



COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

**Registered Post**

**Laura & Mark Hempenstall  
c/o Ian Daniels  
Ground Floor, Old Windmill Court  
Lower Gerald Griffin Street  
Limerick**

**12th September 2023**

**Section 5 referral Reference R23-62 – Laura & Mark Hempenstall**

Is the construction of a single storey rear extension of 38m<sup>2</sup> development, and if so is it exempted development?

A Chara,

I refer to your application received on 16th 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](http://www.pleanala.ie)

Mise, le meas

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

**An Roinn Pleanála  
An Stiúthóireacht 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:

82371

Reference Number:

R23-62

Date Referral Received:

16th August 2023

Name of Applicant:

Laura & Mark Hempenstall

Location of works in question:

Wood Road, Cratloe, Co. Clare

**Section 5 referral Reference R23-62 – Laura & Mark Hempenstall**

Is the construction of a single storey rear extension of 38m<sup>2</sup> 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 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 construction of an extension with a floor area of 38m<sup>2</sup> to the rear of the dwelling at Wood Road, Cratloe, 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 extension at Wood Road, Cratloe Co. Clare does not meet the provisions of Schedule 2, Part 1, Class 1 of the Planning and Development Regulations 2001, as (as amended) as part 4(a) of this exempted development provision has not been met.

**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 single storey rear extension of 38m<sup>2</sup> at Wood Road, Cratloe, Co. Clare is considered development which is not exempted development.

Signed:

  
\_\_\_\_\_  
GARETH RUANE  
SENIOR EXECUTIVE PLANNER 

Date:

12th September 2023

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

**Reference No.: R23-62**



Comhairle Contae an Chláir  
Clare County Council

**Section 5 referral Reference R23-62**

**Is the construction of a single storey rear extension of 38m2 development, and if so is it exempted development?**

**AND WHEREAS, Laura & Mark Hempenstall** 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 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 construction of an extension with a floor area of 38m2 to the rear of the dwelling at Wood Road, Cratloe, 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 extension at Wood Road, Cratloe Co. Clare does not meet the provisions of Schedule 2, Part 1, Class 1 of the Planning and Development Regulations 2001, as (as amended) as part 4(a) of this exempted development provision has not been met.

**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 single storey rear extension of 38m2 at Wood Road, Cratloe, Co. Clare **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**

**12th September 2023**

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

<b>FILE REF:</b>	R23-62
<b>APPLICANT(S):</b>	Laura and Mark Hempenstall
<b>REFERENCE:</b>	Is the construction of a single storey rear extension of 38m2 development and if so, is this exempted development?
<b>LOCATION:</b>	Wood Road Cratloe County Clare.
<b>DUE DATE:</b>	<b>12-09-23</b>

**Site Location**

The subject property is located in a rural area at Wood Road, Cratloe. The property is a single storey dwelling with a newly constructed extension to the rear.

**Planning History On subject site.**

**22/24**

Laura and Mark Hempenstall sought permission to demolish the existing single storey rear extension and to construct a new single storey rear extension, wastewater treatment system and all associated site works. Permission was granted subject to the conditions.

**Background to Referral**

This Referral under Section 5(3)(a) of the Planning and Development Act 2000 (as amended) has been made by Laura and Mark Hempenstall, they are the stated owners of the property which is the subject of this referral.

The applicants are seeking a Section 5 Declaration as to whether the construction of a single storey rear extension of 38m2 is development and if so, if it is exempted development.

On the application form as submitted, the referrer provides the following information.

- The applicants were granted full planning permission for a single storey rear extension under planning reference 22/24.
- Due to budgetary reasons, the referrers needed to reduce the size of the extension to 38m2 as per the details now submitted.

- The applicants own this property.

### 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 construction of a single storey rear extension of 38m<sup>2</sup> is development and if so, if it is exempted development”.

### **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 floor area of the extension is less than 40sqm (it is 38m<sup>2</sup>), 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 replacing the previous extension which has now been demolished.

