



COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

**Registered Post**

**Nua Healthcare Services  
c/o Sharon Liu, Building & Planning Dept  
The Atrium, John's Lane  
Naas  
Co. Kildare  
W91 WC78**

**10th May 2023**

**Section 5 referral Reference R23-26 – Nua Healthcare Services**

Is the conversion of a dwelling to a community residence for persons with intellectual or physical difficulties or mental illness and persons providing care to such persons is development, and if so, is it exempted development?

A Chara,

I refer to your application received on 14th April 2023 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

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

**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:**

81725

**Reference Number:**

**R23-26**

**Date Referral Received:**

**14th April 2023**

**Name of Applicant:**

**Nua Healthcare Services**

**Location of works in question:**

**Carrowbawn, Ogonnelloe, Co. Clare**

**Section 5 referral Reference R23-26 – Nua Healthcare Services**

Is the conversion of a dwelling to a community residence for persons with intellectual or physical difficulties or mental illness and persons providing care to such persons is 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) Class 14(f) of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (d) The works as indicated in submitted documents from the referrer.

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

- (a) The conversion of a dwelling to a community residence for persons with intellectual or physical difficulties or mental illness and persons providing care to such persons at Carrowbaun, Ogonnelloe, Co. Clare constitutes "works" which come within the scope of section 2(1) of the Planning and Development Act 2000, as amended.
- (b) The said works constitute "development" which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended,
- (c) The said conversion of a dwelling to a community residence for persons with intellectual or physical difficulties or mental illness and persons providing care to such persons at Carrowbaun, Ogonnelloe, Co. Clare is exempted development by virtue of Class 14(f) of Part 1, Schedule 2 of the Planning and Development Regulations 2001.

**ORDER:** Whereas by Chief Executive's Order No. HR 152 dated 9<sup>th</sup> 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 conversion of a dwelling to a community residence for persons with intellectual or physical difficulties or mental illness and persons providing care to such persons at Carrowbaun, Ogonnelloe, Co. Clare is considered development which is exempted development.

Signed:

  
GARETH RUANE  
SENIOR EXECUTIVE PLANNER 

Date:

10th May 2023

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

**Reference No.: R23-26**



Comhairle Contae an Chláir  
Clare County Council

**Section 5 referral Reference R23-26**

**Is the conversion of a dwelling to a community residence for persons with intellectual or physical difficulties or mental illness and persons providing care to such persons is development, and if so, is it exempted development?**

**AND WHEREAS, Nua Healthcare Services** 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) Class 14(f) of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (d) The works as indicated in submitted documents from the referrer.

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

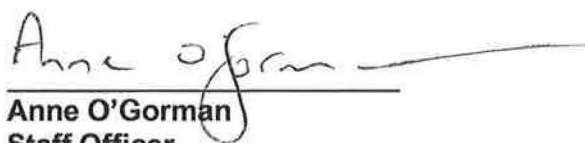
- (a) The conversion of a dwelling to a community residence for persons with intellectual or physical difficulties or mental illness and persons providing care to such persons at Carrowbaun, Ogonnelloe, Co. Clare constitutes "works" which come within the scope of section 2(1) of the Planning and Development Act 2000, as amended.
- (b) The said works constitute "development" which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended,
- (c) The said conversion of a dwelling to a community residence for persons with intellectual or physical difficulties or mental illness and persons providing care to such persons at Carrowbaun, Ogonnelloe, Co. Clare is exempted development by virtue of Class 14(f) of Part 1, Schedule 2 of the Planning and Development Regulations 2001.

**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 conversion of a dwelling to a community residence for persons with intellectual or physical difficulties or mental illness and persons



providing care to such persons at Carrowbaun, Ogonnelloe, Co. Clare constitutes development which is 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', is written over a horizontal line.

Anne O'Gorman  
Staff Officer  
Planning Department  
Economic Development Directorate

10th May 2023

**CLARE COUNTY COUNCIL**  
**SECTION 5 DECLARATION OF EXEMPTION APPLICATION**

<b>FILE REF:</b>	R23-236
<b>APPLICANT(S):</b>	Nua Healthcare Services
<b>REFERENCE:</b>	Whether the conversion of a dwelling to a community residence for persons with intellectual or physical difficulties or mental illness and persons providing care to such persons is or is not development and is or is not exempted development.
<b>LOCATION:</b>	Carrowbaun, Ogonnelloe, Co. Clare
<b>DUE DATE:</b>	10 <sup>th</sup> May 2023

**Site Location**

The site is located in a rural area approximately 3.7km southwest of Ogonnelloe and 5km northwest of Killaloe. The site is accessed via a local road which is in a reasonable state of report. The site comprises a detached single storey dwelling with a detached outbuilding to the rear. The site has extensive gardens which are neatly maintained.

**Planning History**

No recent planning applications on the proposal site. Original grant of permission for the dwelling was P01/1864.

**Background to Referral**

This Referral under Section 5(3)(a) of the Planning and Development Act 2000 (as amended) has been made by Nua Healthcare Services who state that they are the owners of the subject dwelling.

The applicants are seeking a Section 5 Declaration as to whether the conversion of a dwelling to a community residence for persons with intellectual or physical difficulties or mental illness and persons providing care to such persons is or is not development and is or is not 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.*

Section 4(1)(h) of the Planning and Development Act, 2000 (as amended)

The following shall be exempt for the purposes of the Act

(h) development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures.

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 3 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 3 opposite the mention of that class in the said column 1.

