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CONTAE AN CHLÁIR | COUNTY COUNCIL

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William T. O'Connor
Anam Cara, Ballyloughnane
Ogonnelloe / Killaloe
Co. Clare
V94 X6WP

18th July 2023

Section 5 referral Reference R23-45 – William T. O'Connor

Is the construction of (Project 1) upstairs gable end full length window; (Project 2) garage attic gable end window (X2); (Project 3) Log Cabin - hand crafted and (Project 4) tree house at Anam Cara (V94 X6WP) development and if so is it exempted development?

A Chara,

I refer to your application received on 23rd June 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 Stiúirthóireacht 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:

82088

Reference Number:

R23-45

Date Referral Received:

23rd June 2023

Name of Applicant:

William T. O'Connor

**Location of works in question:
Killaloe, Co. Clare, V94 X6WP**

Anam Cara, Ballyloughnane, Ogonnelloe /

Section 5 referral Reference R23-45 – William T. O'Connor

Is the construction of (Project 1) upstairs gable end full length window; (Project 2) garage attic gable end window (X2); (Project 3) Log Cabin - hand crafted and (Project 4) tree house at Anam Cara (V94 X6WP) development and if so is it exempted development?

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

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, (as amended)
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, (as amended)
- (c) Class 3 of Schedule 2, Part 1 of the Planning and Development Regulations 2001 (as amended)
- (d) The works as indicated in submitted documents from the referrer.
- (e) The inspection of the site by the Planning Authority.

AND WHEREAS Clare County Council has concluded:

- (a) The construction of a full-length gable end window in an existing dwelling; the installation of gable end windows in the attic of an existing garage; the installation of a hand-crafted log cabin on the site; and the construction of a tree house constitute "works" which come within the scope of section 2(1) of the Planning and Development Act 2000, as amended;
- (b) The said works constitute "development" which comes within the scope of section 3(1) of the Planning and Development Act 2000, as amended;
- (c) The said construction of a full-length gable end window in an existing dwelling and the installation of gable end windows in the attic of an existing garage are not exempted development having regard to Section 4(1)(h) of the Planning and Development Act, 2000 (as amended).
- (d) The said installation of a hand-crafted log cabin on the site is not exempted development having regard to Schedule 2, Part 1 Class 3 of the Planning and Development Regulations 2001 (as amended), as based on inspection of the property by the Planning

Authority the floor area of the structure, when taken together with the existing free-standing shed on the site, will exceed the limitations of the exemption under Class 3 of the Regulations.

- (e) The said construction of a tree house is exempted development having regard to Section 4(1)(j) of the Planning and Development Act, 2000 (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 Project 4 – the construction of a tree house at Anam Cara, Ballyloughnane, Ogonnelloe / Killaloe, Co. Clare, V94 X6WP is considered development which is exempted development.

Now therefore Clare County Council (Planning Authority), hereby decides that:

Project 1 – construction of a full-length gable end window in an existing dwelling
Project 2 – the installation of gable end windows in the attic of an existing garage
Project 3 – the installation of a hand-crafted log cabin on the site
is considered development which is not exempted development.

Signed:


GARETH RUANE
SENIOR EXECUTIVE PLANNER 

Date: 18th July 2023

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

Reference No.: R23-45



Comhairle Contae an Chláir
Clare County Council

Section 5 referral Reference R23-45

Is the construction of (Project 1) upstairs gable end full length window; (Project 2) garage attic gable end window (X2); (Project 3) Log Cabin - hand crafted and (Project 4) tree house at Anam Cara (V94 X6WP) development and if so is it exempted development?

AND WHEREAS, William T. O'Connor has requested a declaration from Clare County Council on the said question.

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

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, (as amended)
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, (as amended)
- (c) Class 3 of Schedule 2, Part 1 of the Planning and Development Regulations 2001 (as amended)
- (d) The works as indicated in submitted documents from the referrer.
- (e) The inspection of the site by the Planning Authority.

And whereas Clare County Council has concluded:

- (a) The construction of a full-length gable end window in an existing dwelling; the installation of gable end windows in the attic of an existing garage; the installation of a hand-crafted log cabin on the site; and the construction of a tree house constitute "works" which come within the scope of section 2(1) of the Planning and Development Act 2000, as amended;
- (b) The said works constitute "development" which comes within the scope of section 3(1) of the Planning and Development Act 2000, as amended;
- (c) The said construction of a full-length gable end window in an existing dwelling and the installation of gable end windows in the attic of an existing garage are not exempted development having regard to Section 4(1)(h) of the Planning and Development Act, 2000 (as amended).
- (d) The said installation of a hand-crafted log cabin on the site is not exempted development having regard to Schedule 2, Part 1 Class 3 of the Planning and Development Regulations 2001 (as amended), as based on inspection of the property by the Planning Authority the floor area of the structure, when taken together with the existing free-standing shed on the site, will exceed the limitations of the exemption under Class 3 of the Regulations.

(e) The said construction of a tree house is exempted development having regard to Section 4(1)(j) of the Planning and Development Act, 2000 (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 (Project 4) consisting of the construction of a tree house at Anam Cara, Ballyloughnane, Ogonnelloe / Killaloe, Co. Clare, V94 X6WP **constitutes development** which is **exempted development** as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.

The following works including:

Project 1 – construction of a full-length gable end window in an existing dwelling

Project 2 – the installation of gable end windows in the attic of an existing garage

Project 3 – the installation of a hand-crafted log cabin on the site

constitutes development which is **not exempted development** as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.



Anne O'Gorman
Staff Officer

Planning Department
Economic Development Directorate

18th July 2023

CLARE COUNTY COUNCIL
SECTION 5 DECLARATION OF EXEMPTION APPLICATION

FILE REF:	R23-45
APPLICANT(S):	William T. O' Connor
REFERENCE:	Whether the following work: Project 1 – construction of a full length gable end window in an existing dwelling; Project 2 – the installation of gable end windows in the attic of an existing garage; Project 3 – the installation of a hand-crafted log cabin on the site and Project 4 – the construction of a tree house, is or is not development and is or is not exempted development.
LOCATION:	Anam Cara, Ballyloughnane, Ogonnelloe / Killaloe, Co. Clare V94X6WP
DUE DATE:	20 th July 2023

Site Location

The site is located in a rural area approximately 2.5km southwest of Ogonnelloe and 100m west of St. Mary's Church in Ballyloughnane. The site is accessed via the L-8194 which is a designated Scenic Route.

The subject dwelling and associated garden are more elevated than the local road. A curving driveway slopes uphill through a cluster of mature trees before reaching the house.

The subject house is a detached bungalow with attic accommodation with an attached garage. There is a further free-standing shed in the garden.

Planning History

P05/2442 permission granted to retain attic conversion and gable windows.

To the East

P07/1643 – permission sought to erect a dwelling house, entrance, septic tank and soil polishing filter and carry out associated site works. Application withdrawn.

To the South

P04/1396 – permission refused for the construction of a dwelling, proprietary treatment unit and associated site works and services using existing entrance.

To the Southwest

P19/18 – permission granted to RETAIN attic conversion, alterations to elevations including provision of additional windows and roof windows and other minor alterations and all associated site works.

Background to Referral

This Referral under Section 5(3)(a) of the Planning and Development Act 2000 (as amended) has been made by William T. O' Connor. He states that he is the owner of the property.

The applicant is seeking a Section 5 Declaration as to whether the following work at Anam Cara, Ballyloughnane, Ogonnelloe/Killaloe, Co. Clare is or is not development and is or is not exempted development:

Project 1 – construction of a full-length gable end window in an existing dwelling;

Project 2 – the installation of gable end windows in the attic of an existing garage;

Project 3 – the installation of a hand-crafted log cabin on the site and

Project 4 – the construction of a tree house

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 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 Schedule 2 opposite the mention of the relevant class in the said column 1.

Section 4(1)(h) of the Planning and Development Act. 2000 (as amended)

The following shall be exempted developments for the purposes of this Act—

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;

Section 4(1)(i) of the Planning and Development Act. 2000 (as amended)

The following shall be exempted developments for the purposes of this Act—

development consisting of the use of any structure or other land within the curtilage of a house for any purpose incidental to the enjoyment of the house as such;

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 1, Class 3

The construction, erection or placing within the curtilage of a house of any tent, awning, shade or other object, greenhouse, garage, store, shed or other similar structure.

