



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Registered Post

Oisín O'Malley
14 Glencragga
Newmarket-On-Fergus
Co. Clare
V95 X6F5

17th November 2025

Section 5 referral Reference R25-80 – Oisín O'Malley

Is the construction of a small extension (14m²) at the rear of the house to connect to existing shed and convert all into a habitable space development and if so, is it exempted development?

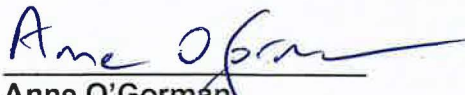
A Chara,

I refer to your application received on 17th September 2025 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 Coimisiún Pleanála of the required fee, refer a declaration for review by An Coimisiún 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, Placemaking & Economic Development

An Roinn Pleanála

An Stiúthóireacht Forbairt Gheilleagrach

Áras Contae an Chláir, Bóthar Nua, Inis, Co. an Chláir, V95 DXP2

Planning Department

Economic Development Directorate

Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2



CLARE COUNTY COUNCIL

SECTION 5 OF THE PLANNING AND DEVELOPMENT ACT 2000 AS AMENDED

DECLARATION ON DEVELOPMENT AND/OR EXEMPTED DEVELOPMENT

Chief Executive's Order No:

86641

Reference Number:

R25-80

Date Referral Received:

17th September 2025

Date Referral Received:

28th October 2025

Name of Applicant:

Oisin O'Malley

Location of works in question:

14 Glencragga, Newmarket-on-Fergus,
Co. Clare, V95 X6F5

Section 5 referral Reference R25-80 – Oisin O'Malley

Is the construction of a small extension (14m²) at the rear of the house to connect to existing shed and convert all into a habitable space 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) The works as indicated in submitted documents from the referrer and received on 17th September 2025 and as further information on 28th October 2025
- (c) The form of exempted development as set out in Schedule 2, Part 1, Class 1 of the Planning and Development Regulations 2001 (as amended)
- (d) Part 9 'Restrictions on Exempted Development' of the Planning and Development Regulations 2001 (as amended).

AND WHEREAS Clare County Council has concluded:



- (a) The proposal to construct a small extension with a floor area of 14m² at the rear of the subject property at 14 Glencragga, Newmarket on Fergus County Clare, is development and **is exempted development** in accordance with the provision of Schedule 2, Part 1, Class 1 of the Planning and Development Regulations 2001 (as amended).
- (b) The proposal to connect the proposed extension to the existing shed and to convert all into habitable space is considered to be development and is **not exempted development** as there is no form of class of exempted development provisions in either the Planning and development Act 2000 (as amended) or in the Planning and Development Regulations 2001 (as amended) which would provide for this to be exempted development.

ORDER: Whereas by Chief Executive's Order No. CE / 25/18 dated 7th October 2025, Gordon Daly, 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 Candace Ingram, 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, Candace Ingram, Senior Executive Planner, hereby declare that the proposal to construct a small extension with a floor area of 14m² at the rear of the subject property at 14 Glencragga, Newmarket on Fergus, Co. Clare is considered development which is exempted development. The proposal to connect the proposed extension to the existing shed and to convert all into habitable space is considered development which is not exempted development.

Signed:


CANDACE INGRAM
SENIOR EXECUTIVE PLANNER 

Date:

17th November 2025

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

Reference No.: R25-80



Comhairle Contae an Chláir
Clare County Council

Section 5 referral Reference R25-80

Is the construction of a small extension (14m²) at the rear of the house to connect to existing shed and convert all into a habitable space development and if so, is it exempted development?

AND WHEREAS, Oisin O'Malley 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) The works as indicated in submitted documents from the referrer and received on 17th September 2025 and as further information on 28th October 2025,
- (c) The form of exempted development as set out in Schedule 2, Part 1, Class 1 of the Planning and Development Regulations 2001 (as amended).
- (d) Part 9 'Restrictions on Exempted Development' of the Planning and Development Regulations 2001 (as amended).

And whereas Clare County Council has concluded:

- (a) The proposal to construct a small extension with a floor area of 14m² at the rear of the subject property at 14 Glencragga, Newmarket on Fergus County Clare, is development and **is exempted development** in accordance with the provision of Schedule 2, Part 1, Class 1 of the Planning and Development Regulations 2001 (as amended).
- (b) The proposal to connect the proposed extension to the existing shed and to convert all into habitable space is considered to be development and is **not exempted development** as there is no form of class of exempted development provisions in either the Planning and development Act 2000 (as amended) or in the Planning and Development Regulations 2001 (as amended) which would provide for this to be exempted development.

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 to construct a small extension with a floor area of 14m² at the rear of the subject property at 14 Glencragga, Newmarket on Fergus, Co. Clare **constitutes development** which is **exempted development** as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.

The proposal to connect the proposed extension to the existing shed and to convert all into habitable space constitutes development which is not exempted development.

A handwritten signature in blue ink, appearing to read 'Anne O'Gorman', with a horizontal line drawn underneath it.

