

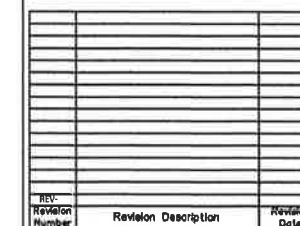


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Scale	Date	Status
1:100	20-1-23	PLANNING
Job Number	Drawing Number	Revision
212037	05	

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20 An Sean Dun Tulla Road Ennis, Co. Clare  
Tel: 087 3654995  
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Client:  
Greg Dormer & Michelle Dixon

### Project

#### House Extension And Refurbishment

46 St Michael's Villas,  
Clonroad More, Ennis,  
Co. Clare, V95 RCC8

Drawing

Elevation & Building Section

A3 Sheet

Scale	Date	Status
SHOWN	20-1-23	PLANNING
Job Number	Drawing Number	Revision
212037	06	-



COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

**Registered Post**

**Greg Dormer & Michelle Dixon  
c/o Shane O'Sullivan  
20 An Sean Dun  
Tulla Road  
Ennis, Co. Clare**

**20th February 2023**

**Section 5 referral Reference R23-4 – Greg Dormer & Michelle Dixon**

Is the demolition and reconstruction of an existing ground floor rear extension and front porch along with internal alterations to existing ground and first floor considered development and if so, is it an exempted development?


A Chara,

I refer to your application received on 24th January 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](http://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



**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:**

81260

**Reference Number:**

**R23-4**

**Date Referral Received:**

**24th January 2023**

**Name of Applicant:**

**Greg Dormer & Michelle Dixon**

**Location of works in question:  
Co. Clare, V95 RCC8**

**46 St. Michael's Villas, Clonroadmore, Ennis,**

**Section 5 referral Reference R23-4 – Greg Dormer & Michelle Dixon**

Is the demolition and reconstruction of an existing ground floor rear extension and front porch along with internal alterations to existing ground and first floor considered development and if so, is it an exempted development?

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

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended
- (c) Class 1, Class 7 and 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.

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

- (a) The demolition of an existing ground floor rear extension and front porch, the construction of ground floor rear extension and porch on the front elevation, and internal reconfiguration and window alterations of the dwelling at 46 St. Michael's Villa's, Clonroadmore, Ennis, Co. 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 demolition of an existing ground floor rear extension and front porch, the construction of ground floor rear extension and porch on the front elevation, and internal reconfiguration and window alterations of the dwelling at 46 St. Michael's Villa's, Clonroadmore, Ennis, Co. Clare is exempted development having regard to Articles 6 and 9 of the Planning and Development Regulations 2001, as amended, and Class 1, Class 7 and Class 50 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.

**ORDER:** Whereas by Chief Executive's Order No. HR 152 dated 9<sup>th</sup> April 2021, Pat Dowling, Chief Executive for Clare County Council, did, pursuant to the powers conferred on him by Section 154 of the Local Government Act 2001, delegate to Kieran O'Donnell, Administrative Officer, the powers, functions and duties as set out herein,

**NOW THEREFORE** pursuant to the delegation of the said powers, functions and duties and under Section 5(2)(a) of the Planning & Development Act 2000 (as amended) and having considered the various submissions and reports in connection with the referral described above, I, Kieran O'Donnell, Administrative Officer, hereby declare that (1) the demolition of an existing ground floor rear extension and front porch, (2) the construction of ground floor rear extension and porch on the front elevation, and (3) internal reconfiguration and window alterations of a dwelling at 46 St. Michael's Villa's, Clonroadmore, Ennis, Co. Clare is considered development which is exempted development.

**Signed:**

  
**KIERAN O'DONNELL**  
**ADMINISTRATIVE OFFICER** A.C.

**Date:** 20th February 2023

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

**Reference No.: R23-4**



Comhairle Contae an Chláir  
Clare County Council

**Section 5 referral Reference R23-4**

**Is the demolition and reconstruction of an existing ground floor rear extension and front porch along with internal alterations to existing ground and first floor considered development and if so, is it an exempted development?**

**AND WHEREAS, Greg Dormer & Michelle Dixon** has requested a declaration from Clare County Council on the said question.

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

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended
- (c) Class 1, Class 7 and 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.

