



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Registered Post

**Mark Guerin
Lavender House
Caherhurley
Bodyke
Co. Clare
V94 FXN2**

7th August, 2024

Section 5 referral Reference R24-59 – Mark Guerin

Is the flat roofed extension (under 40m²) to my dwelling at Caherhurley, Bodyke, Co. Clare development and if so is it exempted development?

A Chara,

I refer to your application received on 23rd July 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

Mise, le meas



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

**An Roinn Pleanála
An Stiúirthóireacht 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:

83993

Reference Number:

R24-59

Date Referral Received:

23rd July 2024

Name of Applicant:

Mark Guerin

Location of works in question:

Caherhurley, Bodyke, Co. Clare

Section 5 referral Reference R24-59 – Mark Guerin

Is the flat roofed extension (under 40m²) to my dwelling at Caherhurley, Bodyke, Co. Clare development and if so is it exempted development?

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

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

AND WHEREAS Clare County Council has concluded:

- (a) The construction of a flat roofed extension to the rear of a dwelling house at Caherhurley, Bodyke, Co. Clare constitutes "works" which come within the scope of section 2(1) of the Planning and Development Act 2000, as amended,
- (b) The said works constitute "development" which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended,
- (c) The said construction of a flat roofed extension to the rear of a dwelling at Caherhurley, Bodyke, Co. Clare is exempted development by virtue of Schedule 2, Part 1, Class 1 of the Planning and Development Regulations 2001.

ORDER: Whereas by Chief Executive's Order No. HR 152 dated 9th April 2021, Pat Dowling, Chief Executive for Clare County Council, did, pursuant to the powers conferred on him by Section 154 of the Local Government Act 2001, delegate to 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 flat roofed extension to the rear of a dwelling house at Caherhurley, Bodyke, Co. Clare is **considered development** which is **exempted development**.

Signed:



GARETH RUANE
SENIOR EXECUTIVE PLANNER 

Date:

7th August, 2024

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

Reference No.: R24-59



Comhairle Contae an Chláir
Clare County Council

Section 5 referral Reference R24-59

Is the flat roofed extension (under 40m²) to my dwelling at Caherhurley, Bodyke, Co. Clare development and if so is it exempted development?

AND WHEREAS, Mark Guerin 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) Schedule 2, Part 1, Class 1 of the Planning and Development Regulations 2001, as amended.
- (d) The works as indicated in submitted documents from the referrer.

And whereas Clare County Council has concluded:

- (a) The construction of a flat roofed extension to the rear of a dwelling house at Caherhurley, Bodyke, Co. Clare constitutes “works” which come within the scope of section 2(1) of the Planning and Development Act 2000, as amended,
- (b) The said works constitute “development” which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended,
- (c) The said construction of a flat roofed extension to the rear of a dwelling at Caherhurley, Bodyke, Co. Clare is exempted development by virtue of Schedule 2, Part 1, Class 1 of the Planning and Development Regulations 2001.

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

The proposed development consisting of the construction of a flat roofed extension to the rear of a dwelling house at Caherhurley, Bodyke, 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

7th August, 2024

CLARE COUNTY COUNCIL
SECTION 5 DECLARATION OF EXEMPTION APPLICATION

FILE REF:	R24-59
APPLICANT(S):	Mark Guerin
REFERENCE:	Whether the construction of a flat roofed extension to dwelling is or is not development and is or is not exempted development.
LOCATION:	Caherhurley, Bodyke, Co. Clare
DUE DATE:	19 th August 2024

Site Location

The subject dwelling is located in a rural area approximately 1km southeast of Bodyke. The site is located on the southeast side a narrow laneway, which primarily provides access to agricultural lands and also a small number of residential properties. The laneway terminates in a cul-de-sac a short distance from the site.

The site comprises a detached two-storey dwelling which is not in a habitable condition at present. Renovation works have commenced on the property. The dwelling is located close to the roadside and sited at a higher level than the adjoining lane. There is a large garden to the side and rear of the house. There is also a mobile home on the site, to the rear of the dwelling, which appears to be occupied at present.

