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CONTAE AN CHLÁIR | COUNTY COUNCIL

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**Cyril Corry
C/o Padraig Neylon
PND Building Consultancy Ltd
Kilrush House, Frances Street
Kilrush
Co. Clare**

30th September 2024

Section 5 referral Reference R24-30 – Cyril Corry

Is the change of use from a commercial unit to a residential unit development and if so, is it exempted development?

A Chara,

I refer to your application received on 21st March 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

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: 84242

Reference Number: R24-30

Date Referral Received: 21st March 2024

Further Information Received: 16th September 2024

Name of Applicant: Cyril Corry

Location of works in question: 19A Place De Plouzane, Kilrush, Co. Clare

Section 5 referral Reference R24-30 – Cyril Corry

Is the change of use from a commercial unit to a residential 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, 3 and 4(1) (h) of the Planning and Development Act, 2000, as amended.
- (b) Articles 6, 9 and 10 of the Planning and Development Regulations, 2001 as amended and in particular Appendix 1 Planning and Development (Amendment) (No. 2) Regulations 2018 (S.I. No. 30 of 2018) and (S.I. No. 75 of 2022).
- (c) Sustainable Urban Housing: Design Standards for New Apartments -Guidelines for Planning Authorities'.

AND WHEREAS Clare County Council has concluded:

- (a) The change of use of the vacant ground floor commercial unit at 19A Place De Plouzane, Kilrush, County Clare to a one-bedroom apartment is considered development which is exempted development under Article 10 of Planning and Development Regulations, 2001 as amended.

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 change of use of the vacant ground floor commercial unit at 19A Place De Plouzane, Kilrush, County Clare to a one-bedroom apartment is considered development which is exempted development.

Signed:



GARETH RUANE
SENIOR EXECUTIVE PLANNER 

Date:

30th September 2024

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

Reference No.: R24-30



Comhairle Contae an Chláir
Clare County Council

Section 5 referral Reference R24-30

Is the change of use from a commercial unit to a residential unit development and if so, is it exempted development?

AND WHEREAS, Cyril Corry 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 –

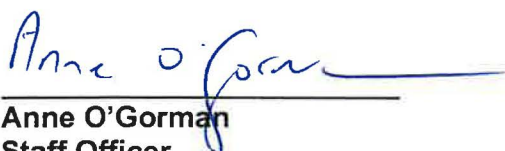
- (a) Sections 2, 3 and 4(1) (h) of the Planning and Development Act, 2000, as amended.
- (b) Articles 6, 9 and 10 of the Planning and Development Regulations, 2001 as amended and in particular Appendix 1 Planning and Development (Amendment) (No. 2) Regulations 2018 (S.I. No. 30 of 2018) and (S.I. No. 75 of 2022).
- (c) Sustainable Urban Housing: Design Standards for New Apartments -Guidelines for Planning Authorities'.

And whereas Clare County Council has concluded:

- (a) The change of use of the vacant ground floor commercial unit at 19A Place De Plouzane, Kilrush, County Clare to a one-bedroom apartment is considered development which is exempted development under Article 10 of 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 change of use of the vacant ground floor commercial unit at 19A Place De Plouzane, Kilrush, County Clare to a one-bedroom apartment **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

30th September 2024

CLARE COUNTY COUNCIL
SECTION 5 DECLARATION OF EXEMPTION APPLICATION
PLANNERS REPORT 2

FILE REF:	R24-30
APPLICANT(S):	Cyril Corry
REFERENCE:	Whether the change of use of the vacant ground floor commercial unit at 19A Place De Plouzane, Kilrush, County Clare to a one-bedroom apartment is or is not development and is or is not exempted development.
LOCATION:	19A Place De Plouzane, Kilrush, County Clare to
DUE DATE:	04 th October 2024

Introduction

The following further information was requested by the Planning Authority on the 10th April 2024.

1. You are requested to provide the following further information:

(a)

The period of time that the existing ground floor commercial unit has been vacant.

(b)

When the proposed works associated with the change of use are to be carried out.

(c)

Revised drawings and particulars which demonstrate how the proposed bedroom would be adequately served in terms of natural lighting.

The following responses to these requests were received on the 16th September 2024.

(a)

It is stated that the unit has been vacant in excess of 10 years.

(b)

It is stated that the works would be carried out within 8 weeks of the Section 5 determination.

(c)

Revised drawings and particulars have been received which include a "fire-rated glass wall to provide natural light to the proposed bedroom".

Outlined in this report is an assessment of the planning status of the proposed works in light of the further information response received.

Clare County Development Plan 2023-2029

The site is zoned "*Mixed Use*" development.

Recent Planning History (within overall development)

04-31038 – Granted - Brendan Frawley Robert Johnston – mixed development adjacent to Place De Plouzane car park and High Street, Kilrush. The development will consist of Block A three storeys high comprising 5 No. shops on the ground floor and 5 no. residential units on the first and second floors. Block B three storeys high comprising 9 no. shops on the ground floor and 9 no. residential units on the first and second floors. Block C three storeys high comprising 5 no. shops on the ground floor and 5 no residential units on the first and second floors. Block D two storeys high comprising of 6 no. town houses. The development will also consist of car parking and ancillary services.

21-1291 – Granted - Joe McGrath - for change of use of ground floor retail unit to a one-bedroom apartment with alterations to elevations, internal changes along with all associated site works and services.

22-325 – Granted - Gerry & Evelyn Johnston - for change of use of ground floor commercial unit into a one-bedroom apartment with alterations to front and side elevations, internal layout changes, and all ancillary site works and services.

23-549– Granted – James O'Dowd - for change of use of the current commercial unit to residential use with all necessary ancillary services.

24-31 – Granted - Muhammad Zahid - Change of use of the current commercial unit to residential use with all necessary ancillary services.

Pre-planning History

None.

Drawings Received

- Site location map, floor plan, & elevations.

Site Description

This site is located in the settlement of Kilrush and is zoned for "*Mixed-Use*" development. It is also within the "*Town Centre Area*" of Kilrush. The site accommodates a vacant ground floor commercial unit with apartments above. There is a very high vacancy rate in the commercial units within the overall development with the majority of the units unoccupied. There are communal parking areas to the front of the site. Views of the site are local range only.

Background

Planning and Development Act, 2000 (as amended)

Section 2

'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 3

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.

Section 4(1)(H)

Section 4 (1)(H) states that the following shall be exempted development for the purpose of the Act.-

'development consisting for the carrying out of works for maintenance, improvement or other alterations 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 neighbouring structures'.

Planning & Development Regulations, 2001, as amended

Part 2 Exempted Development

Article 6 (1) states

'Subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies

with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1'.

Article 9 -Restrictions on Exemptions states

'Under Article 9 (1) of the same Regulations, development to which Article 10 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,

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

(iv) 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.

