

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 39.9m² extension to the rear of an existing house

The proposed development consists of the repair refurbishment and extension of an existing dwelling house.

Works include internal alterations, construction of a modest extension and provision of a first floor within the existing roof structure along with all associated site works. The existing structure including walls, roof form and chimney is retained and the development does not involve demolition or replacement of the dwelling.

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

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
- Site Layout plan
- Proposed plans for the house
- Pre drawings

Have any previous extensions/structures been erected at this location YES

If Yes please provide floor areas of all existing structures:

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.

Application to be forwarded to:

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

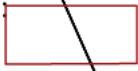
**Enquiries:
Telephone: 061-556556
E-Mail: planning@limerick.ie**



SITE LAYOUT

Scale 1:500

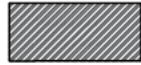
INDICATES SITE BOUNDARY
(Area = 0.52 Hectares)



Proposed New Extension:



Existing dwelling:



Existing hedgerow in place

Septic tank Location

31375

Proposed extension

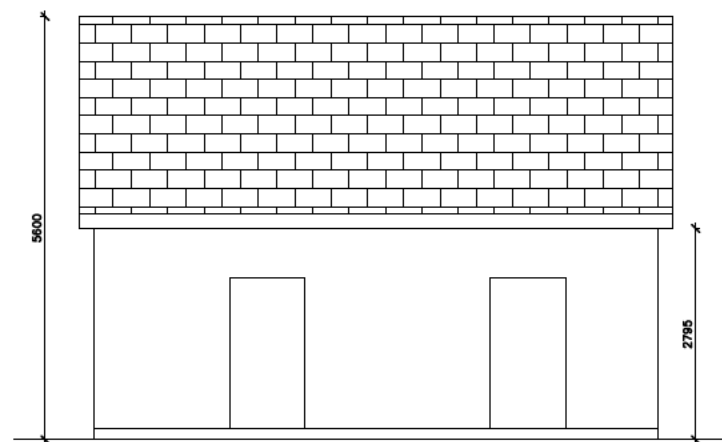
Existing dwelling cottage

37292

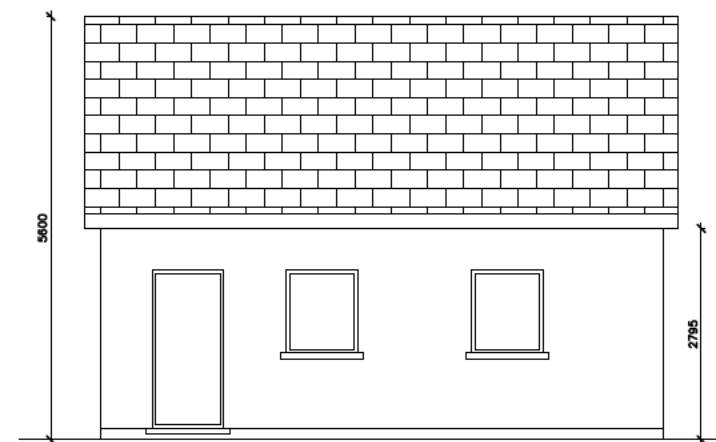
Existing hedgerow in place

Existing hedgerow in place

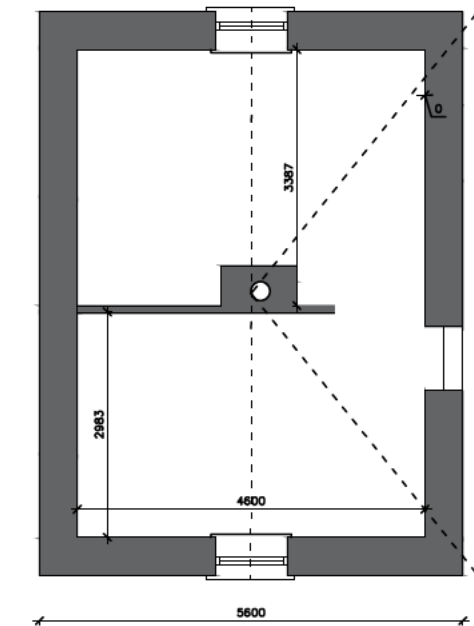
Client: Audrey Cummins	Scale: A3 @ 1:500
Job: Proposed Dwelling House Ext.	Date: 25-02-2025
Drawing: SITE LAYOUT	Drawn: M.M.
DRAWING PREPARED BY	Step: PLANNING
MESKELL ENG LTD.	