Anne O'Gorman
Staff Officer
Planning, Placemaking & Economic Development

17th November 2025

CLARE COUNTY COUNCIL SECTION 5 DECLARATION OF EXEMPTION APPLICATION

FILE REF:	R25-80
APPLICANT(S):	Oisín O Malley
REFERENCE:	Is Planning Permission required to construct a small extension (14m ²) at the rear of house, to connect to existing shed and convert all into habitable space?
LOCATION:	14 Glencragga Newmarket on Fergus County Clare.
Date Further Information sought;	14 th October 2025
Date Further Information received;	28 th October 2025
DUE DATE:	17 th November 2025

Further Information (FI)

Fi was sought from the referrer on 14th October 2025 and the referrer responded to this on 28th October 2025. The following is the FI as was sought (in italics) a summary, and a brief assessment of the applicant's response is provided after each of the points

"Consideration has been given to the works as are proposed.

It is noted that the existing garage is detached from the main dwelling house and there is no form of class of exempted development provision that allows for the change of use of a detached garage to residential use, without a grant of planning permission. Accordingly, this element of the proposed development is not considered to be exempted development.

Consideration can be given to the proposal to construct an extension with a floor area of 14m² onto the rear of the subject dwelling. The proposed extension is being considered in terms of potential compliance with the form of exempted development as is set out in Schedule 2, Part 1, Class 1- 'Development within the curtilage of a house' of the Planning and Development Regulations 2001 (as amended).

To allow for a full assessment, **Further information** is required, as follows.

As per the form of exempted development as is set out in Schedule 2, Part 1, Class 1 'Development within the curtilage of a house,' of the Planning and Development Regulations 2001 (as amended), the following limitations apply in terms of extensions to the rear of dwellings:

- 1) *"Any window proposed at ground level in any such extension shall not be less than 1 meter from the boundary it faces"*

The details as submitted do not show any proposed windows on the proposed extension and it is not possible to determine if the above limitation can be complied with. Please submit elevation drawings and revised floor plans, with all proposed windows included, to allow for consideration of this matter.

- 2) *The following limitation also applies.*

"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".

I note that the rear wall of the house does not include a gable. Elevation drawings of the proposed extension have not been submitted and details as to the proposed height of the walls of the extension have not been provided and hence, it cannot be determined if the above condition and limitation can be complied with. Please submit appropriately scaled elevation drawings of the proposed extension to show that the above requirement can be met

Please submit details in order to address the above points and to allow for further consideration of this Section V Referral.

Should you require assistance with regard to this Section V Referral, you are invited to contact the Area Planner at amccarthy@clarecoco.ie to arrange to discuss this matter".

Applicants' response;

1. Please see attached elevation drawings and updated plan drawings. Only 1 window is proposed and is located well over 1m from either boundary.

2. Please see attached elevation drawings showing the height of the proposed extension. This new extension will tie into the existing wall and does not exceed the height of the of the rear wall of the house.

- Floor plans of the proposed extension have been submitted
- Elevation drawings of the proposed extension have been submitted.

Assessment;

It is noted that the first section of the FI request as was sent to the referrer advised that the existing garage is detached from the main dwelling house and there is no form of class of exempted development provision that allows for the change of use of a detached garage to residential use, without a grant of planning permission. Accordingly, this element of the proposed development is not considered to be exempted development. Accordingly, this element of the proposed development is not exempted development.

Consideration is then given to the proposed extension to the rear of the dwelling, the particulars of which are as follows.

- The proposed extension has a floor area of 14m² and is single storey in form
- The roof of the proposed extension is to be flat roofed in nature, and the maximum height of the roof will not exceed the height of the rear wall of the house.
- Details as to any proposed windows are now provided and just one window, on the side elevation of the proposed extension, is proposed and this would be located in excess of 1m from any boundary it faces.

Conclusion;

Having regard to the details originally received and as received in response to the request for FI, I am satisfied that the proposed extension is exempted development in keeping with the provisions of Schedule 2, Part 1, Class 1 of the Planning and Development Regulations 2001 (as amended).

The proposal to change the use of the existing garage to use as part of the house is not exempted development as there is no provision for the change of use of a detached garage to use as part of a dwelling house under either the Planning Act or the Planning Regulations (as amended)

Recommendation

The following question has been referred to the Planning Authority:

Is planning permission is required to construct a small extension (14m²) at the rear of the referrers house to connect to existing shed and convert all into habitable space.

The question has been asked as to whether the above stated work is development and if so, is it 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) The works as indicated in submitted documents from the referrer and received on 17th September 2025 and as further information on 28th October 2025
- (c) The form of exempted development as set out in Schedule 2, Part 1, Class 1 of the Planning and Development Regulations 2001 (as amended)
- (d) Part 9 'Restrictions on Exempted Development' of the Planning and Development Regulations 2001 (as amended).

And whereas Clare County Council (Planning Authority) has concluded as follows;

- (i) The proposal to construct a small extension with a floor area of 14m² at the rear of the subject property at 14 Glencragga, Newmarket on Fergus County Clare, is development and **is exempted development** in accordance with the provision of Schedule 2, Part 1, Class 1 of the Planning and Development Regulations 2001 (as amended),
- (ii) The proposal to connect the proposed extension to the existing shed and to convert all into habitable space is considered to be development and is **not exempted development** as there is no form of class of exempted development provisions in either the Planning and development Act 2000 (as amended) or in the Planning and Development Regulations 2001 (as amended) which would provide for this to be exempted development.