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 1, Class 14 (f)

*From use as a house, to use as a residence for persons with an intellectual or physical disability or mental illness and persons providing care for such persons.*

The number of persons with an intellectual or physical disability or a mental illness living in any such residence shall not exceed 6 and the number of resident carers shall not exceed 2.

Under Article 9 (1) of the same Regulations, development to which Article 6 relates shall not be exempted development for the purposes of the Act:

(a) if the carrying out of such development would –

(i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act

*(ii) consist of or compromise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,*

*(iii) endanger public safety by reason of traffic hazard or obstruction of road users,*

*(iiia) endanger public safety by reason of hazardous glint and/or glare for the operation of airports, aerodromes or aircraft,*

*(iv) except in the case of a porch to which class 7 specified in column 1 of Part 1 of Schedule 2 applies and which complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1, comprise the construction, erection, extension or renewal of a building on any street so as to bring forward the building, or any part of the building, beyond the front wall of the building on either side thereof or beyond a line determined as the building line in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,*

*(v) consist of or comprise the carrying out under a public road of works other than a connection to a wired broadcast relay service, sewer, water main, gas main or electricity supply line or cable, or any works to which class 25, 26 or 31 (a) specified in column 1 of Part 1 of Schedule 2 applies,*

*(vii) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan.*

*(vii) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,*

*(viiA) consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12(1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to and in accordance with a consent granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended,*

*(viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,*

*(viiC) consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000."*

*(viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,*

*(ix) consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,*

*(x) consist of the fencing or enclosure of any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility,*

*(xi) obstruct any public right of way,*

*(xii) further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area.*

## Assessment

### **Basis of Referral**

The applicant is seeking a Section 5 Declaration as to whether the conversion of a dwelling to a community residence for persons with intellectual or physical difficulties or mental illness and persons providing care to such persons at Carrowbaun, Ogonnelloe, Co. Clare is or is not development and is or is not exempted development.

An existing dwelling house has been rearranged internally to provide living accommodation for two of Nua Healthcare's service users. The new internal arrangement also provides office space, kitchen space etc for staff who provide care to the two residents. It is stated that the staff are not permanent residents, but work on a shift basis during the day and night. While the internal layout is clearly divided into distinct living spaces, full internal connectivity is maintained within the dwelling. No fully independent living spaces are created.

The development as undertaken appears to comply with the provisions and limitations of Class 14(f) of the Planning and Development Regulations.

It is noted that additional doors have been added to the side and rear elevations of the dwelling as part of the development. These are relatively minor changes to the dwelling, most likely added for compliance with Building/Fire Regulations. The doors are not visible from the public road. From all available vantage points, the character of the subject dwelling is unchanged. I am satisfied that the changes can be considered under the provisions of Section 4(1)(h) of the Planning and Development Act, 2000 (as amended).

### **Article 9 of the Planning and Development Regulations 2001, as amended**

Under Article 9 (1) of the same Regulations, *development to which Article 6 relates shall not be exempted development for the purposes of the Act:*

*(a) if the carrying out of such development would –*

*(i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act*

The proposal does not contravene a condition of any previous permission.

*(ii) consist of or compromise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,*

No access points onto the public road network are affected by the proposal.

*(iii) endanger public safety by reason of traffic hazard or obstruction of road users,*

The proposal does not create a traffic hazard or obstruct road users in the area.

*(iia) endanger public safety by reason of hazardous glint and/or glare for the operation of airports, aerodromes or aircraft,*

The proposal site is not located in a solar safeguard zone.

*(iv) except in the case of a porch to which class 7 specified in column 1 of Part 1 of Schedule 2 applies and which complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1, comprise the construction, erection, extension or renewal of a building on any street so as to bring forward the building, or any part of the building, beyond the front wall of the building on either side thereof or beyond a line determined as the building line in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,*

No applicable to the proposal

*(v) consist of or comprise the carrying out under a public road of works other than a connection to a wired broadcast relay service, sewer, water main, gas main or electricity supply line or cable, or any works to which class 25, 26 or 31 (a) specified in column 1 of Part 1 of Schedule 2 applies*

Not applicable to this proposal

*(vi) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan.*

The proposed change of use of the dwelling does not have a negative impact on the character or visual amenities of the area.

*(vii) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,*

Not applicable to this proposal



*(viiA) consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12(1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to and in accordance with a consent granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended,*

There are no known archaeological features in the vicinity of the proposal site.

*(viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,*

Having regard to the nature and scale of the development, which does not involve any additional ground works and will not result in an intensification of the use of the site, and the absence of connectivity to a European Site, no Appropriate Assessment issues arise and I do not consider that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects, on a European Site.

Appropriate assessment is not therefore required.

*(viiC) consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000."*

No applicable in this instance

*(viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,*

Not applicable to this proposal. The dwelling on the site was permitted by grant of permission P01/1864 and was constructed in accordance with that permission.

*(ix) consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,*

Not applicable in this instance



*(x) consist of the fencing or enclosure of any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility,*

Not applicable in this instance

*(xi) obstruct any public right of way,*

Not applicable in this instance

*(xii) further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area.*

The development site is not within an Architectural Conservation Area.

### **Conclusions**

The following question has been referred to the Planning Authority:

Whether the conversion of a dwelling to a community residence for persons with intellectual or physical difficulties or mental illness and persons providing care to such persons at Carrowbaun, Ogonnelloe, Co. Clare is or is not development and is or is not 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) Class 14(f) of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (d) The works as indicated in submitted documents from the referrer.

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

- (a) The conversion of a dwelling to a community residence for persons with intellectual or physical difficulties or mental illness and persons providing care to such persons at Carrowbaun, Ogonnelloe, Co. Clare constitutes "works" which come within the scope of section 2(1) of the Planning and Development Act 2000, as amended.

