



COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

**Registered Post**

**Martina O'Loughlin  
c/o Padraig Neylon  
PND Building Consultancy Limited  
Kilrush House, Frances Street  
Kilrush  
Co. Clare**

**23rd August 2023**

**Section 5 referral Reference R23-57 – Martina O'Loughlin**

Is the proposed construction of a flat roof rear extension to an existing dwelling house development and if so is it exempted development?

A Chara,

I refer to your application received on 27th July 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 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:**

82259

**Reference Number:**

**R23-57**

**Date Referral Received:**

**27th July 2023**

**Name of Applicant:**

**Martina O'Loughlin**

**Location of works in question:**

**Ballyduff Beg, Inagh, Ennis, Co. Clare**

**Section 5 referral Reference R23-57 – Martina O'Loughlin**

Is the proposed construction of a flat roof rear extension to an existing dwelling house 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, as amended, and
- (b) Articles 6 and 9 of Schedule 2 of Part 1 of the Exempted Development – General Regulations set out under Article 6 in the Planning and Development Regulations, 2001 (as amended)
- (c) Class 1 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended, and all Conditions and Limitations attached to this Class.

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

(a) The works to be undertaken constitute development that is exempted development by reason of the provisions of Articles 6 and 9 of Schedule 2 of Part 1 of the Exempted Development – General Regulations set out under Article 6 in 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 Gareth Ruane, Senior Executive Planner, the powers, functions and duties as set out herein,

**NOW THEREFORE** pursuant to the delegation of the said powers, functions and duties and under Section 5(2)(a) of the Planning & Development Act 2000 (as amended) and having considered the various submissions and reports in connection with the referral described above, I, Gareth Ruane, Senior Executive Planner, hereby declare that the construction of a flat roof extension to an existing

dwelling house at Ballyduff Beg, Inagh, Ennis, Co. Clare is considered development which is exempted development.

Signed:

  
GARETH RUANE  
SENIOR EXECUTIVE PLANNER 

Date:

23rd August 2023

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

Reference No.: R23-57



Comhairle Contae an Chláir  
Clare County Council

**Section 5 referral Reference R23-57**

**Is the proposed construction of a flat roof rear extension to an existing dwelling house development and if so is it exempted development?**

**AND WHEREAS, Martina O'Loughlin** 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 –**

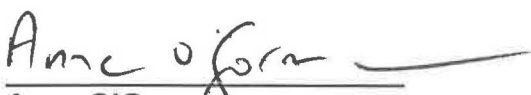
- (a) Sections 2, 3 and 4 of the Planning and Development Act, as amended, and
- (b) Articles 6 and 9 of Schedule 2 of Part 1 of the Exempted Development – General Regulations set out under Article 6 in the Planning and Development Regulations, 2001 (as amended)
- (c) Class 1 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended, and all Conditions and Limitations attached to this Class.

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

(a) The works to be undertaken constitute development that is exempted development by reason of the provisions of Articles 6 and 9 of Schedule 2 of Part 1 of the Exempted Development – General Regulations set out under Article 6 in 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 construction of a flat roof extension to an existing dwelling house at Ballyduff Beg, Inagh, 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**

**23rd August 2023**

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

<b>FILE REF:</b>	R23-57
<b>APPLICANT(S):</b>	Martina O'Loughlin
<b>REFERENCE:</b>	Is the proposed construction of a flat roof extension to an existing dwelling house is development and if so is it exempted development?
<b>LOCATION:</b>	Ballyduff Beg, Inagh, Co. Clare
<b>DUE DATE:</b>	23 <sup>rd</sup> August 2023

#### Site Location

The site is located in the townland of Ballyduff Beg approximately 1km southwest of the village of Inagh.

#### Recent Onsite Planning History

There is no recent planning history 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 Martina O'Loughlin, the owner of the property.

The applicant is seeking a Section 5 Declaration as to whether the proposed construction of a flat roof extension to an existing dwelling house is development and if so is it exempted development?

#### Statutory Provisions

##### Planning and Development Act, 2000 (as amended)

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

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

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

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

#### Planning & Development Regulations, 2001, as amended

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

### **Assessment**

#### Basis of Referral

The applicant is seeking a Section 5 Declaration as to whether the construction of a flat roof extension to an existing dwelling house is development and if so is it exempted development.

#### Particulars of the Development

Having reviewed the file, I consider that the proposal would result in the carrying out of works on, in, over, or under land, and would as per Section 3(1) of the Planning and Development Act, 2000 (as amended) constitute development.

