

COMHAIRLE CHONTAE CEATHARLOCHA
CARLOW COUNTY COUNCIL

C A R L O W
C O U N T Y C O U N C I L

COMHAIRLE CHONTAE CEATHARLOCHA



COUNTY BUILDINGS, ATHY ROAD, CARLOW.

Tel: Phone: 059-9170300/ Fax: 059-9170836

Website: www.carlow.ie

Application Form for Section 5 Declaration on Development & Exempted Development

1. Name of applicant: Mark Moloney
2. Address of applicant: [REDACTED]
3. Name and address for correspondence: Mark Moloney,
[REDACTED]
- Tel. No: [REDACTED] Fax No: — E-mail: [REDACTED]
4. Location of Development: Townland: Ballybeg, Borris, Co. Carlow
Postal Address: (if different from Townland): N/A
5. Name and Address of Agent: Martin Dunbar, Dunbar Lunn
Consulting Engineers, 2 Aldercourt, Ferns, Enniscorthy, Wexford
6. Outline clearly the description of the development / proposal: Extension to rear of dwelling under required 40m²
maximum extension with an area of 39.68m² (with
G.F area of 19.98m² and 1st floor area of 19.7m²).

7. Is this a Protected Structure or within the curtilage of a Protected Structure: No
8. List any previous applications relating to the site: N/A
9. Are you aware of any enforcement proceedings relating to this site: None
10. Please state applicant's interest in this site: owner
11. List of plans, drawings etc. submitted with this application: Drawing Register attached.

Signed: Daniel Mark Molloy
(Signature of Applicant)

Date: 13/10/2023

Note: This application must be accompanied by:

Payment of Fee: This application must be accompanied by the statutory fee of €80

Lodgement: The application should be forwarded to:
Planning Department
Carlow County Council
Athy Road
Carlow

OFFICE USE ONLY

Date Received: _____

Date Decision Due: _____

Date of Decision: _____

Recommendation: _____

Drawing Schedule / Issue Sheet

dunbar lunn Unit 2 Aldercourt, Ferns, Enniscorthy, Co. Wexford.	TELEPHONE : 053-9366005 FACSIMILE : 053-9366009 e-mail: info@dunbarlunn.com	Project : Proposed refurbishment and extension works at Balybeg, Borris, Co. Carlow

Project No: 23.012	Client: Michael Moloney	Sheet No: 1
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STAGE: Planning	Date of Issue	Day	13							
		Month	10							
		Year	23							

[illegible]

Land Registry Compliant Map

643086

676144

643086

676144



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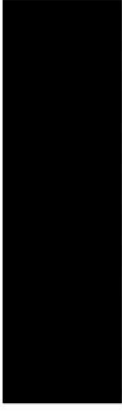
CENTRE
COORDINATES:
ITM 676310,642963

