



COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

### Registered Post

**Shahid Mugal**  
**C/o Michael Begley**  
**Clonlara**  
**Co. Clare**  
**V94 P7N8**

**15th November 2024**

#### **Section 5 referral Reference R24-82 – Shahid Mugal**

Is the partial demolition and re-build of an existing dwelling and an existing one bed flat (both in very poor condition) development and if so, is it exempted development?

A Chara,

I refer to your application received on 22nd October 2024 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**

**An Roinn Pleanála**  
**An Stúirthóireacht Forbairt Gheilleagrach**

Áras Contae an Chláir, Bóthar Nua, Inis, Co. an Chláir, V95 DXP2

**Planning Department**  
**Economic Development Directorate**

Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2



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

**Reference No.: R24-82**



**Comhairle Contae an Chláir  
Clare County Council**

**Section 5 referral Reference R24-82**

**Is the partial demolition and re-build of an existing dwelling and an existing one bed flat (both in very poor condition) development and if so, is it exempted development?**

**AND WHEREAS, Shahid Mugal** has requested a declaration from Clare County Council on the said question.

**AND WHEREAS Clare County Council, in considering this referral, had regard in particular to –**

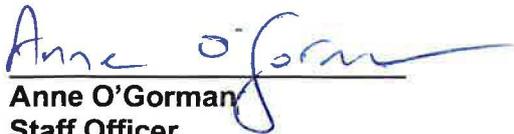
- (a) Sections 2, 3, and 4 of the Planning and Development Act, 2000, as amended,
- (b) The works as indicated in submitted documents from the referrer.
- (c) The forms of exempted development as set out in Class 1, Class 14 (e) and Class 50 of Schedule 2, Part 1, of the Planning and Development Regulations 2001 (as amended)
- (d) Article 9 'Restrictions on Exempted Development' of the Planning and Development Regulations 2001 (as amended).
- (e) The inspection of the site and extent of works carried out to date on site.

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

- (a) The demolition of part of the existing dwelling house and the one bedroom flat exceed 40sqm, and therefore do not comply with the conditions and limitations of Class 50 of Schedule 2, Part 1, of the Planning and Development Regulations 2001 (as amended);
- (b) The demolition of part of the existing dwelling house and the rebuilding of same, do not comply with the conditions and limitations of Class 1 of Schedule 2, Part 1, of the Planning and Development Regulations 2001 (as amended), as the entirety of the works are not to the rear of the dwelling house and also the floor area of such works exceeds 40sqm.
- (c) The demolition of the one bedroom flat, the rebuilding and the incorporation of same into the existing dwelling house does not comply with Class 1 or 14 (e) of Schedule 2, Part 1, of the Planning and Development Regulations 2001 (as amended),
- (d) Notwithstanding the above, as works have taken place on site which the Planning Authority considers are unauthorized development, the restrictions on exempted development as set out under Article 9 (1) (a) (viii) apply;
- (e) There are no other provisions under the Planning and Development Acts or Regulations which would render the subject works as exempted development.

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

The proposed development consisting of the part demolition and rebuilding of an existing dwelling and an existing one bed flat at Athlunkard, Parteen, Co. Clare **constitutes development** which is **not exempted development** as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.



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

**15th November 2024**

**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: 84475

Reference Number: R24-82

Date Referral Received: 22nd October 2024

Name of Applicant: Shahid Mugal

Location of works in question: Athlunkard, Parteen, Co. Clare

**Section 5 referral Reference R24-82 – Shahid Mugal**

Is the partial demolition and re-build of an existing dwelling and an existing one bed flat (both in very poor condition) development and if so, is it exempted development?

**AND WHEREAS Clare County Council, in considering this referral, had regard in particular to –**

- (a) Sections 2, 3, and 4 of the Planning and Development Act, 2000, as amended,
- (b) The works as indicated in submitted documents from the referrer.
- (c) The forms of exempted development as set out in Class 1, Class 14 (e) and Class 50 of Schedule 2, Part 1, of the Planning and Development Regulations 2001 (as amended)
- (d) Article 9 'Restrictions on Exempted Development' of the Planning and Development Regulations 2001 (as amended).
- (e) The inspection of the site and extent of works carried out to date on site.

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

- (a) The demolition of part of the existing dwelling house and the one bedroom flat exceed 40sqm, and therefore do not comply with the conditions and limitations of Class 50 of Schedule 2, Part 1, of the Planning and Development Regulations 2001 (as amended);
- (b) The demolition of part of the existing dwelling house and the rebuilding of same, do not comply with the conditions and limitations of Class 1 of Schedule 2, Part 1, of the Planning and Development Regulations 2001 (as amended), as the entirety of the works are not to the rear of the dwelling house and also the floor area of such works exceeds 40sqm.
- (c) The demolition of the one bedroom flat, the rebuilding and the incorporation of same into the existing dwelling house does not comply with Class 1 or 14 (e) of Schedule 2, Part 1, of the Planning and Development Regulations 2001 (as amended),
- (d) Notwithstanding the above, as works have taken place on site which the Planning Authority considers are unauthorized development, the restrictions on exempted development as set out under Article 9 (1) (a) (viii) apply;
- (e) There are no other provisions under the Planning and Development Acts or Regulations which would render the subject works as exempted development.