(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 complied with. The subject extension has a mono pitch modern style roof. The rear wall of the subject house does not include a gable. From my inspection of this site and from the elevation drawings as submitted, it can be seen that the height of the walls of the extension exceeds 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.*

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 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 subject development does not meet the exempted development provisions as set out under the Planning and Development Regulations 2001 (as amended) Schedule 2, Part 1, Class 1, as part 4(a) of this exempted development provision has not been met.

### **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. Particular regard has been had to the conditions as attached to the permission P 22/24 that relates to this property.

*(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 construction of a single storey rear extension of 38m<sup>2</sup> is development and if so, if it is exempted development

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 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 construction of an extension with a floor area of 38m<sup>2</sup> to the rear of the dwelling at Wood Road, Cratloe, 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 extension at Wood Road, Cratloe Co. Clare does not meet the provisions of Schedule 2, Part 1, Class 1 of the Planning and Development Regulations 2001, as (as amended) as part 4(a) of this exempted development provision has not been met.

Now therefore Clare County Council (Planning Authority), hereby decides that the construction of a single storey rear extension of 38m<sup>2</sup> is **development and is not exempted development**.

 11-09-23  
Annemarie McCarthy

Executive Planner

Date: 11-09-23

  
Garreth Ruane

Senior Executive Planner

Date: 11/09/23

**R23-62**





COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

**Laura & Mark Hempenstall**  
c/o Ian Daniels  
Ground Floor, Old Windmill Court  
Lower Gerald Griffin Street  
Limerick

**16/08/2023**

**Section 5 referral Reference R23-62 – Laura & Mark Hempenstall**

Is the construction of a single storey rear extension of 38m2 development, and if so is it exempted development?

A Chara,

I refer to your application received on 16th August 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

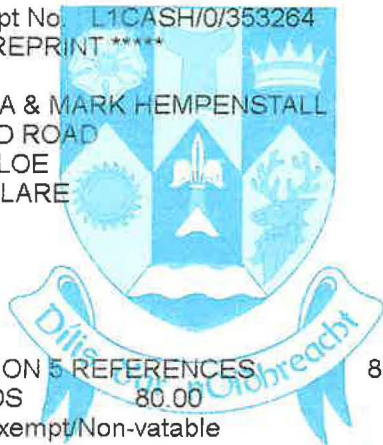


Clare County Council  
Aras Contae an Chlair  
New Road  
Ennis  
Co Clare

16/08/2023 10:20:12

Receipt No. L1CASH/0/353264  
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LAURA & MARK HEMPENSTALL  
WOOD ROAD  
CRATLOE  
CO. CLARE



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

Total : 80.00 EUR

Tendered :  
CHEQUES 80.00

Change : 0.00

Issued By : L1CASH - Noelette Barry  
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,  
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Fax No. (065) 6892071  
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Website: [www.clarecoco.ie](http://www.clarecoco.ie)



Comhairle Contae an Chláir  
Clare County Council



R23-62

**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	<p>Laura &amp; Mark Hempenbell</p> <p>Wood Road, Cratloe, Co. Clare</p>
(b) Telephone No.:	
(c) Email Address:	
(d) Agent's Name and address:	<p>Ian Daniels</p> <p>Grand Flies Old Windmill Court</p> <p>Lower Gerald Griffin Street</p> <p>Limerick</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?

To Construct a Single storey rear extension 38m<sup>2</sup>

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

My Clients were granted Full Planning permission for a single storey rear extension under planning ref. 160. 22/24.