PUBLISHED: 01/09/2023
ORDER NO.: 50354869_1

MAP SERIES: 1:5,000
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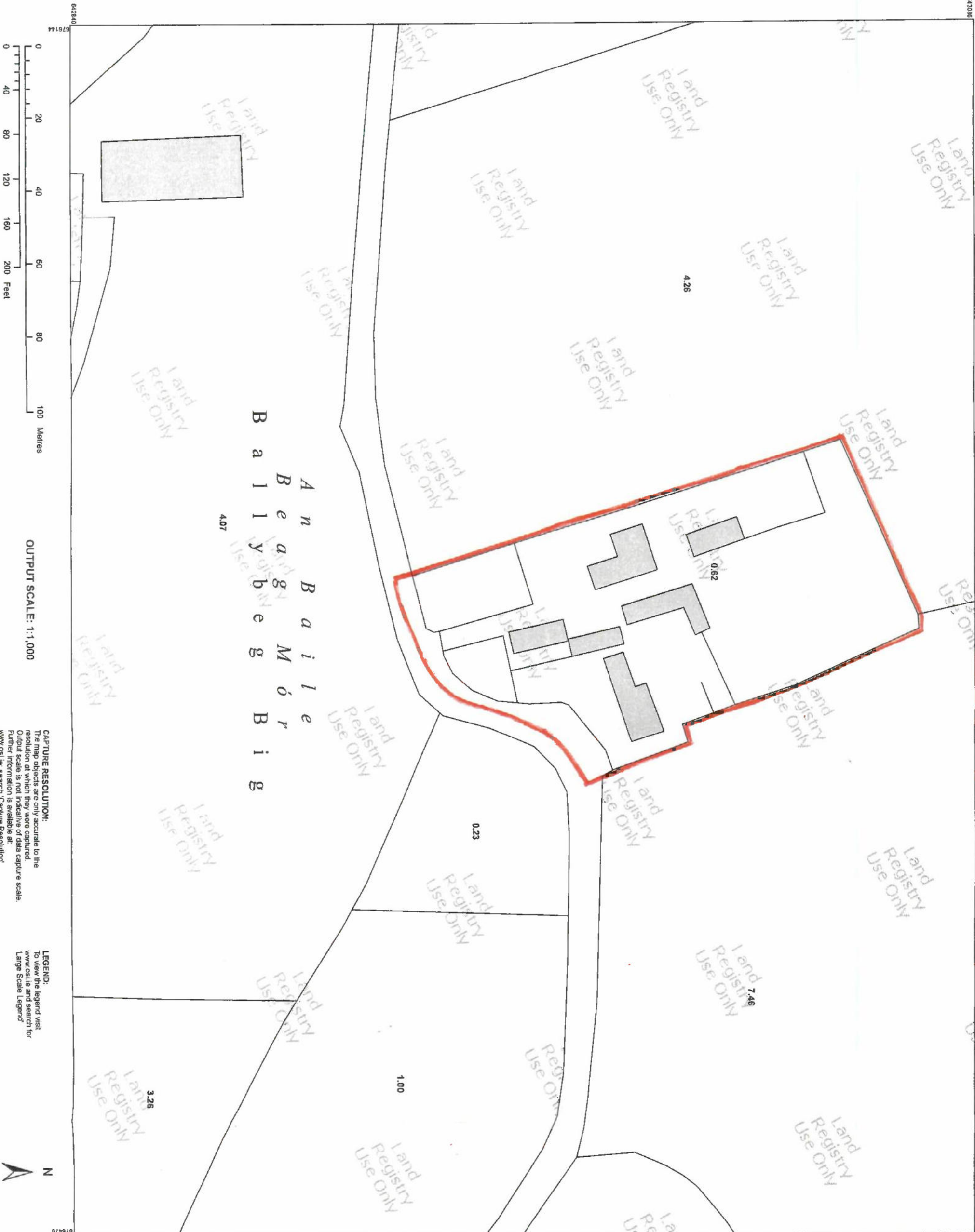
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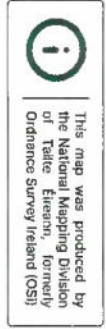
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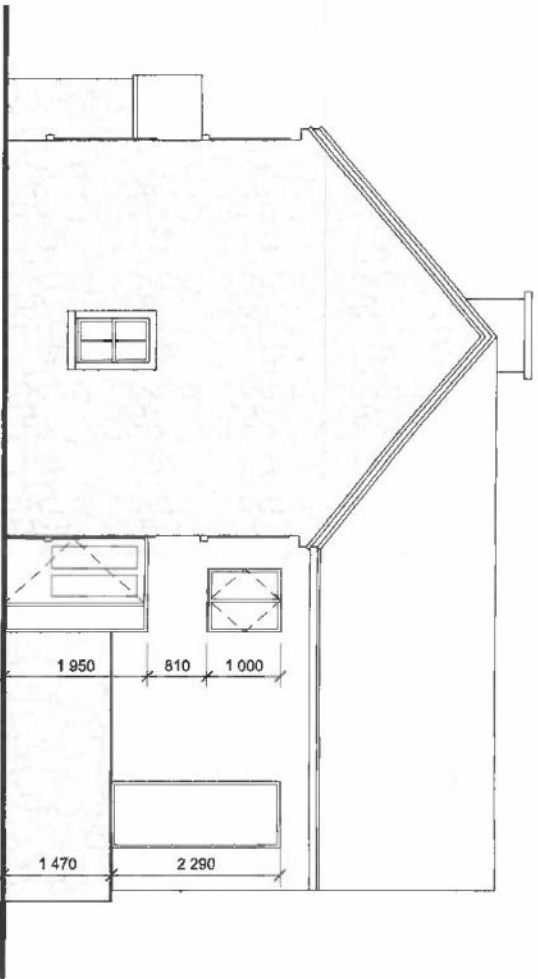
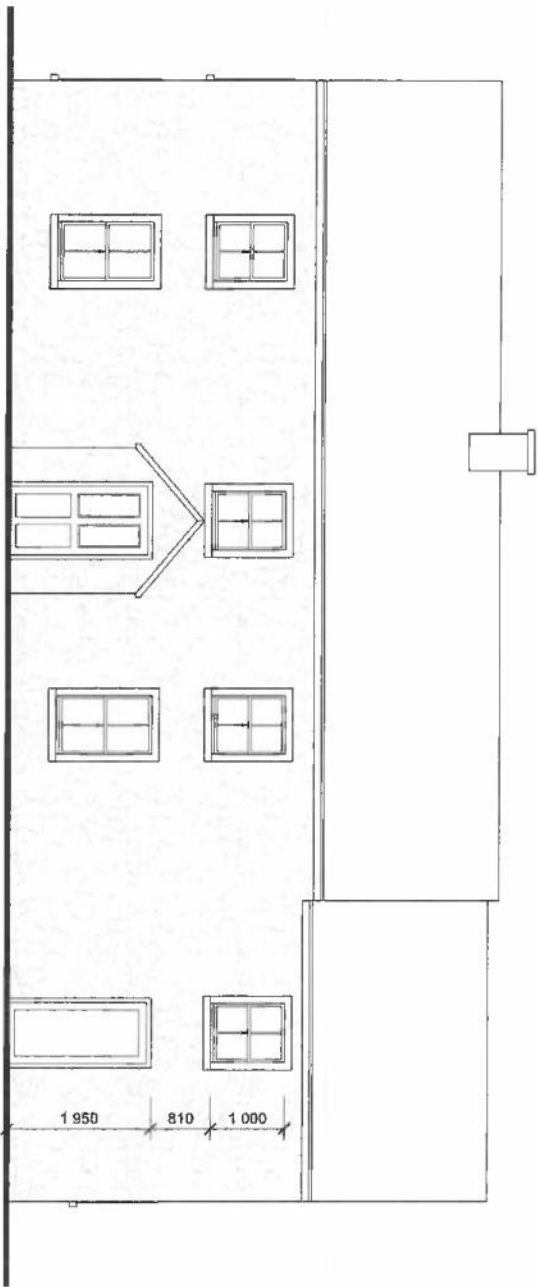