- (b) the said works constitute "development" which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended
- (c) the said conversion of a dwelling to a community residence for persons with intellectual or physical difficulties or mental illness and persons providing care to such persons at Carrowbaun, Ogonnelloe, Co. Clare is exempted development by virtue of Class 14(f) of Part 1, Schedule 2 of the Planning and Development Regulations 2001.

Now therefore Clare County Council (Planning Authority), hereby decides that the conversion of a dwelling to a community residence for persons with intellectual or physical difficulties or mental illness and persons providing care to such persons at Carrowbaun, Ogonnelloe, Co. Clare is development and is exempted development.

  
Executive Planner

Date: 08/05/2023

  
Senior Executive Planner

Date: 08/05/23 .





R23-26







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

14/04/2023 11:57:31  
AN CHLAIR

Receipt No. : L1CASH/0/348030  
\*\*\*\*\* REPRINT \*\*\*\*\*

NUA HEALTHCARE SERVICES  
c/o Sharon Liu, Building & Planning Dept  
The Atrium, John's Lane, Naas  
Co Kildare W91 WC78

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 : L1CASH - Colm Murphy  
From : MAIN CASH OFFICE LODGEMENT AF  
Int reg No 0033043E



COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

**Nua Healthcare Services**  
**c/o Sharon Liu, Building & Planning Dept**  
**The Atrium, John's Lane**  
**Naas**  
**Co. Kildare**  
**W91 WC78**

**14/04/2023**

26

**Section 5 referral Reference R23-25 – Nua Healthcare Services**

Is the conversion of a dwelling to a community residence for persons with intellectual or physical difficulties or mental illness and persons providing care to such persons is development, and if so, is it exempted development?

A Chara,

I refer to your application received on 14th April 2023 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

**Brian Fahy**  
**Planning Department**  
**Economic Development Directorate**

**An Roinn Pleanála**  
**An Stiúirtheoireacht 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	Nua Healthcare Services The Atrium, John's Lane, Naas, Co. Kiladre W91 WC78
(b) Telephone No.:	
(c) Email Address:	
(d) Agent's Name and address:	Sharon Liu Building & Planning Dept. The Atrium, John's Lane, Naas, Co. Kiladre W91 WC78





## 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?*

Conversion of a dwelling to a community residence for persons with intellectual or physical disabilities or mental illness and persons providing care to such persons is 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.

Conversion of a dwelling to a community dwelling

- (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)*

Ordnance Survey Map No:4272,4330

111-01 Site Plan

111-02 Elevations & Section

111-03 Floor Plans

**3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT**

(a) Postal Address of the Property/Site/Building for which the declaration sought:	Carrowbaun, Ogonnelloe, Killaloe Co. Clare V94 C92R   
(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):	 Owner 
(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? <i>If so please supply details:</i>	No
(g) Were there previous planning application/s on this site? <i>If so please supply details:</i>	Planning Ref- No: 98-1518 Planning Ref- No.: 01-1864 Planning Ref- No.: 98-1078
(h) Date on which 'works' in question were completed/are likely to take place:	3rd April 2023

SIGNED: \_\_\_\_\_



DATE: 12/04/2023 \_\_\_\_\_

### **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: .....	



The Atrium, Johns Lane  
Naas, Co. Kildare

P. 045 856 592  
F. 045 879 860  
E. [info@nuahealthcare.ie](mailto:info@nuahealthcare.ie)  
[www.nuahealthcare.ie](http://www.nuahealthcare.ie)

**Planning Department  
Economic Development Directorate  
Clare County Council  
Aras Contae an Chlair  
New Road,  
Ennis  
Co. Clare V95 DXP2**

11<sup>th</sup> April 2023

**Re: Section 5 Declaration on Exempted Development**

Dear Sir/Madame

We, Nua Healthcare Services, of The Atrium, John's Lane, Naas, Co. Kildare are applying for a Section 5 declaration in respect of an existing dwelling at **Carrowbaun, Ogónnelloe, Killaloe, Co. Clare V94 C92R**

In support of our application please find enclosed the following:

Completed Application Form

2 copies of the following:

Ordnance survey Map No: 4272, 4330 scale 1:2500

Scaled drawings of development

- |                        |        |
|------------------------|--------|
| • Site Plan            | 111-01 |
| • Elevations & Section | 111-02 |
| • Floor Plans          | 111-03 |



Application Fee of €80: we contact you to arrange payment of the application fee by credit card.

The application is to seek a declaration as to whether: -  
*the change of use from a dwelling to a community residence for persons with intellectual or physical disabilities or mental illness and persons providing care to such persons is development which is exempted development.*





## SITE LOCATION AND DESCRIPTION

The subject site is located in Carrowbaun, Ogonnelloe, Killaloe Co. Clare

The Property is located on a narrow rural road c. 6km from the town of Killaloe with all the usual amenities – shops, cafes and schools. The larger towns of Nenagh and Ennis are a short drive away, and Limerick City is approximately 30km. Transport links include a Bus Eireann route nearby.

The house is solid masonry construction, and the external walls are finished in stone cladding. The front façade has a projection which houses the open porch and front entrance door. PVC framed double glazed windows, including a large bow-bay window, set on concrete sills complete the exterior.

The existing dwelling is to provide residential care services for people, both male and female, with intellectual disabilities, mental health issues and other disabilities. The house will function as close as possible to a traditional family home.

The building will accommodate up to a maximum of 2 resident service users in the 2no. bedrooms a large kitchen and dining area and communal living area.

