



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Registered Post

**Kevin Enright
c/o Deirdre Foran
Lisdoonvarna
Co. Clare**

5th September 2023

Section 5 referral Reference R23-59 – Kevin Enright

Is the replacement of the derelict kitchen extension to the rear of the dwelling with a new kitchen extension at Ennis Road, Newmarket on Fergus Co. Clare V95 W9Y8, considered development and if so, is it exempted development?


A Chara,

I refer to your application received on 9th August 2023 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

The Planning Authority has considered the matter and I attach herewith the Council's findings in this matter.

Where a declaration is issued by the Planning Authority, any person issued with a declaration, may on payment to an Bord Pleanála of the required fee, refer a declaration for review by An Bord Pleanála within 4 weeks of the date of the issuing of the declaration. Details on making such appeal are available on the Board's website at www.pleanala.ie

Mise, le meas


**Anne O'Gorman
Staff Officer
Planning Department
Economic Development Directorate**

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

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



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:

82330

Reference Number:

R23-59

Date Referral Received:

9th August 2023

Name of Applicant:

Kevin Enright

Location of works in question:

**Ennis Road, Newmarket-on-Fergus, Co.
Clare, V95 W9Y8**

Section 5 referral Reference R23-59 – Kevin Enright

Is the replacement of the derelict kitchen extension to the rear of the dwelling with a new kitchen extension at Ennis Road, Newmarket on Fergus Co. Clare V95 W9Y8, considered 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 1 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 replacement of a derelict kitchen extension to the rear of the dwelling with a new kitchen extension at Ennis Road Newmarket on Fergus 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 replacement of a derelict kitchen extension to the rear of the dwelling with a new kitchen extension (with a floor area of less than 40m²) at Ennis Road Newmarket on Fergus Co. Clare is exempted development by virtue of Class 1 and Class 50 of Part 1, Schedule 2 of the Planning and Development Regulations 2001.

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 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 the replacement of a derelict kitchen extension to the rear of the dwelling with a new kitchen extension **(with a floor area of less than 40m²)** at Ennis Road, Newmarket-on-Fergus, Co. Clare is **considered development** which is **exempted development**.

Signed:


KIERAN O'DONNELL
ADMINISTRATIVE OFFICER

A.O.
6

Date: 5th September 2023

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

Reference No.: R23-59



Comhairle Contae an Chláir
Clare County Council

Section 5 referral Reference R23-59

Is the replacement of the derelict kitchen extension to the rear of the dwelling with a new kitchen extension at Ennis Road, Newmarket on Fergus Co. Clare V95 W9Y8, considered development and if so, is it exempted development?

AND WHEREAS, Kevin Enright 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 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.

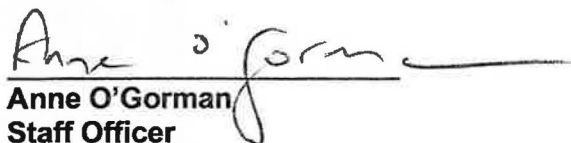
And whereas Clare County Council has concluded:

- (a) The replacement of a derelict kitchen extension to the rear of the dwelling with a new kitchen extension at Ennis Road Newmarket on Fergus 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 replacement of a derelict kitchen extension to the rear of the dwelling with a new kitchen extension (with a floor area of less than 40m²) at Ennis Road Newmarket on Fergus Co. Clare is exempted development by virtue of Class 1 and Class 50 of Part 1, Schedule 2 of the Planning and Development Regulations 2001.