Article 10 Change 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, provided that the development, if carried out would not—

- (a) involve the carrying out of any works other than 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 a permission, or*
- (d) be a development where the existing use is an unauthorised use, save where such change of use consists of the resumption of a use which is not unauthorised and which has not been abandoned.*

- (2) (a) *A use which is ordinarily incidental to any use specified in Part 4 of Schedule 2 is not excluded from that use as an incident thereto merely by reason of its being specified in the said Part of the said Schedule as a separate use.*
- (b) *Nothing in any class in Part 4 of the Schedule 2 shall include any use—*
- (i) as an amusement arcade,*
 - (ii) as a motor service station,*
 - (iii) for the sale or leasing, or display for sale or leasing, of motor vehicles,*
 - (iv) for a taxi or hackney business or for the hire of motor vehicles,*
 - (v) as a scrap yard, or a yard for the breaking of motor vehicles,*
 - (vi) for the storage or distribution of minerals,*
 - (vii) as a supermarket, the total net retail sales space of which exceeds 3,500 square metres in the greater Dublin Area and 3,000 square metres in the remainder of the State,*
 - (vii) as a retail warehouse, the total gross retail sales space of which exceeds 6,000 square metres (including any ancillary garden centre), or*
 - (viii) as a shop, associated with a petrol station, the total net retail sales space of which exceeds 100 square metres.*
- (3) *Development consisting of the provision within a building occupied by, or under the control of, a State authority of a shop or restaurant for visiting members of the public shall be exempted development for the purposes of the Act.*
- (4) *Development consisting of the use of not more than 4 bedrooms in a house, where each bedroom is used for the accommodation of not more than 4 persons as overnight guest accommodation, shall be exempted*

development for the purposes of the Act, provided that such development would not contravene a condition attached to a permission under the Act or be inconsistent with any use specified or included in such a permission.

- (5) *Development consisting of the use of a house for child minding shall be exempted development for the purposes of the Act.*

Planning & Development Regulations, Amendment no. 2 Regulations 2018, (s.i.no 30 of 2018)

Article 2 of these Regulations amends Article 10 of the Principal Regulations, by inserting a new sub-article, to provide that development consisting of the change of use, and any related works, from an existing specified use class to residential use, in certain circumstances and subject to conditions and limitations, is exempt from the requirement to obtain planning permission. The exemption shall apply from when these Regulations come into force until 31 December 2021.

Statutory Instrument No. 75 of 2022 has extended this exemption to 31/12/2025 and added a new use class (Class 12 - public houses), to the specified use classes that can qualify to avail of the planning exemption, subject to certain conditions and limitations.

Article 10 of the Planning and Development Regulations 2001 (S.I. No. 75 of 2022) is amended by inserting the following sub-article after sub-article (5):

“(6) (a) In this sub-article—‘habitable room’ means a room used for living or sleeping purposes but does not include a kitchen that has a floor area of less than 6.5 square metres;

‘relevant period’ means the period from the 08th February 2018 until 31 December 2025.

(b) This sub-article relates to a proposed development, during the relevant period, that consists of a change of use to residential use from Class 1, 2, 3, 6 of 12 of Part 4 to Schedule 2.

(c) Notwithstanding sub-article (1), where in respect of a proposed development referred to in paragraph (b)—

(i) the structure concerned was completed prior to the making of the Planning and Development (Amendment) (No. 2) Regulations 2018, Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 13th February 2018.[30]

3(ii) the structure concerned has at some time been used for the purpose of its current use class, being Class 1, 2, 3, 6, and 12.

(iii) the structure concerned, or so much of it that is the subject of the proposed development, has been vacant for a period of 2 years or more immediately prior to the commencement of the proposed development,

then the proposed development for residential use, and any related works, shall be exempted development for the purposes of the Act, subject to the conditions and limitations set out in paragraph (d).

(d) (i) The development is commenced and completed during the relevant period.

(ii) Subject to sub-paragraph (iii), any related works, including works as may be required to comply with sub-paragraph (vii), shall

(I) affect only the interior of the structure

(II) retain 50 per cent or more of the existing external fabric of the building, and

(III) not materially affect the external appearance of the structure so as to render its appearance inconsistent with the character of the structure or of neighbouring structures.

(iii) Any related works for the alteration of existing ground floor shop fronts shall be consistent with the fenestration details and architectural and streetscape character of the remainder of the structure or of neighbouring structures.

(iv) No development shall consist of or comprise the carrying out of works to the ground floor area of any structure which conflicts with any objective of the relevant local authority development plan or local area plan, pursuant to the Part 1 of the First Schedule to the Act, for such to remain in retail use, with the exception of any works the purpose of which is to solely provide on street access to the upper floors of the structure concerned.

(v) No development shall consist of or comprise the carrying out of works which exceeds the provision of more than 9 residential units in any structure.

(vi) Dwelling floor areas and storage spaces shall comply with the minimum floor area requirements and minimum storage space requirements of the "Sustainable Urban Housing: Design Standards for New Apartments — Guidelines for Planning Authorities" issued under section 28 of the Act or any subsequent updated or replacement guidelines.

(vii) Rooms for use, or intended for use, as habitable rooms shall have adequate natural lighting.

(viii) No development shall consist of or comprise the carrying out of works to a protected structure, as defined in section 2 of the Act, save where the relevant planning authority has issued a declaration under section 57 of the Act to the effect that the proposed works would not materially affect the character of the structure or any element, referred to in section 57(1)(b) of the Act, of the structure.

(ix) No development shall contravene a condition attached to a permission under the Act or be inconsistent with any use specified or included in such a permission.

(x) No development shall relate to any structure in any of the following areas:

(I) an area to which a special amenity area order relates;

(II) an area of special planning control;

(III) within the relevant perimeter distance area, as set out in Table 2 of Schedule 8, of any type of establishment to which the Major Accident Regulations apply.

(xi) No development shall relate to matters in respect of which any of the restrictions set out in subparagraph (iv), (vii), (viiA), (viiB), (viiC), (viii) or (ix) of article 9(1)(a), or paragraph (c) or (d) of article (9)(1), would apply.

(xii) No development shall consist of or comprise the carrying out of works for the provision of an onsite wastewater treatment and disposal system to which the code of practice made by the Environmental Protection Agency pursuant to section 76 of the Environmental Protection Agency

Act 1992 relates and entitled Code of Practice — Wastewater Treatment and Disposal Systems Serving Single Houses together with any amendment to that Code or any replacement for it.

(e) (i) Where a person proposes to undertake development to which sub-paragraph (b) relates, then he or she shall in the case of development relating to Class 1, 2, 3, 6 or 12 of Part 4 to Schedule 2, notify the planning authority in whose functional area that the change of use concerned will occur in writing at least 2 weeks prior to the commencement of the proposed change of use and any related works.