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

- (a) The demolition of an existing ground floor rear extension and front porch, the construction of ground floor rear extension and porch on the front elevation, and internal reconfiguration and window alterations of the dwelling at 46 St. Michael's Villa's, Clonroadmore, Ennis, Co. 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 demolition of an existing ground floor rear extension and front porch, the construction of ground floor rear extension and porch on the front elevation, and internal reconfiguration and window alterations of the dwelling at 46 St. Michael's Villa's, Clonroadmore, Ennis, Co. Clare is exempted development having regard to Articles 6 and 9 of the Planning and Development Regulations 2001, as amended, and Class 1, Class 7 and Class 50 of Part 1 of 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 following works; (1) the demolition of an existing ground floor rear extension and front porch, (2) the construction of ground floor rear extension and porch on the front elevation, and (3) internal reconfiguration and window alterations of a dwelling at 46 St. Michael's Villa's, Clonroadmore, Ennis, Co. Clare constitutes development which 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**

**20th February 2023**



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

<b>FILE REF:</b>	R23 4
<b>APPLICANT(S):</b>	Greg Dormer & Michelle Dixon
<b>REFERENCE:</b>	Whether (1) the demolition of an existing ground floor rear extension and front porch, (2) the construction of ground floor rear extension and porch on the front elevation, and (3) internal reconfiguration is or is not development and is or is not exempted development.
<b>LOCATION:</b>	46 St. Michael's Villas, Clonroadmore, Ennis, Co. Clare
<b>DUE DATE:</b>	17 <sup>th</sup> Feb. 2023

**Site Location**

The subject dwelling, which consists of a two story terrace, is located within the established residential development of St. Michael's Villas. The subject dwelling is physically separated from the dwelling to the SW by a bow-way which provides access to the rear garden of the dwellings within the terrace. A glazed porch and a single story extension have been constructed to the property (no record of planning permission in relation to same). The extension to the rear is single story, with a lean to roof. There is also a small shed in the rear yard, with an oil tank perched on top of same. The porch to the front elevation of the dwelling is fully glazed, with a sliding external door.

**Planning History**

No record of planning permission on site.

**Background to Referral**

This Referral under Section 5(3)(a) of the Planning and Development Act 2000 (as amended) has been made by Greg Dormer & Michelle Dixon who are the stated potential purchasers of the property which is the subject of this referral. A letter of consent to the making of the referral from the owner of the dwelling has also been submitted.

The applicant is seeking a Section 5 Declaration as to whether (1) the demolition of an existing ground floor rear extension and front porch, (2) the construction of ground floor rear extension and porch on the front elevation, and (3) internal reconfiguration 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.*

Planning & Development Regulations, 2001, as amended

Article 6 refers to Exempted Development and states that subject to Article 9, development of a class specified in column 1 of Part 3 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 3 opposite the mention of that class in the said column 1.

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

**CLASS 1**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **CLASS 7**

The construction or erection of a porch outside any external door of a house.

1. Any such structure shall be situated not less than 2 metres from any road.

2. The floor area of any such structure shall not exceed 2 square metres.

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

CLASS 50

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

(i) a habitable house,

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

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

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

Under Article 9 (1) of the same Regulations, *development to which Article 6 relates shall not be exempted development for the purposes of the Act:*

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

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

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

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

*(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 17(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*

*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.

I would also consider it necessary to consider the proposals under Section 4 (1)(h) of the Planning and Development Act 2000, as amended which states the following:

*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;*

As noted above the internal reconfiguration, and associated window alterations may be considered exempt from the requirements of planning permission having regard to Section 4 (1)(h) of the Planning and Development Act 2000, as amended.

I would not consider the proposed demolition works or the construction of the rear extension would render the appearance of the dwelling inconsistent with the character of the subject dwelling or neighbouring dwellings, as same will not be readily visible from the public road. Regarding the proposed porch, I note that similar type structures have been constructed to dwellings within the terrace (no. 43 and 44). The proposed porch is of a similar scale, size, design and finish. Therefore, and by reason of same, I would not consider that the proposed porch would 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.

#### **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 and a screening determination is not required.

#### **Appropriate Assessment**

The subject site is located 3km from the Lower River Shannon SAC and over 3.5km from Ballyallia Lake SAC.

The proposed development is located within an established urban area and comprises of the demolition and construction of a domestic extension and associated site development works. The property is connected to the mains drainage system and surface water is attenuated on-site.

Having regard to:

- 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,*

No likely significant effects on European Sites. An Appropriate Assessment Screening Report and Determination has been carried out and is attached to this report. An appropriate assessment is not required.