**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 part demolition and rebuilding of an existing dwelling and an existing one bed flat at Athlunkard, Parteen, Co. Clare is **considered development** which is **not exempted development**.

**Signed:**   
\_\_\_\_\_  
**GARETH RUANE**  
**SENIOR EXECUTIVE PLANNER**

**Date:** 15th November 2024

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

**FILE REF:** R24/82  
**APPLICANT(S):** Shahid Mugal  
**REFERENCE:** **Whether the part demolition and rebuild of an existing dwelling and an existing one bed flat is development and if so, is it exempted development**  
**LOCATION:** Athlukard Parteen County Clare  
**DUE DATE:** **16<sup>th</sup> November 2024**

**Site Location** The subject property is located at Athlunlard, Parteen and is accessed via the R463 Regional road and is opposite the Lidl Store at Westbury. There is a single storey cottage with a small amount of attic accommodation on the site and a rear return to the cottage. When I inspected this site, works were underway on the cottage and there was security screening in place along the front and side of the property. On inspection of the property I could see that the former flat roof section of the house, at the southern end of the house, had been demolished and rebuilding has been commenced and is up to wall plate level. The construction of an extension to the rear of the property, including the area where the former one bedroom flat was located, is also under way and is constructed up to wall plate level.



**Figure 1 and 2:** Subject property November 2024



**Figures 3 and 4:** Subject property November 2024.



### **Planning History**

At subject property – None

To the south of subject property

- **11-154**

Patrick derville	Pren- derville	Athlunkard Co. Clare	Parteen	to construct bathroom extension to dwelling house and all associated site works
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Permission was granted subject to conditions.

### **Background to Referral**

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

The applicant is seeking a Section 5 Declaration as to.

**Whether the part demolition and rebuild of an existing dwelling and an existing one bed flat is development and if so, is it exempted development.**

The agent for the applicant has submitted the following additional details in relation to this Section V Referral:

- Both the existing dwelling and one bed apartment are in very poor condition.
- It is proposed to demolish the flat roof part of the dwelling, to demolish the one bed apartment which is not habitable and to rebuild the dwelling for use as a family dwelling
- The changes are (1)To change the two floor plans into one floor plan.  
(2) To change the flat roofs into pitched roofs.

- The existing cottage is to be retained as it is, except that the existing lofted first floor is to be demolished and replaced with a vaulted ceiling.
- The total floor area of the existing structure is 226.94m<sup>2</sup> and the total floor area of the proposed build is 226.24m<sup>2</sup>.

The agent for the applicant has submitted the following details:

- Plans of the original structure
- The proposed rebuild plans
- Site Location map
- Is stated on the application form as submitted that the proposed/ stated works are ongoing.
- 

### **Assessment:**

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

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

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

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

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

Having regard to the details submitted, the stated alterations to the subject dwelling are considered to be development.

Consideration has also been given to the Exempted Development provisions as are set out in Section 4(1) (h) of the Planning Act 2000 ( as amended) which provides for the following class of exempted development;

“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”.

Having regard to the nature of the works as are proposed, the above class of exempted development does not apply in this case.

All other forms of Exempted Development as are set out in Section 4 ' Exempted Development' of the Planning and Development Act 2000, as amended, have been considered and no other form of exempted development as set out in the Planning and Development Act applies to the subject development.

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

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

**SCHEDULE 2**

**PART 1**

*Exempted Development* — *Column 2*

*General Column 1*                      *Conditions and Limitations*

*Description of Development*

*Development within the curtilage of a house*

**CLASS 1**

*The extension of a house, by the construction or erection of an extension (including a conservatory) to the rear of the house or by the conversion for use as part of the house of any garage, store, shed or other similar structure attached to the rear or to the side of the house.*

1. (a) *Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres.*  
(b) *Subject to paragraph (a), where the house is terraced or semi-detached, the floor area of any extension above ground level shall not exceed 12 square metres.*  
(c) *Subject to paragraph (a), where the house is detached, the floor area of any extension above ground level shall not exceed 20 square metres.*
2. (a) *Where the house has been extended previously, the floor area of any such extension, taken together with the floor area of any previous extension or extensions constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 40 square metres.*  
(b) *Subject to paragraph (a), where the house is terraced or semi-detached and has been extended previously, the floor area of any extension above ground level taken together with the floor area of any previous extension*  
(c) *Subject to paragraph (a), where the house is detached and has been extended previously, the floor area of any extension above ground level, taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 20 square metres.*
3. *Any above ground floor extension shall be a distance of not less than 2 metres from any party boundary.*

4. (a) *Where the rear wall of the house does not include a gable, the height of the walls of any such extension shall not exceed the height of the rear wall of the house.*