A McCarthy 13/11/25
Name: Annemarie McCarthy

Executive Planner

Date 13/11/25

Garreth Ruane
Name: Garreth Ruane

Senior Executive Planner

Date 13/11/25



Outlook

FW: Section 5 Referral Reference R25-80 - Oisín O Malley

From Planning Office <planoff@clarecoco.ie>**Date** Tue 28/10/2025 11:44**To** Brian Fahy <bfahey@clarecoco.ie> 3 attachments (229 KB)

scan_omalley_ois_2025-10-28-10-44-22.pdf; Front Glencragga.pdf; Rear Ele Glencragga.pdf;



From: Oisín O'Malley <...>**Sent:** Tuesday 28 October 2025 11:20**To:** Planning Office <planoff@clarecoco.ie>**Cc:** Annemarie McCarthy <...>**Subject:** Section 5 Referral Reference R25-80 - Oisín O Malley

Hi,

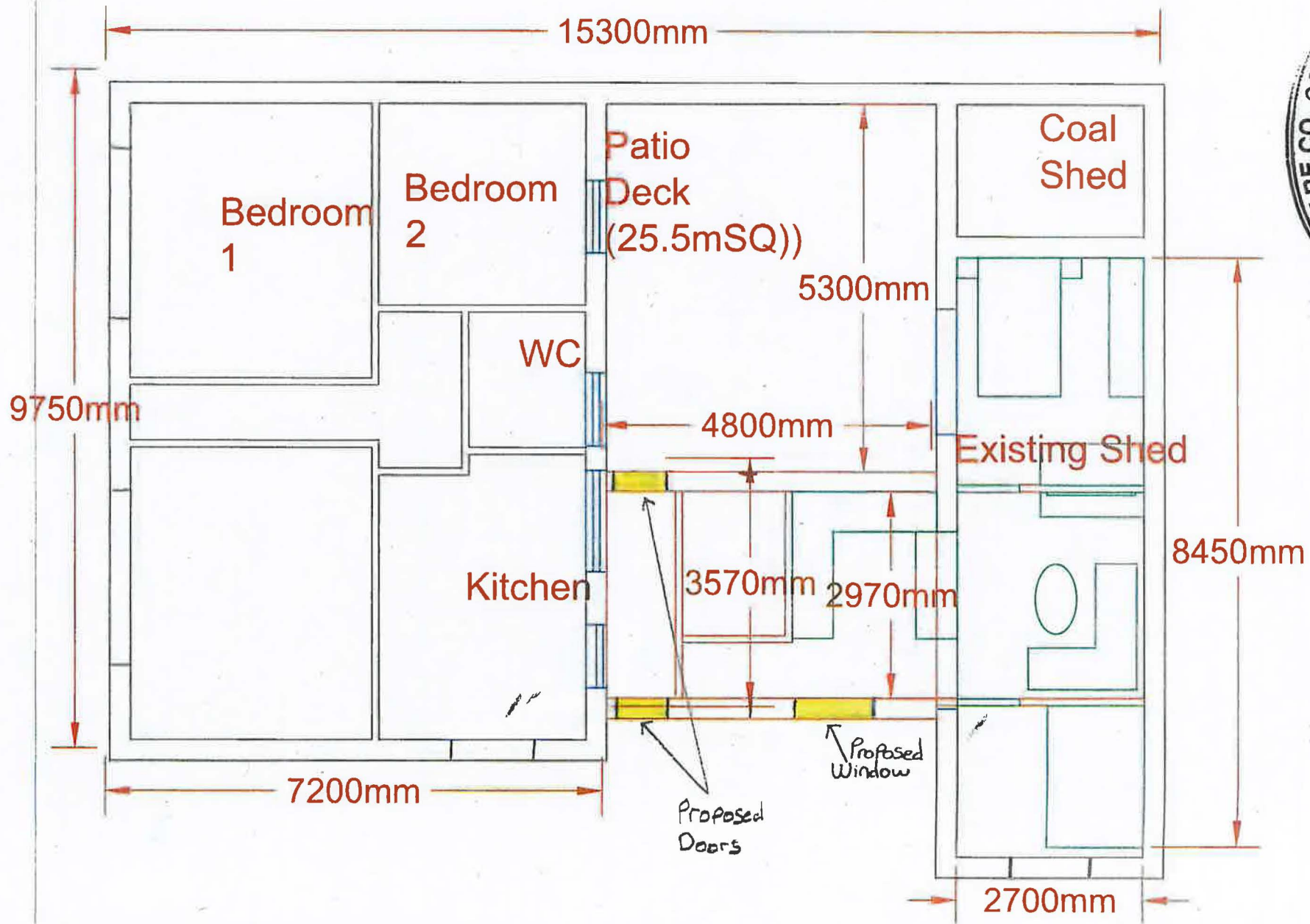
Please see attached the additional information requested as part of this section 5 application. With regards to your request:

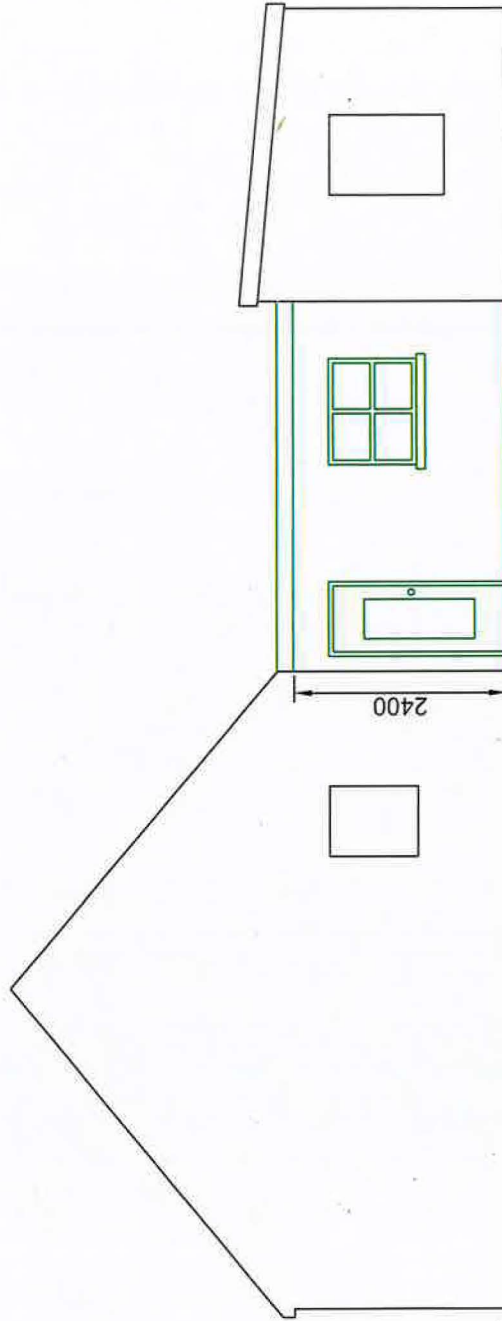
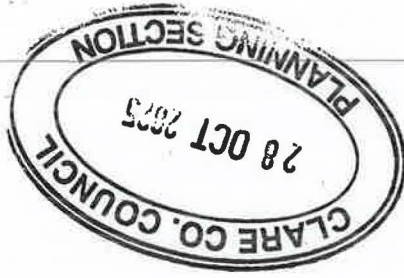
1. Please see attached elevation drawings and updated plan drawings. Only 1 window is proposed and is located well over 1m from either boundary.
2. Please see attached elevation drawings showing the height of the proposed extension. This new extension will tie into the existing wall and does not exceed the height of the of the rear wall of the house.

Let me know if any additional information is required.

Kind regards,
Oisín

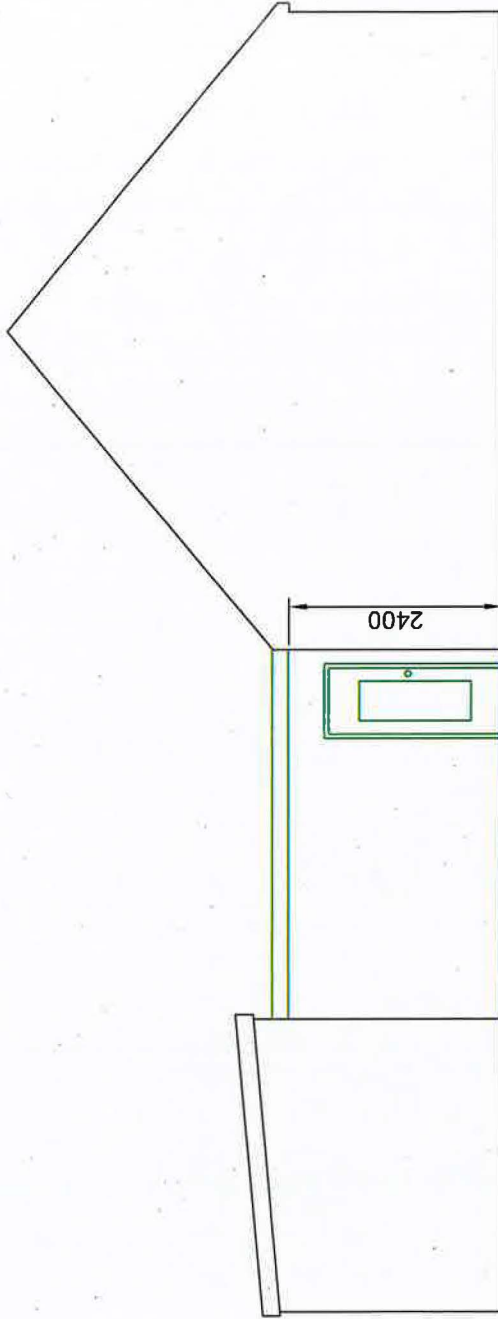
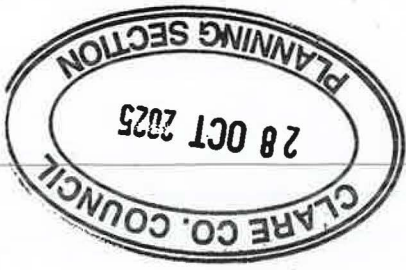
Proposed Layout





