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CONTAE AN CHLÁIR | COUNTY COUNCIL

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Ian Sheehy
Bansha
Askeaton
Co. Limerick

RL 5660 3363 01E

Your Client: John Cusack

14th March, 2022

Section 5 referral Reference R22-12 – John Cusack

Is the increase in the size of the proposed extension at 15 Fearnog, Shannon, Co. Clare (per attached drawings), in deviation from that size approved in P19-362, considered to be development, and if so is it exempted development?

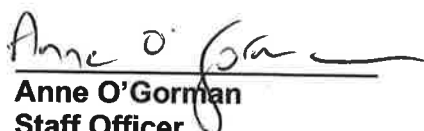
A Chara,

I refer to your application received on 17th February 2022 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



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

Reference No.: R22-12



Comhairle Contae an Chláir
Clare County Council

Section 5 referral Reference R22-12

Is the increase in the size of the proposed extension at 15 Fearnog, Shannon, Co. Clare (per attached drawings), in deviation from that size approved in P19-362, considered to be development, and if so is it exempted development?

AND WHEREAS, John Cusack 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 –

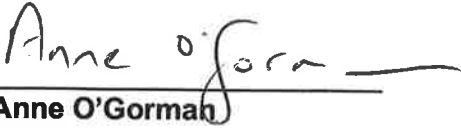
- a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- b) Articles 6 and 9 of the Planning and Development Regulations, 2001, as amended.
- c) The planning history of the site including the permission as granted under PI. Ref 19/362 and the conditions of same.
- d) The nature of the development as proposed and the documentation submitted as part of the referral.

And whereas Clare County Council has concluded:

- (a) The deviation to the extension design as permitted under PI. Ref 19/362 comes within the scope of the definition of development contained in Section 3 of the Planning and Development Act 2000, as amended.
- (b) The deviation to the extension design as permitted under PI. Ref 19/362 does not come within the scope of the permission as granted and condition no. 1 of said permission requires the development to be carried out in accordance with the details as submitted with that application.
- (c) There is no provision for the proposed deviation in either Section 4, as amended, of the said Act or Article 6 of the Planning and Development Regulations 2001, as amended
- (d) Therefore, the proposed deviation to the house extension as permitted under PI. Ref 19/362 constitutes development and development which is not exempted development.

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 deviation to the house extension as permitted under Pl. Ref 19/362 at 15 Fearnog, Shannon, constitutes development and development which is not exempted development as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.

A handwritten signature in black ink, appearing to read 'Anne O'Gorman', followed by a horizontal line.

Anne O'Gorman
Staff Officer
Planning Department
Economic Development Directorate

14th March, 2022

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: 79434

Reference Number: R22-12

Date Referral Received: 17th February 2022

Name of Applicant: John Cusack

Location of works in question: 15 Fearnog, Shannon, Co. Clare

Section 5 referral Reference R22-12 – John Cusack

Is the increase in the size of the proposed extension at 15 Fearnog, Shannon, Co. Clare (per attached drawings), in deviation from that size approved in P19-362, considered to be 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) Articles 6 and 9 of the Planning and Development Regulations, 2001, as amended.
- (c) The planning history of the site including the permission as granted under Pl. Ref 19/362 and the conditions of same.
- (d) The nature of the development as proposed and the documentation submitted as part of the referral.

AND WHEREAS Clare County Council has concluded:

- (a) The deviation to the extension design as permitted under Pl. Ref 19/362 comes within the scope of the definition of development contained in Section 3 of the Planning and Development Act 2000, as amended.
- (b) The deviation to the extension design as permitted under Pl. Ref 19/362 does not come within the scope of the permission as granted and condition no. 1 of said permission requires the development to be carried out in accordance with the details as submitted with that application.
- (c) There is no provision for the proposed deviation in either Section 4, as amended, of the said Act or Article 6 of the Planning and Development Regulations 2001, as amended
- (d) Therefore, the proposed deviation to the house extension as permitted under Pl. Ref 19/362 constitutes development and development which is not exempted development.

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 Gareth 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, Gareth Ruane, Senior Executive Planner, hereby declare that the deviation to the house extension as permitted under Pl. Ref 19/362 at 15 Fearnog, Shannon, constitutes development and development which is not exempted development.

Signed:



GARETH RUANE
SENIOR EXECUTIVE PLANNER

Date:

14th March, 2022 

CLARE COUNTY COUNCIL
SECTION 5 DECLARATION OF EXEMPTION APPLICATION
PLANNERS REPORT

FILE REF:	R22-12
APPLICANT(S):	John Cusack
REFERENCE:	Is the deviation from the planning permission 19362 development and if so is it exempted development.
LOCATION:	15 Fearnóg, Shannon, County Clare
DUE DATE:	15 th March 2022

Site Location

The site is occupied by a detached single storey dwelling located at 15 Fearnog, Shannon. It is an end of row house at the intersection of Tullyglass Crescent and Bothar na Rinne. It is bound to the east and south by the public roads and to the north/ rear by a two storey dwelling and to the west by a single storey dwelling of similar design.