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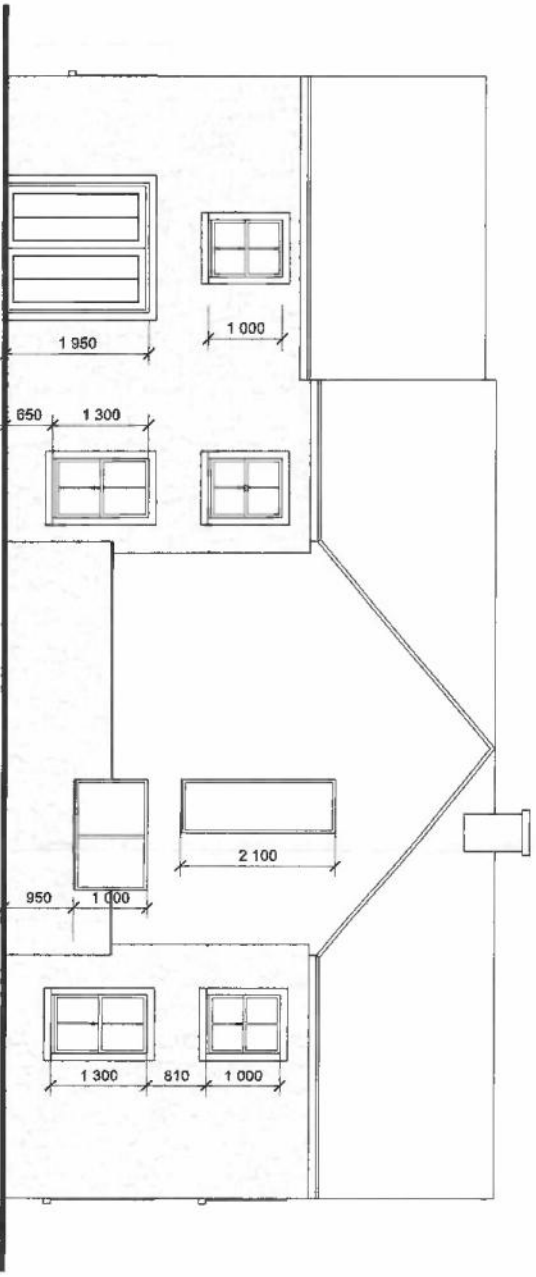
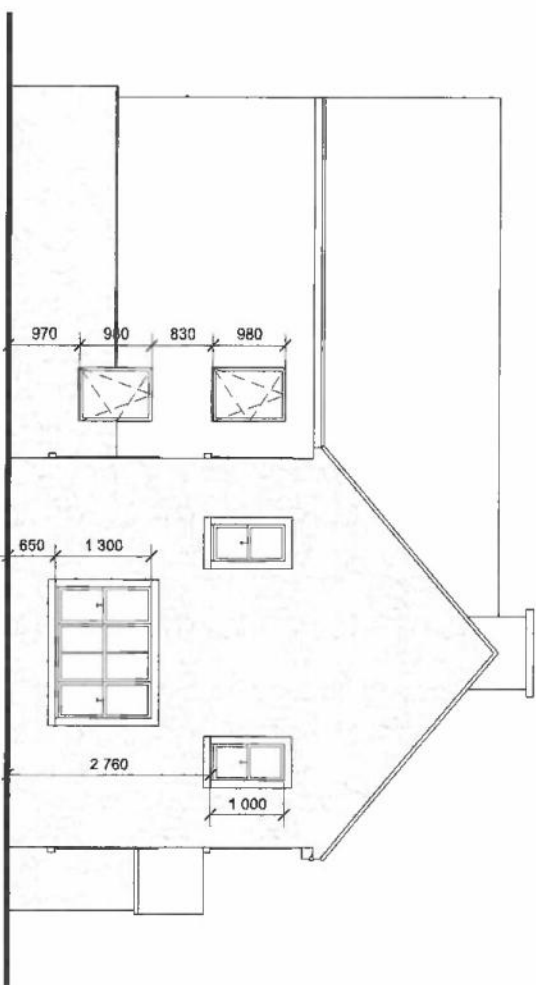
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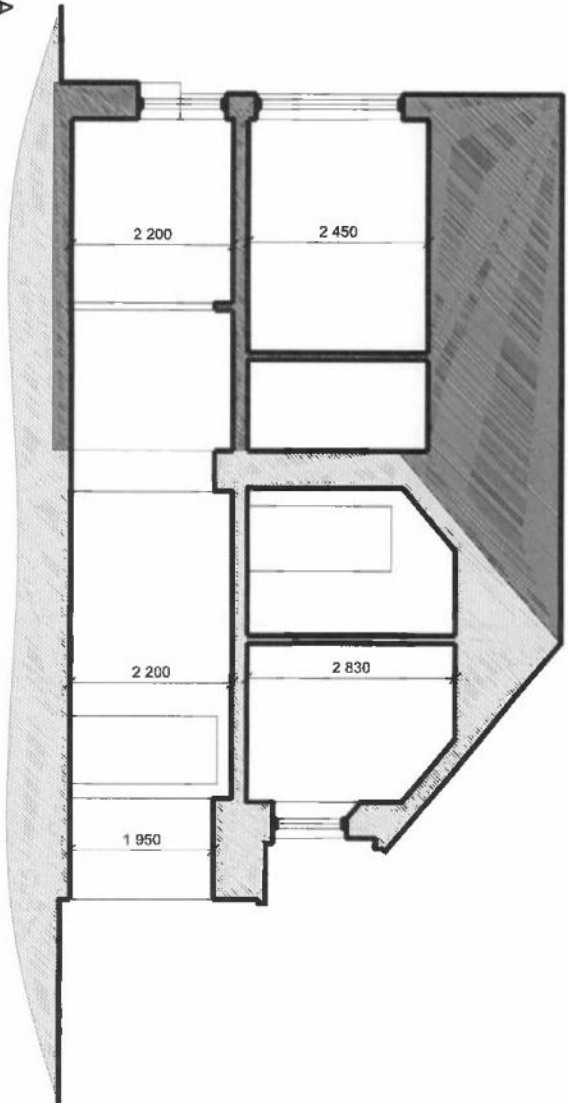
SIDE ELEVATION