Due to bulging reasons they are looking to reduce the extension down to 38m<sup>2</sup> as per the attached drawings

### (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)*

Layout & elevations of extension

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

(a) Postal Address of the Property/Site/Building for which the declaration sought:	Wood Road, Crutcher, Cor 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):	Applicants own the property
(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)?:	/
(f) Are you aware of any enforcement proceedings connected to this site? <i>If so please supply details:</i>	None
(g) Were there previous planning application/s on this site? <i>If so please supply details:</i>	Planning Ref 22/24
(h) Date on which 'works' in question were completed/are likely to take place:	Complete by October

SIGNED:



DATE:

16/08/25

### **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: .....



# Planning Pack Map

**CENTRE COORDINATES:**  
ITM 550169.660575

**PUBLISHED:** 17/01/2022  
**ORDER NO.:** 50243917\_1

**MAP SERIES:** 1:5,000  
1:2,500  
1:2,500  
**MAP SHEETS:** 4620  
4620-C  
4620-D

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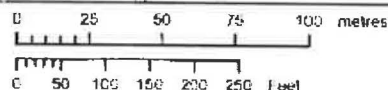
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**LEGEND:**  
<http://www.osi.ie>  
search 'Large Scale Legend'

CLARE COUNTY COUNCIL  
PLANNING SECTION  
18 JAN 2022  
P22  
Received by  
Ella Ryan

An Chreatalach  
Mhór  
Cratloe

Site  
Name



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'





# Site Location Map

**CENTRE COORDINATES:**  
ITM 550169.660575

**PUBLISHED:** 17/01/2022  
**ORDER NO.:** 50243917\_1

**MAP SERIES:** 6 Inch Raster  
**MAP SHEETS:** CE062 LK004

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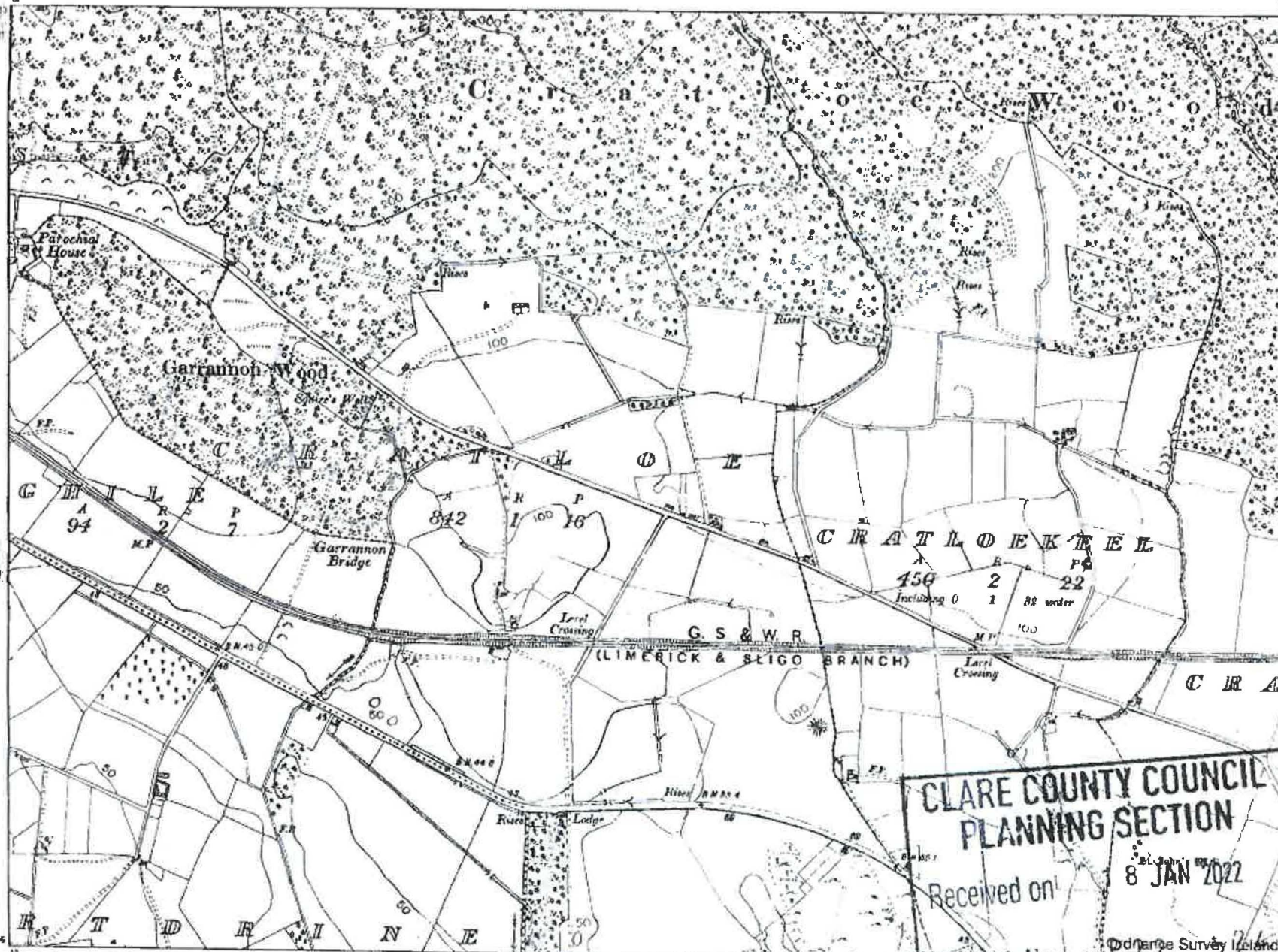
The representation on this map  
of a road, track or footpath  
is not evidence of the existence  
of a right of way.