(ii) Details of each notification under subparagraph (i), which shall include information on—

(I) the location of the structure, and

(II) the number of residential units involved, including the unit sizes and number of bedrooms in each unit, and

(III) the Eircode of the property,

shall be entered in a record by the planning authority maintained for this purpose and the record shall be available for inspection at the offices of the planning authority during office hours and on the planning authority's website.

(iii) During the years 2019, 2020, 2021, 2022, 2023, 2024 and 2025 each planning authority shall provide information to the Minister on the number of notifications received by it under this paragraph during the preceding calendar year, including details of the information so received for the purposes of subparagraph (ii)."

Part 4 Article 10 Exempted Development- Class of use- Class 1 is use as a shop.

Schedule 2 Article 6 part 1 Exempted Development

CLASS 14

Development consisting of a change of use—

(a) from use for the sale of hot food for consumption off the premises, or for the sale or leasing or display for sale or leasing of motor vehicles, to use as a shop,

(b) from use as a public house, to use as a shop,

(c) from use for the direction of funerals, as a funeral home, as an amusement arcade or a restaurant, to use as a shop,

(d) from use to which class 2 of Part 4 of this Schedule applies, to use as a shop,

(e) from use as 2 or more dwellings, to use as a single dwelling, of any structure previously used as a single dwelling,

(f) from use as a house, to use as a residence The number of persons with an intellectual or

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

Appendix 1 Planning and Development (Amendment)(No. 2) Regulations 2018 (S.I. No. 30 of 2018)

Minimum Requirements for Residential Units

The Regulations set out some minimum standards that apply to any residential units being provided, including minimum floor areas, storage space and the provision of natural light.

- A maximum of 9 residential units can be provided in any structure.
- The minimum floor area and minimum storage space requirements of the 'Sustainable Urban Housing: Design Standards for New Apartments -Guidelines for Planning Authorities', 2018 must be complied with.

'Sustainable Urban Housing: Design Standards for New Apartments -Guidelines for Planning Authorities', March 2018 and Appendix 1 Planning and Development (Amendment)(No. 2) Regulations 2018(S.I. No. 30 of 2018)

This ensures that apartments will be of adequate size and will include adequate storage.

Assessment

Primary Legislation

Having regard the details submitted it is considered that the proposal constitutes 'works' as defined by to section 2 of the Act. It is also considered that the proposal constitutes 'development' having regard to the definition of development which includes for making of any material change in the use of any structures. In respect of Section 4 (1)(H) it is noted that while the section makes provision for development consisting for the carrying out of works for maintenance, improvement or other alterations 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 neighbouring structures' to be considered exempted development , it does not expressly clarify that the internal alterations can result in a change of use and that this new use is exempted development. I therefore consider that section 4 (1) (h) is not relevant to the query.

The Regulations

- I refer to Part 4 Article 10 Exempted Development- Class of use- The permitted use is commercial.

- I refer to Schedule 2 part 1 Article 6 Exempted Development – General, wherein in class 14 sets out changes of use that are considered to be exempted development. I do not consider that the proposed change of use falls under the provision of class 14 of the Planning and Development Regulations 2001 as amended.
- I refer to part 2 Article 6 (1) Exempted Development and Article 9 Restrictions on Exemptions—. It is considered that the provisions of article 9 are not applicable to the query.
- I refer to Article 10 of the Planning and Development Regulations 2001 (S.I. No. 600 of 2001) as amended by the Planning and Development Regulations 2018 (no 2). Article 10 of the Planning and Development Regulations 2001 (S.I. No. 600 of 2001) is amended by inserting the following sub-article after sub-article (5):

Article 10 of the Planning and Development Regulations 2001 (S.I. No. 75 of 2022) is amended by inserting the following sub-article after sub-article (5):

*“(6) (a) In this sub-article—‘habitable room’ means a room used for living or sleeping purposes but does not include a kitchen that has a floor area of less than 6.5 square metres; ‘relevant period’ means the period from the 08th February 2018 until 31 December 2025.
(b) This sub-article relates to a proposed development, during the relevant period, that consists of a change of use to residential use from Class 1, 2, 3, 6 of 12 of Part 4 to Schedule 2.*

It is stated that the existing use is commercial. The unit is currently vacant.

(c) Notwithstanding sub-article (1), where in respect of a proposed development referred to in paragraph (b)—

(i) the structure concerned was completed prior to the making of the Planning and Development (Amendment) (No. 2) Regulations 2018, Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 13th February 2018.[30]

The structure was in place before 2018.

3(ii) the structure concerned has at some time been used for the purpose of its current use class, being Class 1, 2, 3, 6, and 12.

Applicable.

*(iii) the structure concerned, or so much of it that is the subject of the proposed development, has been vacant for a period of 2 years or more immediately prior to the commencement of the proposed development,
then the proposed development for residential use, and any related works, shall be exempted development for the purposes of the Act, subject to the conditions and limitations set out in paragraph (d).*

The unit is vacant for over 10 years.

(d) (i) The development is commenced and completed during the relevant period.

The time period for the carrying out and completion of the proposed change of use would be 8 weeks from the Section 5 Declaration date.

(ii) Subject to sub-paragraph (iii), any related works, including works as may be required to comply with sub-paragraph (vii), shall

(I) affect only the interior of the structure

No external works are proposed.

(II) retain 50 per cent or more of the existing external fabric of the building, and

100% of the external fabric of the building is to be retained.

(III) not materially affect the external appearance of the structure so as to render its appearance inconsistent with the character of the structure or of neighbouring structures.

No external works are proposed.

(iii) Any related works for the alteration of existing ground floor shop fronts shall be consistent with the fenestration details and architectural and streetscape character of the remainder of the structure or of neighbouring structures.

No external works are proposed.

(iv) No development shall consist of or comprise the carrying out of works to the ground floor area of any structure which conflicts with any objective of the relevant local authority development plan or local area plan, pursuant to the Part 1 of the First Schedule to the Act, for such to remain in retail use, with the exception of any works the purpose of which is to solely provide on street access to the upper floors of the structure concerned.

Not applicable.

(v) No development shall consist of or comprise the carrying out of works which exceeds the provision of more than 9 residential units in any structure.

The total number of units in the overall structure would be less than 9.

(vi) Dwelling floor areas and storage spaces shall comply with the minimum floor area requirements and minimum storage space requirements of the "Sustainable Urban Housing: Design Standards for New Apartments — Guidelines for Planning Authorities" issued under section 28 of the Act or any subsequent updated or replacement guidelines.

The proposal meets the minimum floor area requirement for a one-bedroom apartment.

(vii) Rooms for use, or intended for use, as habitable rooms shall have adequate natural lighting.

The rooms would have adequate natural lighting.