However, I consider that the proposal which would result in additional floor area of 7.47sqm to an existing building of 79.12sqm all of which was built prior to 1<sup>st</sup> October 1964 would fall within the definition of works which are exempt under the provisions of Articles 6 and 9 of Schedule 2, Part 1 (Exempted Development) Class 1 – *Development within the curtilage of a house* which states that:

***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.***

***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.*

All other conditions and limitations of Class 1 have been considered and the proposal satisfies same:

- The development is connected to the house and is an extension.
- The extension does not include above ground habitable space and is a single storey extension.
- The floor area of the extension does not exceed 40 square metres or reduce the area of garden remaining to less than 25 square metres.
- The height of the extension does not exceed the height of the rear wall of the main house.
- All windows are over one metre from the shared boundary.

I have also considered the restrictions on exempted development as per Article 9 of the Regulations and do not consider that same are applicable to this development.

### **Conclusion**

**WHEREAS** a question has arisen as to whether the proposed construction of a flat roof extension to an existing dwelling house is development and if so is it exempted development?

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

- (a) Sections 2, 3 and 4 of the Planning and Development Act, as amended, and
- (b) Articles 6 and 9 of Schedule 2 of Part 1 of the Exempted Development – General Regulations set out under Article 6 in the Planning and Development Regulations, 2001 (as amended)
- (c) Class 1 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended, and all Conditions and Limitations attached to this Class.

**AND WHEREAS** Clare County Council has concluded that the works to be undertaken constitute development that is exempted development by reason of the provisions of Articles 6 and 9 of Schedule 2 of Part 1 of the Exempted Development – General Regulations set out under Article 6 in the Planning and Development Regulations, 2001 (as amended).

**NOW THEREFORE** Clare County Council in exercise of its powers conferred on it by Section 5(2) of the Planning & Development Act 2000 (as amended) hereby decides that the construction of a flat roof extension to an existing dwelling house at Ballyduff Beg, Inagh is development is exempted development.





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Assistant Planner  
Date: 22/08/2023



---

Senior Executive Planner  
Date: 22/08/2023



COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

**Martina O'Loughlin**  
c/o Padraig Neylon  
PND Building Consultancy Limited  
Kilrush House, Frances Street  
Kilrush  
Co. Clare

**28/07/2023**

**Section 5 referral Reference R23-57 – Martina O'Loughlin**

**Is the proposed construction of a flat roof rear extension to an existing dwelling house development and if so is it exempted development?**

A Chara,

I refer to your application received on 27th July 2023 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

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

Mise, le meas

**Brian Fahy**  
Planning Department  
Economic Development Directorate

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

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



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

28/07/2023 14:07:07

Receipt No : L1CASH/0/352525

\*\*\*\*\* REPRINT \*\*\*\*\*

MARTINA O'LOUGHLIN  
c/o Padraig Neylon  
PND Building Consultancy Limited  
Kilrush House, FrancEs St, Kilrush, Co C  
REF. R23-57

SECTION 5 REFERENCES 80.00

GOODS 80.00

VAT Exempt/Non-vatable

Total : 80.00 EUR

Tendered :  
CREDIT CARDS 80.00

Change : 0.00

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

P07

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

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

Telephone No. (065) 6821616  
 Fax No. (065) 6892071  
 Email: [planojf@clarecoco.ie](mailto:planojf@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.**

<p>(a) Name and Address of person seeking the declaration</p>     <p>Eircode</p>	<p>Martina O'Loughlin,          Ballyduff Beg,          Inagh,          Ennis,          Co. Clare.</p>  <p>N/a</p>
<p>(b) Telephone No.:</p>	
<p>(c) Email Address:</p>	<p>N/a</p>
<p>(d) Agent's Name and address:</p>	<p>Note: All <u>Correspondence</u> to be <u>sent</u> to the below address -</p> <p>Padraig Neylon,          PND Building Consultancy Limited,          Kilrush House, Frances Street, Kilrush, Co. Clare.</p> <p>087 976 5226</p> <p><a href="mailto:padraig@pndconsultancy.com">padraig@pndconsultancy.com</a></p>



**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 proposed construction of a flat roof rear extension to an existing dwelling house an exempted development?

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

The applicant wishes to construct a flat roof rear extension to their existing dwelling house.

The floor area of the proposed flat roof extension is 7.47 sq/m – See attached drawings.

Please Note – The existing extensions to the dwelling house were constructed prior to 1963 therefore are planning exempt.

