



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

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Patxi Azkorbebeitia
8 Abbey Court, Limerick Road
Ennis
Co. Clare
V95 YC3K

30th November 2023

Section 5 referral Reference R23-83 – Patxi Azkorbebeitia

Is the construction of a small lean-to shed (1.5 m wide x 9m long that does not reduce the open space to less than 25m at 8 Abbey Court, Ennis, Co. Clare development and if so is it exempted development?

A Chara,

I refer to your application received on 25th October 2023 and by further information on 10th November 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:

82787

Reference Number:

R23-83

Date Referral Received:

25th October 2023

Further Information Received:

10th November 2023

Name of Applicant:

Patxi Azkorbebeitia

Location of works in question:

8 Abbey Court, Ennis, Co. Clare

Section 5 referral Reference R23-83 – Patxi Azkorbebeitia

Is the construction of a small lean-to shed (1.5 m wide x 9m long that does not reduce the open space to less than 25m at 8 Abbey Court, Ennis, Co. Clare development and if so is it exempted development?

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

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended,
- (c) Class 3 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (d) The works as indicated in submitted documents received on 25th October 2023 and 10th November 2023 from the referrer.

AND WHEREAS Clare County Council has concluded:

- (a) The construction of a small lean to shed (1.5m wide x 9m long) that does not reduce the open space to less than 25m at 8 Abbey Court, Ennis, Co. Clare constitutes "works" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended.
- (b) The construction of a small lean to shed (1.5m wide x 9m long) that does not reduce the open space to less than 25m at 8 Abbey Court, Ennis, Co. Clare constitutes "development" which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended.
- (c) The construction of a small lean to shed (1.5m wide x 9m long) that does not reduce the open space to less than 25m at 8 Abbey Court, Ennis, Co. Clare, is exempted development

having regard to Class 3 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.

ORDER: Whereas by Chief Executive's Order No. HR 152 dated 9th April 2021, Pat Dowling, Chief Executive for Clare County Council, did, pursuant to the powers conferred on him by Section 154 of the Local Government Act 2001, delegate to Gareth Ruane, Senior Executive Planner, the powers, functions and duties as set out herein,

NOW THEREFORE pursuant to the delegation of the said powers, functions and duties and under Section 5(2)(a) of the Planning & Development Act 2000 (as amended) and having considered the various submissions and reports in connection with the referral described above, I, Gareth Ruane, Senior Executive Planner, hereby declare that the construction of a small lean to shed (1.5m wide x 9m long) that does not reduce the open space to less than 25m at 8 Abbey Court, Ennis, Co. Clare is **considered development** which is **exempted development**.

Signed:



GARETH RUANE
SENIOR EXECUTIVE PLANNER



Date:

30th November 2023

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

Reference No.: R23-83



Section 5 referral Reference R23-83

Is the construction of a small lean-to shed (1.5 m wide x 9m long that does not reduce the open space to less than 25m at 8 Abbey Court, Ennis, Co. Clare development and if so is it exempted development?

AND WHEREAS, Patxi Azkorbebeitia has requested a declaration from Clare County Council on the said question.

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

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended,
- (c) Class 3 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (d) The works as indicated in submitted documents received on 20th October 2023 and 10th November 2023 from the referrer.

And whereas Clare County Council has concluded:

- (a) The construction of a small lean to shed (1.5m wide x 9m long) that does not reduce the open space to less than 25m at 8 Abbey Court, Ennis, Co. Clare constitutes “works” which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended.
- (b) The construction of a small lean to shed (1.5m wide x 9m long) that does not reduce the open space to less than 25m at 8 Abbey Court, Ennis, Co. Clare constitutes “development” which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended.
- (c) The construction of a small lean to shed (1.5m wide x 9m long) that does not reduce the open space to less than 25m at 8 Abbey Court, Ennis, Co. Clare is exempted development having regard to Class 3 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.