Planning History

No recent planning applications on the proposal site.

Background to Referral

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

The applicant is seeking a Section 5 Declaration as to whether the construction of a flat roofed extension to a dwelling is or is not development and is or is not exempted development. The extension will be located to the rear of the dwelling and will comprise a kitchen, bathroom and utility room.

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.

Article 6(1) of the Planning & Development Regulations, 2001, as amended

Subject to article 9, development of a class specified in column 1 of Part 1 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 1 opposite the mention of that class in the said column 1

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

The extension of a house, by the construction or erection of an extension (including a conservatory) to the rear of the house or by the conversion for use as part of the house of any garage, store, shed or other similar structure attached to the rear or to the side of the house.

1. (a)

Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square 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.*

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

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

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

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

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

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

(iv) except in the case of a porch to which class 7 specified in column 1 of Part 1 of Schedule 2 applies and which complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1, comprise the construction, erection, extension or renewal of a building on any street so as to bring forward the building, or any part of the building, beyond the front wall of the building on either side thereof or beyond a line determined as the building line in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,

(v) consist of or comprise the carrying out under a public road of works other than a connection to a wired broadcast relay service, sewer, water main, gas main or electricity supply line or cable, or any works to which class 25, 26 or 31 (a) specified in column 1 of Part 1 of Schedule 2 applies,

(vii) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan.

(vii) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,

(viiA) consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12(1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to and in accordance with a consent granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended,

(viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,

(viiC) consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000.”

(viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,

(ix) consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,

(x) consist of the fencing or enclosure of any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility,

(xi) obstruct any public right of way,

(xii) further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area.

Assessment

Basis of Referral

The applicant is seeking a Section 5 Declaration as to whether the construction of a flat roofed extension to a dwelling house at Caherhurley, Bodyke, Co. Clare is or is not development and is or is not exempted development

Particulars of the Development

- Floor Area The applicant has stated that the area will be less than 40m².
Based on the submitted drawings the area is c.36m².
- Height Single storey. Below the level of the existing first floor windows.
- Location To the rear (southeast side) of the dwelling
- Status Not commenced

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 proposed extension will be located to the rear of the existing dwelling house.

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

The house has not been previously extended.

-
- (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 detached.

-
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- (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 extension is 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.*

Not applicable.

(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.

The house is detached.

(c) Subject to paragraph (a), where the house is detached and has been extended previously, the floor area of any extension above ground level, taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 20 square metres.

The proposed extension is located on the ground floor only.

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

Not applicable – extension is at ground floor level.

4. *(a) Where the rear wall of the house does not include a gable, the height of the walls of any such extension shall not exceed the height of the rear wall of the house.*

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.

This is complied with.

5. *The construction or erection of any such extension to the rear of the house shall not reduce the area of private open space, reserved exclusively for the use of the occupants of the house, to the rear of the house to less than 25 square metres.*

The dwelling occupies a large rural site. In excess of 25m² remains.

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

This is complied with.

(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 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.

Conclusion

Having regard to the above I consider that the proposed extension constitutes works that benefit from exempted development status under Part 1, Class 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended).

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

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

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

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

The proposal does not contravene a condition of any previous permission.

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

No access points onto the public road network are affected by the proposal.

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

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

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

The proposal site is not located in a solar safeguard zone.

(iv) except in the case of a porch to which class 7 specified in column 1 of Part 1 of Schedule 2 applies and which complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1, comprise the construction, erection, extension or renewal of a building on any street so as to bring forward the building, or any part of the building, beyond the front wall of the building on either side thereof or beyond a line determined as the building line in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,

No applicable to the proposal

(v) consist of or comprise the carrying out under a public road of works other than a connection to a wired broadcast relay service, sewer, water main, gas main or electricity supply line or cable, or any works to which class 25, 26 or 31 (a) specified in column 1 of Part 1 of Schedule 2 applies

Not applicable to this proposal

(vi) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan.