Recent Onsite Planning History

19-362 – Planning Permission was granted for the construction of a single storey extension and all associated site works

Background to Referral

This Referral under Section 5(3)(a) of the Planning and Development Act 2000 (as amended) has been made by John Cusack. He states that she is the owner of the site.

The applicant is seeking a Section 5 Declaration as to whether the proposed deviation from the planning permission 19362 development and if so is it exempted development

Statutory Provisions

Planning and Development Act, 2000 (as amended)

In order to assess this proposal, regard has to 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.

Planning & Development Regulations, 2001, as amended

Article 6 refers to Exempted Development and states that subject to Article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development 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.

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 1, 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 or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 12 square metres.*
 - (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.

Assessment

Basis of Referral

The applicant is seeking a Section 5 Declaration as to whether the proposed deviation from the planning permission 19-362 is development and if so is it exempted development

Particulars of the Development

Planning permission (19-362) was granted for the construction of at 23sqm single storey extension and all associated site works to provide for a master bedroom. The applicant is seeking to change the area of the approved plan to accommodate a larger 32sqm extension, expanding the approved extension to the rear and side by 7.44sqm. The agent has confirmed that works to the approved extension as per P19-362 have not started.

Planning Exemption Assessment

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 1, 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.
 - (d) *Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres.*
 - (e) *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.*
 - (f) *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.
 - (d) *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.*
 - (e) *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 or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 12 square metres.*
- (f) *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. (d) *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.*
- (e) *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.*
- (f) *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. (d) *Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces.*
- (e) *Any window proposed above ground level in any such extension shall not be less than 11 metres from the boundary it faces.*
- (f) *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.*

Since the query relates to the proposed change to an approved plan rather than the extension of an existing structure, the Planning Authority has no grounds to assess it with regard to an exemption. The above policy relates to the extension of an existing house, not the alteration of an approved extension. Nevertheless, it is worth noting that should the extension already have been built as per approved planning permission 19-36, the proposed changes would also require planning permission since the proposal would include an extension to the side of the dwelling.

Notwithstanding the above, there are no provisions for the development as proposed in either the Planning and Development Act or Planning and Development Regulations.

Conclusions

The following questions have been referred to the Planning Authority:

Whether the deviation from the approved planning permission 19362 is development and if so is it exempted development?

The Planning Authority in considering this referral had regard to:

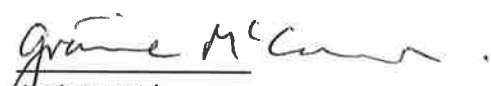
- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6 and 9 of the Planning and Development Regulations, 2001, as amended.
- (c) The planning history of the site including the permission as granted under Pl. Ref 19/362 and the conditions of same.
- (d) The nature of the development as proposed and the documentation submitted as part of the referral.


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

- (a) The deviation to the extension design as permitted under Pl. Ref 19/362 comes within the scope of the definition of development contained in Section 3 of the Planning and Development Act 2000, as amended.
- (b) The deviation to the extension design as permitted under Pl. Ref 19/362 does not come within the scope of the permission as granted and condition no. 1 of said permission requires the development to be carried out in accordance with the details as submitted with that application.
- (c) There is no provision for the proposed deviation in either Section 4, as amended, of the said Act or Article 6 of the Planning and Development Regulations 2001, as amended
- (d) Therefore, the proposed deviation to the house extension as permitted under Pl. Ref 19/362 constitutes development and development which is not exempted development.

NOW THEREFORE

Clare County Council, in exercise of the powers conferred on it by section 5 of the 2000 Act, hereby decides that the deviation to the house extension as permitted under Pl. Ref 19/362 at 15 Fearnog, Shannon, constitutes development and development which is not exempted development.


Assistant Planner
Date: 14/03/2022


Senior Executive Planner
Date: 16/03/22

Clare County Council
Screening for Appropriate Assessment & Determination

1. Table 1 to be filled in for all development applications.
2. Where proposed development is within a European site(s) site, go directly to table 3.
3. For all other development proposals, fill in table 2, and if required, table 3.
4. A Habitats Directive Screening Statement should be sought for all developments regardless of location which require an EIS

Table 1: Project Details

Planning File Reference	R22-12
Applicant Name	John Cusack
Development Location	at 15 Fearnog Shannon, Co. Clare
Application accompanied by an EIS	
Application accompanied by an NIS	
Description of the project (To include a site location map):	
Extension to dwelling	

Table 2: Identification of European sites which may be impacted by the proposed development.