(b) *Where the rear wall of the house includes a gable, the height of the walls of any such extension shall not exceed the height of the side walls of the house.*

(c) *The height of the highest part of the roof of any such extension shall not exceed, in the case of a flat roofed extension, the height of the eaves or parapet, as may be appropriate, or, in any other case, shall not exceed the height of the highest part of the roof of the dwelling.*

5. *The construction or erection of any such extension to the rear of the house shall not reduce the area of private open space, reserved exclusively for the use of the occupants of the house, to the rear of the house to less than 25 square metres*

6. (a) *Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces.*

(b) *Any window proposed above ground level in any such extension shall not be less than 11 metres from the boundary it faces.*

(c) *Where the house is detached and the floor area of the extension above ground level exceeds 12 square metres, any window proposed at above ground level shall not be less than 11 metres from the boundary it faces.*

7. *The roof of any extension shall not be used as a balcony or roof garden.*

As per the proposed floor plan submitted, it can be seen that it is proposed to construct an extension onto the existing dwelling in order to connect the existing dwelling to the former one bedroom flat, which it is also proposed to demolish and rebuild.

It is proposed that the new extension will have an overall floor area of 96.42m<sup>2</sup> and hence the proposed extension onto the dwelling is not exempted development and does not fall within Schedule 2, Part 1, Class 1 of the Planning Regulations.

(b) Regard has been had to the provisions of Class 14 of Schedule 2, Part 1 of the Planning and Development Regulations 2001 ( as amended) which states that Development Consisting of a change of use ( Class 14 ( e) *from use as 2 or more dwellings, to use as a single dwelling, of any structure previously used as a single dwelling*” is exempted development.

In this case the two structures, i.e. the cottage and the one bed apartment to the rear of the cottage, are separate structures and are not physically connected and hence the above exemption cannot apply.

(c) Consideration has also been given to Class 50 of Schedule 2, Part 1, of the Planning Regulations 2001 ( as amended) which provides for the following class of exempted development;

<b>CLASS 50</b>	
<p>(a) The demolition of a building, or buildings, within the curtilage of—</p> <ul style="list-style-type: none"> <li>(i) a house,</li> <li>(ii) an industrial building,</li> <li>(iii) a business premises, or</li> <li>(iv) a farmyard complex.</li> </ul>	<ol style="list-style-type: none"> <li>1. No such building or buildings shall abut on another building in separate ownership.</li> <li>2. The cumulative floor area of any such building, or buildings, shall not exceed:               <ul style="list-style-type: none"> <li>(a) in the case of a building, or buildings within the curtilage of a house, 40 square metres, and</li> <li>(b) in all other cases, 100 square metres.</li> </ul> </li> <li>3. No such demolition shall be carried out to facilitate development of any class</li> </ol>
<p>(b) The demolition of part of a habitable house in connection with the provision of an extension or porch in accordance with Class 1 or 7, respectively, of this Part of this Schedule or in accordance with a permission for an extension or porch under the Act.</p>	<p>prescribed for the purposes of section 176 of the Act.</p>

The one bedroom flat at the rear of the property has a floor area of 57.12 and hence the above exemption does not apply and the demolition of the one bedroom apartment requires planning permission.

**(d) Article 9 of the Planning and Development Regulations 2001 (as amended),** Article 9 of the Planning and Development Regulations 2001 (as amended), '*Restrictions on Exempted Development*' have also been considered. In this case development has been carried out at this site without the been fit of Planning Permission and works as have been carried out are not exempted development and are unauthorized development.

The following are the restrictions on exemptions as are set out in Article of the Planning Regulations ( as amended)

“Restrictions on exemption.

9. (1) 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 comprise 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,*
- (iv) 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,*
- (v) 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,*
- (vi) 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.*

***(vii) 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,*

*(b) in an area to which a special amenity area order relates, if such development would be development:— (i) of class 1, 3, 11, 16, 21, 22, 27, 28, 29, 31, (other than paragraph (a) thereof), 33 (c) (including the laying out and use of land for golf or pitch and putt or sports involving the use of motor vehicles, aircraft or firearms), 39, 44 or 50(a) specified in column 1 of Part 1 of Schedule 2, or*

*(ii) consisting of the use of a structure or other land for the exhibition of advertisements of class 1, 4, 6, 11, 16 or 17 specified in column 1 of Part 2 of the said Schedule or the erection of an advertisement structure for the exhibition of any advertisement of any of the said classes, or*

*(iii) of class 3, 5, 6, 7, 8, 9, 10, 11, 12 or 13 specified in column 1 of Part 3 of the said Schedule, or 43 (iv) of any class of Parts 1, 2 or 3 of Schedule 2 not referred to in subparagraphs (i), (ii) and (iii) where it is stated in the order made under section 202 of the Act that such development shall be prevented or limited,*

*(c) if it is development to which Part 10 applies, unless the development is required by or under any statutory provision (other than the Act or these Regulations) to comply with procedures for the purpose of giving effect to the Council Directive, (d) if it consists of the provision of, or modifications to, an establishment, and could have significant repercussions on major accident hazards.*

In this case the stated works include works to existing unauthorized development as has been carried out at this site and hence the restriction on exempted development as per Article 9 (Vii) of the Planning Regulations applies in this case

### **(3) APPROPRIATE ASSESSMENT**

The subject site is located approx. 1k from the SAC of the lower river Shannon.