FRONT ELEVATION

Front Elevation and details of proposed window and door



REAR ELEVATION

Rear Elevation



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Oisín O'Malley
14 Glencragga
Newmarket-On-Fergus
Co. Clare
V95 X6F5

14/10/2025

Section 5 referral Reference R25-80 – Oisín O'Malley

Is the construction of a small extension (14m²) at the rear of the house to connect to existing shed and convert all into a habitable space development and if so, is it exempted development?

A Chara,

I refer to your application received on 17th September 2025 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:

Having regard to the details as submitted with this Section 5 Referral application, the following further information is required to allow for a full assessment of this referral:

- 1) *"Any window proposed at ground level in any such extension shall not be less than 1 meter from the boundary it faces"*

The details as submitted do not show any proposed windows on the proposed extension and it is not possible to determine if the above limitation can be complied with. Please submit elevation drawings and revised floor plans, with all proposed windows included, to allow for consideration of this matter.

- 2) *"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"*

I note that the rear wall of the house does not include a gable. Elevation drawings of the proposed extension have not been submitted and details as to the proposed height of the walls of the extension have not been provided and hence, it cannot be determined if the above condition and limitation can be complied with. Please submit appropriately scaled elevation drawings of the proposed extension to show that the above requirement can be met.

It is also noted that the existing garage is detached from the main dwelling house and there is no form of class of exempted development provision that allows for the change of use of a detached garage to residential use, without a grant of planning permission. Accordingly, this element of the proposed development is not considered to be exempted development.

An Roinn Pleanála
An Stiúirtheacht 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



Should you require assistance with regard to this Section V Referral, you are invited to contact the Area Planner at amccarthy@clarecoco.ie to arrange to discuss this matter.

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, Placemaking & Economic Development

CLARE COUNTY COUNCIL
SECTION 5 DECLARATION OF EXEMPTION APPLICATION

FILE REF:	R25-80
APPLICANT(S):	Oisin O Malley
REFERENCE:	Is Planning Permission required to construct a small extension (14m ²) at the rear of house, to connect to existing shed and convert all into habitable space?
LOCATION:	14 Glencragga Newmarket on Fergus County Clare.
DUE DATE:	15 th October 2025

Site Location

The subject property is located within the Glencragga housing estate at Newmarket on Fergus County Clare and No. 14 Glencragga estate is a single storey end of terrace house, with a shed constructed in the rear garden.

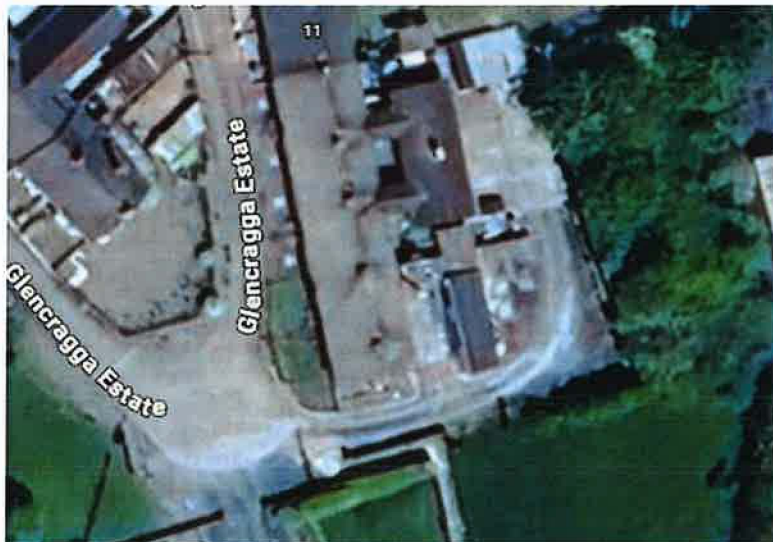


Figure 1: Aerial view of property.



Figure 2; Front view of property.

Planning History on subject site.

00-102

Kevin McCormack	14 Glen Cragga Newmarket on Fergus	to retain shed at the rear of dwelling
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Retention permission was granted.

APPROPRIATE ASSESSMENT

The subject site is located within the settlement of Newmarket on Fergus and consists of minor extensions within the curtilage of a house.

Having regard to:

- The small scale and domestic nature of the development,
- The location of the development within the garden area of an existing dwelling
- The absence of a pathway to the European site,

It is considered that the proposed development would not be likely to have a significant effect individually, or in combination with other plans and projects, on the Natura 2000 network and appropriate assessment is not therefore required.