- (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)*


Drawings (1/100) – P/22/170/01 & P/22/170/02

Site layout Plan (1/500) – P/22/170/SL

Site Location Map (1/2,500)

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT	
(a) Postal Address of the Property/Site/Building for which the declaration sought:	Ballyduff Beg, Inagh, Ennis, Co. Clare.
(b) Do the works in question affect a Protected Structure or are within the curtilage of a Protected Structure? If yes, has a Declaration under Section 57 of the Planning & Development Act 2000 (as amended) been requested or issued for the property by the Planning Authority?	No
(c) Legal interest in the land or structure in question of the person requesting the declaration (Give Details):	The applicant is the owner.
(d) If the person in (c) above is not the owner and/or occupier, state the name and address of the owner of the property in question:  <i>Note: Observations in relation to a referral may be requested from the owner/occupier where appropriate.</i>	N/a
(e) Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?:	Yes
(f) Are you aware of any enforcement proceedings connected to this site? <i>If so please supply details:</i>	No
(g) Were there previous planning application/s on this site? <i>If so please supply details:</i>	N/a
(h) Date on which 'works' in question were completed/are likely to take place:	The works will take place pending the outcome of this application.

SIGNED:

  
 Agent on behalf of Martina O'Loughlin

DATE: 12 / 07 / 2023

### **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:.....			



# Land Registry Compliant Map



Tailte  
Éireann

## Site Location Map

Showing Location of Site with  
Site Boundaries Edged in Red &  
Location of Site Notice.

Prepared By: Pádraig Neylon  
Qualification: B. Sc. (Surveying) MCIOB  
For: Martina O'Loughlin  
Address: Ballyduff Beg, Inagh, Ennis, Co. Clare.

Scale: 1:2,500  
Digital Map: 4203-C & 4261-A

22.94 An Cheathrú  
Chaol Thoir  
Carrowkeel East

Spring

2.63 An Baile  
Dubh Beag  
Ballyduff Beg

Site Edged in Red

**CENTRE  
COORDINATES:**  
ITM 521607 680907

**PUBLISHED:** 29/06/2023  
**ORDER NO.:** 50343176\_1

**MAP SERIES:** 1:2,500  
**MAP SHEETS:** 4203-C  
4261-A

**COMPILED AND PUBLISHED BY:**  
National Mapping Division of  
Tailte Éireann,  
Phoenix Park,  
Dublin 8,  
Ireland.  
D08F6E4

[www.tailte.ie](http://www.tailte.ie)

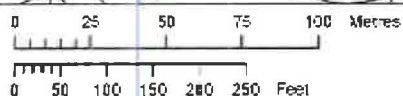
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**OUTPUT SCALE:** 1:2,500

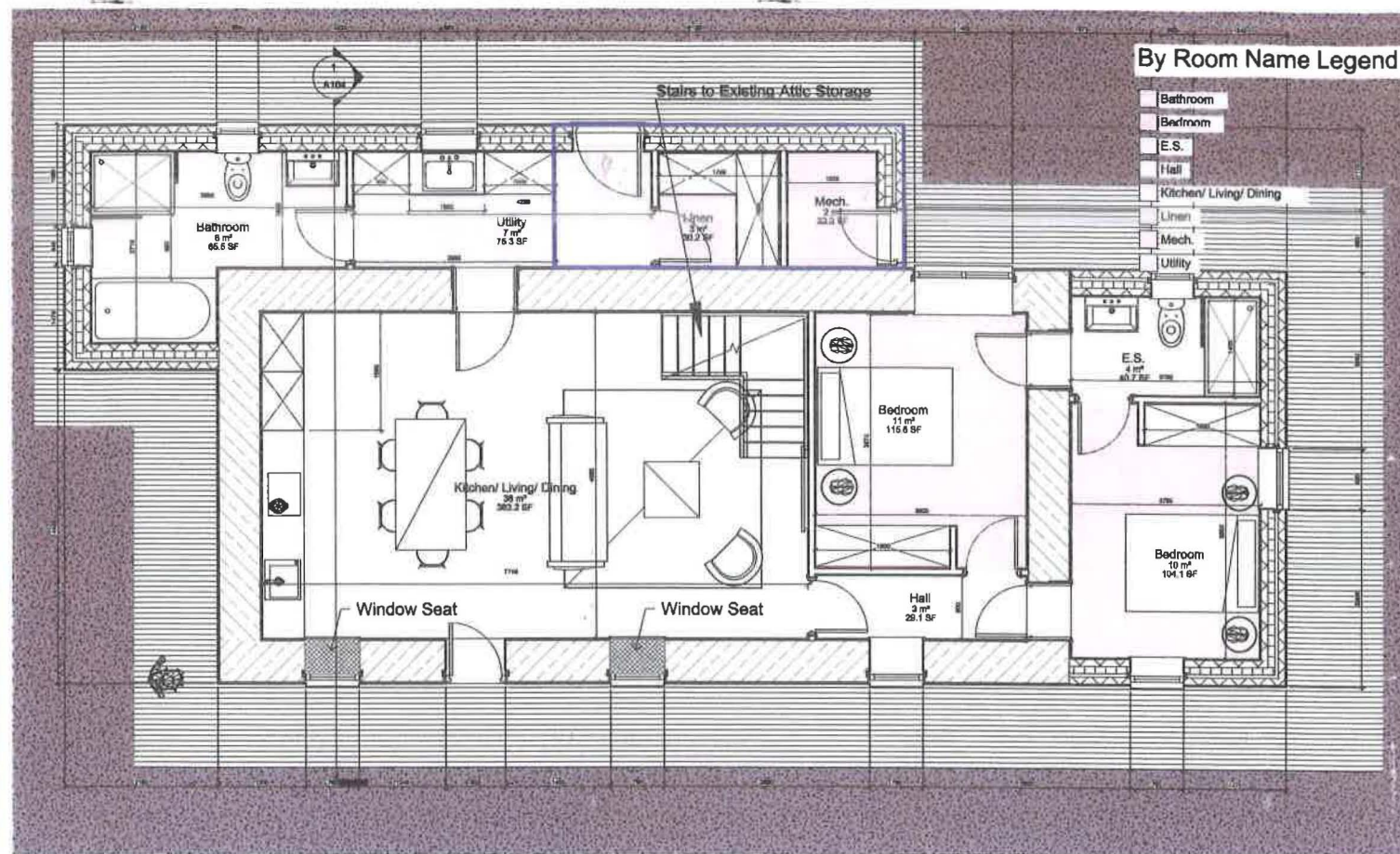
**CAPTURE RESOLUTION:**  
The map objects are only accurate to the  
resolution at which they were captured.  
Output scale is not indicative of data capture scale.  
Further information is available at:  
[www.osi.ie](http://www.osi.ie); search 'Capture Resolution'