The proposed development is located within an established residential area and comprises of works on the grounds of an existing house. The property is connected to the mains drainage system and public sewer.

Having regard to:

- the existing established development at this location and the nature of the proposed development.
- the location of the development in a serviced urban area so that any construction surface water runoff will be managed via the existing drainage system,
- the consequent absence of a pathway to the European site,

It is considered that the proposed development would not be likely to have a significant effect individually, or in combination with other plans and projects, on the Natura 2000 network and appropriate assessment is not therefore required.

### **Conclusion**

The following question has been Referred to the Planning Authority;

Whether the part demolition and rebuild of an existing dwelling and an existing one bed flat is development and if so, is it exempted development.

Having regard to the above, I conclude that:

The proposed demolition and rebuilding of the existing dwelling and existing one bed flat at this site is not exempted development as there is no class or form of exempted development as set out in either the Planning and Development Act 2000 ( as amended ) or in the Planning and Development Regulations 2001 ( as amended ) that provides for this form of development.

### **Recommendation**

The following question has been referred to the Planning Authority:

Whether the part demolition and rebuild of an existing dwelling and an existing one bed flat is development and if so, is it exempted development.

**The Planning Authority in considering this referral had regard to:**

- (a) Sections 2, 3, and 4 of the Planning and Development Act, 2000, as amended,
- (b) The works as indicated in submitted documents from the referrer.
- (c) The forms of exempted development as set out in Class 1, Class 14 (e) and Class 50 of Schedule 2, Part 1, of the Planning and Development Regulations 2001 (as amended)
- (d) Article 9 'Restrictions on Exempted Development' of the Planning and Development Regulations 2001 (as amended).
- (e) The inspection of the site and extent of works carried out to date on site.

**And whereas Clare County Council (Planning Authority) has concluded as follows;**

- (a) The demolition of part of the existing dwelling house and the one bedroom flat exceed 40sqm, and therefore do not comply with the conditions and limitations of Class 50 of Schedule 2, Part 1, of the Planning and Development Regulations 2001 (as amended);
- (b) The demolition of part of the existing dwelling house and the rebuilding of same, do not comply with the conditions and limitations of Class 1 of Schedule 2, Part 1, of the Planning and Development Regulations 2001 (as amended), as the entirety of the works are not to the rear of the dwelling house and also the floor area of such works exceeds 40sqm.

- (c) The demolition of the one bedroom flat, the rebuilding and the incorporation of same into the existing dwelling house does not comply with Class 1 or 14 (e) of Schedule 2, Part 1, of the Planning and Development Regulations 2001 (as amended),
- (d) Notwithstanding the above, as works have taken place on site which the Planning Authority considers are unauthorized development, the restrictions on exempted development as set out under Article 9 (1) (a) (viii) apply;
- (e) There are no other provisions under the Planning and Development Acts or Regulations which would render the subject works as exempted development.

**Now therefore, Clare County Council (Planning Authority) has concluded that:**

The part demolition and rebuilding of an existing dwelling and an existing one bed flat is development and is not exempted development.

Annemarie McCarthy *A m McCarthy 15-11-24*  
Annemarie McCarthy  
Executive Planner  
Date: 15-11-24

Garreth Ruane *GR*  
Garreth Ruane  
Senior Executive Planner  
Date: *15/11/24*



COMHAIRLE | CLARE  
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**Shahid Mugal**  
**C/o Michael Begley**  
**Clonlara**  
**Co. Clare**  
**V94 P7N8**

**22/10/2024**

**Section 5 referral Reference R24-82 – Shahid Mugal**

Is the partial demolition and re-build of an existing dwelling and an existing one bed flat (both in very poor condition) development and if so, is it exempted development?

A Chara,

I refer to your application received on 22nd October 2024 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 Stiúirthóireacht 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  
Aras Contae an Chlair  
New Road  
Ennis  
Co Clare

=====  
22/10/2024 09:28:22

Receipt No. : L1CASH/0/370924  
\*\*\*\*\* REPRINT \*\*\*\*\*

COMHAIRLE  
C/O MICHAEL BEGLEY  
CLONLARA, CO CLARE V94 P7N8  
REF. R24-82

CONTAE  
AN CHLÁIR

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

Total : 80.00 EUR

Tendered :  
CREDIT CARDS 80.00

Change 0.00

P07

**CLARE COUNTY COUNCIL  
COMHAIRLE CONTAE AN CHLÁIR**



Comhairle Contae an Chláir  
Clare County Council

Planning Department,  
Economic Development Directorate,  
Clare County Council,  
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R24-82

**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	SHAHID MUGAL LARKIN'S CROSS, PARTEEN, CO. CLARE.
(b) Telephone No.:	
(c) Email Address:	
(d) Agent's Name and address:	MICHAEL BEGLEY CHONLARA, CO. CLARE V94 P7N8

**CLARE  
COUNTY COUNCIL**  
22 OCT 2024  
Received  
Planning Section

**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., Exempt development and if so is it exempted development?

IS THE PART DEMOLITION AND RE-BUILD OF AN EXISTING DWELLING AND AN EXISTING ONE BED FLAT - BOTH IN VERY POOR CONDITION, DEVELOPMENT & 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.

