



COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

## Registered Post

**Geraldine O' Boyle**  
**158 Ardmore Park**  
**Bray**  
**Co. Wicklow**

**20th September 2024**

### **Section 5 referral Reference R24-50 – Geraldine O' Boyle**

**Is the construction of a small extension exempt from planning permission to obtain a certificate of exemption to support my application for a vacant property grant?**

A Chara,

I refer to your application received on 17th June 2024 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

**Colette Coakley**  
**Assistant Staff Officer**  
**Planning Department**  
**Economic Development Directorate**

**An Roinn Pleanála**  
**An Stiúrtóireacht 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



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

Reference No.: R24-50



Comhairle Contae an Chláir  
Clare County Council

**Section 5 referral Reference R24-50**

**Is the construction of a small extension exempt from planning permission to obtain a certificate of exemption to support my application for a vacant property grant?**

**AND WHEREAS, Geraldine O' Boyle** has requested a declaration from Clare County Council on the said question.

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

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended,
- (c) Class 1 and Class 50 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (d) The works as indicated in submitted documents from the referrer on the 17<sup>th</sup> June 2024 and the further information received on the 03<sup>rd</sup> September 2024.

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

- (a) The construction of a rear extension to the existing dwelling at Kilclohane, Quilty, County 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 development of the construction of a rear extension to the existing dwelling at Kilclohane, Quilty, County Clare, is not exempted development having regard to Class 1, of Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended,
- (iii) The proposed floor area of the new rear extension would be in excess of 40 square metres; and
- (iv) the height of the walls of the rear extension would exceed the height of the rear wall of the house.

**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 rear extension to the existing dwelling at Kilclohane, Quilty, Co. Clare **constitutes development** which is **not exempted**

**development** as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.

  
\_\_\_\_\_  
**Colette Coakley**  
**Assistant Staff Officer**  
**Planning Department**  
**Economic Development Directorate**

**20th September 2024**

**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: 84206

Reference Number: R24-50

Date Referral Received: 17th June 2024

Further Information Received: 3rd September 2024

Name of Applicant: Geraldine O' Boyle

Location of works in question: Kilclohane, Quilty, Co. Clare

**Section 5 referral Reference R24-50 – Geraldine O' Boyle**

Is the construction of a small extension exempt from planning permission to obtain a certificate of exemption to support my application for a vacant property grant?

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

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended
- (c) Class 1 and Class 50 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (d) The works as indicated in submitted documents from the referrer on the 17<sup>th</sup> June 2024 and the further information received on the 03<sup>rd</sup> September 2024.

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

- (a) The construction of a rear extension to the existing dwelling at Kilclohane, Quilty, County 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 development of the construction of a rear extension to the existing dwelling at Kilclohane, Quilty, County Clare, is not exempted development having regard to Class 1, of Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended,
- (i) The proposed floor area of the new rear extension would be in excess of 40 square metres; and
- (ii) the height of the walls of the rear extension would exceed the height of the rear wall of the house.

**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 rear extension to the existing dwelling at Kilclohane, Quilty, Co. Clare is **considered development** which is **not exempted development**.

**Signed:**   
\_\_\_\_\_  
**GARETH RUANE**  
**SENIOR EXECUTIVE PLANNER**

**Date:** 20th September 2024

**CLARE COUNTY COUNCIL**  
**SECTION 5 DECLARATION OF EXEMPTION APPLICATION**  
**PLANNERS REPORT 2**

<b>FILE REF:</b>	R24-50
<b>APPLICANT(S):</b>	Geraldine O'Boyle
<b>REFERENCE:</b>	Whether the construction of a rear extension to the existing dwelling at Kilclohane, Quilty, County Clare is or is not development and is or is not exempted development.
<b>LOCATION:</b>	Kilclohane, Quilty, County Clare
<b>DUE DATE:</b>	23 <sup>rd</sup> September 2024

**Introduction**

The following further information was requested by the Planning Authority on the 03<sup>rd</sup> July 2024.

1. *With regard to the application received, in order to allow the Planning Authority to make a determination on the planning status of the proposed development, you are requested to submit the following:*

*(a)*

*A Site Location Map which clearly outlines the exact location and extent of the proposal site. In this regard you are advised that the maps received with the application do not outline the location of the site. In addition, the EirCode provided in Section 3(a) of the application form pertains to a dwelling, the design and layout of which, does not correspond with the drawings of the existing dwelling received with the application.*

*(b)*

*Elevation drawings (metric scale) of the proposed extension in the context of the existing dwelling which outline the height, design, and external finishes as proposed.*

*(c)*

*A Site Layout Plan which demonstrates the location of the proposed extension relative to the existing septic tank and percolation area. In this regard you are advised to have regard to the minimum separation distances between dwelling and onsite wastewater treatment systems as set out in the EPA Code of Practice "Domestic Wastewater Treatment Systems".*

The response was received on the 03<sup>rd</sup> September 2024. Outlined in this report is a reassessment of the planning status of the proposed development in light of the response received.

### **Site Location**

The location of the site is outlined in the further information response. The site is located in a rural area that is circa 1.3km south of the village of Quilty. It is to the west of the LT20941 local tertiary road and accommodates a vacant single storey dwelling with a rear return. It is an overgrown site that is relatively level. The main views towards the site are from the adjacent road. To the north of the site is a single storey traditional style cottage with a flat roofed extension. The site is located within a "Settled Landscape" and is within the "Areas of Special Control" as per the Clare County Development Plan 2023-2029. I inspected the site on the 01st July 2024.

### **Recent Onsite Planning History**

95-61 – Granted – John O’Gorman – To construct a septic tank.

### **Background to Referral**

This Referral under Section 5(3)(a) of the Planning and Development Act 2000 (as amended) has been made by Geraldine O’Boyle who states that she is the owner of the site. The applicant is seeking a Section 5 Declaration as to whether the construction of a rear extension to the existing dwelling at Kilclohane, Quilty, County Clare is or is not development and is or is not exempted development.

### **Statutory Provisions**

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

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

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

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

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

Planning & Development Regulations, 2001, as amended

Article 6 refers to Exempted Development and states that subject to Article 9, development of a class specified in column 1 of Part 3 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 3 opposite the mention of that class in the said column 1.

Planning & 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 above ground 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.*

Planning & Development Regulations, 2001, as amended Schedule 2, Part 1, Class 50

(a) *The demolition of a building, or buildings, within the curtilage of*

(i) *a house,*

(ii) *an industrial building,*

(iii) *a business premises, or*

(iv) a farmyard complex.

1. No such building or buildings shall abut on another building in separate ownership.
2. The cumulative floor area of any such building, or buildings, shall not exceed:  
(a) in the case of a building, or buildings within the curtilage of a house, 40 square metres, and (b) in all other cases, 100 square metres.
3. No such demolition shall be carried out to facilitate development of any class prescribed for the purposes of section 176 of the Act.

(b) The demolition of part of a habitable house in connection with the provision of an extension or porch in accordance with Class 1 or 7, respectively, of this Part of this Schedule or in accordance with a permission for an extension or porch under the Act.

Planning & Development Regulations, 2001, as amended, Article 9(1)

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,

(iii)(a) endanger public safety by reason of hazardous glint and/or glare for the operation of airports, aerodromes or aircraft,

(iv) 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

### Particulars of the Development

- Floor Area                      42.5sqm
- Height                            4.5 metres
- Roof Profile                    A-pitched
- Location                         Rear of dwelling

## Planning Exemption Assessment

The proposed extension is for residential use.

### Planning & 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 proposed extension is to the rear 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.*

The floor area of the proposed extension is 42.5sqm.

(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.*

Not applicable.

(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.*

Not applicable.

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.*

The floor area of the proposed extension is 42.5sqm.

(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.*

Not applicable.

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.*

The proposed walls exceed the height of the rear walls.

(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.*

The proposal complies with this requirement.

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 area of open space remaining would be 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.*

Ground floor windows would be more than 1 metre from the shared boundaries that they face.

(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.

(c)

*Where the house is detached and the floor area of the extension above ground 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.*

No roof balcony or roof garden is proposed.

Planning & Development Regulations, 2001, as amended Schedule 2, Part 1, Class 50

(a) *The demolition of a building, or buildings, within the curtilage of*

- (i) *a house,*
- (ii) *an industrial building,*
- (iii) *a business premises, or*
- (iv) *a farmyard complex.*

The proposed works are within the curtilage of the existing house.

1. *No such building or buildings shall abut on another building in separate ownership.*
2. *The cumulative floor area of any such building, or buildings, shall not exceed: (a) in the case of a building, or buildings within the curtilage of a house, 40 square metres, and (b) in all other cases, 100 square metres.*
3. *No such demolition shall be carried out to facilitate development of any class prescribed for the purposes of section 176 of the Act.*

Not applicable.

- (c) *The demolition of part of a habitable house in connection with the provision of an extension or porch in accordance with Class 1 or 7, respectively, of this Part of this Schedule or in accordance with a permission for an extension or porch under the Act.*

Applicable and in compliance with said requirements.

**Article 9 of the Planning and Development Regulations 2001, as amended**

Article 9 of the Planning and Development Regulations 2001, as amended outlines restrictions on exempted development, and these are assessed below.

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

Location of septic tank is to the rear of the site. No conditions are contravened.

- (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 alterations to the existing access point are proposed.

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

Not applicable in this instance.