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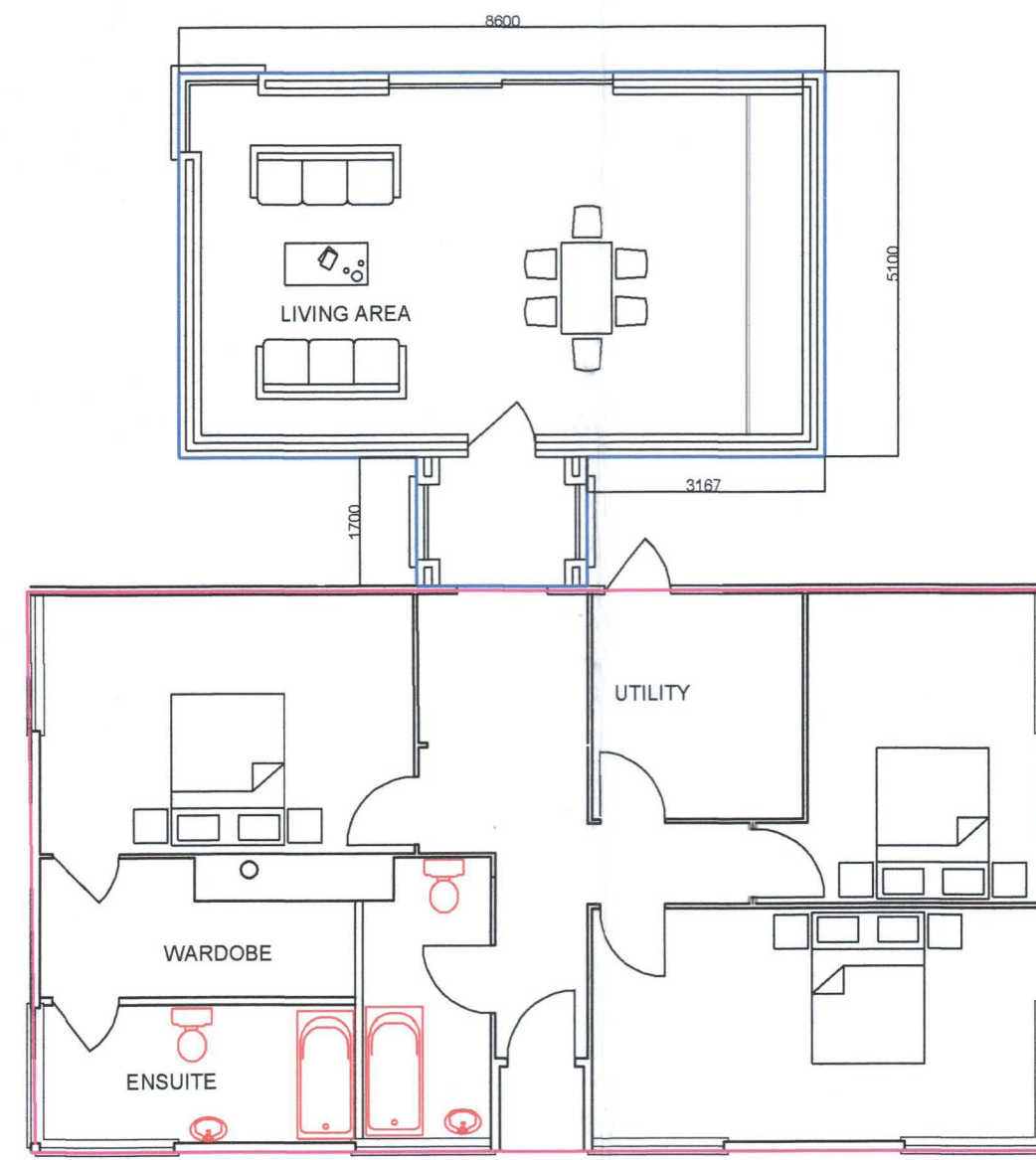
**LEGEND:**  
<http://www.osi.ie>,  
search 'Large Scale Legend'



