



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Registered Post

Lourda & Patrick Kearney
C/o Dan Kennedy, Kennedy Associates
Ballymacahill Road
Roslevan
Ennis
Co. Clare
V95 XEE0

12th January 2024

Section 5 referral Reference R23-98 – Lourda & Patrick Kearney

Is the part conversion of the garage into a disabled w.c & shower room (4.5 m2) at 28 Kincora Park, Ennis development and if so is it exempted development?

A Chara,

I refer to your application received on 29th December 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 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:

82981

Reference Number:

R23-98

Date Referral Received:

29th December 2023

Name of Applicant:

Lourda & Patrick Kearney

Location of works in question:

28 Kincora Park, Lifford, Ennis, Co. Clare

Section 5 referral Reference R23-98 – Lourda & Patrick Kearney

Is the part conversion of the garage into a disabled w.c & shower room (4.5 m2) at 28 Kincora Park, Ennis 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 3 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended,
- (d) The details and works as indicated in submitted documents from the referrer.

AND WHEREAS Clare County Council has concluded:

- (a) The construction of a garage and the part conversion, thereafter, of the garage into a disabled w.c. and shower room (4.5smq) at 28 Kincora, Park, Lifford, Ennis 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 construction of a garage to the side / rear of the property is considered to be exempted development having regard to Class 3 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.

(d)The part conversion of the garage into a disabled WC and shower room (residential purposes) is considered to be exempted development having regard to Class 1 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 garage and the part conversion, thereafter, of the garage into a disabled w.c and shower room at 28 Kincora Park, Lifford, Ennis, Co. Clare is considered development which is exempted development.

Signed:


GARETH RUANE
SENIOR EXECUTIVE PLANNER 

Date:

12th January 2024

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

Reference No.: R23-98



Section 5 referral Reference R23-98

Is the part conversion of the garage into a disabled w.c & shower room (4.5 m2) at 28 Kincora Park, Ennis development and if so is it exempted development?

AND WHEREAS, Lourda & Patrick Kearney 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 3 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended,
- (d) The details and works as indicated in submitted documents from the referrer.

And whereas Clare County Council has concluded:

- (a) The construction of a garage and the part conversion, thereafter, of the garage into a disabled w.c. and shower room (4.5smq) at 28 Kincora, Park, Lifford, Ennis 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 construction of a garage to the side / rear of the property is considered to be exempted development having regard to Class 3 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.

(d) The part conversion of the garage into a disabled WC and shower room (residential purposes) is considered to be exempted development having regard to Class 1 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 garage and the part conversion, thereafter, of the garage into a disabled w.c and shower room at 28 Kincora Park, Lifford, Ennis, Co. Clare constitutes development which is exempted development as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.


Anne O'Gorman
Staff Officer
Planning Department
Economic Development Directorate

12th January 2024

CLARE COUNTY COUNCIL
SECTION 5 DECLARATION OF EXEMPTION APPLICATION
PLANNERS REPORT

FILE REF:	R23- 98
APPLICANT(S):	Lourda and Patrick Kearney
REFERENCE:	Is the part conversion of the garage into a disabled w.c. and shower room (4.5smq) at 28 Kincora, Park, Lifford, Ennis development / not development and if so, is it exempted development / not exempted development.
LOCATION:	28 Kincora Park, Lifford, Ennis, Co. Clare
DUE DATE:	24 th January 2024

Site Location

The site is located at 28 Kincora Park, Lifford, Ennis, Co. Clare, which fronts onto L-4582. The site comprises of an existing semi- detached, two storey, dwellinghouse, with its own access driveway, within a mature residential development on the outskirts of Ennis town centre.

Recent Onsite Planning History

On site:

There is no recent planning history on site.

The application notes that the original planning permission for the house was granted under Pl. Ref. No: 102/208 dating back to 20th May 1964.

Background to Referral

This Referral under Section 5(3)(a) of the Planning and Development Act 2000 (as amended) has been made by Lourda and Patrick Kearney, c/o Dan Kennedy Associates, Consulting Engineers, where the following query arises:

"The applicant is seeking a Section 5 Declaration as to whether the part conversion of the garage into a disabled w.c. and shower room (4.5smq) at 28 Kincora, Park, Lifford, Ennis development / not development and if so, is it exempted development / not exempted development.

A garage was constructed to the side and rear of the existing dwelling with an indicated overall floor area of 20.5sqm. As per the images received and the details provided in the application, the garage does not extend out to the front of the building line and does not exceed 4m in height. It

is noted that the applicant's understanding regarding the erection of the garage (date not provided) is that it is exempted development. Circa. December 2013, the front aspect of the garage was converted into a disabled WC and shower room and was amalgamated into the main dwelling. The overall area of conversion is noted as being around 4.5sqm. The previous owner is deceased, and the property is now being sold under probate.

