



**Limerick City and County Council**

**Planning Department**

**Section 5 Application**

**DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT**

Applicant's Name: Audrey Cummins

Applicant's Address: Rathcannon Athlacca Kilmallock Co. Limerick V35 P832

\_\_\_\_\_  
\_\_\_\_\_

Telephone No.



Name of Agent (if any):

\_\_\_\_\_

Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Telephone No.

\_\_\_\_\_

Address for Correspondence:

As above

Location of Proposed development (Please include **EIRCODE**):

Description of Proposed development:

A 39.9m<sup>2</sup> extension to the rear of an existing house

Section of Exempted Development Regulations and/or section of the Act under which exemption is claimed:

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Is this a Protected Structure or within the curtilage of a Protected Structure.

NO

Applicant's interest in site: Owner

List of plans, drawings, etc. submitted with this application:

Site Map

Proposed plans for the house

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Have any previous extensions/structures been erected at this location. YES/NO

If Yes please provide floor areas of all existing structures:

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Signature of Applicant (or Agent) Audrey Cummins

**NOTES:** Application must be accompanied by:

- (a) Fee of €80
- (b) Site location map
- (c) Site layout plan
- (d) Dimensioned plans and elevations of the structure and any existing structures.

- (e) Where the declaration is in respect of a farm building, a layout identifying the use of each existing building together with floor area of each building.

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Application to be forwarded to:

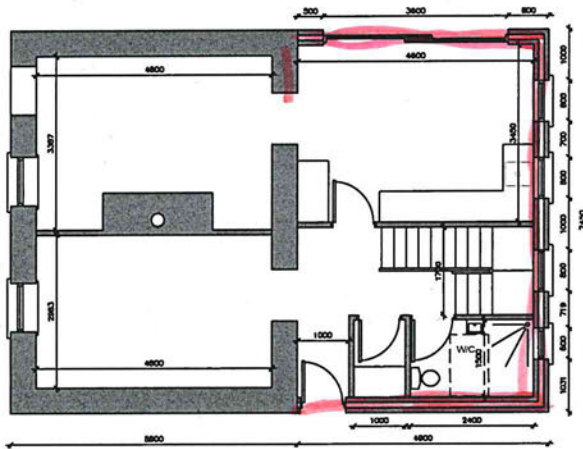
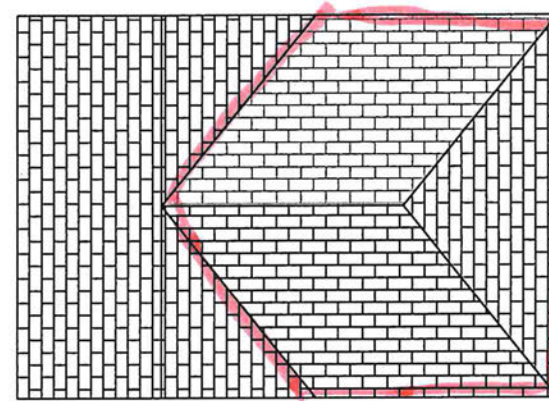
**Planning Department,  
Limerick City & County Council,  
Dooradoyle,  
Limerick,  
V94 XF67**

**Enquiries:  
Telephone: 061-556556  
E-Mail: [planning@limerick.ie](mailto:planning@limerick.ie)**

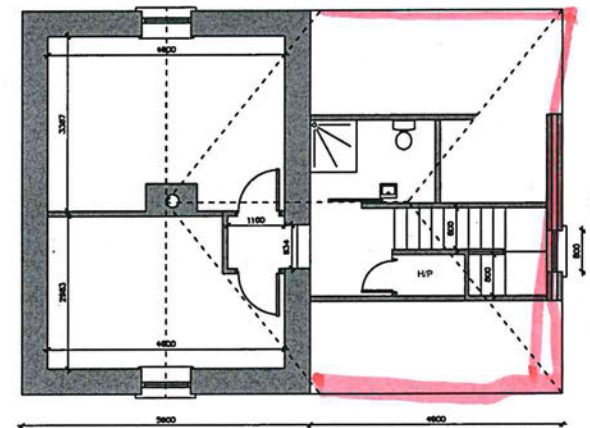
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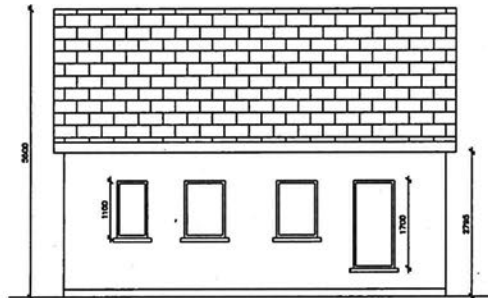
PROPOSED SIDE ELEVATION -  
SCALE 1:100



