



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Registered Post

**Paul Walsh
c/o Ian Sheehy
Bansha
Askeaton
Co. Limerick**

4th May 2023

Section 5 referral Reference R23-15 – Paul Walsh

Is the change of use from vacant commercial premises to residential use of adjoining dwelling at 10 Main St, Clarecastle, Ennis, Co. Clare development, and if so, is it exempted development?

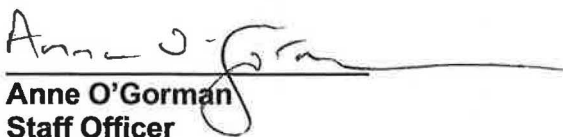
A Chara,

I refer to your application received on 7th March 2023 and by way of further information on 11th April 2023 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.: R23-15



Comhairle Contae an Chláir
Clare County Council

Section 5 referral Reference R23-15

Is the change of use from vacant commercial premises to residential use of adjoining dwelling at 10 Main St, Clarecastle, Ennis, Co. Clare development, and if so, is it exempted development?

AND WHEREAS, Paul Walsh 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(1) (h) of the Planning and Development Act, 2000, as amended.
- (b) Articles 6, 9 and 10 of the Planning and Development Regulations, 2001
- (c) Schedule 2, Part 1, Class 1- Exempted development General.
- (d) The drawings and particulars received by the Planning Authority on 7th March 2023, as amended by those received by the Planning Authority on 11th April 2023.

And whereas Clare County Council has concluded:

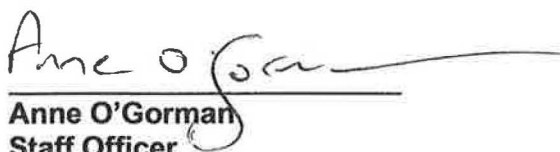
- (a) There is no record of a permitted commercial use of the subject structure and therefore the provisions of Article 10 of the Regulations do not apply in this instance,
- (b) the structure is however attached to the side of the existing dwelling house, and considering that the house has not been extended previously, the proposed development based on the drawings and particulars as submitted with the application, would meet the conditions and limitations as set out under Class 1 of Part 1 (Schedule 2) 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 use of vacant ground floor commercial unit at 10 Main Street, Clarecastle, Co. Clare from Commercial/Retail use to residential use, to be used as ancillary accommodation to the adjoining dwelling constitutes development which is exempted development as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.

Notes to applicant:

- i. This Section 5 declaration refers to the use of the vacant commercial unit as ancillary residential accommodation to the existing dwelling on site, and not a standalone residential unit.
- ii. The applicant / developer shall ensure compliance with Building Regulations and Fire Safety Regulations.



Anne O'Gorman
Staff Officer

Planning Department
Economic Development Directorate

4th May 2023

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: 81688

Reference Number: R23-15

Date Referral Received: 7th March 2023

Name of Applicant: Paul Walsh

Location of works in question: No. 10 Main Street, Clarecastle, Co. Clare

Section 5 referral Reference R23-15 – Paul Walsh

Is the change of use from vacant commercial premises to residential use of adjoining dwelling at 10 Main St, Clarecastle, Ennis, Co. Clare 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(1) (h) of the Planning and Development Act, 2000, as amended.
- (b) Articles 6, 9 and 10 of the Planning and Development Regulations, 2001
- (c) Schedule 2, Part 1, Class 1- Exempted development General.
- (d) The drawings and particulars received by the Planning Authority on 7th March 2023, as amended by those received by the Planning Authority on 11th April 2023.

AND WHEREAS Clare County Council has concluded:

- (a) There is no record of a permitted commercial use of the subject structure and therefore the provisions of Article 10 of the Regulations do not apply in this instance,
- (b) the structure is however attached to the side of the existing dwelling house, and considering that the house has not been extended previously, the proposed development based on the drawings and particulars as submitted with the application, would meet the conditions and limitations as set out under Class 1 of Part 1 (Schedule 2) 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 declare that the change of use of vacant ground floor commercial unit at 10 Main Street, Clarecastle, Co. Clare from Commercial/Retail use to residential use, to be used as ancillary accommodation to the adjoining dwelling, is considered development which is exempted development.

Notes to applicant:

- i. This Section 5 declaration refers to the use of the vacant commercial unit as ancillary residential accommodation to the existing dwelling on site, and not a standalone residential unit.
- ii. The applicant / developer shall ensure compliance with Building Regulations and Fire Safety Regulations.

Signed:



GARETH RUANE
SENIOR EXECUTIVE PLANNER

Date:

4th May 2023

**CLARE COUNTY COUNCIL
SECTION 5 REFERRAL REPORT**

Reference No:	R23 15
Applicant:	Paul Walsh
Location:	No. 10 Main Street, Clarecastle
Proposal:	Whether the change of use of vacant commercial unit at Main Street, Clarecastle from Commercial/Retail use to residential use is or is not development and is / is not exempted development.

The following further information was requested 23rd March 2023:

The subject Section 5 declaration is being assessed having regard to Class 1 of Part 1 (Schedule 2) of the Planning and Development Regulations 2001, as amended, as it is stated in the documentation received by the Planning Authority on 7th March 2023, that same is to be used as ancillary residential accommodation to the principle dwelling on site (and not a standalone residential unit) and in any event the Planning Authority has no record of any commercial use authorised on this site.

The conditions and limitations attached to Class 1 of Part 1 of the Planning and Development Regulations 2001, as amended, are noted, in particular condition/limitation 6 (a) which states the following:

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

Based on the drawings as submitted with the application, the Planning Authority considers that this condition/limitation has not been met, having regard to the positioning of the window on the rear elevation of the subject unit, relative to the boundary it faces (notwithstanding the removal of a section of the boundary fence). In order to give further consideration to the subject Section 5 referral, you are invited to address this issue, and to respond as appropriate with revised drawings.

A response to the further information request was received by the Planning Authority on 11th April 2023. In the response, the applicant has submitted revised drawings which show the bedroom window removed and blocked up. While same is considered acceptable to comply with the Planning and Development Regulations 2001, as amended, the applicant will need to ensure that the proposed development is fully compliant with the Building Regulations and Fire Safety Regulations. Consideration of same is outside the scope of the subject application. In addition, I would consider it appropriate that an advice note is attached to the declaration, which requires the applicant to submit evidence of the completion of the proposed works to the Planning Authority prior to the occupation of the subject unit. Finally, any declaration shall explicitly state that the unit is to be used as ancillary accommodation to the adjoining dwelling and not a standalone residential unit.

Recommendation

With reference to the above assessment the proposed development may be considered development which is exempted development.

Recommendation

Having regard to Article 10, of the Planning and Development Regulations, 2001-2018.

WHEREAS a question has arisen as to whether the change of use of vacant ground floor commercial unit at Main Street, Clarecastle, Co. Clare from Commercial/Retail use to residential use, to be used as ancillary accommodation to the adjoining dwelling, is or is not development and is / is not exempted development.

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

- (a) Sections 2, 3 and 4(1) (h) of the Planning and Development Act, 2000, as amended.
- (b) Articles 6, 9 and 10 of the Planning and Development Regulations, 2001
- (c) Schedule 2, Part 1, Class 1- Exempted development General.
- (d) The drawings and particulars received by the Planning Authority on 7th March 2023, as amended by those received by the Planning Authority on 11th April 2023.