- (iii)(a) *endanger public safety by reason of hazardous glint and/or glare for the operation of airports, aerodromes or aircraft,*

The proposal would not endanger public safety by reason of hazardous glint and/or glare for the operation of airports, aerodromes or aircraft.

- (iv) *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.*

No adverse visual impacts would arise.

- (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,*

This is not applicable in this instance.

- (vi) *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,*

This is not applicable in this instance.

- (vii)
  - a. *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,*

This is not applicable in this instance.

- b. *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,*

This is not applicable in this instance.

- c. *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."*

This is not 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,*

This is not applicable in this instance.

- (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,*

This is 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,*

This is not applicable in this instance.

- (xi) *obstruct any public right of way,*

This is 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.*

This is not applicable in this instance.

### **Conclusion**

The existing rear single storey return is to be demolished. The floor area of the new proposed extension is 42.5sqm which exceeds the 40sqm threshold. In addition, the proposed rear extension includes gable walls which exceed the height of the rear wall of the dwelling.

The overall floor area of the proposed extension, and the height of the rear walls, do not comply with the exempted development thresholds, and therefore the development does not constitute exempted development.

### **Recommendation**

**The following question has been referred to the Planning Authority:**

Whether the construction of a rear extension to the existing dwelling at Kilclohane, Quilty, County Clare is or is not development and is or 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 1 and Class 50 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (d) The works as indicated in submitted documents from the referrer on the 17<sup>th</sup> June 2024 and the further information received on the 03<sup>rd</sup> September 2024.

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

- (a) The construction of a rear extension to the existing dwelling at Kilclohane, Quilty, County 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 development of the construction of a rear extension to the existing dwelling at Kilclohane, Quilty, County Clare, is not exempted development having regard to Class 1, of Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended,;
  - (i) The proposed floor area of the new rear extension would be in excess of 40 square metres; and
  - (ii) the height of the walls of the rear extension would exceed the height of the rear wall of the house.

Now therefore Clare County Council (Planning Authority), hereby decides that construction of a rear extension to the existing dwelling at Kilclohane, Quilty, County Clare is development and is not exempted development.

  
Executive Planner  
Date: 18<sup>th</sup> September 2024

  
Senior Executive Planner  
Date: 18/09/24

## Clare County Council Screening for Appropriate Assessment & Determination

1. Table 1 to be filled in for all development applications.
2. Where proposed development is within a European site(s) site, go directly to table 3.
3. For all other development proposals, fill in table 2, and if required, table 3.
4. A Habitats Directive Screening Statement should be sought for all developments regardless of location which require an EIS

**Table 1: Project Details**

<b>Planning File Reference</b>	R24-50
<b>Applicant Name</b>	O'Boyle
<b>Development Location</b>	Kilclohane
<b>Application accompanied by an EIS</b>	No
<b>Application accompanied by an NIS</b>	No

**Description of the project (To include a site location map):**

Dwelling extension



**Table 2: Identification of European sites which may be impacted by the proposed development.**

This section identifies the European Sites within the likely zone of impact of the plan or project. For plans an initial 15km zone of influence (NPWS-DAHG)<sup>1</sup> is recommended. For projects, the distance could be much less than 15km, and in some cases less than 100m, but this must be evaluated on a case-by-case basis with reference to the nature, size and location of the project, and the sensitivities of the ecological receptors, and the potential for in combination effects. Qualifying Interests/Special conservation Interests for each site and the distance relevant to the proposal are listed (Table 2 (a)).

**Table 2 (a): European Sites within 15km of Applicant Site**

European Sites <sup>2</sup>	Qualifying Interests (QIs)/Special Conservation Interests (SCIs) and conservation objectives (either generic or detailed) (available on <a href="http://www.npws.ie/protectedsites">www.npws.ie/protectedsites</a> ) or through Intranet.	Distance to Applicant Site (km)
Mid Clare Coast SPA	Cormorant ( <i>Phalacrocorax carbo</i> ) [A017] Barnacle Goose ( <i>Branta leucopsis</i> ) [A045] Ringed Plover ( <i>Charadrius hiaticula</i> ) [A137] Sanderling ( <i>Calidris alba</i> ) [A144] Purple Sandpiper ( <i>Calidris maritima</i> ) [A148] Dunlin ( <i>Calidris alpina</i> ) [A149] Turnstone ( <i>Arenaria interpres</i> ) [A169] Wetland and Waterbirds [A999]	2.2
Carrowmore Point to Spanish Point and Islands SAC	Coastal lagoons [1150] Reefs [1170] Perennial vegetation of stony banks [1220] Petrifying springs with tufa formation (Cratoneurion) [7220]	2.2

1	<b>Impacts on designated rivers, streams, lakes and fresh water dependant habitats and species.</b>	<i>Is the development in the catchment of or immediately upstream of a watercourse that has been designated as a European site?</i>	No
2	<b>Impacts on terrestrial habitats and species.</b>	<i>Is the development within 1km of a European site with terrestrial based habitats or species?</i>	No
3	<b>Impacts on designated marine</b>	<i>Is the development located</i>	No

<sup>1</sup> European Sites that are more than 15km from the proposal may have to be considered. For example in the case of sites with water dependent habitats or species and where a proposal could affect water quality or quantity it may be necessary to consider the full extent of the upstream and/or downstream catchment.

<sup>2</sup> European Site details are available on <http://webgis.npws.ie/npwsviewer/> or maybe obtained from internal mapping systems.

	<b>habitats and species.</b>	<i>within marine or intertidal areas and within 5 km of a European site whose qualifying habitats or species include the following: Mudflats, sandflats, saltmarsh, shingle, reefs, sea cliffs</i>	
<b>4</b>	<b>Impacts on birds in SPAs</b>	<i>Is the development within 1km of a Special Protection Area</i>	No
<b>5</b>	<b>Indirect effects</b>	<i>Is the development, in combination with other existing or proposed developments likely to impact on an adjacent European site? Is any emission from the development (including noise) likely to impact on an adjacent habitat or species?</i>	No – minor nature of works, distance from designations and no direct hydrological links

**Conclusion:** If the answer to all of the above is no, significant impacts on European sites are unlikely. No further assessment is required; go directly to the conclusion statement.  
If the answer is “unknown” or “yes” proceed to Table 3 and refer to the relevant sections of Table 3.

Appropriate Assessment Screening Determination	
Planning File Reference	R24-50
Proposed Development	domestic extension
Development Location	Kilclohane Quilty
European sites within impact zone	As per report
<b>Description of the project</b>	
domestic extension	
<b>Qualifying Interests (QIs)/Special Conservation Interests (SCIs) of European site</b>	
As per report	
<b>Describe how the project or plan (alone or in combination) is likely to affect the European site(s).</b>	
No impacts envisaged.	
<b>If there are potential negative impacts, explain whether you consider if these are likely to be significant, and if not, why not?</b>	
minor nature of works, distance from designations and no direct hydrological link	
<b>Documentation reviewed for making this statement</b>	
NPWS website Plans and particulars received GIS mapping database	
<b>Conclusion of assessment (a, b, c or d)</b>	
<b>(a) The proposed development is directly connected with or necessary to the nature conservation management of a European Site(s)<sup>3</sup></b>	
<b>(b) There is no potential for significant effects to European Sites<sup>3</sup></b>	Yes
<b>(c) The potential for significant effects to European Site(s) cannot be ruled out<sup>4</sup></b>	
<b>(d) Significant effects to European sites are certain or likely or</b>	

<sup>3</sup> Appropriate Assessment is not required and therefore Planning permission may be granted at this stage subject to all other planning considerations. However, no changes may be made to the proposed development after this conclusion has been reached as this would invalidate the findings of the screening exercise.

<sup>4</sup> In accordance with S177U of the Planning and Development (Amendment) Act 2010, the applicant should be requested to submit an 'Appropriate Assessment Screening Matrix' completed by a suitably qualified ecologist, by way of Further Information. Following receipt of this information a new Appropriate Screening Report should be completed. The requested 'Appropriate Assessment Screening Matrix' should be in accordance with the template outlined in Annex 2, Figure 1 of the EU (2001) guidance document 'Assessment of plans and projects significantly affecting European Sites – Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC. This guidance document is available from [http://ec.europa.eu/environment/nature/natura2000/management/docs/art6/natura\\_2000\\_assess\\_en.pdf](http://ec.europa.eu/environment/nature/natura2000/management/docs/art6/natura_2000_assess_en.pdf)

Alternatively, where other planning concerns arise the proposal could be refused planning permission.

<p><b>where potential for significant effects to European sites remains following receipt of Further Information requested under S177U of the Planning and Development (Amendment) Act 2010<sup>5</sup></b></p>	
<p><b>Completed By</b></p>	<p>John O’Sullivan</p>
<p><b>Date</b></p>	<p>18<sup>th</sup> September 2024</p>

---

<sup>5</sup> The proposed development must either by refused planning permission or alternatively an ‘Appropriate Assessment’ (AA) should be carried out by the Planning Authority. In order to facilitate the preparation of an AA the applicant should be requested to submit a Natura Impact Statement (NIS) in accordance with S177 (T) of the Planning and Development (Amendment) Act 2010. However, in the case of an application to retain unauthorised development of land and where the authority decides that an ‘appropriate assessment’ should have been carried out prior to the commencement of development, the application is required to be invalidated by the Planning Authority as per S34 (12) of the Planning and Development (Amendment) Act 2010 and accordingly an NIS should not be requested in such instances.