- 1. No such structure shall be constructed, erected or placed forward of the front wall of a house.*
- 2. The total area of such structures constructed, erected or placed within the curtilage of a house shall not, taken together with any other such structures previously constructed, erected or placed within the said curtilage, exceed 25 square metres.*
- 3. The construction, erection or placing within the curtilage of a house of any such structure shall not reduce the amount of private open space reserved exclusively for the use of the occupants of the house to the rear or to the side of the house to less than 25 square metres.*
- 4. The external finishes of any garage or other structure constructed, erected or placed to the side of a house, and the roof covering where any such structure has a tiled or slated roof, shall conform with those of the house.*
- 5. The height of any such structure shall not exceed, in the case of a building with a tiled or slated pitched roof, 4 metres or, in any other case, 3 metres.*
- 6. The structure shall not be used for human habitation or for the keeping of pigs, poultry, pigeons, ponies or horses, or for any other purpose other than a purpose incidental to the enjoyment of the house as such.*

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

- (a) if the carrying out of such development would –*
 - (i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act*
 - (ii) consist of or compromise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,*
 - (iii) endanger public safety by reason of traffic hazard or obstruction of road users,*

(iia) endanger public safety by reason of hazardous glint and/or glare for the operation of airports, aerodromes or aircraft,

(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,

(vii) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan.

(vii) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,

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

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

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

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

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

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

(xi) obstruct any public right of way,

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

Assessment

Particulars of the Development

The applicant is seeking a Section 5 Declaration as to whether the following work at Anam Cara, Ballyloughnane, Ogonnelloe/Killaloe, Co. Clare is or is not development and is or is not exempted development:

Project 1 – construction of a full-length gable end window in an existing dwelling;

Project 2 – the installation of gable end windows in the attic of an existing garage;

Project 3 – the installation of a hand-crafted log cabin on the site and

Project 4 – the construction of a tree house

Assessment of the following elements of the works:

- Construction of full-length gable end window in an existing dwelling.

The applicant has stated that the window will be at first floor level. Both internal and external photographs showing the proposed window location, details of finishes and images of similar windows have been provided. Based on the images of the intended window style and the interior of the room in which the window will be located, it appears that the half-hip roof finished would have to be removed and replaced with a pitched finish in order to carry out the proposed development. This is not mentioned in the submitted documents.

However, the current assessment is limited to the questions raised in the referral. The proposed new window meets the definition of 'works' and 'development' as set out in the Planning and Development Act. The proposed window is a substantial feature which will materially affect the external appearance of the dwelling. I do not therefore, consider it exempt under the provisions of Section 4(1)(h) of the Act.

The construction of a full-length gable end window in an existing house does not come within the meaning of descriptions for any of the Classes of Development provided for in Schedule 2, Part 1 of the Planning and Development Regulations.

This element of the proposal is development which is not exempted development.

Assessment of the following elements of the works:

- The installation of gable end windows in the attic of an existing garage.

The existing garage is attached to main dwelling on the site. The applicant intends to construct gable end windows in the attic space of the garage. The applicant has indicated that the windows will match those already in place in the dwelling. No details in relation to window size have been provided.

The proposed garage windows meet the definition of 'works' and 'development' as set out in the Planning and Development Act. The proposed windows will materially affect the external

appearance of the dwelling. I do not therefore, consider them exempt under the provisions of Section 4(1)(h) of the Act.

The construction of gable end windows in the attic space of an existing garage does not come within the meaning of descriptions for any of the Classes of Development provided for in Schedule 2, Part 1 of the Planning and Development Regulations.

This element of the proposal is development which is not exempted development.

Assessment of the following elements of the works:

- The installation of a hand-crafted log cabin on the site

The applicant proposes to install a log cabin structure on the northern side of the site, upslope of the existing dwelling. The applicant has not provided dimensions in the metric scale. Based on the submitted sketch, the cabin will be approximately 4.85m x 4.85m with a 1m wide veranda feature on the front elevation. The height of the cabin will be approximately 3.2m.

The applicant has not stated the intended use of this structure.

If it is intended to use the cabin as a shed, home office or other structure ancillary to the dwelling, it is considered in the context of Class 3 of the Regulations. The cabin will be sited to the rear of the dwelling and the floor area is less than 25m². However, during the site inspection it was noted that there is an existing shed structure on the site to the west of the dwelling. The shed is not indicated in the submitted drawings but based on the available aerial imagery, its floor area exceeds 25m². The proposed cabin, taken together with the existing shed on the site, exceeds 25m². The cabin therefore exceeds the limitations of Class 3.

If the applicant intends some form of accommodation use for the cabin, there are no exemptions for the provision of additional residential accommodation within the curtilage of an existing dwelling.

This element of the proposal is development which is not exempted development.

Assessment of the following elements of the works:

- The construction of a tree house

The applicant intends to construct a tree house structure in the wooded area between the access driveway and the dwelling house. An image of the type of structure proposed has been provided.

In considering this element of referral, I have had regard to An Bord Pleanála's assessment and decisions in referrals RL91. RL3543 and 06D.RL.2581.

Tree house structures are considered to meet the definition of 'works' and 'development' as set out in the Planning and Development Act. They are generally considered to be in accordance with Section 4(1)(j) of the Planning and Development Act, 2000, being structures within the curtilage of a house which are incidental to the enjoyment of the house.

The structure as described in the current referral is similar to those assessed by An Bord Pleanála in that they are temporary / semi -permanent structure which can easily be dismantled when no longer required. The structures assessed by An Bord Pleanála were roofed tree houses and as such, were also required to comply with the limitations of Class 3 of the Regulations. The current referral related to an open, platform type structure. As such I do not consider Class 3 to apply.

Having regard to Section 4(1)(j) of the Planning and Development Act, I consider the construction of a tree house as described in the submitted documents to be development which is exempted development.

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

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

The proposal does not contravene a condition of any previous permission

(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 access arrangements to the site are proposed.

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

The proposed will not result in the creation of a traffic hazard.

(iiia) endanger public safety by reason of hazardous glint and/or glare for the operation of airports, aerodromes or aircraft,

The proposal site is not located in a solar safeguard zone.

(iv) except in the case of a porch to which class 7 specified in column 1 of Part 1 of Schedule 2 applies and which complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1, comprise the construction, erection, extension or renewal of a building on any street so as to bring forward the building, or any part of the building, beyond the front wall of the building on either side thereof or beyond a line determined as the building line in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,

Not applicable to this proposal

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

Not applicable to this proposal

(vi) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan.

The proposal site is located in a Heritage Landscape as designated in the Clare County Development Plan 2023-2029. Projects 1 and 2 will not interfere with the character of the landscape. Project 4 (tree house) will be screened by the trees in the wooded area in which it will be located. Project 3 will be located on a more elevated part of the site. The structure is small in scale and is unlikely to break the skyline when viewed from locations further downslope.

(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 to this proposal.

(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,

The Zone of Notification associated with Recorded Monument CL037-003 Enclosure encroaches on the eastern side of the subject site. The proposed treehouse will be located in this area. The construction of the treehouse will require minimal groundworks and will not result in the excavation, alteration or demolition of the monument.

(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,

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

(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 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,

Not applicable in this instance.

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

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,

Not applicable in this instance

(xi) obstruct any public right of way,

Not applicable in this instance

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

a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area.

The development site is not within an Architectural Conservation Area.

Recommendation

The following questions have been referred to the Planning Authority:

Whether the following work at Anam Cara, Ballyloughnane, Ogonnelloe/Killaloe, Co. Clare V94X6WP is or is not development and is or is not exempted development:

Project 1 – construction of a full-length gable end window in an existing dwelling;

Project 2 – the installation of gable end windows in the attic of an existing garage;

Project 3 – the installation of a hand-crafted log cabin on the site and

Project 4 – the construction of a tree house

The Planning Authority in considering this referral had regard to:

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

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

- (a) The construction of a full-length gable end window in an existing dwelling; the installation of gable end windows in the attic of an existing garage; the installation of a hand-crafted log cabin on the site; and the construction of a tree house constitute “works” which come within the scope of section 2(1) of the Planning and Development Act 2000, as amended;
- (b) The said works constitute “development” which comes within the scope of section 3(1) of the Planning and Development Act 2000, as amended;
- (c) The said construction of a full-length gable end window in an existing dwelling and the installation of gable end windows in the attic of an existing garage are not exempted development having regard to Section 4(1)(h) of the Planning and Development Act, 2000 (as amended).
- (d) The said installation of a hand-crafted log cabin on the site is not exempted development having regard to Schedule 2, Part 1 Class 3 of the Planning and Development Regulations 2001 (as amended), as based on inspection of the property by the Planning Authority the floor area of the structure, when taken together with the existing free-standing shed on the site, will exceed the limitations of the exemption under Class 3 of the Regulations.

(e) The said construction of a tree house is exempted development having regard to Section 4(1)(j) of the Planning and Development Act, 2000 (as amended)

Now therefore Clare County Council (Planning Authority), hereby decides that:

Project 4 – the construction of a tree house

is development and is exempted development.