Typically, a care home of this size will be staffed by approximately two to four full-time-day-care staff who typically work 12-14 hour shifts in addition to a team leader who manages the house Monday to Friday 9-5. Note that only a maximum of 2 staff members will stay in the house overnight. The carers are not permanent residents but will work on a shift basis during the day and at night.

Aerial view of site



View of the front



View of the rear



## NUA HEALTHCARE SERVICES

Nua Healthcare Services was founded in 2004 to support clients with a range of Intellectual Disabilities and Mental Health presentations including challenging behaviours. Since then, the company provides community outreach, day services and residential care for persons with Intellectual Disabilities, Autism, Brain Acquired Injuries and Mental Health difficulties. The social model of care is delivered in normal community settings and not in hospital or high-density units and is in line with national Standards for Residential Services for Children and Adults with Disabilities 2013.

As with all competent organisations, Nua Healthcare Services operates a care model through a strong frontline staff team, robust management and supervision system. From humble beginnings, the company now operates services nationally in partnership with the HSE and employ in excess of 800 locally based staff caring for circa 200 clients.

Uniquely, more than 80% of Nua Healthcare Services frontline staff are degree qualified and the remaining 20% are working towards same. The clinical team comprises of respected Neuro and Forensic Psychiatrists, Psychologists, Psychotherapists, Behavioural Specialists, Occupational Therapists and are further complimented by nursing staff and a varied panel of other clinical professionals. The senior management team comprises of experienced management professionals who are responsible for the overall quality and governance of our services.

Nua Healthcare Services is widely acknowledged within the healthcare sector as the expert / leading provider of residential care programs for individuals with autism, intellectual disabilities and behavioural difficulties in the Island of Ireland. Residential care for persons with intellectual disabilities, Autism and Brain Injuries is a highly regulated space in Ireland. Every residential care home is required to be registered with HIQA and is inspected regularly against the National Standards for Residential Services for Children and Adults with Disabilities 2013. These standards cover a vast array of areas including, risk management, good governance and suitability of facilities / environment. The state has shut a significant number of facilities that are considered institutional and moved all individuals into settings similar to those provided by Nua Healthcare Services. Nua Healthcare Services is registered for Intellectual Disability services with HIQA.

Nua Healthcare is a private entity and service provider to the Health Service Executive, TUSLA, Individuals and their families. The model of services provided by Nua Healthcare is not determined by buildings or locations. While day services are provided at a variety of locations, Nua Healthcare subscribes to the concept of 'services without walls'. This concept does not restrict service provision to any one location but rather, it allows for the provision of supports in settings which best meet the identified needs of the service user in the most natural environment possible.



The referral process for Residential Care clients is as follows:

1. Initial contact is made by an individual, a family member, HSE Representative or Clinician
2. A formal referral is then made by the HSE / Clinician
3. Nua Healthcare Services conducts a provisional assessment to assess suitability for residential assessment
4. If suitable, a proposal is submitted to stakeholders for provision of 12 week Residential Assessment
5. If the above proposal is accepted, the appropriate documentation is signed with the individual, their family member and the HSE and a discharge date is set 12 weeks from the point of admission

There is c.10,000 individuals in Ireland with intellectual disabilities that are in need of a normal community residential care placement. Individuals with intellectual disabilities and autism are typically more vulnerable and therefore, open to manipulation by unsavoury individuals in the general population. A common reason for referral to our residential services is that of an existing family arrangement that has broken down. This can be due to behavioural difficulties in the home or changing health needs of the individual or parents.

In this context, Nua Healthcare Services seek out normal environments in excess of 2000 sq. ft. and within reasonable distance of local amenities, from a town or village. The following criterion is considered in determining suitable locations:

- Homely
- Secure / Private
- 4 to 6 Bedrooms
- Multiple living / common areas / social spaces
- 1 – 2 Acre sites
- Low arousal environment

Individuals with learning disabilities and / or autism cannot always live completely independently and so, where they cannot, suitable environments are required to be provided by trusted organisations such as Nua Healthcare Services.

## PLANNING HISTORY

The following planning permission applies to the property:

Planning Ref. No.: 98-1518

Planning Ref. No.: 01-1864

Planning Ref. No.: 98-1078



## LEGISLATIVE PROVISION

### **Planning and Development Act 2000, as amended**

#### **Section 3 - Development**

*In the 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*

#### **Section 4(1) (Exempted Development)**

*The following shall be exempted developments for the purposes of this Act –*

- (h) *Development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of the neighbouring structures.*

The works to the house, including changes to the internal layout and changes to the rear elevation are, in our opinion, within the definition of the above provisions and therefore exempted development.

### **Planning and Development Regulations 2000, as amended**

#### **Article 6 - Exempted Development**

Subject to Article 9, development of a class specified in Column 1, 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.

In relation to the restrictions on exemption as set out in Article 9 of the Planning and Development Regulations 2001, as amended, it can be concluded that:

- The proposed change of use does not contravene a condition attached to any previous permission pertaining to the property;
- No works to the access to the public road are proposed;
- The change of use will not endanger public safety by reason of traffic hazard;
- The front of the building will not be brought forward;
- There are no works proposed under the public road;
- The proposed change of use would not interfere with a landscape of view of special character, as the dwelling is existing and is not located in an area which attracts a High Value Landscape designation;
- The proposed change of use would not involve any works to a feature of archaeological, geological, or historical, scientific or ecological interest;
- The dwelling the subject of this referral is not unauthorised;

- The dwelling is not restricted by an objective for the continuance of an existing use; The proposed change of use does not involve the fencing or enclosure on the boundaries of any land habitually open or used by the public;
- The proposed change of use does not obstruct any public right of way;
- The dwelling is not located in an ACA and no works to the exterior are proposed; and
- No special amenity orders apply to the existing site.
- The dwelling is compliant with the planning permission granted in terms of layout, siting and overall heights
- The dwelling is compliant with the planning permission granted in terms of layout, siting and overall heights

Section b of this Article refers to areas where a special amenity order applies.

