



COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

**Registered Post**

**R. Fitzgerald Electrical Services Ltd  
Unit 20, Tracklands Business Park  
Ennis  
Co. Clare**

**1st March 2024**

**Section 5 referral Reference R24-12 – R. Fitzgerald Electrical Services Ltd**

Is the installation of a solar PV ground unit development, and if so is it exempted development?

A Chara,

I refer to your application received on 8th February 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 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**

**SECTION 5 OF THE PLANNING AND DEVELOPMENT ACT 2000 AS AMENDED**

**DECLARATION ON DEVELOPMENT AND/OR EXEMPTED DEVELOPMENT**

Chief Executive's Order No:

83234

Reference Number:

R24-12

Date Referral Received:

8th February 2024

Date Additional Information Received:

28th February 2024

Name of Applicant:

R. Fitzgerald Electrical Services Ltd

Location of works in question:

Burren College of Art, Newtown Castle,  
Ballyvaughan, Co. Clare

**Section 5 referral Reference R24-12 – R. Fitzgerald Electrical Services Ltd**

Is the installation of a solar PV ground unit 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, and 3 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 61 of Part 1 of Schedule 2, Article 6 of the Planning and Development Regulations 2001, as amended,
- (d) The nature and extent of works as indicated in submitted documents from the referrer.

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

- (a) The installation of solar panels 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 development consisting of the installation of solar PV ground unit (of total aperture 64.sq.m.) is development which is exempted development having regard to the extent of works involved, and the provisions of Class 61 Schedule 2 of Part 1 , Planning and Development Regulations 2001 as amended,

**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 installation of solar panels at Burren College of Art, Newtown Castle, Ballyvaughan, Co. Clare is **considered development** which is **exempted development**.

**Signed:**



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

**Date:**

**1st March 2024**

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

Reference No.: R24-12



Comhairle Contae an Chláir  
Clare County Council

**Section 5 referral Reference R24-12**

**Is the installation of a solar PV ground unit development, and if so is it exempted development?**

**AND WHEREAS, R. Fitzgerald Electrical 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, and 3 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 61 of Part 1 of Schedule 2, Article 6 of the Planning and Development Regulations 2001, as amended,
- (d) The nature and extent of works as indicated in submitted documents from the referrer.

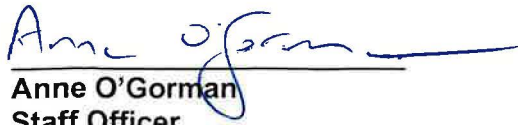
**And whereas Clare County Council has concluded:**

- (a) The installation of solar panels 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 development consisting of the installation of solar PV ground unit (of total aperture 64.sq.m.) is development which is exempted development having regard to the extent of works involved, and the provisions of Class 61 Schedule 2 of Part 1 , Planning and Development Regulations 2001 as amended,

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

The proposed development consisting of the installation of solar panels at Burren College of Art, Newtown Castle, Ballyvaughan, Co. Clare **constitutes development** which is **exempted development** as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.





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

**1st March 2024**

## Ellen Carey

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**From:** Planning Office  
**Sent:** Wednesday 28 February 2024 13:44  
**To:** Ellen Carey  
**Subject:** FW: SECTION 5 - R24/12

**From:** Fitzgerald Electrical Accounts < >  
**Sent:** Wednesday, February 28, 2024 1:39 PM  
**To:** Planning Office <planoff@clarecoco.ie>  
**Subject:** SECTION 5 - R24/12

For the attention of Ellen Carey

With reference to our conversation of this morning regarding the above Section 5.  
We can confirm that the panels will be a total of 64 sq. meters and 2.3 meters high,  
I hope this is sufficient for you. If you should require anything further, please let me know.

Kind Regards,  
Nodlaig Fitzgerald  
Office Manager  
**Phone:**  
**Address: 2o Tracklands Business Park, Ennis, Co. Clare**



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

<b>FILE REF:</b>	R24- 12
<b>APPLICANT(S):</b>	
<b>REFERENCE:</b>	Whether the installation of a solar PV ground unit is development and, if so, is it exempted development.
<b>LOCATION:</b>	Burren College of Art, Newtown Castle , Ballyvaughan, County Clare
<b>DUE DATE:</b>	05 March 24

**Site Description**

The site where it is proposed to locate PV array is located on the southern side of the campus in the field area adjacent to the studios.