This section identifies the European Sites within the likely zone of impact of the plan or project. For plans an initial 15km zone of influence (NPWS-DAHG)¹ is recommended. For projects, the distance could be much less than 15km, and in some cases less than 100m, but this must be evaluated on a case-by-case basis with reference to the nature, size and location of the project, and the sensitivities of the ecological receptors, and the potential for in combination effects. Qualifying Interests/Special conservation Interests for each site and the distance relevant to the proposal are listed (Table 2 (a)).

Table 2 (a): European Sites within 15km of Applicant Site

European Sites ²	Qualifying Interests (QIs)/Special Conservation Interests (SCIs) and conservation objectives (either generic or detailed) (available on www.npws.ie/protectedsites) or through Intranet.	Distance to Applicant Site (km)
Lower River Shannon SAC site code 002165	<p>Sandbanks which are slightly covered by sea water all the time [1110]</p> <ul style="list-style-type: none"> • Estuaries [1130] • Mudflats and sandflats not covered by seawater at low tide [1140] • *Coastal lagoons [1150] • Large shallow inlets and bays [1160] • Reefs [1170] • Perennial vegetation of stony banks [1220] • Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] • <i>Salicornia</i> and other annuals colonizing mud and sand [1310] • Atlantic salt meadows (<i>Glaucopuccinellietalia maritimae</i>) [1330] • Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] • Water courses of plain to montane levels with the <i>Ranunculus fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation [3260] • <i>Molinia</i> meadows on calcareous, peaty or clayey-silt-laden soils (<i>Molinion caeruleae</i>) [6410] • *Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i>, <i>Alnion incanae</i>, <i>Salicion albae</i>) [91E0] <p>Annex II species:</p> <ul style="list-style-type: none"> • Freshwater Pearl Mussel <i>Margaritifera margaritifera</i> [1029] <p>Sea Lamprey <i>Petromyzon marinus</i> [1095]</p>	1.5km

¹ European Sites that are more than 15km from the proposal may have to be considered. For example in the case of sites with water dependent habitats or species and where a proposal could affect water quality or quantity it may be necessary to consider the full extent of the upstream and/or downstream catchment.

² European Site details are available on <http://webgis.npws.ie/npwsviewer/> or maybe obtained from internal mapping systems.

European Sites ²	Qualifying Interests (QIs)/Special Conservation Interests (SCIs) and conservation objectives (either generic or detailed) (available on www.npws.ie/protectedsites) or through Intranet.	Distance to Applicant Site (km)
	<ul style="list-style-type: none"> • Brook Lamprey <i>Lampetra planeri</i> [1096] • River Lamprey <i>Lampetra fluviatilis</i> [1099] • Atlantic Salmon <i>Salmo salar</i> (only in fresh water) [1106] • Bottlenose Dolphin <i>Tursiops truncatus</i> [1349] • Otter <i>Lutra lutra</i> [1355] 	
Lower River Shannon SAC site code 002165	<p>Annex I habitats:</p> <ul style="list-style-type: none"> • Sandbanks which are slightly covered by sea water all the time [1110] • Estuaries [1130] • Mudflats and sandflats not covered by seawater at low tide [1140] • *Coastal lagoons [1150] • Large shallow inlets and bays [1160] • Reefs [1170] • Perennial vegetation of stony banks [1220] • Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] • <i>Salicornia</i> and other annuals colonizing mud and sand [1310] • Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>) [1330] • Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] • Water courses of plain to montane levels with the <i>Ranunculion fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation [3260] • <i>Molinia</i> meadows on calcareous, peaty or clayey-silt-laden soils (<i>Molinion caeruleae</i>) [6410] • *Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i>, <i>Alnion incanae</i>, <i>Salicion albae</i>) [91E0] <p>Annex II species:</p> <ul style="list-style-type: none"> • Freshwater Pearl Mussel <i>Margaritifera margaritifera</i> [1029] Sea Lamprey <i>Petromyzon marinus</i> [1095] • Brook Lamprey <i>Lampetra planeri</i> [1096] • River Lamprey <i>Lampetra fluviatilis</i> [1099] • Atlantic Salmon <i>Salmo salar</i> (only in fresh water) [1106] 	1.5km

European Sites ²	Qualifying Interests (QIs)/Special Conservation Interests (SCIs) and conservation objectives (either generic or detailed) (available on www.npws.ie/protectedsites) or through Intranet.	Distance to Applicant Site (km)
	• Bottlenose Dolphin <i>Tursiops truncatus</i> [1349] • Otter <i>Lutra lutra</i> [1355]	