# MNT DRAUGHTING SERVICES

Cooraclare  
Kilrush  
Co. Clare

## ARCHITECTURAL DRAUGHTING SERVICES



Tel: 065 9059246  
Email: [mntdraughting@eircom.net](mailto:mntdraughting@eircom.net)

fax: 065 9059388

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02 September 2024

FAO Anne O’Gorman

The Secretary  
Planning Section  
Clare County Council  
New Road  
Ennis  
Co Clare

Your Ref: Section 5 Referral R24/50  
Geraldine O’Boyle

Dear Secretary

In reply to your letter of 3<sup>rd</sup> July 2024 seeking further information with regard to the above application, please find enclosed the following:

1.
  - (a) Site location map. Please note the Eircode V95XHC7.
  - (b) Elevations of existing and proposed structures.
  - (c) Site layout plan detailing location of existing & proposed structures and location of septic tank & percolation area.

Please note that demolition works will be necessary on this site.

Trust the above answers your queries.

Yours faithfully,

  
Martin Tubridy, MIAAT.

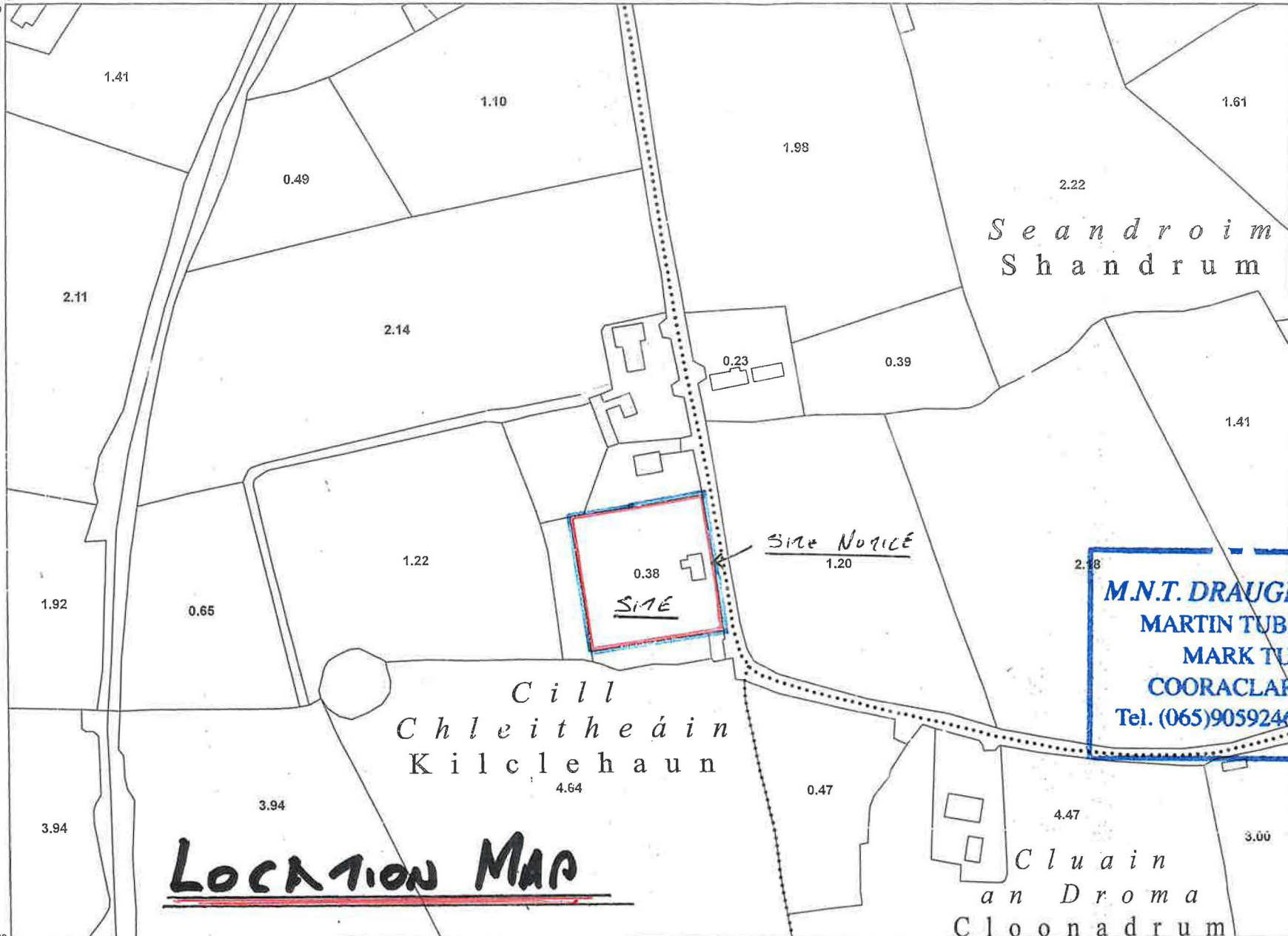


# OSi PLACE Map



50754  
72789  
672339  
50754

50237  
672768  
672339  
50237



CENTRE COORDINATES:  
ITM 502046.672554

PUBLISHED: 05/06/2024 ORDER NO.: 50404714\_1

MAP SERIES: 1:5,000 MAP SHEETS: 4372

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**M.N.T. DRAUGHTING SERVICES**  
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**MARK TUBRIDY, I.E.**  
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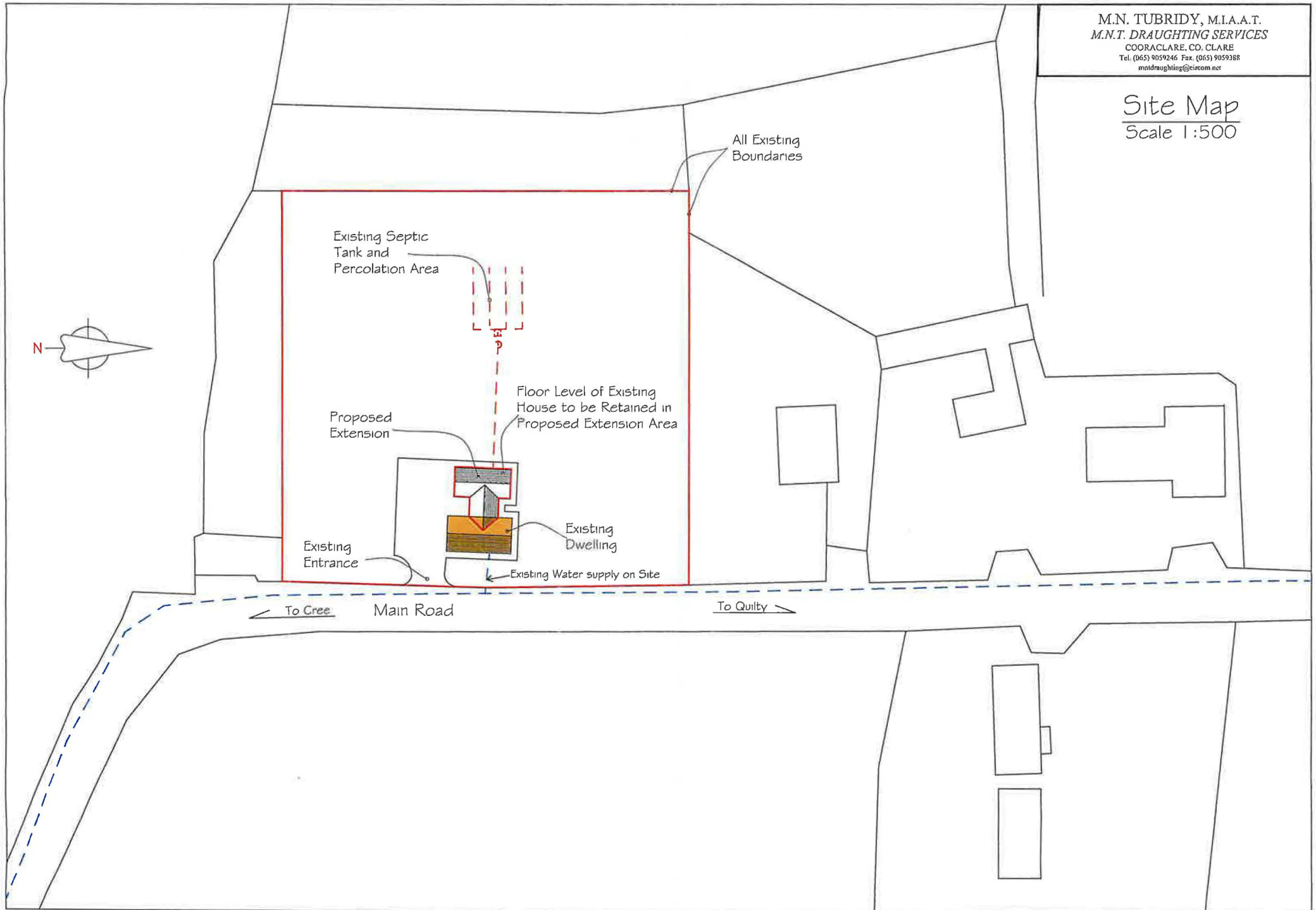
**LEGEND:**  
To view the legend visit [www.tailte.ie](http://www.tailte.ie) and search for 'Large Scale Legend'