The site where it is proposed to layout out the array is outside the zone of notification associated with the national monument CL005-034 and protected structure 261 ( tower house). While no scaled drawings have been received, having regard to ArcGis mapping system, the outer limit of the zone of notification is approximately 36 distance from the proposed PV array .

Blackhead to Poulsallagh complex SAC site code 000020 is located west of the subject site on the opposite side of the public road.

**Recent Planning History on Site of the**

23/ 256\_PERMISSION granted to erect a modular art studio

90-846 - Permission granted to restore existing castle and construct/develop a art and cultural college 4 no 1 1/2 storey houses at Newton Castle

93/ 355 Permission granted for amendments to design and layout of portion of development of Art College previously granted under ref P90/846

93-816 - Permission granted for workshop at Art College

93/ 1061 Permission granted for for an alternative entrance to Burren International College of Ar

97/ 1269 Permission granted for residential accommodation at existing college,

98/541 Permission granted to construct four semi-detached houses incorporating six bedrooms, each at existing Art College

99-977 – Permission granted for workshop and associated works

99/ 2529 Permission granted for the construction of 8 no. six bed accommodation units, 1 no. communal building comprising of a caretakers apartment, common rooms, storage and associated siteworks to include a waste water treatment plant

02-2155 – Permission granted to (1) Construct 2 Artists Studio Buildings with associated facilities (2) provide new site access for service entrance

### **Background to Referral**

The applicant is seeking a Section 5 Declaration as to whether the installation of solar PV ground unit is development and, if so, is it exempted development and is or is not exempted development.

### **Statutory Provisions**

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

In order to assess this proposal, regard has to be had to the *Planning and Development Act 2000, as amended*.

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

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

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

#### **Planning & Development Regulations 2001- 2023 , as amended**

##### **Schedule 2 Article 6 Part 1 – Exempted Development General**

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.



## Class 61

The placing or erection on a roof, or within the curtilage, or on a roof of any ancillary buildings within the curtilage, of the following buildings or sites of a solar photo-voltaic and/or solar thermal collector installation:

(i) an educational building,

(ii) health centre or hospital,

(iii) recreational or sports facility,

(iv) place of worship,

(v) community facility or centre,

(vi) library,

(vii) sites for the provision of gas, electricity, telecommunications services or water supplies or wastewater services operated by a statutory undertaker.

1. Where such development is located within a solar safeguarding zone, the total aperture area of any solar photo-voltaic and/or solar thermal collector panels, taken together with any other such panels previously placed on a roof, shall not exceed 300 square metres.
2. Where such development is located within a solar safeguarding zone, the planning authority for the area shall be notified in writing no later than 4 weeks after the commencement of such development and such notification shall include details regarding the location and scale of the development.
3. The distance between the plane of the roof and the solar photo-voltaic or solar thermal collector panels shall not exceed 1.2 metres in the case of a flat roof or 15cm in any other case.
4. The solar photo-voltaic or solar thermal collector panels shall be a minimum of 2 metres in the case of a flat roof or 50cm in any other case from the edge of the roof on which it is mounted.
5. Any ancillary equipment associated with solar photo-voltaic or solar thermal collector panels shall not be placed or erected on a wall or any roof that is not a flat roof.
6. The height of any ancillary equipment associated with solar photo-voltaic or solar thermal collector panels on a flat roof shall not exceed 1.6 metres above roof level.

7. Any ancillary equipment associated with solar photo-voltaic or solar thermal collector panels on a flat roof shall be a minimum of 2 metres from the edge of the roof on which it is mounted.
8. Any free-standing solar photo-voltaic or solar thermal collector installation shall not be placed or erected forward of the front wall of the building or site.
9. The total aperture area of any free-standing solar photo-voltaic and solar thermal collector panels taken together with any other such existing free-standing panels shall not exceed 75 square metres.
10. The height of any free-standing solar photo-voltaic or solar thermal collector installation shall not exceed 2.5 metres at its highest point above ground level.
11. The placing or erection of a solar photo-voltaic or solar thermal collector installation on any wall shall not be exempted development.
12. The placing or erection of any free-standing solar photo-voltaic or solar thermal collector installation within an Architectural Conservation Area shall only be exempted development if those works would not materially affect the character of the area.
13. No sign, advertisement or object not required for the functioning or safety of the solar photo-voltaic or solar thermal collector installation shall be attached to or exhibited on such installation.
14. Development under this Class shall only be exempted development where the solar photo-voltaic or solar thermal collector installation is primarily used for the provision of electricity or heating for use within the curtilage of the building or site, and shall not be considered a change of use for the purposes of the Act.
15. Development under this Class which causes hazardous glint and/or glare shall not be exempted development and any solar photo-voltaic or solar thermal collector panels which are causing hazardous glint and/or glare shall either be removed or be covered until such time as a mitigation plan to address the hazardous glint and/or glare is agreed and implemented to the satisfaction of the Planning Authority.

