



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Registered Post

Thomas & Jessica Mellett
8 Cluain Lia,
Ballycasey,
Shannon,
Co. Clare.
V14 TF95

25/6/2021

Section 5 referral Reference R21-34 – Thomas & Jessica Mellett

Whether the construction of a rear ground floor extension, a first floor attic extension and a steel shed to the rear of 8 Cluain Lia, Ballycasey, Shannon, Co. Clare V14 TF95 is considered development and if so, is it exempted development.

A Chara,

I refer to your application received on 1st June 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

Mise, le meas

Anne O'Gorman
Staff Officer
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



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:

77917

Reference Number:

R21-34

Date Referral Received:

1st June 2021

Name of Applicant:

Thomas & Jessica Mellett

Location of works in question:

8 Cluain Lia, Ballcasey, Shannon, Co Clare

Section 5 referral Reference R21-34 – Thomas & Jessica Mellett

Whether the construction of a rear ground floor extension, a first floor attic extension and a steel shed to the rear of 8 Cluain Lia, Ballycasey, Shannon, Co. Clare V14 TF95 is considered 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. (c) The forms of exempted development as set out in Schedule 2, Part 1, Class 1 and Class 3 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:

The stated work is development and is exempted development having regard to Schedule 2, Part 1, Class 1 and Schedule 2, Part 1, Class 3 of the Planning and Development Regulations 2001 (as amended)

ORDER:

Whereas by Chief Executive's Order No. HR 152 dated 9th April 2021, 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, 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, Senior Executive Planner, hereby declare that (a) A rear ground floor extension, (b) A first-floor attic extension and (c) A steel shed to the rear of 8 Cluain Lia, Ballycasey, Shannon, Co. Clare is considered development which is exempted development

Signed:



GARRETH RUANE
SENIOR EXECUTIVE PLANNER *AR*

Date:

25/6/2021

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

Reference No.: R21-34



**Comhairle Contae an Chláir
Clare County Council**

Section 5 referral Reference R21-34

Whether the construction of a rear ground floor extension, a first floor attic extension and a steel shed to the rear of 8 Cluain Lia, Ballycasey, Shannon, Co. Clare V14 TF95 is considered development and if so, is it exempted development.

AND WHEREAS, Thomas & Jessica Mellett 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 –

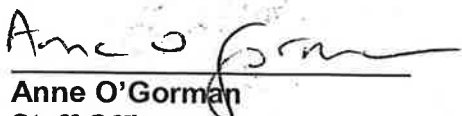
(a) Sections 2, 3, and 4 of the Planning and Development Act, 2000, as amended, (b) The works as indicated in submitted documents from the referrer. (c) The forms of exempted development as set out in Schedule 2, Part 1, Class 1 and Class 3 of the Planning and Development Regulations 2001 (as amended) (d) Part 9 'Restrictions on Exempted Development' of the Planning and Development Regulations 2001 (as amended).

And whereas Clare County Council has concluded:

The stated work is development and is exempted development having regard to Schedule 2, Part 1, Class 1 and Schedule 2, Part 1, Class 3 of the Planning and Development Regulations 2001 (as amended)

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 (a) A rear ground floor extension, (b) A first-floor attic extension and (c) A steel shed to the rear of 8 Cluain Lia, Ballycasey, Shannon Co. Clare constitutes development which is exempted development as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.



**Anne O'Gorman
Staff Officer
Planning Department
Economic Development Directorate**

25/6/2021

CLARE COUNTY COUNCIL
SECTION 5 DECLARATION OF EXEMPTION APPLICATION

FILE REF: R21/34
APPLICANT(S): Thomas and Jessica Mellett
REFERENCE: Whether the construction of:

- (1) A rear ground floor extension,
- (2) A first-floor attic extension and
- (3) A steel shed to the rear of 8 Cluain Lia, Ballycasey, Shannon, Co. Clare V14 TF95 is considered development and if so, is it exempted development.

LOCATION: 8 Cluain Lia, Ballycasey, Shannon Co. Clare.
DUE DATE: 28-06-21

Site Location

This site is located within the settlement of Shannon and is zoned as Existing Residential and is within the housing development of Cluain Lia. There is an existing two story detached dwelling on this site.