**LEGEND:**  
To view the legend visit  
[www.osi.ie](http://www.osi.ie) and search for  
'Large Scale Legend'



This map was produced by  
the National Mapping Division  
of Tailte Éireann, formerly  
Ordnance Survey Ireland and OSi.



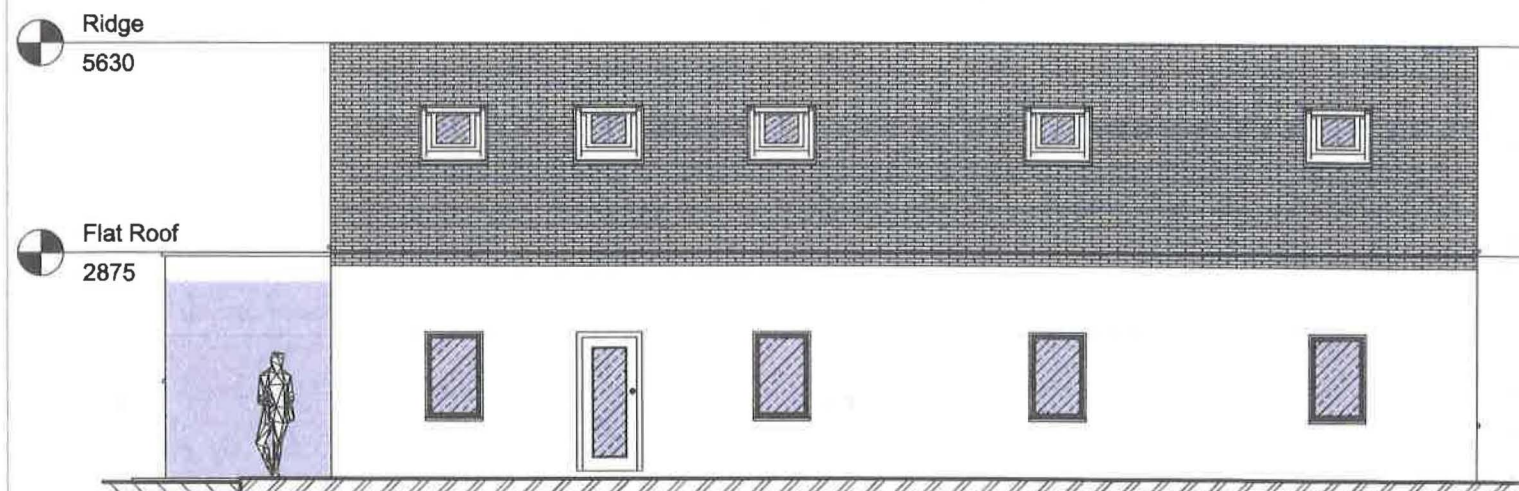


Proposed Floor Area = 7.47 m<sup>2</sup>

Existing Floor Area = 79.12 m<sup>2</sup>

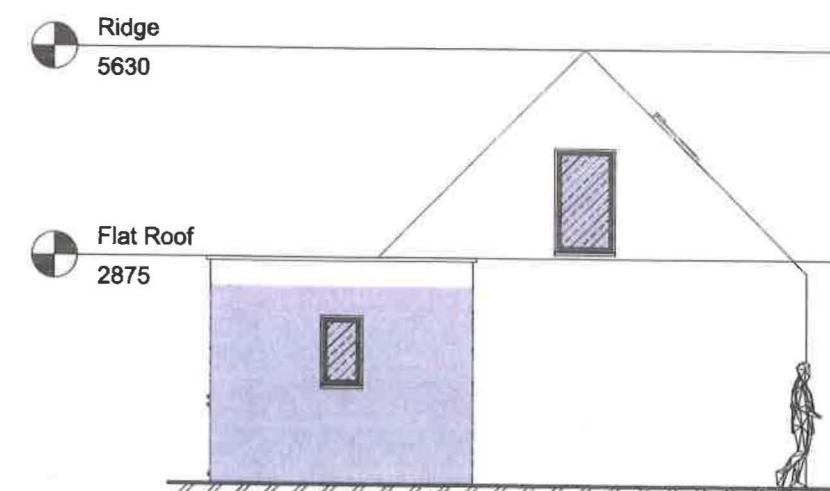
Proposed Floor Plan

Existing & Proposed  
F.F.L. = 100.000m

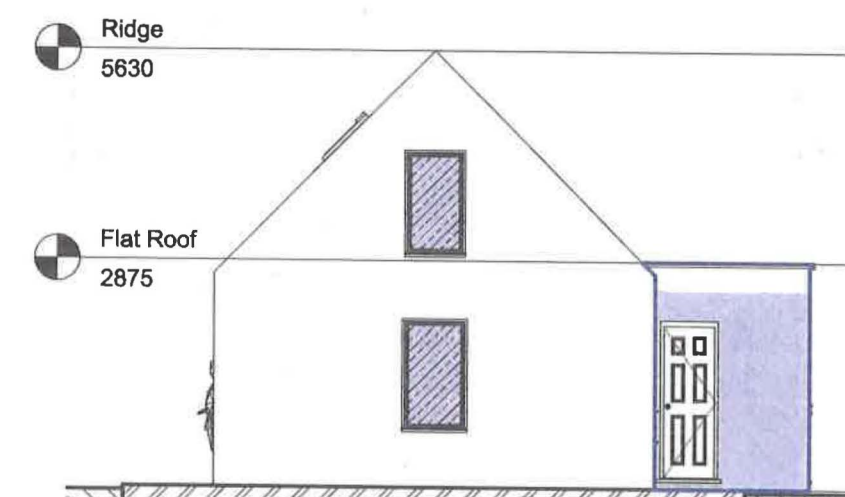


Proposed South East Elevation

Area subject to the Section 5 Declaration shown Edged in



Proposed South West Elevation



Proposed North East Elevation



Proposed North West Elevation

(C) Copyright - Drawings for Discussion Purposes Only