1	Impacts on designated rivers, streams, lakes and fresh water dependant habitats and species.	Is the development in the catchment of or immediately upstream of a watercourse that has been designated as a European site?	no
2	Impacts on terrestrial habitats & species.	Is the development within 1km of a European site with terrestrial based habitats or species?	yes
3	Impacts on designated marine habitats & species.	Is the development located within marine or intertidal areas and within 5 km of a European site whose qualifying habitats or species include the following: Mudflats, sandflats, saltmarsh, shingle, reefs, sea cliffs	no
4	Impacts on birds in SPAs	Is the development within 1km of a Special Protection Area	no
5	Indirect effects	Is the development, in combination with other existing or proposed developments likely to impact on an adjacent European site? Is any emission from the development (including noise) likely to impact on an adjacent habitat or species?	no

Conclusion:

- If the answer to all of the above is *no*, significant impacts on European sites are unlikely. No further assessment is required; go directly to the conclusion statement.
- If the answer is *unknown* or *yes* proceed to Table 3 and refer to the relevant sections of Table 3.

Table 3: Identification of potential impacts.

1	Impacts on designated rivers, streams, lakes and fresh water dependant habitats and species. <i>Please answer the following if the answer to question 1 in table 2 was “yes” or “unknown”. Does the development involve any of the following:</i>	
1.1	Removal of or interference with habitat within a European site. This may include any element of a project liable to interfere with breeding, nesting or roosting sites of birds, bats, water based species	NA
1.2	Discharges either directly (via pipe from the development) or indirectly (via sewer) to surfacewater or groundwater What is the likely volume of the discharge?	NA
1.3	Abstraction from surfacewater or groundwater in or adjacent to a European site, where hydrology is a critical element in the protection of habitat and species at the site? What is the likely volume of the abstraction?	NA
1.4	Is removal of topsoil proposed within 500m of watercourses? What transportation requirements are provided? Does the removal involve reduction in area, population density or fragmentation of area of any habitat or species?	NA
1.5	Infilling or raising of ground levels within 500m of watercourses? What transportation requirements are provided? Does the infilling or raising involve interference with area, population density or fragmentation of area of any habitat or species?	NA
1.6	Construction of drainage ditches - (scale?) Where the run off is directed to? Is the drainage run off directed to a European site where species are identified and whose conservation status may be impacted by this drainage?	NA
1.7	Installation of waste water treatment systems; percolation areas; septic tanks within 500m of watercourses?	NA
1.8	Construction within a floodplain or within an area liable to flood (See www.floodmaps.ie , internal flood risk maps, County Development Plan SFRA and www.cframs.ie)	NA
1.9	Crossing or culverting of rivers or streams, installation of weirs, temporary watercourse crossings or any interference with a watercourse.	NA
1.10	Storage of chemicals or hydrocarbons (including oils and fuels) within 500m of a watercourse	NA
1.11	Development within catchment of a European site of a scale or type which involves the production of an EIS	NA
1.12	Consideration of effects in combination with existing development?	NA

2	Impacts on terrestrial habitats and species. <i>Please answer the following if the answer to question 2 in table 2 was yes.</i> <i>Does the development involve any of the following:</i>	
2a	Removal of or interference with habitat within the European site. This includes reduction in habitat area or fragmentation of habitat. Is the timing of this interference liable to impact on the nesting or breeding period of any protected species?	NA
2b	Construction of roads or other infrastructure on peat habitats within 1km of bog, marsh, fen or heath habitat within a European site	NA
2c	Is the development liable to impact on water quality in the European site, or liable to give rise to any change in a key indicator of water quality, including salinity. If yes, is the site designated for any bird species or other plant species whose feeding ground or life cycle may be affected by changes in water quality?	NA
2d	Development within 1km of terrestrial European site of a scale or type which involves the production of an EIS.	NA
3	Impacts on designated marine habitats and species. <i>Please answer the following if the answer to question 3 in table 2 was yes.</i> <i>Does the development involve any of the following:</i>	
3a	Removal of or interference with habitat within the European site. This includes timing of the project if there is potential to interfere with nesting or breeding periods, either directly or indirectly (e.g. by noise emission) or any aspect of the life cycle of a protected species. This also includes potential fragmentation, size reduction of habitat, or reduction in species density.	NA
3b	Coastal protection works on intertidal or marine habitats within 5km of a European site supporting coastal or marine habitats or species. This includes any works which may give rise to potential changes in hydrology or salinity of these areas.	NA
3c	Development of piers, slipways, marinas, pontoons or any other infrastructure within 5km of a European site that was designated because it supports marine habitats and/or species.	NA
3d	Dredging within 5km of a European site supporting coastal or marine habitats or species.	NA
3e	Removal of topsoil or infilling within 100m of marine habitats within the designated site.	NA
3f	Land based development within 1km of a European site of a scale or type which involves the production of an EIS.	NA
3g	Marine or intertidal based development within 5km of a European site of a scale or type which involves the production of an EIS.	NA