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 installation of a solar PV ground unit is development and is or is not exempted development.

### Particulars of Proposal

The particulars of the proposal and site are set out below:

- it is intended to install of solar PV ground
- Aerial view shown with proposed extent of panels shown in blue. ( not to scale )

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

#### Schedule 2 Article 6 Part 1 – Exempted Development General

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.

Class 61 states

Class 61

The placing or erection on a roof, or within the curtilage, or on a roof of any ancillary buildings within the curtilage, of the following buildings or sites of a solar photo-voltaic and/or solar thermal collector installation:

(i) an educational building,

(ii) health centre or hospital,

(iii) recreational or sports facility,

(iv) place of worship,

(v) community facility or centre,

(vi) library,

(vii) sites for the provision of gas, electricity, telecommunications services or water supplies or wastewater services operated by a statutory undertaker.

#### Conditions and limitations

1. Where such development is located within a solar safeguarding zone, the total aperture area of any solar photo-voltaic and/or solar thermal collector panels, taken together with any other such panels previously placed on a roof, shall not exceed 300 square metres.

**The site is not in a solar safeguard zone.**

2. Where such development is located within a solar safeguarding zone, the planning authority for the area shall be notified in writing no later than 4 weeks after the commencement of such development and such notification shall include details regarding the location and scale of the development.

**N/A.**

3. The distance between the plane of the roof and the solar photo-voltaic or solar thermal collector panels shall not exceed 1.2 metres in the case of a flat roof or 15cm in any other case.

**N.A. The array is ground mounted. It is not located on the roof.**

4. The solar photo-voltaic or solar thermal collector panels shall be a minimum of 2 metres in the case of a flat roof or 50cm in any other case from the edge of the roof on which it is mounted.

**5. N.A. The array is ground mounted. It is not located on the roof.**

6. Any ancillary equipment associated with solar photo-voltaic or solar thermal collector panels shall not be placed or erected on a wall or any roof that is not a flat roof.

**N.A. The array is ground mounted. It is not located on the roof.**

7. The height of any ancillary equipment associated with solar photo-voltaic or solar thermal collector panels on a flat roof shall not exceed 1.6 metres above roof level.

**N.A. The array is ground mounted. It is not located on the roof.**

8. Any ancillary equipment associated with solar photo-voltaic or solar thermal collector panels on a flat roof shall be a minimum of 2 metres from the edge of the roof on which it is mounted.

**N.A. The array is ground mounted. It is not located on the roof.**

9. Any free-standing solar photo-voltaic or solar thermal collector installation shall not be placed or erected forward of the front wall of the building or site.

**N.A. The panels are no placed forward of the front wall of the building.**

10. The total aperture area of any free-standing solar photo-voltaic and solar thermal collector panels taken together with any other such existing free-standing panels shall not exceed 75 square metres.

**Total aperture is 64 sq.m. having regard to information received 28<sup>th</sup> Feb 24.**

11.The height of any free-standing solar photo-voltaic or solar thermal collector installation shall not exceed 2.5 metres at its highest point above ground level.

**The height 2.3m having regard to information received 28<sup>th</sup> Feb 24.**

12.The placing or erection of a solar photo-voltaic or solar thermal collector installation on any wall shall not be exempted development.

**It is not proposed to erect the panels on a wall.**

13.The placing or erection of any free-standing solar photo-voltaic or solar thermal collector installation within an Architectural Conservation Area shall only be exempted development if those works would not materially affect the character of the area.

**The site is not within an ACA.**

14.No sign, advertisement or object not required for the functioning or safety of the solar photo-voltaic or solar thermal collector installation shall be attached to or exhibited on such installation.