- 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,*

There is no record of planning permission having been obtained for the extensions to be removed. While not clear if same would represent unauthorised development, if this is the case, the demolition of same is considered to be an acceptable remedy.

- (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*

*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**

### **Basis of Referral**

The applicant is seeking a Section 5 Declaration as to whether (1) the demolition of an existing ground floor rear extension and front porch, (2) the construction of ground floor rear extension and porch on the front elevation, and (3) internal reconfiguration is or is not development and is or is not exempted development.

#### **(1) Demolition of existing extensions**

I refer to the Planning and Development Regulations 2001 (as amended) Schedule 2, Part 1, Class 50 (b), which permits the demolition of part of a habitable house in connection with the provision of an extension or porch in accordance with class 1 or 7, respectively, of this Part of this Schedule or in accordance with a permission for an extension or porch under the Act. I would consider that the demolition of these structures is in accordance with this class.

#### **(2) Construction of extension to the rear of the dwelling and porch to the front of the dwelling**

Regarding the proposed extension to the rear of the dwelling I refer to the Planning and Development Regulations 2001 (as amended) Schedule 2, Part 1, Class 1, which permits 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.

I note that the proposed extension is located to the rear of the existing dwelling house.

##### **1. (a)**

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

The stated floor area of the proposed extension to the rear is 38m<sup>2</sup> with new floor space added to the ground floor only. (I note that the stated floor area of the proposed porch is 2m<sup>2</sup>, and therefore the aggregate floor space of the proposed additions to the existing dwelling would be 40m<sup>2</sup>.)

##### **(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.*

The house is an end-of-terrace unit. No above ground floor extension is proposed.

(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.*

The previous extensions will not be retained, and the demolition of same is considered to be in accordance with Class 50 of the PAD Regulations 2001, as amended.

(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.*

As noted above the existing extensions to the dwelling are not being retained.

(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 in this instance.

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

Not applicable – extension is at ground floor level.

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.*

Not applicable.

(b)

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

Not applicable.

(c)

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



### (3) internal reconfiguration

Such internal reconfiguration would not require the benefit of planning permission in this instance. I note that the internal reconfiguration will result in alterations to existing windows. The small window on the front elevation adjacent to the door is to be removed, and an enlarged window is to be provided on the rear elevation, ground floor. Such alterations shall be considered in the context of Art. 9 of the P&D Regulations 2001, as amended.

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

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

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

Not applicable – no previous applications on the proposal 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,*

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.*

Not applicable

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

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)

This is complied with, as the proposed extension is single story, and the principal dwelling on site is two story.

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

The submitted Site Layout Plan provided shows the extent of remain private open space to remain. I note in this regard, that the applicants are also proposing to remove 2 no. existing sheds on site to further increase the amount of rear open space. The proposed development will not result in a reduction of private open space to less than 25m<sup>2</sup>

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 is complied with.

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

Not applicable.

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

Not proposed.

Regarding the proposed porch to the rear of the dwelling I refer to the Planning and Development Regulations 2001 (as amended) Schedule 2, Part 1, Class 7, which allows for the construction or erection of a porch outside any external door of a house, subject to the following conditions and limitations:

1. *Any such structure shall be situated not less than 2 metres from any road.*

The proposed porch is located in excess of 2 meters from the road to the west.

2. *The floor area of any such structure shall not exceed 2 square metres.*

The stated floor area of the porch is 2m<sup>2</sup>.

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

The proposed porch incorporates a slated pitched roof, the height of which does not exceed 4 m

- the small scale of the development,
- the location of the development in a serviced urban area so that any construction surface water runoff will be managed via the existing drainage system,
- the consequent absence of a pathway to the European site,

it is considered that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on the Natura 2000 network and appropriate assessment is not therefore required.

### **Conclusions**

The following question has been referred to the Planning Authority:

Whether (1) the demolition of an existing ground floor rear extension and front porch, (2) the construction of ground floor rear extension and porch on the front elevation, and (3) internal reconfiguration and window alterations of a dwelling at 46 St. Michael's Villa's, Clonroadmore, Ennis, Co. Clare is or is not development and is or is not exempted development.

The Planning Authority in considering this referral had regard to:

- Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- Articles 6 and 9 of the Planning and Development Regulations 2001, as amended
- Class 1, Class 7 and Class 50 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- The works as indicated in submitted documents from the referrer.

