



COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

**Registered Post**

David & Martina O'Sullivan  
c/o NAPS Ltd  
Loughash,  
Newmarket On Fergus,  
Co. Clare.

**31<sup>st</sup> March, 2021**

**Section 5 referral Reference R21-11 – David & Martina O'Sullivan**

**Whether the removal of part of a boundary wall to create an improved entrance is considered exempted development at 21 Ballycasey Manor, Shannon, Co. Clare.**

A Chara,

I refer to your application received on 5<sup>th</sup> March 2021 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

The Planning Authority has considered the matter and I attach herewith the Council's findings in this matter.

Where a declaration is issued by the Planning Authority, any person issued with a declaration, may on payment to an Bord Pleanála of the required fee, refer a declaration for review by An Bord Pleanála within 4 weeks of the date of the issuing of the declaration. Details on making such appeal are available on the Board's website at [www.pleanala.ie](http://www.pleanala.ie)

Mise, le meas

**Kieran O'Donnell**  
**Administrative Officer**  
**Planning Department**  
**Economic Development Directorate**

**An Roinn Pleanála**  
**An Stiúthóireacht Forbairt Gheilleagrach**  
Áras Contae an Chláir, Bóthar Nua, Inis, Co. an Chláir, V95 DXP2

**Planning Department**  
**Economic Development Directorate**  
Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2



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

**Reference No.: R21-11**



**Comhairle Contae an Chláir  
Clare County Council**

**Section 5 referral Reference R21-11**

**Whether the removal of part of a boundary wall to create an improved entrance is considered exempted development at 21 Ballycasey Manor, Shannon, Co. Clare.**

**AND WHEREAS, David & Martina O'Sullivan** 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.
- (c) Article 6(1) and article 9(1) of the Planning and Development Regulations 2001-2021 and Class 5 of Part 1 of Schedule 2 to those Regulations,
- (d) The planning and development history of the site,
- (e) The nature and the width of the adjoining road;

**And whereas Clare County Council has concluded:**

- (a) The proposed widening of the vehicular entrance to 6m, constitutes development;
- (b) The proposed construction and alterations to widen the front vehicular entrance, bounding the curtilage of the house on site, would come within the scope of Class 5 of Part 1 of Schedule 2 to the said Regulations, subject to meeting conditions and limitations of same;
- (c) The proposed widening of the vehicular entrance onto the public road, the surfaced carriageway of which exceeds 4 metres in width, would be material, and, therefore, is restricted by the provisions of Article 9(1)(a)(ii) of the said Regulations

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

The proposed development consisting of the removal of part of a boundary wall to create an improved entrance at 21 Ballycasey Manor, Shannon, Co. Clare **constitutes development** which is **not exempted development** as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.



**Kieran O'Donnell**  
**Administrative Officer**  
**Planning Department**  
**Economic Development Directorate**

**31<sup>st</sup> March, 2021**

**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:**

77 373,

**Reference Number:**

**R21-11**

**Date Referral Received:**

**5<sup>th</sup> March 2021**

**Name of Applicant:**

**David & Martina O'Sullivan**

**Location of works in question:**

**21 Ballycasey Manor, Shannon, Co. Clare.**

**Section 5 referral Reference R21-11 – David & Martina O'Sullivan**

**Whether the removal of part of a boundary wall to create an improved entrance is considered exempted development at 21 Ballycasey Manor, Shannon, Co. Clare.**

**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.
- (c) Article 6(1) and article 9(1) of the Planning and Development Regulations 2001-2021 and Class 5 of Part 1 of Schedule 2 to those Regulations,
- (d) The planning and development history of the site,
- (e) The nature and the width of the adjoining road;

**AND WHEREAS Clare County Council has concluded:**

- (a) The proposed widening of the vehicular entrance to 6m, constitutes development;
- (b) The proposed construction and alterations to widen the front vehicular entrance, bounding the curtilage of the house on site, would come within the scope of Class 5 of Part 1 of Schedule 2 to the said Regulations, subject to meeting conditions and limitations of same;
- (c) The proposed widening of the vehicular entrance onto the public road, the surfaced carriageway of which exceeds 4 metres in width, would be material, and, therefore, is restricted by the provisions of Article 9(1)(a)(ii) of the said Regulations