**Title -** Proposed Floor Plan & Elevations

**Project -** Proposed Section 5 Declaration

**Client -** Martina O'Loughlin

**Address -** Ballyduff Beg, Inagh, Ennis, Co. Clare.

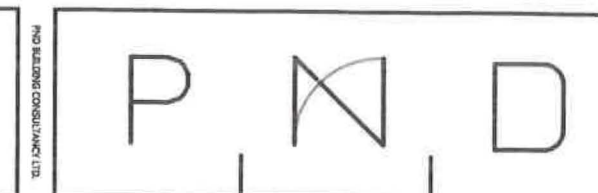
**Scale -** 1:100

**Size -** A3

PND BUILDING CONSULTANCY LTD.  
Registered Building Surveyors & Quantity  
Surveyors  
Kilrush House, Frances Street, Kilrush, Co. Clare.  
Tel: 087 976 5226  
Email: padraig@pndconsultancy.com

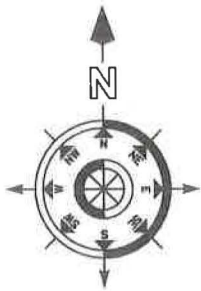
P/22/170/01

SV-01 17.07.23





Area subject to the Section 5 Declaration shown Hatched in \_\_\_\_\_



Site Edged in Red

Site Area = 0.091 ha  
0.226 acres

From OS Digital Map  
No.: 4203-C & 4261-A

Dwelling House  
Existing & Proposed  
F.F.L. = 100.000m

Location ≈ Existing Septic Tank  
Note: The Proposed Section 5 will NOT add  
additional loading on the existing septic tank and  
percolation area as  
No additional Occupants/Bedrooms are Proposed.