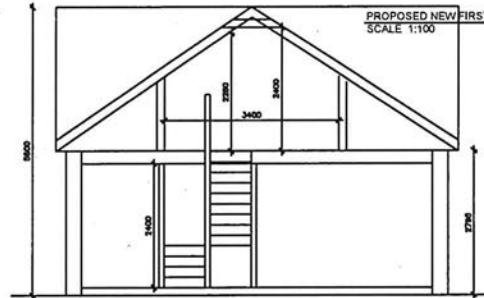
PROPOSED NEW GROUND FLOOR PLAN  
SCALE 1:100



PROPOSED NEW FIRST FLOOR PLAN  
SCALE 1:100

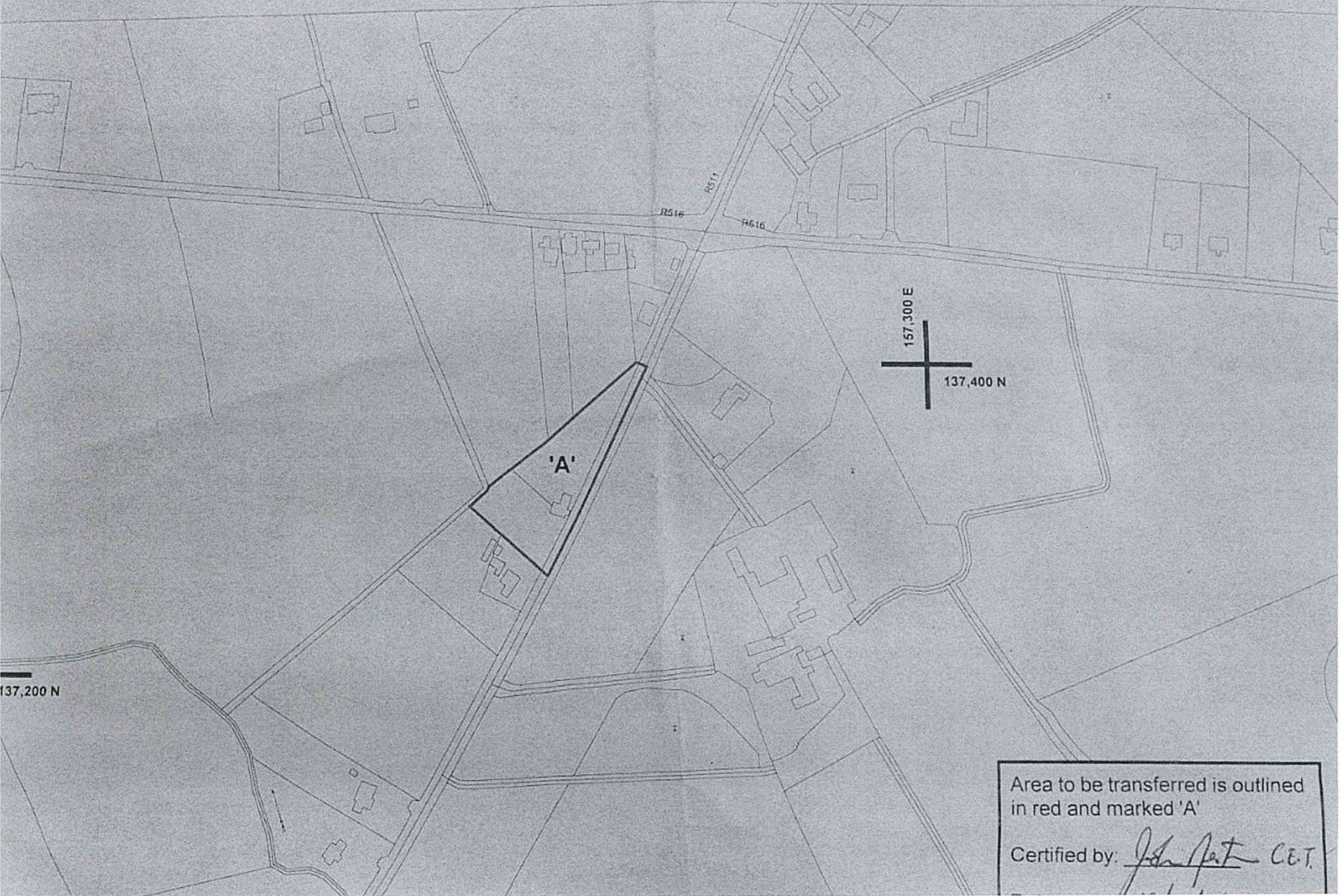


PROPOSED REAR ELEVATION -  
SCALE 1:100



DRAWINGS FOR CONSTRUCTION			
Client:	Audrey Cummins	Scale:	A3 @ 1:100
Job:	PROPOSED DWELLING EXT	Date:	08-01-2026
Drawing:	Proposed WORKS	Drawn:	M. MESKELL
		Sign:	CONSTRUCTION
DRAWING PREPARED BY		M. MESKELL	

Transfer of property at Crean Athlacca, Kilmallock, Co. Limerick from MICHAEL KENNY to DEREK KENNY



Area to be transferred is outlined in red and marked 'A'

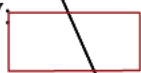