SIDE ELEVATION

REAR ELEVATION

SECTION A-A



Key
Proposed Extension
Existing Cottage

Eric Osborne Architect
March 2014
2014 CD 002

RESTORATION & EXTENSION TO EXISTING COTTAGE

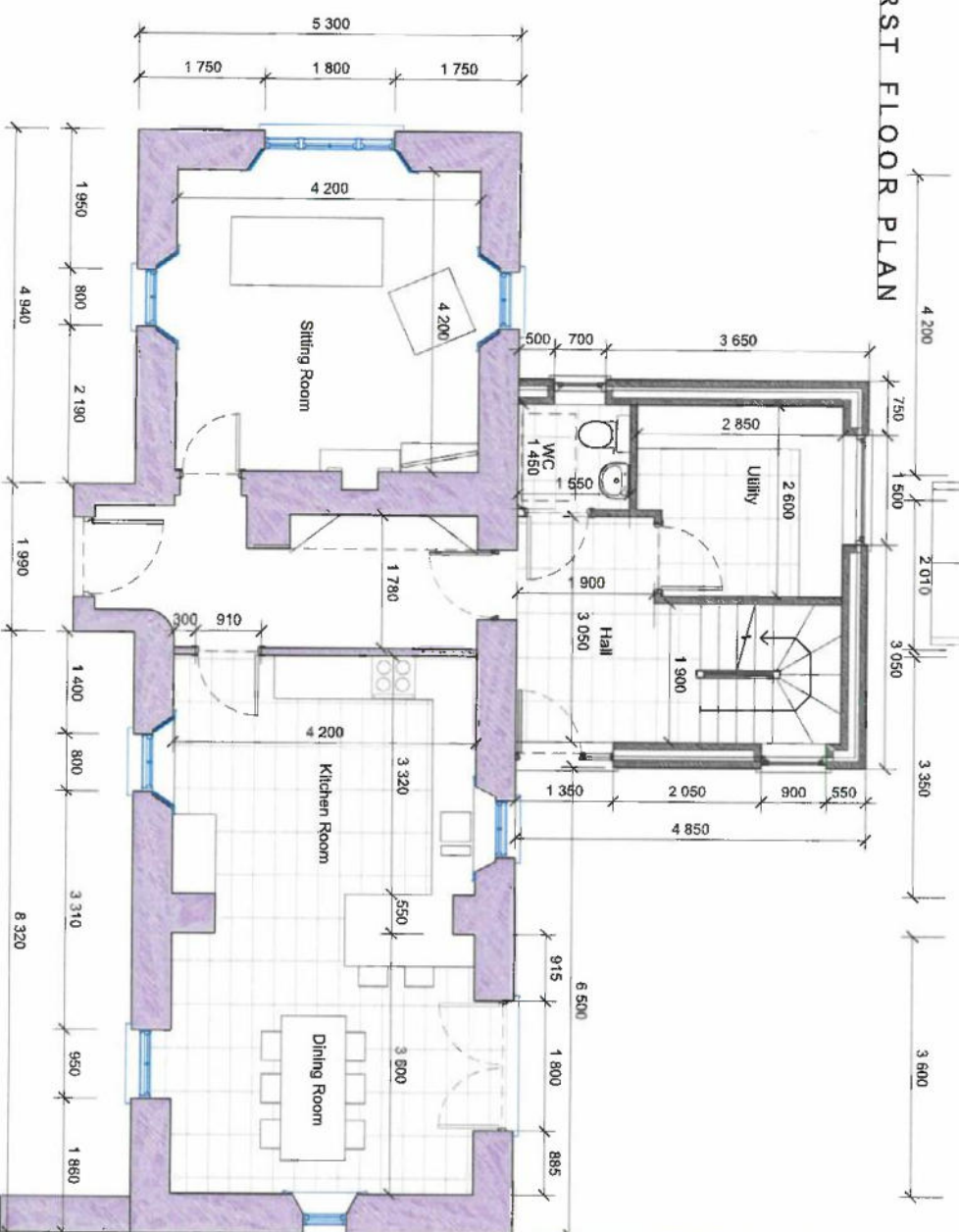
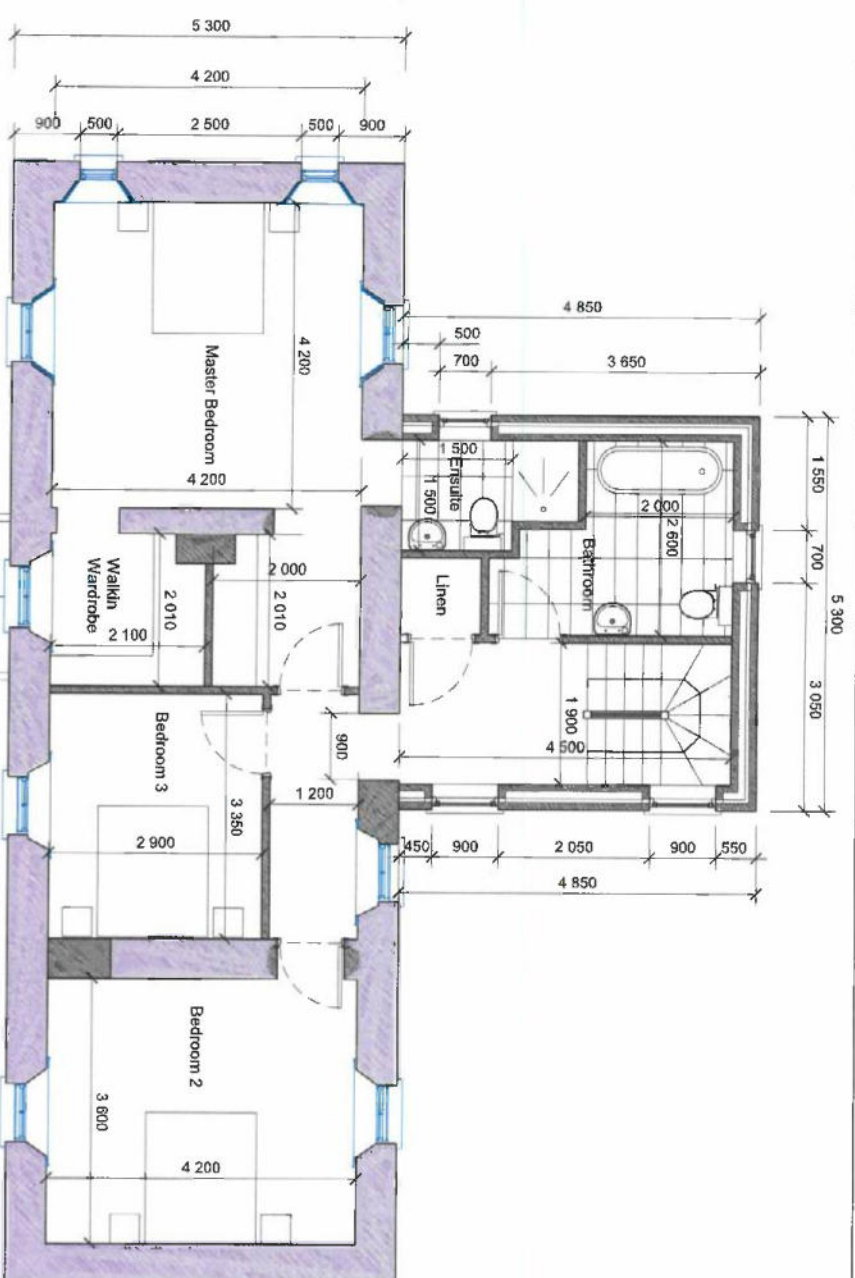
PROPOSED ELEVATIONS & SECTIONS