DEMOLISH THE FLAT ROOF PART OF DWELLING  
 DEMOLISH NOT HABITABLE FLAT AND RE-BUILD ALL FOR PRIVATE FAMILY DWELLING.

ONLY CHANGES ARE:

- 1 BRING THE TWO FLOOR PLANS INTO ONE
- 2 CHANGE THE FLAT ROOFS TO "A" ROOFS.

THE ORIGINAL COTTAGE IS RETAINED AS IS, EXCEPT THE LOFTED FIRST FLOOR IS DEMOLISHED AND REPLACED BY A VAULTED CEILING.

THE TOTAL FLOOR AREA OF EXISTING STRUCTURES IS 226.94 M<sup>2</sup>

TOTAL FLOOR AREA OF PROPOSED BUILD IS 226.24

(c) List of plans, drawings etc. submitted with this request for a declaration:

*(Note: Please provide a site location map to a scale of not less than 1:2500 based on Ordnance Survey map for the areas, to identify the lands in question)*

- 1 ORIGINAL STRUCTURES PLANS
- 2 PROPOSED RE-BUILD PLANS
- 3 SITE LOCATION MAP 1:1000

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT	
(a) Postal Address of the Property/Site/Building for which the declaration sought:	ATHLUNKARD, PARTEN, CO. CLARE
(b) Do the works in question affect a Protected Structure or are within the curtilage of a Protected Structure? If yes, has a Declaration under Section 57 of the Planning & Development Act 2000 (as amended) been requested or issued for the property by the Planning Authority?	NO
(c) Legal interest in the land or structure in question of the person requesting the declaration (Give Details):	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? If so please supply details:	NO
(g) Were there previous planning application/s on this site? If so please supply details:	DON'T KNOW
(h) Date on which 'works' in question were completed/are likely to take place:	ON-GOING

SIGNED: Michael Begley (Agent)

DATE: 21/10/2024

**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:	.....		



Surveyed 1993  
Revised 2009  
Levelled 1975

# Rural PLACE Map



159127

159380

159675

### ITM CENTRE PT. COORDS.

559203,659632

### DESCRIPTION

### MAP SHEETS

1:2500  
4682-B



Produced by Mid-West Maps,  
94A Henry Street, Limerick City  
On behalf of Ordnance Survey Ireland,  
Phoenix Park, Dublin 8.

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a tharchur in aon foirm ná ar aon bhealach gan  
cead i scríbhinn roimh ré ó úinéirí an chóipchirt.  
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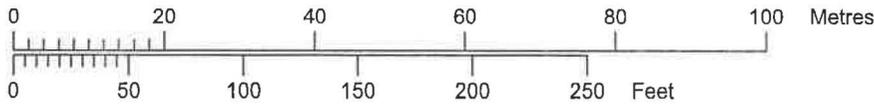


159503

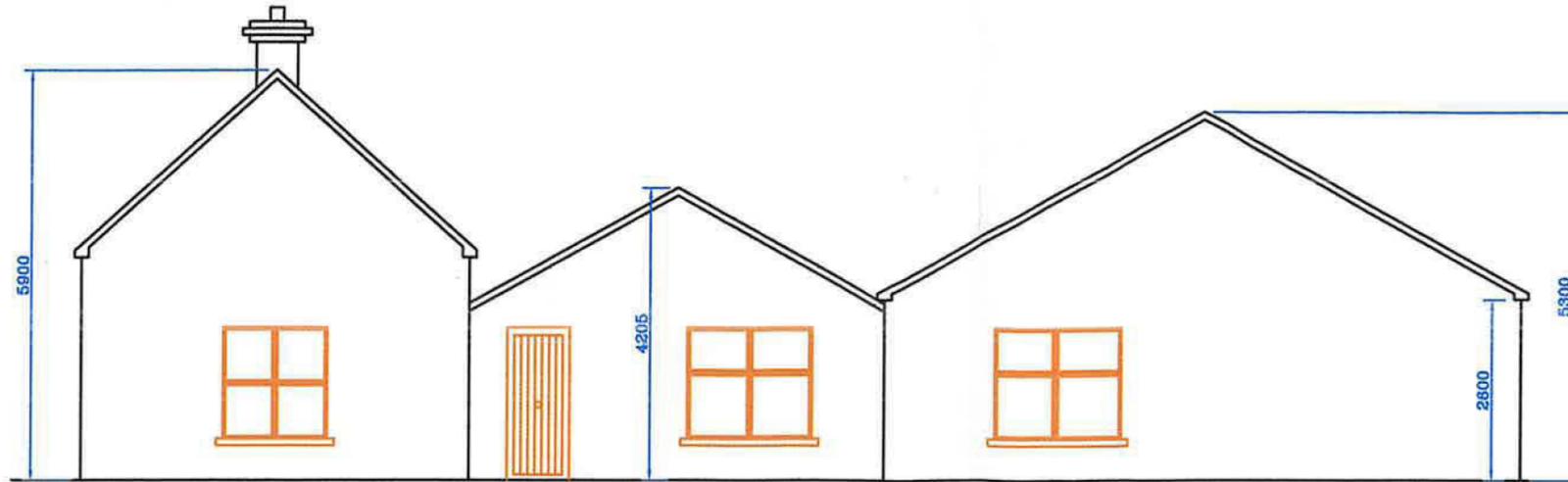
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159380