**ORDER:** Whereas by Chief Executive's Order No. HR 334 dated 2<sup>nd</sup> June 2020, Pat Dowling, Chief Executive for Clare County Council, did, pursuant to the powers conferred on him by Section 154 of the Local Government Act 2001, delegate to Garreth Ruane, A/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, Garreth Ruane, A/ Senior Executive Planner, hereby declare that the proposed works, to consist of removal of part of a boundary wall to create an improved entrance **constitutes development which is not exempted development** having regard to the Planning & Development Acts, 2000 (as amended) and associated regulations

Signed:   
**GARRETH RUANE**  
**A/SENIOR EXECUTIVE PLANNER**

**Date: 31<sup>st</sup> March 2021**

## Mark Kerin

---

**From:** Gareth Ruane  
**Sent:** Wednesday 31 March 2021 15:57  
**To:** Mark Kerin  
**Subject:** RE:

slight change to point a as follows:

the proposed widening of the vehicular entrance to 6m constitutes development;

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**From:** Gareth Ruane  
**Sent:** 31 March 2021 15:55  
**To:** Mark Kerin  
**Subject:**

**The following questions have been referred to the Planning Authority:**

Whether the removal of part of a boundary wall to create an improved entrance is considered 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.
- (c) Article 6(1) and article 9(1) of the Planning and Development Regulations 2001-2021 and Class 5 of Part 1 of Schedule 2 to those Regulations,
- (d) the planning and development history of the site,
- (e) the nature and the width of the adjoining road;

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

- (a) the proposed widening of the vehicular entrance from 4m to 6m, constitutes development;
- (b) the proposed construction and alterations to widen the front vehicular entrance, bounding the curtilage of the house on site, would come within the scope of Class 5 of Part 1 of Schedule 2 to the said Regulations, subject to meeting conditions and limitations of same;
- (c) the proposed widening of the vehicular entrance onto the public road, the surfaced carriageway of which exceeds 4 metres in width, would be material, and, therefore, is restricted by the provisions of Article 9(1)(a)(ii) of the said Regulations

**Now Therefore**

Clare County Council, hereby decides that the development, as proposed, is development and is not exempted development.

Garreth Ruane  
A/Senior Executive Planner  
Planning and Economic Development  
Clare County Council, Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2  
T: 065 6846227 | E: [gruane@clarecoco.ie](mailto:gruane@clarecoco.ie) | W: [www.clarecoco.ie](http://www.clarecoco.ie)





COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

David & Martina O'Sullivan  
c/o NAPS Ltd  
Loughash,  
Newmarket On Fergus,  
Co. Clare.

8<sup>th</sup> March 2021

**Section 5 referral Reference R21-11 – David & Martina O'Sullivan**

**Whether the removal of part of a boundary wall to create an improved entrance is considered development and if so is it exempted development at 21 Ballycasey Manor, Shannon, Co. Clare.**

A Chara,

I refer to your application received on 5<sup>th</sup> March, 2021 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

**Josephine Connors**  
**Planning Department**  
**Economic Development Directorate**

**An Roinn Pleanála**  
**An Stiúthóireacht Forbairt Gheilleagrach**  
Áras Contae an Chláir, Bóthar Nua, Inis, Co. an Chláir, V95 DXP2

**Planning Department**  
**Economic Development Directorate**  
Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2





P07

**CLARE COUNTY COUNCIL  
COMHAIRLE CONTAE AN CHLÁIR**

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

Telephone No. (065) 6821616  
Fax No. (065) 6892071  
Email: [planoff@clarecoco.ie](mailto:planoff@clarecoco.ie)  
Website: [www.clarecoco.ie](http://www.clarecoco.ie)



**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	David & Martina O' Sullivan 21 Ballycassey Manor Shannon Co. Clare.
(b) Telephone No.:	061-476937 (agent)
(c) Email Address:	info@naps.ie (agent)
(d) Agent's Name and address:	NAPS Ltd. Loughash, Newmarket on Fergus Co. Clare

## 2. DETAILS REGARDING DECLARATION BEING SOUGHT

- (a) PLEASE STATE THE SPECIFIC QUESTION FOR WHICH A DECLARATION IS SOUGHT  
*Note: only works listed and described under this section will be assessed.*

Sample Question: Is the construction of a shed at 1 Main St., Ennis development and if so is it exempted development?