4	Impacts on birds in SPAs <i>Please answer the following if the answer to question 5 in table 2 was yes.</i> <i>Does the development involve any of the following:</i>	
4a	Removal of or interference with habitats within an SPA. This includes consideration of indirect and in combination effects on the feeding, breeding and nesting grounds of Annex 1 birds	NA
4b	Erection of wind turbines within 1km of an SPA.	NA
4c	All construction works within 100m of intertidal areas – Coastal SPAs, including indirect and in combination effects on the feeding, breeding and nesting grounds of Annex 1 birds	NA
4d	Infilling of coastal habitats within 500m of SPA, including indirect and in combination effects on the feeding, breeding and nesting grounds of Annex 1 birds	NA
4e	Discharges to coastal SPA, including any element of a discharge liable to give rise to disturbance of this habitat, either by direct, indirect, or in combination effects	NA
4f	Development of cycleways or walking routes within 100m of intertidal areas. This includes consideration of indirect and in combination effects on the feeding, breeding and nesting grounds of Annex 1 birds	NA
4g	Development within 1km of SPA of a scale or type which involves the production of an EIS. This includes consideration of indirect and in combination effects on the feeding, breeding and nesting grounds of Annex 1 birds	NA

Conclusion:

- If the answer to all of the above is *no*, significant impacts on European sites are unlikely. No further assessment is required; go directly to the conclusion statement.
- If the answer to any of the above is *yes*, or *unknown* effects on the European sites need to be assessed and a Natura Impact Statement will be required

Appropriate Assessment Screening Determination	
Planning File Reference	R22-12
Proposed Development	Dwelling extension
Development Location	at 15 Fearnog Shannon, Co. Clare
European sites within impact zone	
Description of the project: PERMISSION for the construction of a single storey extension and all associated site works	
Qualifying Interests (QIs)/Special Conservation Interests (SCIs) of European site	
As above	
Describe how the project or plan (alone or in combination) is likely to affect the European site(s).	
Not likely- existing development connected to existing services	
If there are potential negative impacts, explain whether you consider if these are likely to be significant, and if not, why not?	
Not significant- existing development connected to existing services	
Documentation reviewed for making this statement	
<ul style="list-style-type: none"> - County Development Plan (including Flood Maps, SEA & AA) - NPWS website - Documents received as part of the planning application - EPA Code of Practice 	
Conclusion of assessment (a, b, c or d)	
(a) The proposed development is directly connected with or necessary to the nature conservation management of a European Site(s) ³	no
(b) There is no potential for significant effects to European Sites ³	There is no potential for significant effects to European Sites ³
(c) The potential for significant effects to	The potential for significant effects to European Site(s) can be ruled out ⁴

³ Appropriate Assessment is not required and therefore Planning permission may be granted at this stage subject to all other planning considerations. However, no material changes may be made to the proposed development after this conclusion has been reached as this would invalidate the findings of the screening exercise.

⁴ In accordance with S177U of the Planning and Development (Amendment) Act 2010, the applicant should be requested to submit an 'Appropriate Assessment Screening Matrix' completed by a suitably qualified ecologist, by

European Site(s) cannot be ruled out⁴	
(d) Significant effects to European sites are certain or likely or where potential for significant effects to European sites remains following receipt of Further Information requested under S177U of the Planning and Development (Amendment) Act 2010⁵	N/A
Completed By	Grainne McCormack
Date	10/03/2022

way of Further Information. Following receipt of this information a new Appropriate Screening Report should be completed. The requested 'Appropriate Assessment Screening Matrix' should be in accordance with the template outlined in Annex 2, Figure 1 of the EU (2001) guidance document 'Assessment of plans and projects significantly affecting European Sites – Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC. This guidance document is available from

http://ec.europa.eu/environment/nature/natura2000/management/docs/art6/natura_2000_assess_en.pdf

Alternatively, where other planning concerns arise the proposal could be refused planning permission.

⁴ In accordance with S177U of the Planning and Development (Amendment) Act 2010, the applicant should be requested to submit an 'Appropriate Assessment Screening Matrix' completed by a suitably qualified ecologist, by way of Further Information. Following receipt of this information a new Appropriate Screening Report should be completed. The requested 'Appropriate Assessment Screening Matrix' should be in accordance with the template outlined in Annex 2, Figure 1 of the EU (2001) guidance document 'Assessment of plans and projects significantly affecting European Sites – Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC. This guidance document is available from

http://ec.europa.eu/environment/nature/natura2000/management/docs/art6/natura_2000_assess_en.pdf

Alternatively, where other planning concerns arise the proposal could be refused planning permission.