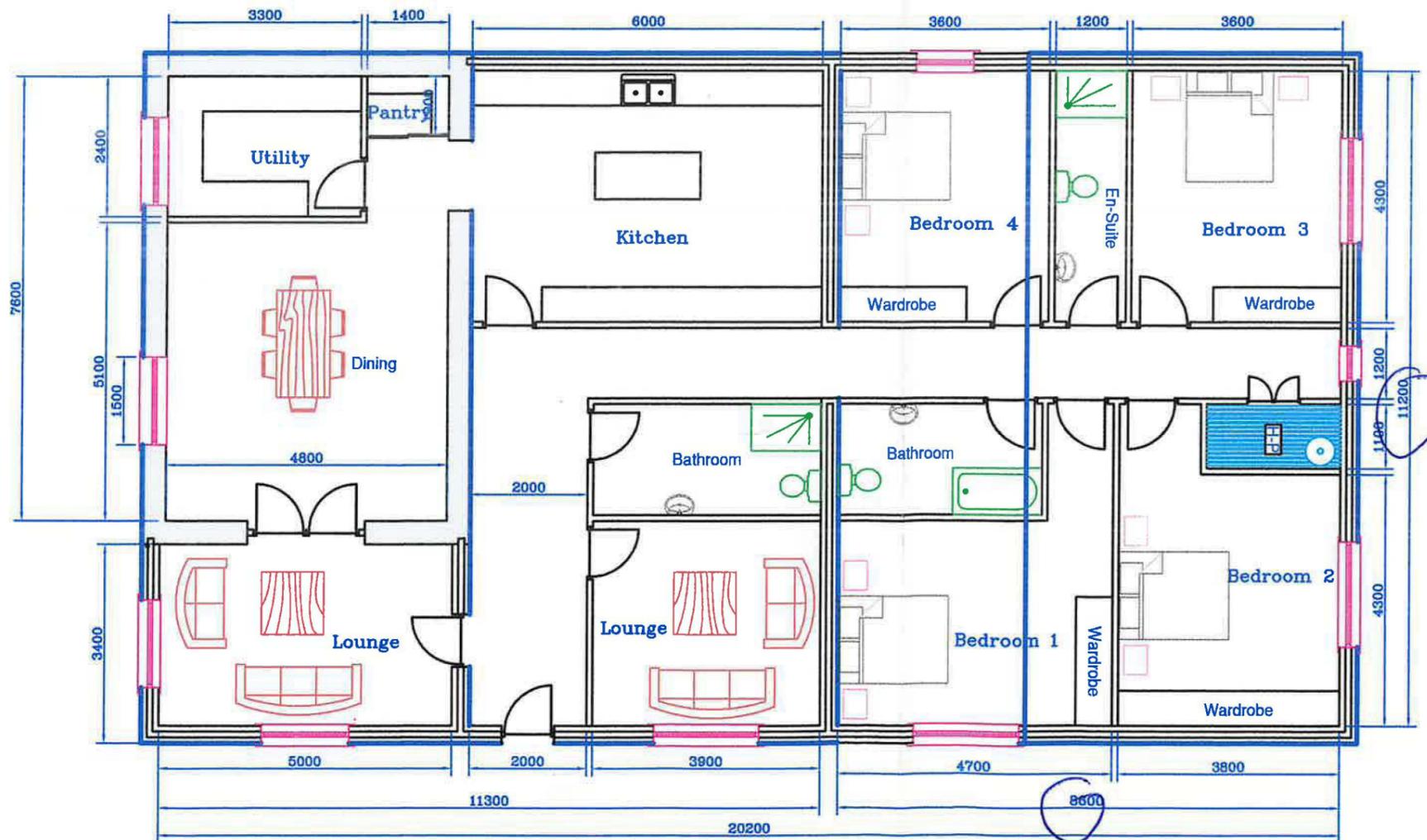
Scale:- 1:1,000  
Scála:- 1:1,000



Plot Ref. No. 1382767\_1\_4  
Plot Date 20-OCT-2009



Front (South) Elevation - Scale 1: 100  
**Proposed Rebuild Dwelling Elevations - Scale 1:100**