The proposed extension is located to the rear of the dwelling. The dwelling is the last house on a rural cul-de-sac with very limited passing traffic. The proposed will not have a negative impact on the character of visual amenities of the area.

(vii) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,

Not applicable to this proposal

(viiA) consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12(1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to and in accordance with a consent granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended,

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

(viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,

Having regard to the nature, scale and location of the proposed development and the established use of the site, the likely zone of influence is no greater than 1km.

There are no European sites within 1km of the proposed development location.

In the absence of proximity or connectivity to a European Site, no Appropriate Assessment issues arise and I do not consider that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects, on a European Site.

Appropriate assessment is not therefore required.

(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 in this instance

(viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,

Not applicable to this proposal. It is noted that there is a mobile home within the red line boundary of the proposal site. I note that renovation works have commencement on the subject dwelling and a mobile home can be placed on the site under Class 17 of the Planning Regulations.

(ix) consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,

Not applicable in this instance

(x) consist of the fencing or enclosure of any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility,

Not applicable in this instance

(xi) obstruct any public right of way,

Not applicable in this instance

(xii) further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area.

The development site is not within an Architectural Conservation Area.

Conclusions

The following question has been referred to the Planning Authority:

Whether the construction of a flat roofed extension to the rear of a dwelling at Caherhurley, Bodyke Co. 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) Schedule 2, Part 1, Class 1 of the Planning and Development Regulations 2001, as amended.
- (d) The works as indicated in submitted documents from the referrer.

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

- (a) The construction of a flat roofed extension to the rear of a dwelling house at Caherhurley, Bodyke, Co. Clare constitutes "works" which come within the scope of section 2(1) of the Planning and Development Act 2000, as amended
- (b) the said works constitute "development" which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended
- (c) the said construction of a flat roofed extension to the rear of a dwelling at Caherhurley, Bodyke, Co. Clare is exempted development by virtue of Schedule 2, Part 1, Class 1 of the Planning and Development Regulations 2001.

Now therefore Clare County Council (Planning Authority), hereby decides that the construction of a flat roofed extension to the rear of a dwelling house at Caherhurley, Bodyke, Co. Clare is development and is exempted development.



Caroline Balfe
Executive Planner

Date 06/08/2024



Garreth Ruane
Senior Executive Planner

Date 07/08/24.

R24-59.











COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Mark Guerin
Lavender House
Caherhurley
Bodyke
Co. Clare
V94 FXN2

24/07/2024

Section 5 referral Reference R24-59 – Mark Guerin

Is the flat roofed extension (under 40m²) to my dwelling at Caherhurley, Bodyke, Co. Clare development and if so is it exempted development?

A Chara,

I refer to your application received on 23rd July 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

Brian Fahy
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



P07

**CLARE COUNTY COUNCIL
COMHAIRLE CONTAE AN CHLÁIR**

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

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



R24-59

**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>MARK GUERIN * Send Correspondence</p> <p>LAUENDER HOUSE</p> <p>CAMERMURLY, BOOYVILE</p> <p>CLARE Eircode: V94FXN2</p>
(b) Telephone No.:	---
(c) Email Address:	..
(d) Agent's Name and address:	<p>TONY O'LEARY</p> <p>WHITEGATE,</p> <p>Co. CLARE</p> <p>EIRCODE: V94 A2K2</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 FLAT ROOFED EXTENSION (UNDER 40M²) TO MY DWELLING
AT CAHERHURLEY, BODYKE, CO. CLARE EXEMPT FROM REQUIRING
PLANNING PERMISSION

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

I AM PROPOSING TO PROVIDE A KITCHEN, UTILITY, SHOWER/
TOILET EXTENSION TO THE REAR OF MY DWELLING AT
CAHERHURLEY, BODYKE, CO. CLARE. THE SQUARE METER
AREA I.E. FLOOR AREA OF THE PROPOSED WORK IS JUST
UNDER 40M² AND THE CONSTRUCTION IS COMPLETELY TO THE
BACK OF THE EXISTING DWELLING.