THEREFORE: The Planning Authority in exercise of the powers conferred on it by Section 5 of the Planning and Development Act, 2000 (as amended), hereby decides that:

The proposed development consisting of the construction of a small lean to shed (1.5m wide x 9m long) that does not reduce the open space to less than 25m at 8 Abbey Court, Ennis,

Co. Clare **constitutes development** which is **exempted development** as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.

A handwritten signature in blue ink, reading "Anne O'Gorman", followed by a horizontal line.

Anne O'Gorman
Staff Officer
Planning Department
Economic Development Directorate

30th November 2023

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

| | |
|----------------------|---|
| FILE REF: | R23-83 |
| APPLICANT(S): | Patxi Azkorbebeitia |
| REFERENCE: | Whether the construction of a small lean to shed (1.5m wide x 9m long) that does not reduce the open space to less than 25m at 8 Abbey Couty, Ennis, Co. Clare is / is not development and is / is not exempted development? |
| LOCATION: | 8 Abbey Court, Ennis, Co. Clare |
| DUE DATE: | 30th November 2023 |

Further Information requested on 9th November 2023

1. Please confirm the exact location of the proposed development by providing a site layout plan of the subject site, for further consideration.
2. Please provide comprehensive details in relation to the overall design of the proposed development including the proposed height, external finishes, external materials, roof type, doors and fenestration (if any) and taking the below note into consideration for the submission of same.
3. Please confirm and provide details of the intended use of the proposed development.

The following question has been referred to the Planning Authority:

Whether the construction of a small lean to shed (1.5m wide x 9m long) that does not reduce the open space to less than 25m at 8 Abbey Couty, Ennis, Co. Clare is / is not development and is / is not exempted development?

Response to Further Information received on 10th November 2023

The applicant's response included the following documents:

- Email response cover letter
- Ariel photograph of dwelling marked with an X and location of the proposal marked in blue.
- Area map of Abbey Court with a dot indicating location of dwelling.
- Rough diagram depicting dwelling with indicated lean to shed measurements.

Planning Authority Response to the Further Information received on 10th November 2023

The Planning Authority notes the response received from the applicant and notes the dimensions of the proposed structure as being 190cm high on one side (existing brick side wall to dwelling), with a slanted roof height of 233cm (from the existing brick side wall to the wall of the dwelling) and 133cm in width. Its proposed location is indicated on the ariel photograph received which is noted to be on the right- hand side of the dwelling. Furthermore, the finished materials are indicated as being timber 'beams' with roof tiles matching those of the dwelling. The applicant confirms there is no fenestration and does not indicate any access door. The proposal is for the storage of 'bicycles, bags of wood, gardening tools, lawn mower...' and is considered to be something akin to a garden shed. Taking into consideration the information received, the proposed location of the structure to the side of the dwelling and the intended use of the structure, the Planning Authority consider same acceptable.

Conclusion

The following question has been referred to the Planning Authority:

Whether the construction of a small lean to shed (1.5m wide x 9m long) that does not reduce the open space to less than 25m at 8 Abbey Couty, Ennis, Co. Clare is / is not development and is / is not 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 3 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (d) The works as indicated in submitted documents received on 25th October 2023 and 10th November 2023 from the referrer.

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

- (a) the construction of a small lean to shed (1.5m wide x 9m long) that does not reduce the open space to less than 25m at 8 Abbey Couty, Ennis, Co. Clare constitutes "works" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended.
- (b) the construction of a small lean to shed (1.5m wide x 9m long) that does not reduce the open space to less than 25m at 8 Abbey Couty, Ennis, Co. Clare constitutes "development"

which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended.

- (c) the construction of a small lean to shed (1.5m wide x 9m long) that does not reduce the open space to less than 25m at 8 Abbey Couty, Ennis, Co. Clare, is exempted development having regard to Class 3 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.