Statutory Provisions

The applicant has stated that the conversion of the front aspect of the garaged occurred in around December 2013, therefore the Planning Authority shall assess this Section 5 based on the current provisions of the Act and Regulations as follows:

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.

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 metres.

(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.

Assessment

Basis of Referral

The applicant is seeking a Section 5 Declaration whether the part conversion of the garage into a disabled w.c. and shower room (4.5smq) at 28 Kincora, Park, Lifford, Ennis development / not development and if so, is it exempted development / not exempted development. For this assessment the Planning Authority will initially assess the construction of a garage and thereafter will consider the conversion of part of the garage to a disabled WC and shower room.

Particulars of the Development:

- Garage to the side / rear of the existing dwelling – 20.5sqm.
- Conversion area / Disabled WC and Shower Room – 4.5sqm.

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.

The garage is located to the side / rear of the dwelling and the application notes that it does not extend to the front of the dwelling or the building line.

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.

This is in order.

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 dwelling occupies a generously sized residential site as per the site location map and images received in relation to the application. It is considered that the rear garden is in excess of 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

It is considered that the finishes / materials of the garage in consistent with those of the existing dwelling.

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

It is indicated that the height does not exceed 4m.

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 conversion at the front part of the garage has been converted and is being utilised as a disabled WC / Shower Room (residential purposes) and is part of the main dwellinghouse.

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.*

The garage is located to the side / rear of the existing dwelling and is of single storey construction.

1. (a) Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres.

The garage is 20.50sqm and the converted disabled WC / Shower Room is 4.5sqm.

(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.

The house is a semi- detached dwelling. The garage / converted area are located on the ground floor only.

(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.

The garage / converted area are located on the ground floor only.

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.

Floor area of the garage is 20.5sqm and the converted disabled WC / Shower Room is 4.5sqm.

(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.

Not applicable

(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.

The garage / converted area are located on the ground floor area only.

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

Not applicable

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.

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.

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.

Not applicable.

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.

The dwelling occupies a generously sized residential site as per the site location map and images received in relation to the application. It is considered that the rear garden is in excess of 25sqm.

6. (a) Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces.

Not applicable.

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

Not applicable –the structure is of single storey.

(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.

Not applicable.

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

Not applicable.

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 works are not considered to impact on the character of the landscape.

(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 developments being assessed in this application, 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 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.

Conclusion:

The following question has been referred to the Planning Authority:

Whether the part conversion of the garage into a disabled w.c. and shower room (4.5smq) at 28 Kincora, Park, Lifford, Ennis development / not development and if so, is it exempted development / 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 1 and 3 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended,
- (d) The details and works as indicated in submitted documents from the referrer.

AND WHEREAS Clare County Council (Planning Authority) has concluded:

- (a) the construction of a garage and the part conversion, thereafter, of the garage into a disabled w.c. and shower room (4.5smq) at 28 Kincora, Park, Lifford, Ennis 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 construction of a garage to the side / rear of the property is considered to be exempted development having regard to Class 3 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (d) The part conversion of the garage into a disabled WC and shower room (residential purposes) is considered to be exempted development having regard to Class 1 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 garage and the part conversion, thereafter, of the garage into a disabled w.c. and shower room at 28 Kincora, Park, Lifford, Ennis is development and is exempted development.



Royston Kerin

Assistant Planner

Date: 11th January 2024



Garreth Ruane

Senior Executive Planner

Date: 11/01/24.



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Lourda & Patrick Kearney
C/o Dan Kennedy, Kennedy Associates
Ballymacahill Road
Roslevan
Ennis
Co. Clare
V95 XEE0

29/12/2023

Section 5 referral Reference R23-98 – Lourda & Patrick Kearney

Is the part conversion of the garage into a disabled w.c & shower room (4.5 m2) at 28 Kincora Park, Ennis development and if so is it exempted development?

A Chara,

I refer to your application received on 29th December 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 CHLÁIR

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

29/12/2023 11:39 14

Receipt No. L1CASH/0/358760
***** REPRINT *****

LOURDA & PATRICK KEARNEY
C/O DAN KENNEDY, KENNEDY ASSOCIATE
BALLYMACAHILL ROAD
ROSLEVAN
ENNIS
CO. CLARE
R23-98

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 - DEIRDRE FRENCH
From : MAIN CASH OFFICE LODGEMENT AF
Vat reg No. 0033043E

P07

**CLARE COUNTY COUNCIL
COMHAIRLE CONTAE AN CHLÁIR**

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

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R23-98

**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>LOURDA & PATRICK KEARNEY</p> <p>28, KINCORA PARK</p> <p>LIFFORD</p> <p>ENNIS, CO. CLARE.</p>
(b) Telephone No.:	
(c) Email Address:	
(d) Agent's Name and address:	<p>DAN KENNEDY</p> <p>KENNEDY ASSOCIATES</p> <p>BALLYMACAHILL ROAD,</p> <p>ROSLEBAN,</p> <p>ENNIS, CO. CLARE. V95KEEO</p>

2. DETAILS REGARDING DECLARATION BEING SOUGHT

- (a) PLEASE STATE THE SPECIFIC QUESTION FOR WHICH A DECLARATION IS SOUGHT
Note: only works listed and described under this section will be assessed.