⁵ The proposed development must either by refused planning permission or alternatively an 'Appropriate Assessment' (AA) should be carried out by the Planning Authority. In order to facilitate the preparation of an AA the applicant should be requested to submit a Natura Impact Statement (NIS) in accordance with S177 (T) of the Planning and Development (Amendment) Act 2010. However, in the case of an application to retain unauthorised development of land and where the authority decides that an 'appropriate assessment' should have been carried out prior to the commencement of development, the application is required to be invalidated by the Planning Authority as per S34 (12) of the Planning and Development (Amendment) Act 2010 and accordingly an NIS should not be requested in such instances.



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

John Cusack
15 Fearnogh
Shannon
Co. Clare

17/02/2022

Section 5 referral Reference R22-12 – John Cusack

Is the increase in the size of the proposed extension (per attached drawings), in deviation from that size approved in P19-362, considered to be development, and if so is it exempted development?

A Chara,

I refer to your application received on 17th February 2022 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

Tadhg Holmes

Tadhg Holmes
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

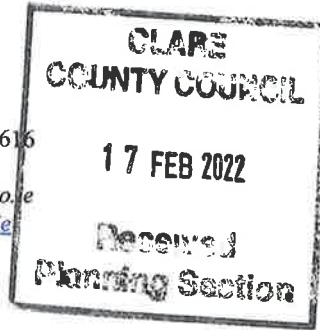


P07

**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
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	<p>John Cusack</p> <p>15 Fearnogh, Shannon, Co. Clare</p> <p>_____</p> <p>_____</p> <p>_____</p>
(b) Telephone No.:	_____
(c) Email Address:	_____
(d) Agent's Name and address:	<p>Ian Sheehy</p> <p>Bansha, Askeaton, Co. Limerick</p> <p>_____</p> <p>_____</p> <p>_____</p>

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 deviation from the approved planning permission 19362 development and if so is it exempted development?

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

Planning permission was approved under 19362 for for the construction of a single storey extension and all associated site works. The applicants now want to increase the size of the proposed extension as shown in attached drawings

- (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 location map, proposed elevations, floor plans and section

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT	
(a) Postal Address of the Property/Site/Building for which the declaration sought:	<div>15 Fearnog, Shannon, Co. Clare</div>
(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?	<div>NO</div>
(c) Legal interest in the land or structure in question of the person requesting the declaration (Give Details):	<div>OWNER</div>
(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>	<div>N/A</div>
(e) Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?:	<div>YES</div>
(f) Are you aware of any enforcement proceedings connected to this site? <i>If so please supply details:</i>	<div>NO</div>
(g) Were there previous planning application/s on this site? <i>If so please supply details:</i>	<div>YES - 19362</div>
(h) Date on which 'works' in question were completed/are likely to take place:	<div>April 2022</div>

SIGNED: Ian Sheehy Agent

DATE: 16/02/2022

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:	

Ian Sheehy MCIOB, BSc.

Registered Building Surveyor

Bansha, Askeaton, Co. Limerick

Email: ian@technicalolutions.ie , Phone 0879202500

16/02/2022

To whom it may concern

John and Gillian Cusack are making a request for a declaration on development and exempted development under section 5 of the planning and Development Act 2000

The applicants were granted permission for an extension to the existing dwelling under planning file reference 19362. They would now like to increase the floor area of the extension to provide a more accessible bathroom and bedroom than that previously approved.

Please find enclosed Section 5 application form, OSI map, Approved site layout, elevations and floor plans and proposed Elevations, floor plans and section.

Please contact John Cusack on _____ for payment of fee over phone

If any further information is required, please do not hesitate to contact me

Kind Regards,

Ian Sheehy, MCIOB

BSc (Hons) Building Surveying, BSc Management (Craft)

Registered Building Surveyor



Planning Pack Map

Site Boundary in Red

CENTRE COORDINATES:
ITM 540424,662018

PUBLISHED: 25/04/2019
ORDER NO.: 50059233_1

MAP SERIES: 1:1,000
1:2,500
MAP SHEETS: 4618-06
4618-A

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LEGEND:
<http://www.osi.ie>;
search 'Large Scale Legend'



CAPTURE RESOLUTION:
The map objects are only accurate to the
resolution at which they were captured.
Output scale is not indicative of data capture scale.
Further information is available at:
<http://www.osi.ie>; search 'Capture Resolution'