AND WHEREAS Clare County Council has concluded that –

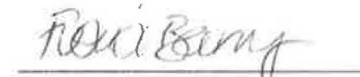
- (a) There is no record of a permitted commercial use of the subject structure and therefore the provisions of Article 10 of the Regulations do not apply in this instance,
- (b) the structure is however attached to the side of the existing dwelling house, and considering that the house has not been extended previously, the proposed development based on the drawings and particulars as submitted with the application, would meet the conditions and limitations as set out under Class 1 of Part 1 (Schedule 2) of the Planning and Development Regulations 2001, as amended.

NOW THEREFORE Clare County Council, in exercise of the powers conferred on it by section 5(2) (a) of the 2000 Act, hereby decides that the change of use of vacant ground floor commercial unit at Main Street, Clarecastle, Co. Clare from Commercial/Retail use to residential use, to be used as ancillary accommodation to the adjoining dwelling, is considered development which is exempted development.

Notes to applicant:

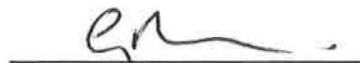
- i. This Section 5 declaration refers to the use of the vacant commercial unit as ancillary residential accommodation to the existing dwelling on site, and not a standalone residential unit.
- ii. The applicant / developer shall ensure compliance with Building Regulations and Fire Safety Regulations.
- iii. Once works to remove the window as stated in the documentation received by the Planning Authority on 11th April 2023 have been completed, evidence of the carrying out of such works shall be submitted to the Planning Authority. Such works and evidence shall be submitted to the Planning Authority in advance of the occupation (for residential purposes) of the subject development.

Signed



Fiona Barry
Executive Planner
Date: 28.04.2023

Signed



Garreth Ruane
Senior Executive Planner



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Registered Post

**Paul Walsh
c/o Ian Sheehy
Bansha
Askeaton
Co. Limerick**

23rd March 2023

Section 5 referral Reference R23-15 – Paul Walsh

Is the change of use from vacant commercial premises to residential use of outgoing dwelling at 10 Main St, Clarecastle, Ennis, Co. Clare development, and if so is it exempted development?

A Chara,

I refer to your application received on 7th March 2023 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

I wish to advise that in accordance with Section 5 (2) (b) of the Planning & Development Act, 2000, as amended, the following further information is required:

The subject Section 5 declaration is being assessed having regard to Class 1 of Part 1 (Schedule 2) of the Planning and Development Regulations 2001, as amended, as it is stated in the documentation received by the Planning Authority on 7th March 2023, that same is to be used as ancillary residential accommodation to the principle dwelling on site (and not a standalone residential unit) and in any event the Planning Authority has no record of any commercial use authorised on this site.

The conditions and limitations attached to Class 1 of Part 1 of the Planning and Development Regulations 2001, as amended, are noted, in particular condition/limitation 6 (a) which states the following:

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

Based on the drawings as submitted with the application, the Planning Authority considers that this condition/limitation has not been met, having regard to the positioning of the window on the rear elevation of the subject unit, relative to the boundary it faces (notwithstanding the removal of a section of the boundary fence). In order to give further consideration to the subject Section 5 referral, you are invited to address this issue, and to respond as appropriate with revised drawings.

**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



Please submit your response to the Planning Authority in writing, also quoting your reference number R23-15, to the postage address at the bottom of this correspondence. Alternatively, please email your response to planoff@clarecoco.ie, also quoting reference R23-8.

Mise, le meas

A handwritten signature in dark ink, appearing to read 'Anne O'Gorman', with a long horizontal flourish extending to the right.

Anne O'Gorman
Staff Officer
Planning Department
Economic Development Directorate

**CLARE COUNTY COUNCIL
SECTION 5 REFERRAL REPORT**

Reference No: R23 15
Applicant: Paul Walsh
Location: No. 10 Main Street, Clarecastle
Proposal: Whether the change of use of vacant commercial unit at Main Street, Clarecastle from Commercial/Retail use to residential use is or is not development and is / is not exempted development
Due Date:

Introduction

This proposal is a request for a declaration under Section 5 of the Planning and Development Act, 2000 as amended to determine whether or not the following constitutes exempted development:

Whether the change of use of vacant commercial unit at Main Street, Clarecastle from Commercial/Retail use to residential use is or is not development and is / is not exempted development. It is stated that a previous opening between the existing adjoining dwelling and the subject unit is to be reinstated to connect both properties. The existing space is to become a bedroom with a separate room that is to be used as per the occupants requirements. It is intended to rent out the combined property as a family dwelling.

The unit, which essentially comprises of a single-story side return located at the end of a terrace of buildings along Main Street, Clarecastle. The property has an external door accessing Main Street. There is a layby area located to the immediate east of the subject building, which provides limited vehicular access to the lane which runs to the rear and parallel of Main Street, as well as pedestrian access to the development to the immediate rear of the site.



Clare County Development Plan 2017- 2023, as varied

The site is located in the settlement of Clarecastle as per the Clare County Development Plan 2017-2023, as varied and is zoned for "Mixed Use". It is within the the Clarecastle "Architectural Conservation Area".

Onsite Planning History

P06 702 **Application by** Paul Walshe for planning permission to construct 6 no. apartments with connection to the public services together with ancillary site works. Permission granted subject to 17 no. conditions.

Pre-planning History`1

None.

Section 5 Declaration History

none

Details Received

- Site location map.
- Site layout plan.
- Drawings consisting of:
 - Existing & proposed elevations
 - Existing & proposed floor plan.
- Completed application form

Background

Planning and Development Act, 2000 (as amended)

Section 2

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

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

Section 3

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

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

Section 4(1)(H)

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

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

Planning & Development Regulations, 2001, as amended

Part 2 Exempted Development

Article 6 (1) states

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

Article 9 -Restrictions on Exemptions

'Under Article 9 (1) of the same Regulations, development to which Article 10 relates shall not be exempted development for the purposes of the Act:

(a) if the carrying out of such development would –

- i. *contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act*
- ii. *consist of or compromise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,*
- iii. *endanger public safety by reason of traffic hazard or obstruction of road users,*
- iv. *except in the case of a porch to which class 7 specified in column 1 of Part 1 of Schedule 2 applies and which complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1, comprise the construction, erection, extension or renewal of a building on any street so as to bring forward the building, or any part of the building, beyond the front wall of the building on either side thereof or beyond a line determined as the building line in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,*
- v. *consist of or comprise the carrying out under a public road of works other than a connection to a wired broadcast relay service, sewer, water main, gas main or electricity supply line or cable, or any works to which class 25, 26 or 31 (a) specified in column 1 of Part 1 of Schedule 2 applies,*
- vi. *interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan.*
- vii. (a) *consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,*
- vii. (b) *comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,*
- vii. (c)

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

- viii. consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,*
- ix. consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,*
- x. consist of the fencing or enclosure of any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility,*
- xi. obstruct any public right of way,*
- xii. further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area'.*