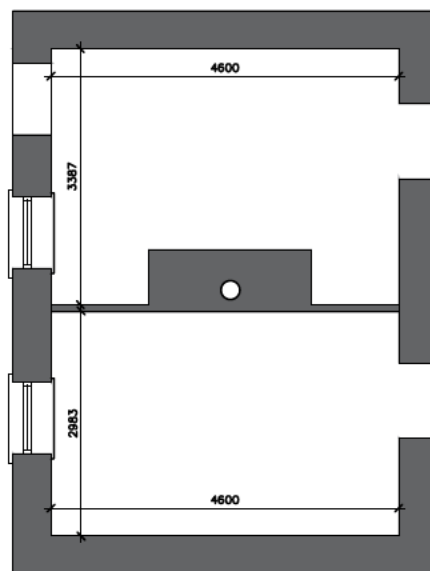
EXISTING REAR ELEVATION -
SCALE 1:100



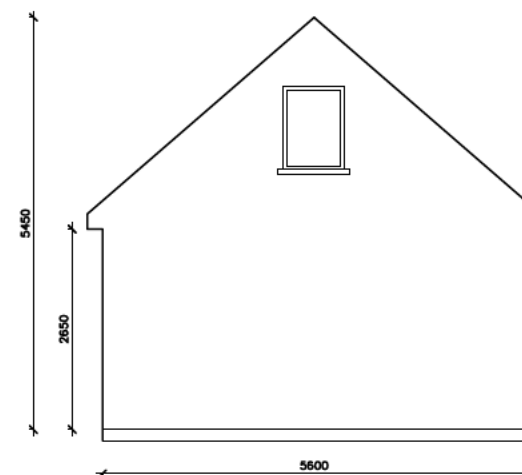
EXISTING FRONT ELEVATION -
SCALE 1:100



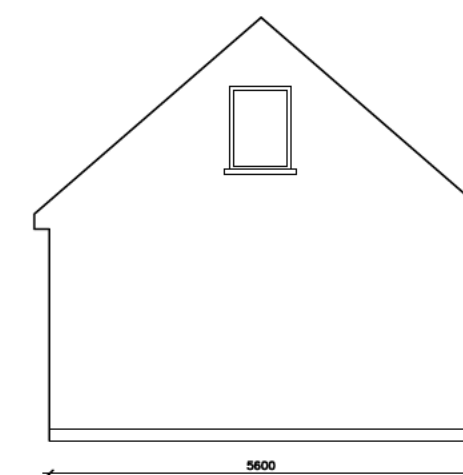
EXISTING FIRST FLOOR PLAN
SCALE 1:100



EXISTING GROUND FLOOR PLAN
SCALE 1:100



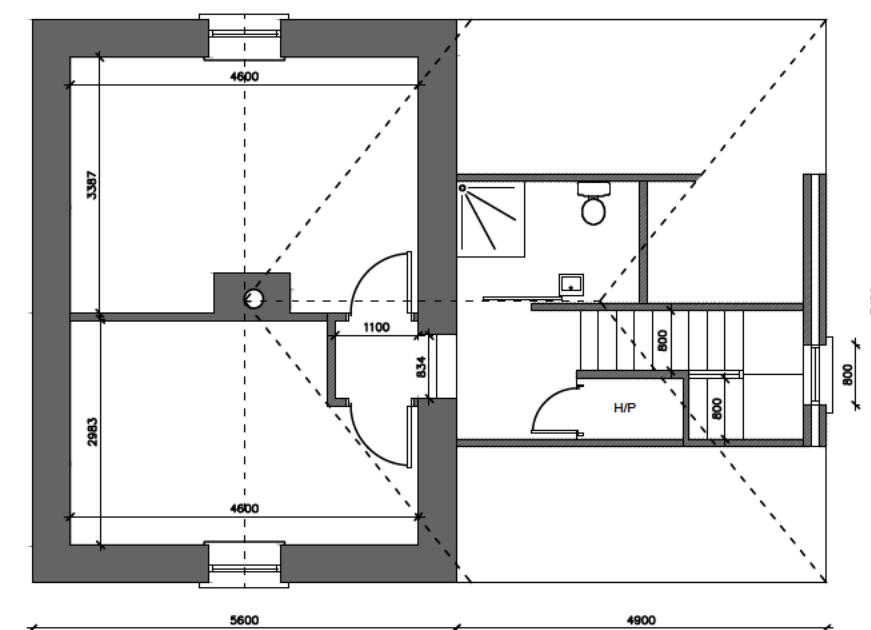
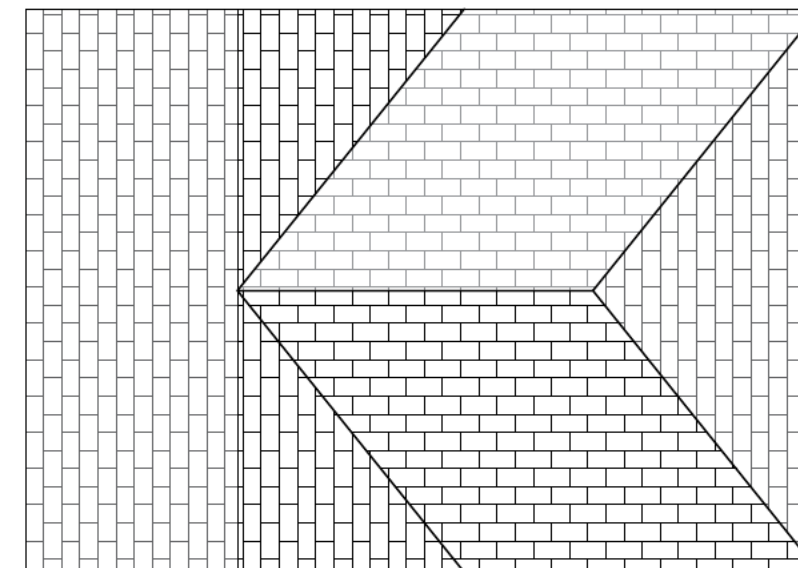
EXISTING SIDE ELEVATION -
SCALE 1:100



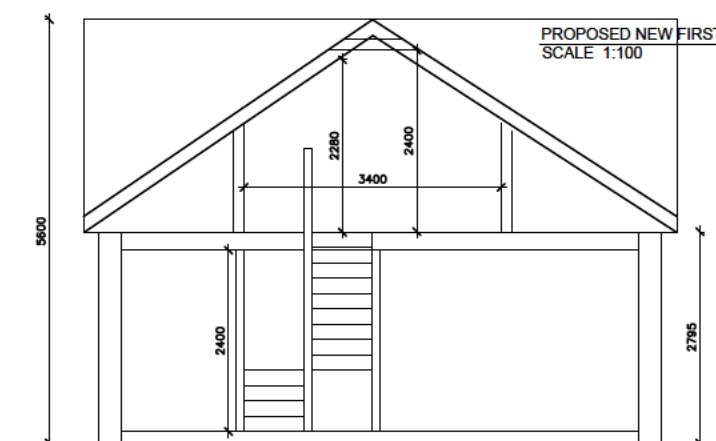
EXISTING SIDE ELEVATION -
SCALE 1:100

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			



PROPOSED NEW	FIRST FLOOR PLAN
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	
		Stage: CONSTRUCTION
DRAWING PREPARED BY M. MESKELL		



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& Contae Luimnigh

Limerick City
& County Council

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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,
Athlacca,
Co. Limerick.
V35 P832**

EC/059/26

20 April 2026

Re: Declaration under Section 5

Dear Sir/Madam,

I refer to the above Section 5 Application received by the Planning Department on the 15th April 2026.

The application submitted refers to an identical development proposal previously considered by the Planning Authority under reference EC-035-26, in respect of which a declaration of Not Exempt was issued on 25 March 2026. That declaration remains within the statutory appeal period of four weeks from the date of issue. Pending the expiration of that appeal period, the Planning Authority is not in a position to accept or consider further applications relating to the same development proposal. Accordingly, the current submission cannot be progressed at this time.