Now therefore Clare County Council (Planning Authority), hereby decides that:

Project 1 – construction of a full-length gable end window in an existing dwelling

Project 2 – the installation of gable end windows in the attic of an existing garage

Project 3 – the installation of a hand-crafted log cabin on the site

is development which is not exempted development.



Name: Caroline Balfe

Executive Planner

Date 17/07/2023



Name: Garreth Ruane

Senior Executive Planner

Date 18/07/23,

Appropriate Assessment & Determination

STEP 1. Description of the project/proposal and local site characteristics:	
(a) File Reference No:	R23-45
(b) Brief description of the project or plan:	<p>Project 1 – construction of a full-length gable end window in an existing dwelling;</p> <p>Project 2 – the installation of gable end windows in the attic of an existing garage;</p> <p>Project 3 – the installation of a hand-crafted log cabin on the site and</p> <p>Project 4 – the construction of a tree house</p> <p>At Anam Cara, Ballyloughnane, Ogonnelloe/Killaloe, Co Clare V94X6WP .</p>
(c) Brief description of site characteristics:	<p>Existing residential site</p> <p>Elevated hillside location</p> <p>Existing dwelling with attached and separate detached sheds present on the site.</p> <p>Cluster of mature trees close to the roadside boundary</p>
(d) Relevant prescribed bodies consulted: e.g. DHLGH (NPWS), EPA, OPW	N/A
(e) Response to consultation:	N/A

STEP 2. Identification of relevant Natura 2000 sites using Source-Pathway-Receptor model and compilation of information on Qualifying Interests and conservation objectives.

Having regard to the nature and scale of the proposed development and the established use of the site, the likely zone of impact of the proposal is no greater than 1km.

There are no European sites within 1km of the proposed development location.

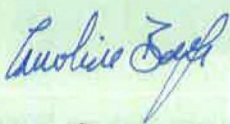
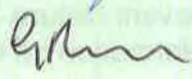
Step 4. Screening Determination Statement

The assessment of significance of effects:

Describe how the proposed development (alone or in-combination) is/is **not likely** to have **significant** effects on European site(s) in view of its conservation objectives.

No likely impacts on European sites as a result of the proposed development.

Conclusion:

	Tick as Appropriate:	Recommendation:
(i) It is clear that there is no likelihood of significant effects on a European site.	<input checked="" type="checkbox"/>	The proposal can be screened out: Appropriate assessment not required.
(ii) It is uncertain whether the proposal will have a significant effect on a European site.	<input type="checkbox"/>	<input type="checkbox"/> Request further information to complete screening <input type="checkbox"/> Request NIS <input type="checkbox"/> Refuse planning permission
(iii) Significant effects are likely.	<input type="checkbox"/>	<input type="checkbox"/> Request NIS <input type="checkbox"/> Refuse planning permission
Signature and Date of Recommending Officer:	 17/07/2023	
Signature and Date of the Decision Maker:	 18/07/23	



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

William T. O'Connor
Anam Cara, Ballyloughnane
Ogonnelloe / Killaloe
Co. Clare
V94 X6WP

26/06/2023

Section 5 referral Reference R23-45 – William T. O'Connor

Is the construction of (Project 1) upstairs gable end full length window; (Project 2) garage attic gable end window (X2); (Project 3) Log Cabin - hand crafted and (Project 4) tree house at Anam Cara (V94 X6WP) development and if so is it exempted development?

A Chara,

I refer to your application received on 23rd June 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 Stiúarthóireacht 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
ARAS CONTAE AN CHLAIR
New Road
Ennis
Co Clare

26/06/2023 10:57:33

Receipt No L1CASH/0/350994
***** REPRINT *****

WILLIAM T O'CONNOR
ANAM CARA BALLYLOUGHNANE
OGONNELLOE/KILLALOE
CO. CLARE

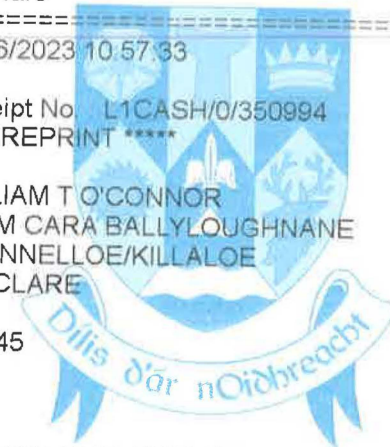
R23-45

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

Total : 80.00 EUR

Tendered :
CHEQUES 80.00

Change : 0.00



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) 682107
Fax No. (065) 689207
Email: planoff@clarecoco.ie
Website: www.clarecoco.ie



R23-45



**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	William T. O'Connor Anam Cara, Ballyloughnane Ogonnelloe / Killaloe, Co. Clare V94 X6WP
(b) Telephone No.:	
(c) Email Address:	
(d) Agent's Name and address:	

William T. O'Connor,
Anam Cara, Ballyloughnane,
Ogonnelloe / Killaloe,
Co. Clare,
V94 X6WP

2. DETAILS REGARDING DECLARATION BEING SOUGHT

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

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

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

Is the construction of (Project 1) upstairs gable end full length windows; (Project 2) garage attic gable end windows (x2); (Project 3) log cabin (hand crafted) and (Project 4) tree house at Aniam cara (V94XBW?) exempted development?

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

Project 1: upstairs gable end full length windows. I provide photographs showing location, view from inside and outside, type of finish to blend with existing window shutters.

Project 2: Garage attic gable end windows (both ends). I provide photographs showing locations and view from inside including type of finish to blend with existing window shutters.

Project 3: HAND CRAFTED log CABIN. I provide specifications and builder details, and view from front and side aspect of the location.

Project 4: TREE House. I provide photographs of location + structure.

NONE OF THE ABOVE ARE VISIBLE FROM ROAD OR ADJACENT PROPERTY.

(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)

PROVIDED AS REQUESTED. - See enclosed.

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT	
(a) Postal Address of the Property/Site/Building for which the declaration sought:	ANAM CARA, Bally Loughname Oganalloe/Killaloe, Co CLARE V94 X6 WP
(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):	I am the sole owner and occupier
(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>	NOT Relevant
(e) Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?:	No.
(f) Are you aware of any enforcement proceedings connected to this site? If so please supply details:	
(g) Were there previous planning application/s on this site? If so please supply details:	YES, see enclosed Planning Register number POS/2442 from previous owner
(h) Date on which 'works' in question were completed/are likely to take place:	August 2023

SIGNED:

Billy O'Connor

DATE:

22nd June 2023

CLARE COUNTY COUNCIL

**PLANNING AND DEVELOPMENT ACT 2000 –2002 NOTIFICATION OF GRANT
FOR A PERMISSION FOR RETENTION (SUBJECT TO CONDITIONS) UNDER
SECTION 34 OF THE PLANNING AND DEVELOPMENT ACT 2000**

=====

TO: Mike Meskall
c/o Michael O'Brien
Tinarana
Co Clare

Planning Register Number: P05/2442

Application Received on: 21/12/2005

**Application of Mike Meskall, c/o Michael O'Brien Tinarana Killaloe Co. Clare RETAIN
attic conversion including roof and gable windows at Ballylaghnan Ogonnelloe Co.
Clare**

Having regard to the existing use of the existing buildings on site and the intended use of the proposed development and the policies of the current County Development Plan and the pattern of development in the area, it is considered that, subject to conditions, the proposed development would not seriously injure the amenities of the area or of property in the vicinity and would otherwise accord with the proper planning and sustainable development of the area.

**A permission for retention has been granted for the development described above
subject to the following 3 Conditions.**

1. The development shall be carried out in accordance with plans and particulars submitted to the Planning Authority on the 21/12/2006 except where altered or amended by conditions in this permission.
2. All surface water run-off from roof areas shall be collected and disposed of within the site to soakpits/adjacent watercourses. It shall not be discharged to septic tank or percolation area.
3. Prior to the commencement of development the developer shall pay a contribution of €159.00 to Clare County Council (Planning Authority) in respect of public infrastructure and facilities benefiting the development.

The amount of this contribution is calculated in accordance with the Council's prevailing Development Contribution Scheme and will be increased from January 1st next and annually thereafter (unless previously discharged) in line with the Wholesale Price Index – Building and Construction (published by the Central Statistics Office) unless the scheme is superseded by a further Development Contribution Scheme adopted by the Council.

Signed on behalf of Clare County Council.



**Senior Staff Officer
Planning Department**

Dated: 24/03/2006

567210 mE, 680650 mN

The Property
Registration Authority
An tÚdarás
Clárúcháin Maóine



Folio: CE19417F

This map should be read in conjunction with the folio.