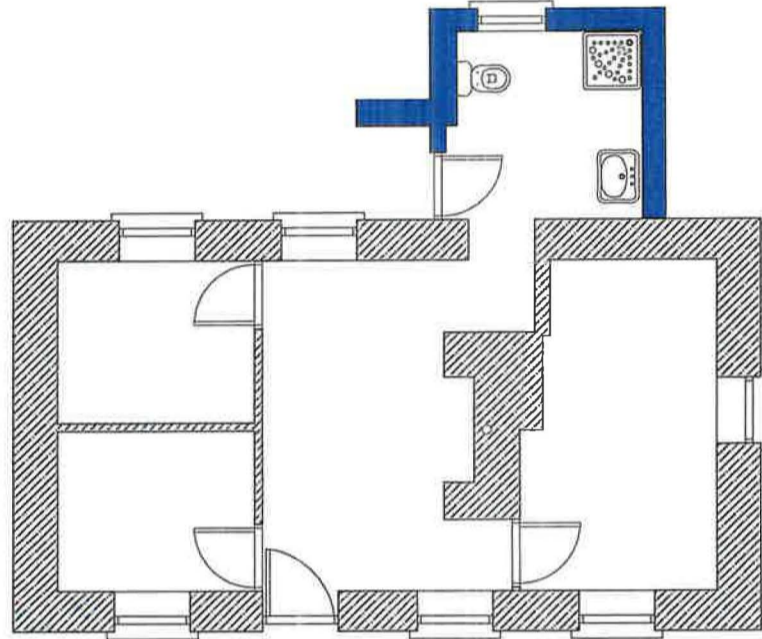
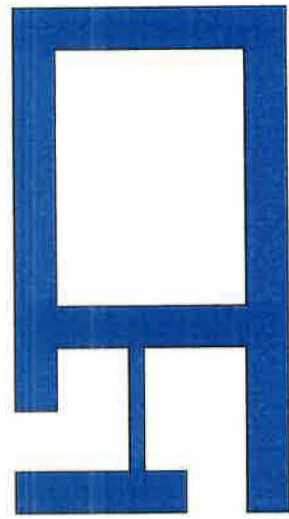
**LOCATION MAP**

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

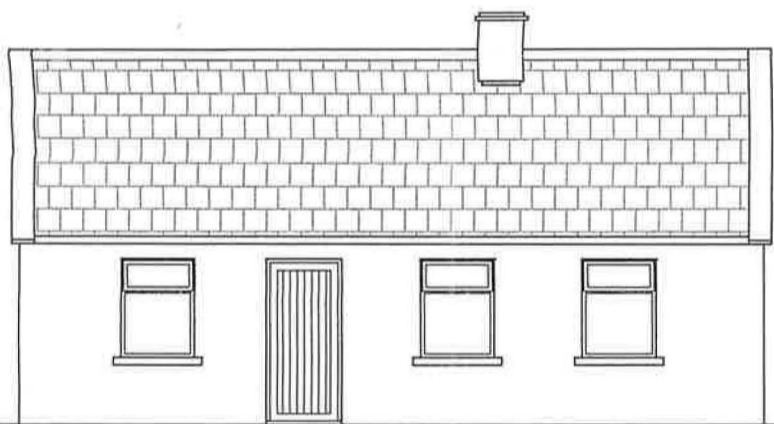
Site Map  
Scale 1:500



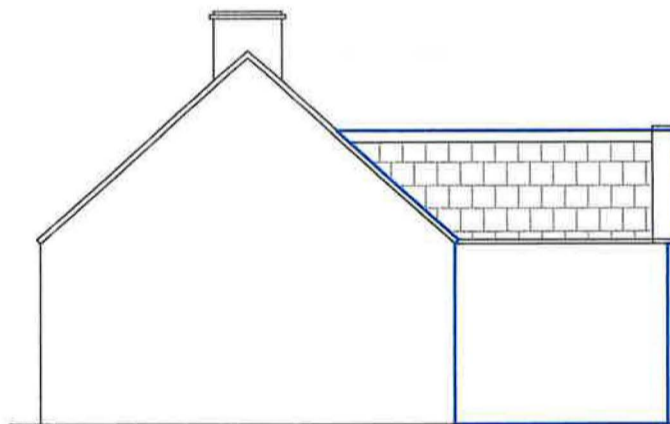




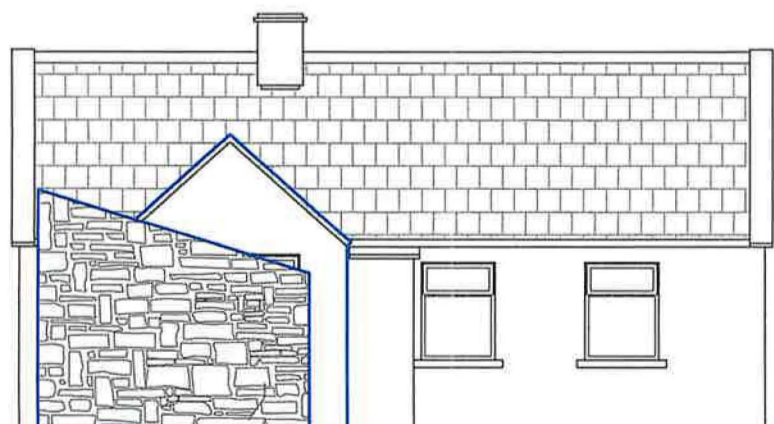
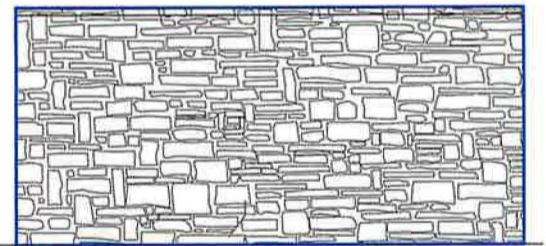
Existing Plans  
Scale (1:100)



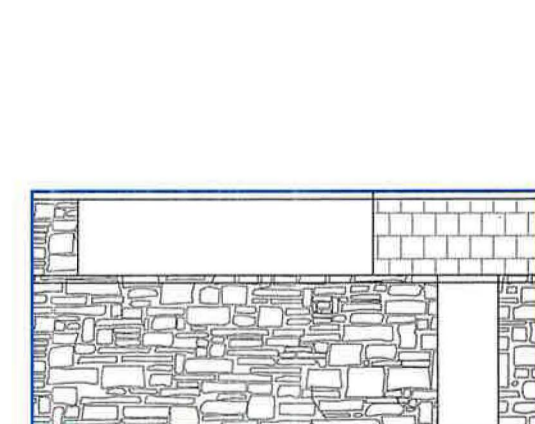
Existing Front Elevation  
Scale (1:100)



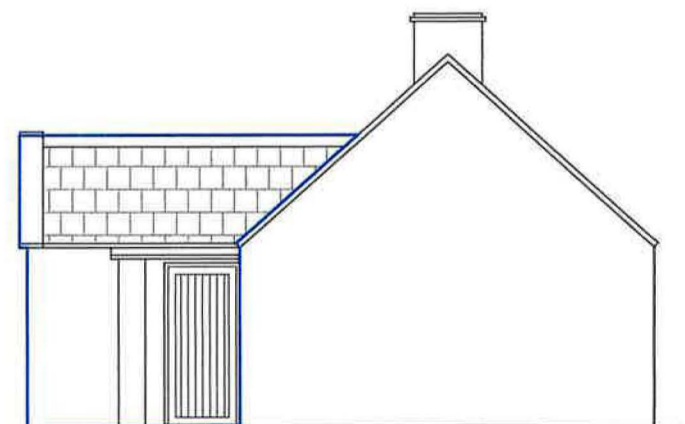
Existing Side Elevation  
Scale (1:100)



Existing Rear Elevation  
Scale (1:100)



Existing Side Elevation  
Scale (1:100)



To Be demolished

M.N. TUBRIDY, M.I.A.A.T.  
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COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

**Geraldine O' Boyle**  
158 Ardmore Park  
Bray  
Co. Wicklow

03/07/2024

**Section 5 referral Reference R24-50 – Geraldine O' Boyle**

Is the reroofing of the derelict building considered development and if so is it exempted development?

A Chara,

I refer to your application received on 17th June 2024 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. With regard to the application received, in order to allow the Planning Authority to make a determination on the planning status of the proposed development, you are requested to submit the following:
  - (a) A Site Location Map which clearly outlines the exact location and extent of the proposal site. In this regard you are advised that the maps received with the application do not outline the location of the site. In addition, the Eircode provided in Section 3(a) of the application form pertains to a dwelling, the design and layout of which does not correspond with the drawings of the existing dwelling received with the application.
  - (b) Elevation drawings (metric scale) of the existing proposed extension in the context of the existing dwelling which outline the height, design, and external finishes as proposed.
  - (c) A Site Layout Plan which demonstrates the location of the proposed extension relative to the existing septic tank and percolation area. In this regard you are advised to have regard to the minimum separation distances between dwelling and onsite wastewater treatment systems as set out in the EPA Code of Practice "Domestic Wastewater Treatment Systems".

**An Roinn Pleanála**  
**An Stiúarthóireacht 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



Mise, le meas

A handwritten signature in blue ink, appearing to read "Anne O'Gorman", with a long horizontal flourish extending to the right.

