas the lower east side of the house (the right hand side) does, but there is currently no ramp to access the side door on the right hand side of the house.

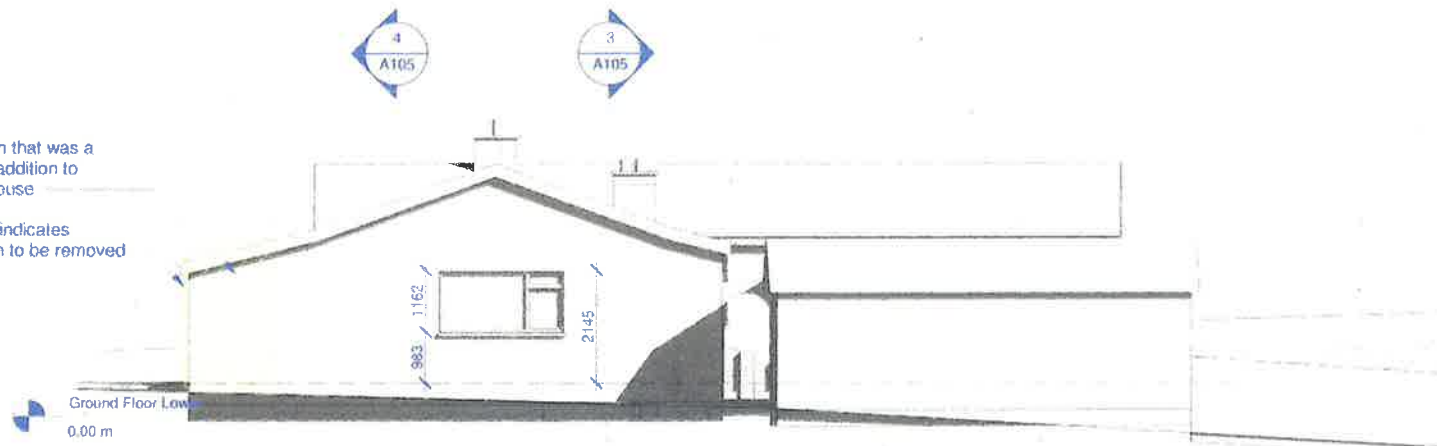


This is the former porch that "pulled" away from the rest of the house causing cracking in the walls. As you can see, the ground level falls from west to east (right to left), with a sharp drop where shown by the arrow. Exempt development status has already been approved (R21-12) for the demolition of this side porch and replacement with a window matching the one to its left:

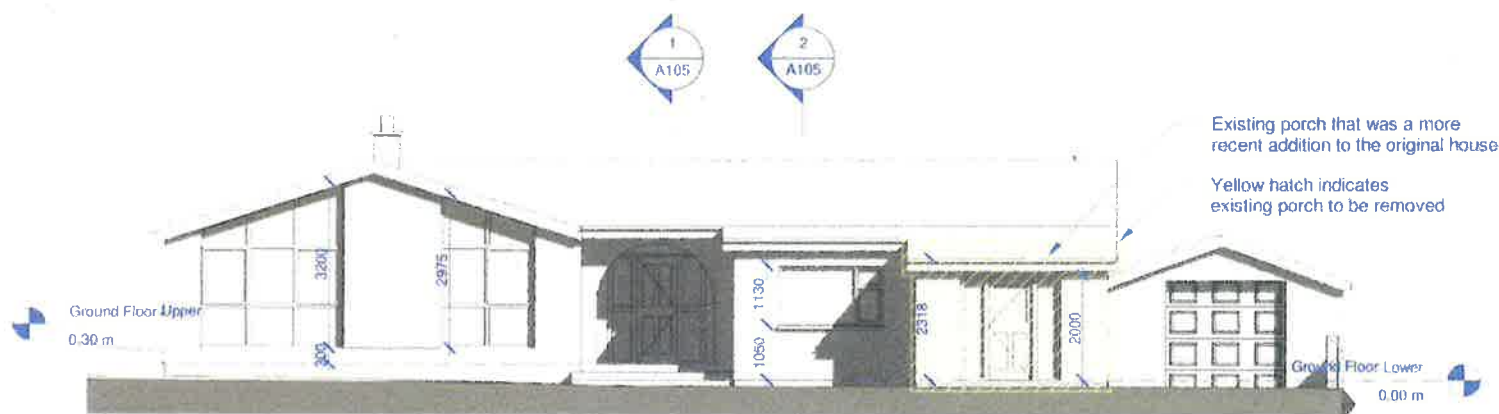


We would now like to i) change the proposed size of the window where the demolished porch used to be, to return it to closer to its original dimensions (but a bit smaller, in scale with the long windows on the left of the house, i.e. changing from the proposed 1935mm (W) x 1200mm (H) window size to 1800mm (W) x 1950mm (H)), ii) put in a walled ramp for wheelchair access to three habitable rooms plus the wheelchair accessible bathroom and the patio (the ramp would need to wrap around the front of the house in order to achieve a low enough gradient to be comfortably safe and comply with Building Regulations), and iii) clad the house in external wall insulation in order to improve its energy efficiency so that the front of the house would look like this:





2 East Elevation
1 : 100



3 South Elevation
1 : 100

No	Date	Description
		Revision Schedule

WDV

02m

A104

1 : 100

Existing Elevations

Section 5 Exemption

10/03/21

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OARAD

Office for Architectural Research and Design

Planning Pack Map



OUTPUT SCALE: 1:1,000

CAPTURE RESOLUTION:
The map objects are only accurate to the resolution at which they were captured.
Output scale is not indicative of data capture scale.
Further information is available at:
<http://www.osi.ie/search/CaptureResolution>