# Site Layout Plan

(C) Copyright - Drawings for Discussion Purposes Only

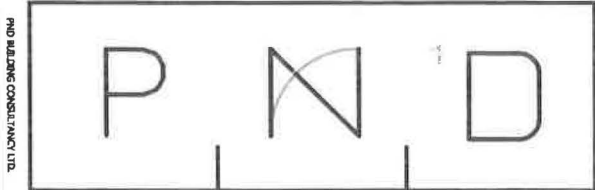
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**Project -** Proposed Section 5 Declaration

**Client -** Martina O'Loughlin  
**Address -** Ballyduff Beg, Inagh, Ennis, Co. Clare.

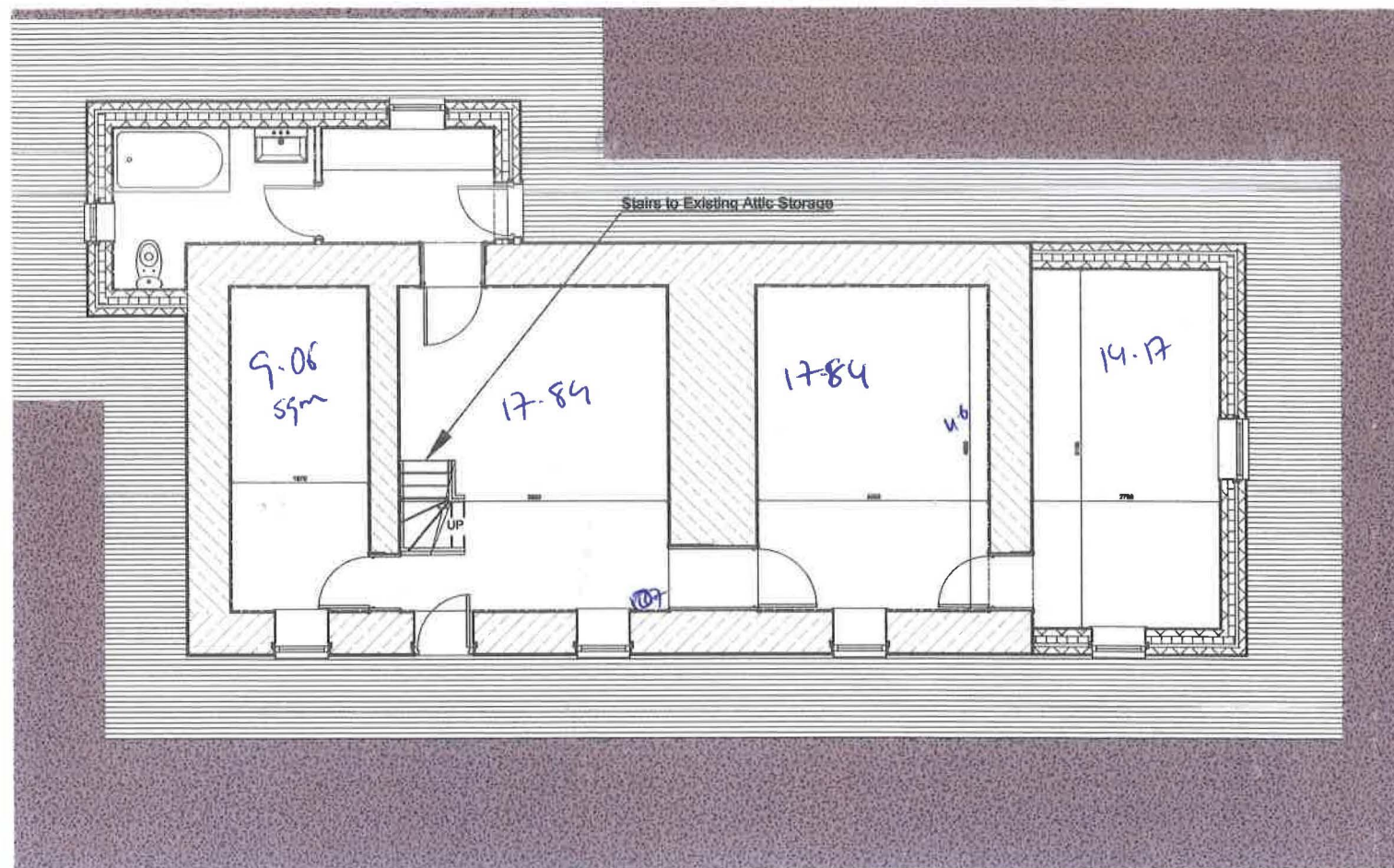
**Scale -** 1:500  
**Size -** A3

PND BUILDING CONSULTANCY LTD.  
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Email: padraig@pndconsultancy.com