Is the Removal of part of a boundary wall to create an improved entrance considered exempted development?

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

Part of existing Road wall & existing pier to be removed. New Pier to be constructed. Kerb to be further disked in front of widened section of entrance.

- (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)*

Site plan & site location Map.

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT	
(a) Postal Address of the Property/Site/Building for which the declaration sought:	21 Ballycasey Manor Shannon Co. Clare
(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):	Owners.
(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>	N/A
(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 P19-275
(h) Date on which 'works' in question were completed/are likely to take place:	Summer 2021

SIGNED:



DATE:

17/2/2021

### **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:

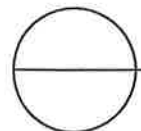
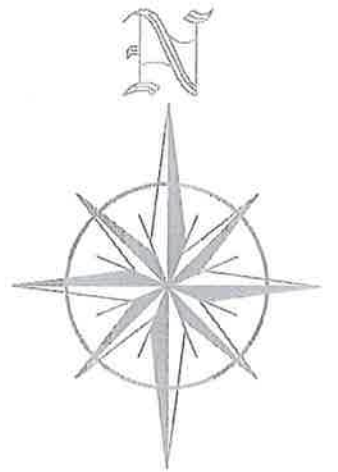
Planning Department,  
Economic Development Directorate,  
Clare County Council  
Aras Contae an Chlair,  
New Road,  
Ennis,  
Co. Clare  
V95DXP2

- (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:.....			





SITE LOCATION MAP

SCALE : 1:1000

PART OF O.S MAPS  
CLARE 4618-03

Ordnance Survey Ireland Licence No. AR 0066621  
Ordnance Survey Ireland / Government of Ireland