Article 10 relates to changes of use. Development which consists of a change of use within any one of the classes of use specified in Part 4 of Schedule 2 shall be exempted development for the purposes of the Act, providing that the development if carried out would not

- a) Involve the carrying out of any works other than the works which are exempted development,
- b) Contravene a condition attached to a permission under the Act,
- c) Be inconsistent with any use specified or included in such permission,
- d) Be a development where the existing use is an unauthorised use save where such a change of use consists of the resumption of a use which is not unauthorised and which has not been abandoned.

**Schedule 2, Part 1 of Article 6** contains the following specific class of development under Class 14(f): -

*Development consisting of changes of use from a house to use as a residence for persons with an intellectual or physical disability or mental illness and persons providing care for such persons.*

*The conditions and limitations in respect of this exemption include the following:*

*The number of persons with intellectual or physical disability or mental illness living in any such residence shall not exceed 6 and the number of resident carers shall not exceed 2.*

The change of use of the house is, in our opinion, within the definition of the above provisions and therefore exempted development

## PLANNING PRECEDENCE

Kildare County Council has determined that the use of a house as a residence for persons with intellectual or physical disability or mental illness and persons providing care for such persons at Alberg House, Kinsfurze Ave., Naas (Ref: ED/00531), The Meadows, Oldgrange, Athy (ED/00553), The Willows, Clonegath Monasterevin (ED00521), Hillview, Lackagh Beag, Monasterevin (ED/00562), Feighcullen, Rathangan (ED/00541) is development and is exempted development

Tipperary County Council has determined that the use of a house as a residence for persons with intellectual or physical disability or mental illness and persons providing care for such persons at Mountainview, Coumroe (Ref: S5/19/135).

An Bord Pleanála Reference 06D.RL.2616, in respect of the change of use from a dwelling unit at 59A Kerrymount Rise, Foxrock, Dublin 18 to a residential care unit for persons with intellectual, physical disability or mental illness and persons providing care, where the Bord determined that it is development which is exempted development. In determining the referral, the Board had particular regard to Class 14 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 as amended.

An Bord Pleanála Reference Number; PL25.RL3406 in respect of whether the use of a house as a residence for persons with an intellectual or physical disability is or is not development or is or not exempted development at Gainevale House, Multyfarnham, Co. Westmeath, determined that:

- a) The use of a house as a residence for persons with intellectual or physical disability or mental illness and persons providing care for such persons comes within the scope of the change of use provided for under Class 14(f) of Part 1 of Schedule 2 to those Regulations, being a material change of use, which, therefore constitutes development, and
- b) Having regard to the number of persons with an intellectual or physical disability or a mental illness that would be living in this residence, and in particular to the number of resident carers, this development complies with the Conditions and Limitations set out for that class of development, in the circumstances of this case.

*And therefore, that the said use of a house as a residence for persons with intellectual or physical disability or mental illness and persons providing care for such persons at Gainevale House, Multyfarnham, Co. Westmeath is development and is exempted development.*


Cork County Council has determined that the change of use of a house and ancillary garage to a residence for persons with intellectual or physical disability or mental illness and persons providing care for such persons at Curraghvoe Co. Cork, reference D/212/17, is development and is exempted development.

## CONCLUSION

In conclusion and having regard to the above, we submit that the use of this house as a community residence for persons with intellectual or physical disability or mental illness and persons providing care for such persons comes within the scope of the change of use provided for under Class 14(f) of Part 1 of Schedule 2 of those Regulations, being a material change of use. This therefore constitutes development and, having regard to the number of persons with an intellectual or physical disability or a mental illness that would be living in this residence and to the number of resident carers, this development complies with the Conditions and Limitations set out for that class of development.

We therefore would ask that you consider our application carefully and, if you agree with our conclusions, confirm that the development is exempted development.

Yours faithfully

A handwritten signature in cursive script that reads "Sharon Liu". The signature is written in dark ink and is positioned above a horizontal line.

Sharon Liu (Sharon.Liu@nuahealthcare.ie)

Architectural Assistant

Nua Healthcare Services



# Planning Pack Map



**Tailte  
Éireann**

**CENTRE  
COORDINATES:**  
ITM 567340,678036

**PUBLISHED:** 28/03/2023 **ORDER NO.:** 50325877\_1

**MAP SERIES:** 1:5,000 **MAP SHEETS:** 4272  
1:5,000 4330

 **SITE BOUNDARY**

**COMPILED AND PUBLISHED BY:**  
National Mapping Division of  
Tailte Éireann,  
Phoenix Park,  
Dublin 8,  
Ireland.  
D08F6E4

[www.tailte.ie](http://www.tailte.ie)