**OUTPUT SCALE: 1:10,560**

**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'

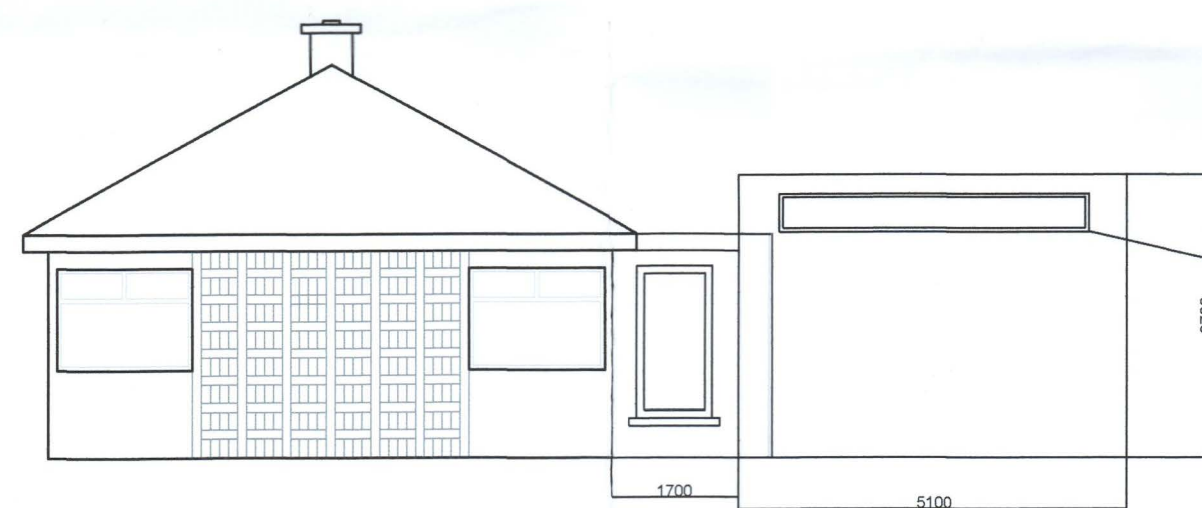




FLOOR LAYOUT

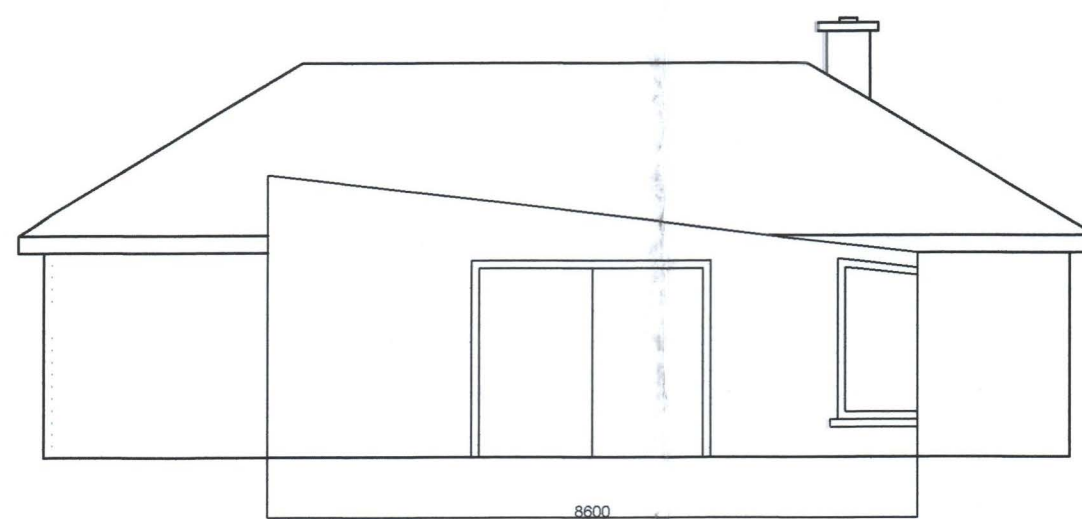
PROPOSED EXTENSION = 38.72M2

EXISTING BUILDING

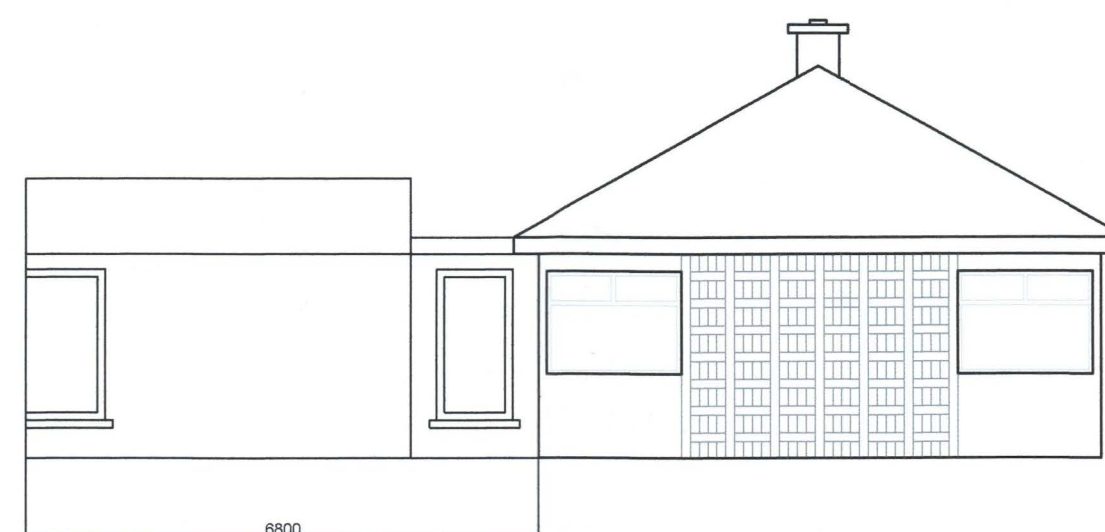


500 STRIP WINDOW OVER KITCHEN

SIDE ELEVATION



REAR ELEVATION



SIDE ELEVATION

CLIENT NAME  
LAURA/MARK HEMPENSTALL

SITE ADDRESS  
OLD CRATLOE ROAD,  
CO. CLARE

TITLE  
REVISED DESIGN AND ELEVATIONS

Drawing No: P-02

SCALE  
1:100

DATE  
AUG 2023

DRAWN BY  
IAN DANIELS  
087 2957494