(viii) No development shall consist of or comprise the carrying out of works to a protected structure, as defined in section 2 of the Act, save where the relevant planning authority has issued a declaration under section 57 of the Act to the effect that the proposed works would not materially affect the character of the structure or any element, referred to in section 57(1)(b) of the Act, of the structure.

Not applicable.

(ix) No development shall contravene a condition attached to a permission under the Act or be inconsistent with any use specified or included in such a permission.

Not applicable.

(x) No development shall relate to any structure in any of the following areas:

1. *an area to which a special amenity area order relates;*

Not applicable.

2. *an area of special planning control;*

Not applicable.

3. *within the relevant perimeter distance area, as set out in Table 2 of Schedule 8, of any type of establishment to which the Major Accident Regulations apply.*

Not applicable.

(xi) No development shall relate to matters in respect of which any of the restrictions set out in subparagraph (iv), (vii), (viiA), (viiB), (viiC), (viii) or (ix) of article 9(1)(a), or paragraph (c) or (d) of article (9)(1), would apply.

Not applicable.

(xii) No development shall consist of or comprise the carrying out of works for the provision of an onsite wastewater treatment and disposal system to which the code of practice made by the Environmental Protection Agency pursuant to section 76 of the Environmental Protection Agency Act 1992 relates and entitled Code of Practice — Wastewater Treatment and Disposal Systems Serving Single Houses together with any amendment to that Code or any replacement for it.

Not applicable.

(e) (i) Where a person proposes to undertake development to which sub-paragraph (b) relates, then he or she shall in the case of development relating to Class 1, 2, 3, 6 or 12 of Part 4 to Schedule 2, notify the planning authority in whose functional area that the change of use concerned will occur in writing at least 2 weeks prior to the commencement of the proposed change of use and any related works.

(ii) Details of each notification under subparagraph (i), which shall include information on—

(I) the location of the structure, and

(II) the number of residential units involved, including the unit sizes and number of bedrooms in each unit, and

(III) the Eircode of the property,

shall be entered in a record by the planning authority maintained for this purpose and the record shall be available for inspection at the offices of the planning authority during office hours and on the planning authority's website.

Notification by the applicant is pending the determination by the Planning Authority or An Bord Pleanála that the section 5 query re proposed change of use is considered to be exempted development.

(iii) During the years 2019, 2020, 2021, 2022, 2023, 2024 and 2025 each planning authority shall provide information to the Minister on the number of notifications received by it under this paragraph during the preceding calendar year, including details of the information so received for the purposes of subparagraph(ii)."

Noted.

Environmental Impact Assessment

In assessing this application I have had regard to the provisions of EU Directive 2014/52/EU (which amends EU Directive 2011/92/EU), and which has been transposed into Irish legislation by the European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018 (SI No. 296 of 2018). The subject development does not fall within the mandatory requirements for EIA as set out in Schedule 7 of the Planning and Development Regulations 2001, as amended. I therefore consider that the proposal constitutes a sub-threshold development and note the requirements of Article 103 (1)(a) and (b) of the Planning and Development Regulations 2001, as amended. As such having regard to the nature and scale of the proposed development and the nature of the receiving environment I consider that there

is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

Recommendation

Having regard to Article 10, of the Planning and Development Regulations, 2001 (as amended).

WHEREAS a question has arisen as to whether the change of use of the vacant ground floor commercial unit at 19A Place De Plouzane, Kilrush, County Clare to a one-bedroom apartment is or is not development and is or is not exempted development.

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

- (a) Sections 2, 3 and 4(1) (h) of the Planning and Development Act, 2000, as amended.
- (b) Articles 6, 9 and 10 of the Planning and Development Regulations, 2001 as amended and in particular Appendix 1 Planning and Development (Amendment)(No. 2) Regulations 2018 (S.I. No. 30 of 2018) and (S.I. No. 75 of 2022)
- (d) Sustainable Urban Housing: Design Standards for New Apartments -Guidelines for Planning Authorities', ~~March 2018~~.

AND WHEREAS Clare County Council has concluded that –

The change of use of the vacant ground floor commercial unit at 19A Place De Plouzane, Kilrush, County Clare to a one-bedroom apartment is considered development which is exempted development under Article 10 of Planning and Development Regulations, 2001 as amended.

NOW THEREFORE Clare County Council, in exercise of the powers conferred on it by section 5(2) (a) of the 2000 Act, hereby decides that the change of use of the vacant ground floor commercial unit at 19A Place De Plouzane, Kilrush, County Clare to a one-bedroom apartment is considered development which is exempted development.

Signed

Date:



Executive Planner

25th September 2024



Senior Executive Planner

Date: 22nd October

Clare County Council

Screening for Appropriate Assessment & Determination

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

Table 1: Project Details

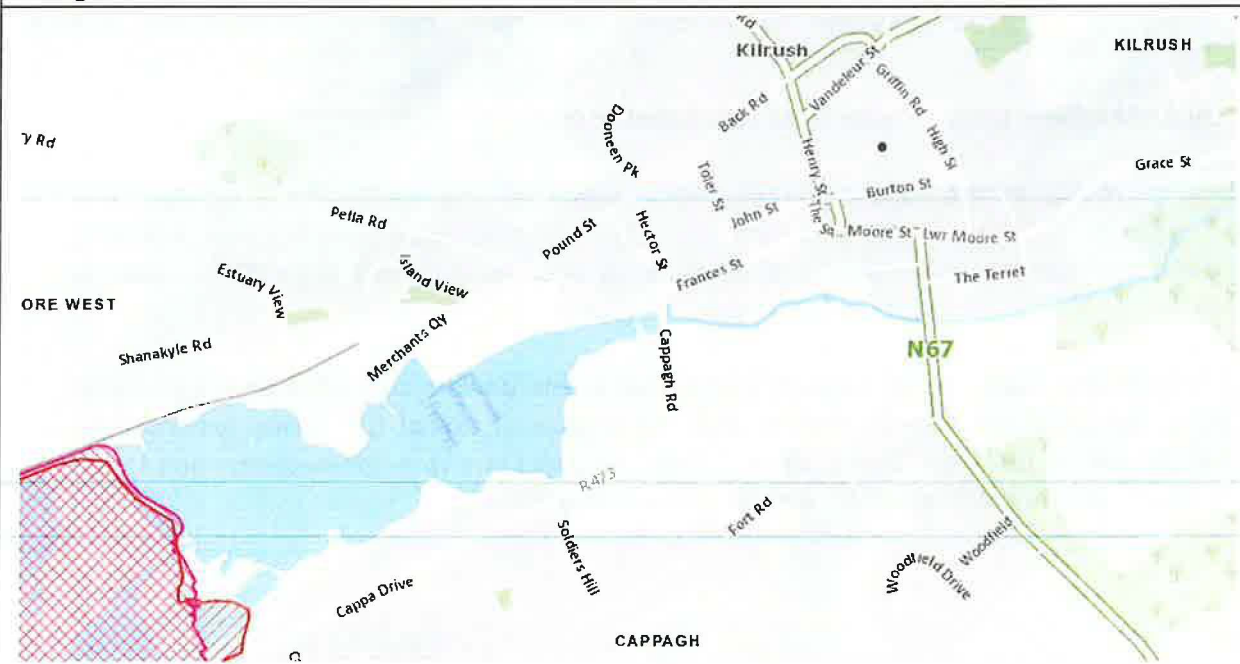
Planning File Reference	R24-30
Applicant Name	Corry
Development Location	Place De Plouzane Kilrush
Application accompanied by an EIS	No
Application accompanied by an NIS	No
Description of the project (To include a site location map):	
Change of use – Commercial to residential	
	