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 replacement of a derelict kitchen extension to the rear of the dwelling with a new kitchen extension **(with a floor area of less than 40m²)** at Ennis Road, Newmarket-on-Fergus, 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

5th September 2023

CLARE COUNTY COUNCIL
SECTION 5 DECLARATION OF EXEMPTION APPLICATION

FILE REF:	R23-59
APPLICANT(S):	Kevin Enright
REFERENCE:	A Section V Referral is requested as to whether the replacement of a derelict kitchen extension to the rear of the dwelling with a new kitchen extension at Ennis Road Newmarket on Fergus is considered development and if so, is it exempted development
LOCATION:	Ennis Road Newmarket on Fergus
DUE DATE:	05th September 2023

Site Location

The site is located within the settlement of Newmarket on Fergus. There is an existing, detached older two storey dwelling on this site and there is a single storey extension constructed to the rear of this. The subject site is zoned as Existing Residential as per the Clare County Development Plan 2023-2029 and is directly adjacent to but outside of the designated Architectural Conservation area at Newmarket on Fergus.



View from road



View from side

Planning History On subject site.

10-976

Permission sought for the removal of existing roof structure and chimneys and construct anew. Construction of a new ground floor extension to the rear of existing building, inclusive of all ancillary site works and service. This was an incomplete application.

10-1046

Permission was sought for the removal of existing roof structure and chimneys and construct a new, construction of new ground floor extension to the rear of existing building. Demolition of existing kitchen extension, inclusive of all ancillary site works and services at Ennis Road Newmarket-on-Fergus Co. Clare. Permission was granted subject to conditions.

Background to Referral

This Referral under Section 5(3)(a) of the Planning and Development Act 2000 (as amended) has been made by Mr Kevin Enright . He states that he is the owner of the dwelling which is the subject of this referral.

The applicant is seeking a Section 5 Declaration as to whether the replacement of an existing derelict kitchen extension with a new kitchen extension to the rear of subject dwelling at Ennis Road Newmarket on Fergus 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 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 meters.

(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 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.

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

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,

(iiia) 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

Basis of Referral

The applicant is seeking a Section 5 Declaration as to whether the replacement of an existing derelict kitchen extension with a new kitchen extension to the rear of subject dwelling at Ennis Road Newmarket on Fergus is development and if so, is it exempted development.

Particulars of the Development

It is proposed to demolish an existing extension to the rear of the dwelling and to construct a new extension with an approx. floor area of 26m². The proposed extension is single storey in form with windows on the southern elevation and no windows on the northern elevation.

Matters considered:

The Planning and Development Regulations 2001 (as amended) Schedule 2, Part 1, Class 1 have been considered in full and the consideration can be outlined as follows;

“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.

Assessment: The 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”

Assessment: The house has been previously extended, as there is a small extension to the rear of the house, however it is proposed to demolish this extension and replace it with a new and slightly larger extension. The floor area of the existing or of the proposed extension is less than 40sqm, this is acceptable.

(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.

Assessment: The house is detached.

(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.

Assessment: The extension is located on the ground floor.

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.

Assessment: This does not raise any concern as the existing extension to the rear of the dwelling is proposed to be demolished and replaced with the proposed new extension.

(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.

Assessment: The house is detached.

(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.

Assessment: The proposed extension is located on the ground floor area only.

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

Assessment: Not applicable – the proposed 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.

Assessment; 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.

Assessment; 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.

Assessment: This is complied with.

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 meters.*

Assessment: The site layout plan submitted does not include a scale, however having regard to the details provided on the floor plans as submitted, I deem the scale of the layout plan to be 1: 200. Having regard to the proposed site layout plan as submitted, I have determined that the construction of the proposed extension to the rear of the dwelling will not reduce the area of private open space reserved for use by the occupants of the house, to less than 25 square meters.

6. (a)

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

This has been complied with.

(b)

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

Assessment. Not applicable.

(c)

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

Assessment; Not applicable.

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

Assessment; Not applicable.

Conclusion

Having regard to the above I consider that the proposed development meets the exempted development provisions as set out under the Planning and Development Regulations 2001 (as amended) Schedule 2, Part 1, Class 1.

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 access points onto the public road network are affected by the proposal.

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

The proposal does not create a traffic hazard or obstruct road users in the area.

(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,

No applicable to the 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 proposed extension is located to the rear of the dwelling and there is very limited visibility of same from the public road. The proposed will not have a negative impact on the character of visual amenities of the area.