**No advertising or signage is proposed.**

15.Development under this Class shall only be exempted development where the solar photo-voltaic or solar thermal collector installation is primarily used for the provision of electricity or heating for use within the curtilage of the building or site, and shall not be considered a change of use for the purposes of the Act.

**The Planning Authority understand the structure is primarily used for the provision of electricity or heating for use within the curtilage of the building or site.**

16. Development under this Class which causes hazardous glint and/or glare shall not be exempted development and any solar photo-voltaic or solar thermal collector panels which are causing hazardous glint and/or glare shall either be removed or be covered until such time as a mitigation plan to address the hazardous glint and/or glare is agreed and implemented to the satisfaction of the Planning Authority.

**Noted.**

*Conditions and limitations*

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:

(b) 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 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,*

***N/A***

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

***N/A***

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

***N/A***

- (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,*

***N/A***

- (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,*



**N/A**

- (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.*

**N/A. The subject site is located within a designated heritage landscape. The road fronting the college is not a designated scenic route. The site is surrounded by a dense network of hedges and is well screened from view. Having regard to this and the extent of development which has already taken place on site, it is not considered the structure will interfere with the character of a landscape, or a view or prospect of special amenity value or special interest.**

- (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,*

**In terms of sites of ecological interest the preservation, conservation or protection of which is an objective of a development plan, Blackhead to Poulsallagh Complex SAC 000020 is located west of the subject site on the opposite side of the public road ( 67m distance) . There is no hydrological pathway linking the subject site to the SAC.**

*(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,*

**N/A The outer limit of the zone of notification of the National Monument Tower house CL005-034 is approximately 36m distance from the location of the array. No excavation, demolition or alteration is proposed within the zone of notification associated with the national monument.**

*(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,*

**No AA is required. See screening report attached.**

*(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.”*

**N/A. There is no natural heritage area on site. The Blackhead to Poulsallagh Complex NHA is located 67m west of the subject development. As the public road separates the NHA and SAC from the subject site and there is no hydrological pathway between the site and the NHA, no adverse impact on areas designated as and NHA are envisaged.**

*(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,*

**N/A/ see planning history above.**

*(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,*

**N/A.**

*(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,*

**N/A**

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

**N/A**

*(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.*

**N/A**

### **Conclusion**

Having regard to the provisions of Class 61 and the information received to date, it is considered that the proposed development falls within the scope of Class 61, (being under 75 sq.m in surface area and not exceeding 2.3m in height) , is development and is considered exempted development.

### **Recommendation**

I recommend that the following is issued to the applicant by the Planning Authority in this instance:

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

- (a) Sections 2, and 3 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 61 of Part 1 of Schedule 2, Article 6 of the Planning and Development Regulations 2001, as amended,
- (d) The nature and extent of works as indicated in submitted documents from the referrer.

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

- (a) the installation of solar panels 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 development consisting of the installation of solar PV ground unit (of total aperture 64.sq.m.) is development which is exempted development having regard to the extent of works involved, and the provisions of Class 61 Schedule 2 of Part 1 , Planning and Development Regulations 2001 as amended,

Now therefore Clare County Council (Planning Authority), hereby decides that the installation of solar panels is development and is exempted development.

Ellen Coey .

Executive Planner

Date: 28/02/24 .

Edna

Senior Executive Planner

Date: 29/02/24 .



## Appropriate Assessment & Determination

STEP 1. Description of the project/proposal and local site characteristics:	
(a) File Reference No:	R 24/ 12
(b) Brief description of the project or plan:	Installation of photovoltaic panels
(c) Brief description of site characteristics:	Burren collage of Art campus ( field)
(d) Relevant prescribed bodies consulted: e.g. DHLGH (NPWS), EPA, OPW	None
(e) Response to consultation:	None

STEP 2. Identification of relevant Natura 2000 sites using Source-Pathway-Receptor model and compilation of information on Qualifying Interests and conservation objectives.				
European Site (code)	List of Qualifying Interest/Special Conservation Interest <sup>1</sup>	Distance from proposed development <sup>2</sup> (km)	Connections (Source-Pathway-Receptor)	Considered further in screening Y/N
Blackhead to Pousallagh Complex SAC	Annex I habitats: <ul style="list-style-type: none"> <li>· Reefs [1170]</li> <li>· Perennial vegetation of stony banks [1220]</li> <li>· Water courses of plain to montane levels with the <i>Ranunculus fluitans</i> and <i>Callitriche-Batrachion</i> vegetation [3260]</li> <li>· Alpine and boreal heaths [4060]</li> <li>· <i>Juniperus communis</i> formations on heaths or calcareous grasslands [5130]</li> <li>· Semi-natural dry grasslands and scrubland facies on calcareous</li> </ul>	67m	None	Yes