Yours faithfully,


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

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

File Reference number	EC-059-26
Applicant(s)	Audrey Cummins
Location	Crean Athlacca, Kilmallock Co. Limerick V35 ET81

Description of Site and Surroundings:

The site is located in the townland of Crean which is to the west of Bruff and there is access off the L-1415 local road. There is a vernacular dwelling on site which has been vacant for many years with signs 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 the repair and refurbishment of the house, construction of rear extension and provision of first floor in existing dwelling.

This Section 5 declaration includes the following:

- Personal letter
- Cover letter
- Application form
- Site location
- Elevations
- Floor plans

Planning History:

Subject site:

EC-035-26. Proposal comprising the significant refurbishment of the existing structure and construction of a 39.9m² two-storey rear extension, is considered development and not exempt development.

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’.

Is the proposal exempted development?

As can be seen in the photos appended to this report, 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.

Additional supporting documentation is included with the application; a cover letter outlines the applicant's personal circumstances and long-established links to the area. A photographic survey of the dwelling is submitted along with a letter from the ESB which confirms the dwelling was last connected to the electricity network in 2014, it is considered this demonstrates the period of vacancy which has resulted in the dwelling becoming derelict.

The cover letter provides details on the existing structure and previous residential use, the applicants state this dwelling has been temporarily vacant and the lack of services reflect non-occupation and a schedule of works is also included.

It is also noted that on the previous planning application which was withdrawn on site, concerns were raised in relation to the septic tank system and the suitability of same to serve a dwelling which would be extended.

The additional information submitted by the applicant does not change the issues raised in the previously submitted section 5 declaration, particularly concerning the fact that the upgrades to the structure would be a material change of use given its current state.

Article 9 Restrictions

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

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 repair and refurbishment of the house, construction of rear extension and provision of first floor in existing dwelling 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 15th April 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).

Assistant Planner (Print Name)	John Wallace	Date:
Signature:		26/05/2026
Senior Executive Planner	Barry Henn	Date:
Signature:		28/05/2026

AA PN01 Screening Form

STEP 1: Description of the project/proposal and local site characteristics:

(a) File Reference No:	EC-059-26
(b) Brief description of the project or plan:	Proposed The proposal comprising the repair and refurbishment of the house, construction of rear extension and provision of first floor in existing dwelling
(c) Brief description of site characteristics:	Dwelling
(d) Relevant prescribed bodies consulted: e.g. DHLGH (NPWS), EPA, OPW	None
(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 ¹	Distance from proposed development ² (km)	Connections (Source-Pathway-Receptors)	Considered further in screening Y/N
Tory Hill SAC	https://www.npws.ie/protected-sites/sac/000439	6.378	None	N
Glen Bog SAC	https://www.npws.ie/protected-sites/sac/001430	8.271	None	N

STEP 3: Assessment of Likely Significant Effects

- 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)
Construction phase e.g - Vegetation clearance - Demolition - Surface water runoff from soil excavation/infill/landscaping (including borrow pits) - Dust, noise, vibration - Lighting disturbance - Impact on groundwater/dewatering	None. No direct encroachment or hydrological connection

• Storage of excavated/construction materials • Access to site • Pests	
Operation phase e.g. • Direct emission to air and water • Surface water runoff containing contaminant or sediment • Lighting disturbance • Noise/vibration • Changes to water/groundwater due to drainage or abstraction • Presence of people, vehicles and activities • Physical presence of structures (e.g collision risk) • Potential for accidents or incidents	None. No direct encroachment or hydrological connection
In-combination/Other	N/A.

2. Describe any likely changes to the European site:	
Examples of the type of changes to give consideration to include: • Reduction or fragmentation of habitat area • Disturbance to QI species • Habitat or species fragmentation • Reduction or fragmentation in species density • Changes in key indicators of conservation status value (water or air quality etc) • Changes to areas of sensitivity or threats to QI • Interference with the key relationships that define the structure or ecological function of the site	None. No direct encroachment or hydrological connection.

3. (Are 'mitigation' measures necessary to reach a conclusion that likely significant effects can be ruled out at screening?)
☐ Yes ☒ No

STEP 4: Screening Determination Statement
The assessment of significance of effects: 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.