Certified by: *John Pet* C.E.T.



# SITE LAYOUT

Scale 1:500

INDICATES SITE BOUNDARY  
(Area = 0.52 Hectares)



Proposed New Extension:



Existing dwelling:



Existing hedgerow in place

Existing hedgerow in place

Septic tank Location

31375

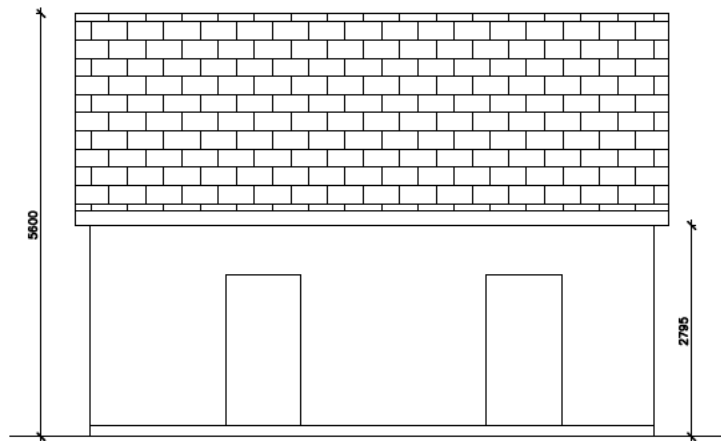
37292

Proposed extension

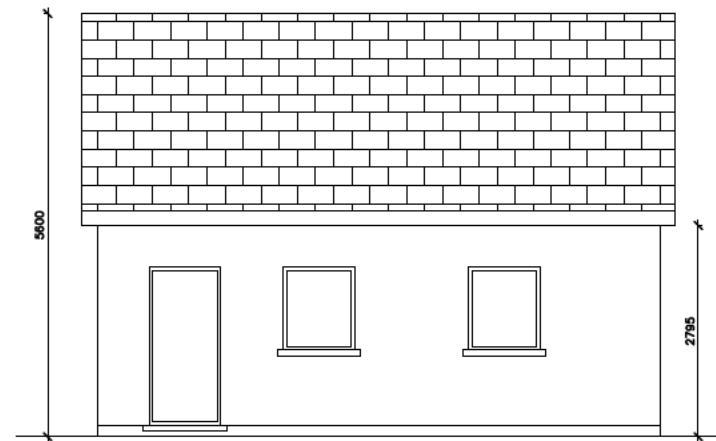
Existing dwelling cottage

Existing hedgerow in place

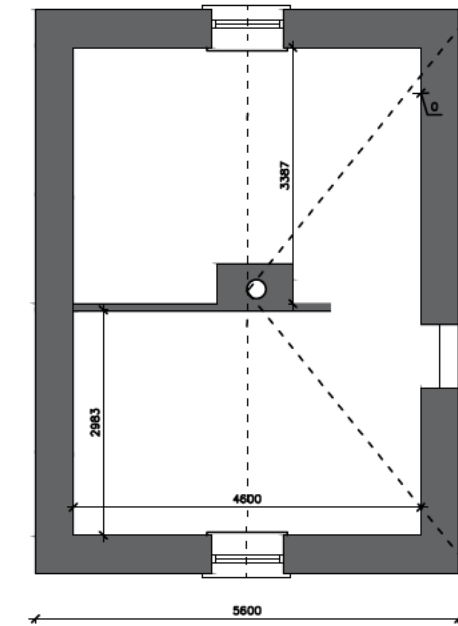
Client: Audrey Cummins	Scale: A3 @ 1:500
Job: Proposed Dwelling House Ext.	Date: 25-02-2026
Drawing: SITE LAYOUT	Drawn: M.M.
DRAWING PREPARED BY	Step: PLANNING
MESKELL ENG LTD.	