M. MOLONEY

01/05/2021

1:100 @ A3

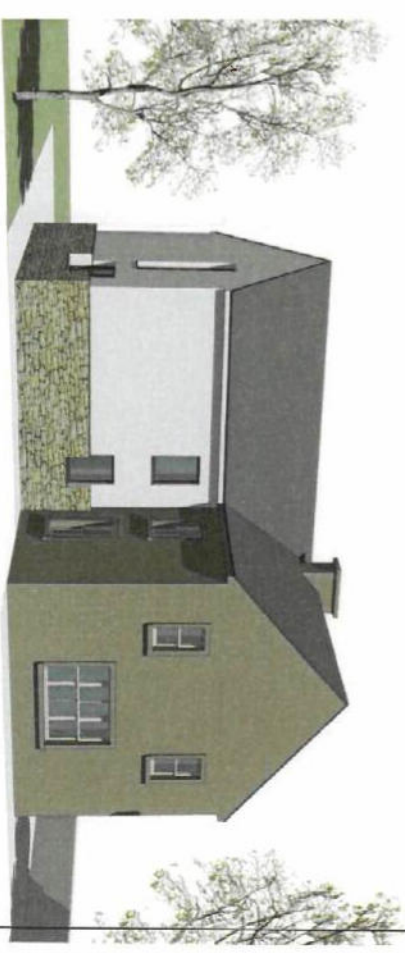
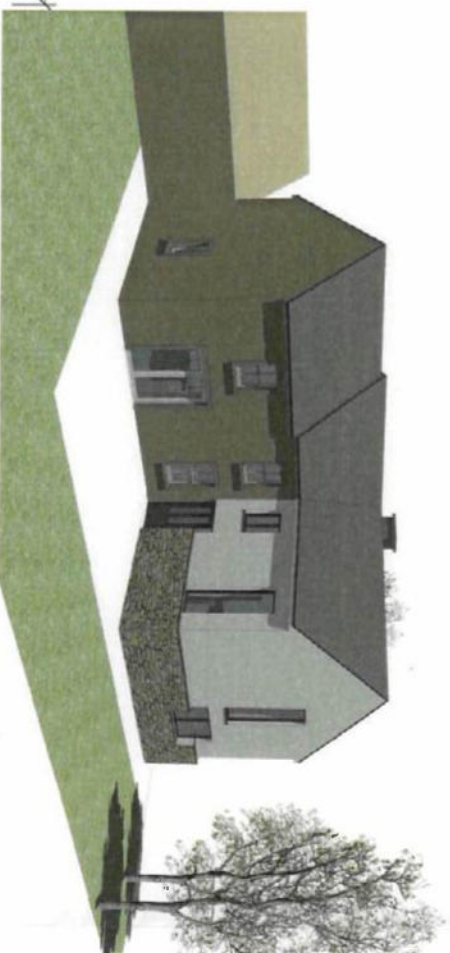
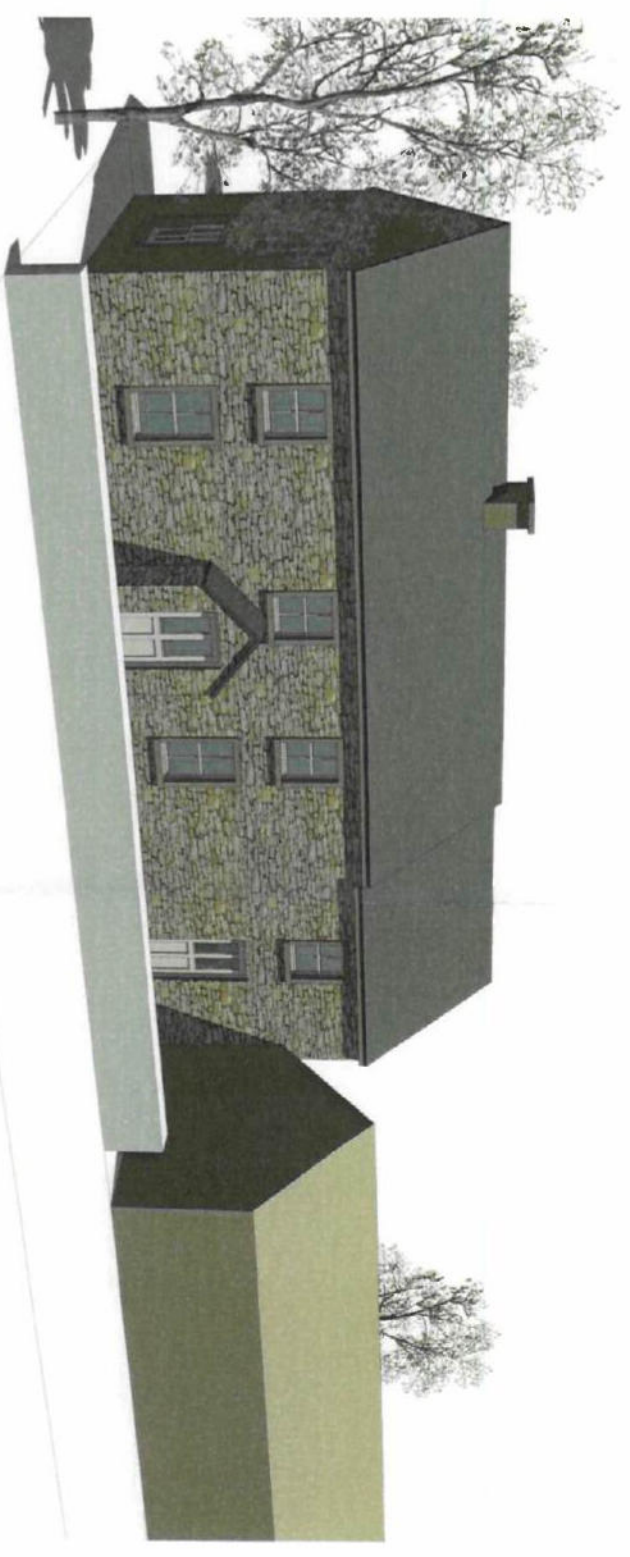
21033 CD 002