Background to Referral

This Referral under Section 5(3)(a) of the Planning and Development Act 2000 (as amended) has been made by Oisín O Malley who is the owner of the subject property/

The applicant is seeking a Section 5 Declaration as to whether or not planning permission is required to construct a small extension (14m²) at the rear of the referrers house to connect to existing shed and convert all into habitable space.

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

- The referrer would like to build a small extension to the rear of his house and to connect it to the existing shed and to convert the full area into habitable space
- The proposed new extension has a floor area of 14m², and the existing shed has an area of 23m², so the total floor area would be 37m².
- The new extension will leave a yard space of 25.44m² and this will be a patio deck.
- The proposed extension will have a flat roof to match the shed roof and will be single storey.
- The referrer has submitted a plan view of the proposed development.
- The referrer has submitted photos of the house and existing shed.

Statutory Provisions

Planning and Development Act, 2000 (as amended)

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

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

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

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

Planning & Development Regulations, 2001, as amended

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

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

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

1. (a)

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

(b)

Subject to paragraph (a), where the house is terraced or semi-detached, the floor area of any extension above ground level shall not exceed 12 square metres.

(c)

Subject to paragraph (a), where the house is detached, the floor area of any extension above ground level shall not exceed 20 square metres.

2. (a)

Where the house has been extended previously, the floor area of any such extension, taken together with the floor area of any previous extension or extensions constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 40 square metres.

(b)

Subject to paragraph (a), where the house is terraced or semi-detached and has been extended previously, the floor area of any extension above ground level taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 12 square metres.

(c)

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

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

4. (a)

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

(b)

Where the rear wall of the house includes a gable, the height of the walls of any such extension shall not exceed the height of the side walls of the house.

(c)

The height of the highest part of the roof of any such extension shall not exceed, in the case of a flat roofed extension, the height of the eaves or parapet, as may be appropriate, or, in any other case, shall not exceed the height of the highest part of the roof of the dwelling.

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

6. (a)

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

(b)

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

(c)

Where the house is detached and the floor area of the extension aboveground level exceeds 12 square metres, any window proposed at above ground level shall not be less than 11 metres from the boundary it faces.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ix) consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other

structure would remain available for such use and such objective has been specified in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,

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

(xi) obstruct any public right of way,

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

Assessment

Basis of Referral

The applicant is seeking a Section 5 Declaration as to whether or not planning permission is required to construct a small extension (14m²) at the rear of the referrers house to connect to existing shed (floor area 23m²) and convert all into habitable space.

Matters considered:

The Planning and Development Regulations 2001 (as amended) Schedule 2, Part 1, Class 1 have been considered in full, and the consideration can be outlined as follows.

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

Assessment: The extension is to be located to the rear of the existing dwelling house. The existing shed that it is proposed to change into use as part of the dwelling is detached from the dwelling and is not attached to the dwelling, as is required under the above class of exemption.

1.

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

Assessment: Complied with. The floor area of the proposed new extension is 14m².

(b)

Subject to paragraph (a), where the house is terraced or semi-detached, the floor area of any extension above ground level shall not exceed 12 square metres.

Assessment: The house is semi-detached as it is an end of terrace house. The proposed extension is at ground level only.

(c) Subject to paragraph (a), where the house is detached, the floor area of any extension above ground level shall not exceed 20 square meters.

Assessment: The proposed extension is single storey 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.

Assessment: Noted, this is complied with. The floor area of the proposed new extension is 14m² in total.

(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 meters.

Assessment: Complied with. The house is semi-detached, and the extension is single storey only.

(c)

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

Assessment: Complied with. The proposed extension is located on the ground floor only and the house is a semi-detached house.

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

Assessment: Not applicable – the proposed extension is at ground floor level only.

4. (a)

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

Assessment: The rear wall of the house does not include a gable. The applicant has not submitted elevation drawings of the proposed extension and hence the height of the proposed walls of the extension cannot be seen, and it cannot be determined if the above condition and limitation has been complied with. **Further Information shall be sought from the referrer.** ✓

- (b)

Where the rear wall of the house includes a gable, the height of the walls of any such extension shall not exceed the height of the side walls of the house.

Assessment: Complied with. The rear wall of the house does not have a gable.

- (c)

The height of the highest part of the roof of any such extension shall not exceed, in the case of a flat roofed extension, the height of the eaves or parapet, as may be appropriate, or, in any other case, shall not exceed the height of the highest part of the roof of the dwelling.

Assessment: It is not clear if this has been complied with as the referrer has not submitted full elevation drawings of the overall proposed extended house. **Further Information shall be sought from the referrer.**

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

Assessment: Complied with. From the proposed layout plan submitted, the referrer has shown a proposed patio deck area to the rear of the dwelling to serve as an area of private open space. The area of the proposed patio is 25.5m².

6. (a)

Any window proposed at ground level in any such extension shall not be less than 1 meter from the boundary it faces.

Assessment: The details as submitted do not show any proposed windows on the existing shed and it is not possible to determine if this is complied with. **Further Information shall be sought from the referrer.**

(b)

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

Assessment. Not applicable as the proposed extension is single storey in form.

(c)

Where the house is detached and the floor area of the above ground level exceeds 12 square meters, any window proposed at above ground level shall not be less than 11 meters from the boundary it faces.