(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,

There are no known archaeological features in the vicinity of the proposal site.

(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,

The proposed development will not have a significant effect on European sites.

(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."

No 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 to this proposal

(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.

Conclusions

The following question has been referred to the Planning Authority:

Whether the replacement of a derelict kitchen extension to the rear of the dwelling with a new kitchen extension at Ennis Road Newmarket on Fergus is considered development and if so, is it exempted development. The proposed new extension has a floor area of less than 40m².

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 1^{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 (Planning Authority) has concluded:

- (a) The replacement of a derelict kitchen extension to the rear of the dwelling with a new kitchen extension at Ennis Road Newmarket on Fergus 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 replacement of a derelict kitchen extension to the rear of the dwelling with a new kitchen extension (with a floor area of less than 40m²) at Ennis Road Newmarket on

Fergus Co. Clare is exempted development by virtue of Class ^{and class 50} 1 of Part 1, Schedule 2 of the Planning and Development Regulations 2001.

Now therefore Clare County Council (Planning Authority), hereby decides that the replacement of a derelict kitchen extension to the rear of the dwelling with a new kitchen extension (**with a floor area of less than 40m²**) at Ennis Road Newmarket on Fergus Co. Clare is development and is exempted development.

A. McCarthy 06/09/23
Annemarie McCarthy

Executive Planner

Date: 04-09-23

Garreth Ruane
Garreth Ruane

Senior Executive Planner

Date: 06/09/23

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

09/08/2023 13:15:48

Receipt No. : L1CASH/0/352993
***** REPRINT *****

KEVIN ENRIGHT
C/O DEIRDRE FORAN
LISDOONVARNA, CO CLARE
REF. R23-59

SECTION 5 REFERENCES
GOODS
VAT Exempt/Non-vatable

80.00

Total :

80.00 EUR

Tendered :
CHEQUES

80.00

Change :

0.00

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

R23-59

P07

**CLARE COUNTY COUNCIL
COMHAIRLE CONTAE AN CHLÁIR**

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

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



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

FEE: €80

- 9 AUG 2023

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

KEVIN ENRIGHT

GRANAGHBEG

NEWMARKET ON FERGUS,

CO CLARE

(b) Telephone No.:

(c) Email Address:

(d) Agent's Name and address:

DEIRDRE FORAN

LISDOONVARNA

CO CLARE

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 REPLACEMENT OF THE DERELICT KITCHEN EXTENSION TO THE REAR
OF THE DWELLING WITH A NEW KITCHEN EXTENSION, CONSIDERED
DEVELOPMENT AND IF SO IS IT EXEMPTED DEVELOPMENT

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

REPLACING THE EXISTING DERELICT KITCHEN EXTENSION WITH A NEW KITCHEN
EXTENSION TO THE REAR OF THE DWELLING AT ENNIS ROAD NEWMARKET ON
FERGUS

- (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)

EXTENSION DRAWINGS; SITE LOCATION MAP; SITE LAYOUT PLAN

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT

(a) Postal Address of the Property/Site/Building for which the declaration sought:	ENNIS ROAD, _____ NEWMARKET ON FERGUS _____ CO CLARE V95 W9Y8 _____ _____
(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):	KEVIN ENRIGHT OWNS THE BUILDING AND SITE
(d) If the person in (c) above is not the owner and/or occupier, state the name and address of the owner of the property in question: <i>Note: Observations in relation to a referral may be requested from the owner/occupier where appropriate.</i>	_____ _____ _____ _____
(e) Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?:	YES
(f) Are you aware of any enforcement proceedings connected to this site? <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>	YES, P10/1046, granted but never developed
(h) Date on which 'works' in question were completed/are likely to take place:	WORKS TO BEGIN IN SEPTEMBER 2023