Planning History

None.

Background to Referral

This Referral under Section 5(3)(a) of the Planning and Development Act 2000 (as amended) has been made by Thomas and Jessica Mellett

The applicant is seeking a Section 5 Declaration as to.

Whether the construction of:

- (1) A rear ground floor extension,
- (2) A first-floor attic extension and
- (3) A steel shed to the rear of 8 Cluain Lia, Ballycasey, Shannon, Co. Clare V14 TF95 is considered development and if so, is it exempted development

Statutory Provisions

(1) Planning and Development Act, 2000 (as amended)

To assess this proposal, regard must 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.

The work as have been carried out is considered to be development.

(2) Planning and Development Regulations 2001 (as amended)

In consideration of this referral, regard has been had to the form of exempted development provision as set out in Schedule 2, Part 1, Class 1, which provides for the following form of exempted development.

SCHEDULE 2

PART 1

*Exempted Development —
General Column 1*

Column 2

Conditions and Limitations

*Description of Development
Development within the curti-
lage of a house*

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 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.*

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*

(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 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.

The ground floor extension to the subject dwelling has a floor area of 14.56m². Having regard to the details as submitted, including the as the elevation drawings as submitted, I am satisfied that the ground floor extension to the rear of the dwelling is exempted development in accordance with Schedule 2, Part 1, Class 1, of the Planning and Development Regulations 2001 (as amended).

Consideration has also been given to the first-floor attic extension as has been constructed (floor area of 12.15m²). The first-floor attic extension and the ground floor extension have a combined floor area of 26.71m². Having regard to the site layout plan as submitted, as well as the elevation drawings as submitted, I am satisfied that the attic conversion to the dwelling is exempted development in accordance with Schedule 2, Part 1, Class 1, of the Planning and Development Regulations 2001 (as amended).

Consideration is also given to the steel shed as has been constructed in the rear garden of the property and has a floor area of 12m² and this has been considered under the provisions of Class 3 of Schedule 2, Part 1 of the Planning and Development Regulations 2001 (as amended) and provides for the following form of exempted development;

CLASS 3

The construction, erection or placing within the curtilage of a house of any tent, awning, shade or other object, greenhouse, garage, store, shed or other similar structure.

1. No such structure shall be constructed, erected or placed forward of the front wall of a house.

2. The total area of such structures constructed, erected or placed within the curtilage of a house shall not, taken together with any other such structures previously constructed, erected or placed within the said curtilage, exceed 25 square metres.

3. The construction, erection or placing within the curtilage of a house of any such structure shall not reduce the amount of private open space reserved exclusively for the use of the occupants of the house to

the rear or to the side of the house to less than 25 square metres.

4. The external finishes of any garage or other structure constructed, erected or placed to the side of a house, and the roof covering where any such structure has a tiled or slated roof, shall conform with those of the house.

5. The height of any such structure shall not exceed, in the case of a building with a tiled or slated pitched roof, 4 metres or, in any other case, 3 metres.

6. The structure shall not be used for human habitation or for the keeping of pigs, poultry, pigeons, ponies or horses, or for any other purpose other than a purpose incidental to the enjoyment of the house as such.

Having regard to the details as submitted with this Section V referral, I am satisfied that the shed as has been constructed to the rear of the subject property is exempted development in accordance the above class of exempted development.

Part 9 of the Planning and Development Regulations 2001 (as amended), '*Restrictions on Exempted Development*' have also been considered and it is considered that none of the restrictions on exempted development apply in this case.

Assessment

Basis of Referral

The applicant is seeking a Section 5 Declaration as to.

Whether the construction of:

(1) A rear ground floor extension,

(2) A first-floor attic extension and

(3) a steel shed to the rear of 8 Cluain Lia, Ballycasey, Shannon, Co. Clare V14 TF95 is considered development and if so, is it exempted development

Conclusion

Having regard to the above, I consider that the stated works benefit from exempted development status under Schedule 2, Part 1, Class 1, and Schedule 2, Part 1, Class 3 of the Planning and Development Regulations 2001 (as amended).