CLARE
COUNTY COUNCIL
17 FEB 2022
[Received]
Planning Section



APPLICANTS SITE OUTLINED
IN RED

EXISTING DWELLING IN
GREEN

PROPOSED EXTENSION IN
BLUE *APPROVED*

X = SITE NOTICE

*Proposed alterations
to approved plans
Shown in orange*

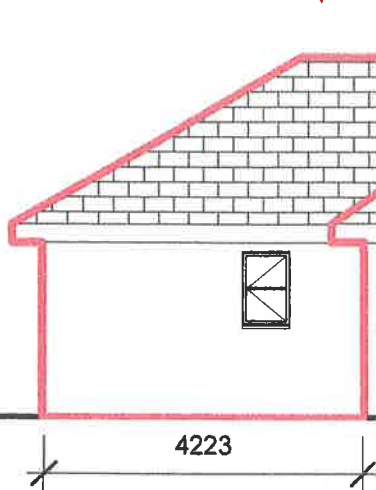
BASED ON OSI MAP SHEET NO: 4618 - 06

TITLE SITE LAYOUT PLAN EXTENSION TO EXISTING DWELLING 15 FEARNOG, SHANNON, CO. CLARE	CLIENT: JOHN AND GILLIAN CUSACK 15 FEARNOG, SHANNON, CO. CLARE	TECHNICAL SOLUTIONS PLANNING, SURVEYING, DESIGN, SUPERVISION & CERTIFICATION Ian Sheehy BSc, Building Surveying, MCIQB Registered Building Surevyor Chartered Construction Manager CLAREVUE, BALLYKEEFE, DOORADOYLE, CO. LIMERICK iansheehy99@gmail.com 0879202500	REV	Site Boundary In Red	COPYRIGHT No part of these drawings shall be reproduced without the written consent of Technical Solutions. This drawing is the copyright of Technical Solutions Drawing is Copyright 2019
			Scale (@ A3) 1 : 500	Site Area : 0.15 Acres	
Project number JGC - 191	ITM Co-ordinates: 540424, 662018				
	DRWAING NUMBER PLA001		DRAWN BY: IAN SHEEHY MCIQB BSc. BSurv: DATE: 01/05/2019		

Extension Outlined in Red



1



2



3



4

Roof:
Black concrete roof tiles to match existing on
50mm x 50mm treated timber battons on
breathable mebrane on 150mm x 44mm graded C16
timber rafters on 100mm x 75mm timber wall plate mechanically fixed
and strapped at 1.2m centres to masonry wall

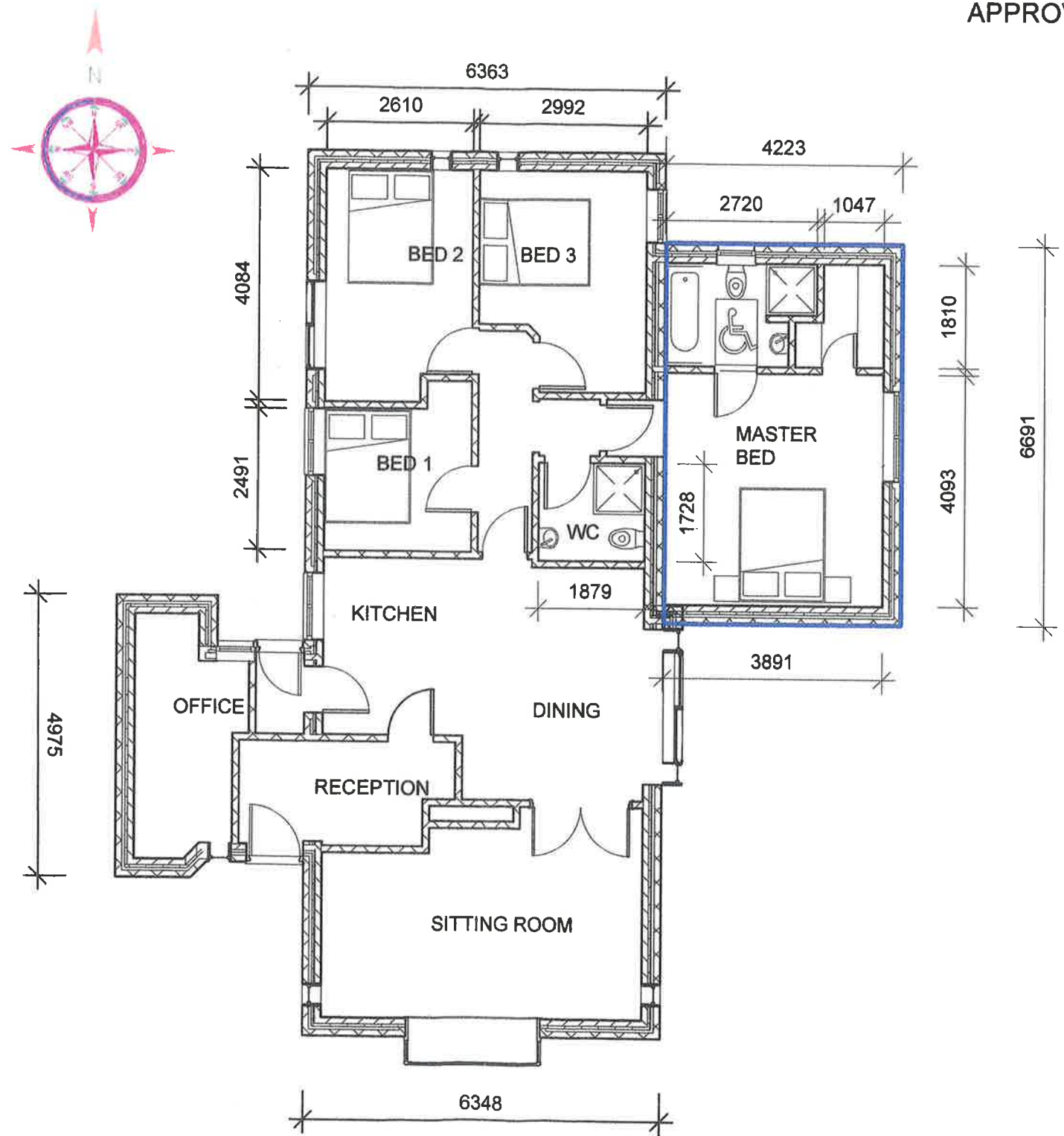
External Walls:
310mm masonry cavity wall consisting of 100mm outer leaf, 110mm cavity with 100mm full fill xtratherm insulation with 100mm block inner leaf. 3 coats of sand and cement plaster finish