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

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

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

(centre-line of parcel(s) edged)

Freehold

Leasehold

SubLeasehold

Burdens (may not all be represented on map)

Right of Way / Wayleave

Turbary

Pipeline

Well

Pump

Septic Tank

Soak Pit

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

The registry operates a non-conclusive boundary system. The Registry Map identifies properties not boundaries meaning neither the description of land in a register nor its identification by reference to a registry map is conclusive as to the boundaries or extent. (see Section 85 of the Registration of Title Act, 1964). As inserted by Section 62 of the Registration of Deed and Title Act 2003.



Land Registry Compliant Map

Béal Coille (Purdon)
Bealkelly
(Purdon)

Baile Uí
Lachtnáin
Ballylaghnán

**CENTRE
COORDINATES:**
ITM 566751,680320

PUBLISHED: 23/11/2018
ORDER NO.: 50035448_1

MAP SERIES: 1:5,000
MAP SHEETS: 4272

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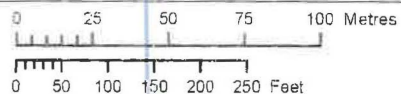
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LEGEND:
<http://www.osi.ie>

Folio CE19417F outlined in red

Signed by 
Cian O'Laoithe BSc Geomatics, MRICS, MSCSI
Control Surveys
OSI Licence No. SU 0003418
Date: 26-11-18



OUTPUT SCALE: 1:2,500

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'



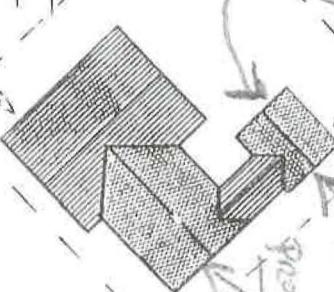
Project 3

Log Cabin (hand saw)

Site Boundary

Board Wall

gaining ATTIC RABLE END
Windows Project 2



Project 1

upstairs (attic window)

Project 4

WELLS TO DRILL
IN
LOCAL STONE REQUIRED
TO SO COUNCIL REQ

EXISTING
EDGE OF AND CIRCULATION AREA
TO A LITTLE IN. HERE'S BOARD DETAILS
AND SPEC.

Site Notice

To Cross Roads

P05 - 2442

North



SITE LAYOUT MAP Scale 1:500

Map Revised By MICHAEL O'BRIEN B.E.
TWO PARTS
K. M. G. G. G.

- Project 1 UPSTAIRS GABLE END FULL LENGTH WINDOW
- Project 2 ATTACHE ATTIC GABLE END WINDOW (80% - 90% INDS)
- Project 3 LOG CABIN (HAND CRAFTED)
- Project 4 TREE HOUSE (NOT SHOWN IN THIS PHOTO)

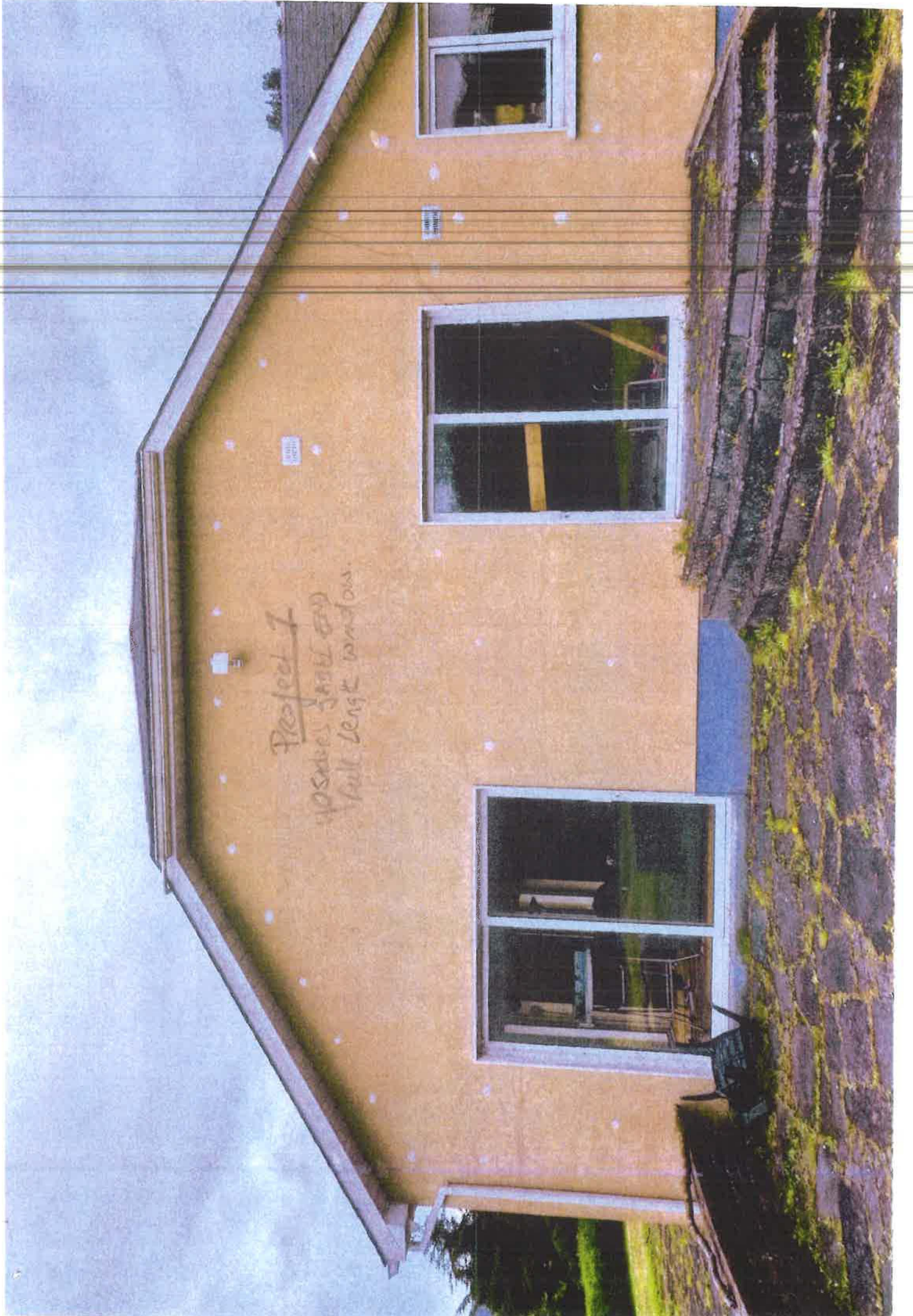
Project 3

Project 2

Project 1



Project 1
upside down and
full length window.