Now therefore Clare County Council (Planning Authority), hereby decides that the construction of a small lean to shed (1.5m wide x 9m long) that does not reduce the open space to less than 25m at 8 Abbey Couty, Ennis, Co. Clare is development and is exempted development.



Graduate Planner

Date: 28th November 2023



Senior Executive Planner

Date: 21/11/23.

Doreen Norris

From: Planning Office
Sent: Friday 10 November 2023 15:55
To: Doreen Norris
Subject: FW: Section 5 Declaration Application Form
Attachments: 8 Abbey Court V95YC3K.PNG; site layout plan.docx; Ordnance survey map_V95YC3K.pdf; p07-request-for-a-declaration-on-development-and-exempted-development-section-5-11801-signed_V95YC3K.pdf

Fi response on S 5 declaration application

From: Patxi Azkorbebeitia <patxi@clarecoco.ie>
Sent: Friday, November 10, 2023 3:51 PM
To: Planning Office <planoff@clarecoco.ie>
Subject: Re: Section 5 Declaration Application Form

Hello,

Today we have received a notification requesting the following additional information:

1. Please confirm the exact location of the proposed development by providing a site layout plan of the subject site, for further consideration.
The lean to shed development is meant to be carried out in the right side of the house as you look to the main door. see attached file "8 Abbey Court V95YC3K.PNG" with aerial picture of the house and marked with blue the side of the house.
2. Please provide elevational drawings in relation to the overall design of the proposed development including the proposed height, external finishes, external materials, roof type, doors and fenestration (if any) and taking the below note into consideration for the submission of same. see attached file "site layout plan.docx" with some basic drawing to illustrate the development. Just a lean roof from the right side of the house to the wall separating our property. No fenestration
3. Please confirm and provide details of the intended use of the proposed development.
The lean to shed is meant to be used for storing the bicycles, bags of wood, gardening tools, lawn mower...

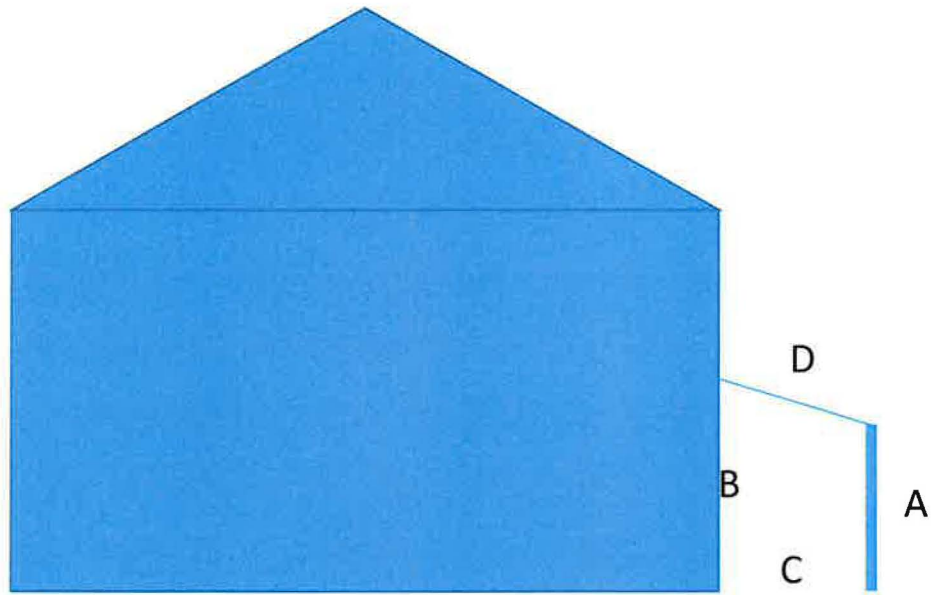
Please let us know if you need any further details but be aware that my knowledge regarding development materials, technical drawings, etc. is limited

Thank you
Fiona & Patxi

Nork: Patxi Azkorbebeitia <patxi@clarecoco.ie>
Bidaltze-data: 2023(e)ko urriaren 25(a), asteazkena 10:46
Nori: Brian Fahy <bfahy@clarecoco.ie>
Gaia: Re: Section 5 Declaration Application Form

Thank you Brian,
I got the called and it is paid now.