Assessment; Not applicable.

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

Assessment: This can be complied with.

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,

No applicable to the proposal

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

No applicable to the proposal

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

Not applicable to this proposal

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

The proposed extension is located to the rear of the dwelling and there is limited visibility of same from the public road. The proposed will not have a negative impact on the character of visual amenities of the area.

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

Not applicable to this proposal.

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

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

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

The proposed development will not have a significant effect on European sites.

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

No applicable in this instance

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

Not applicable to this proposal.

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

Not applicable in this instance

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

Not applicable in this instance

(xi) obstruct any public right of way,

Not applicable in this instance

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

The development site is not within an Architectural Conservation Area.

Conclusion

In this case the proposal to convert the use of the existing shed at the rear of this property to habitable space is not exempted development as this structure is separate from the existing dwelling and there is no class of exemption that provides for the change of use of a detached garage to residential use without planning permission.

Further consideration can be given to the proposal to extend the dwelling house, and further information is required as regards this element of the proposed work.

Having regard to the details submitted and my assessment of this Section V Referral, Further Information is required.

Recommendation.

I recommend that the following **further information** be sought from the referrer:

Consideration has been given to the works as are proposed.

It is noted that the existing garage is detached from the main dwelling house and there is no form of class of exempted development provision that allows for the change of use of a detached garage to residential use, without a grant of planning permission. Accordingly, this element of the proposed development is not considered to be exempted development.

Consideration can be given to the proposal to construct an extension with a floor area of 14m² onto the rear of the subject dwelling. The proposed extension is being considered in terms of potential compliance with the form of exempted development as is set out in Schedule 2, Part 1, Class 1-'*Development within the curtilage of a house*' of the Planning and Development Regulations 2001 (as amended).

To allow for a full assessment, **Further information** is required, as follows.

As per the form of exempted development as is set out in Schedule 2, Part 1, Class 1 '*Development within the curtilage of a house*,' of the Planning and Development Regulations 2001 (as amended), the following limitations apply in terms of extensions to the rear of dwellings:

- 1) "*Any window proposed at ground level in any such extension shall not be less than 1 meter from the boundary it faces*"

The details as submitted do not show any proposed windows on the proposed extension and it is not possible to determine if the above limitation can be complied with. Please submit elevation drawings and revised floor plans, with all proposed windows included, to allow for consideration of this matter.

2) The following limitation also applies.

"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".

I note that the rear wall of the house does not include a gable. Elevation drawings of the proposed extension have not been submitted and details as to the proposed height of the walls of the extension have not been provided and hence, it cannot be determined if the above condition and limitation can be complied with. Please submit appropriately scaled elevation drawings of the proposed extension to show that the above requirement can be met

Please submit details in order to address the above points and to allow for further consideration of this Section V Referral.

Should you require assistance with regard to this Section V Referral, you are invited to contact the Area Planner at amccarthy@clarecoco.ie to arrange to discuss this matter.

Annemarie McCarthy

Executive Planner

Date: 14/10/25

A McCarthy

aec planner

14/10/25

GA

SEP.

14/10/25



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Oisín O'Malley
14 Glencragga
Newmarket-On-Fergus
Co. Clare
V95 X6F5

17/09/2025

Section 5 referral Reference R25-80 – Oisín O'Malley

Is the construction of a small extension (14m²) at the rear of the house to connect to existing shed and convert all into a habitable space development and if so, is it exempted development?

A Chara,

I refer to your application received on 17th September 2025 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

Please note that the Planning Authority is considering the matter and a reply will issue to you in due course.

Mise, le meas

Brian Fahy
Planning Department
Economic Development Directorate

An Roinn Pleanála
An Stiúrthóireacht Forbairt Gheilleagrach

Áras Contae an Chláir, Bóthar Nua, Inis, Co. an Chláir, V95 DXP2

Planning Department
Economic Development Directorate

Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2





COMHAIRLE

CONTAE

AN CHLÁIR

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

17/09/2025 10:07:33

Receipt No. L1CASH/0/384279
***** REPRINT *****

OISIN O'MALLEY
14 GLENCRAGGA
NEWMARKET ON FERGUS
CO. CLARE

R25/80

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

Total : 80.00 EUR

Tendered :
Cash 80.00

Change : 0.00

Issued By : L1CASH - DEIRDRE FRENCH
From : MAIN CASH OFFICE LODGEMENT AF
Vat reg No.0033043E

P07

CLARE COUNTY COUNCIL
COMHAIRLE CONTAE AN CHLÁIR

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

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



R25-80

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	Oisín O'Malley 14 Glencragga Newmarket-On-Fergus Co. Clare V95X6F5
(b) Telephone No.:	
(c) Email Address:	
(d) Agent's Name and address:	_____ _____ _____ _____

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 Planning Required to Construct a Small Extension (14m²) at the rear of house to connect to Existing Shed and Convert all into Habitable Space?

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

I would like to build a Small extension to the rear of my house, connecting it to my existing shed and converting the full area into habitable space. The new extension is 14m² and the existing shed is 22.8m², totalling = 37m². The new extension will leave a yard space of 25.44m², and will be a patio deck. The extension will have a flat roof to match the shed roof, and will be single story.