(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)

EXISTING FLOOR PLANS & ELEVATIONS, PROPOSED FLOOR PLANS & ELEVATIONS,
PHOTOGRAPHS OF EXISTING STRUCTURE, CROSS SECTION DRAWING OF PROPOSED
EXTENSION, SITE LOCATION MAP SCALE 1:2500

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT	
(a) Postal Address of the Property/Site/Building for which the declaration sought:	LAVENDER MOUSE CAMERMURLY, BOOYKE CHANE V94 FXW2
(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>	NO.
(h) Date on which 'works' in question were completed/are likely to take place:	SEP 2024.

SIGNED:  _____

DATE: 19-07-24 _____

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:	.....	

Land Registry Compliant Map

AREA MARKED "A" AND OUTLINED
IN RED MEASURES
0.804 ACRES (0.3254
HECTARES) ON THESE ABOLTS

SIGNED: John Jones C.Eng
DATE: 26-3-2020

Cathair
Urthaille
Caherhurly



Right-of-way road
to site shaded yellow.

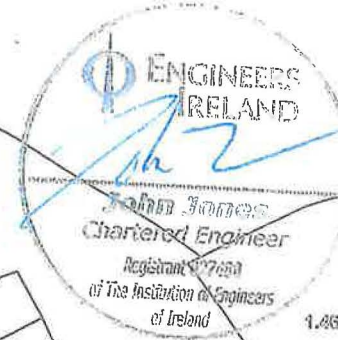
RIGHT-OF-WAY
COLOURED IN
YELLOW AND
MARKED X-Y
MEASURES 2.44 metres
length and 2.2
metres in width.
ON THESE ABOLTS

SIGNED: John Jones C.Eng
DATE: 3-10-22

2.77

location of
proposed site

2.82



1.46

Baile Uí
Dhonnacháin
Ballydonaghan

1.89

2.00

0.27

PROPOSED ALTERATIONS AND EXTENSION TO
DWELLING HOUSE AT CAHERHURLEY, BODYKE,
CO. CLARE FOR MARK GUERIN.

CONTENTS: SITE LOCATION MAP.

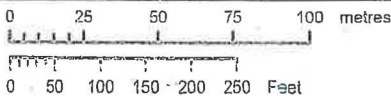
SCALE: 1:2500.

DATE: JULY 2024.

DRAWN: TONY O'LEARY,
WHITEGATE,
CO. CLARE.