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

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

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

European Sites ²	Qualifying Interests (QIs)/Special Conservation Interests (SCIs) and conservation objectives (either generic or detailed) (available on www.npws.ie/protectedsites) or through Intranet.	Distance to Applicant Site (km)
Lower River Shannon SAC	Sandbanks which are slightly covered by sea water all the time [1110] Estuaries [1130] Mudflats and sandflats not covered by seawater at low tide [1140] Coastal lagoons [1150] Large shallow inlets and bays [1160] Reefs [1170] Perennial vegetation of stony banks [1220] Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (<i>Glaucopuccinellietalia maritima</i>) [1330] Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] Water courses of plain to montane levels with the <i>Ranunculus fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation [3260] Molinia meadows on calcareous, peaty or clayey-silt-laden soils (<i>Molinion caeruleae</i>) [6410]	1.4

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

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

European Sites ²	Qualifying Interests (QIs)/Special Conservation Interests (SCIs) and conservation objectives (either generic or detailed) (available on www.npws.ie/protectedsites) or through Intranet.	Distance to Applicant Site (km)
	<p>Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, <i>Alnion incanae</i>, <i>Salicion albae</i>) [91E0]</p> <p><i>Margaritifera margaritifera</i> (Freshwater Pearl Mussel) [1029]</p> <p><i>Petromyzon marinus</i> (Sea Lamprey) [1095]</p> <p><i>Lampetra planeri</i> (Brook Lamprey) [1096]</p> <p><i>Lampetra fluviatilis</i> (River Lamprey) [1099]</p> <p><i>Salmo salar</i> (Salmon) [1106]</p> <p><i>Tursiops truncatus</i> (Common Bottlenose Dolphin) [1349]</p> <p><i>Lutra lutra</i> (Otter) [1355]</p>	
River Shannon and River Fergus Estuaries SPA	<p>Cormorant (<i>Phalacrocorax carbo</i>) [A017]</p> <p>Whooper Swan (<i>Cygnus cygnus</i>) [A038]</p> <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Shelduck (<i>Tadorna tadorna</i>) [A048]</p> <p>Wigeon (<i>Anas penelope</i>) [A050]</p> <p>Teal (<i>Anas crecca</i>) [A052]</p> <p>Pintail (<i>Anas acuta</i>) [A054]</p> <p>Shoveler (<i>Anas clypeata</i>) [A056]</p> <p>Scaup (<i>Aythya marila</i>) [A062]</p> <p>Ringed Plover (<i>Charadrius hiaticula</i>) [A137]</p> <p>Golden Plover (<i>Pluvialis apricaria</i>) [A140]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Lapwing (<i>Vanellus vanellus</i>) [A142]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Curlew (<i>Numenius arquata</i>) [A160]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Greenshank (<i>Tringa nebularia</i>) [A164]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Wetland and Waterbirds [A999]</p>	1.4

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

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

Appropriate Assessment Screening Determination	
Planning File Reference	R24-30
Proposed Development	Change of use – commercial to residential
Development Location	Kilrush
European sites within impact zone	Lower River Shannon SAC River Shannon and River Fergus Estuaries SPA
Description of the project	
Change of use – commercial to residential	
Qualifying Interests (QIs)/Special Conservation Interests (SCIs) of European site	
As per report	
Describe how the project or plan (alone or in combination) is likely to affect the European site(s).	
Water quality General disturbance	
If there are potential negative impacts, explain whether you consider if these are likely to be significant, and if not, why not?	
Connection to public utilities Minor works in an urban area	
Documentation reviewed for making this statement	
NPWS website Plans and particulars received GIS mapping database	
Conclusion of assessment (a, b, c or d)	
(a) The proposed development is directly connected with or necessary to the nature conservation management of a European Site(s) ³	
(b) There is no potential for significant effects to European Sites ³	Yes
(c) The potential for significant effects to European Site(s) cannot be ruled out ⁴	
(d) Significant effects to European sites are certain or likely or where potential for significant effects to European sites remains following receipt of Further	

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

⁴ In accordance with S177U of the Planning and Development (Amendment) Act 2010, the applicant should be requested to submit an 'Appropriate Assessment Screening Matrix' completed by a suitably qualified ecologist, by way of Further Information. Following receipt of this information a new Appropriate Screening Report should be completed. The requested 'Appropriate Assessment Screening Matrix' should be in accordance with the template outlined in Annex 2, Figure 1 of the EU (2001) guidance document 'Assessment of plans and projects significantly affecting European Sites – Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC. This guidance document is available from http://ec.europa.eu/environment/nature/natura2000/management/docs/art6/natura_2000_assess_en.pdf Alternatively, where other planning concerns arise the proposal could be refused planning permission.

Information requested under S177U of the Planning and Development (Amendment) Act 2010 ⁵	
Completed By	John O'Sullivan
Date	25 th September 2024

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

September 2024

Secretary of the Planning Section,
Planning Department,
Economic Development Directorate,
Clare County Council,
Áras Contae an Chláir,
New Road,
Ennis,
Co. Clare.



**FURTHER INFORMATION RESPONSE FOR A DECLARATION ON
DEVELOPMENT AND EXEMPTED DEVELOPMENT
(Section 5 of the Planning & Development Act 2000)**

Ref. No.: R 24 / 30
Applicant: Cyril Corry
Site Address: 19A Place De Plouzane, Kilrush, Co. Clare.

A Chara,

We refer to your request for further information letter. The applicant formal response is as follows:

Item (a) –
Please note that the existing ground floor commercial unit has been vacant in excess of 10 years.

Item (b) –
Please note that the proposed works associated with change of use will be carried out within 8 weeks of the proposed approval of the Section 5.

