



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

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**Nua Healthcare Services Ltd
c/o Radwan Bazama, Building & Planning Department
Nua Healthcare Services
The Atrium, John's Lane
Naas, Co. Kildare
W91 WC78**

11th September 2023

Section 5 referral Reference R23-63 – Nua Healthcare Services Ltd

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

A Chara,

I refer to your application received on 17th August 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

Mise, le meas



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

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

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



CLARE COUNTY COUNCIL

SECTION 5 OF THE PLANNING AND DEVELOPMENT ACT 2000 AS AMENDED

DECLARATION ON DEVELOPMENT AND/OR EXEMPTED DEVELOPMENT

Chief Executive's Order No:

82366

Reference Number:

R23-63

Date Referral Received:

17th August 2023

Name of Applicant:

Nua Healthcare Services Ltd

Location of works in question:

10 The Willows, Oakleigh Wood, Ennis, Co. Clare

Section 5 referral Reference R23-63 – Nua Healthcare Services Ltd

Is the conversion of a dwelling to a community dwelling for persons with intellectual or physical difficulties or mental illness and persons providing care to such persons 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 10 The Willows, Oakleigh Wood, Ennis, 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 10 The Willows, Oakleigh Wood, Ennis, 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 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 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 10 The Willows, Oakleigh Wood, Ennis, Co. Clare is considered development which is exempted development.

Signed:



GARETH RUANE
SENIOR EXECUTIVE PLANNER 

Date: 11th September 2023

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

Reference No.: R23-63



Comhairle Contae an Chláir
Clare County Council

Section 5 referral Reference R23-63

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

AND WHEREAS, Nua Healthcare Services Ltd 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.

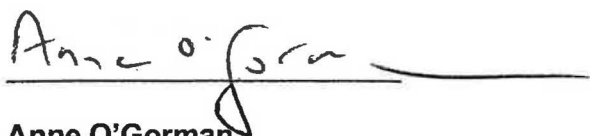
And whereas Clare County Council has concluded:

- (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 10 The Willows, Oakleigh Wood, Ennis, 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 10 The Willows, Oakleigh Wood, Ennis, 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 10 The Willows, Oakleigh Wood, Ennis, 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

11th September 2023

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

FILE REF:	R23-63
APPLICANT(S):	Nua Healthcare Limited
REFERENCE:	Is the conversion of a dwelling to a community dwelling for persons with intellectual or physical difficulties or mental illness and persons providing care to such persons, development, and if so, is it exempted development?
LOCATION:	10 The Willows, Oakleigh Wood, Ennis, Co. Clare
DUE DATE:	13th September 2023

Site Location

The site is located at 10 The Willows, Oakleigh Wood, Ennis, Co. Clare, which is located in an established residential development. Accessed via R-352-455, the site comprises of an existing, detached, two storey dwellinghouse with well-maintained gardens.

Recent Onsite Planning History

There is no recent planning history on site. The original grant of permission for the dwelling is under Pl. Ref. No; 95/39.

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 Limited, who are the stated owners of the property.

The applicant is seeking a Section 5 Declaration as to whether the conversion of a dwelling to a community dwelling for persons with intellectual or physical difficulties or mental illness and persons providing care to such persons, development, and if so, is it exempted development?

Statutory Provisions

Planning and Development Act, 2000 (as amended):

To assess this proposal, regard must be had to the *Planning and Development Act 2000, as amended*.

S.3.(1) In this Act, “development” means, except where the context otherwise requires, ***the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land.***

“Works” are defined in Section 2 of the *Planning and Development Act 2000*, as amended as follows:

“works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

Section 4(1)(h) of the *Planning and Development Act* states that ‘*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 dwelling for persons with intellectual or physical difficulties or mental illness and persons providing care to such persons, development, and if so, is it exempted development?

The existing dwellinghouse is to provide residential care services for 4 max. people, with intellectual disabilities, mental health issues and other disabilities. The house will function as close as possible to a traditional family home. The accommodation will include 5 bedrooms, a kitchen and dining area, a communal living area and a (separate) external office which will be ancillary to the main house and located in the rear garden. It is stated that the staff are not permanent residents but work on a shift basis during the day and night. Only a max. of 2 staff members will stay in the house overnight.