Article 10 Change of Use

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

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

- motor vehicles,*
 - (iv) for a taxi or hackney business or for the hire of motor vehicles,*
 - (v) as a scrap yard, or a yard for the breaking of motor vehicles,*
 - (vi) for the storage or distribution of minerals,*
 - (vii) as a supermarket, the total net retail sales space of which exceeds 3,500 square metres in the greater Dublin Area and 3,000 square metres in the remainder of the State,*
 - (vii) as a retail warehouse, the total gross retail sales space of which exceeds 6,000 square metres (including any ancillary garden centre), or*
 - (viii) as a shop, associated with a petrol station, the total net retail sales space of which exceeds 100 square metres.*
- (3) Development consisting of the provision within a building occupied by, or under the control of, a State authority of a shop or restaurant for visiting members of the public shall be exempted development for the purposes of the Act.*
 - (4) Development consisting of the use of not more than 4 bedrooms in a house, where each bedroom is used for the accommodation of not more than 4 persons as overnight guest accommodation, shall be exempted development for the purposes of the Act, provided that such development would not contravene a condition attached to a permission under the Act or be inconsistent with any use specified or included in such a permission.*
 - (5) Development consisting of the use of a house for child minding shall be exempted development for the purposes of the Act.*

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

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

Article 10 of the Planning and Development Regulations 2001 (S.I. No. 600 of 2001) is amended by inserting the following sub-article after sub-article (5):

- “(6) (a) In this sub-article—‘habitable room’ means a room used for living or sleeping purposes but does not include a kitchen that has a floor area of less than 6.5 square metres;
‘relevant period’ means the period from the making of these Regulations until 31 December 2025.
(b) This sub-article relates to a proposed development, during the relevant period, that consists of a change of use to residential use from Class 1, 2, 3 or 6 of Part 4 to Schedule 1.
(c) Notwithstanding sub-article (1), where in respect of a proposed development referred to in paragraph (b)—*

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

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

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

(ii) Subject to sub-paragraph (iii), any related works, including works as may be required to comply with sub-paragraph (vii), shall affect only the interior of the structure and shall not materially affect the external appearance of the structure so as to render its appearance inconsistent with the character of the structure or of neighbouring structures.

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

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

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

(vi) Dwelling floor areas and storage spaces shall comply with the minimum floor area requirements and minimum storage space requirements of the "Sustainable Urban Housing:

Design Standards for New Apartments — Guidelines for Planning Authorities" issued under section 28 of the Act or any subsequent updated or replacement guidelines.

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

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

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

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

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

(II) an area of special planning control;

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

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

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

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

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

(I) the location of the structure, and

(II) the number of residential units involved, including the

unit sizes and number of bedrooms in each unit, shall be entered in a record by the planning authority maintained for this purpose and the record shall be available for

inspection at the offices of the planning authority during office hours and on the planning authority's website.

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

Part 4 Article 10 Exempted Development- Class of use- Class 1 is use as a shop.

Schedule 2 Article 6 part 1 Exempted Development

CLASS 14

Development consisting of a change of use—

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

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

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

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

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

(f) *from use as a house, to use as a residence for persons with an intellectual or physical disability or mental illness and persons providing care for such persons.*

The number of persons with an intellectual or physical disability or a mental illness living in any such residence shall not exceed 6 and the number of resident carers shall not exceed 2.

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

Minimum Requirements for Residential Units

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

- A maximum of 9 residential units can be provided in any structure.
- The minimum floor area and minimum storage space requirements of the 'Sustainable Urban Housing: Design Standards for New Apartments -Guidelines for Planning Authorities', 2017* must be complied with. This ensures that apartments will be of adequate size and will include adequate storage. The minimum floor areas allowed are:

Minimum overall apartment floor areas

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

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

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

Minimum bedroom floor areas

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

Minimum aggregate bedroom floor areas

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

Minimum storage space requirements

- Studio apartment 3 sq.m
- 1-bedroom apartment 3 sq.m
- 2-bedroom apartment (3 person) 5 sq.m
- 2-bedroom apartment (4 person) 6 sq.m
- 3-bedroom apartment 9 sq.m

* amended by Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities December 2020

Assessment

Primary legislation

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

Planning and Development Regulations 2001, as amended

- I refer to Part 4 Article 10 Exempted Development- Class of use. The applicant has not outlined the previous use of this unit, save to say it was a "commercial premises". A review of available imagery does not provide any insight to the previous use of the unit.

- I refer to Schedule 2, Part 1 Exempted Development – General, wherein Class 1 sets out changes of use that are considered to be exempted development. I would consider that the proposed development may be assessed under this Class.

Development within the curtilage of a house

CLASS 1

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

The following conditions and limitations are noted:

- 1. (a) Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres. From my inspection of the property, and from a review of the submitted documentation, I am satisfied that the subject unit does not exceed 40 sqm.**
 - (b) Subject to paragraph (a), where the house is terraced or semi-detached, the floor area of any extension above ground level shall not exceed 12 square metres. While noting that an extension is not proposed, the subject unit is situated on the ground floor.**
 - (c) Subject to paragraph (a), where the house is detached, the floor area of any extension above ground level shall not exceed 20 square metres. Not applicable**
- 2. (a) Where the house has been extended previously, the floor area of any such extension, taken together with the floor area of any previous extension or extensions constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 40 square metres. From an inspection of the site, I note that the subject unit is the only such extension to the original dwelling.**
 - (b) Subject to paragraph (a), where the house is terraced or semi-detached and has been extended previously, the floor area of any extension above ground level taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 12 square metres. The subject unit is a ground floor extension. The property does not have any above ground level extension.**
 - (c) Subject to paragraph (a), where the house is detached and has been extended previously, the floor area of any extension above ground level, taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 20 square metres. Not applicable.**
- 3. Any above ground floor extension shall be a distance of not less than 2 metres from any party boundary. Not applicable.**
- 4. (a) Where the rear wall of the house does not include a gable, the height of the walls of any such extension shall not exceed the height of the rear wall of the house. The rear element of the subject unit is a flat roof, and the height of same does not exceed the height of the party fence between the subject site and the property to the rear.**
 - (b) Where the rear wall of the house includes a gable, the height of the walls of any such extension shall not exceed the height of the side walls of the house. As noted above.**
 - (c) The height of the highest part of the roof of any such extension shall not exceed, in the case of a flat roofed extension, the height of the eaves or parapet, as may be appropriate, or, in any other case, shall not exceed the height of the**

highest part of the roof of the dwelling. The height of the subject unit does not exceed the height of the eaves / parapet.

5. The construction or erection of any such extension to the rear of the house shall not reduce the area of private open space, reserved exclusively for the use of the occupants of the house, to the rear of the house to less than 25 square metres. I note that the subject unit has been constructed to the side of the original dwelling, and does not therefore encroach on the open space serving the original dwelling.

6. (a) Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces. This has not been achieved. From my inspection of the site, I note that a window is proposed at the ground floor level, located less than 1m from the boundary fence it faces. I note that part of the fence had been removed so as to allow for light into the room. From an inspection of the submitted drawings there is a separate window / door opening on the SW elevation. As this condition / limitation has not been achieved I recommend that FI is requested on this issue.