0.75

1.17



OUTPUT SCALE: 1:2,500

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



CENTRE
COORDINATES:
ITM 560560,681068

PUBLISHED: 24/03/2020 ORDER NO.: 50114673_1

MAP SERIES: 1:5,000 MAP SHEETS: 4213
1:5,000 4271

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



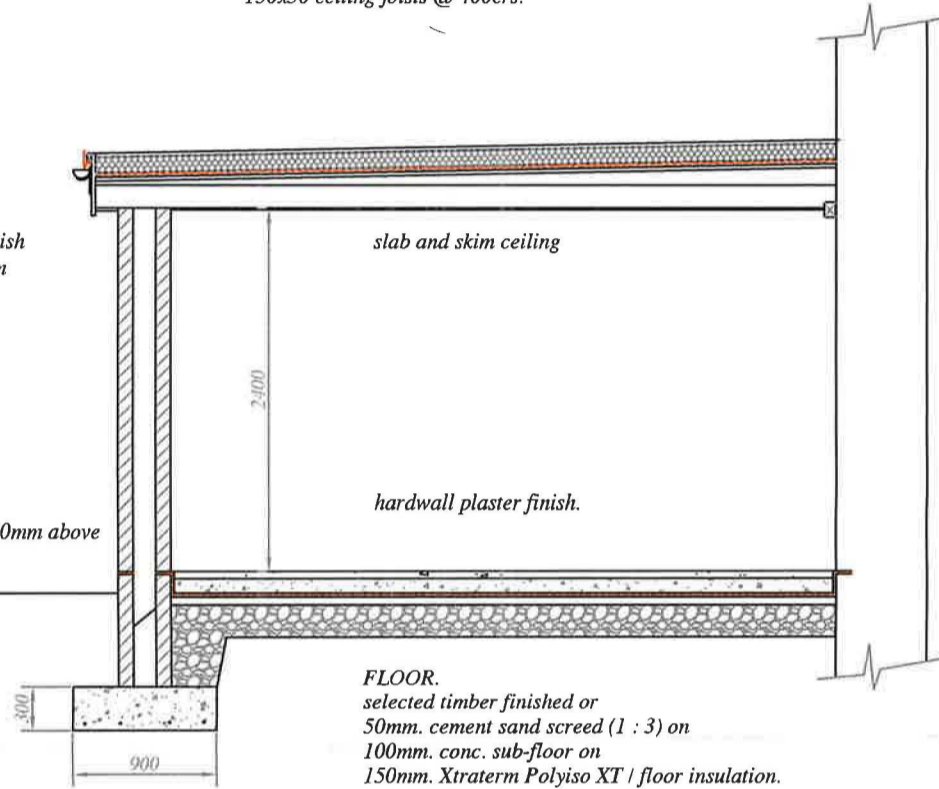
ROOF.
 Poured fibreglass roof finish on
 19mm. OSB plywood on
 min. 100mm. rigid Kingspan insulation on
 19mm. plywood on
 furring pieces on
 150x50 ceiling joists @ 400crs.

EXTERNAL WALLS:
 100mm. outer block with plaster finish
 150mm. cavity with 80mm. Xtraterm
 Thin -R xi /Cwp T.&G. partial fill
 cavity wall insulation.
 100mm. block inner leaf.

d.p.c. min. 150mm above
 ground level

depth of foundation
 to be down to suitable
 loadbearing base.

30N. conc. foundations to sizes
 shown reinforced with 4no.
 12mm. dia. m.s. bars.



FLOOR.
 selected timber finished or
 50mm. cement sand screed (1 : 3) on
 100mm. conc. sub-floor on
 150mm. Xtraterm Polyiso XT / floor insulation.
 radon barrier on
 min. 25mm. sand blinding on
 min. 200mm. compacted hardcore.

TYPICAL CROSS SECTION. SCALE: 1 : 50.

**PROPOSED ALTERATIONS AND EXTENSION TO
 DWELLING HOUSE AT CAHERHURLEY, BODYKE,
 CO. CLARE FOR MARK GUERIN.**

**CONTENTS: DWELLING HOUSE:
 CROSS SECTION THROUGH FLAT ROOF.**

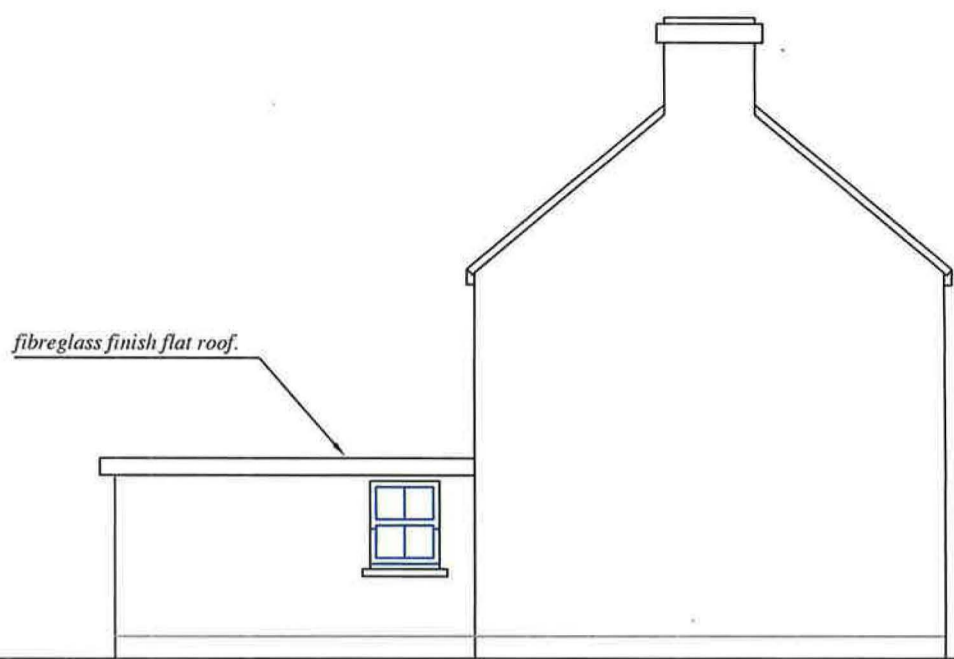
SCALE: 1:50.