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 an additional door has been added to the rear elevation of the dwelling as part of the development. This is a relatively minor change to the dwelling and most likely added for compliance with Building/Fire Regulations (door to boiler). The door is 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.

(iiia) 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,

Not 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.

(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.

Particulars of the Development

The following question has been referred to the Planning Authority:

“Whether the conversion of a dwelling to a community dwelling for persons with intellectual or physical difficulties or mental illness and persons providing care to such persons, 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) 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 10 The Willows, Oakleigh Wood, Ennis, 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 10 The Willows, Oakleigh Wood, Ennis, 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 10 The Willows, Oakleigh Wood, Ennis, Co. Clare is development and is exempted development.



Graduate Planner

Date: 04/09/2023



Senior Executive Planner

Date: 06/09/23



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Nua Healthcare Services Ltd
c/o Radwan Bazama, Building & Planning Department
Nua Healthcare Services
The Atrium, John's Lane
Naas, Co. Kildare
W91 WC78

18/08/2023

Section 5 referral Reference R23-63 – Nua Healthcare Services Ltd

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

A Chara,

I refer to your application received on 17th August 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 Stiúrtóireacht Forbairt Gheilleagrach
Áras Contae an Chláir, Bóthar Nua, Inis, Co. an Chláir, V95 DXP2

Planning Department
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Planning Department
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Clare County Council
Aras Contae an Chlair
New Road, Ennis
C6. Cl6re V95 DXP2



14th August 2023

FAO Mr. Royston Kerin

**Re: no.10 The Willows, Oakleigh Wood, Ennis Co. Clare V95 W3P2 - Response
to Condition no.44 pl.ref 95/39**

Dear Royston

Further to our email correspondence, please note that a Section 5 Declaration has been submitted to the planning authority to confirm that the proposed development at **no.10 The Willows, Oakleigh Wood, Ennis Co. Clare V95 W3P2** constitutes exempted development under the Planning and Development regulations 2001 (as amended).

It's considered that the conditions appended to the original planning grant to the estate (pl.ref.95/39) are primarily to regulate the development of the estate of 96no.houses as opposed to individual units. Notably Condition 44 states – *'No house in the development shall be used for commercial overnight guest accommodation without the prior approval of the council whether or not such provision would otherwise constitute exempt development'*.

Nua Healthcare Services of The Atrium, John's Lane, Naas, Co.Kildare requests approval to proceed with development as submitted as part of the Section 5 declaration, subject to the council considering such development as exempted development under the Planning and Development regulations 2001 (as amended).

We therefore would ask that you confirm that the development is approved and would not contravene condition no.44 of pl.ref. 95/39.

Should you require any further information please do not hesitate to contact me.

Kind regards,

Radwan Bazama Architect,MRIAI
Building & Planning
Nua Healthcare Services



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14th August 2023

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

Re: Section 5 Declaration on Exempted Development

To whom this may concern,

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:

No.10 The Willows, Oakleigh Wood, Ennis Co. Clare, V95 W3P2

In support of our application please find enclosed the following:

- Completed Application Form
- Application Fee of €80: we will contact the planning authority to arrange payment of the application fee by credit card.
- 2 copies of the following drawings:
 - o Ordnance Survey Map No: 4264-19 scale 1:1000@A4
 - o Site Plan, Drawing no. 119-01 scale 1:250@A3
 - o Elevations & Sections, Drawing no. 119-01 scale 1:100@A3
 - o Floor Plans, Drawing No.119-03 scale 1:100@A3

The application is to seek a declaration as to whether: -

the change of use from a dwelling to a community dwelling 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 10 The Willows, Oakleigh Wood, Ennis Co. Clare V95 W3P2. This is a five-bedroom, two-storey, detached residence and was constructed c. 2000 by Finn Properties. A two-storey dormer section extends to the side which is single-storey at the rear.

The location, in a residential estate off Tulla Road, is just outside Ennis with all the usual urban amenities – shops, restaurants and cafes. Both primary and secondary schools are in the vicinity. Transport links include bus routes and train links to Dublin and Limerick.

The existing dwelling is to provide residential care services for upto 5no. 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 4no resident service users in the 5no. bedrooms, a large kitchen and dining area, communal lounge area, and an external office that is ancillary to the main house.