Very impressed with the timing and service.

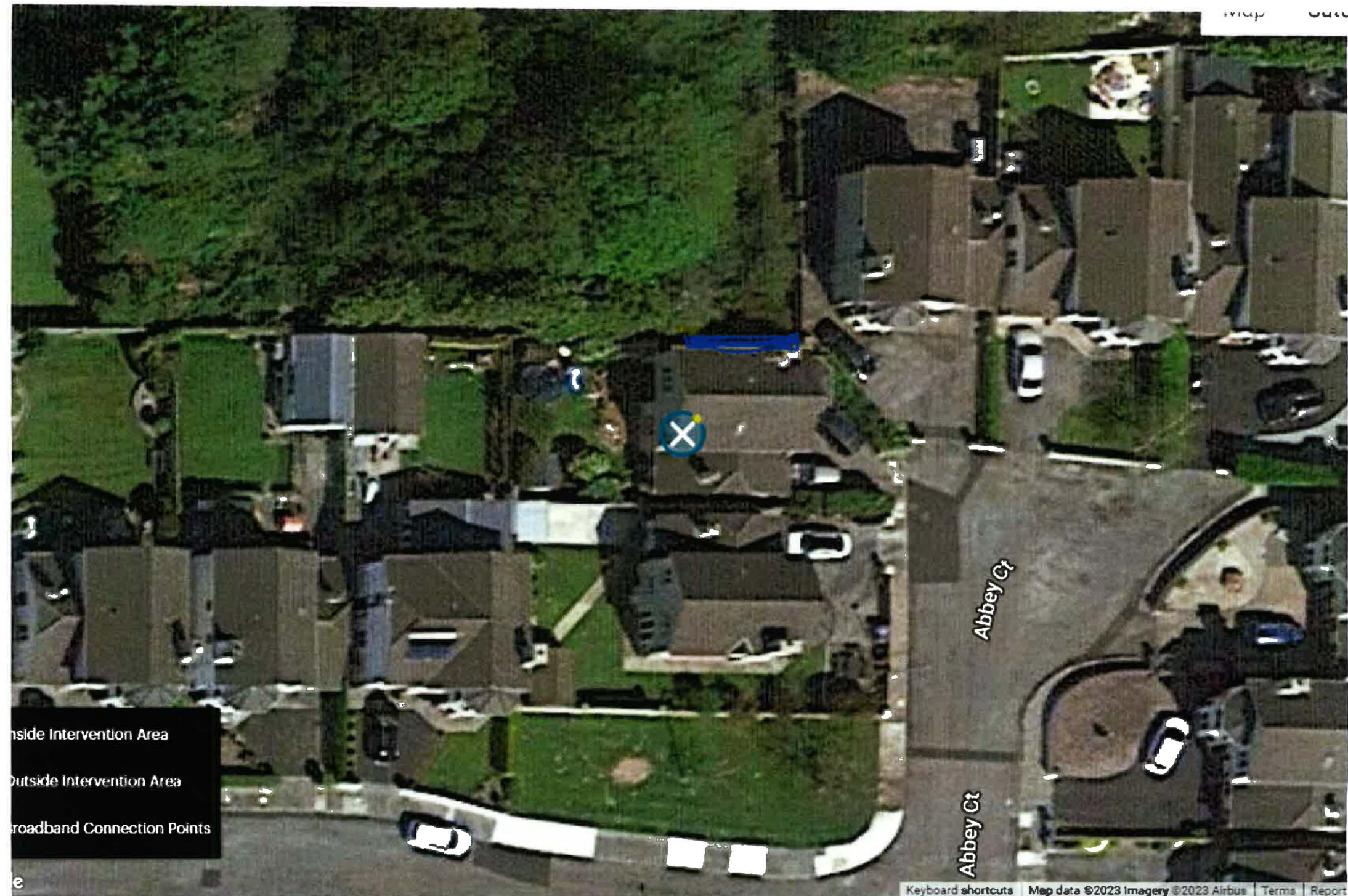


A = 190cm, B = 233cm and C = 133cm

"A" is the sidewall made of grey bricks

"D" Dried pressure treated timber beams from side wall to wall of the house

Roof type is same black slate tiles used in other roofs of the house



Inside Intervention Area
Outside Intervention Area
Broadband Connection Points



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

9 November 2023

Patxi Azkorbebeitia
8 Abbey Court
Limerick Road
Ennis
Co Clare

Section 5 referral Reference R23-83 – Patxi Azkorbebeitia

Whether the construction of a small lean to shed (1.5m wide x 9m long) that does not reduce the open space to less than 25m at 8 Abbey Court, Ennis, Co Clare is/is not development and is/is not exempted development?

A Chara,

I refer to your application received on 25th October 2023 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

I wish to advise that in accordance with Section 5 (2) (b) of the Planning & Development Act, 2000, as amended, the following further information is required:

1. Please confirm the exact location of the proposed development by providing a site layout plan of the subject site, for further consideration.
2. Please provide elevational drawings in relation to the overall design of the proposed development including the proposed height, external finishes, external materials, roof type, doors and fenestration (if any) and taking the below note into consideration for the submission of same.
3. Please confirm and provide details of the intended use of the proposed development.

Mise le meas


Anne O'Gorman
Staff Officer

R23-83-119433IE

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 DECLARATION OF EXEMPTION APPLICATION
PLANNERS REPORT**

| | |
|----------------------|---|
| FILE REF: | R23-83 |
| APPLICANT(S): | Patxi Azkorbebeitia |
| REFERENCE: | Whether the construction of a small lean to shed (1.5m wide x 9m long) that does not reduce the open space to less than 25m at 8 Abbey Couty, Ennis, Co. Clare is / is not development and is / is not exempted development? |
| LOCATION: | 8 Abbey Court, Ennis, Co. Clare |
| DUE DATE: | 30th November 2023 |

Site Location