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

**CLARE COUNTY COUNCIL**  
**SECTION 5 DECLARATION OF EXEMPTION APPLICATION**  
**PLANNERS REPORT 1**

<b>FILE REF:</b>	R24-50
<b>APPLICANT(S):</b>	Geraldine O'Boyle
<b>REFERENCE:</b>	Whether the construction of a rear extension to the existing dwelling at Kilclohane, Quilty, County Clare is or is not development and is or is not exempted development.
<b>LOCATION:</b>	Kilclohane, Quilty, County Clare
<b>DUE DATE:</b>	12 <sup>th</sup> July 2024

**Site Location**

On the basis of the available information, the exact location and extent of the site is unclear. On the basis of the information received I consider that the site is located to the south of the Eircode as provided and not related to said Eircode. This report is based on this assumption.

The site is located in a rural area that is circa 1.3km south of the village of Quilty. It is to the west of the LT20941 local tertiary road and accommodates a vacant single storey dwelling with a rear return. It is an overgrown site that is relatively level. The main views towards the site are from the adjacent road. To the north of the site is a single storey traditional style cottage with a flat roofed extension. The site is located within a "Settled Landscape" and is within the "Areas of Special Control" as per the Clare County Development Plan 2023-2029. I inspected the site on the 01st July 2024.

**Recent Onsite Planning History**

95-61 – Granted – John O’Gorman – To construct a septic tank.

**Background to Referral**

This Referral under Section 5(3)(a) of the Planning and Development Act 2000 (as amended) has been made by Geraldine O’Boyle who states that she is the owner of the site. The applicant is seeking a Section 5 Declaration as to whether the construction of a rear extension to the existing dwelling at Kilclohane, Quilty, County Clare is or is not development and is or is not exempted development.

**Statutory Provisions**

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

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

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

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

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

Planning & Development Regulations, 2001, as amended

Article 6 refers to Exempted Development and states that subject to Article 9, development of a class specified in column 1 of Part 3 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 3 opposite the mention of that class in the said column 1.

Planning & 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 above ground 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.*

Planning & Development Regulations, 2001, as amended Schedule 2, Part 1, Class 50

(a) *The demolition of a building, or buildings, within the curtilage of*

- (i) *a house,*
- (ii) *an industrial building,*
- (iii) *a business premises, or*
- (iv) *a farmyard complex.*

1. *No such building or buildings shall abut on another building in separate ownership.*
2. *The cumulative floor area of any such building, or buildings, shall not exceed: (a) in the case of a building, or buildings within the curtilage of a house, 40 square metres, and (b) in all other cases, 100 square metres.*
3. *No such demolition shall be carried out to facilitate development of any class prescribed for the purposes of section 176 of the Act.*

(b) *The demolition of part of a habitable house in connection with the provision of an extension or porch in accordance with Class 1 or 7, respectively, of this Part of this Schedule or in accordance with a permission for an extension or porch under the Act.*

Planning & Development Regulations, 2001, as amended, Article 9(1)

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,*
- (iii)(a) *endanger public safety by reason of hazardous glint and/or glare for the operation of airports, aerodromes or aircraft,*

*(iv) 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**

### **Particulars of the Development**

- Floor Area                      38.713 sqm
- Height                              Unknown
- Roof Profile                      Unknown
- Location                          Rear of dwelling

### **Planning Exemption Assessment**

The proposed extension is for residential use.

#### **Planning & 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 proposed extension is to the rear 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.*

The existing single storey rear return is to be demolished. The floor area of the proposed extension is not in excess of 40sqm.

(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.*

Not applicable.

(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.*

Not applicable.

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.*

The existing single storey rear return is to be demolished. The floor area of the proposed extension is not in excess of 40sqm.

(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.*

Not applicable.

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.*

No elevation drawings were received.

(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.*

No elevation drawings were received.

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 area of open space remaining would be 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.*

Ground floor windows would be more than 1 metre from the shared boundaries that they face.

(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.

(c)

*Where the house is detached and the floor area of the extension above ground 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.*

No roof balcony or roof garden is proposed.

Planning & Development Regulations, 2001, as amended Schedule 2, Part 1, Class 50

(a) *The demolition of a building, or buildings, within the curtilage of*

(i) *a house,*

- (ii) *an industrial building,*
- (iii) *a business premises, or*
- (iv) *a farmyard complex.*

The proposed works are within the curtilage of the existing house.

1. *No such building or buildings shall abut on another building in separate ownership.*
2. *The cumulative floor area of any such building, or buildings, shall not exceed: (a) in the case of a building, or buildings within the curtilage of a house, 40 square metres, and (b) in all other cases, 100 square metres.*
3. *No such demolition shall be carried out to facilitate development of any class prescribed for the purposes of section 176 of the Act.*

Not applicable.

- (c) *The demolition of part of a habitable house in connection with the provision of an extension or porch in accordance with Class 1 or 7, respectively, of this Part of this Schedule or in accordance with a permission for an extension or porch under the Act.*

Applicable and in compliance with said requirements.

**Article 9 of the Planning and Development Regulations 2001, as amended**

Article 9 of the Planning and Development Regulations 2001, as amended outlines restrictions on exempted development, and these are assessed below.

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

Location of septic tank is unknown.

- (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 alterations to the existing access point are proposed.

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

Not applicable in this instance.

- (iii)(a) *endanger public safety by reason of hazardous glint and/or glare for the operation of airports, aerodromes or aircraft,*

The proposal would not endanger public safety by reason of hazardous glint and/or glare for the operation of airports, aerodromes or aircraft.

- (iv) *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.*

No elevation drawings were received.

- (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,*

This is not applicable in this instance.

- (vi) *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,*

This is not applicable in this instance.

- (vii)
  - a. *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,*

This is not applicable in this instance.

- b. *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,*



This is not applicable in this instance.

- c. *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."*

This is not 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,*

This is not applicable in this instance.

- (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,*

This is 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,*

This is not applicable in this instance.

- (xi) *obstruct any public right of way,*

This is 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.*

This is not applicable in this instance.

## Recommendation

I recommend that the following FURTHER INFORMATION be requested by the Planning Authority:

1. With regard to the application received, in order to allow the Planning Authority to make a determination on the planning status of the proposed development, you are requested to submit the following:

(a)

A Site Location Map which clearly outlines the exact location and extent of the proposal site. In this regard you are advised that the maps received with the application do not outline the location of the site. In addition, the EirCode provided in Section 3(a) of the application form pertains to a dwelling, the design and layout of which, does not correspond with the drawings of the existing dwelling received with the application.

(b)

Elevation drawings (metric scale) of the proposed extension in the context of the existing dwelling which outline the height, design, and external finishes as proposed.

(c)

A Site Layout Plan which demonstrates the location of the proposed extension relative to the existing septic tank and percolation area. In this regard you are advised to have regard to the minimum separation distances between dwelling and onsite wastewater treatment systems as set out in the EPA Code of Practice "*Domestic Wastewater Treatment Systems*".

  
Executive Planner  
Date: 03<sup>rd</sup> July 2024

  
Senior Executive Planner  
Date: 03/07/24.



**Table 2: Identification of European sites which may be impacted by the proposed development.**

This section identifies the European Sites within the likely zone of impact of the plan or project. For plans an initial 15km zone of influence (NPWS-DAHG)<sup>1</sup> is recommended. For projects, the distance could be much less than 15km, and in some cases less than 100m, but this must be evaluated on a case-by-case basis with reference to the nature, size and location of the project, and the sensitivities of the ecological receptors, and the potential for in combination effects. Qualifying Interests/Special conservation Interests for each site and the distance relevant to the proposal are listed (Table 2 (a)).

**Table 2 (a): European Sites within 15km of Applicant Site**

European Sites <sup>2</sup>	Qualifying Interests (QIs)/Special Conservation Interests (SCIs) and conservation objectives (either generic or detailed) (available on <a href="http://www.npws.ie/protectedsites">www.npws.ie/protectedsites</a> ) or through Intranet.	Distance to Applicant Site (km)
Mid Clare Coast SPA	Cormorant ( <i>Phalacrocorax carbo</i> ) [A017] Barnacle Goose ( <i>Branta leucopsis</i> ) [A045] Ringed Plover ( <i>Charadrius hiaticula</i> ) [A137] Sanderling ( <i>Calidris alba</i> ) [A144] Purple Sandpiper ( <i>Calidris maritima</i> ) [A148] Dunlin ( <i>Calidris alpina</i> ) [A149] Turnstone ( <i>Arenaria interpres</i> ) [A169] Wetland and Waterbirds [A999]	2.2
Carrowmore Point to Spanish Point and Islands SAC	Coastal lagoons [1150] Reefs [1170] Perennial vegetation of stony banks [1220] Petrifying springs with tufa formation (Cratoneurion) [7220]	2.2

1	<b>Impacts on designated rivers, streams, lakes and fresh water dependant habitats and species.</b>	<i>Is the development in the catchment of or immediately upstream of a watercourse that has been designated as a European site?</i>	No
2	<b>Impacts on terrestrial habitats and species.</b>	<i>Is the development within 1km of a European site with terrestrial based habitats or species?</i>	No
3	<b>Impacts on designated marine</b>	<i>Is the development located</i>	No

<sup>1</sup> European Sites that are more than 15km from the proposal may have to be considered. For example in the case of sites with water dependent habitats or species and where a proposal could affect water quality or quantity it may be necessary to consider the full extent of the upstream and/or downstream catchment.