**Proposed Floor Plan - Scale 1:100**  
**Proposed Re-Build Plan - Scale 1:100**

Total Floor Area:  
 226.24 m2 (2435 sq.ft)



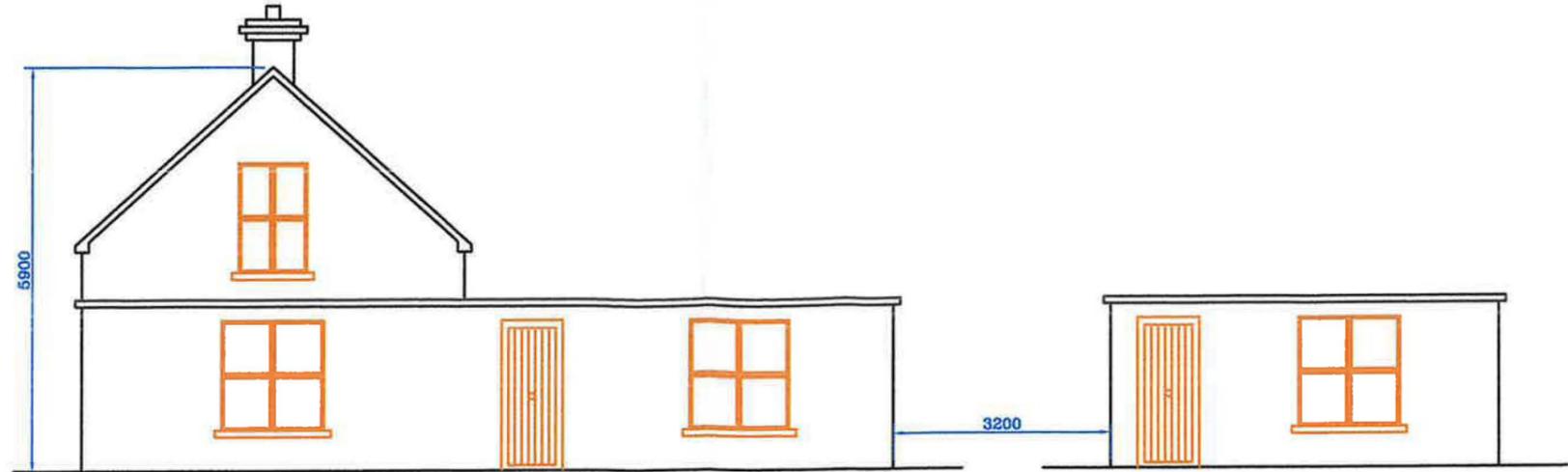
*Michael Begley*  
 Planning Services  
 Clonlara, Co. Clare  
 Tel: 061-354170  
 e.mail: mlbegley@outlook.ie

Project:  
 Proposed Extension  
 At: Athlunkard,  
 Parteen,  
 Co. Clare  
 Client: Shahid Mugal

Title: Floor Plan  
 Scale: As Shown  
 Drawn by: MB  
 Date: August 2024

Note: Drawings for Planning  
 Purposes only

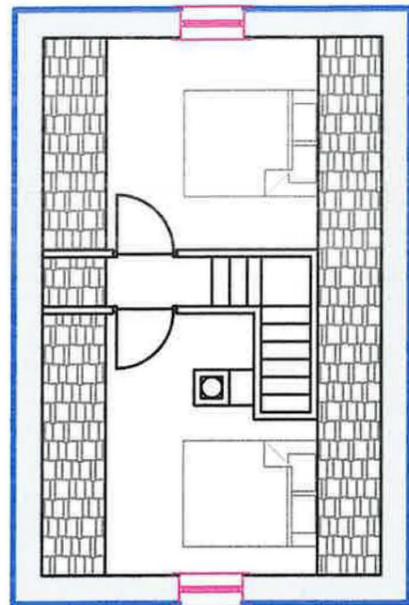
3.2  
 x 11.800  
 = 37.76  
 m2  
 8.6  
 x 11.2 =  
 96.32