SIGNED: _____

AGENT

DATE: 06-08-2023

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

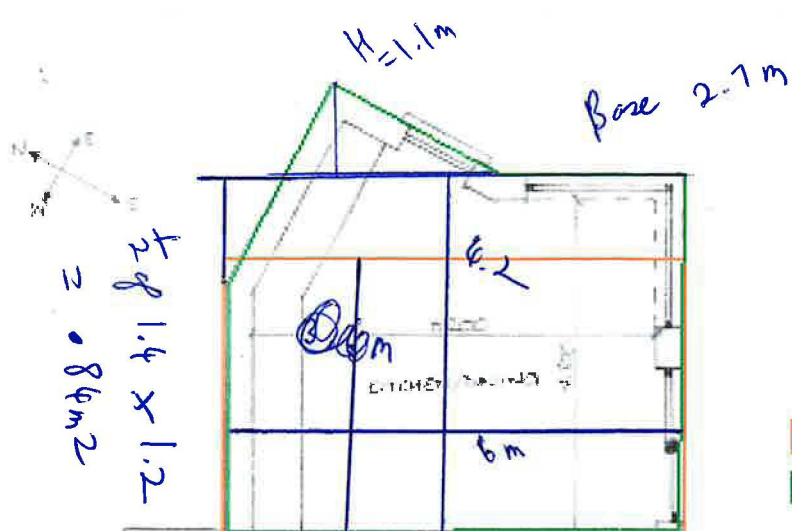
- (i) The request for a declaration under Section 5 must be accompanied by 2 copies of site location map based on the Ordnance Survey map for the area of a scale not less than 1:1000 in urban areas and 1:2500 in rural areas and should clearly identify the site in question.
- (ii) The request for a declaration 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:.....	