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 side



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 File No. 95/39

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 rear elevation, internal layout and construction of the rear outbuilding (office c.15.6sqm) in our opinion, is 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:

- 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 proposed change of use does not contravene a condition attached to any previous permission pertaining to the property;

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 is therefore exempted development.

PLANNING PRECEDENCE

1. 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

2. 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).
3. An Bord Pleanála Reference 06D.RL.2616, in respect of the change of use from a dwelling unit at 59A Kerry Mount 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.
4. 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.

5. 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.

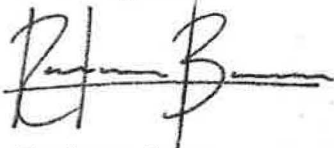
CONCLUSION

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 please confirm that the development is exempted development.

Kind regards,

A handwritten signature in black ink, appearing to read 'Radwan Bazama', with a horizontal line drawn through the middle of the signature.

Radwan Bazama Architect, MRIAI
Building & Planning
Nua Healthcare Services

CONTAE

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

AN CHLÁIR

18/08/2023 09:51:19

Receipt No. L1CASH/0/353385
***** REPRINT *****

NUA HEALTHCARE SERVICES LTD
C/O RADWAN BAZAMA,
BUILDING & PLANNING DEPARTMENT
NUA HEALTHCARE SERVICES
THE ATRIUM, JOHN'S LANE
NAAS, CO KILDARE W91 WC78
REF R23-63

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

Total : 80.00 EUR

COMHAIRLE

Tendered :
CREDIT CARDS 80.00

CONTAE

Change: 0.00

AN CHLÁIR

Issued By : L1CASH- Noilin Hayes
From : MAIN CASH OFFICE LODGEMENT AF
Vat reg No. 0033043E

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



Comhairle Contae an Chláir
Clare County Council

R23 -63

**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>Nua Healthcare Services Ltd</p> <hr/> <p>The Atrium, John's Lane</p> <hr/> <p>Naas, Co Kildare, W91 WC78</p> <hr/>
(b) Telephone No.:	
(c) Email Address:	
(d) Agent's Name and address:	<p>Radwan Bazama,</p> <hr/> <p>Building & Planning Department</p> <hr/> <p>Nua Healthcare Services</p> <hr/> <p>The Atrium, John's Lane</p> <hr/> <p>Naas, Co Kildare W91 WC78</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?*

The Conversion of a dwelling to a community dwelling 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)

See attached cover letter

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT	
(a) Postal Address of the Property/Site/Building for which the declaration sought:	<u>10 The Willows</u> <u>Oakleigh Wood, Ennis</u> <u>Co Clare V95 W3P2</u>
(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?	<u>No</u>
(c) Legal interest in the land or structure in question of the person requesting the declaration (Give Details):	<u>Owner</u>
(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>	<u>N/A</u>
(e) Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?:	<u>Yes</u>
(f) Are you aware of any enforcement proceedings connected to this site? <i>If so please supply details:</i>	<u>No</u>
(g) Were there previous planning application/s on this site? <i>If so please supply details:</i>	<u>Planning Ref- 95/39</u>
(h) Date on which 'works' in question were completed/are likely to take place:	<u>Subject to Section 5 approval</u> <u>- approx October 2023</u>

SIGNED: Radwan BDATE: 14/August/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:.....			