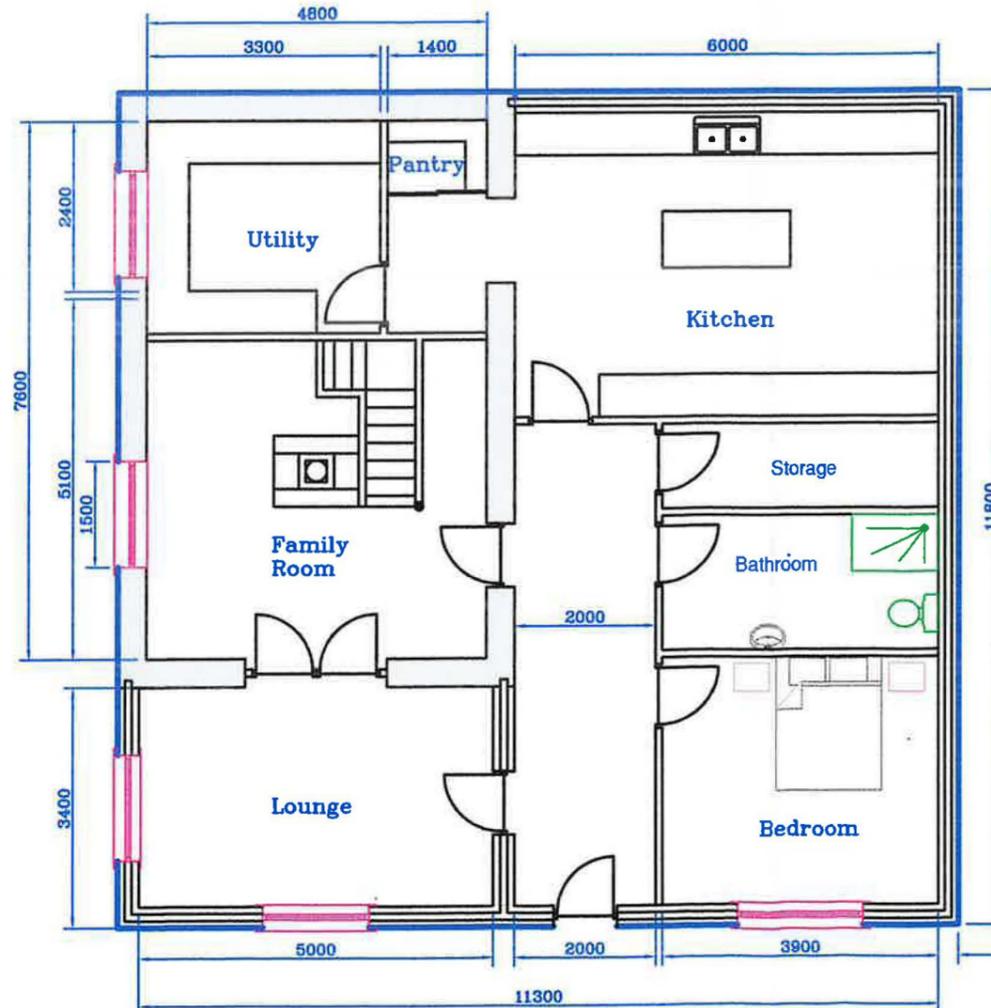
Front (South) Elevation - Scale 1: 100

Front (South) Elevation - Scale 1: 100

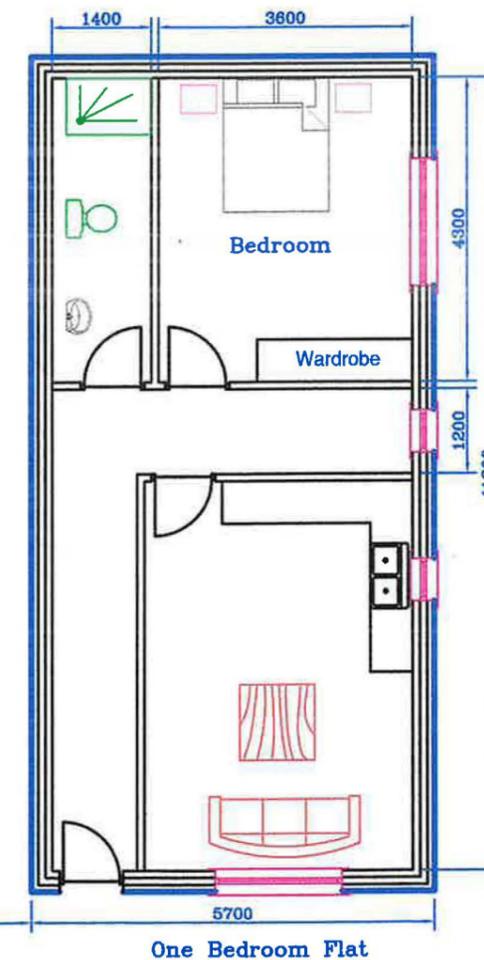
**Existing/Original Dwelling Elevations - Scale 1:100**



**First Floor Plan  
Scale 1:100**



**Ground Floor Plan - Scale 1:100**



**Floor Plan - Scale 1:100**

**Existing/Original Dwelling Plans - Scale 1:100**

Gross Floor Area:  
 Ground Floor: 133.34 m<sup>2</sup>  
 First Floor: 36.48 m<sup>2</sup>  
 Flat: 57.12 m<sup>2</sup>  
 Total: 226.94 m<sup>2</sup> (2443 sq.ft)



*Michael Begley*  
 Planning Services  
 Clonlara, Co. Clare  
 Tel: 061-354170  
 e.mail: mlbegley@outlook.ie

Project:  
 Existing Dwelling  
 At: Athlunkard,  
 Parteen,  
 Co. Clare  
 Client: Shahid Mugal

Title: House Plans  
 Scale: As Shown  
 Drawn by: MB  
 Date: July 2024

Note: Drawings for Planning  
 Purposes only