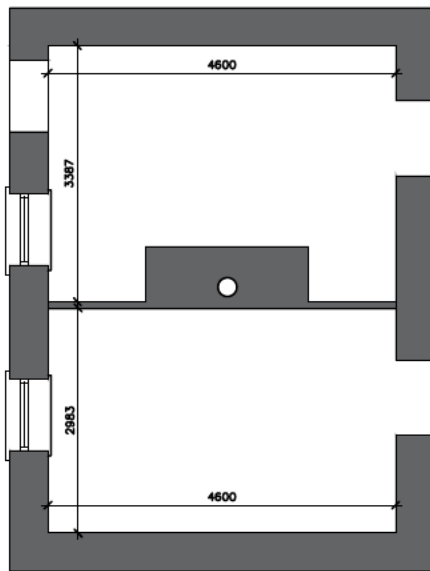
EXISTING REAR ELEVATION -  
SCALE 1:100



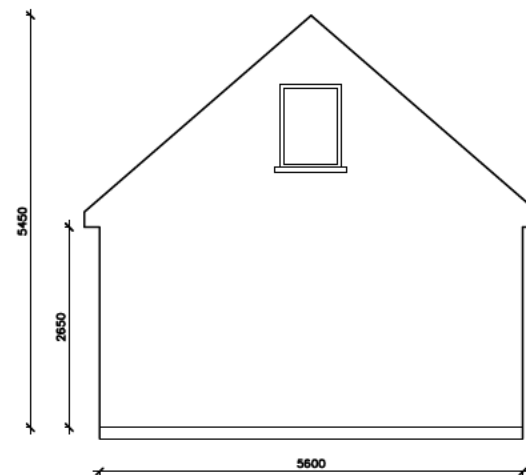
EXISTING FRONT ELEVATION -  
SCALE 1:100



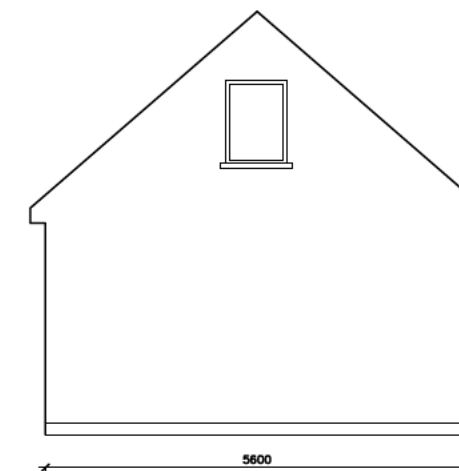
EXISTING FIRST FLOOR PLAN  
SCALE 1:100



EXISTING GROUND FLOOR PLAN  
SCALE 1:100



EXISTING SIDE ELEVATION -  
SCALE 1:100



EXISTING SIDE ELEVATION -  
SCALE 1:100

DRAWINGS FOR CONSTRUCTION

Client: Audrey Cummins	Scale: A3 @ 1:100
Job: PROPOSED DWELLING EXT	Date: 08-01-2026
Drawing: EXISTING DWELLING	Drawn: M.MESKELL
	Stage: CONSTRUCTION
DRAWING PREPARED BY	
M.MESKELL	

## Report on application under Section 5 of the Planning and Development Act 2000 (as amended)

<b>File Reference number</b>	<b>EC-035-26</b>
<b>Applicant(s)</b>	<b>Audrey Cummins</b>
<b>Location</b>	<b>Crean Athlacca, Kilmmalock Co. Limerick V35 ET81</b>

### **Description of Site and Surroundings:**

The site is located in the townland of Crean, situated off the L-1415 local road. With an area of 0.52 hectares, the site features an existing two storey dwelling house, with debris piled to the rear. The site and dwelling are currently vacant and in a state of dereliction.