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

IS THE PART COVERSION OF THE GARAGE INTO A DISABLED W.C.
 & SHOWER ROOM (4.5m²) AT 28 KINCORA PARK, ENNIS
 AN EXEMPTED DEVELOPMENT.

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

A GARAGE HAD BEEN BUILT ONTO SIDE OF HOUSE WHICH IS
 EXEMPTED DEVELOPMENT. PART OF THIS GARAGE HAS SINCE
 BEEN CONVERTED INTO A DISABLED W.C. & SHOWER ROOM
 (4.5m²). ORIGINAL PLANNING REFERENCE 102/208 DATED MAY 1964
 PLEASE SEE ATTACHED COVER LETTER.

- (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)

SITE LOCATION MAP @ 1:1000.

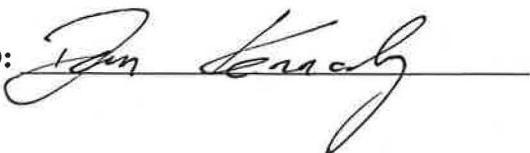
COVER LETTER WITH PHOTOS A-F

SKETCH PLAN OF GARAGE & W.C.

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

(a) Postal Address of the Property/Site/Building for which the declaration sought:	<u>28, KINCORA PARK</u> <u>LIFFORD,</u> <u>ENNIS.</u> <u>G. CLARE.</u>
(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?	<u>No.</u>
(c) Legal interest in the land or structure in question of the person requesting the declaration (Give Details):	<u>UNDER PROBATE TO ALLOW</u> <u>FOR SALE.</u>
(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>	<u>DECEASED</u> <u>UNDER PROBATE.</u>
(e) Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?:	<u>N/A.</u>
(f) Are you aware of any enforcement proceedings connected to this site? If so please supply details:	<u>No.</u>
(g) Were there previous planning application/s on this site? If so please supply details:	<u>REF: 102/208 DATED 12/5/64</u>
(h) Date on which 'works' in question were completed/are likely to take place:	<u>DECEMBER 2013</u>

SIGNED:



DATE:

28/12/23

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:.....			



28th December 2023

Planning Department,
Economic Development Directorate,
Clare County Council,
New Road,
Ennis,
Co. Clare. V95 DXP2

**RE:- Request for a Declaration on Development and exempted Development
(Section 5 of the Planning & Development Act 2000)
for
No. 28, Kincora Park, Lifford, Ennis for Lourda and Patrick Kearney.**

Dear Sirs,

I refer to the property at No. 28, Kincora Park, Lifford, Ennis of which planning permission was granted under planning file (Ref: 102/208 dated 20th May 1964).

The house as originally constructed is substantially compliant with the planning permission granted as referred to above. However, a flat roof garage extension has been built to the North side and rear of the house between the house gable and the public laneway boundary wall. The overall floor area of this garage extension is approximately 20.5m² and as a garage, this would be considered exempted development as it is less than 25m² and it does not extend out in front of the building line of the house and does not exceed 4m in height.

However, the complication arises as the front part of this garage has since been converted into a disabled WC and Shower Room and is connected to the house. While this is a small room approximately 4.5m² in area, it is now a habitable room and forms part of the house. This disabled bathroom was converted in December 2013 approx. and a grant was provided by Clare County Council for the conversion.

As such, it is uncertain if it qualifies as exempted development under the criteria for exempted development set out by Clare County Council. Small scale domestic extensions less than 40m² are considered exempted development only if they are constructed to the rear of a house under certain criteria and extensions to the side of a house are not considered exempted development.

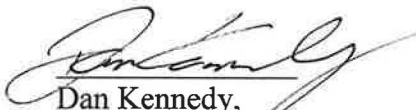
While the garage extension to the side would have already altered the front elevation and would be exempt, the fact that part of this is now a habitable room and forms part of the house, alters the situation.

The house is being sold under probate and in order to certify planning compliance, I am requesting a Declaration of Exemption from Clare County Council.
Please find enclosed the following:

- Completed Application form P07.
- Cheque for € 80 as application fee.
- Site Location Map.
- Photographs showing the front, side and rear elevation of the house and garage and internal disabled bathroom.
- A sketch plan showing the garage and disabled shower room dimensions.