Project 1

View from inside cable end



Project 1

View from proposed gable end window



Project 1

Type of Paint on

Gable end is wood

to Blend in with

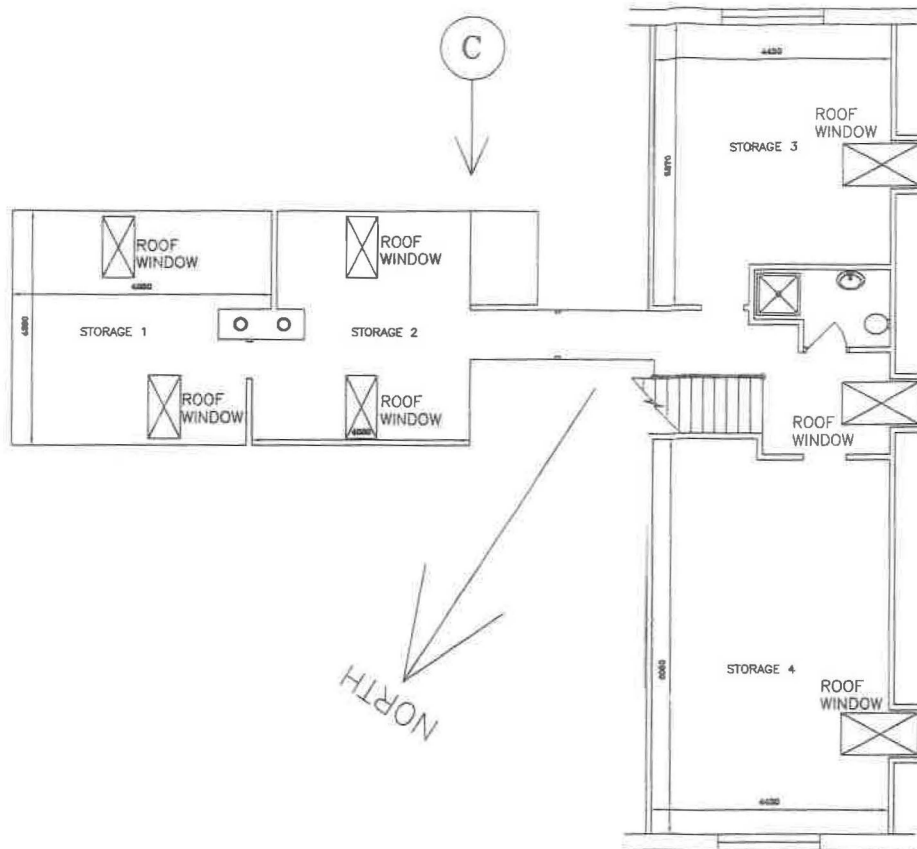
existing windows



Project 1
UPSTAIRS GABLE END
WINDOW

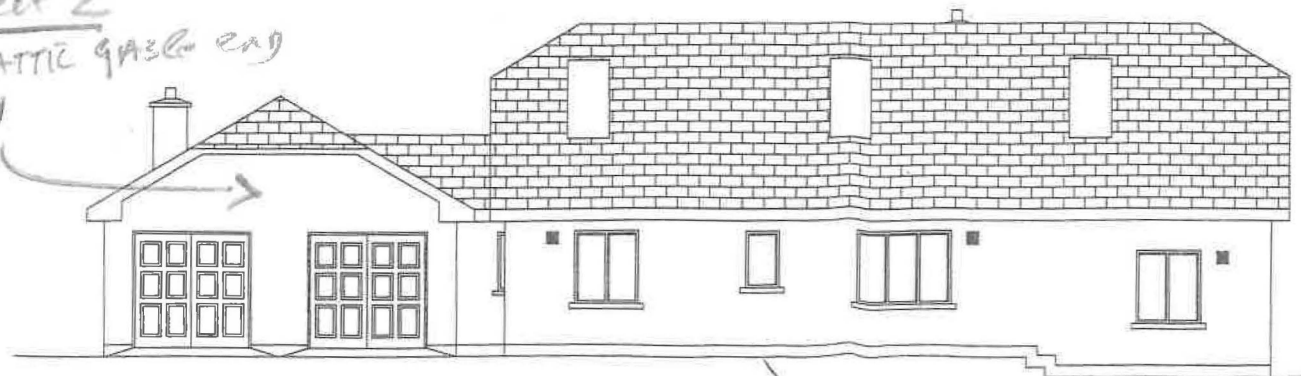
(B) →

(C)
↓



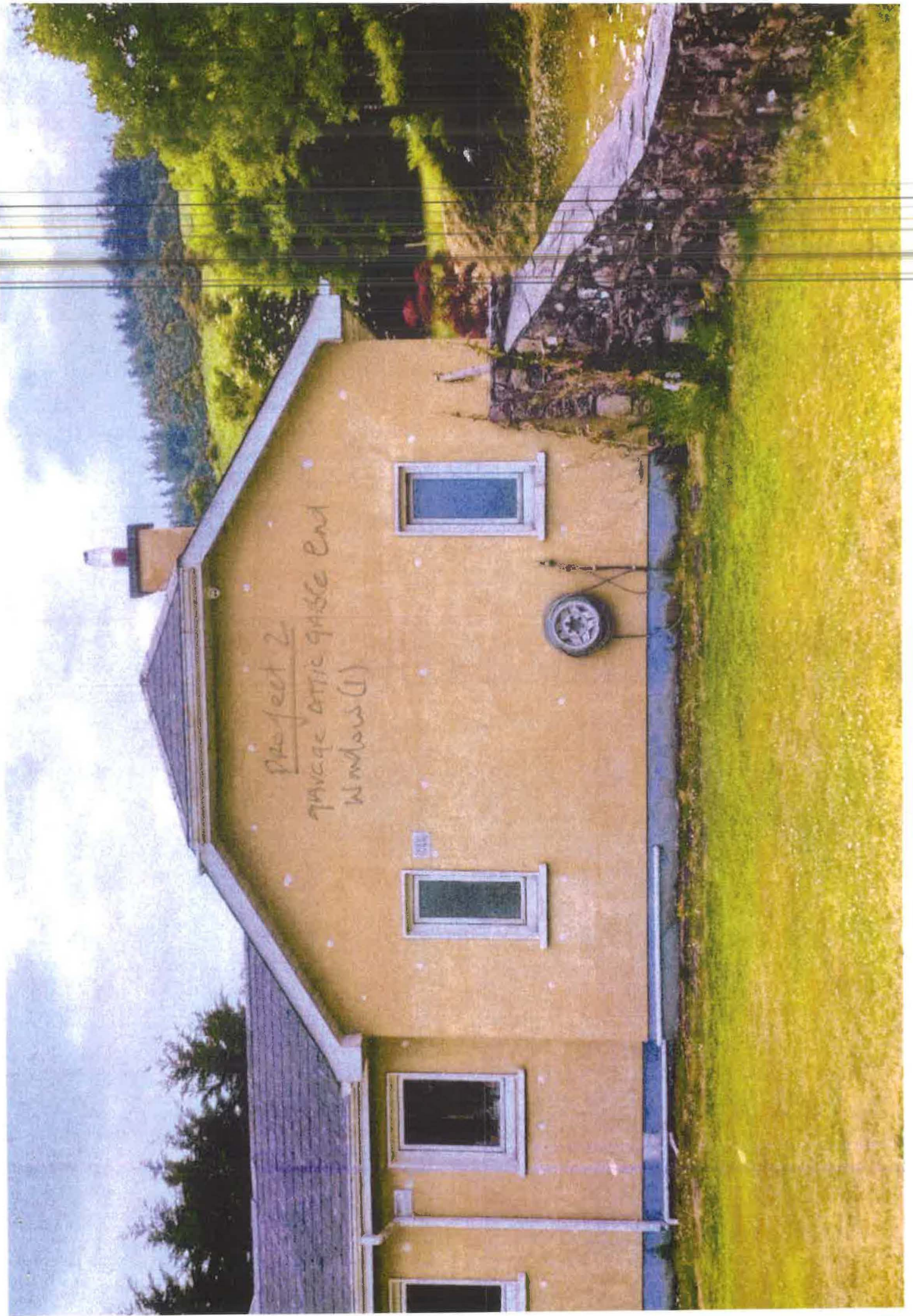
← (D)