	<p>grasslands [6210]</p> <ul style="list-style-type: none"> <li>· Lowland hay meadows (<i>Alopecurus pratensis</i>, <i>Sanguisorba officinalis</i>) [6510]</li> <li>· Petrifying springs with tufa formation (Cratoneurion) [7220]</li> <li>· *Limestone pavements [8240]</li> <li>· Submerged or partially submerged sea caves [8330]</li> </ul> <p>Annex II Species</p> <ul style="list-style-type: none"> <li>· Petalwort <i>Petaphyllum ralfsii</i></li> </ul>			
Ballyvaughan Turlough SAC	<p>Annex I habitats:</p> <ul style="list-style-type: none"> <li>· *Turloughs [3180]</li> </ul>	0.72km	None	No
Moneen Mountain SAC 000034	<p>Annex I habitats:</p> <ul style="list-style-type: none"> <li>· *Turloughs [3180]</li> <li>· Alpine and boreal heaths [4060]</li> <li>· <i>Juniperus communis</i> formations on heaths or calcareous grasslands [5130]</li> <li>· Calaminarian grasslands of the <i>Violetalia calaminariae</i> [6130]</li> <li>· Semi-natural dry grasslands and scrubland facies on calcareous grasslands [6210]</li> <li>· Petrifying springs with tufa formation (Cratoneurion) [7220]</li> <li>· *Limestone pavements [8240]</li> </ul> <p>Annex II Species</p> <ul style="list-style-type: none"> <li>· Marsh fritillary <i>Euphydryas aurinia</i> [1065]</li> <li>· Lesser horseshoe bat <i>Rhinolophus hipposideros</i> [1303]</li> </ul>	1.47km	None	No

<sup>1</sup> Short paraphrasing and/or cross reference to NPWS is acceptable – it is not necessary to reproduce the full text on the QI/SCI.

<sup>2</sup> If the site or part thereof is within the European site or adjacent to the European site, state here.



### STEP 3. Assessment of Likely Significant Effects

(a) Identify all potential direct and indirect impacts that may have an effect on the conservation objectives of a European site, taking into account the size and scale of the project under the following headings:

Impacts:	Possible Significance of Impacts: (duration/magnitude etc.)
Construction phase e.g. <ul style="list-style-type: none"> <li>• Vegetation clearance</li> <li>• Demolition</li> <li>• Surface water runoff from soil excavation/infill/landscaping (including borrow pits)</li> <li>• Dust, noise, vibration</li> <li>• Lighting disturbance</li> <li>• Impact on groundwater/dewatering</li> <li>• Storage of excavated/construction materials</li> <li>• Access to site</li> <li>• Pests</li> </ul>	None
Operational phase e.g. <ul style="list-style-type: none"> <li>• Direct emission to air and water</li> <li>• Surface water runoff containing contaminant or sediment</li> <li>• Lighting disturbance</li> <li>• Noise/vibration</li> <li>• Changes to water/groundwater due to drainage or abstraction</li> <li>• Presence of people, vehicles and activities</li> <li>• Physical presence of structures (e.g. collision risks)</li> <li>• Potential for accidents or incidents</li> </ul>	None
In-combination/Other	None

(b) Describe any likely changes to the European site:

Examples of the type of changes to give consideration to include: <ul style="list-style-type: none"> <li>• Reduction or fragmentation of habitat area</li> <li>• Disturbance to QI species</li> <li>• Habitat or species fragmentation</li> <li>• Reduction or fragmentation in species density</li> <li>• Changes in key indicators of conservation status value (water or air quality etc.)</li> <li>• Changes to areas of sensitivity or threats to QI</li> </ul>	None
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- Interference with the key relationships that define the structure or ecological function of the site

(c) Are 'mitigation' measures necessary to reach a conclusion that likely significant effects can be ruled out at screening?