DATE: JULY 2024.

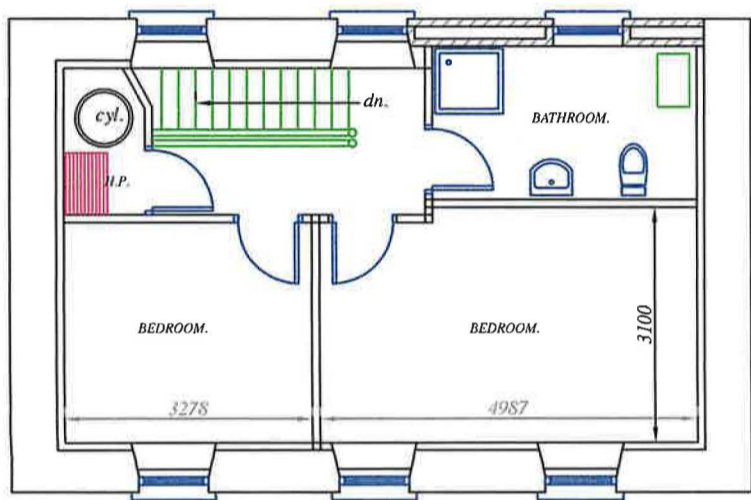
**DRAWN: TONY O'LEARY,
 WHITEGATE,
 CO. CLARE.**



PROPOSED FRONT ELEVATION (NORTH-WEST). SCALE: 1:100.



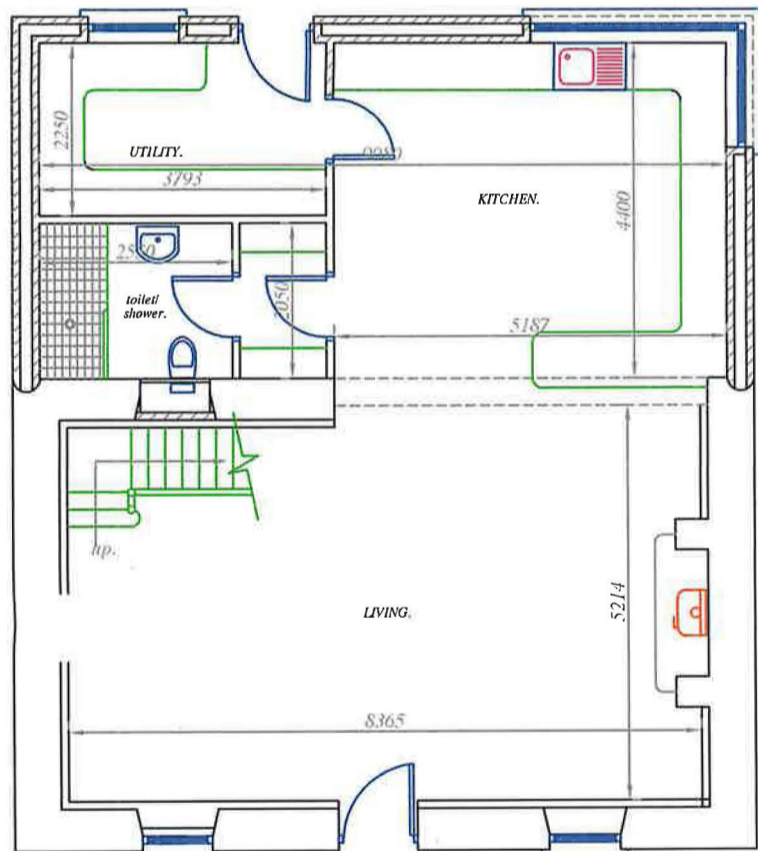
PROPOSED END ELEVATION (NORTH-EAST). SCALE: 1:100.