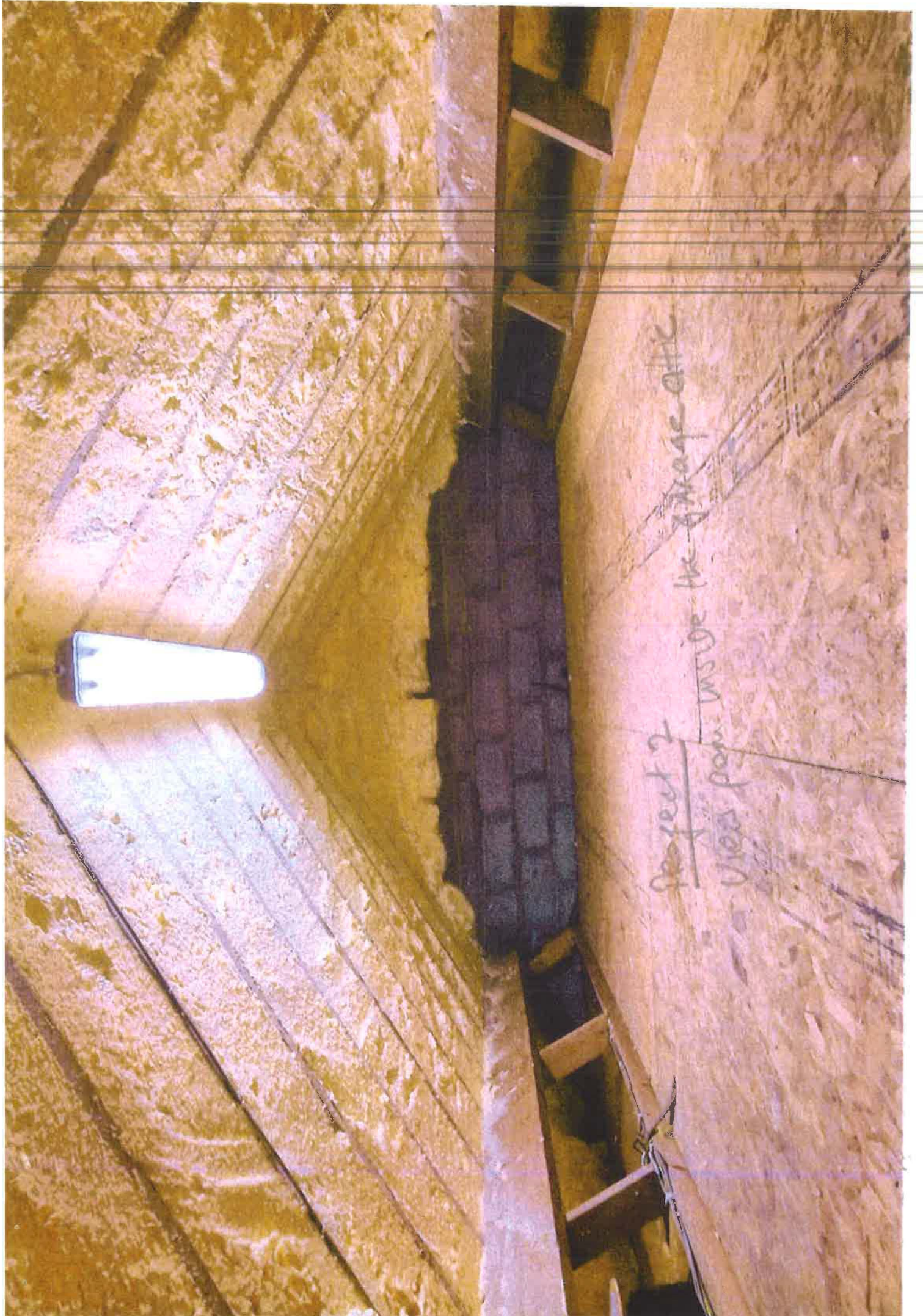
Project 2
GARAGE ATTIC GABLE END
WINDOW



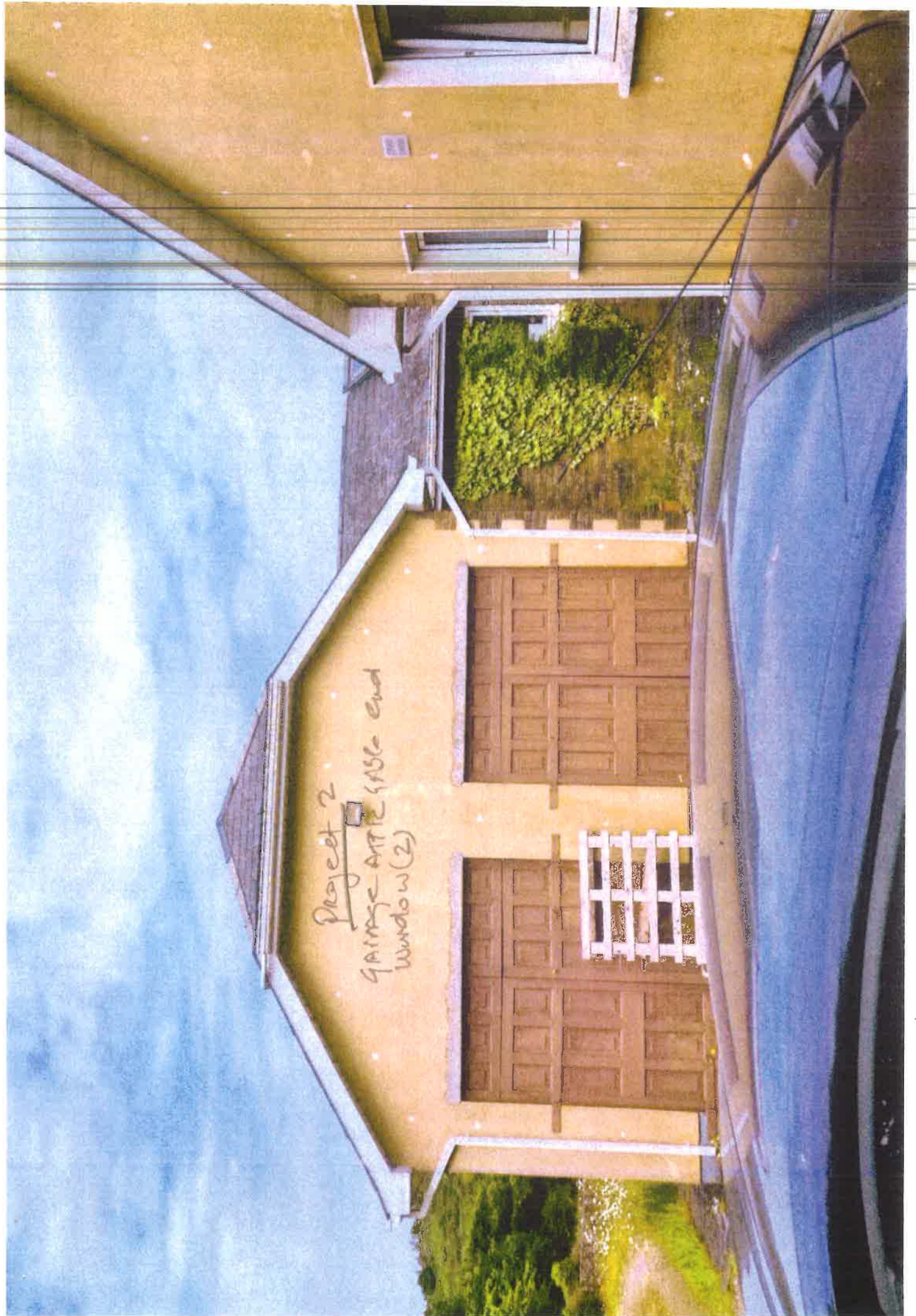
ELEVATION D

CLARE COUNTY COUNCIL RECEIVED 21 DEC 2011		
mark's	revision	date
project		
Retention of attic conversion including roof and gable windows at Ballyloughane, Ogunnelloe.		
Townland		
Ballyloughane		
Title		
FIRST FLOOR PLAN ELEVATION D		
drawn	checked	
scale	1:100	dwg. no.
date	Dec 2008	MM-05-02
client		
Mr. Mike Meskell, Lismagry, Co. Limerick.		





Project 2
View from inside the garage attic

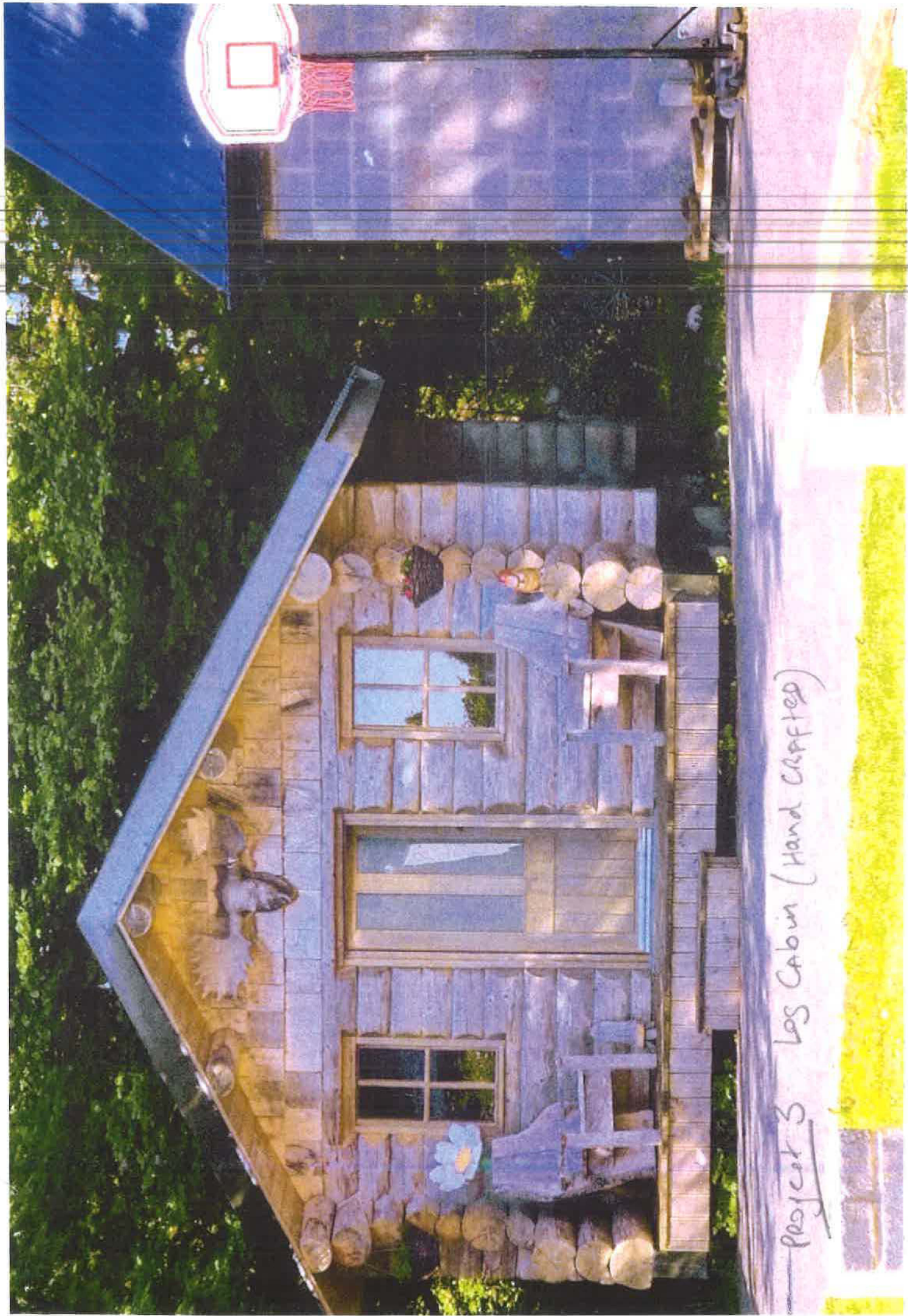


Project 2
GARAGE AREA (ASL end)
Window (2)