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

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

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

- I refer to Part 2 Article 6 (1) Exempted Development and Article 9 Restrictions on Exemptions. I note Article (9) (1) (a) (iii) states the following:

Development to which article 6 relates shall not be exempted development for the purposes of the Act if the carrying out of such development would—

endanger public safety by reason of traffic hazard or obstruction of road users,

It is considered that the provisions of article 9 are applicable to the query. It is noted that no onsite parking has been provided on site. However public off street parking is available in the vicinity of the site.

- I refer to Article 10 of the Planning and Development Regulations 2001 (S.I. No. 600 of 2001) as amended by the Planning and Development Regulations 2018 (no 2). Article 10 of the Planning and Development Regulations 2001 (S.I. No. 600 of 2001) is amended by inserting the following sub-article after sub-article (5):

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

‘relevant period’ means the period from the making of these Regulations until 31 December 2021.

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

(c) Notwithstanding sub-article (1), where in respect of a proposed development referred to in paragraph (b)—(i) the structure concerned was completed prior to the making of the Planning and Development (Amendment) (No. 2) Regulations 2018. Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 13th February 2018.[30].

The structure has been in existence prior to the coming in to effect of the amendment.

(ii) the structure concerned has at some time been used for the purpose of its current use class, being Class 1, 2, 3 or 6, and (iii) the structure concerned, or so much of it that is the subject of the proposed development, has been vacant for a period of 2 years or more immediately prior to the commencement of the proposed development, then the proposed development for residential use, and any related works, shall be exempted development for the purposes of the Act, subject to the conditions and limitations set out in paragraph (d).

The structure has previously been used as commercial purposes and has been vacant for in excess of 2 years, as per the documentation submitted with the subject Section 5 referral.

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

The applicant advised that it is intended to commence works in May 2023. Therefore the development would be commenced within the relevant period.

(ii) Subject to sub-paragraph (iii), any related works, including works as may be required to comply with sub-paragraph (vii), shall affect only the interior of the structure and shall not materially affect the external appearance of the structure so as to render its appearance inconsistent with the character of the structure or of neighbouring structures.

Having regard to the drawings submitted it is considered that the proposal complies with this requirement. No material alterations to the external appearance of the structure are proposed.

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

No alterations to the external elevations of the building are proposed.

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

There is no objective in the County Development Plan requiring ground floor use to remain as commercial in Clarecastle.

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

One residential unit is proposed.

(vi) Dwelling floor areas and storage spaces shall comply with the minimum floor area requirements and minimum storage space requirements of the "Sustainable Urban Housing: Design Standards for New Apartments — Guidelines for Planning Authorities" issued under section 28 of the Act or any subsequent updated or replacement guidelines. This document was up dated in December 2020.

It is stated in the submitted documentation that the subject unit is not be to used as a stand alone residential unit, rather it will be integrated into the adjoining dwelling. In this regard, it is proposed to reinstate an internal door between the subject unit and the adjoining unit. Therefore, in this instance minimum floor area requirements and minimum storage space requirements of the "Sustainable Urban Housing: Design Standards for New Apartments — Guidelines for Planning Authorities" are not considered relevant.

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

The structure is not a protected structure.

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

There is no recent planning permission associated with the subject unit.

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

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

Not applicable.

(II) an area of special planning control;

The site is located within the Clarecastle Architectural Conservation Area. No adverse impacts on the character of the area are envisaged.

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

Not applicable.

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

The proposal complies with the above requirements.

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

The building is connected to public sewer.

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

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

(I) the location of the structure, and

(II) the number of residential units involved, including the unit sizes and number of bedrooms in each unit, shall be entered in a record by the planning authority maintained for this purpose and the record shall be available for inspection at the offices of the planning authority during office hours and on the planning authority's website.

Notification by the applicant is pending the determination by the Planning Authority or An Bord Pleanála that the section 5 query re proposed change of use is considered to be exempted development.

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

Noted.

Article 9

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. **As noted above, there is no planning permission associated with the subject site.***

*(ii) consist of or compromise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width, **Not applicable.***

*(iii) endanger public safety by reason of traffic hazard or obstruction of road users, **Not applicable.***

*(iv) 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. **Not applicable***

*(vii) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan, **Not applicable.***

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

*(viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site, **Not applicable. Please refer to attached screening document.***

*(viiC) consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000." **Not applicable.***

*(viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use, **Not applicable.***

*(ix) consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan, **Not applicable.***

*(x) consist of the fencing or enclosure of any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility, **Not applicable***

*(xi) obstruct any public right of way, **Not applicable.***

*(xii) further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area. **The site is located within the ACA of Ennis. It is noted that no alterations are proposed to the external elevations of the building.***

Environmental Impact Assessment

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

Appropriate Assessment

The subject building is located approx. 50m from the Lower River Shannon SAC. Having regard to the nature of the development as proposed under the subject Section 5 declaration application, it is considered that there will be no adverse impacts on the Lower River Shannon SAC.

Flood Risk

It is noted that the site is located within Flood Risk Zone B. There is no provision in the Regulations to declare a development such as that proposed under the subject Section 5 declaration 'not exempt' because of same.

Conclusion

The proposed change of use of the existing commercial unit to residential, which is to be integrated into the adjoining unit, is considered to be exempted development. Minimum floor area requirements and minimum storage space requirements of the "Sustainable Urban Housing: Design Standards for New Apartments — Guidelines for Planning Authorities" are not considered relevant as the subject unit is not proposed as a standalone residential unit. However the proposal is being assessed under Class 1, of Part 1 of the Planning and Development Regulations 2001, as amended. All conditions and limitations attached to Class 1 have not been met, namely the proximity of the window at ground level to the rear facing boundary. As there is potential to relocate, same, I recommend that further information is requested.

Recommendation

I recommend that further information is requested as follows:


The subject Section 5 declaration is being assessed having regard to Class 1 of Part 1 (Schedule 2) of the Planning and Development Regulations 2001, as amended, as it is stated in the documentation received by the Planning Authority on 7th March 2023, that same is to be used as ancillary residential accommodation to the principle dwelling on site (and not a standalone residential unit) and in any event the Planning Authority has no record of any commercial use authorised on this site.

The conditions and limitations attached to Class 1 of Part 1 of the Planning and Development Regulations 2001, as amended, are noted, in particular condition/limitation 6 (a) which states the following:

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

Based on the drawings as submitted with the application, the Planning Authority considers that this condition/limitation has not been met, having regard to the positioning of the window on the rear elevation of the subject unit, relative to the boundary it faces (notwithstanding the removal of a section of the boundary fence). In order to give further consideration to the subject Section 5 referral, you are invited to address this issue, and to respond as appropriate with revised drawings.