Yes  No

#### Step 4. Screening Determination Statement

##### The assessment of significance of effects:

Describe how the proposed development (alone or in-combination) is/is **not likely** to have **significant** effects on European site(s) in view of its conservation objectives.

The development comprises the installation of a solar pv ground unit bolted in to the ground. There are no hydrological pathways linking the subject site to the nearest European sites. No direct or indirect significant effect are envisaged either at construction stage or operational stage.

**Conclusion: The proposed development is not likely to have significant effects on European site(s) in view of its conservation objectives.**

	Tick as Appropriate:	Recommendation:
(i) It is clear that there is <b>no likelihood</b> of significant effects on a European site.	<input checked="" type="checkbox"/>	The proposal can be screened out: Appropriate assessment not required.
(ii) It is <b>uncertain</b> whether the proposal will have a significant effect on a European site.	<input type="checkbox"/>	<input type="checkbox"/> Request further information to complete screening <input type="checkbox"/> Request NIS <input type="checkbox"/> Refuse planning permission
(iii) <b>Significant effects</b> are likely.	<input type="checkbox"/>	<input type="checkbox"/> Request NIS <input type="checkbox"/> Refuse planning permission

Signature and Date of  
Recommending Officer:

Ellen Carey.  
**Name: Ellen Carey E.P.**

28/ 02/ 24

Signature and Date of the  
Decision Maker:













COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

**R. Fitzgerald Electrical Services Ltd**  
Unit 20, Tracklands Business Park  
Ennis  
Co. Clare

**09/02/2024**

**Section 5 referral Reference R24-12 – R. Fitzgerald Electrical Services Ltd**

Is the installation of a solar PV ground unit development, and if so is it exempted development?

A Chara,

I refer to your application received on 8th February 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 Stiúarthóireacht 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 Chláir  
New Road  
Ennis  
Co Clare

COMHAIRLE

CONTAE

08/02/2024 15:55:30

Receipt No. L1CASH/0/360288  
\*\*\*\*\* REPRINT \*\*\*\*\*

AN CHLÁIR

FITZGERALD ELECTRICAL SERVICES  
UNIT 20 TRACKLANDS BUSINESS PARK  
ENNIS, CO CLARE



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

Total : 80.00 EUR

Tendered :  
CREDIT CARDS 80.00

Change : 0.00

COMHAIRLE

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

CONTAE

P07

**CLARE COUNTY COUNCIL  
COMHAIRLE CONTAE AN CHLÁIR**

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

Telephone No. (065) 6821616  
Fax No. (065) 6892071  
Email: [planoff@clarecoco.ie](mailto:planoff@clarecoco.ie)  
Website: [www.clarecoco.ie](http://www.clarecoco.ie)

R24-12



**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	R. Fitzgerald Electrical Services Ltd. Unit 20, Trachlads Business Park, Ennis Co Clare.
(b) Telephone No.:	
(c) Email Address:	
(d) Agent's Name and address:	Burren college of Art. Newtown Castle Ballyvaughan, Co Clare.

22/5/23

**2. DETAILS REGARDING DECLARATION BEING SOUGHT**

(a) PLEASE STATE THE SPECIFIC QUESTION FOR WHICH A DECLARATION IS SOUGHT  
*Note: only works listed and described under this section will be assessed.*

Sample Question: *Is the construction of a shed at 1 Main St., Ennis development and if so is it exempted development?*

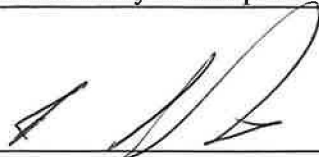
*Is the installation of a solar PV ground unit development, and if so is it exempted development?*

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

*We are installing a solar PV ground unit system @ this site - see drawings.*

(c) List of plans, drawings etc. submitted with this request for a declaration:  
*(Note: Please provide a site location map to a scale of not less than 1:2500 based on Ordnance Survey map for the areas, to identify the lands in question)*

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT	
(a) Postal Address of the Property/Site/Building for which the declaration sought:	Bunratty college of aet. Newton castle. Ballyvaughan 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):	No
(d) If the person in (c) above is not the owner and/or occupier, state the name and address of the owner of the property in question:  <i>Note: Observations in relation to a referral may be requested from the owner/occupier where appropriate.</i>	N/A
(e) Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?:	Yes.
(f) Are you aware of any enforcement proceedings connected to this site? If so please supply details:	No
(g) Were there previous planning application/s on this site? If so please supply details:	No
(h) Date on which 'works' in question were completed/are likely to take place:	Work will take place once we hear back on this applicati.