The site is located at 8 Abbey Court, Ennis, Co. Clare, which fronts onto L-46501. The site itself, which is within the Abbey County residential development, comprises of an existing detached dwellinghouse with its own private driveway and a small-scale wooden shed / structure to the side of the dwelling. in addition, there is heavy screening by way of hedging on both side boundaries and large palm tree type trees to the front. There is existing, similarly designed dwellinghouses within the surrounding area, which have visibility onto the subject site.

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 Patxi Azkorbebeitia, the stated owner of the property.

The applicant is seeking a Section 5 Declaration as to whether the construction of a small lean to shed (1.5m wide x 9m long) that does not reduce the open space to less than 25m at 8 Abbey Couty, Ennis, Co. Clare is / is not development and is / is not exempted development?

The stated area of the proposed development is noted as being 13sqm, which is below the ²⁵~~20~~sqm exempted development requirement. The proposed location of the proposed development appears to be to the side of the dwellinghouse and appears to incorporate a roofed shed area along the side of the dwelling for a 'lean to shed'.

Statutory Provisions

Planning and Development Act, 2000 (as amended)

To assess this proposal, regard must 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 3

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

- 1. No such structure shall be constructed, erected or placed forward of the front wall of a house.*
- 2. The total area of such structures constructed, erected or placed within the curtilage of a house shall not, taken together with any other such structures previously constructed, erected or placed within the said curtilage, exceed 25 square metres.*
- 3. The construction, erection or placing within the curtilage of a house of any such structure shall not reduce the amount of private open space reserved exclusively for the use of the occupants of the house to the rear or to the side of the house to less than 25 square metres.*

4. The external finishes of any garage or other structure constructed, erected or placed to the side of a house, and the roof covering where any such structure has a tiled or slated roof, shall conform with those of the house.