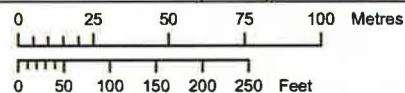
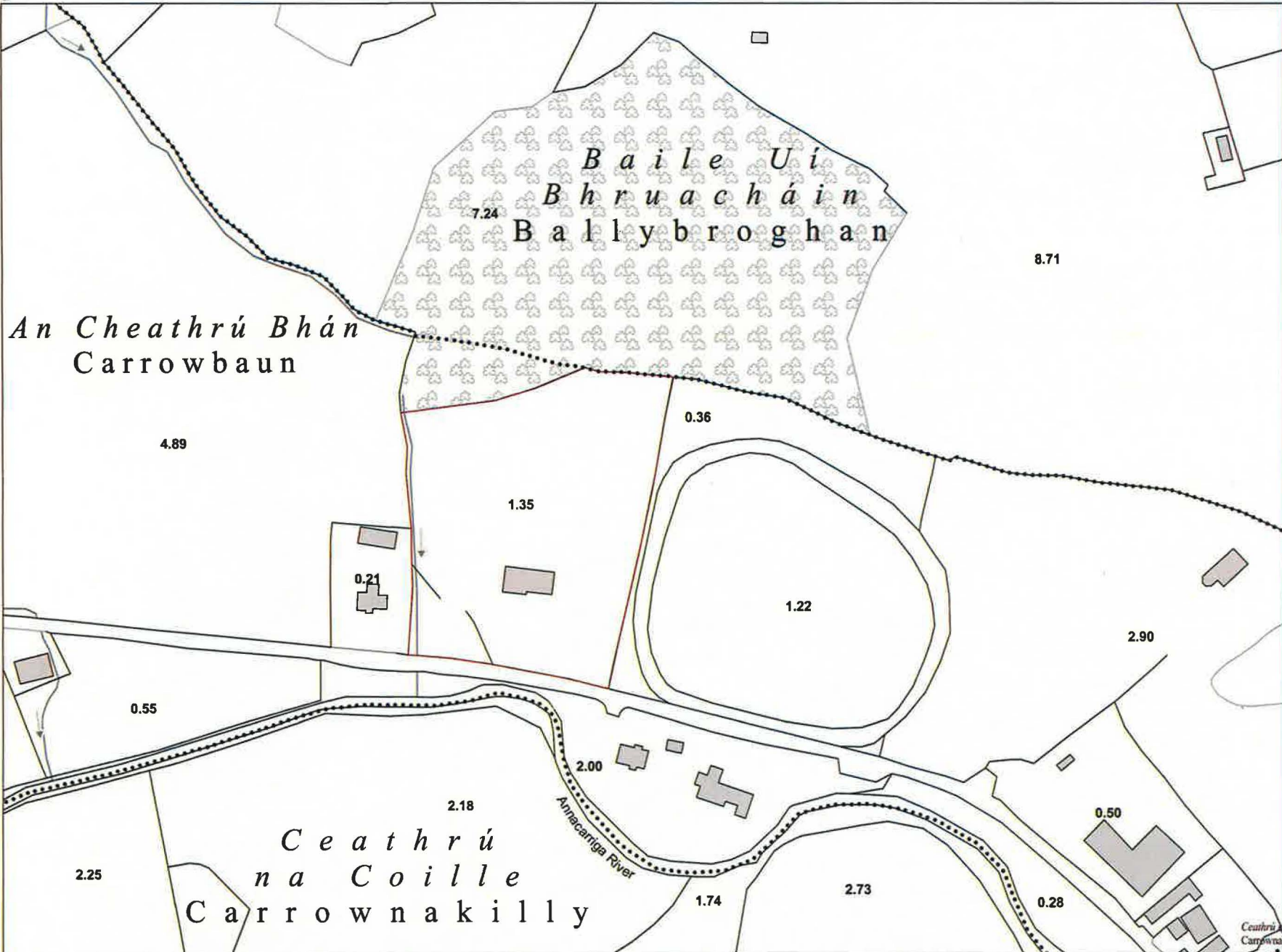
Any unauthorised reproduction  
infringes Tailte Éireann copyright.

No part of this publication may  
be copied, reproduced or transmitted  
in any form or by any means without  
the prior written permission of the  
copyright owner.

The representation on this map  
of a road, track or footpath  
is not evidence of the existence  
of a right of way.

Topographic maps produced by the  
National Mapping Division of Tailte  
Éireann never show legal property  
boundaries, nor do they show  
ownership of physical features.

© National Mapping Division of Tailte  
Éireann, 2023. All rights reserved.



**OUTPUT SCALE: 1:2,500**

**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:  
[www.osi.ie](http://www.osi.ie); search 'Capture Resolution'

**LEGEND:**  
To view the legend visit  
[www.osi.ie](http://www.osi.ie) and search for  
'Large Scale Legend'



This map was produced by  
the National Mapping Division  
of Tailte Éireann, formerly  
Ordnance Survey Ireland (OSI)



FRONT (SOUTH) ELEVATION:

Ridge  
54.27 m

Ceiling level  
51.40 m

Building floor level  
48.84 m

ramp



SECTION A-A

Ridge  
54.27 m

Ceiling level  
51.40 m

Building floor level  
48.84 m

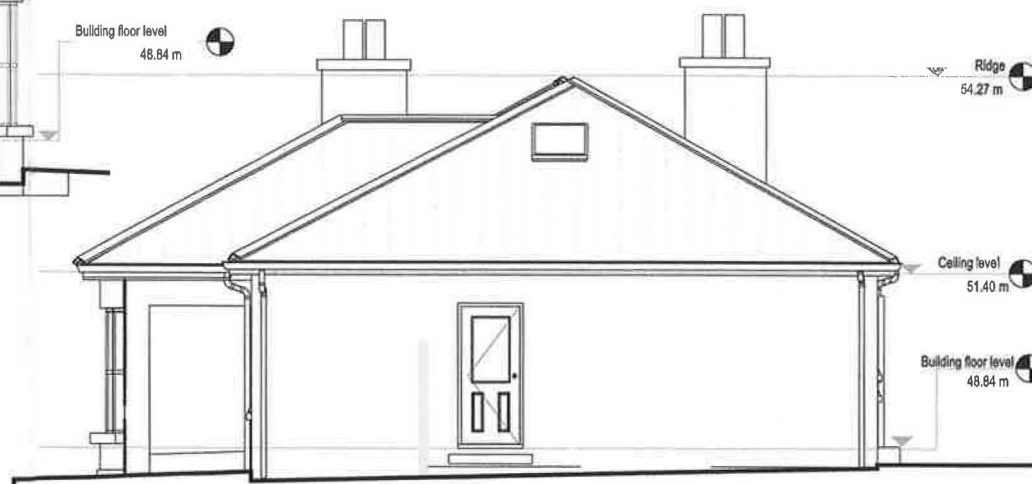


SIDE (WEST) ELEVATION:

Ridge  
54.27 m

Ceiling level  
51.40 m

Building floor level  
48.84 m

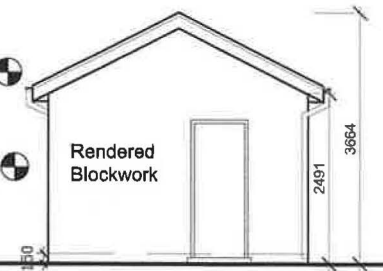


SIDE (EAST) ELEVATION:

Ridge  
54.27 m

Ceiling level  
51.40 m

Building floor level  
48.84 m



Laundry Shed

Rendered Blockwork

2491  
3664



Laundry Shed

Rendered Blockwork

FFL

1

111

02

## Elevations & Section

Carrowbaun, Ogonnelloe, Killaloe, Co. Clare

1/100@A3



REAR (NORTH) ELEVATION:

Ridge  
54.27 m

Ceiling level  
51.40 m

Building floor level  
48.84 m

## NUA Healthcare

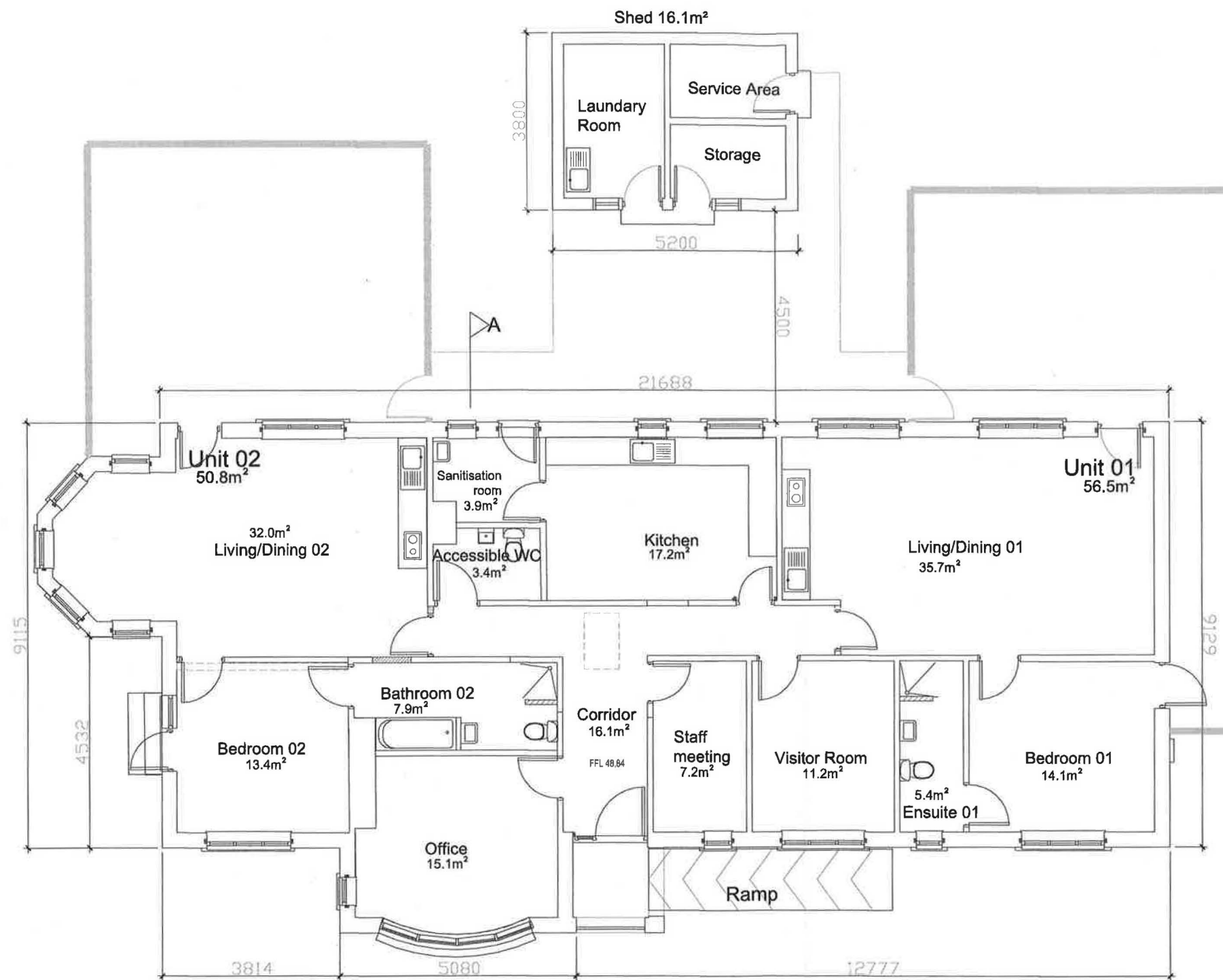
The Atrium, John's Lane  
Naas, Co. Kildare  
Ph. 045 931900