Project 2

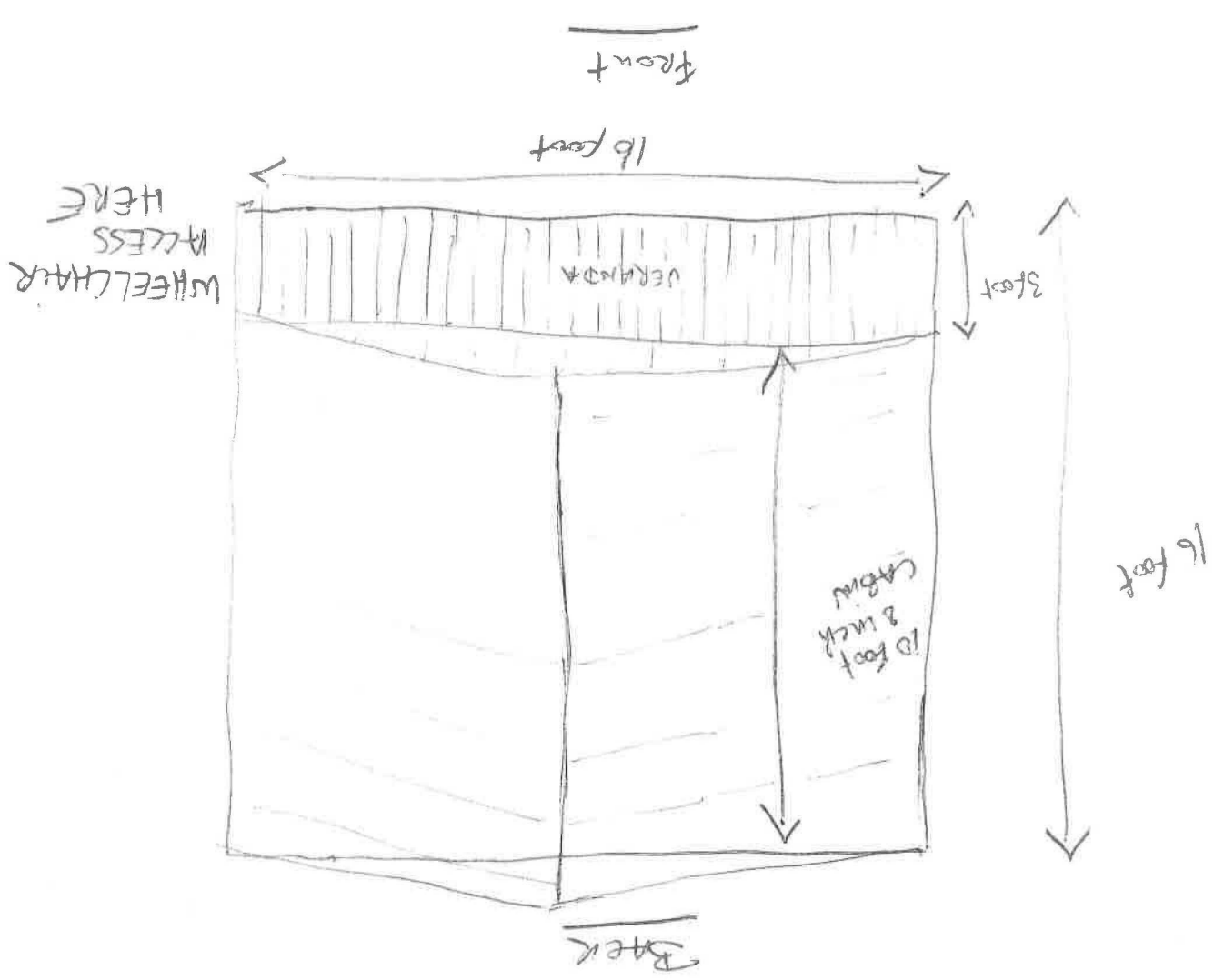
Type of furniture
on proposed
gallery floor
table and
chair (H)





Project 3 Log Cabin (Hand Crafted)

Project 5: Dog Cabin (Hand-drawn)
 Specifications:



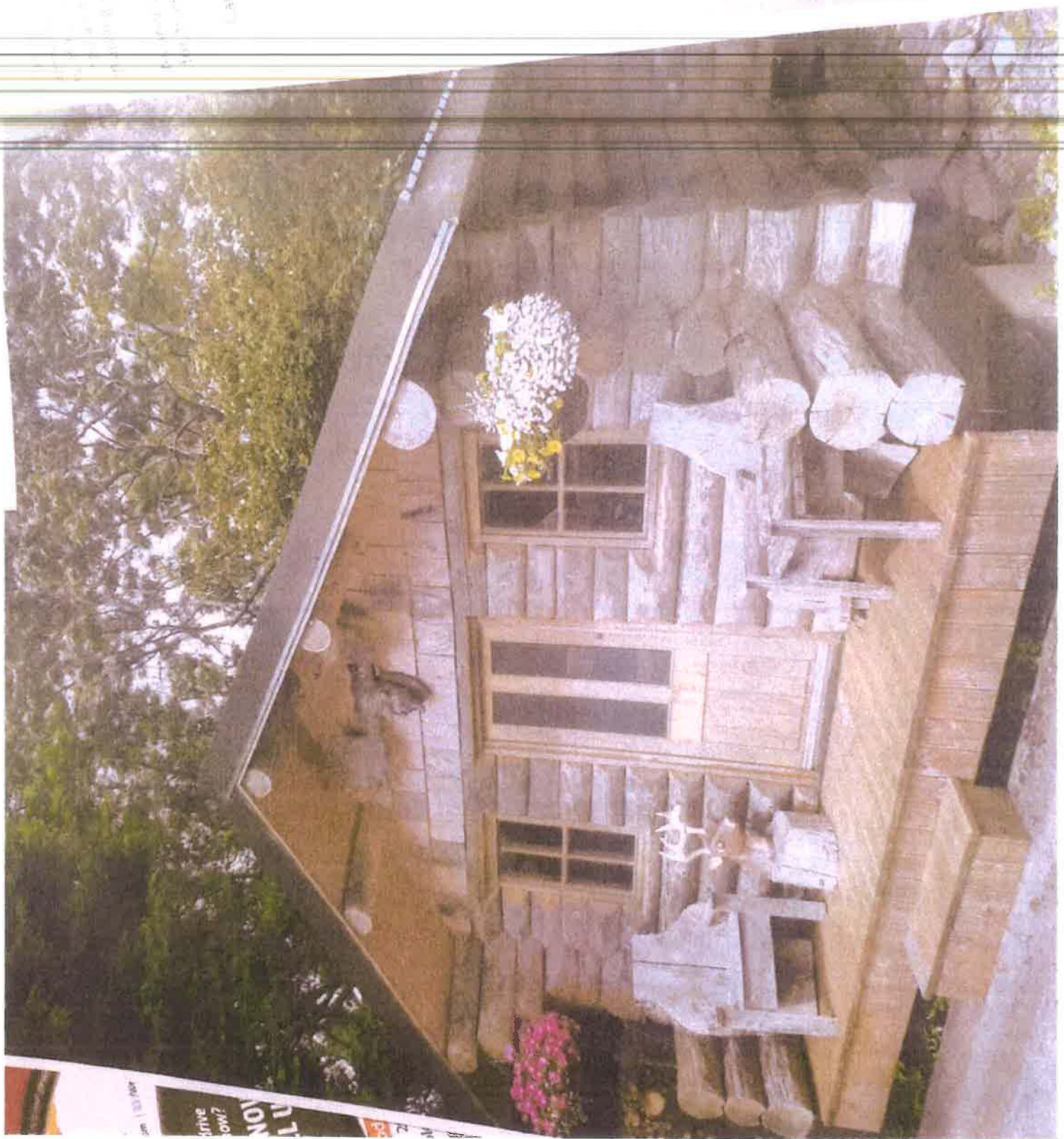
MAX HEIGHT = 12 foot, 10 inch

For Sale
Hand crafted Log cabins
For more info, call
[redacted] [redacted]