EXISTING REAR EXTENSION
PROPOSED REAR EXTENSION

$$3.6m \times 6m = 21.6m^2$$

$$6m \times 4.2m =$$

$$25.2m^2$$

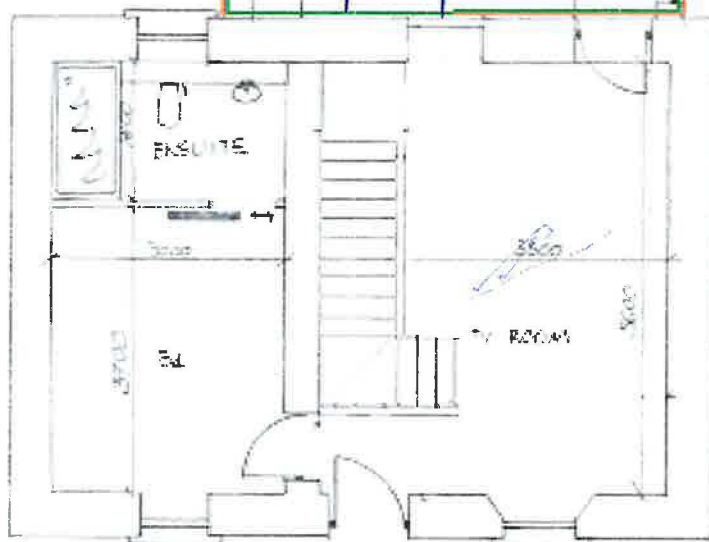
$$+ 1.48m^2$$

$$= 26.68m^2$$

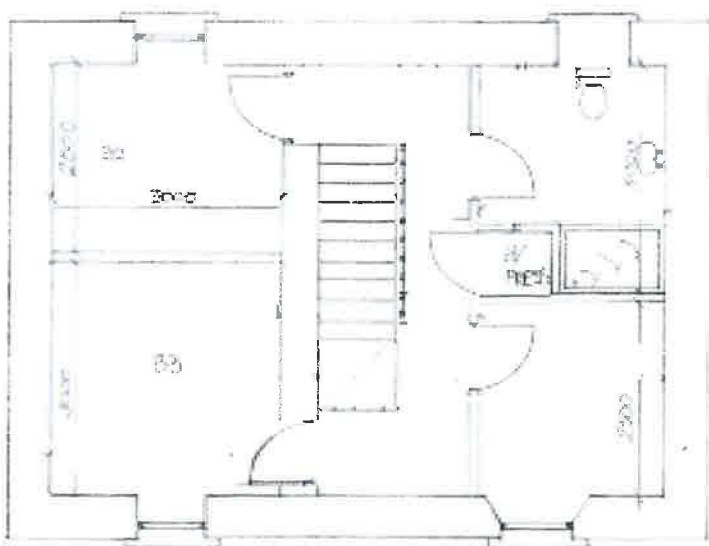
$$- 0.84m^2$$

$$25.84m^2$$

Area of new extension

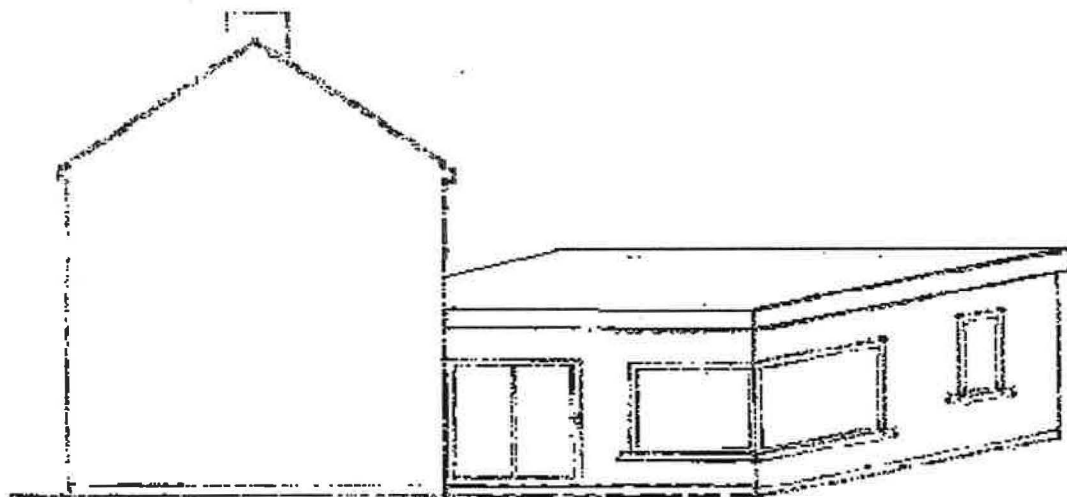


PROPOSED GROUND FLOOR PLAN

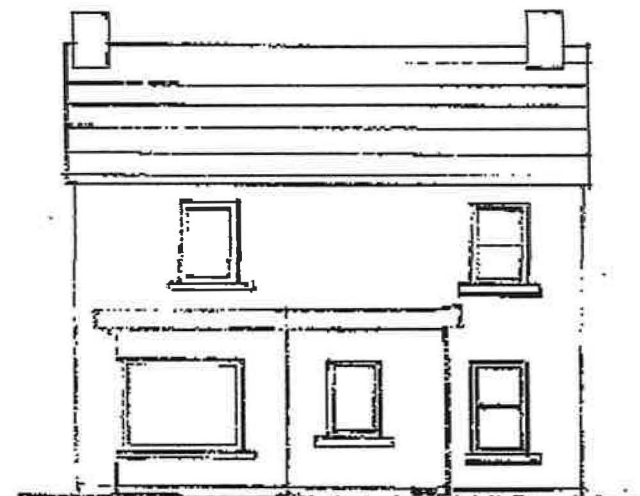