Signed


Fiona Barry
Executive Planner
Date: 21st March 2023

Signed


Garreth Ruane
Senior Executive Planner
Date: 21/03/23

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	R23 15
Applicant Name	P Walsh
Development Location	Main Street, Clarecastle
Application accompanied by an EIS	No
Application accompanied by an NIS	No

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

Change of Use of part of existing structure to Residential development



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 0012156	<p>Sandbanks which are slightly covered by sea water all the time [1110]</p> <p>☐ Estuaries [1130]</p> <p>☐ Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>☐ *Coastal lagoons [1150]</p> <p>☐ Large shallow inlets and bays [1160]</p> <p>☐ Reefs [1170]</p> <p>☐ Perennial vegetation of stony banks [1220]</p> <p>☐ Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p> <p>☐ <i>Salicornia</i> and other annuals colonizing mud and sand [1310]</p> <p>☐ Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330]</p> <p>☐ Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Water courses of plain to montane levels with the <i>Ranunculum fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation [3260]</p> <p>☐ <i>Molinia</i> meadows on calcareous, peaty or clayey-silt-laden soils (<i>Molinion caeruleae</i>) [6410]</p> <p>☐ *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]</p> <p>Annex II species:</p> <p>☐ Freshwater Pearl Mussel <i>Margaritifera margaritifera</i> [1029]</p>	50m

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)
	<input checked="" type="checkbox"/> Sea Lamprey <i>Petromyzon marinus</i> [1095] <input checked="" type="checkbox"/> Brook Lamprey <i>Lampetra planeri</i> [1096] <input checked="" type="checkbox"/> River Lamprey <i>Lampetra fluviatilis</i> [1099] <input checked="" type="checkbox"/> Atlantic Salmon <i>Salmo salar</i> (only in fresh water) [1106] <input checked="" type="checkbox"/> Bottlenose Dolphin <i>Tursiops truncatus</i> [1349] <input checked="" type="checkbox"/> Otter <i>Lutra lutra</i> [1355]	

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

Table 3: Identification of potential impacts.

1	Impacts on designated rivers, streams, lakes and fresh water dependant habitats and species. <i>Please answer the following if the answer to question 1 in table 2 was "yes" or "unknown".</i> <i>Does the development involve any of the following:</i>	
1.1	Removal of or interference with habitat within a European site. This may include any element of a project liable to interfere with breeding, nesting or roosting sites of birds, bats, water based species	No
1.2	Discharges either directly (via pipe from the development) or indirectly (via sewer) to surfacewater or groundwater What is the likely volume of the discharge?	To public sewer
1.3	Abstraction from surfacewater or groundwater in or adjacent to a European site, where hydrology is a critical element in the protection of habitat and species at the site? What is the likely volume of the abstraction?	No
1.4	Is removal of topsoil proposed within 500m of watercourses? What transportation requirements are provided? Does the removal involve reduction in area, population density or fragmentation of area of any habitat or species?	No
1.5	Infilling or raising of ground levels within 500m of watercourses? What transportation requirements are provided? Does the infilling or raising involve interference with area, population density or fragmentation of area of any habitat or species?	No
1.6	Construction of drainage ditches - (scale?) Where the run off is directed to? Is the drainage run off directed to a European site where species are identified and whose conservation status may be impacted by this drainage?	No
1.7	Installation of waste water treatment systems; percolation areas; septic tanks within 500m of watercourses?	No
1.8	Construction within a floodplain or within an area liable to flood (See www.floodmaps.ie , internal flood risk maps, County Development Plan SFRA and www.cframes.ie)	No
1.9	Crossing or culverting of rivers or streams, installation of weirs, temporary watercourse crossings or any interference with a watercourse.	No
1.10	Storage of chemicals or hydrocarbons (including oils and fuels) within 500m of a watercourse	No
1.11	Development within catchment of a European site of a scale or type which involves the production of an EIS	No
1.12	Consideration of effects in combination with existing development?	No
2	Impacts on terrestrial habitats and species. <i>Please answer the following if the answer to question 2 in table 2 was yes.</i> <i>Does the development involve any of the following:</i>	
2a	Removal of or interference with habitat within the European site. This includes reduction in habitat area or fragmentation of habitat. Is the timing of this interference liable to impact on the nesting o	No

	breeding period of any protected species?	
2b	Construction of roads or other infrastructure on peat habitats within 1km of bog, marsh, fen or heath habitat within a European site	No
2c	Is the development liable to impact on water quality in the European site, or liable to give rise to any change in a key indicator of water quality, including salinity. If yes, is the site designated for any bird species or other plant species whose feeding ground or life cycle may be affected by changes in water quality?	No
2d	Development within 1km of terrestrial European site of a scale or type which involves the production of an EIS.	No

Conclusion:

- If the answer to all of the above is *no*, significant impacts on European sites are unlikely. No further assessment is required; go directly to the conclusion statement.
- If the answer to any of the above is *yes*, or *unknown* effects on the European sites need to be assessed and a Natura Impact Statement will be required

Appropriate Assessment Screening Determination	
Planning File Reference	R23 15
Proposed Development	Change of Use of part of existing structure to Residential development
Development Location	Main Street, Clarecastle
European sites within impact zone	As per report
Description of the project:	
Change of Use of part of existing structure to Residential development	
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).	
Water quality & general disturbance	
If there are potential negative impacts, explain whether you consider if these are likely to be significant, and if not, why not?	
Public sewer connection Distance from designation Minor nature of works	
Documentation reviewed for making this statement	
<ul style="list-style-type: none"> - County Development Plan (including Flood Maps, SEA & AA) - NPWS website - Documents received as part of the planning application 	
Conclusion of assessment (a, b, c or d)	
(a) The proposed development is directly connected with or necessary to the nature conservation management of a European Site(s)³	
(b) There is no potential for significant effects to European Sites³	✓
(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 material changes may be made to the proposed development after this conclusion has been reached as this would invalidate the findings of the screening exercise.

⁴ In accordance with S177U of the Planning and Development (Amendment) Act 2010, the applicant should be requested to submit an 'Appropriate Assessment Screening Matrix' completed by a suitably qualified ecologist, by way of Further Information. Following receipt of this information a new Appropriate Screening Report should be completed. The requested 'Appropriate Assessment Screening Matrix' should be in accordance with the template outlined in Annex 2, Figure 1 of the EU (2001) guidance document 'Assessment of plans and projects significantly affecting European Sites – Methodological guidance on the provisions of Article 6(3) and

(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	Fiona Barry, Executive Planner
Date	21 st March 2023

(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

Paul Walsh
c/o Ian Sheehy
Bansha
Askeaton
Co. Limerick

07/03/2023

Section 5 referral Reference R23-15 – Paul Walsh

Is the change of use from vacant commercial premises to residential use of outgoing dwelling at 10 Main St, Clarecastle, Ennis, Co. Clare development, and if so is it exempted development?

A Chara,

I refer to your application received on 7th March 2023 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

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

Mise, le meas


Brian Fahy
Planning Department
Economic Development Directorate

An Roinn Pleanála
An 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



Technical Solutions

Registered Building Surveyors & Chartered Construction Managers
Bansha, Askeaton, Co. Limerick

Email: ian@technicalsolutions.ie,

Phone 0879202500

To whom it may concern,

Paul Walsh is applying for a declaration on development and exempt development with regards to the change of use from vacant commercial to residential use at 10 Main Street, Clarecastle, Ennis, Co. Clare

The unit has been vacant for over 2 years. A previous opening is to be reinstated to connect both properties. The existing space is to become a bedroom with a separate room that is to be used as per the occupants requirements. i.e., second sitting room, studio, home office etc. Both properties are currently vacant, and it is intended to rent out the combined property as a family dwelling.