- (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)

Plan View of proposed development

OSI Map

Photo of house and existing shed

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

(a) Postal Address of the Property/Site/Building for which the declaration sought:	14 Glencragga Newmarket on Fergus Co. Clare V95 X6 F5
(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 of house + land
(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? If so please supply details:	No
(g) Were there previous planning application/s on this site? If so please supply details:	Yes, Sled, 26 th April 2000 (Retention) (P00-0102)
(h) Date on which 'works' in question were completed/are likely to take place:	November 2025

SIGNED:



DATE:



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



**Tailte
Éireann**

**CENTRE
COORDINATES:**
ITM 539154,668518

PUBLISHED: 03/02/2025
ORDER NO.: 50446306_1

MAP SERIES: 1:1,000
1:2,500
MAP SHEETS: 4498-10
4498-B

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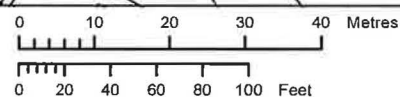
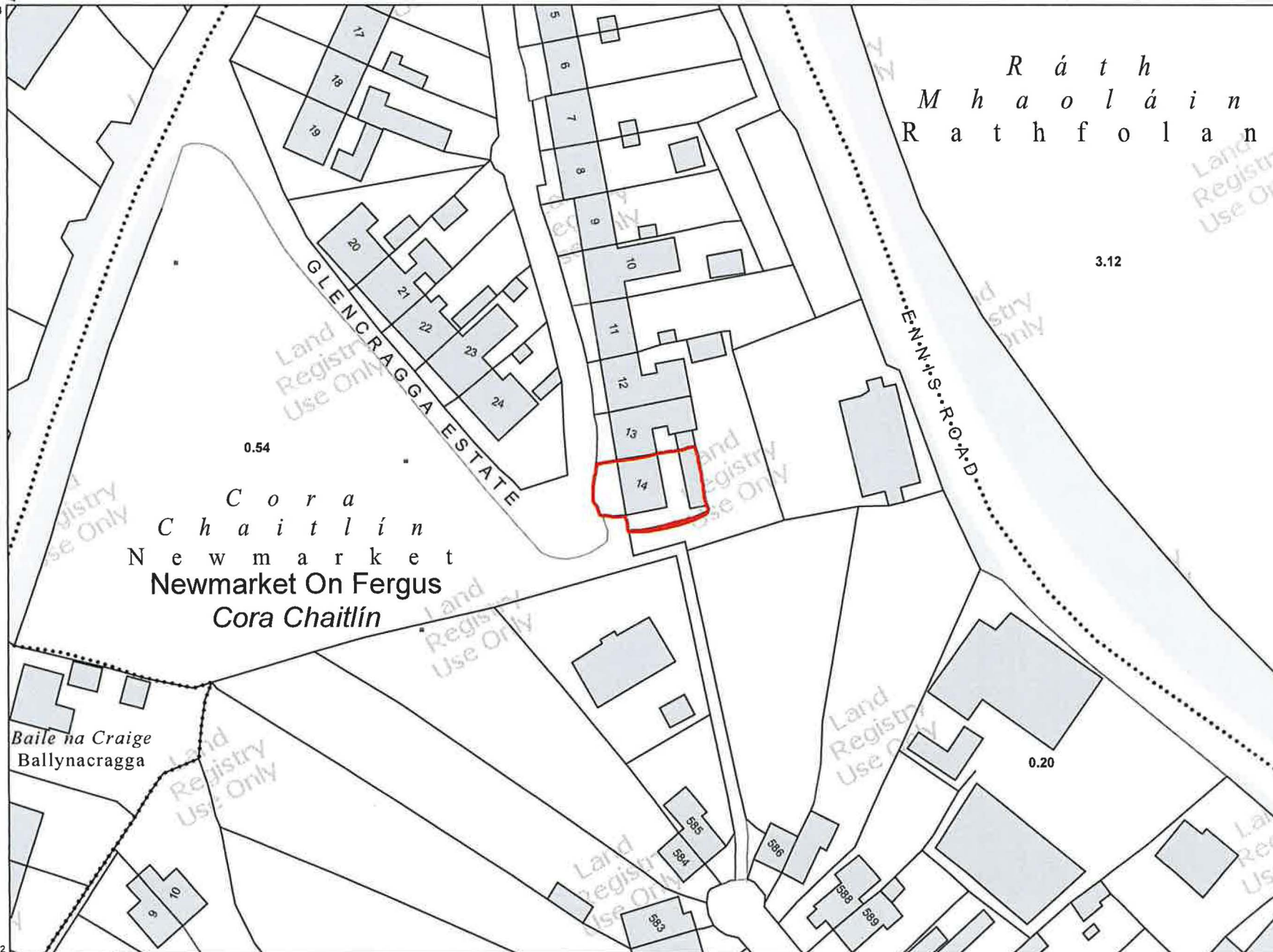
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LEGEND:
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Proposed Layout

- New
 - Existing