Key

Proposed Extension

Existing Cottage



OPTION 1A



Eric Osborne Architect	
ARCHITECT	ARCHITECT
PROJECT	PROJECT
DATE	DATE
01/05/2021	01/05/2021
1:100@ A3	21033 CD 001

Land Registry Compliant Map

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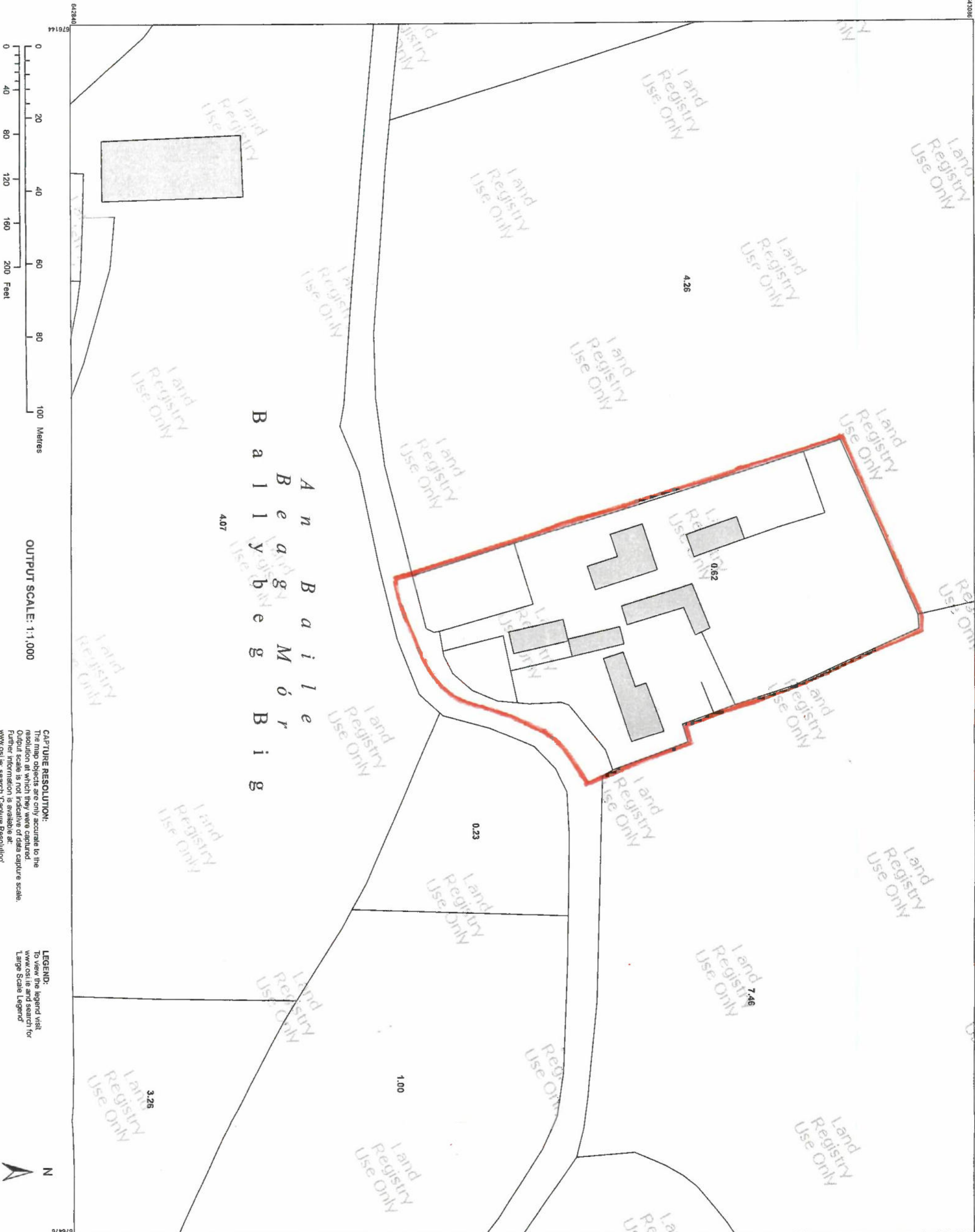
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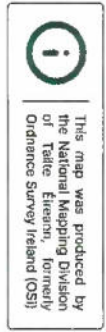
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**CARLOW COUNTY COUNCIL
PLANNING DEPARTMENT**