### **Proposal:**

This is an application requesting a Section 5 Declaration on whether the following works are or are not development or are or are not exempted development:

- The applicant is proposing a two-storey rear extension of 39.9m<sup>2</sup> to the existing structure, including the provision of a shower and toilet room on both the ground and first floor, other room uses have not been shown on the submitted drawings
  - It is also noted from street view imagery that between April 2022 and the time of this application, front and side extensions have been demolished (see appendices 3-5)
- Due to the state of dereliction, it is considered the proposal also includes significant refurbishment works to restore habitable use of the structure

This Section 5 declaration includes the following:

- Application form
- Site location
- Elevations
- Floor plans

### **Planning History:**

*Subject site:*

**062065 – Withdrawn** - Construction of extension to side and rear and new roof over existing flat room and demolish existing front annex.

*Adjacent:*

**211482 – Withdrawn** – The construction of a dwelling house, garage, entrance, waste water treatment system, percolation area and all associated site works and retention permission for a mobile home for the duration of the build.

**23146 – Withdrawn** – Construction of a dwellinghouse, garage, entrance, wastewater treatment system, percolation area and all associated site works and retention permission for a mobile home for the duration of the build.

**Enforcement History:**

N/A.

**Relevant An Coimisiún Pleanála referrals:**

RL3395  
RL.3352  
ABP-304512-19

**Assessment:**

Consideration as to whether a development constitutes exempted development or not is governed by Sections 4 and 5 of the Planning and Development Act 2000 (as amended) and Articles 5, 6, 7, 8, 9, 10 and 11 of the Planning and Development Regulations 2001 (as amended).

**Is the proposal development?**

**Section 2(1) in this Act, except where otherwise requires –**

“**habitable house**” means a house which—

- (a) is used as a dwelling,
- (b) is not in use but when last used was used, disregarding any unauthorised use, as a dwelling and is not derelict, or
- (c) was provided for use as a dwelling but has not been occupied;

‘**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.

‘**structure**’ as any building, structure, excavation, or other thing constructed or made on, in or under any land, or part of a structure so defined, and –

- (b) in relation to a protected structure or proposed protected structure, includes—
  - (i) the interior of the structure,
  - (ii) the land lying within the curtilage of the structure,
  - (iii) any other structures lying within that curtilage and their interiors, and
  - (iv) all fixtures and features which form part of the interior or exterior of any structure or structures referred to in subparagraph (i) or (iii);

Section 3(1) defines ‘**development**’ as ‘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’.

**The proposal concerns the significant refurbishment of the existing structure and construction of a 39.9m<sup>2</sup> two-storey rear extension, constituting ‘works’ and ‘development’.**

### **Is the proposal exempted development?**

As can be seen in appendix 3, the site inspection found missing doors and windows, overgrown vegetation penetrating the wall head and eaves, damaged masonry along the front elevation and an exposed internal structure. Following this site inspection, it is considered that the existing site structure is in a state of dereliction, whereby residential use has been abandoned and works required to restore use as a habitable house would constitute a material change of use.

Similar cases relating to extensions and renovations to derelict dwellings have been referred to the board, RL3395, RL.3352 ABP-304512-19. In all three cases, the board concluded that the works would constitute a material change of use for reasons relating to the concepts of ‘abandonment of the residential use’ and the resumption of a habitable use of each building. It was the board’s opinion that the works would not be exempt from planning permission given the potential planning implications from the change of use.

Under the definition of “habitable house” in the Planning and Development Act 2000 (as amended), a building that was last used as a dwelling and is not derelict qualifies as a habitable house. The structure in this case is derelict and therefore does not constitute a habitable house or a functioning dwellinghouse for the purposes of Part 1 of Schedule 2 of the Planning and Development Regulations (2001). Accordingly, the proposed rear extension would not consist of works to a dwellinghouse within the meaning of exempted development Class 1, and the works would, in any event, involve substantial reconstruction.

Furthermore, Section 4(1)(h) of the Planning and Development Act 2000 (as amended) does not apply, as the works would materially affect the external appearance due to the need for substantial reconstruction. The works therefore constitute development but not exempted development.

### **Article 9 Restrictions**

The proposed development is restricted by Article 9 of the Planning and Development Regulations 2001 (as amended):

- Following the changes and closure of the site entrance over the period demonstrated in appendices 3-5, the development proposal would reinstate access to a public road by the material widening of the site entrance triggering Article 9 (1)(a)(ii) – *consist of or comprise 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* & Article 9 (1)(a)(iii) – *endanger public safety by reason of traffic hazard or obstruction of road users*

### **Appropriate Assessment**

Having regard to the nature and scale of the proposed development and the absence of proximity or connectivity to a Natura 2000 European Site, no Appropriate Assessment issues arise and it is not considered 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. An appropriate assessment screening report and determination is attached to this report.