Planning Pack Map



**Tailte
Éireann**

**CENTRE
COORDINATES:**
ITM 534818,679012

PUBLISHED: 24/04/2023
ORDER NO.: 50330480_1

MAP SERIES: 1:1,000
MAP SHEETS: 4264-19

 **Site Boundary**

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

www.tailte.ie

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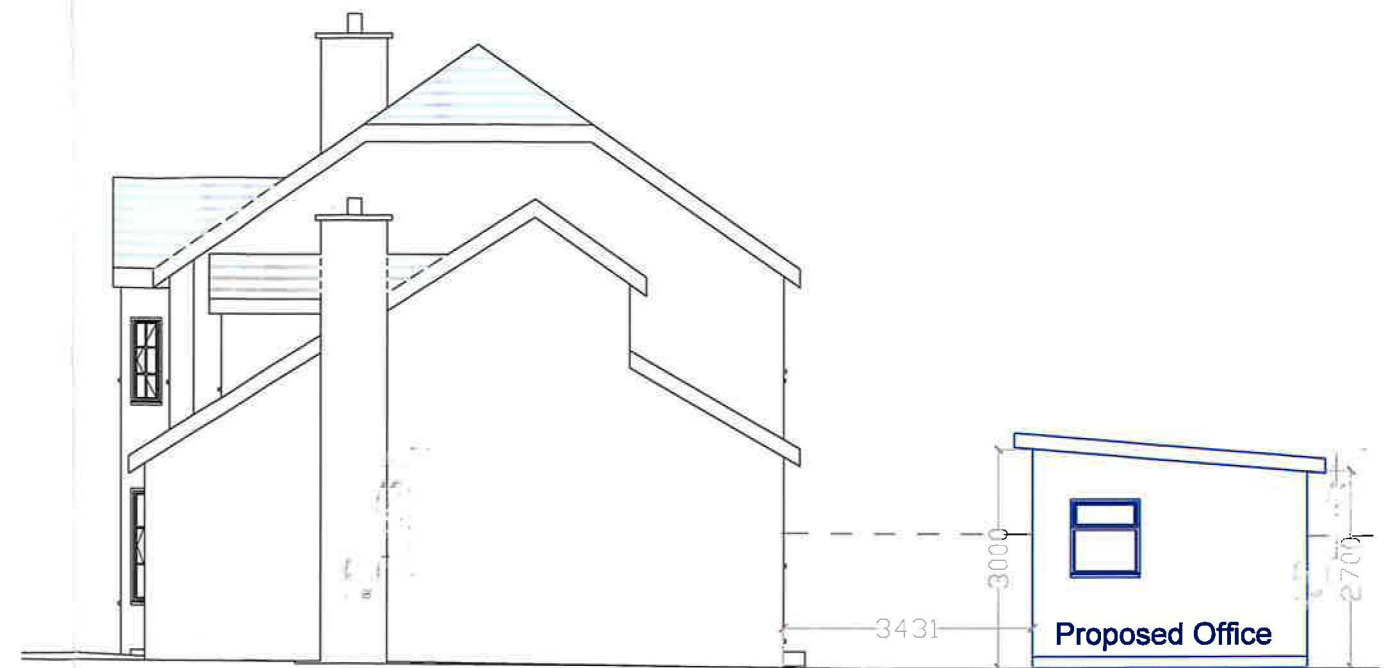
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CAPTURE RESOLUTION:
The map objects are only accurate to the
resolution at which they were captured.
Output scale is not indicative of data capture scale.
Further information is available at:
www.osi.ie; search 'Capture Resolution'

LEGEND:
To view the legend visit
www.osi.ie and search for
'Large Scale Legend'



Front Elevation (East)



Side Elevation (North)