Recommendation

The following question has been referred to the Planning Authority:

Whether the construction of:

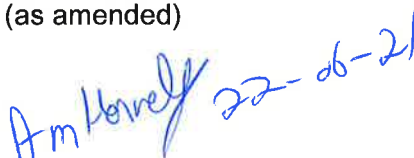
- (1) A rear ground floor extension,
- (2) A first-floor attic extension and
- (3) A steel shed to the rear of 8 Cluain Lia, Ballycasey, Shannon, Co. Clare V14 TF95 is considered development and if so, is it exempted development


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.
- (c) The forms of exempted development as set out in Schedule 2, Part 1, Class 1 and Class 3 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:

The stated work is development and is exempted development having regard to Schedule 2, Part 1, Class 1 and Schedule 2, Part 1, Class 3 of the Planning and Development Regulations 2001 (as amended)


Annemarie Hennelly
Executive Planner
Date: 22-06-21


Garreth Ruane
A/Senior Executive Planner
Date: 22/06/21



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Thomas & Jessica Mellett
8 Cluain Lia,
Ballycasey,
Shannon,
Co. Clare.
V14 TF95

2nd June 2021

Section 5 referral Reference R21-34 – Thomas & Jessica Mellett

Whether the construction of a rear ground floor extension, a first floor attic extension and a steel shed to the rear of 8 Cluain Lia, Ballycasey, Shannon, Co. Clare V14 TF95 is considered development and if so, is it exempted development.

A Chara,

I refer to your application received on 1st June 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

Mark Kerin
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



CLARE COUNTY COUNCIL
COMHAIRLE CONTAE AN CHLÁIR

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

Telephone No. (065) 6821616
Fax No. (065) 6892071
Email: planoff@clarecoco.ie
Website: 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	THOMAS + JESSICA McLELLAN 8 CLUAIN LIA BALLINACREE SHANNON V14 TF 95
(b) Telephone No.:	[REDACTED]
(c) Email Address:	[REDACTED]
(d) Agent's Name and address:	AS ABOVE



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 CONSTRUCTION OF 1) A REAR GROUND FLOOR EXTENSION

2) FIRST FLOOR ATTIC EXTENSION

3) STEEL SHED TO REAR, AN EXEMPTED DEVELOPMENT?

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

1) GROUND FLOOR EXTENSION @ REAR OF PROPERTY - 4.0M X 3.6M

2) FIRST FLOOR ATTIC CONVERSION WITH SKYLIGHT @ REAR
OF PROPERTY - 4.8M X 2.7M

3) STEEL SHED @ REAR OF PROPERTY - 4.0M X 3.0M

(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)

1) SITE LOCATION MAP

2) PLAN + ELEVATIONS

3) PROPERTY PHOTOS

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT	
(a) Postal Address of the Property/Site/Building for which the declaration sought:	8 CLUAIN LIA, BALLYCASEY, SHANNON, CO. CLARE V14 TF95
(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):	PROPERTY 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:	No
(h) Date on which 'works' in question were completed/are likely to take place:	JAN 2020

SIGNED: 

DATE: 24TH MAY 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:

Date Acknowledged:

Date Declaration made:

Decision:

Fee Paid:

Reference No.:

CEO No.:

8 Cluain Lia Planning Exemption Request
Photos Taken April 2021



1) View from Front of Property



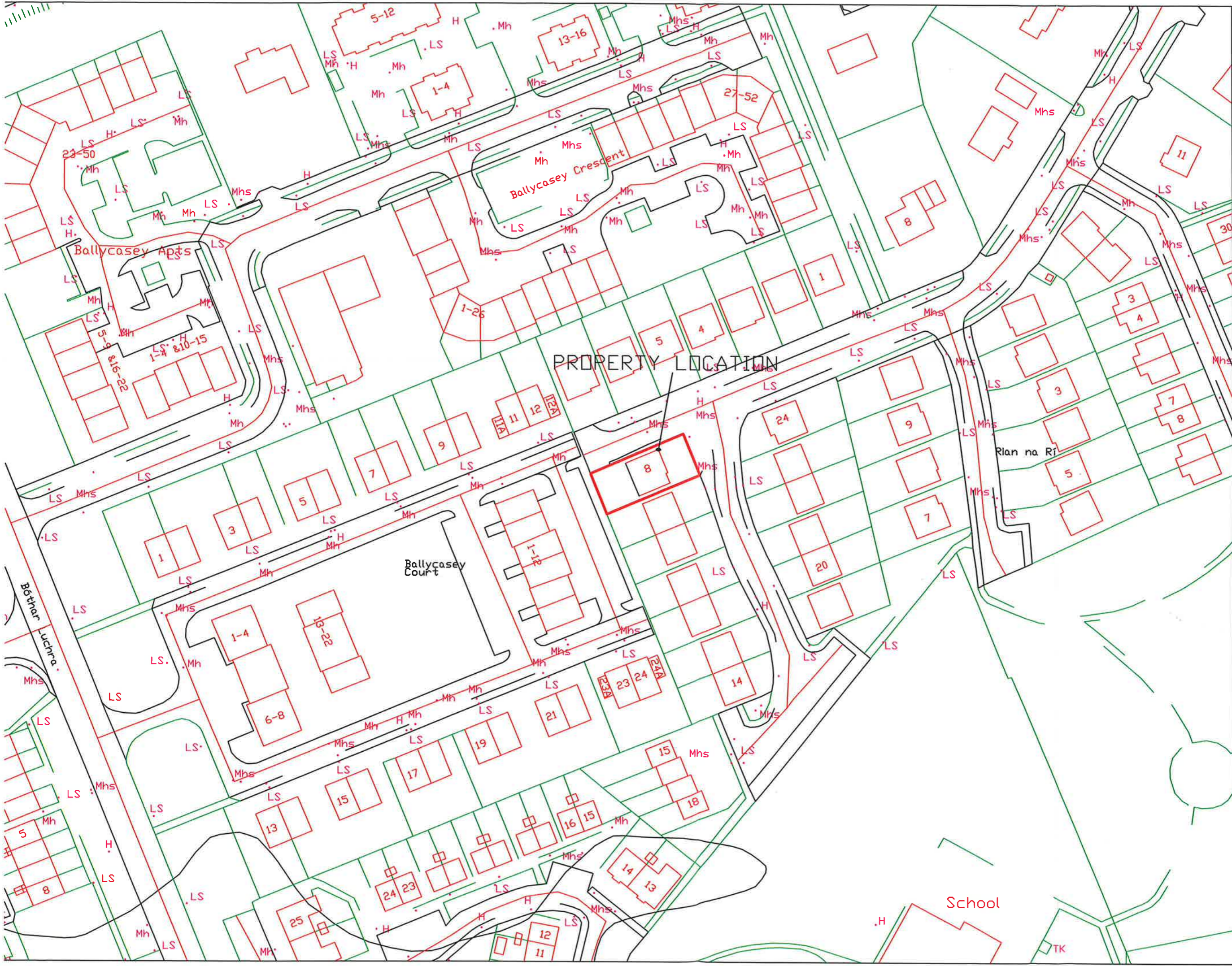
2) View from North Side of Property



3) View from Rear Garden



4) Garden Shed



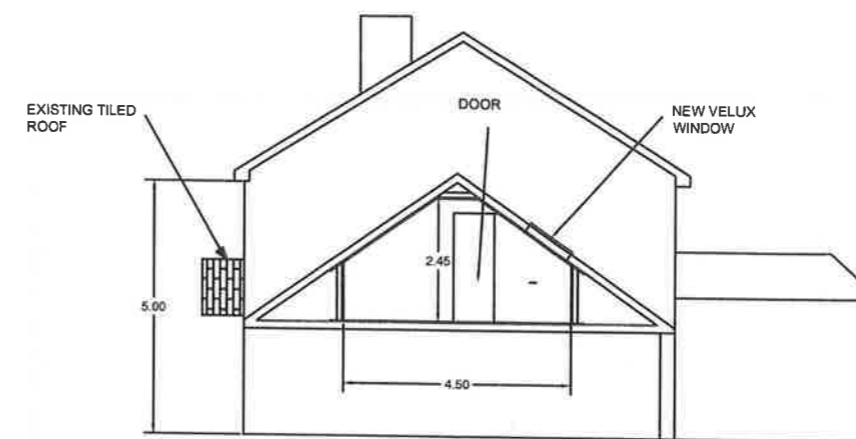
PROJECT: 1 ST FLOOR CONVERSION AND GROUND FLOOR EXTENSION (REAR) 8 CLUAIN LIA, BALLYCASEY	
CLIENT: THOMAS JESSICA MELLETT	Design & Drawn: T.M.
SCALE: 1:1000	DRAWING TITLE: SITE LAYOUT MAP