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

6. The structure shall not be used for human habitation or for the keeping of pigs, poultry, pigeons, ponies or horses, or for any other purpose other than a purpose incidental to the enjoyment of the house as such.

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

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

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

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

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

(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 small lean to shed (1.5m wide x 9m long) that does not reduce the open space to less than 25m at 8 Abbey Couty, Ennis, Co. Clare is / is not development and is / is not exempted development?

Particulars of the Development

- Floor Area: 13sqm
- Height: Single storey
- Location: Appears to be to the side of the dwelling however further information is required in this regard.
- Status: Not commenced

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

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

The proposed development appears to be a shed / storage unit.

1. No such structure shall be constructed, erected or placed forward of the front wall of a house.

It indicated that the proposed development shall be located to the side of the dwelling. exact location not indicated, therefore a further information request shall issue in this regard.

2. The total area of such structures constructed, erected or placed within the curtilage of a house shall not, taken together with any other such structures previously constructed, erected or placed within the said curtilage, exceed 25 square metres.

The overall measurements of the proposed development have not been received, and therefore further information is required in this regard and shall issue.

3. The construction, erection or placing within the curtilage of a house of any such structure shall not reduce the amount of private open space reserved exclusively for the use of the occupants of the house to the rear or to the side of the house to less than 25 square metres.

The applicant has indicated that the private open space shall not reduce below 25sqm.

4. The external finishes of any garage or other structure constructed, erected or placed to the side of a house, and the roof covering where any such structure has a tiled or slated roof, shall conform with those of the house.

Overall design details have not been received, therefore further information in this regard, is required and shall issue.

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

The height of the proposed development has not been outlined and therefore further information is required in this regard. A further information request shall issue to the applicant.

6. The structure shall not be used for human habitation or for the keeping of pigs, poultry, pigeons, ponies or horses, or for any other purpose other than a purpose incidental to the enjoyment of the house as such.

The exact use for the proposed development has not been forthcoming. Therefore further information shall issue in this regard.

Conclusion

Having regard to the above I consider that the proposed extension constitutes works and that in order to conclude if the proposed development benefits from exempted development status under Part 1, Class 3 of Schedule 2 of the Planning and Development Regulations 2001 (as amended), further information is required.

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 appear to 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,

Not 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 shed appears to be located to the side of the dwelling which would be visible from part of the public roadway. In the absence of the overall design of the proposed development, it is unknown if the proposed would have a negative impact on the character of visual amenities of the area and therefore a further information request shall issue in this regard.

(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."

Not applicable.

(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.

(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.

(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.

(xi) obstruct any public right of way,

Not applicable.

(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

(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 small lean to shed (1.5m wide x 9m long) that does not reduce the open space to less than 25m at 8 Abbey Couty, Ennis, Co. Clare is / is not development and is / is not 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 3 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 that Further information should be issued:

1. Please confirm the exact location of the proposed development by providing a site layout plan of the subject site, for further consideration.

external design
2. Please provide ~~comprehensive details in relation to the overall design~~ of the proposed development including the proposed height, external finishes, external materials, roof type, doors and fenestration (if any) and taking the below note into consideration for the submission of same.

3. Please confirm and provide details of the intended use of the proposed development.



Graduate Planner

Date: 10th November 2023



Senior Executive Planner

Date:

10/11/23

R23-83 Patxi Azkorbebeitia

2nd November 2023











COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Patxi Azkorbebeitia
8 Abbey Court, Limerick Road
Ennis
Co. Clare
V95 YC3K

25/10/2023

Section 5 referral Reference R23-83 – Patxi Azkorbebeitia

Is the construction of a small lean-to shed (1.5 m wide x 9m long that does not reduce the open space to less than 25m at 8 Abbey Court, Ennis, Co. Clare development and if so is it exempted development?