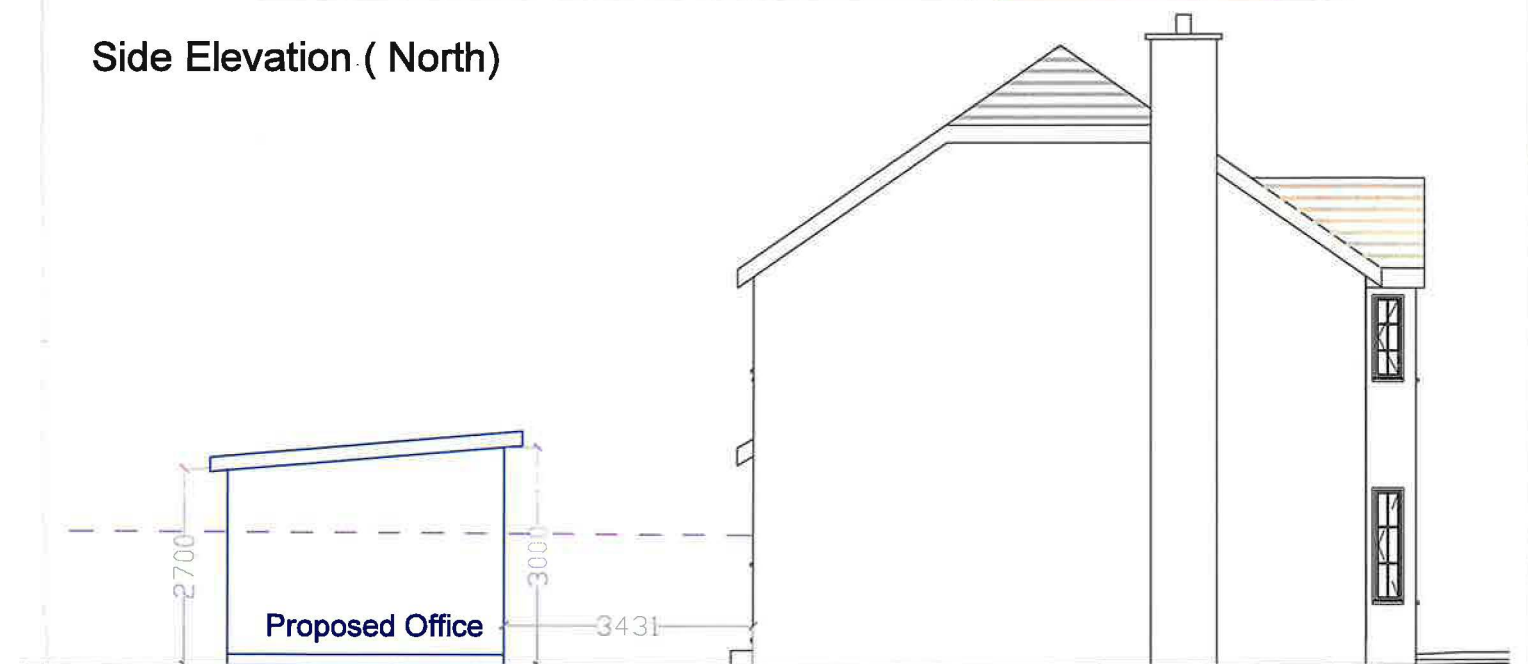
1
073
02

Elevations & Section

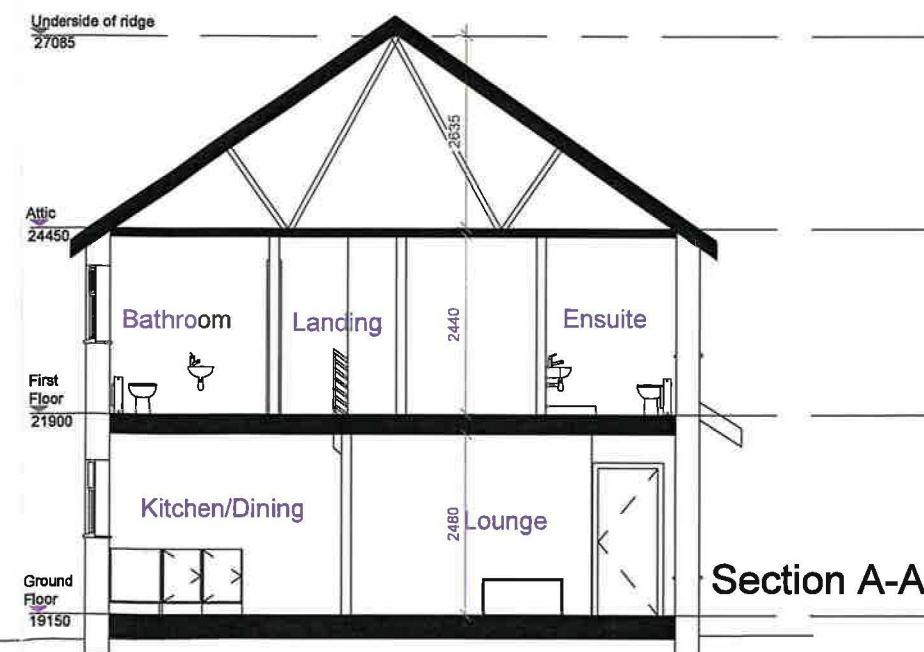
10 The Willows, Oakleigh Wood, Ennis
SCALE: 1/100@A3



Rear Elevation (West)



Side Elevation (South)



Section A-A

■ New Construction

BUILDING & PLANNING DEPT.