PROPOSED FIRST FLOOR PLAN

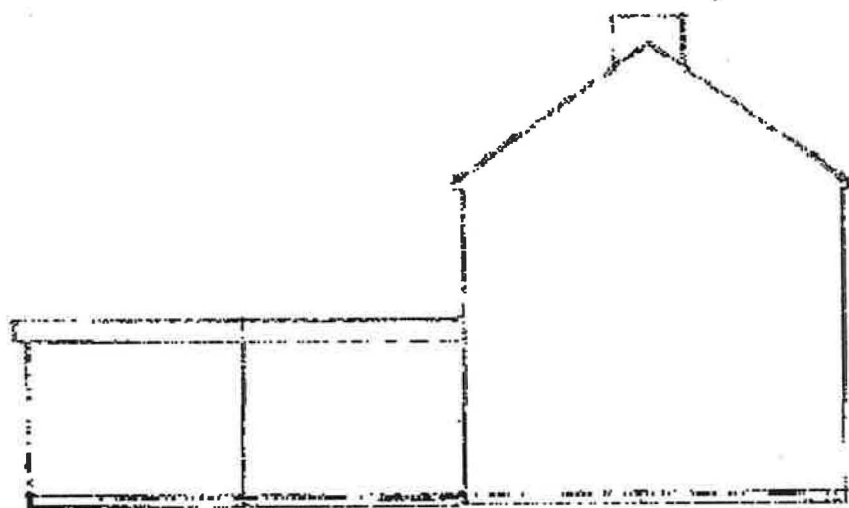
KEVIN ENRIGHT
ENNIS ROAD
NEWMARKET ON FERGUS
EXEMPTED DEVELOPMENT APPLICATION



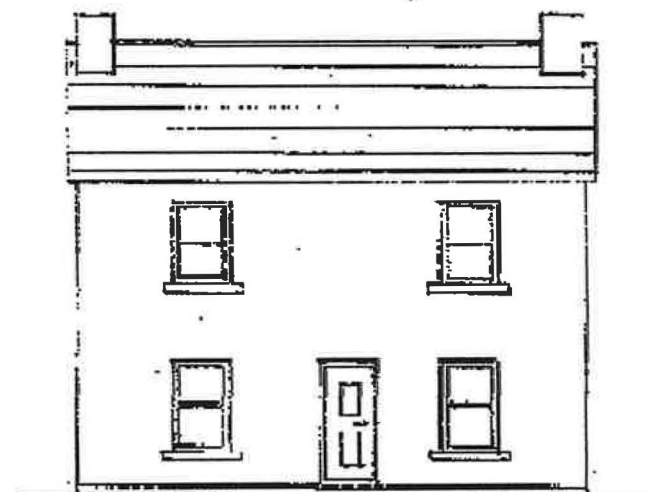
PROPOSED RIGHT VIEW



PROPOSED REAR VIEW

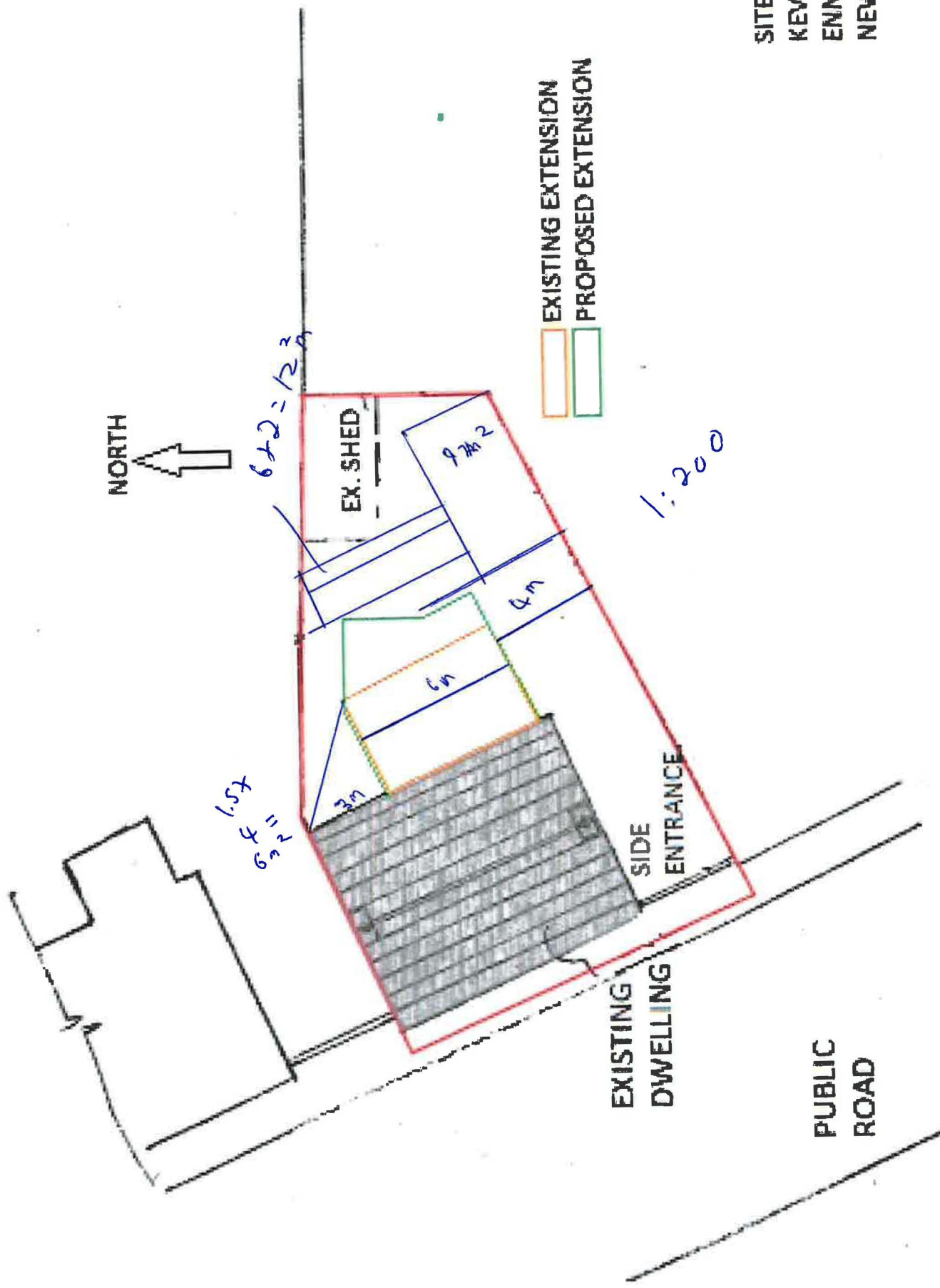


PROPOSED LEFT VIEW



UNCHANGED FRONT VIEW

KEVIN ENRIGHT
ENNIS ROAD
NEWMARKET ON FERGUS
EXEMPTED DEVELOPMENT APPLICATION



SITE LAYOUT PLAN
KEVIN ENRIGHT
ENNIS ROAD
NEWMARKET ON FERGUS

Land Registry Compliant Map

CENTRE COORDINATES:
 ITM 539464.668203

PUBLISHED: 23/10/2022 **ORDER NO.:** 50298519_1

MAP SERIES: 1:1,000 **MAP SHEETS:** 4498-10

COMPILED AND PUBLISHED BY:
 Ordnance Survey Ireland,
 Phoenix Park,
 Dublin 8,
 Ireland.

Unauthorised reproduction
 infringes Ordnance Survey Ireland
 and Government of Ireland
 copyright.