### **Environmental Impact Assessment**

Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations it has been concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.


### **Conclusion/Recommendation**

The proposal comprising the significant refurbishment of the existing structure and construction of a 39.9m<sup>2</sup> two-storey rear extension, is considered development. However, as the structure is derelict and no longer functions as a habitable house under the meaning given by Section 2(1) of the Planning and Development Act 2000 (as amended), the proposed works would constitute the reinstatement of residential use, requiring substantial reconstruction outside the scope of exempted development regulation.

Regard has been had to –

- (a) Section 2, 3 and 4 of the Planning and Development Act 2000 (as amended)
- (b) Article 6, 9 & Schedule 2 of the Planning and Development Regulations, 2001 (as amended)
- (c) The plans & particulars submitted with the application received on 27th February 2026.

It is therefore considered that said works are development but not exempted development under Section 2(1) and 3(1) of the Planning and Development Act 2000 (as amended) and Article 9 (1)(a)(ii) of the Planning and Development Regulations 2001 (as amended).

<b>Graduate Planner</b>	<b>Isaac Cunningham</b>	<b>Date: 19/03/2026</b>
<b>Signature:</b>		
<b>Senior Executive Planner</b>	Barry Henn	<b>Date: 24/03/2026</b>

Signature:	<i>B. Harv</i>	
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### Appendix 1: AA PN01 Screening Form

STEP 1: Description of the project/proposal and local site characteristics:	
(e) File Reference No:	EC-035-26
(e) Brief description of the project or plan:	The proposal concerns the significant refurbishment of the existing structure and construction of a 39.9m <sup>2</sup> two-storey rear extension.
(e) Brief description of site characteristics:	The site is located in the townland of Crean, situated off the L-1415 local road. With an area of 0.52 hectares, the site features an existing two storey dwelling house, with debris piled to the rear. The site and dwelling are currently vacant and in a state of dereliction.
(e) Relevant prescribed bodies consulted: e.g. DHLGH (NPWS), EPA, OPW	N/A
(e) Response to consultation:	N/A

STEP 2: Identification of relevant Natura 2000 sites using Source-Pathway-Receptor model and compilation of information on Qualifying Interests and conservation objectives.				
European Site (code)	List of Qualifying Interest/Special Conservation Interest <sup>1</sup>	Distance from proposed development <sup>2</sup> (km)	Connections (Source-Pathway-Receptors)	Considered further in screening Y/N
Tory Hill SAC	<a href="https://www.npws.ie/protected-sites/sac/000439">https://www.npws.ie/protected-sites/sac/000439</a>	6.378	None	N
Glen Bog SAC	<a href="https://www.npws.ie/protected-sites/sac/001430">https://www.npws.ie/protected-sites/sac/001430</a>	8.271	None	N



STEP 3: Assessment of Likely Significant Effects	
(a) Identify all potential direct and indirect impacts that may have an effect on the conservation objectives of a European site, taking into account the size and scale of the project under the following headings:	
Impacts:	Possible Significance of Impacts: (duration/Magnitude etc)
<b>Construction phase e.g</b> <ul style="list-style-type: none"> <li>- Vegetation clearance</li> <li>- Demolition</li> <li>- Surface water runoff from soil excavation/infill/landscaping (including borrow pits)</li> <li>- Dust, noise, vibration</li> </ul>	None. No direct encroachment or hydrological connection

<ul style="list-style-type: none"> <li>- Lighting disturbance</li> <li>- Impact on groundwater/dewatering</li> <li>- Storage of excavated/construction materials</li> <li>- Access to site</li> <li>- Pests</li> </ul>	
<b>Operation phase e.g.</b> <ul style="list-style-type: none"> <li>- Direct emission to air and water</li> <li>- Surface water runoff containing contaminant or sediment</li> <li>- Lighting disturbance</li> <li>- Noise/vibration</li> <li>- Changes to water/groundwater due to drainage or abstraction</li> <li>- Presence of people, vehicles and activities</li> <li>- Physical presence of structures (e.g collision risk)</li> <li>- Potential for accidents or incidents</li> </ul>	None. No direct encroachment or hydrological connection
<b>In-combination/Other</b>	N/A.