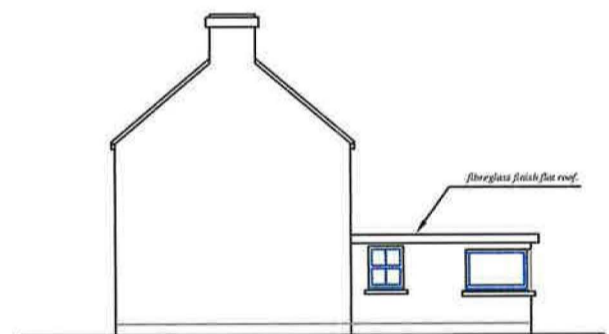
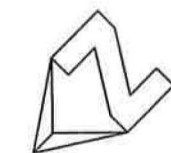
PROPOSED FIRST FLOOR PLAN. SCALE: 1:100.



PROPOSED BACK ELEVATION (SOUTH-EAST). SCALE: 1:100.



PROPOSED GROUND FLOOR PLAN. SCALE: 1:100.



PROPOSED END ELEVATION (SOUTH-WEST). SCALE: 1:200.

PROPOSED ALTERATIONS AND EXTENSION TO DWELLING HOUSE AT CAHERHURLEY, BODYKE, CO. CLARE FOR MARK GUERIN.

CONTENTS: DWELLING HOUSE:
PROPOSED FLOOR PLANS & ELEVATIONS.

SCALE: 1:100 & 1:200.

DATE: JULY 2024.

DRAWN: TONY O'LEARY,
WHITEGATE,
CO. CLARE.

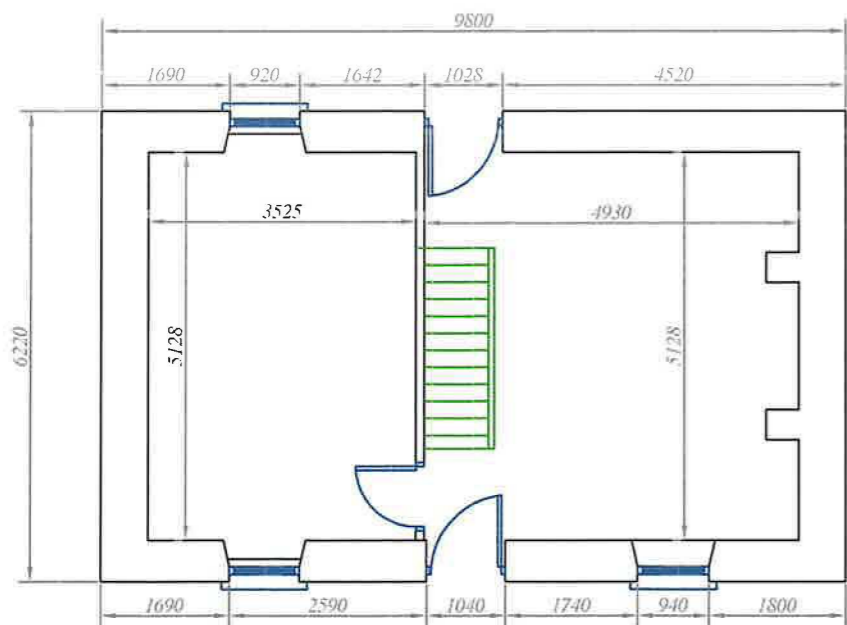
*PROPOSED ALTERATIONS AND EXTENSION TO
DWELLING HOUSE AT CAHERHURLEY, BODYKE,
CO. CLARE FOR MARK GUERIN.*