SECTION 5 DECLARATION

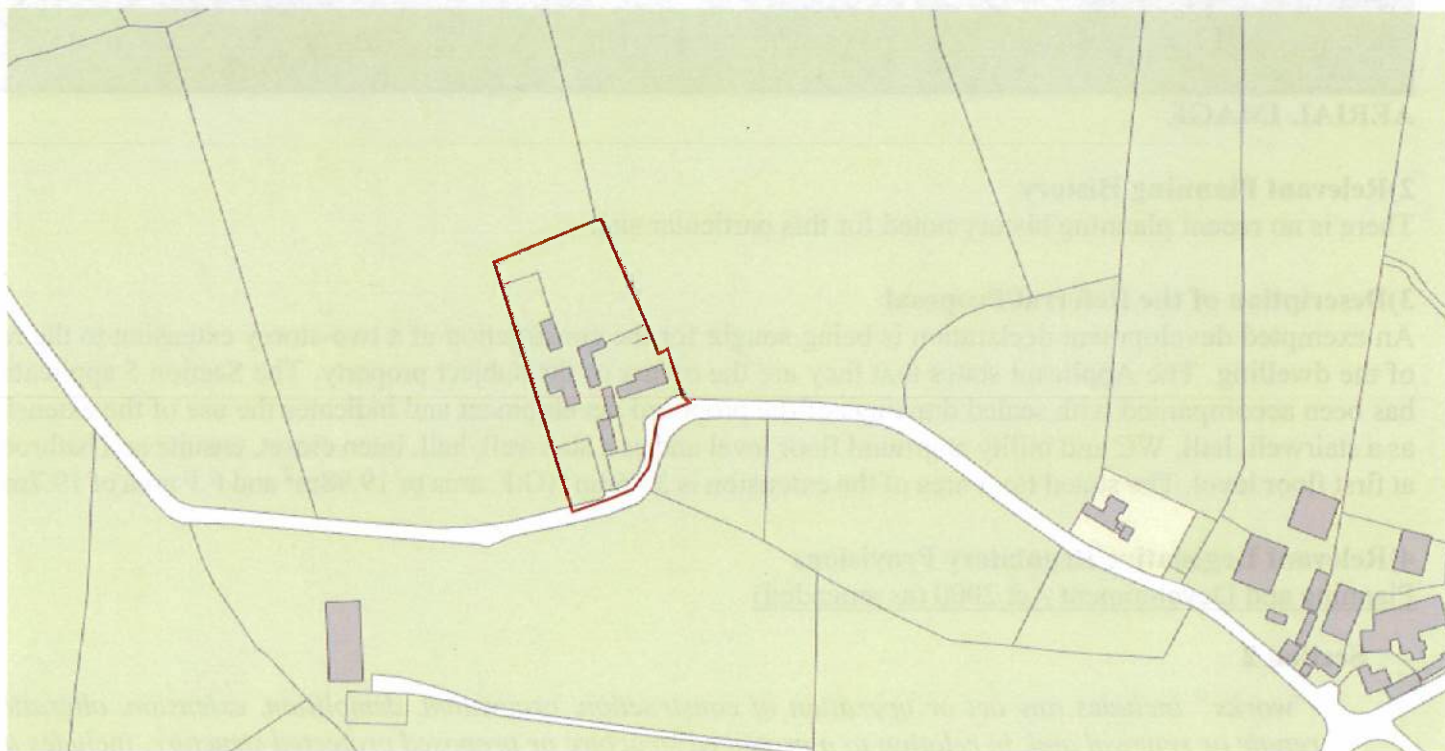


**COMHAIRLE CONTAE
CHEATHARLACH**
CARLOW COUNTY COUNCIL

Reg. Ref.	SEC5/23/36
Name of Applicant	Mark Moloney
Address of Development	Ballybeg, Borris, Co. Carlow
Development Description	Extension to rear of dwelling with an area of 39.68m ² (G.F. area of 19.98m ² and F.F area of 19.7m ²)

1) Site Location/Context

The Section 5 declaration site relates to a property at Ballybeg, Borris, Co. Carlow. The site is located in the rural townland of Ballybeg Big and comprises a two-storey dwelling and multiple agricultural structures.



SITE LOCATION

and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1.

-Article 9(1)

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 comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 meters in width,*
- (iii) endanger public safety by reason of a 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,*
- (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,*
- (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*

4. (a) Where the rear wall of the house does not include a gable, the height of the walls of any such extension shall not exceed the height of the rear wall of the house. (b) Where the rear wall of the house includes a gable, the height of the walls of any such extension shall not exceed the height of the side walls of the house. (c) The height of the highest part of the roof of any such extension shall not exceed, in the case of a flat roofed extension, the height of the eaves or parapet, as may be appropriate, or, in any other case, shall not exceed the height of the highest part of the roof of the dwelling.

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

6. (a) Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces. (b) Any window proposed above ground level in any such extension shall not be less than 11 metres from the boundary it faces. (c) Where the house is detached and the floor area of the extension above ground level exceeds 12 square metres, any window proposed at above ground level shall not be less than 11 metres from the boundary it faces.

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

5) Assessment

The submitted Section 5 Declaration application relates to the construction of a two-storey extension (comprising 39.68m²), to the rear of an existing dwelling. Accordingly, the provisions of Class 1, Part 1, Schedule 2 would appear to be applicable.

Does the proposal constitute development?

Section 3 of the Planning and Development Act 2000 (as amended) defines development as “*the carrying out of works on, in, over or under land or the making of any material change in the use of any structures or other land*”. The proposed works, which involve the construction of an extension to the rear of a dwelling, are deemed to constitute development within the meaning of this definition.

Does the proposal constitute exempted development?

Article 6 (1) of the Regulations state that subject to Article 9, development of a class specified in Part 1 of Schedule 2 of the Regulations shall be exempted development provided that such development complies with the conditions and limitations specified. Class 1 of Part 1 of Schedule 2 is relevant in this instance and relates to the following development:

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

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

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

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

- *The existing dwelling is a detached dwelling. The proposed extension has a floor area of 39.68m². Having regard to the submitted plans and the site inspection, it would appear that the dwelling has been extended. However, I have reviewed historic mapping and note that the footprint of the current building is identical to the footprint of mapping in 1888. Therefore, any extension occurred pre 1st October 1964. Therefore, the proposal is within the 40m² limitation.*

- **The proposed windows at both ground floor and first floor level significantly exceed the 2m requirement.**

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

- **The proposed extension does not appear to contain a balcony or roof garden, thus the above has been complied with.**

Restrictions on Exemption

Having regard to Article 9(1) of the Planning and Development Regulations 2001 (as amended), I note that the proposal would not be de-exempt by way of any restrictions.