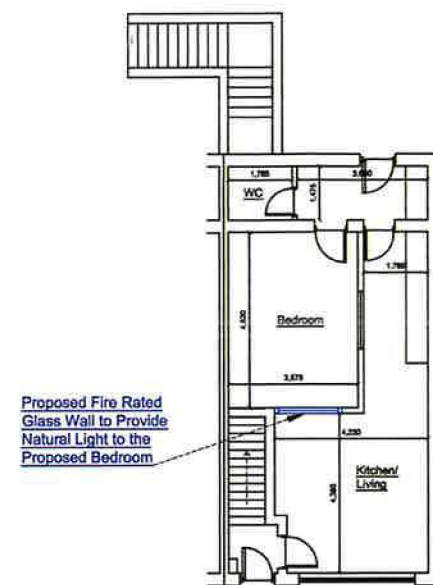
Item (c) –
Please find enclosed a revised drawing which indicates the inclusion of a fire-rated glass wall to allow for natural light to enter the proposed bedroom.

If you have any queries, do not hesitate to contact me.

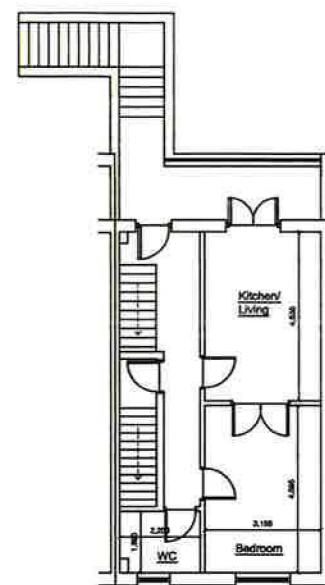
Mise le meas,

A handwritten signature in black ink, appearing to read "Padraig Neylon", written over a horizontal line.

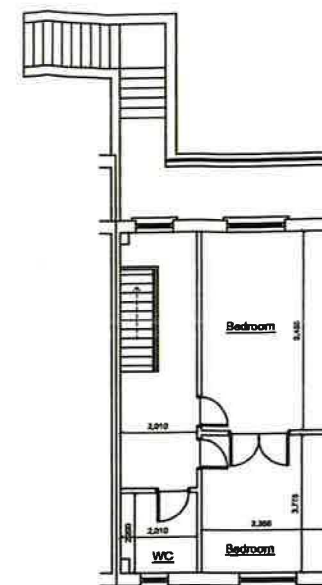
Pádraig Neylon
B. Sc. (Surveying) MCIOB
Registered Building Surveyor



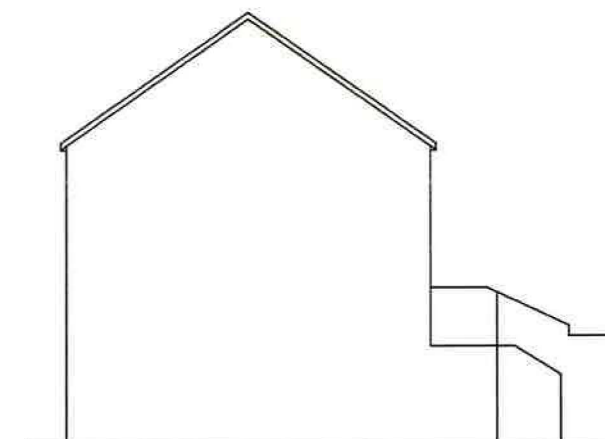
Apartment No. 1
Ground Floor Area = 61.35 m²
Ground Floor Plan



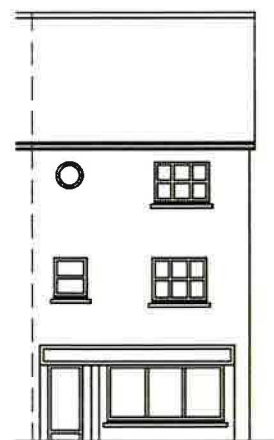
Apartment No. 2
First Floor Area = 46.16 m²
First Floor Plan



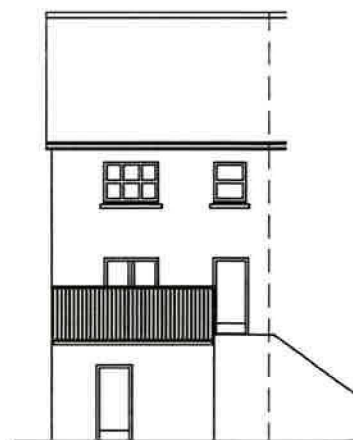
Apartment No. 2
Second Floor Area = 48.52 m²
Second Floor Plan



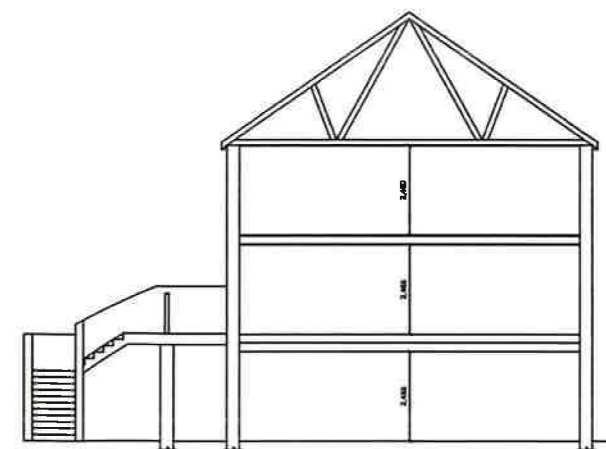
Side Elevation



Front Elevation



Rear Elevation



Typical Section



(C) Copyright - Drawings for Planning Purposes Only

Title - Floor Plans & Elevations

Project - Proposed Section 5 - Exempted Development

Client - Cyril Corry

Address - 19A Place De Plouzane, Kilrush, Co. Clare.

Scale - 1:200

Size - A3

PND BUILDING CONSULTANCY LTD.
Registered Building Surveyors & Quantity
Surveyors
Kilrush House, Frances Street, Kilrush, Co. Clare.
Tel: 087 976 5226
Email: padraig@pndconsultancy.com

P/22/196/01

FI-01 06.08.24

PND BUILDING CONSULTANCY LTD.

P N D



COMHAIRLE CLARE
CONTAE AN CHLÁIR COUNTY COUNCIL

Cyril Corry
C/o Padraig Neylon
PND Building Consultancy Ltd
Kilrush House, Frances Street
Kilrush
Co. Clare

10/04/2024

Section 5 referral Reference R24-30 – Cyril Corry

Is the change of use from a commercial unit to a residential unit development and if so, is it exempted development?

A Chara,

I refer to your application received on 21st March 2024 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

I wish to advise that in accordance with Section 5 (2) (b) of the Planning & Development Act, 2000, as amended, the following further information is required:

The following FURTHER INFORMATION be requested by the Planning Authority:

- (a) The period of time that the existing ground floor commercial unit has been vacant.
- (b) When the proposed works associated with the change of use are to be carried out.
- (c) Revised drawings and particulars which demonstrate how the proposed bedroom would be adequately served in terms of natural lighting.