Please find enclosed

Application form

2 x OSI Maps

2 x Set of Drawings

Please call me on 087 9202500 for payment of fee

Kind Regards

Ian Sheehy

Agent

Technical Solutions

Registered Building Surveyors & Chartered Construction Managers

Bansha, Askeaton, Co. Limerick

Email: iansheehy99@gmail.com, Phone 0879202500

Reference No. R23-15

Other Ref: R23-8

Applicant: Paul Walsh

Re: Declaration on development and exempt development with regards to the change of use from vacant commercial to residential use at 10 Main Street, Clarecastle, Ennis, Co. Clare

Response to Request for Further Information

The window on the rear boundary is to be removed and blocked up. Please see enclosed revised drawings.

If you require any further information, please do not hesitate to contact me.

Kind Regards

Ian Sheehy

Agent



CONTAE

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

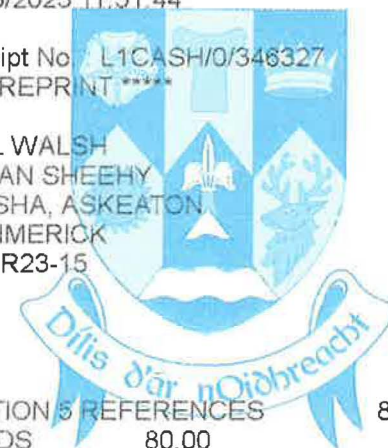
AN CHLÁIR

07/03/2023 11:51:44

Receipt No L1CASH/0/346327

***** REPRINT *****

PAUL WALSH
C/O IAN SHEEHY
BANSHA, ASKEATON
CO LIMERICK
REF. R23-15



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

Total : 80.00 EUR

COMHAIRLE

Tendered :
CREDIT CARDS 80.00

CONTAE

Change 0.00

AN CHLÁIR

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

P07

**CLARE COUNTY COUNCIL
COMHAIRLE CONTAE AN CHLÁIR**

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

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



Comhairle Contae an Chláir
Clare County Council

R23-15

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

FEE: €80

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

1. CORRESPONDENCE DETAILS.

(a) Name and Address of person seeking the declaration	Paul Walsh. Kiltannon House Tulla Co. Clare.
(b) Telephone No.:	087 8 [REDACTED]
(c) Email Address:	Paulwalshhorses98@gmail.com
(d) Agent's Name and address:	Ian Sheehy Bansha Askeaton Co. Kimerick.

2. DETAILS REGARDING DECLARATION BEING SOUGHT

(a) PLEASE STATE THE SPECIFIC QUESTION FOR WHICH A DECLARATION IS SOUGHT

Note: only works listed and described under this section will be assessed.

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

Is the change of use from vacant commercial premises to residential use of adjoining dwelling at 10 main Street. Clarecastle, Ennis, Co. Clare development and if so is it exempted development.

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

Existing small commercial premises that has been vacant for over 2 years to be re integrated to existing adjoining Property. Previous openings in separating wall to be reinstated.

(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)

DWG - 01 - Elevations, Plans + Section, Site layout
OS1 MAP - Site location map.

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT	
(a) Postal Address of the Property/Site/Building for which the declaration sought:	10 Main Street Clarecastle Emis Co. Clare
(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.
(d) If the person in (c) above is not the owner and/or occupier, state the name and address of the owner of the property in question: <i>Note: Observations in relation to a referral may be requested from the owner/occupier where appropriate.</i>	
(e) Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?:	Yes.
(f) Are you aware of any enforcement proceedings connected to this site? If so please supply details:	NO.
(g) Were there previous planning application/s on this site? If so please supply details:	NO
(h) Date on which 'works' in question were completed/are likely to take place:	NO MAJOR WORKS May 2023.

SIGNED: Ian Sheehy
Ian Sheehy (agent)

DATE: 06/03/23

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

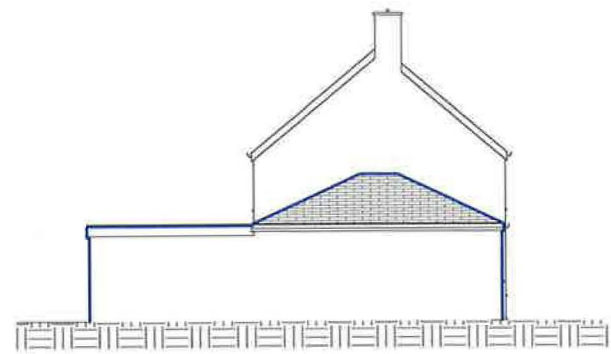
Date Received:	Fee Paid:
Date Acknowledged:	Reference No.:
Date Declaration made:	CEO No.:
Decision:.....	