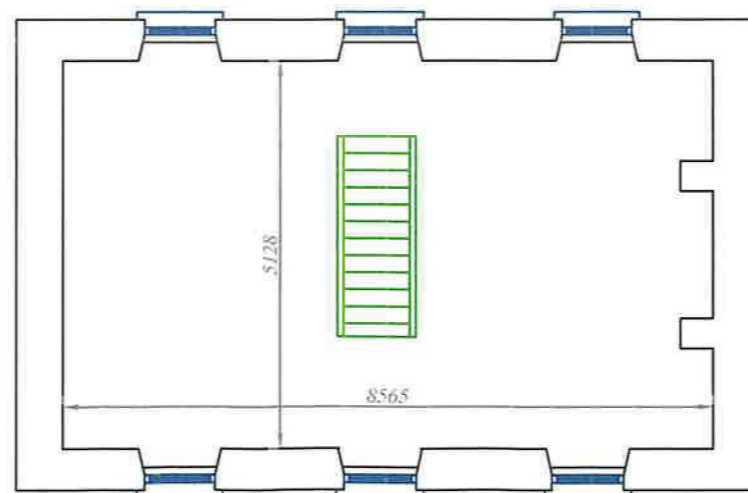
EXISTING FRONT ELEVATION (NORTH-WEST). SCALE: 1:100.



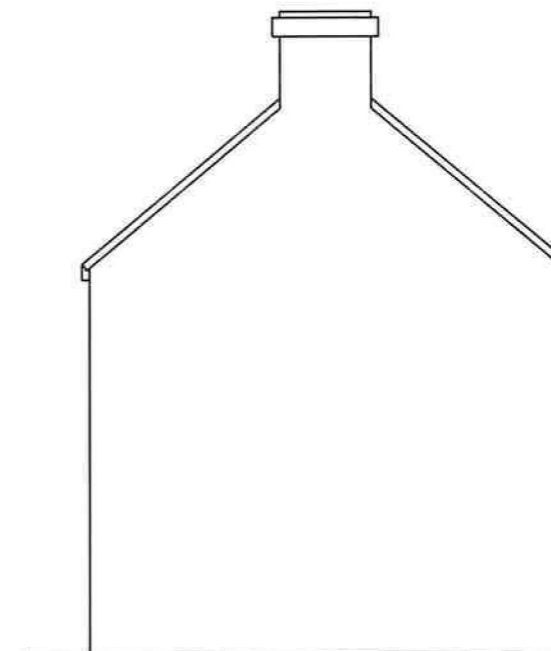
EXISTING BACK ELEVATION (SOUTH-EAST). SCALE: 1:100.



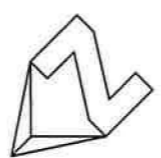
EXISTING GROUND FLOOR PLAN. SCALE: 1:100.



EXISTING FIRST FLOOR PLAN. SCALE: 1:100.



EXISTING FRONT ELEVATIONS (SOUTH-WEST & NORTH-EAST). SCALE: 1:100.



PROPOSED ALTERATIONS AND EXTENSION TO DWELLING HOUSE AT CAHERHURLEY, BODYKE, CO. CLARE FOR MARK GUERIN.

*CONTENTS: DWELLING HOUSE:
EXISTING FLOOR PLANS & ELEVATIONS.*

*SCALE: 1:100.
DATE: JULY 2024.
DRAWN: TONY O'LEARY,
WHITEGATE,
CO. CLARE.*