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

- The demolition of an existing ground floor rear extension and front porch, the construction of ground floor rear extension and porch on the front elevation, and internal reconfiguration and window alterations of the dwelling at 46 St. Michael's Villa's, Clonroadmore, Ennis, Co. Clare constitutes "works" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended
- the said works constitute "development" which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended
- the said demolition of an existing ground floor rear extension and front porch, the construction of ground floor rear extension and porch on the front elevation, and internal reconfiguration and window alterations of the dwelling at 46 St. Michael's Villa's, Clonroadmore, Ennis, Co. Clare is exempted development having regard to Articles 6 and 9 of the Planning and Development Regulations 2001, as amended, and Class 1, Class 7 and Class 50 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.

Now therefore Clare County Council (Planning Authority), hereby decides Whether (1) the demolition of an existing ground floor rear extension and front porch, (2) the construction of ground floor rear extension and porch on the front elevation, and (3) internal reconfiguration and window alterations of a dwelling at 46 St. Michael's Villa's, Clonroadmore, Ennis, Co. Clare is development and is exempted development.



Fiona Barry  
Executive Planner  
Date: 15.02.2023



Senior Executive Planner  
Date: 16/02/23.







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BSc (Hons) In Architectural Technology

E: [shane@soarchtech.com](mailto:shane@soarchtech.com)

M: 087 3654995

DATE 24-1-2023

Planning Department,  
Clare County Council,  
Áras Contae an Chláir,  
New Road Ennis,  
County Clare.



**Request for a Declaration on Development and exempted development**

Please see enclosed

- Completed application form Request for a Declaration on development
- 2 copies of site Location Scale 1:1000
- Site Layout and Contiguous Elevations
- Existing Floor Plans
- Existing Elevations
- Proposed Floor Plans
- Proposed Elevations and Section
- Property Owners Letter
- Fee of €80.00

Your sincerely,

*Shane O Sullivan*

Shane O Sullivan



**ARCH TECH**



R23-4

P07

**CLARE COUNTY COUNCIL**  
**COMHAIRLE CONTAE AN CHLÁIR**

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

Telephone No. (065) 6821616  
 Fax No. (065) 6892071  
 Email: [planoff@clarecoco.ie](mailto:planoff@clarecoco.ie)  
 Website: [www.clarecoco.ie](http://www.clarecoco.ie)



**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	<b>Greg Dormer &amp; Michelle Dixon</b> <hr/> <b>7 The Lane</b> <hr/> <b>Gort Road</b> <hr/> <b>Ennis</b> <hr/> <b>Co. Clare V95 AK0F</b>
(b) Telephone No.:	
(c) Email Address:	
(d) Agent's Name and address:	<b>Shane O Sullivan</b> <hr/> <b>20 An Sean Dun</b> <hr/> <b>Tulla Road</b> <hr/> <b>Ennis Co Clare</b> <hr/> <b>E:</b>

## 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 demolition and reconstruction of an existing ground floor rear extension and front porch along with internal alterations to existing ground and first floor considered development if so, is it an exempt development.**

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

**Works to consist of demolition of the existing ground floor rear extension and reconstruction of a new modern extension with flat roof and skylights with a floor area of 38m<sup>2</sup>**

**Existing front porch to be removed and reconstructed as a pitch roof with 2.0m<sup>2</sup> floor area**

**this results in one number ground floor window being removed along with internal alterations as per attached drawings.**

**Total gross area of 38m<sup>2</sup>**

- (c) List of plans, drawings etc. submitted with this request for a declaration:

*(Note: Please provide a site location map to a scale of not less than 1:2500 based on Ordnance Survey map for the areas, to identify the lands in question)*

- Site Location Map
- Site Layout & Contiguous Elevation
- Existing Floor Plans
- Existing Elevations
- Floor Plans
- Elevations
- Elevation & Section

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT	
(a) Postal Address of the Property/Site/Building for which the declaration sought:	<b>46 St Michael's Villas</b> <b>Clonroad More</b> <b>Ennis</b> <b>Co Clare</b> <b>V95 RCC8</b>
(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?	<b>N/A</b>
(c) Legal interest in the land or structure in question of the person requesting the declaration (Give Details):	<b>Intended purchasers</b> <b>Greg Dormer &amp; Michelle Dixon</b> <b>negotiating sale of property with Hanrahan Family</b>
(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>	<b>CO Of Hanrahan Family</b> <b>Gabriella Hanrahan</b> <b>Ballymacloon Road</b> <b>Quin</b> <b>V95H2K4</b>
(e) Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?:	<b>Yes see attached property owners letter</b>
(f) Are you aware of any enforcement proceedings connected to this site? <i>If so please supply details:</i>	<b>Unknown</b>
(g) Were there previous planning application/s on this site? <i>If so please supply details:</i>	<b>Unknown</b>
(h) Date on which 'works' in question <del>were</del> completed/are likely to take place:	<b>February / March 2023</b>