<b>(a) Describe any likely changes to the European site:</b>	
<p>Examples of the type of changes to give consideration to include:</p> <ul style="list-style-type: none"> <li>- Reduction or fragmentation of habitat area</li> <li>- Disturbance to QI species</li> <li>- Habitat or species fragmentation</li> <li>- Reduction or fragmentation in species density</li> <li>- Changes in key indicators of conservation status value (water or air quality etc)</li> <li>- Changes to areas of sensitivity or threats to QI</li> <li>- Interference with the key relationships that define the structure or ecological function of the site</li> </ul>	None. No direct encroachment or hydrological connection.

<b>(a) (Are 'mitigation' measures necessary to reach a conclusion that likely significant effects can be ruled out at screening?)</b>
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

<b>STEP 4: Screening Determination Statement</b>
<b>The assessment of significance of effects:</b>

Describe how the proposed development alone or in-combination is/is not likely to have significant effects on European site (s) in view of its conservation objectives.		
Given the sites size, no hydrological connection to any SAC/SPA, no encroachment on any SAC/SPA and the limited scale of the development proposed, an AA is not required.		
<b>Conclusion:</b> AA is not required.		
	Tick as appropriate:	Recommendation:
i. It is clear that there <b>is no likelihood</b> of significant effects on a European Site	<input checked="" type="checkbox"/>	The proposal can be screened out: Appropriate Assessment not required.
ii. It is <b>uncertain</b> whether the proposal will have a significant effect on a European Site	<input type="checkbox"/>	<input type="checkbox"/> Request further information to complete screening  <input type="checkbox"/> Request NIS  <input type="checkbox"/> Refuse planning permission
iii. <b>Significant effects</b> are likely	<input type="checkbox"/>	<input type="checkbox"/> Request NIS  <input type="checkbox"/> Refuse planning permission
<b>Signature and Date of Recommending Officer:</b>	 Isaac Cunningham, Graduate Planner _____ 19/03/2026	
<b>Signature and Date of the Decision Maker:</b>	 _____ 24/03/2026	

## Appendix 2: EIA Screening

Establishing if the proposal is a 'sub-threshold development':	
Planning Register Reference:	EC-035-26
Development Summary:	The proposal concerns the significant refurbishment of the existing structure and construction of a 39.9m <sup>2</sup> two-storey rear extension.
Was a Screening Determination carried out under Section 176A-C?	<p style="text-align: center;">Yes. no further action required</p> <p style="text-align: center;">No. Proceed to <b>Part A</b></p>
<b>A. Schedule 5 Part 1</b> - Does the development comprise a project listed in Schedule 5, <b>Part 1</b> , of the Planning and Development Regulations 2001 (as amended)? (Tick as appropriate)	
Yes. specify class: [insert here] _	<b>EIA is mandatory</b>  No Screening required
<input checked="" type="checkbox"/> No	Proceed to <b>Part B</b>
<b>B. Schedule 5 Part 2</b> - Does the development comprise a project listed in Schedule 5, <b>Part 2</b> , of the Planning and Development Regulations 2001 (as amended) <b>and</b> does it meet/exceed the thresholds? (Tick as appropriate)	
<input checked="" type="checkbox"/> No. the development is not a project listed in Schedule 5, Part 2	<b>No Screening required</b>
<input type="checkbox"/> Yes the project is listed in Schedule 5, Part 2 <b>and</b> meets/exceeds the threshold, specify class (including threshold): _[specify class & threshold here]_	<b>EIA is mandatory</b>  No Screening required
Yes the project is of a type listed <b>but</b> is <i>sub-threshold</i> : [insert here] _	Proceed to <b>Part C</b>
<b>c. If Yes</b> , has Schedule 7A information/screening report been submitted?	
Yes, Schedule 7A information/screening report has been submitted by the applicant	<b>Screening Determination required</b>

<p>No, Schedule 7A information/screening report has not been submitted by the applicant</p>	<p><b>Preliminary Examination required</b></p>
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**Signature and Date of Recommending Officer:**



Isaac Cunningham, Graduate Planner

\_\_\_\_\_  
19/03/2026

**Signature and Date of the Decision Maker:**



\_\_\_\_\_  
24/03/2026

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**Appendix 3. Site**  
**Visit Photos**  
**(16/03/26)**