8 CLUAIN LIA PLANNING EXEMPTION REQUEST

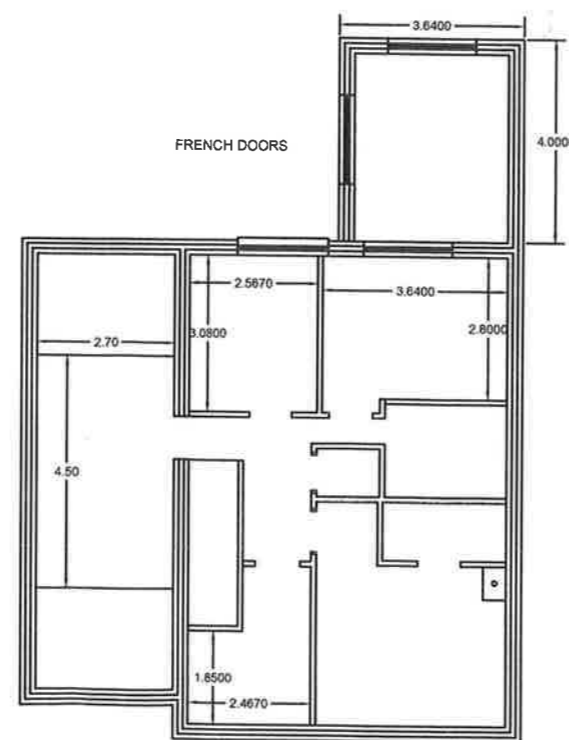
PLAN + ELEVATIONS

DRAWN BY - T.M. BENG

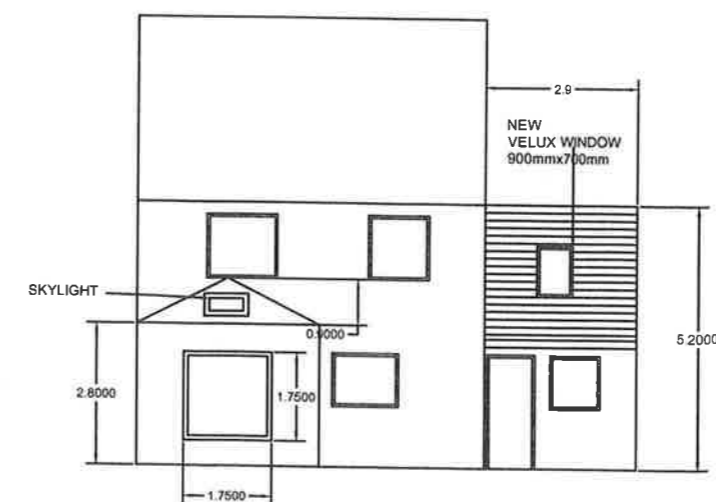
NOT TO SCALE



SIDE ELEVATION



1ST FLOOR PLAN



REAR ELEVATION



SHANNON MUNICIPAL DISTRICT
TOWN HALL
SHANNON
CO. CLARE

31/05/2021 09:38:06

Receipt No. : L1SHNAO/0/55932

Mr. Tom Mellett
1 Chuain Donn
Ballycasey
Shannon
Co. Clare

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

Total : 80.00 EUR

Tendered :
CREDIT CARDS 80.00

Change : 0.00

Issued By : L1SHNAO - Anne Marie Egan
From : SHANNON AREA OFFICE
Vat reg No.0033043E