SIGNED: 

DATE: 8/2/24.



**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*

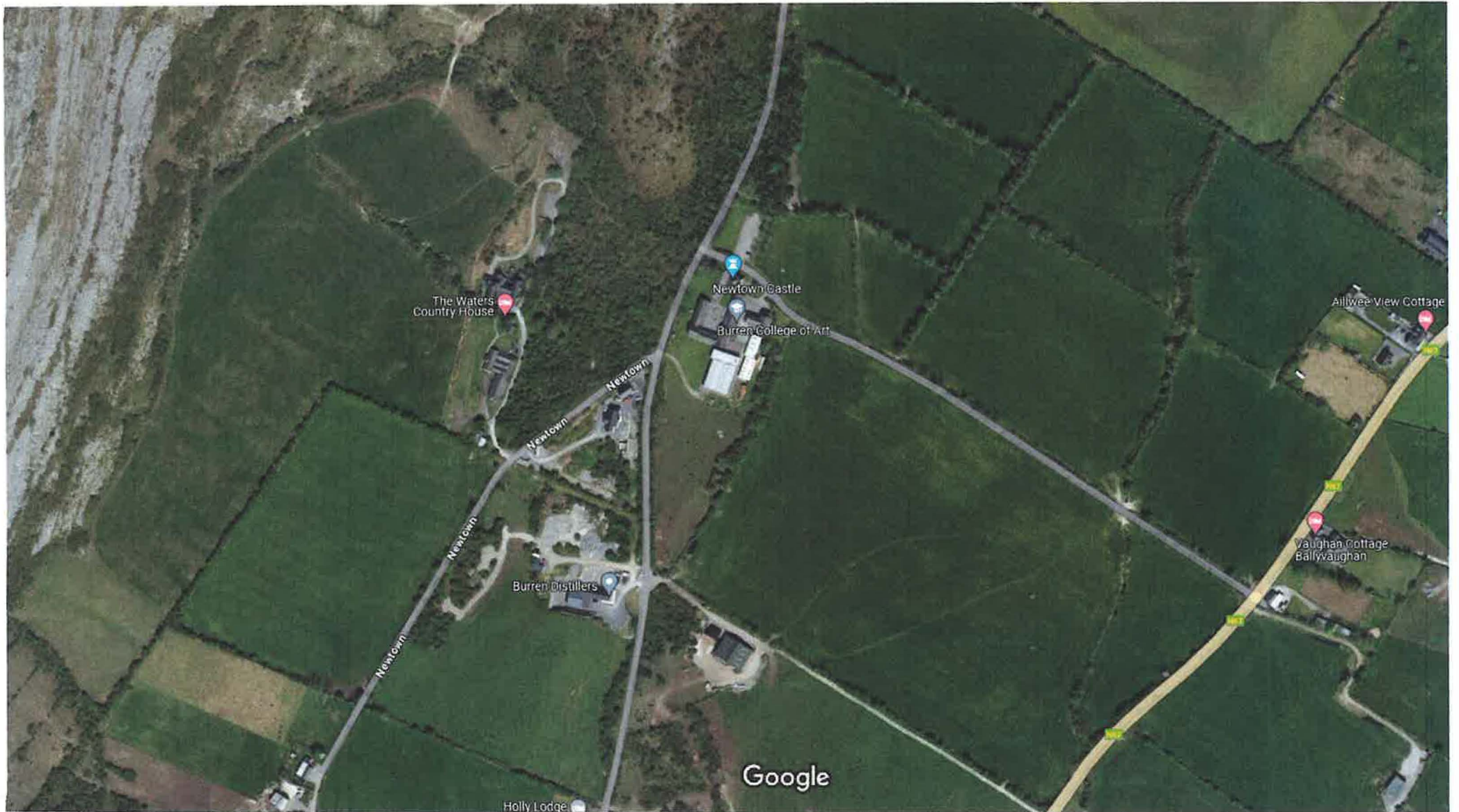
- (i) The request for a declaration under Section 5 must be accompanied by 2 copies of site location map based on the Ordnance Survey map for the area of a scale not less than 1:1000 in urban areas and 1:2500 in rural areas and should clearly identify the site in question.
- (ii) The request for a declaration 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: .....	