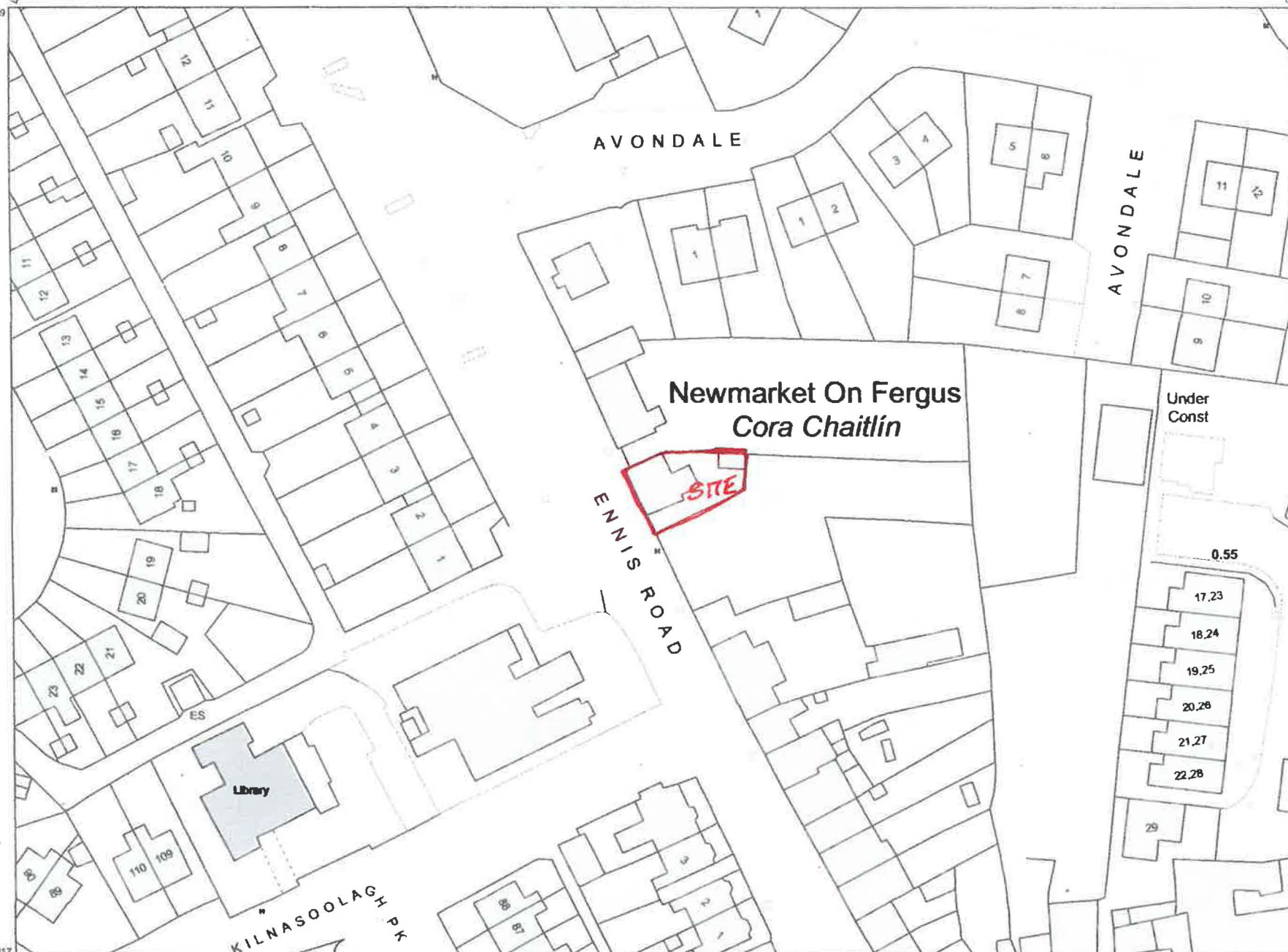
All rights reserved.
 No part of this publication may
 be copied, reproduced
 or transmitted in any form
 or by any means without the prior
 written permission of
 the copyright owners.

The representation on this map
 of a road, track or footpath
 is not evidence of the existence
 of a right of way.

Ordnance Survey maps
 never show legal property
 boundaries, nor do they
 show ownership of
 physical features.

© Suirbhéireacht Ordanáis Éireann,
 2022
 © Ordnance Survey Ireland, 2022
www.osi.ie/copyright

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



OUTPUT SCALE: 1:1,000

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