<sup>2</sup> European Site details are available on <http://webgis.npws.ie/npwsviewer/> or maybe obtained from internal mapping systems.

	<b>habitats and species.</b>	<i>within marine or intertidal areas and within 5 km of a European site whose qualifying habitats or species include the following: Mudflats, sandflats, saltmarsh, shingle, reefs, sea cliffs</i>	
<b>4</b>	<b>Impacts on birds in SPAs</b>	<i>Is the development within 1km of a Special Protection Area</i>	No
<b>5</b>	<b>Indirect effects</b>	<i>Is the development, in combination with other existing or proposed developments likely to impact on an adjacent European site? Is any emission from the development (including noise) likely to impact on an adjacent habitat or species?</i>	No – minor nature of works, distance from designations and no direct hydrological links

**Conclusion:** If the answer to all of the above is no, significant impacts on European sites are unlikely. No further assessment is required; go directly to the conclusion statement.  
If the answer is “unknown” or “yes” proceed to Table 3 and refer to the relevant sections of Table 3.

Appropriate Assessment Screening Determination	
Planning File Reference	R24-50
Proposed Development	domestic extension
Development Location	Kilclohane Quilty
European sites within impact zone	As per report
Description of the project	
domestic extension	
Qualifying Interests (QIs)/Special Conservation Interests (SCIs) of European site	
As per report	
Describe how the project or plan (alone or in combination) is likely to affect the European site(s).	
No impacts envisaged.	
If there are potential negative impacts, explain whether you consider if these are likely to be significant, and if not, why not?	
minor nature of works, distance from designations and no direct hydrological link	
Documentation reviewed for making this statement	
NPWS website Plans and particulars received GIS mapping database	
Conclusion of assessment (a, b, c or d)	
(a) The proposed development is directly connected with or necessary to the nature conservation management of a European Site(s) <sup>3</sup>	
(b) There is no potential for significant effects to European Sites <sup>3</sup>	Yes
(c) The potential for significant effects to European Site(s) cannot be ruled out <sup>4</sup>	
(d) Significant effects to European sites are certain or likely or	

<sup>3</sup> Appropriate Assessment is not required and therefore Planning permission may be granted at this stage subject to all other planning considerations. However, no changes may be made to the proposed development after this conclusion has been reached as this would invalidate the findings of the screening exercise.

<sup>4</sup> In accordance with S177U of the Planning and Development (Amendment) Act 2010, the applicant should be requested to submit an 'Appropriate Assessment Screening Matrix' completed by a suitably qualified ecologist, by way of Further Information. Following receipt of this information a new Appropriate Screening Report should be completed. The requested 'Appropriate Assessment Screening Matrix' should be in accordance with the template outlined in Annex 2, Figure 1 of the EU (2001) guidance document 'Assessment of plans and projects significantly affecting European Sites – Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC. This guidance document is available from [http://ec.europa.eu/environment/nature/natura2000/management/docs/art6/natura\\_2000\\_assess\\_en.pdf](http://ec.europa.eu/environment/nature/natura2000/management/docs/art6/natura_2000_assess_en.pdf)

Alternatively, where other planning concerns arise the proposal could be refused planning permission.

<p><b>where potential for significant effects to European sites remains following receipt of Further Information requested under S177U of the Planning and Development (Amendment) Act 2010<sup>5</sup></b></p>	
<p><b>Completed By</b></p>	<p>John O’Sullivan</p>
<p><b>Date</b></p>	<p>03<sup>rd</sup> July 2024</p>

---

<sup>5</sup> The proposed development must either be refused planning permission or alternatively an ‘Appropriate Assessment’ (AA) should be carried out by the Planning Authority. In order to facilitate the preparation of an AA the applicant should be requested to submit a Natura Impact Statement (NIS) in accordance with S177 (T) of the Planning and Development (Amendment) Act 2010. However, in the case of an application to retain unauthorised development of land and where the authority decides that an ‘appropriate assessment’ should have been carried out prior to the commencement of development, the application is required to be invalidated by the Planning Authority as per S34 (12) of the Planning and Development (Amendment) Act 2010 and accordingly an NIS should not be requested in such instances.











COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

**Geraldine O' Boyle**  
158 Ardmore Park  
Bray  
Co. Wicklow

**17/06/2024**

**Section 5 referral Reference R24-50 – Geraldine O' Boyle**  
**Is the construction of a small extension exempt from planning permission to obtain a certificate of exemption to support my application for a vacant property grant?**

A Chara,

I refer to your application received on 17th June 2024 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

**Caroline 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



# AN CHLÁIR

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

17/06/2024 10:20:57

Receipt No. L1CASH/0/365614

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

GERALDINE O'BOYLE  
158 ARDMORE PARK, BRAY,  
CO WICKLOW  
REF. R24-50



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



P07

**CLARE COUNTY COUNCIL  
COMHAIRLE CONTAE AN CHLÁIR**

Planning Department,  
Economic Development Directorate,  
Clare County Council,  
New Road, Ennis,  
Co. Clare.  
V95D.XP2

Telephone No. (065) 6821616  
Fax No. (065) 6892071  
Email: [planoff@clarecoco.ie](mailto:planoff@clarecoco.ie)  
Website: [www.clarecoco.ie](http://www.clarecoco.ie)



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

**FEE: €80**

*This following form is a non-statutory form which has been prepared by Clare County Council for the purpose of obtaining the necessary information required for a declaration to be made under Section 5 by the Planning Authority*



<b>1. CORRESPONDENCE DETAILS.</b>	
(a) Name and Address of person seeking the declaration (Current address)	Geraldine O'Boyle 158, Ardmore Park Bray Co. Wicklow
(b) Telephone No.:	.....511
(c) Email Address:	.....
(d) Agent's Name and address:	Geraldine O'Boyle _____ _____ _____

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 construction of a small extension exempt from planning permission to obtain a certificate of exemption to support my application for a vacant property grant?

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

Sought by Vacant Property Refurbishment Grant Section of Clare Co. Council

(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. OSi place map (x2)
- official property Registration map
- copy of plan with current building (x2)
- copy of plan with proposed extension (x2)

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT	
(a) Postal Address of the Property/Site/Building for which the declaration sought:	Kilcrobane Quilty Co. Clare V95 X 3K6
(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):	Owner
(d) If the person in (c) above is not the owner and/or occupier, state the name and address of the owner of the property in question:  <i>Note: Observations in relation to a referral may be requested from the owner/occupier where appropriate.</i>	
(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>	For septic tank & toilet facilities
(h) Date on which 'works' in question were completed/are likely to take place:	As soon as possible please as application for grant gone in tandem with this.

SIGNED: Geraldine O'Boyle

DATE: 14/06/2024

**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:	.....		



# OSi PLACE Map



Tailte  
Éireann



**CENTRE COORDINATES:**  
ITM 502046,672554

**PUBLISHED:** 05/06/2024  
**ORDER NO.:** 50404714\_1

**MAP SERIES:** 1:5,000  
**MAP SHEETS:** 4372

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

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

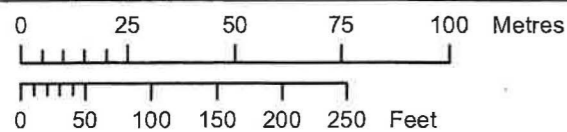
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**OUTPUT SCALE: 1:2,500**

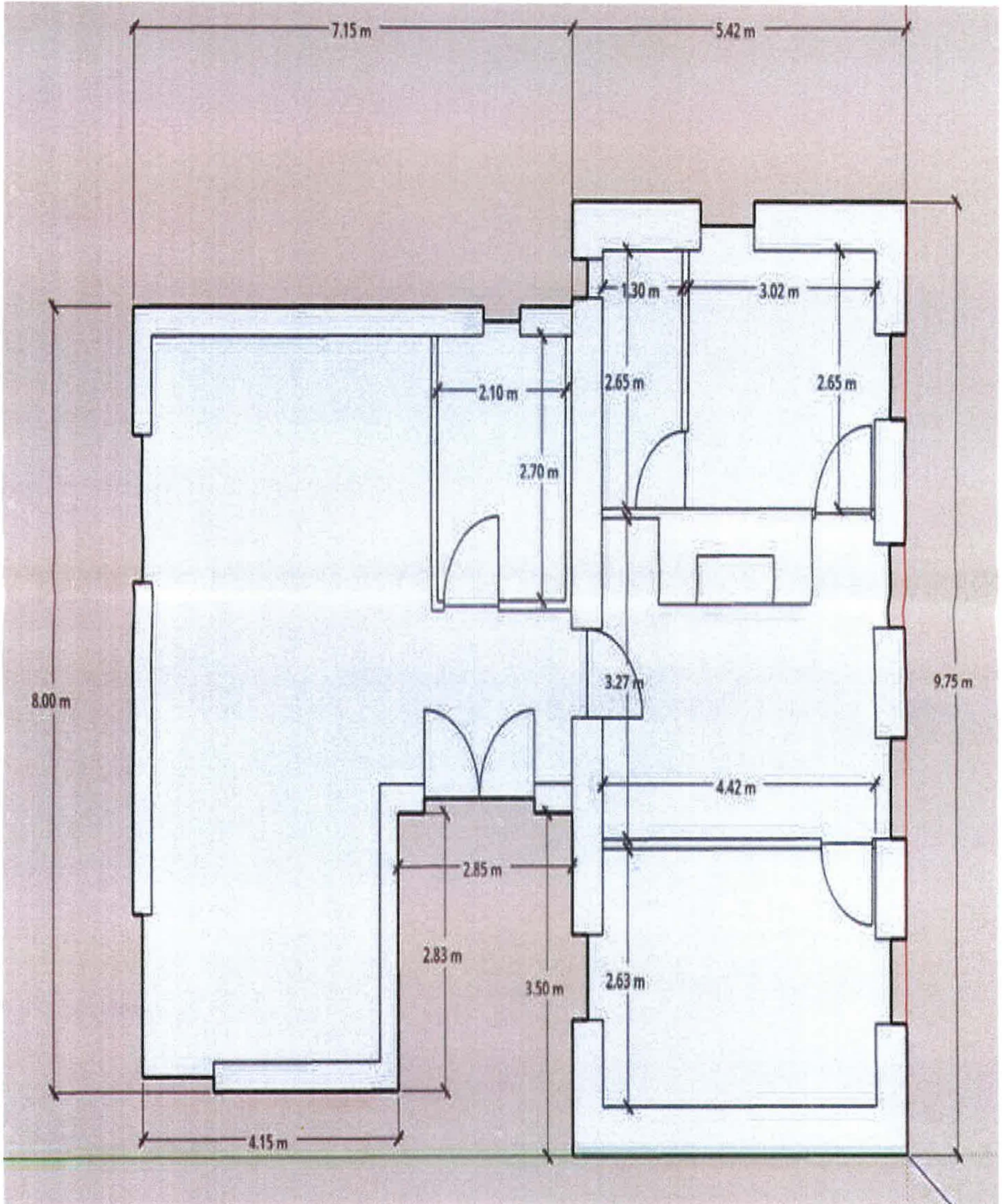
**CAPTURE RESOLUTION:**  
The map objects are only accurate to the resolution at which they were captured. Output scale is not indicative of data capture scale. Further information is available at: [www.tailte.ie](http://www.tailte.ie); search 'Capture Resolution'