No external changes proposed

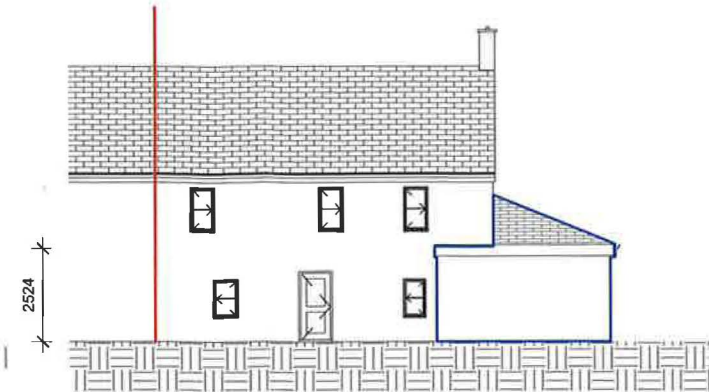


1 North West Elevation
1 : 100

Commercial unit to be changed to residential in blue

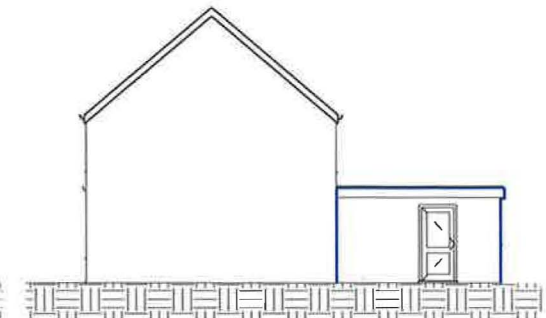


2 North East Elevation
1 : 100

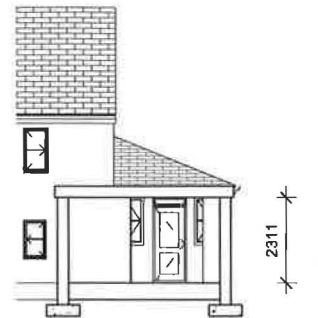


3 South East Elevation
1 : 100

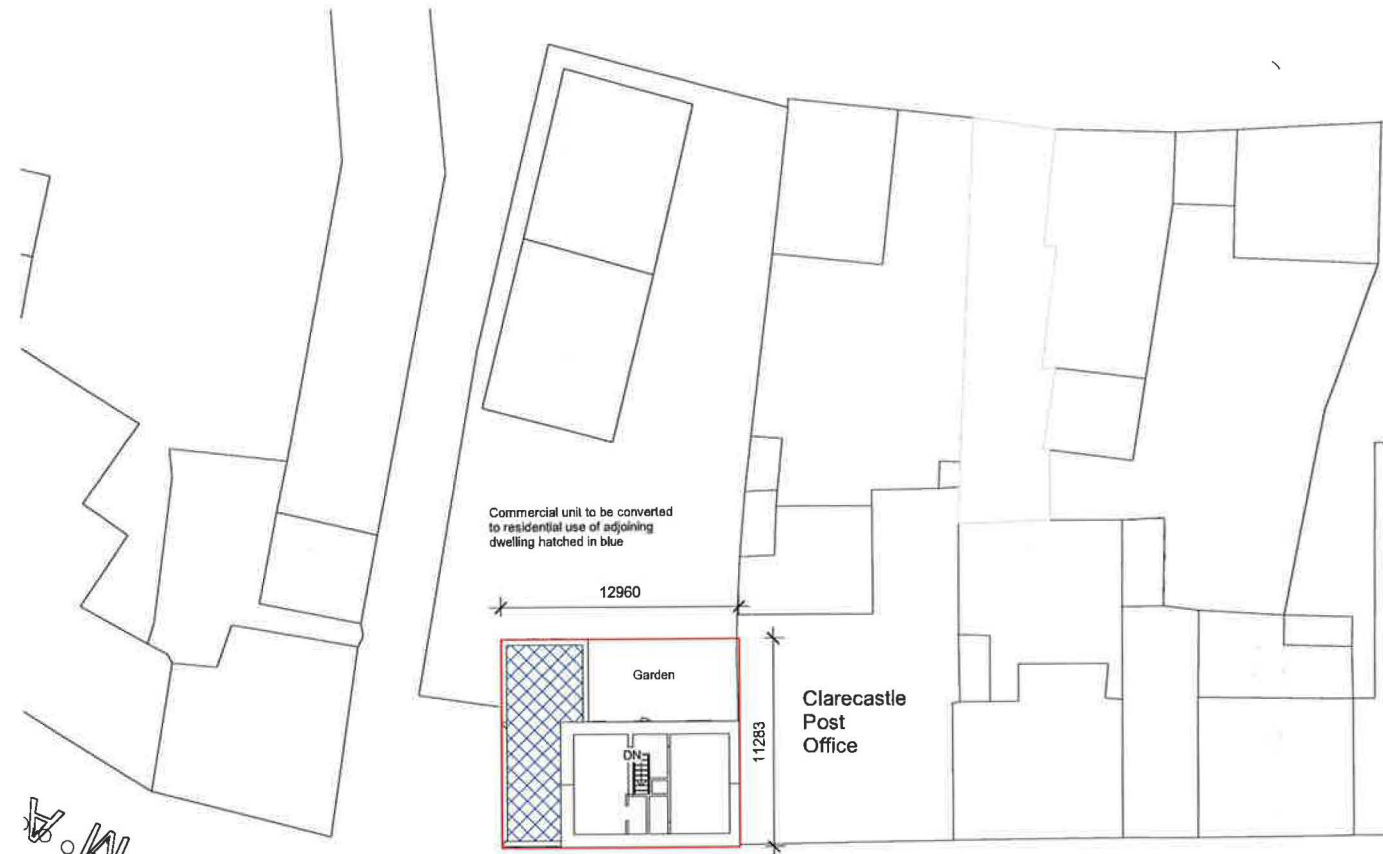
Commercial unit to be changed to residential in blue



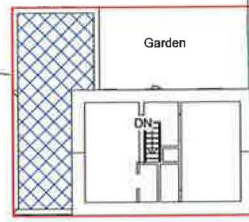
4 South West Elevation
1 : 100



5 Section 2
1 : 100



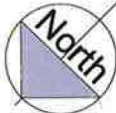
Commercial unit to be converted to residential use of adjoining dwelling hatched in blue



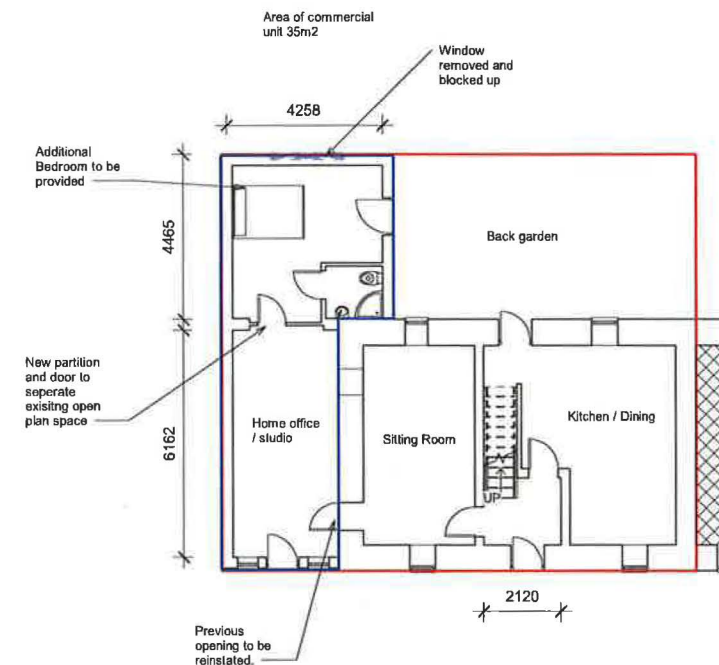
Clarecastle Post Office

MAIN STREET

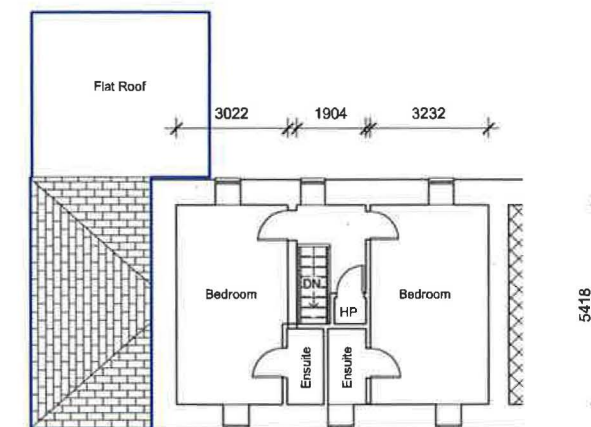
Boundary of entire site in red



6 Site
1 : 200



7 Ground Floor
1 : 100



8 1st Floor
1 : 100



Ian Sheehy Building Surveyor		
Architecture and Engineering Registered Building Surveyor		
Bansha, Askeaton, Co. Limerick	Phone: 0875202500 email: ian@technicalsolutions.ie	
PROJECT		
Change of use from vacant commercial to residential		
10 Main Street Clarecastle Ennis Co. Clare		
TITLE		
Request for section 5 Declaration		
CLIENT		
Paul Walsh		
DRAWN BY Ian Sheehy	CHECKED BY IS	DATE 11/04/2023
SCALE (@ A1) As indicated		PROJECT NUMBER 23/0311
DRAWING NUMBER DWG - 01		REV 01

Planning Pack Map

Existing Vacant Commercial Unit in Red
Adjoining dwelling in ownership of Applicant