Studio Inovo  
Loughash  
Newmarket on fergus  
Co. Clare

Telephone 061 - 476937 Fax 061 - 476947

E-mail info@naps.ie Website www.naps.ie

Project Details  
PROPOSED MODIFICATION TO  
ENTRANCE AT 21 BALLYCASEY  
MANOR, SHANNON, CO. CLARE

Clients  
DAVID & MARTINA O SULLIVAN  
21 BALLYCASEY MANOR  
BALLYCASEY MORE TLD.  
SHANNON,  
CO. CLARE

Drawing  
SITE LOCATION MAP

Job No.  
1291-2019

Drawing No.  
P-12-L

Date  
17 FEB. 2021

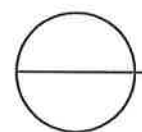
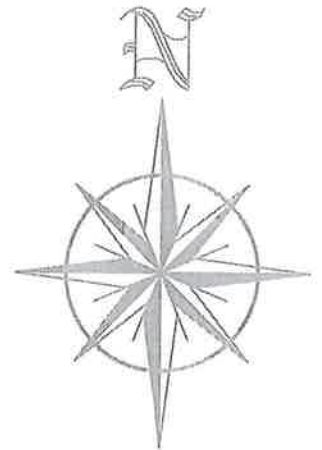
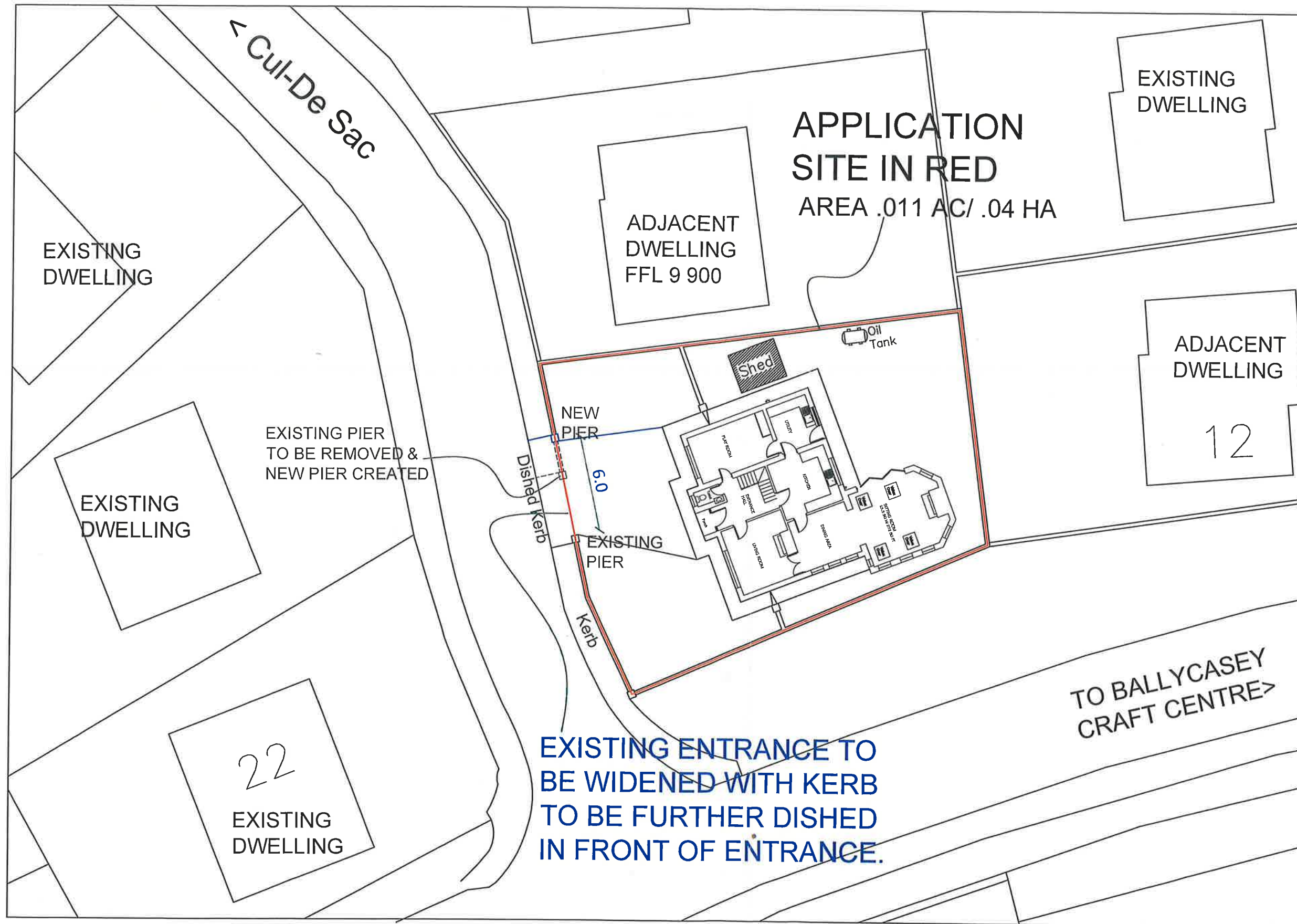
Scale  
1:1000

REVISION: 000

DRAWING STATUS: PLANNING

DRAWN BY: S.B





SITE LAYOUT MAP

SCALE : 1:500

PART OF O.S MAPS  
CLARE 4618-03

Project Details

PROPOSED MODIFICATION TO  
ENTRANCE AT 21 BALLYCASEY  
MANOR, SHANNON, CO. CLARE

Clients

DAVID & MARTINA O SULLIVAN  
21 BALLYCASEY MANOR  
BALLYCASEY MORE TLD.  
SHANNON,  
CO. CLARE

Drawing

SITE LAYOUT MAP

Date

03 Mar 2021

Scale

1:250

Job No.

1291-2021

Drawing No.

P-10-L

REVISION : 000

DRAWING STATUS : PLANNING

DRAWN BY : S.B

**NIAIPIS**  
newmarket architectural & planning services

Studio Inovo  
Loughash  
Newmarket on fergus  
Co. Clare

Telephone 061 - 476937  
Fax 061 - 476947  
E-mail info@naps.ie  
Website www.naps.ie

# AN CHLÁIR

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

05/03/2021 11:23:20

Receipt No. : LICASH/0313420

REPRINT

DAVID & MARTINA O'SULLIVAN  
C/O NAPS LTD.  
LOUGHASH  
NEWMARKET ON FERGUS  
CO. CLARE

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

Total : 80.00 EUR

Tendered :  
CHEQUES 80.00

Change : 0.00

Issued By : LICASH - Patricia O'Sullivan