NUA Healthcare

The Atrium, John's Lane

Naas, Co: Kildare

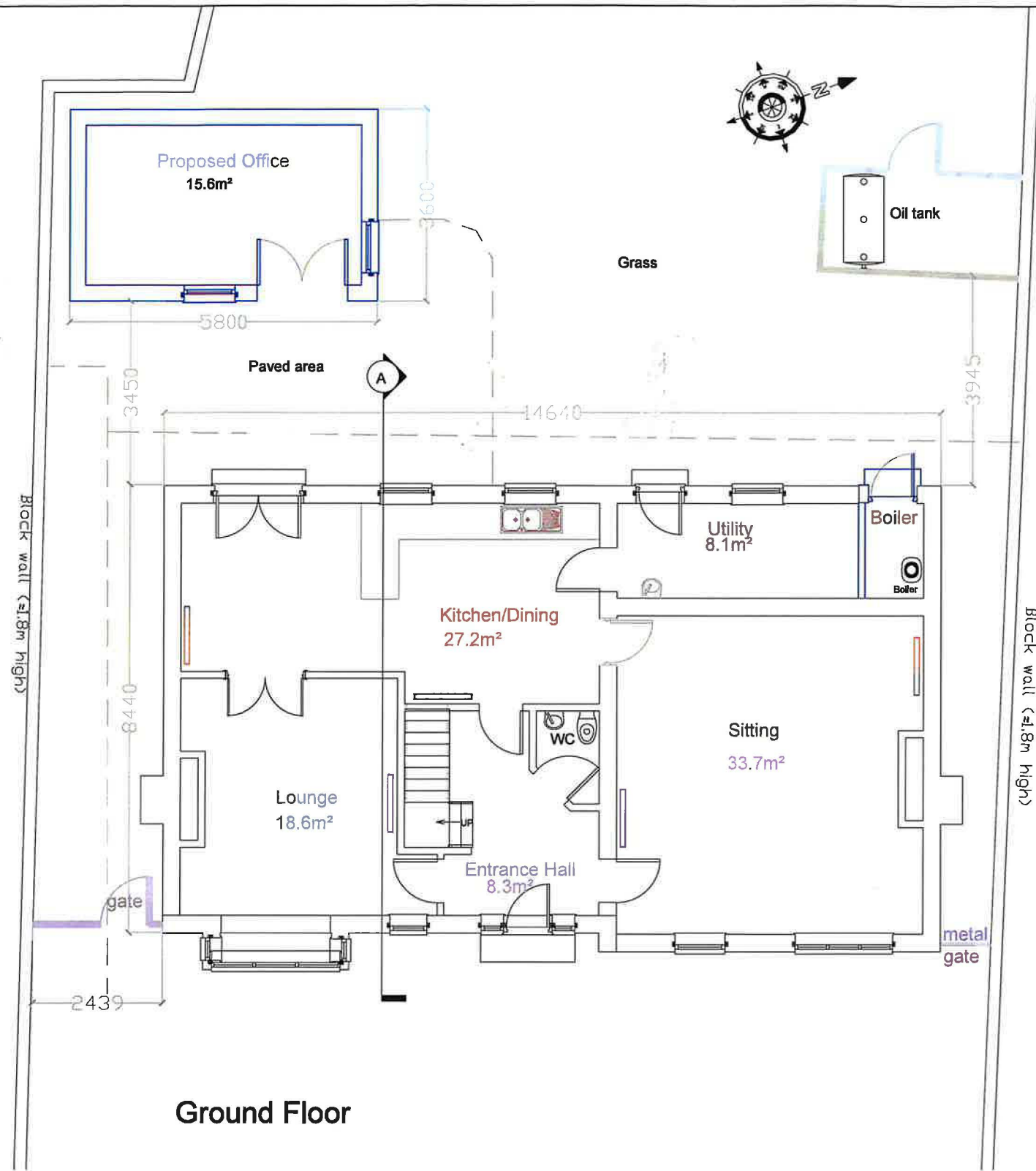
Ph. 045 931900

Scale: 1:100@A3	Date Created: April 2023	Dwg. No: 119-02	Rev.	Drawn by: SL
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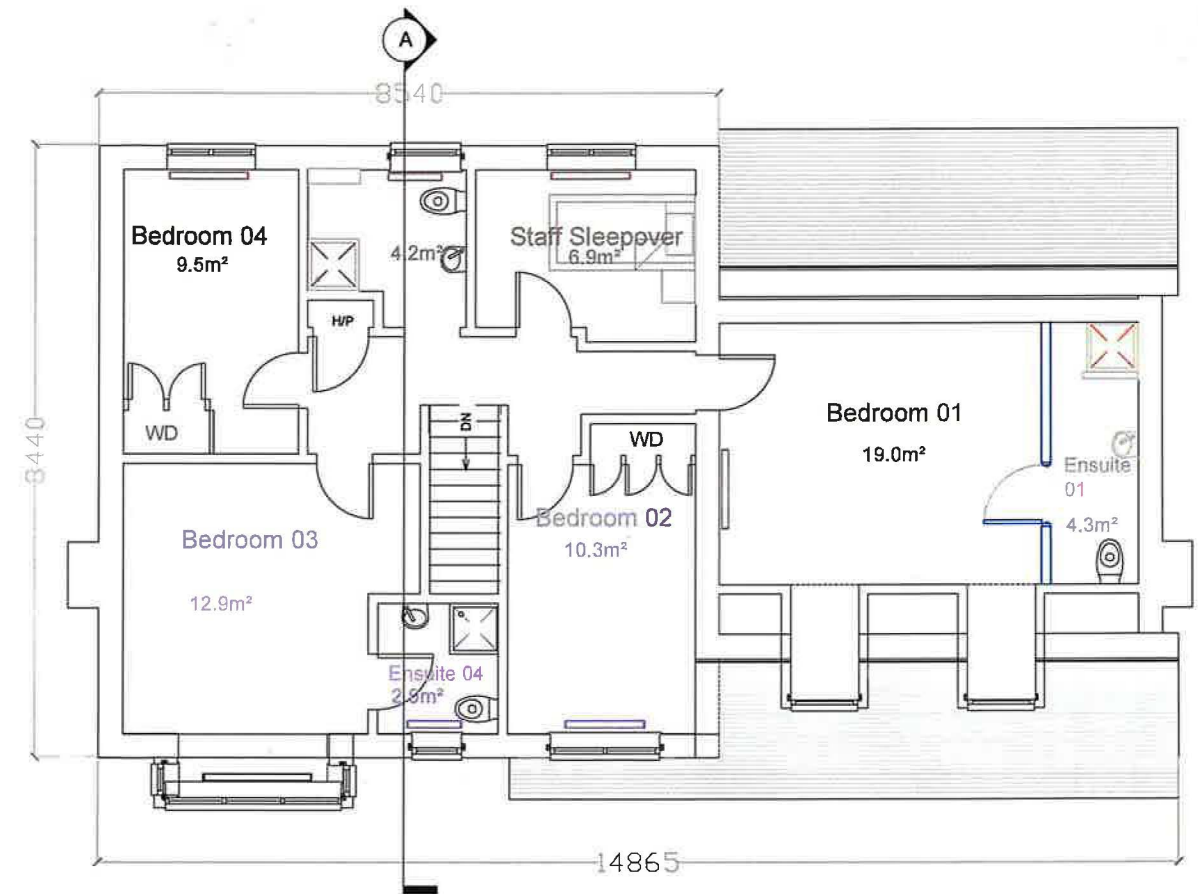
Project:
10 The Willows, Oakleigh Wood, Ennis
Co. Clare

Drawing Title: Elevations & Section

Drawing Status: Section 5



Ground Floor



First Floor

New Construction

1

073
03

Ground & First Floor Plans

10 The Willows, Oakleigh Wood, Ennis

SCALE: 1/100@A3

BUILDING & PLANNING DEPT.

NUA Healthcare

The Atrium, John's Lane

Naas, Co: Kildare

Ph. 045 931900

Scale:	Date Created:	Dwg. No:	Rev.	Drawn by:
1:100@A3	April 2023	119-03		SL

Project: **10 The Willows, Oakleigh Wood, Ennis Co. Clare**

Drawing Title: **Floor Plans**

Drawing Status: **Section 5**