Scale: 1:100@A3	Date Received: March 2023	Dwg. No: 111-02	Rev.	Drawn by: SL
--------------------	------------------------------	--------------------	------	-----------------

Project: Conversion of House to Community Dwelling  
at Carrowbaun, Ogonnelloe, Co. Clare

Drawing Title: Elevations & Section

Drawing Status: Section 5



Ground Floor Area 220m²

1  
111  
03

# Floor Plan

Carrowbaun, Ogonelloe, Killaloe, Co. Clare  
1/100@A3

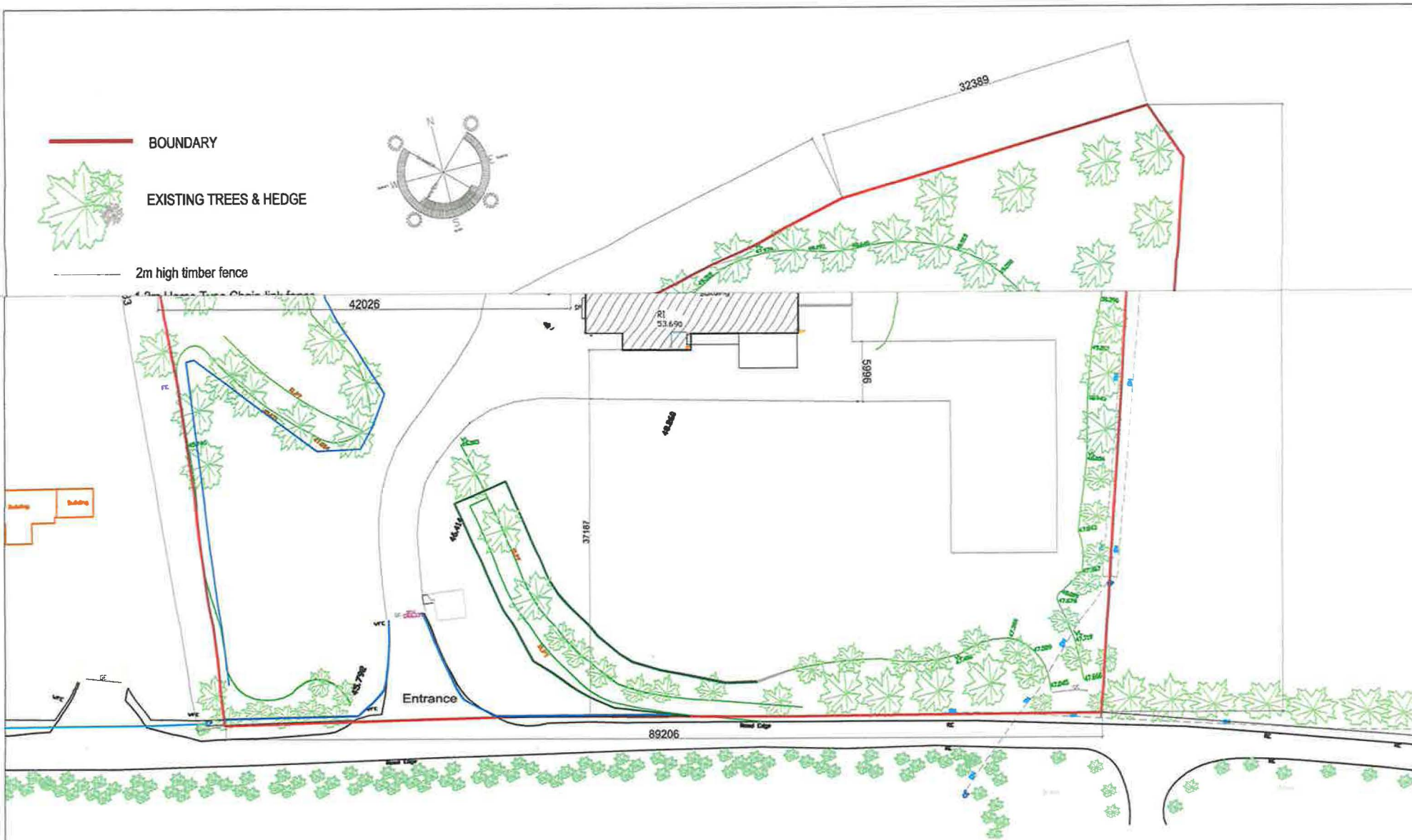
NUA Healthcare  
The Atrium, John's Lane  
Neas, Co: Kildare  
Ph. 045 931900

Scale: 1:100@A3	Date Received: March 2023	Dwg. No: 111-03	Rev. SL	Drawn by: SL
--------------------	------------------------------	--------------------	------------	-----------------

Project: Carrowbaun, Ogonelloe, Co. Clare

Drawing Title: Floor plan  
Drawing Status: Section 5





1 Site Plan  
111 Carrowbaun, Ogonelloe, Kildare, Co. Clare  
01 1/500@A3

NUA Healthcare				
The Atrium, John's Lane				
Nass, Co: Kildare				
Ph. 045 831900				
Scale:	Date Received:	Dwg. No:	Rev.	Drawn by:
1:500@A3	March 2023	111-01		SL
Project: Carrowbaun, Ogonelloe, Co. Clare				
Drawing Title: Site Plan				
Drawing Status: Section 5				