Foundations::
1050 x 350 R.C concrete strip foundation
with A343 Steel mesh to top and bottom of foundation
with 50mm cover.

Floors::
Selected floor covering on 150mm 35n concrete
on 150mm Xtratherm rigid floor insulation on
DPM on 50mm sand blinding on 150mm SR Annex E
hardcore

<div>TITLE</div> <div>Proposed Elevations</div>	<div>CLIENT:</div> <div>John and Gillian Cusack</div> <div>15 Fearnog, Shannon, Co. Clare</div>	<div>TECHNICAL SOLUTIONS</div> <div>PLANNING, SURVEYING, DESIGN, SUPERVISION & CERTIFICATION</div> <div>Ian Sheehy BSc. Building Surveying, MCIOB</div> <div>Registered Building Surevyor</div> <div>Chartered Construction Manager</div> <div>CLAREVUE, BALLYKEEFE, DOORADOYLE, CO. LIMERICK</div> <div>iansheehy99@gmail.com</div> <div>0879202500</div>	<div>REV</div>	<div>No.</div>	<div>Description</div>	<div>Date</div>
<div>DRWAING NUMBER</div> <div>PLA004</div>	<div>DRAWN BY: IAN SHEEHY MCIOB BSC. BSurv:</div> <div>DATE: 10/04/2019</div>		<div>Scale (@ A3)</div> <div>1 : 100</div>	<div>Project number</div> <div>JGC - 19/1</div>		

APPROVED EXTENSION FLOOR PLAN



APPROVED FLOOR PLANS UNDER PLANNING FILE REF: 19362

TITLE	APPROVED FLOOR PLAN	CLIENT: JOHN AND GILLIAN CUSACK 15 FEARNOG, SHANNON, CO. CLARE	TECHNICAL SOLUTIONS PLANNING, SURVEYING, DESIGN, SUPERVISION & CERTIFICATION Ian Sheehy BSc. Building Surveying, MCIQB Registered Building Surveyor Chartered Construction Manager	REV	Site Boundary In Red		COPYRIGHT No part of these drawings shall be reproduced without the written consent of Technical Solutions. This drawing is the copyright of Technical Solutions Drawing is Copyright 2022
					Site Area : 0.15 Acres		
DRAWING NUMBER	PLA005	DRAWN BY: IAN SHEEHY MCIQB BSc. BSurv: DATE: 16/02/2022	CLAREVUE, BALLYKEEFE, DOORADOYLE, CO. LIMERICK	Scale (@ A3) 1 : 500	ITM Co-ordinates: 540424, 862018		
			iansheehy99@gmail.com 0879202500	Project number JGC - 191			
				All measurements in millimeters, levels in meters			



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

COMHAIRLE

17/02/2022 11:00:37

CONTAE

Receipt No. : LICASH/0/328658

***** REPRINT *****

AN CHLÁIR

JOHN CUSACK
15 FEARNOGH
SHANNON
CO. CLARE
R22-12

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

Total :

80.00 EUR

Tendered :

CREDIT CARDS

80.00

Change :

0.00

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Vat reg No.0033043E

COMHAIRLE