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 DECLARATION OF EXEMPTION APPLICATION
PLANNERS REPORT 1

FILE REF:	R24-30
APPLICANT(S):	Cyril Corry
REFERENCE:	Whether the change of use of the vacant ground floor commercial unit at 19A Place De Plouzane, Kilrush, County Clare to a one-bedroom apartment is or is not development and is or is not exempted development.
LOCATION:	19A Place De Plouzane, Kilrush, County Clare to
DUE DATE:	17 th April 2024

Clare County Development Plan 2023-2029

The site is zoned “*Mixed Use*” development.

Recent Planning History (within overall development)

04-31038 – Granted - Brendan Frawley Robert Johnston – mixed development adjacent to Place De Plouzane car park and High Street, Kilrush. The development will consist of Block A three storeys high comprising 5 No. shops on the ground floor and 5 no. residential units on the first and second floors. Block B three storeys high comprising 9 no. shops on the ground floor and 9 no. residential units on the first and second floors. Block C three storeys high comprising 5 no. shops on the ground floor and 5 no residential units on the first and second floors. Block D two storeys high comprising of 6 no. town houses. The development will also consist of car parking and ancillary services.

21-1291 – Granted - Joe McGrath - for change of use of ground floor retail unit to a one-bedroom apartment with alterations to elevations, internal changes along with all associated site works and services.

22-325 – Granted - Gerry & Evelyn Johnston - for change of use of ground floor commercial unit into a one-bedroom apartment with alterations to front and side elevations, internal layout changes, and all ancillary site works and services.

23-549– Granted – James O’Dowd - for change of use of the current commercial unit to residential use with all necessary ancillary services.

24-31 – Granted - Muhammad Zahid - Change of use of the current commercial unit to residential use with all necessary ancillary services.

Pre-planning History

None.

Drawings Received

- Site location map, floor plan, & elevations.

Site Description

This site is located in the settlement of Kilrush and is zoned for “Mixed-Use” development. It is also within the “Town Centre Area” of Kilrush. The site accommodates a vacant ground floor commercial unit with apartments above. There is a very high vacancy rate in the commercial units within the overall development with the majority of the units unoccupied. There are communal parking areas to the front of the site. Views of the site are local range only.

Background

Planning and Development Act, 2000 (as amended)

Section 2

‘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 3

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.

Section 4(1)(H)

Section 4 (1)(H) states that the following shall be exempted development for the purpose of the Act.-

'development consisting for the carrying out of works for maintenance, improvement or other alterations 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 neighbouring structures'.

Planning & Development Regulations, 2001, as amended

Part 2 Exempted Development

Article 6 (1) states

'Subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1'.

Article 9 -Restrictions on Exemptions states

'Under Article 9 (1) of the same Regulations, development to which Article 10 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,

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

(iv) 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.

Article 10 Change 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, provided that the

development, if carried out would not—

- (a) involve the carrying out of any works other than 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 a permission, or*
 - (d) be a development where the existing use is an unauthorised use, save where such change of use consists of the resumption of a use which is not unauthorised and which has not been abandoned.*
- (2) (a) A use which is ordinarily incidental to any use specified in Part 4 of Schedule 2 is not excluded from that use as an incident thereto merely by reason of its being specified in the said Part of the said Schedule as a separate use.*
- (b) Nothing in any class in Part 4 of the Schedule 2 shall include any use—*
 - (i) as an amusement arcade,*
 - (ii) as a motor service station,*
 - (iii) for the sale or leasing, or display for sale or leasing, of motor vehicles,*
 - (iv) for a taxi or hackney business or for the hire of motor vehicles,*
 - (v) as a scrap yard, or a yard for the breaking of motor vehicles,*
 - (vi) for the storage or distribution of minerals,*
 - (vii) as a supermarket, the total net retail sales space of which exceeds 3,500 square metres in the greater Dublin Area and 3,000 square metres in the remainder of the State,*
 - (viii) as a retail warehouse, the total gross retail sales space of which exceeds 6,000 square metres (including any ancillary garden centre), or*

- (viii) *as a shop, associated with a petrol station, the total net retail sales space of which exceeds 100 square metres.*
- (3) *Development consisting of the provision within a building occupied by, or under the control of, a State authority of a shop or restaurant for visiting members of the public shall be exempted development for the purposes of the Act.*
- (4) *Development consisting of the use of not more than 4 bedrooms in a house, where each bedroom is used for the accommodation of not more than 4 persons as overnight guest accommodation, shall be exempted development for the purposes of the Act, provided that such development would not contravene a condition attached to a permission under the Act or be inconsistent with any use specified or included in such a permission.*
- (5) *Development consisting of the use of a house for child minding shall be exempted development for the purposes of the Act.*

Planning & Development Regulations, Amendment no. 2 Regulations 2018 , (s.i.no 30 of 2018)

Article 2 of these Regulations amends Article 10 of the Principal Regulations, by inserting a new sub-article, to provide that development consisting of the change of use, and any related works, from an existing specified use class to residential use, in certain circumstances and subject to conditions and limitations, is exempt from the requirement to obtain planning permission. The exemption shall apply from when these Regulations come into force until 31 December 2021.

Statutory Instrument No. 75 of 2022 has extended this exemption to 31/12/2025 and added a new use class (Class 12 - public houses), to the specified use classes that can qualify to avail of the planning exemption, subject to certain conditions and limitations.

Article 10 of the Planning and Development Regulations 2001 (S.I. No. 75 of 2022) is amended by inserting the following sub-article after sub-article (5):

“(6) (a) In this sub-article—‘habitable room’ means a room used for living or sleeping purposes but does not include a kitchen that has a floor area of less than 6.5 square metres; ‘relevant period’ means the period from the 08th February 2018 until 31 December 2025.

(b) This sub-article relates to a proposed development, during the relevant period, that consists of a change of use to residential use from Class 1, 2, 3, 6 of 12 of Part 4 to Schedule 2.

(c) Notwithstanding sub-article (1), where in respect of a proposed development referred to in paragraph (b)—

(i) the structure concerned was completed prior to the making of the Planning and Development (Amendment) (No. 2) Regulations 2018, Notice of the making of this Statutory Instrument was published in "Iris Oifigiúil" of 13th February 2018.[30]

3(ii) the structure concerned has at some time been used for the purpose of its current use class, being Class 1, 2, 3, 6, and 12.

(iii) the structure concerned, or so much of it that is the subject of the proposed development, has been vacant for a period of 2 years or more immediately prior to the commencement of the proposed development,

then the proposed development for residential use, and any related works, shall be exempted development for the purposes of the Act, subject to the conditions and limitations set out in paragraph (d).

(d) (i) The development is commenced and completed during the relevant period.