SIGNED: Shane O'Sullivan (Agent)DATE: 24-1-23

### **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:.....			

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

24/01/2023 14:14:22

Receipt No. : L1CASH/0/344141  
\*\*\*\*\* REPRINT \*\*\*\*\*

GREG DORMER & MICHELLE DIXON  
7 THE LANE  
GORT ROAD  
ENNIS  
CO. CLARE

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

Total : 80.00 EUR

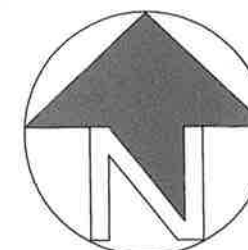
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Change : 0.00









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Ordnance Survey Ireland (OSI)

Date Source / Reference:  
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Survey Date = 31-Dec-1898  
Levelled Date = 31-Dec-1921

CE041  
Revision Date =  
Survey Date = 31-Dec-1898  
Levelled Date = 31-Dec-1922

CE042  
Revision Date =  
Survey Date =  
Levelled Date = 31-Dec-1922

CE033  
Revision Date =  
Survey Date =  
Levelled Date = 31-Dec-1921

**File Format:**  
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Centre Point Coordinates:  
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Data Extraction Date:  
17-jan-2023

Product Version: 1.3

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ARCH TECH

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1

Greg Dormer & Michelle Dixon

**Project**  
**House Extension And Refurbishment**

46 St Michael's Villas,  
Clonroad More, Ennls,  
Co. Clare, V95 RCC8

**Drawing**

Site Location

A3 Sheet

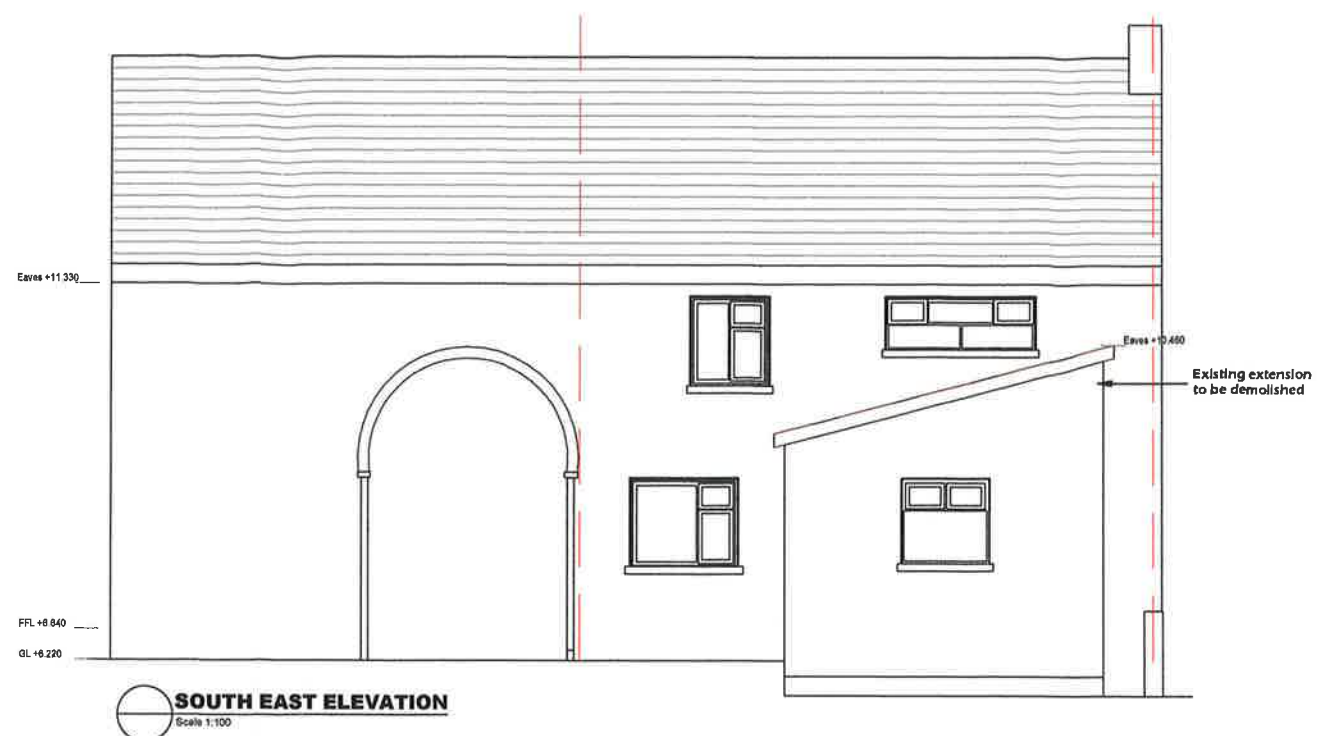
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Job Number	Drawing Number	Revised
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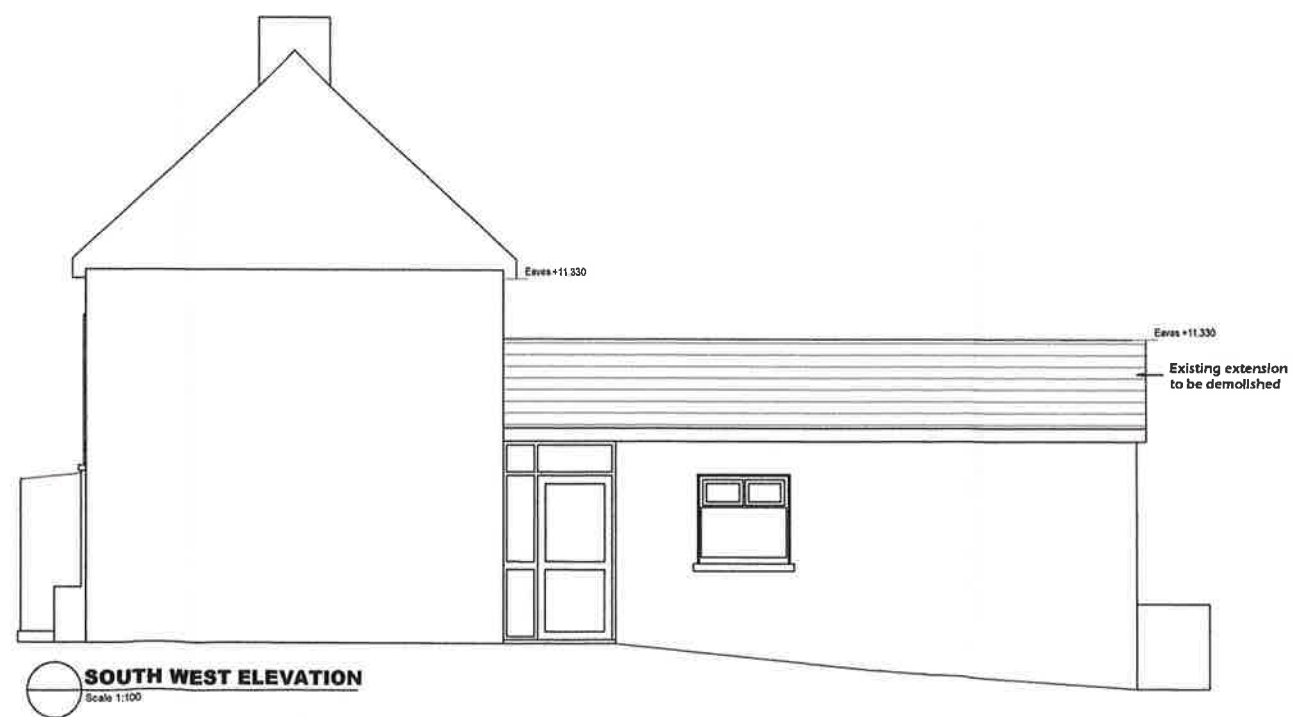
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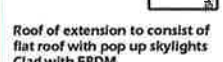
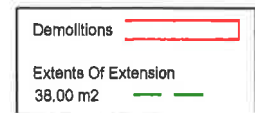
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R/V-		
Revision	Revision Description	Revision



Tel: 087 3654995

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Job Number	Drawing Number	Revision
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