Sail
eeir
150
th
etu





30 mph

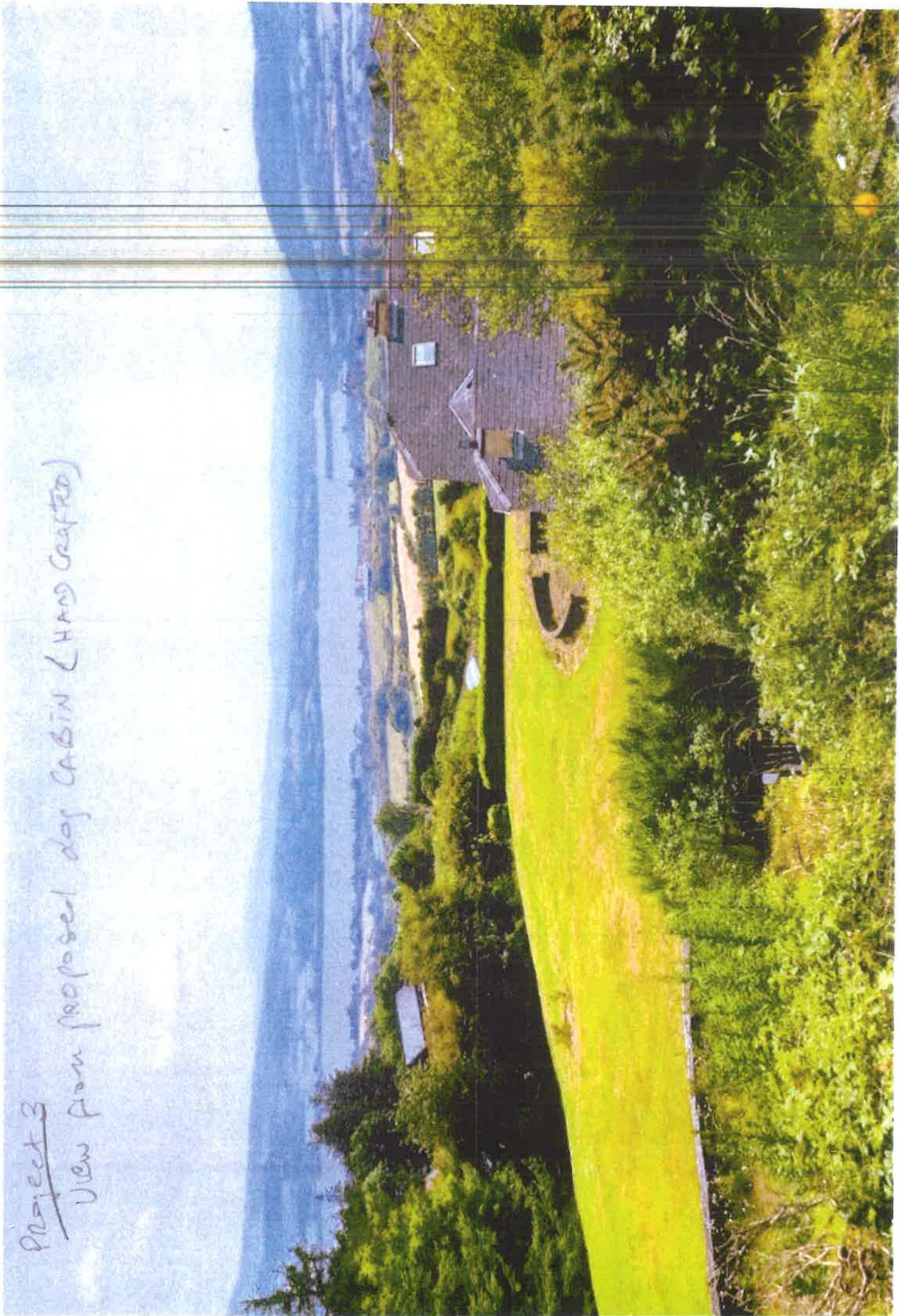
drive
low?

NOV
LU

33 24 11

Project 3

View from proposed dog CABIN (Hand Crafted)



Project 3

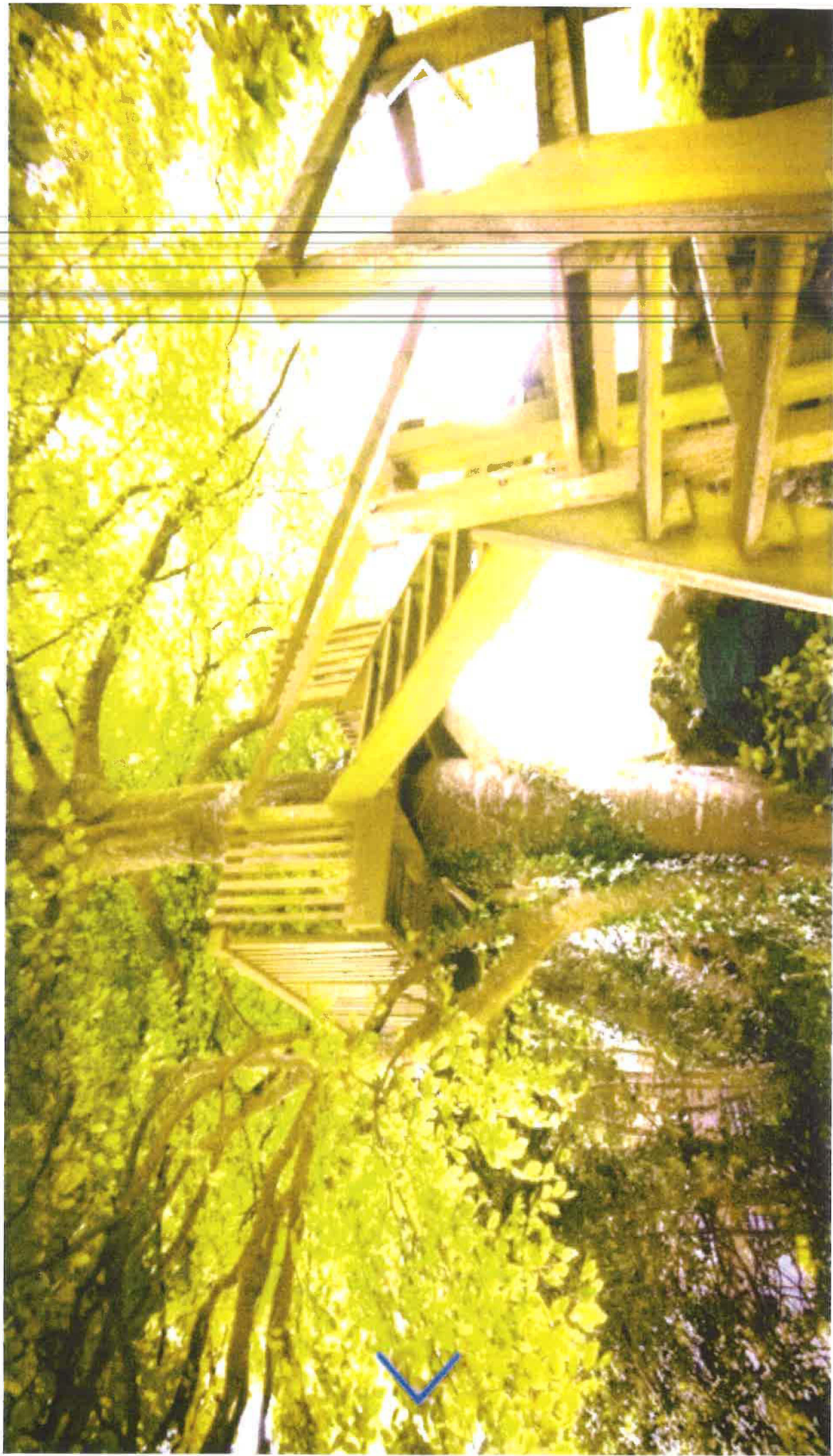
Site view of proposed log cabin

log cabin posture





Project 4 : Proposed location of new house



Project 4: Proposed Structure of tree house