I look forward to hearing from you in due course and in the meantime, please let me know if you need any further information.

Yours faithfully,



Dan Kennedy,
Chartered Engineer.



A: Front Elevation of Garage / Bathroom extension to side of house



B: Front and side Elevation of Garage / Bathroom extension to side of house



C: Rear Elevation of house and shed



D: Rear Elevation of shed and house house



E & F: Internal Disabled WC and Shower Room



N^o 31
KINCORA PARK

GERARD MALONE

ITEC. NAT. CERT. BUILDING STUDIES (LONDON)

CROSSBEG, CROSS, KILRUSH,

CO. CLARE

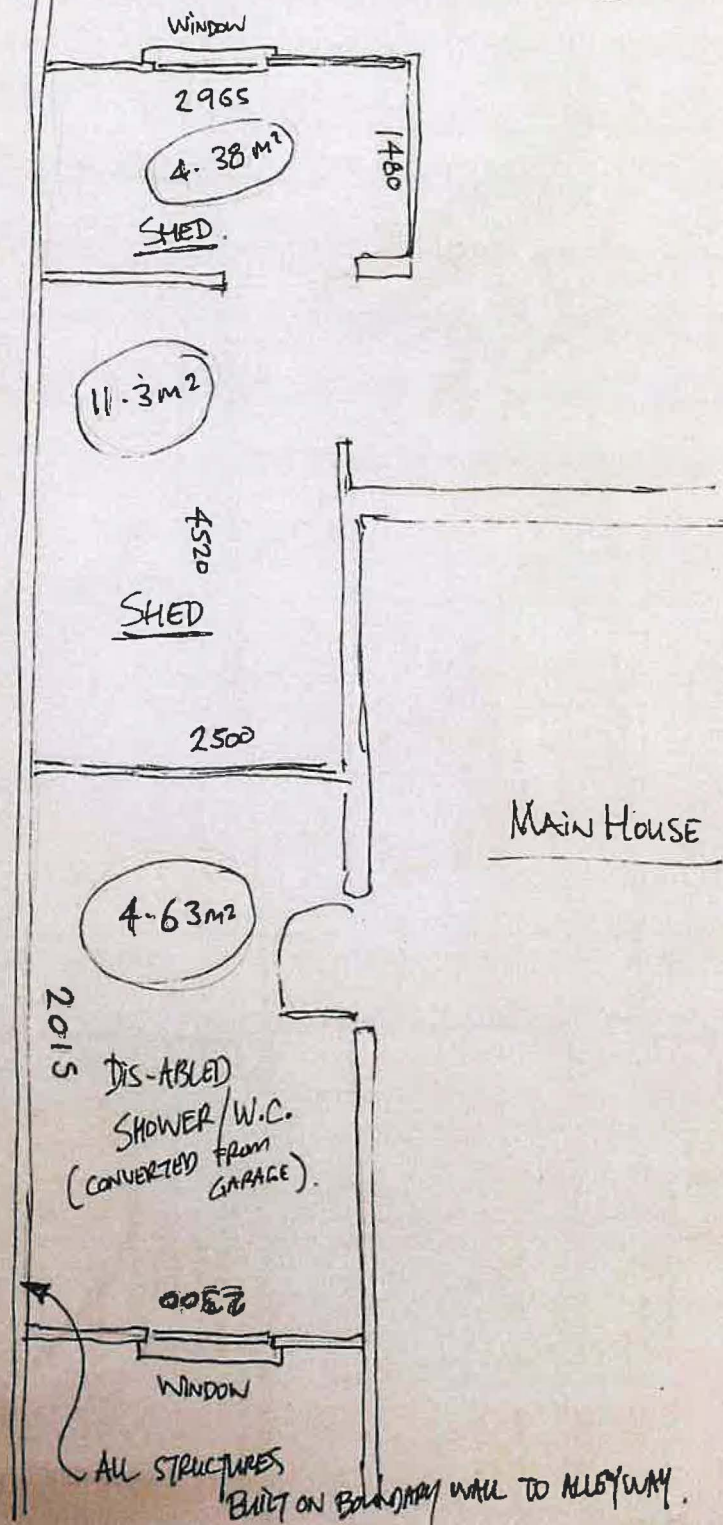
TEL: 087 - 6615884 FAX: 065 - 9058218

ALLEYWAY TO SHANNON PARK. —▲

TOTAL!!
FLOOR AREA = 20.31 m²
(PRE-W.C. conversion)

N^o 28 KINCORA PARK

GARDEN



OSi PLACE Map



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Éireann**

**CENTRE
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