P/22/170/SL  
SV-01 17.07.23





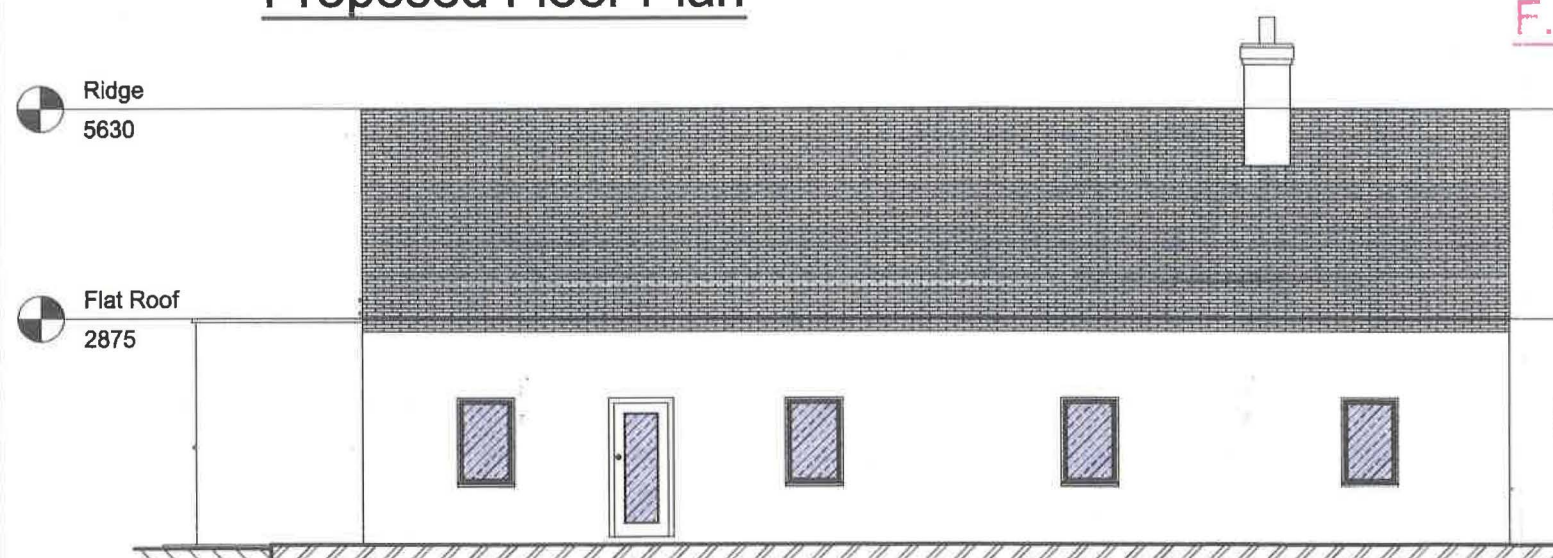


Existing Floor Area = 79.12 m<sup>2</sup>  
Proposed Floor Plan

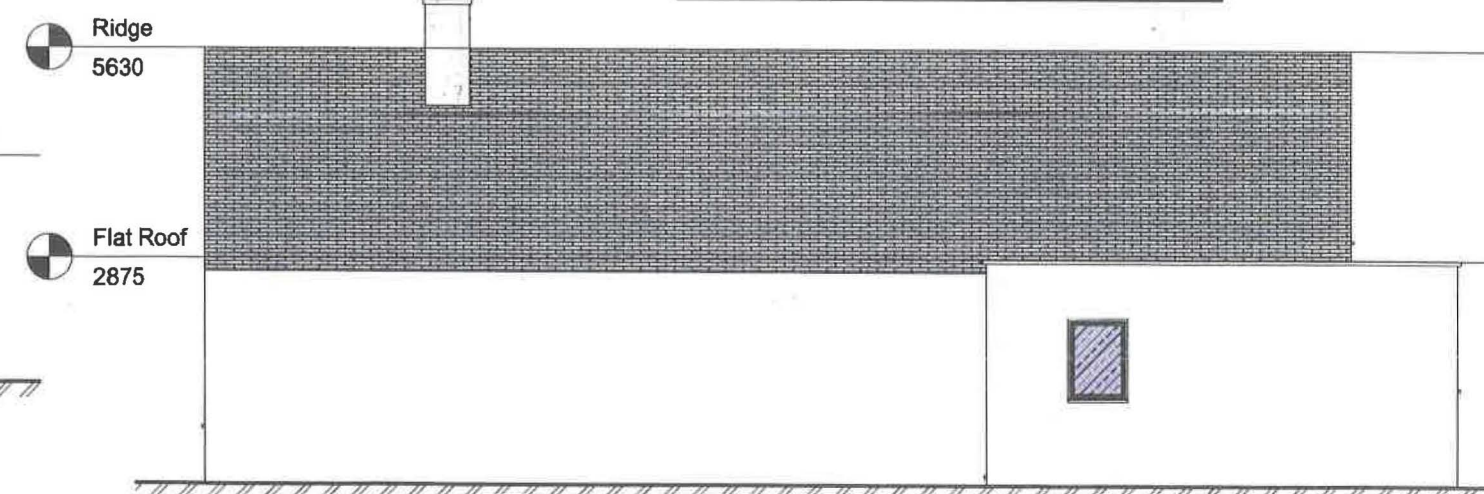
46.74 = original



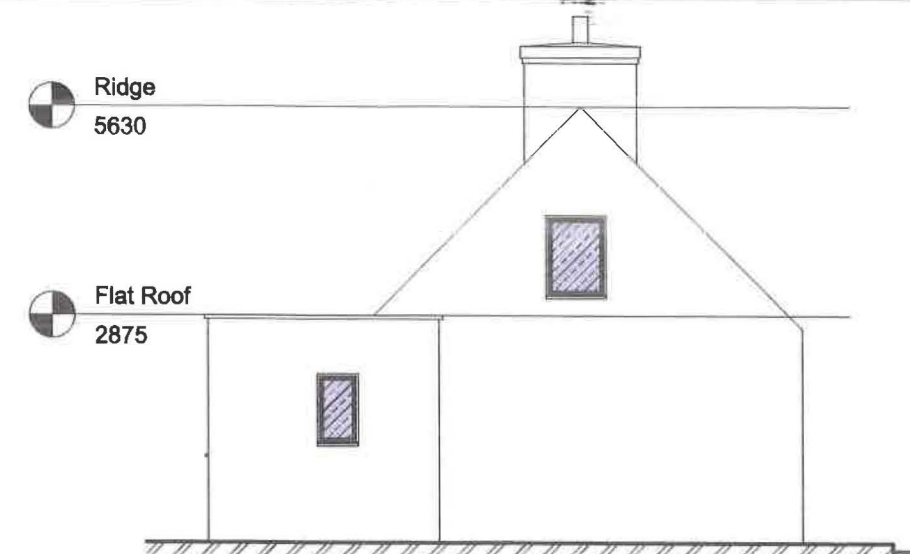
Existing  
 F.F.L. = 100.000m



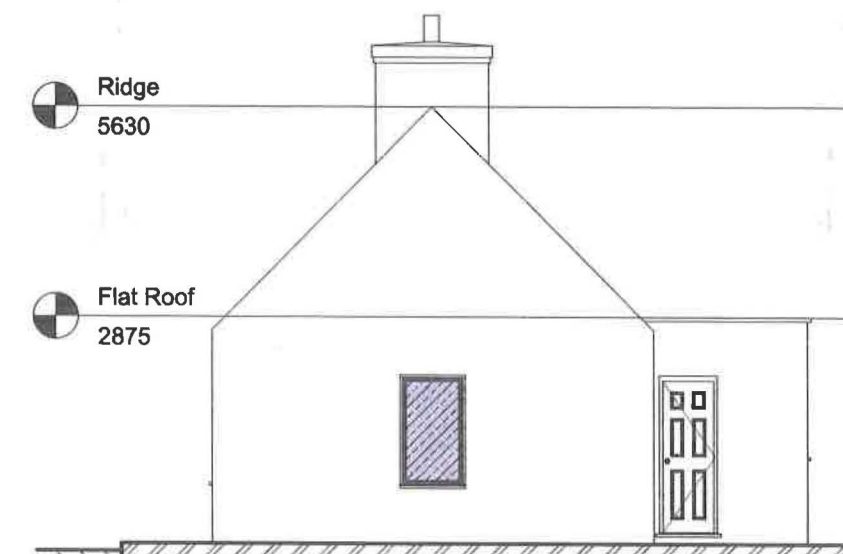
Existing South East Elevation



Existing North West Elevation



Existing South West Elevation



Existing North East Elevation

(C) Copyright - Drawings for Discussion Purposes Only

**Title -** Existing Floor Plan & Elevations  
**Project -** Proposed Section 5 Declaration

**Client -** Martina O'Loughlin  
**Address -** Ballyduff Beg, Inagh, Ennis, Co. Clare.

**Scale -** 1:100  
**Size -** A3

PND BUILDING CONSULTANCY LTD.  
 Registered Building Surveyors & Quantity Surveyors  
 Kilrush House, Frances Street, Kilrush, Co. Clare.  
 Tel: 087 976 5226  
 Email: padraig@pndconsultancy.com

P/22/170/02  
 SV-01 17.07.23