Conclusion: AA is not required.		
	Tick as appropriate:	Recommendation:
i. It is clear that there is no likelihood of significant effects on a European Site	☒	The proposal can be screened out: Appropriate Assessment not required.
ii. It is uncertain whether the proposal will have a significant effect on a European Site	☐	☐ Request further information to complete screening ☐ Request NIS ☐ Refuse planning permission
iii. Significant effects are likely	☐	☐ Request NIS ☐ Refuse planning permission
Signature and Date of Recommending Officer:	 John Wallace Assistant Planner 26/05/2026	
Signature and Date of the Decision Maker:	 Barry Henn, SEP 28/05/2026	

Appendix 2: EIA Screening

Establishing if the proposal is a 'sub-threshold development':	
Planning Register Reference:	EC-059-26
Development Summary:	Proposed The proposal comprising the repair and refurbishment of the house, construction of rear extension and provision of first floor in existing dwelling
Was a Screening Determination carried out under Section 176A-C?	☐ Yes. no further action required ☒ No. Proceed to Part A
A. Schedule 5 Part 1 - Does the development comprise a project listed in Schedule 5, Part 1 , of the Planning and Development Regulations 2001 (as amended)? (Tick as appropriate)	
☐ Yes. specify class: [insert here] _	EIA is mandatory No Screening required
☒ No	Proceed to Part B
B. Schedule 5 Part 2 - Does the development comprise a project listed in Schedule 5, Part 2 , of the Planning and Development Regulations 2001 (as amended) and does it meet/exceed the thresholds? (Tick as appropriate)	
☒ No. the development is not a project listed in Schedule 5, Part 2	No Screening required
☐ Yes the project is listed in Schedule 5, Part 2 and meets/exceeds the threshold, specify class (including threshold): _[specify class & threshold here]_	EIA is mandatory No Screening required
☐ Yes the project is of a type listed but is <i>sub-threshold</i> : Schedule 5 Part 2, 10 (b) Construction of more than 500 dwelling units	Proceed to Part C

C. If Yes, has Schedule 7A information/screening report been submitted?	
☐ Yes, Schedule 7A information/screening report has been submitted by the applicant ☐ No, Schedule 7A information/screening report has not been submitted by the applicant	
Signature and Date of Recommending Officer:	<i>John Wallace</i> John Wallace, Assistant Planner 26/05/2026
Signature and Date of the Decision Maker:	<i>B. Henn</i> Barry Henn, SEP 28/05/2026

Appendix 3 Site visits photos







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Limerick City
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An Roinn Pleanála
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V94 WV78

Planning Department
Limerick City & County Council
Dooradoyle Road
Dooradoyle
Limerick
V94 WV78

t: 061 556 000

DEVELOPMENT MANAGEMENT, PLANNING

REG POST:

**Audrey Cummins,
Rathcannon,
Athlacca,
Killmallock,
Co. Limerick.
V35 P832**

EC/059/26

08 June 2026

Re: Declaration under Section 5

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/2026/692

File Ref No. EC/059/26

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

RE: **A repair and refurbishment of a house construction of rear extension and provision of first floor in existing dwelling at Crean Athlacca, Kilmallock, Co. Limerick**

ORDER: Whereas by Director General's Order No. DG/2026/056 dated 25th May 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.

d Now therefore pursuant to the delegation of the functions aforesaid, I, Barry Henn, Senior Executive Planner, having considered the report and recommendation of John Wallace, Assistant Planner dated 26/05/2026, hereby order that a Declaration under Section 5 of the Planning and Development Act 2000 (as amended) be issued to Audrey Cummins, Rathcannon, Athlacca, Killmallock, Co. Limerick to state that the works as described above is

Development and is NOT Exempt Development.

Signed

B. Henn

SENIOR EXECUTIVE PLANNER, DEVELOPMENT MANAGEMENT,
PLANNING

Date

08 / 06 / 2025



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Planning Department
Limerick City & County Council
Dooradoyle Road
Dooradoyle
Limerick
V94 WV78

t: 061 556 000

SECTION 5 – DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT

DECLARATION NO.

EC/059/26

Name and Address of Applicant: Audrey Cummins, Rathcannon, Athlaca, Killmallock, Co. Limerick

Agent: N/A

Whether the repair and refurbishment of a house construction of rear extension and provision of first floor in existing dwelling at Crean Athlaca, 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 15th day of April 2026.

AND WHEREAS the Planning Authority has concluded that the repair and refurbishment of a house construction of rear extension and provision of first floor in existing dwelling at Crean Athlaca, 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:

8.6.2016

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.