Map data ©2024 50 m





Preferences

Showing Array

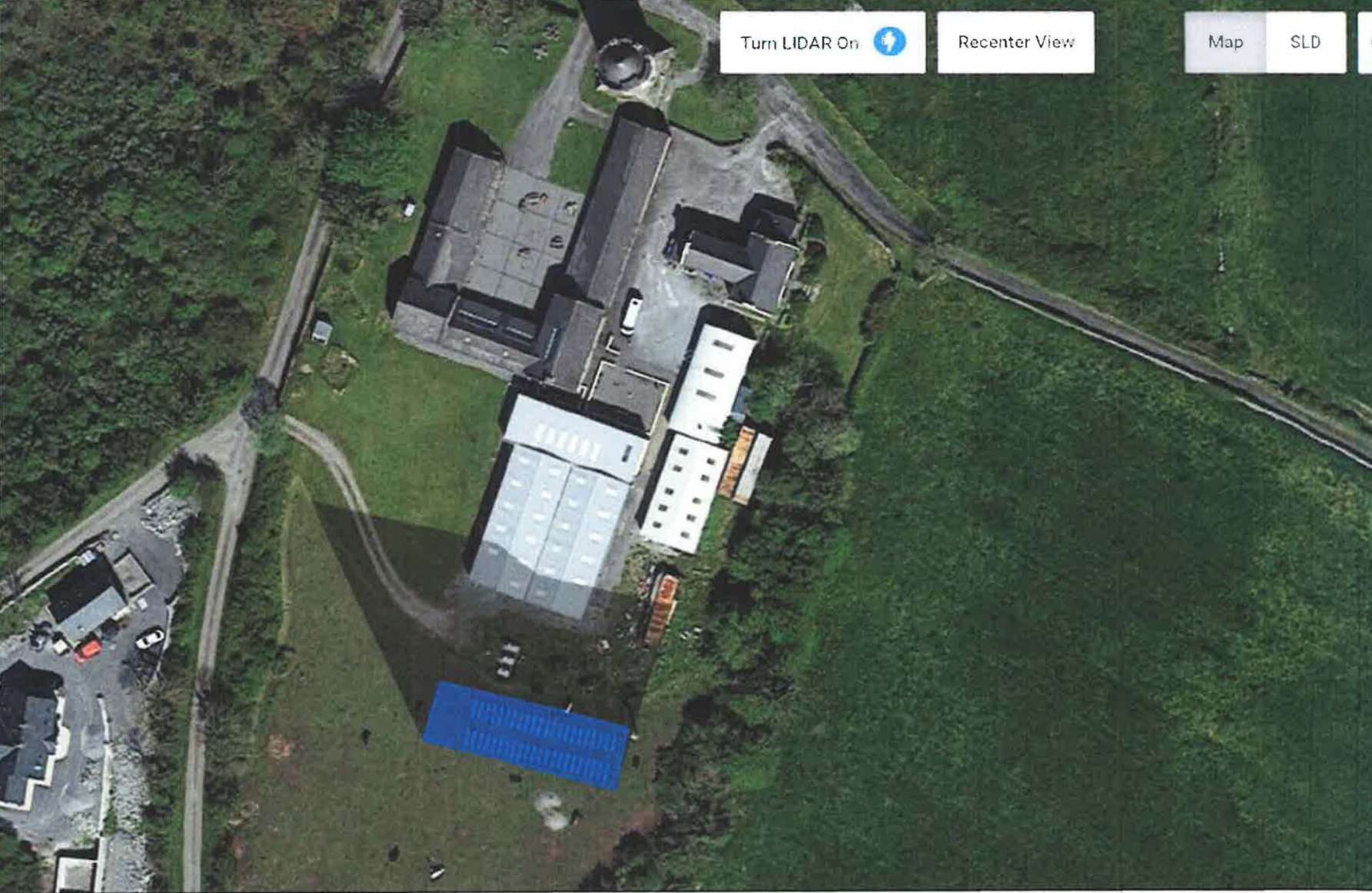
Routes Electrical Advanced


New

Objects cast shadows

Modules	Action
88 (34kW)	 

.Wp



Turn LIDAR On 

Recenter View

Map SLD G