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



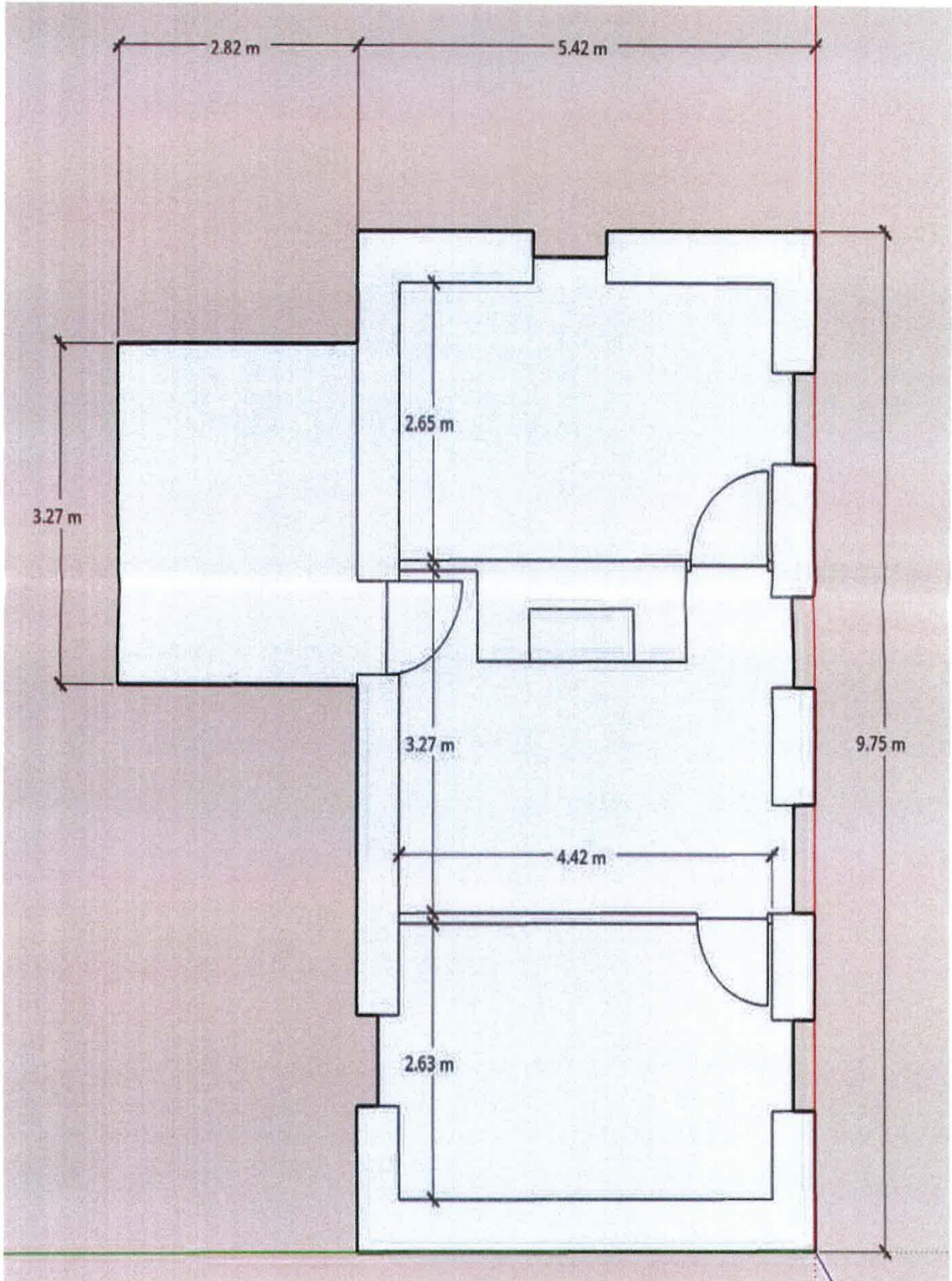
**Plan with New Extension**

**Extension Size: 38.7131M<sup>2</sup>**



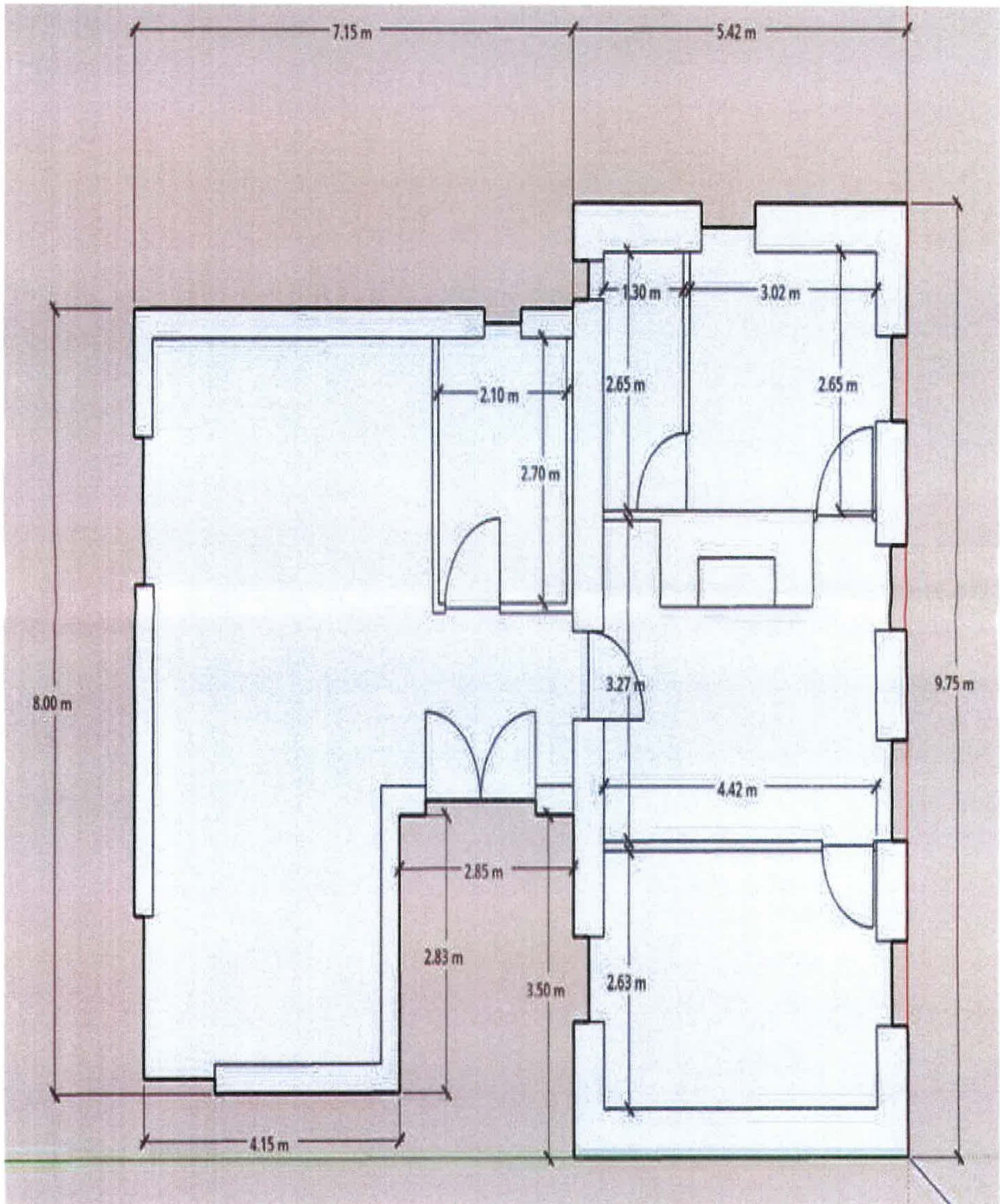
Plan with Current Building

9.2214M<sup>2</sup>



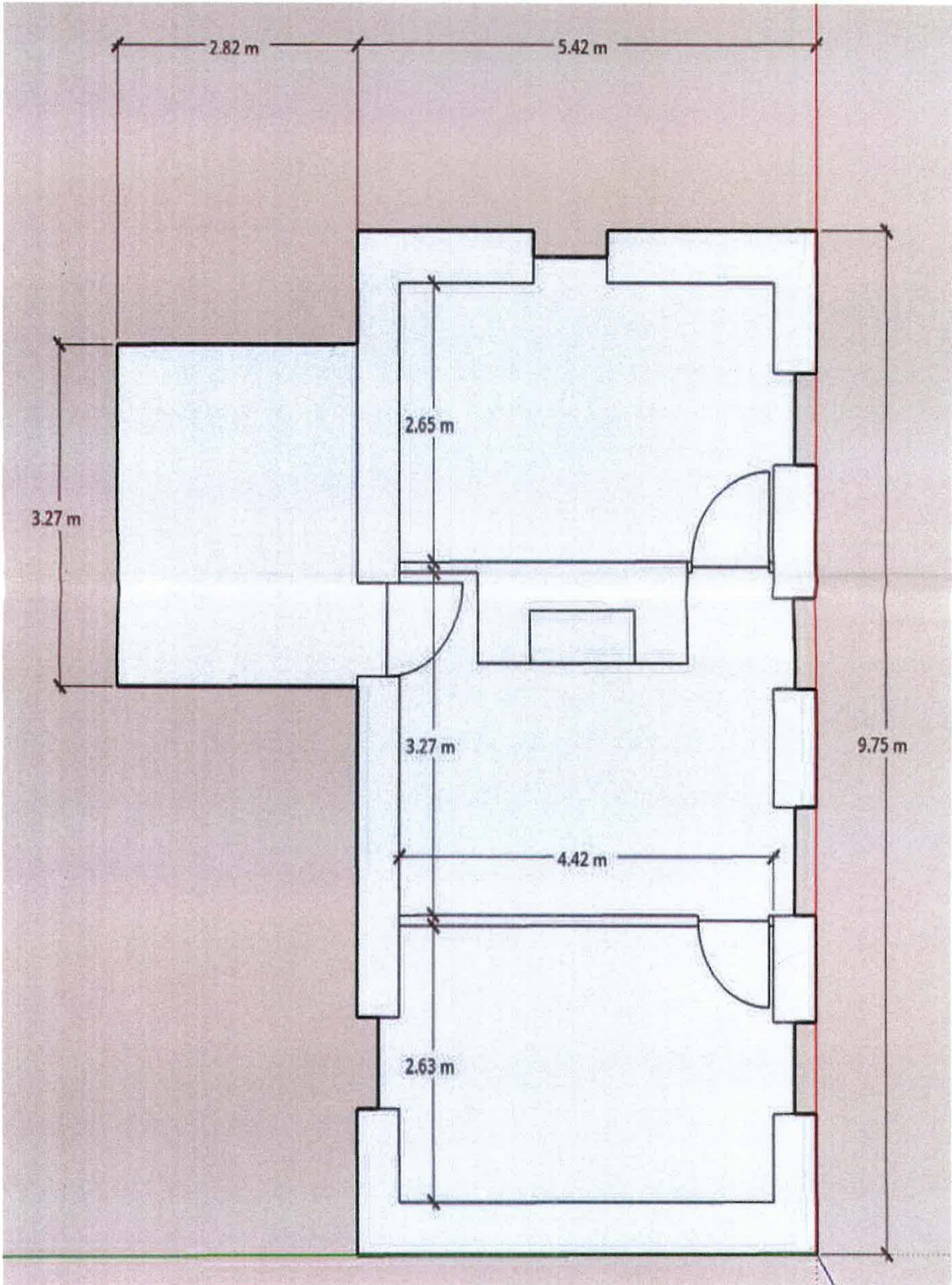
## Plan with New Extension

Extension Size: 38.7131M<sup>2</sup>



Plan with Current Building

9.2214M<sup>2</sup>



# OSi PLACE Map



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



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

**The Property  
Registration Authority  
An tÚdarás  
Clárúcháin Maoine**



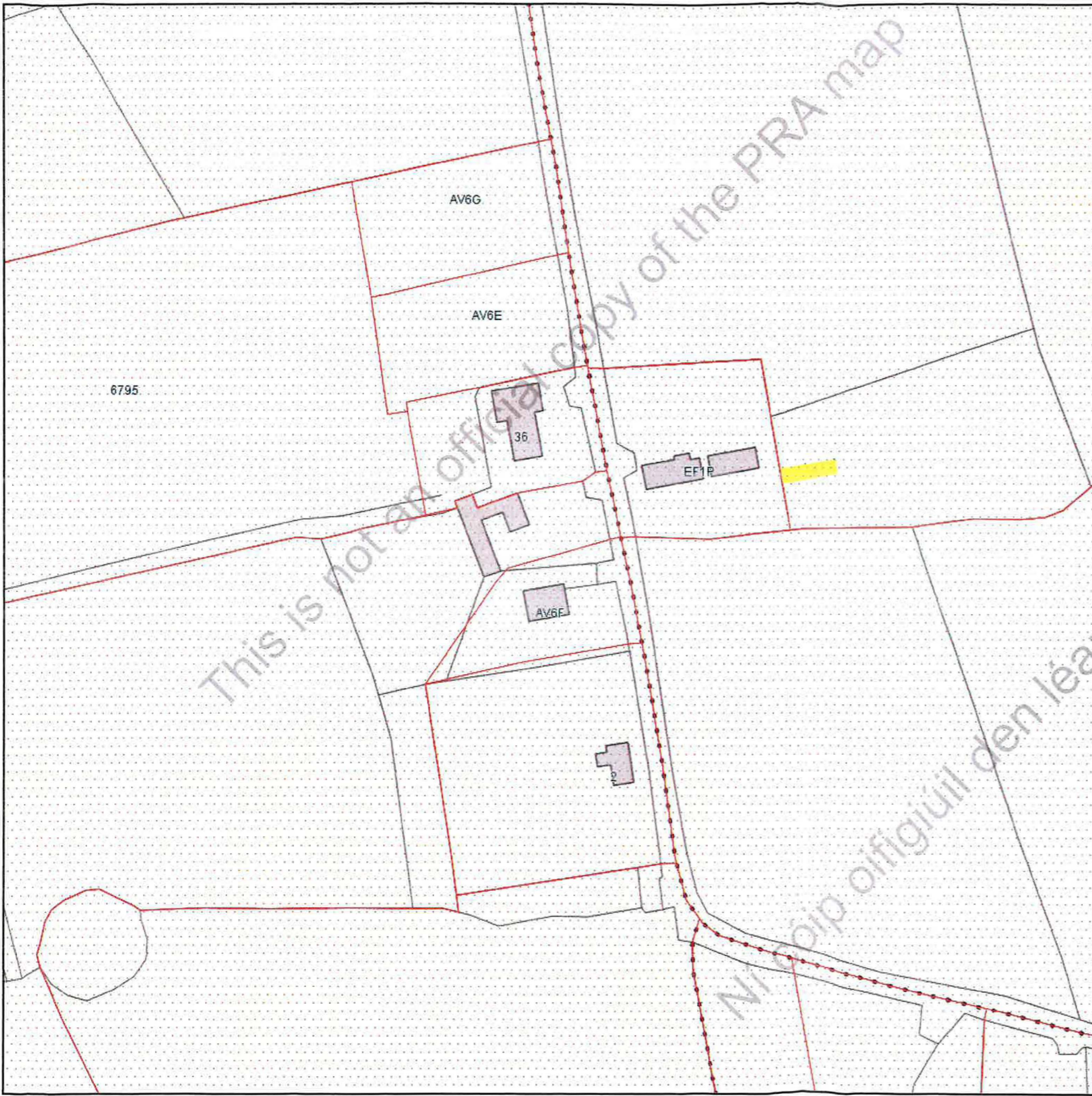
Official Property Registration Map

This map should be read in conjunction with the folio.

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- (centre-line of parcel(s) edged)
- Freehold
  - Leasehold
  - SubLeasehold
  - 'S' Register

(see Section 8(b)(II) of Registration of Title Act 1964 and Rule 224 & 225 Land Registration Rules 1972 - 2010).

- Burdens** (may not all be represented on map)
- Right of Way / Wayleave
  - Turbary
  - Pipeline
  - Well
  - Pump
  - Septic Tank
  - ▽ Soak Pit

A full list of burdens and their symbology can be found at: [www.landdirect.ie](http://www.landdirect.ie)

The registry operates a non-conclusive boundary system. The Registry Map identifies properties not boundaries meaning neither the description of land in a register nor its identification by reference to a registry map is conclusive as to the boundaries or extent.

(see Section 85 of the Registration of Title Act, 1964). As Inserted by Section 62 of the Registration of Deed and Title Act 2006.