**Appendix 4. Satellite Imagery April 2009**



**Appendix 5. Satellite Imagery April 2022**





Comhairle Cathrach  
& Contae **Luimnigh**

**Limerick City**  
& County Council

Pleanáil, Oidhreacht agus Corn Ryder  
Comhairle Cathrach agus Contae Luimnigh  
Bóthar Thuar an Daill  
Tuar an Daill  
Luimneach. V94 WV78

Planning, Heritage and Ryder Cup  
Limerick City and County Council  
Dooradoyle Road  
Dooradoyle  
Limerick. V94 WV78

t: +353 (0) 61 556 000

## **PLANNING, HERITAGE AND RYDER CUP**

### **REG POST:**

**Audrey Cummins,  
Rathcannon,  
Athlaca,  
Co. Limerick.  
V35 P832**

**EC/035/26**

**25 March 2026**

**Re: Declaration under Section 5**

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Dear Sir/Madam,

I refer to the above application for Section 5 Declaration on Development and Exempted Development.

Please find herewith a copy of Council's decision on same.

Yours faithfully,

**(for) Senior Planner,  
Development Management**

**LIMERICK CITY & COUNTY COUNCIL**

**APPROVED OFFICER'S ORDER**

**SECTION 5 – DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT**

**No. AOO/DC/2026/314**

**File Ref No. EC/035/26**

**SUBJECT:** Declaration under Section 5.  
Planning and Development Act 2000 as amended  
Planning and Development Regulations 2001 as amended

**RE:** **A two-storey rear extension at Crean, Athlacca, Kilmallock, Co. Limerick**

**ORDER:** Whereas by Director General's Order No. DG/2026/033 dated 18<sup>th</sup> March 2026, Dr. Pat Daly, Director General, Limerick City & County Council did, pursuant to the powers conferred on him by Section 154 of the Local Government Act, 2001, (as amended by the Local Government Reform Act, 2014 and the Local Government (Mayor of Limerick) and Miscellaneous Provisions Act, 2024), delegate unto Barry Henn, Senior Executive Planner the functions as defined in the Local Government Acts, 1925 to 2024.

Now therefore pursuant to the delegation of the functions aforesaid, I, Barry Henn, Senior Executive Planner, having considered the report and recommendation of Isaac Cunningham, Graduate Planner dated 19/03/2026 hereby order that a Declaration under Section 5 of the Planning and Development Act 2000 (as amended) be issued to Audrey Cummins, Rathcannon, Athlacca, Co. Limerick to state that the works as described above is

**Development and is NOT Exempt Development.**

Signed

B. Henn

SENIOR EXECUTIVE PLANNER, PLANNING, HERITAGE & RYDER CUP

Date

25/03/2026

Certified to be a true copy of Approved Officer's Order, Planning & Development Order No. AOO/DC/2026/314 dated 25/03/2026, pursuant to Section 151(7) of the Local Government Act 2001

Signed:

B. Henn

SENIOR EXECUTIVE PLANNER, PLANNING, HERITAGE & RYDER CUP



Comhairle Cathrach  
& Contae Luimnigh

Limerick City  
& County Council

Pleanáil, Oidhreacht agus Corn Ryder  
Comhairle Cathrach agus Contae Luimnigh  
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## **SECTION 5 – DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT**

**DECLARATION NO.**

**EC/035/26**

**Name and Address of Applicant:** Audrey Cummins, Rathcannon, Athlacca, Co. Limerick

**Agent:** N/A

**Whether** the two-storey rear extension at Crean, Athlacca, Kilmallock, Co. Limerick is or is not Development or is or is not Exempted Development. The works as described on the plans submitted with the application on the 27<sup>th</sup> day of February 2026.

**AND WHEREAS** the Planning Authority has concluded that the two-storey rear extension at Crean, Athlacca, Kilmallock, Co. Limerick **DOES NOT** come within the scope of exempted development under Section 2(1) and 3(1) of the Planning and Development Act 2000 (as amended) and Article 9 (1)(a)(ii) of the Planning and Development Regulations 2001 (as amended). See Report attached.

**NOW THEREFORE** the Planning Authority in exercise of the powers conferred on it by Section 5(2) (a) of the Planning and Development Act 2000 (as amended) hereby decides that the said development as described above is **Development and is NOT Exempt Development.**

Signed on behalf of the said Council

Date:

25/03/2026

**NOTE:** A Declaration on Development or Exemption issued by Limerick City & County Council may be referred to An Coimisiún Pleanála on payment of €220 for review within 4 weeks after the issuing of the declaration.