CENTRE COORDINATES:
ITM 534937,674130

PUBLISHED: 26/08/2019
ORDER NO.: 50080670_1

MAP SERIES: 1:1,000
MAP SHEETS: 4380-09

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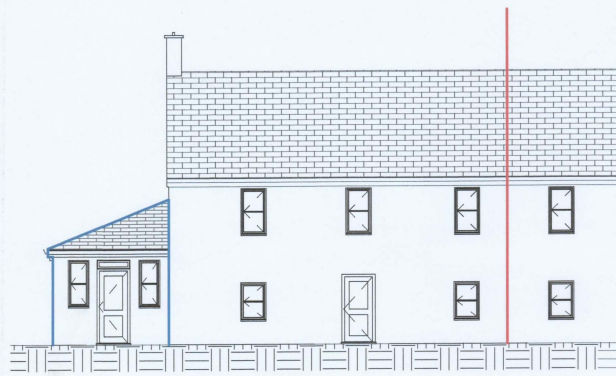
LEGEND:

<http://www.osi.ie>;
search 'Large Scale Legend'

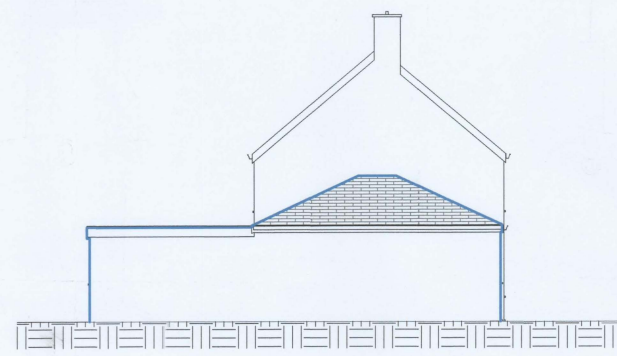


CAPTURE RESOLUTION:
The map objects are only accurate to the
resolution at which they were captured.
Output scale is not indicative of data capture scale.
Further information is available at:
<http://www.osi.ie>; search 'Capture Resolution'

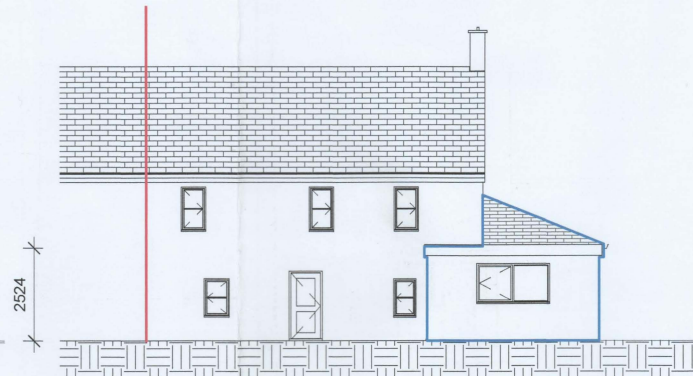
No external changes proposed



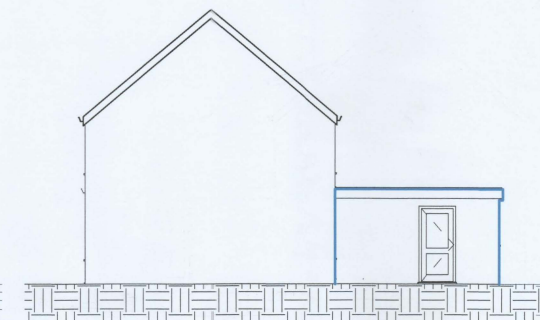
1 North West Elevation
1 : 100
Commercial unit to be changed to residential in blue



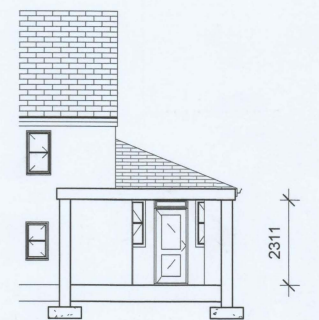
2 North East Elevation
1 : 100



3 South East Elevation
1 : 100
Commercial unit to be changed to residential in blue



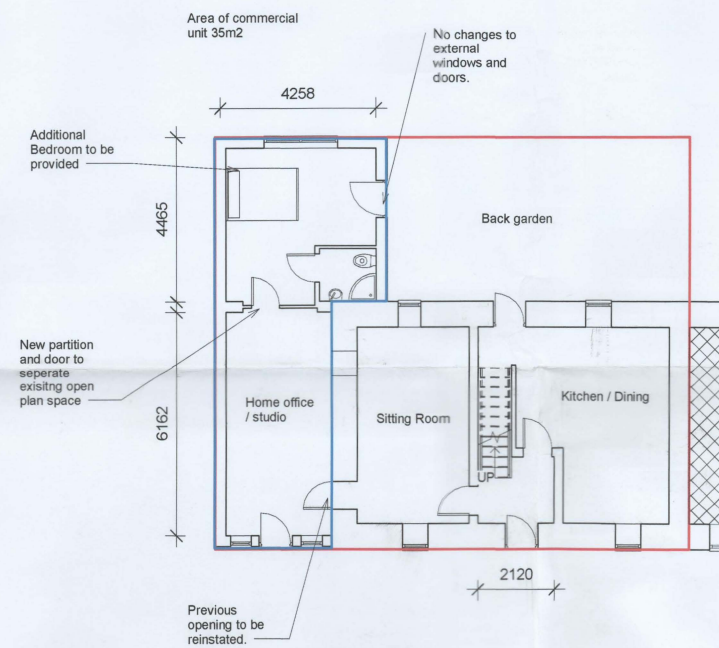
4 South West Elevation
1 : 100



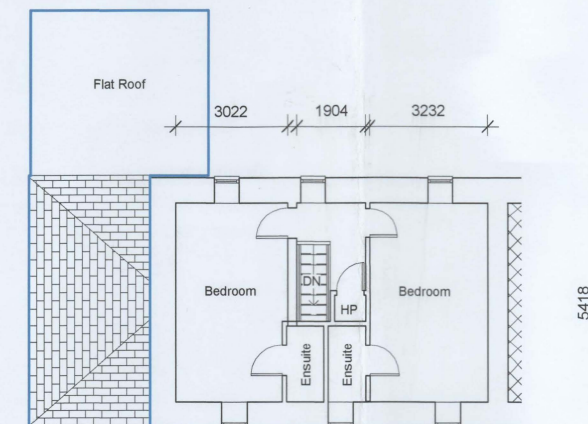
5 Section 2
1 : 100



6 Site
1 : 200



7 Ground Floor
1 : 100



8 1st Floor
1 : 100

Ian Sheehy Building Surveyor

Architecture and Engineering
Registered Building Surveyor

Bansha,
Askeaton,
Co. Limerick

Phone: 0879202500
email: ian@technicalolutions.ie

PROJECT

Change of use from vacant commercial to residential

10 Main Street
Clarecastle
Ennis
Co. Clare

TITLE

Request for section 5 Declaration

CLIENT

Paul Walsh

DRAWN BY
Ian Sheehy

CHECKED BY
IS

DATE
02/20/23

SCALE (@ A1)
As indicated

PROJECT NUMBER
23/0311

DRAWING NUMBER

DWG - 01

REV