Accordingly, the proposed conversion is considered to be exempted development pursuant to Class 1 of Schedule 2, Part 1 of the Planning and Development Regulations 2001 (as amended).

Having had regard to:

- Sections 3 and 4 of the Planning and Development Act 2000 (as amended),
- Articles 5, 6 and 9 of the Planning and Development Regulations 2001 (as amended),
- Schedule 2, Part 1, Class 1 of the Planning and Development Regulations 2001 (as amended),

The Planning Authority consider that the construction of a single storey extension to the rear of the dwelling, as submitted to the Planning Authority on the **18th October 2023** is development and is exempted development as the the development falls within the Class 1 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended).

NOW THEREFORE Carlow County Council, in exercise of the powers conferred on it by Section 5(2)(a) of Planning and Development Act 2000 (as amended), hereby decides that the proposed extension as submitted is development and is exempted development.

Appendix 1

APPROPRIATE ASSESSMENT SCREENING REPORT

Planning Application Reg. Ref: SEC5/23/36

A. DESCRIPTION OF PROJECT AND LOCAL SITE

Site Location:	Ballybeg, Borris, Co. Carlow
Total Site Area :	Not stated
Floor Area of Proposed Development:	Total 39.68m ² (G.F. area of 19.98m ² and F.F area of 19.7m ²)
Identification of Natura 2000 site(s):	River Barrow and River Nore cSAC.
Is the application accompanied by an EIAR?	No.

B. IDENTIFICATION OF RELVANT NATURA 2000 SITE(S):

The reasons for the designation of the Natura 2000 site:(A site synopsis can be obtained from www.npws.ie)The conservation objectives/qualifying interests of the site and the factors that contributes to the conservation value of the site:

C. NPWS ADVICE:

Summary of advice received in written form:	None Received.
Advice received over the over phone:	None Received.

D. ASSESSMENT OF LIKELY SIGNIFICANT EFFECTS

(Purpose of this is to identify if the effect(s) identified could be significant – if uncertain assume the effect(s) are significant).If answer yes to any of the questions, below then the effect is significant.

1.1	Would there be any impact on an Annex 1 habitat? (Annex 1 habitats are listed in Appendix 1 of AA Guidance)	No.
1.2	Would there be a reduction in habitat area on a Natura 2000 site?	No.
1.3	Would there be direct/indirect damage to the physical quality of the environment (e.g. water quality and supply, soil compaction) in the Natura 2000 site?	No.
1.4	Would there be serious/ongoing disturbance to species/habitats for which the Natura 2000 site is selected (e.g. because of increased noise, illumination and human activity)?	No.
1.5	Would there be direct/indirect damage to the size, characteristics or reproductive ability of populations on the Natura 2000 site?	No.
1.6	Would the project interfere with mitigation measures put in place for other plans/projects? (Look at in-combination effects with completed, approved but not completed, and proposed plans/projects. Look at projects/plans within and adjacent to Natura 2000 sites and identify/)	No.

E. SCREENING CONCLUSION

At its closest point, the application site is circa 924m northwest of the River Barrow and River Nore SAC. The nearest watercourse, the Old Gowlin river, is located c. 360, south of the application site. The development as proposed has been assessed having regard to the requirements of the EU Habitats Directive. Given the proximity of the nearest European Site and the nature and extent of the development on the site and intervening land uses located in the area, it is considered reasonable to conclude on the basis of the information available, that the development on its own or in combination with other plans or projects, would not be likely to result in any potential significant effects on the European Site. Therefore, a Stage 2 Appropriate Assessment is not required.

Signed:	<i>Brian Joyce</i>	Date:	07 November 2023
Position:	A/Executive Planner		

Appendix 2

HISTORIC MAPPING IMAGERY

Planning Application Reg. Ref: SEC5/23/36



Extract of Historic 25 inch 1888-1913





Declaration on Development & Exempted Development
Section 5 of the Planning and Development Act 2000 (as amended)
Reg. Ref: SEC5/23/36

WHEREAS a question has arisen as to whether the construction of an extension to the rear of dwelling with an area of 39.68m² (G.F. area of 19.98m² and F.F area of 19.7m²) at Ballybeg, Borris, Co. Carlow, is or is not exempted development;

AS INDICATED on the plans and particulars received by the Planning Authority on 18/10/2023;

AND WHEREAS Mark Moloney, [REDACTED] requested a declaration on the said question from Carlow County Council;

AND WHEREAS Carlow County Council as the Planning Authority, in considering this application for a declaration under Section 5 of the Planning and Development Act 2000 (as amended), had regard to;

- (a) Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended);
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001 (as amended);
- (c) Class 1 in Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended);

AND WHEREAS Carlow County Council has concluded that the 'construction of an extension to the rear of dwelling with an area of 39.68m² (G.F. area of 19.98m² and F.F area of 19.7m²) as indicated on the plans and particulars received by the Planning Authority on 18/10/2023, would come within the scope of Class 1 in Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended),

NOW THEREFORE Carlow County Council, 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 proposal comprising the 'construction of an extension to the rear of dwelling with an area of 39.68m² (G.F. area of 19.98m² and F.F area of 19.7m²) as indicated on the plans and particulars received by the Planning Authority on 18/10/2023 at Ballybeg, Borris, Co. Carlow, is development and is exempted development.

Please note that any person issued with a declaration under subsection 2(a) of the Planning and Development Act 2000 (as amended) may on payment to the Board of the prescribed fee, refer a declaration to An Bord Pleanála within 4 weeks of the issuing of the decision.

Signed:

Nicola Lawler

Date:

09/11/2023