A Chara,

I refer to your application received on 25th October 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



COMHAIRLE

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

CONTAE

AN CHLÁIR

25/10/2023 10:31:43

Receipt No. : L1CASH/0/356159

***** REPRINT *****

PATXI AZKORBEBEITIA
8 ABBEY COURT
LIMERICK ROAD
ENNIS
CO. CLARE
V95 YC3K
R23-83



SECTION 5 REFERENCES 80.00

GOODS 80.00

VAT Exempt/Non-vatable

Total :

80.00 EUR

Tendered :

CREDIT CARDS

80.00

COMHAIRLE

Change :

0.00

P07

**CLARE COUNTY COUNCIL
COMHAIRLE CONTAE AN CHLÁIR**

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

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



Comhairle Contae an Chláir
Clare County Council



R23-83

**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>Patxi Azkorbebeitia</p> <p>8 Abbey Court, Limerick Road</p> <p>Ennis, Co. Clare</p> <p>V95YC3K</p> |
| (b) Telephone No.: | |
| (c) Email Address: | |
| (d) Agent's Name and address: | <p></p> <p></p> <p></p> <p></p> |

| | |
|-----|---|
| 2. | DETAILS REGARDING DECLARATION BEING SOUGHT |
| (a) | <p>PLEASE STATE THE SPECIFIC QUESTION FOR WHICH A DECLARATION IS SOUGHT <i>Note: only works listed and described under this section will be assessed.</i></p> |
| | <p><u>Sample Question:</u> <i>Is the construction of a shed at 1 Main St., Ennis development and if so is it exempted development?</i></p> <p>Is the construction of a small lean-to shed (1,5m wide x 9m long) that does not reduce the open space to less than 25m, in 8 Abbey Court, Ennis exempted from requiring planning permission?</p> |
| (b) | <p>Provide a full description of the question/matter/subject which arises wherein a declaration of the question is sought.</p> |
| | <p>We are reaching out to you to clarify if we need planning permission on the below scenario.</p> <p>We live in detached house on a housing estate in Ennis (Abbey Court, Ennis, Co. Clare).</p> <p>Our house is in a cul de sac, having an alleyway and a wall to a house on the left (as you look into the entrance of our house) and an alleyway and a wall to the right of the house and a field after the wall.</p> <p>We would like to confirm if there's a need for a planning permission to build a small lean-to shed, by covering with a roof the alleyway on the right side of the house</p> <p>Reading https://www.citizensinformation.ie/en/housing/planning-permission/planning-permission-for-altering-a-house/ it looks like we do NOT need a planning permission as the extension is smaller than 40 square metres and floor area is below 25 square metres (the size of the alleyway is around 1.5m wide x 9m long) and the shed does not reduce the open space to less than 25 square metres and is not intended to live in, use for commercial purposes, use for keeping pigs, poultry, pigeons, ponies or horses and there's No impact on neighbors or local community.</p> |
| (c) | <p>List of plans, drawings etc. submitted with this request for a declaration: <i>(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)</i></p> |
| | <p>_____</p> <p>_____</p> <p>_____</p> |

| 3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT | |
|---|---|
| (a) Postal Address of the Property/Site/Building for which the declaration sought: | 8 Abbey Court, Limerick Road Ennis Co. Clare (V95YC3K) |
| (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): | Exempted Planning permission confirmation |
| (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> | We (my wife and myself) own the house |
| (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> | No |
| (h) Date on which 'works' in question were completed/are likely to take place: | TBC |

SIGNED: 

DATE: 25/10/2023

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:

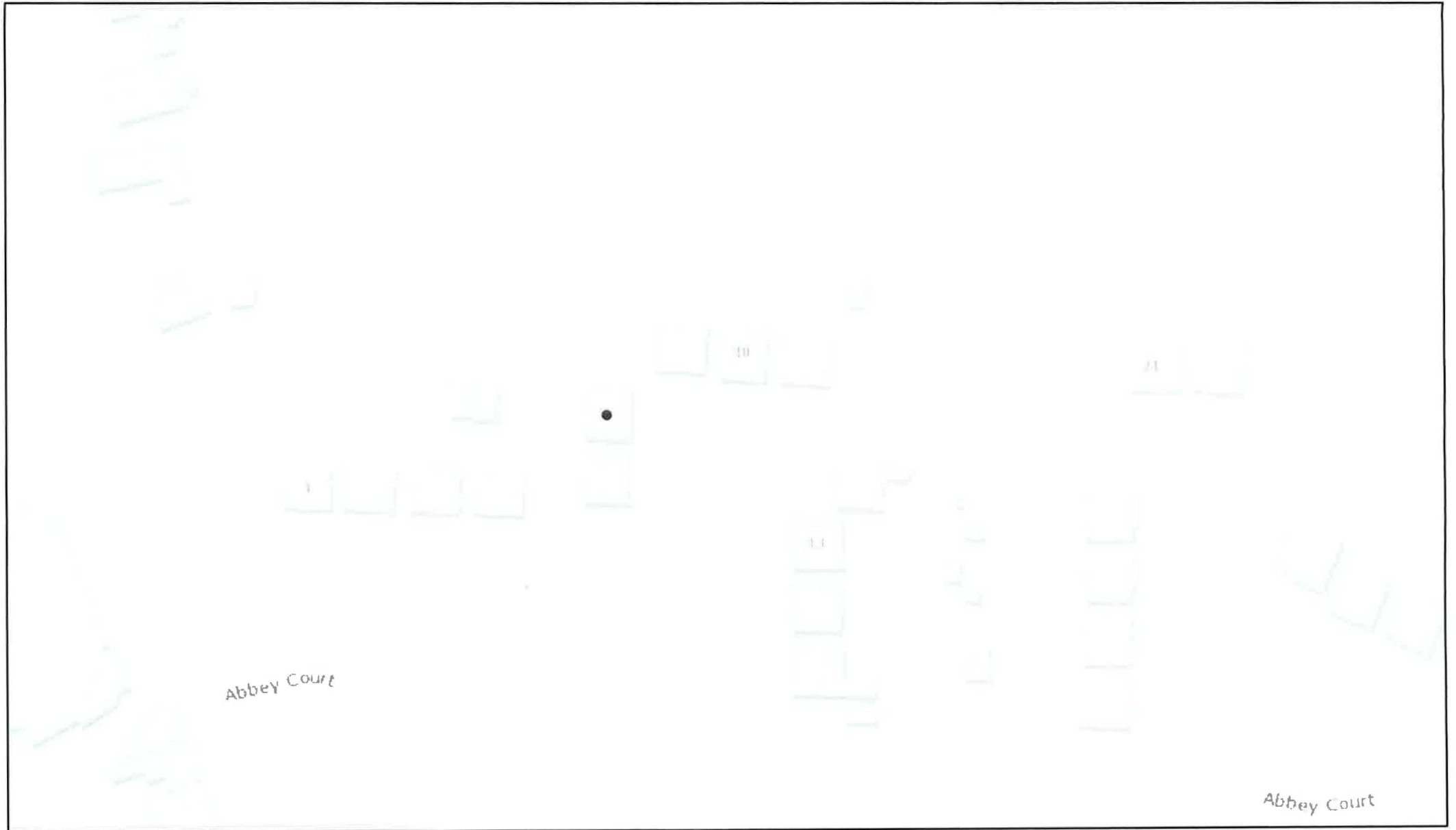
Planning Department,
Economic Development Directorate,
Clare County Council
Aras Contae an Chlair,
New Road,
Ennis,
Co. Clare
V95DXP2

- (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:..... | | | |

8 Abbey Court, Ennis V95YC3K



10/25/2023, 8:57:18 AM