CENTRE COORDINATES:
ITM 532006,678246

PUBLISHED: 29/12/2018
ORDER NO.: 50039980_1

MAP SERIES: 1:2,500
MAP SHEETS: 4263-D, 4264-C

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search 'Large Scale Legend'

No Date Description
DRAFT
Revision Schedule

ORAD
Director
Planning
Review
And Design

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ORAD

03/10/21

Site Location Map

A101

WDV

1 : 1000

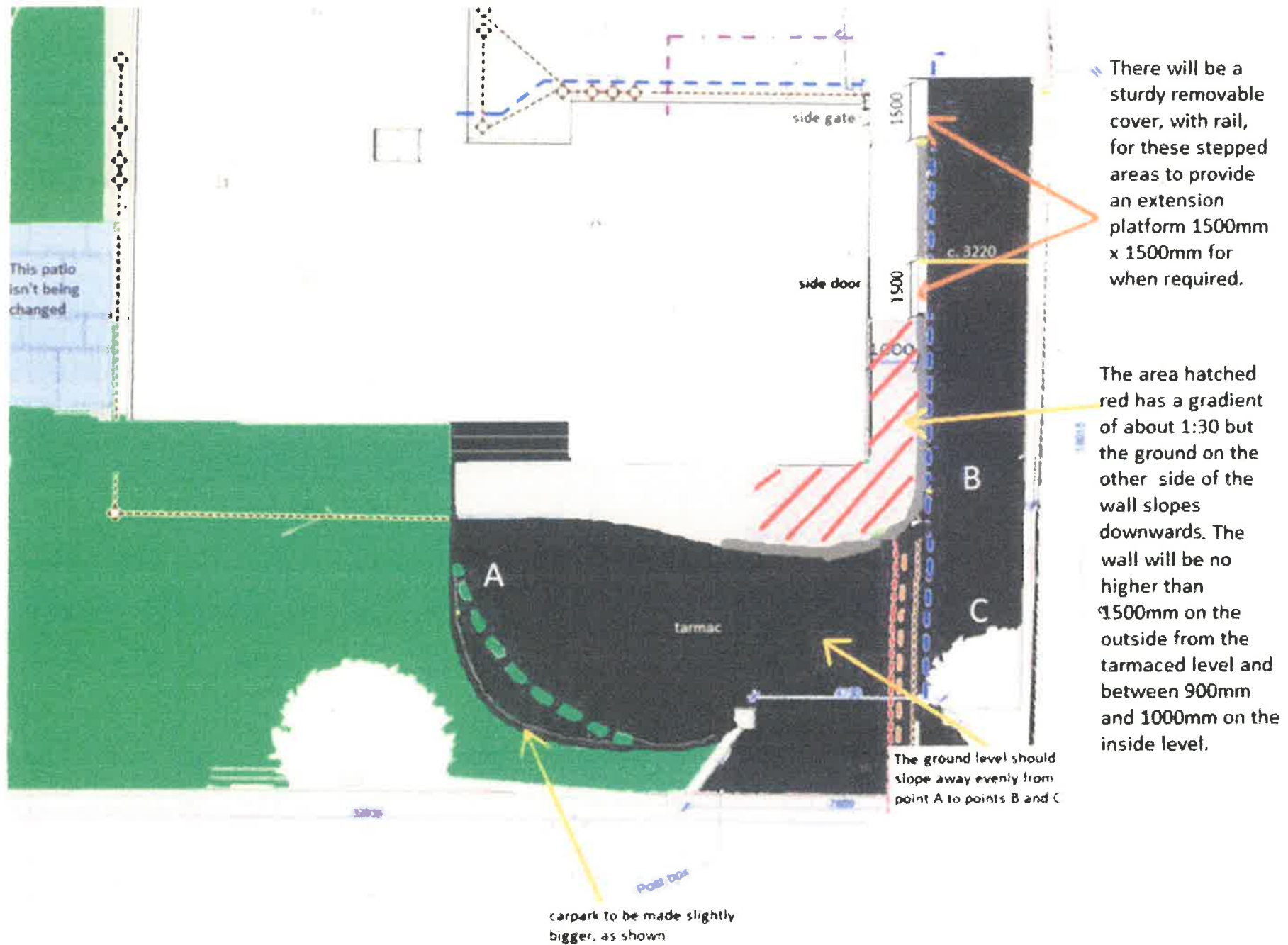


1 Existing Site Plan
1 : 500

No. Date Description
DRAFT
Revision Schedule

WDV	02m	A102	Existing Site Layout Plan	10/03/21	Copyright © OARAD	OARAD Office for Architectural Research and Design
1 : 500			Section 5 Exemption			

2) Proposed site floor plan





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

09/02/2022 14:40:43

Receipt No. : L1CASH/0/328305

REPRINT

SARA CARSON-SMITH
4 WOODVIEW
ENNIS, CO. CLARE
P22/117

COMHAIRLE
CONTAE
AN CHLÁIR

PLANNING FEES 80.00
GOODS 80.00
VAT Exempt/Non-vatable

Total : 80.00 EUR

Tendered :
CREDIT CARDS 80.00

Change : 0.00



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From : MAIN CASH OFFICE LODGEMENT AREA
Vat reg No.0033043E

COMHAIRLE