(ii) Subject to sub-paragraph (iii), any related works, including works as may be required to comply with sub-paragraph (vii), shall

(I) affect only the interior of the structure

(II) retain 50 per cent or more of the existing external fabric of the building, and

(III) not materially affect the external appearance of the structure so as to render its appearance inconsistent with the character of the structure or of neighbouring structures.

(iii) Any related works for the alteration of existing ground floor shop fronts shall be consistent with the fenestration details and architectural and streetscape character of the remainder of the structure or of neighbouring structures.

(iv) No development shall consist of or comprise the carrying out of works to the ground floor area of any structure which conflicts with any objective of the relevant local authority development plan or local area plan, pursuant to the Part 1 of the First Schedule to the Act, for such to remain in retail use, with the exception of any works the purpose of which is to solely provide on street access to the upper floors of the structure concerned.

(v) No development shall consist of or comprise the carrying out of works which exceeds the provision of more than 9 residential units in any structure.

(vi) Dwelling floor areas and storage spaces shall comply with the minimum floor area requirements and minimum storage space requirements of the "Sustainable Urban Housing: Design Standards for New Apartments — Guidelines for Planning Authorities" issued under section 28 of the Act or any subsequent updated or replacement guidelines.

(vii) Rooms for use, or intended for use, as habitable rooms shall have adequate natural lighting.

(viii) No development shall consist of or comprise the carrying out of works to a protected structure, as defined in section 2 of the Act, save where the relevant planning authority has issued a declaration under section 57 of the Act to the effect that the proposed works would not materially affect the character of the structure or any element, referred to in section 57(1)(b) of the Act, of the structure.

- (ix) No development shall contravene a condition attached to a permission under the Act or be inconsistent with any use specified or included in such a permission.
- (x) No development shall relate to any structure in any of the following areas:
- (I) an area to which a special amenity area order relates;
 - (II) an area of special planning control;
 - (III) within the relevant perimeter distance area, as set out in Table 2 of Schedule 8, of any type of establishment to which the Major Accident Regulations apply.
- (xi) No development shall relate to matters in respect of which any of the restrictions set out in subparagraph (iv), (vii), (viiA), (viiB), (viiC), (viii) or (ix) of article 9(1)(a), or paragraph (c) or (d) of article (9)(1), would apply.
- (xii) No development shall consist of or comprise the carrying out of works for the provision of an onsite wastewater treatment and disposal system to which the code of practice made by the Environmental Protection Agency pursuant to section 76 of the Environmental Protection Agency Act 1992 relates and entitled Code of Practice — Wastewater Treatment and Disposal Systems Serving Single Houses together with any amendment to that Code or any replacement for it.
- (e) (i) Where a person proposes to undertake development to which sub-paragraph (b) relates, then he or she shall in the case of development relating to Class 1, 2, 3, 6 or 12 of Part 4 to Schedule 2, notify the planning authority in whose functional area that the change of use concerned will occur in writing at least 2 weeks prior to the commencement of the proposed change of use and any related works.
- (ii) Details of each notification under subparagraph (i), which shall include information on—
- (I) the location of the structure, and
 - (II) the number of residential units involved, including the unit sizes and number of bedrooms in each unit, and
 - (III) the Eircode of the property,
- shall be entered in a record by the planning authority maintained for this purpose and the record shall be available for inspection at the offices of the planning authority during office hours and on the planning authority's website.
- (iii) During the years 2019, 2020, 2021, 2022, 2023, 2024 and 2025 each planning authority shall provide information to the Minister on the number of notifications received by it under this paragraph during the preceding calendar year, including details of the information so received for the purposes of subparagraph (ii)."

Part 4 Article 10 Exempted Development- Class of use- Class 1 is use as a shop.

Schedule 2 Article 6 part 1 Exempted Development

CLASS 14

Development consisting of a change of use—

- (a) from use for the sale of hot food for consumption off the premises, or for the sale or leasing or display for sale or leasing of

motor vehicles, to use as a shop,

(b) from use as a public house, to use as a shop,

(c) from use for the direction of funerals, as a funeral home, as an amusement arcade or a restaurant, to use as a shop,

(d) from use to which class 2 of Part 4 of this Schedule applies, to use as a shop,

(e) from use as 2 or more dwellings, to use as a single dwelling, of any structure previously used as a single dwelling,

(f) from use as a house, to use as a residence *The number of persons with an intellectual or for persons with an intellectual or physical disability or a mental illness living in physical disability or mental illness and any such residence shall not exceed 6 and the persons providing care for such persons. number of resident carers shall not exceed 2.*

Appendix 1 Planning and Development (Amendment)(No. 2) Regulations 2018 (S.I. No. 30 of 2018)

Minimum Requirements for Residential Units

The Regulations set out some minimum standards that apply to any residential units being provided, including minimum floor areas, storage space and the provision of natural light.

- A maximum of 9 residential units can be provided in any structure.
- The minimum floor area and minimum storage space requirements of the 'Sustainable Urban Housing: Design Standards for New Apartments -Guidelines for Planning Authorities', 2018 must be complied with.

'Sustainable Urban Housing: Design Standards for New Apartments -Guidelines for Planning Authorities', March 2018 and Appendix 1 Planning and Development (Amendment)(No. 2) Regulations 2018(S.I. No. 30 of 2018)

This ensures that apartments will be of adequate size and will include adequate storage.

Assessment

Primary Legislation

Having regard the details submitted it is considered that the proposal constitutes 'works' as defined by to section 2 of the Act. It is also considered that the proposal constitutes 'development' having regard to the definition of development which includes for making of any material change in the use of any structures. In respect of Section 4 (1)(H) it is noted that while

the section makes provision for development consisting for the carrying out of works for maintenance, improvement or other alterations 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 neighbouring structures' to be considered exempted development, it does not expressly clarify that the internal alterations can result in a change of use and that this new use is exempted development. I therefore consider that section 4 (1) (h) is not relevant to the query.

The Regulations

- I refer to Part 4 Article 10 Exempted Development- Class of use- The nature of the existing/previous commercial use is not stated in the application.
- I refer to Schedule 2 part 1 Article 6 Exempted Development – General, wherein in class 14 sets out changes of use that are considered to be exempted development. I do not consider that the proposed change of use falls under the provision of class 14 of the Planning and Development Regulations 2001 as amended.
- I refer to part 2 Article 6 (1) Exempted Development and Article 9 Restrictions on Exemptions-. It is considered that the provisions of article 9 are not applicable to the query.
- I refer to Article 10 of the Planning and Development Regulations 2001 (S.I. No. 600 of 2001) as amended by the Planning and Development Regulations 2018 (no 2). Article 10 of the Planning and Development Regulations 2001 (S.I. No. 600 of 2001) is amended by inserting the following sub-article after sub-article (5):

Article 10 of the Planning and Development Regulations 2001 (S.I. No. 75 of 2022) is amended by inserting the following sub-article after sub-article (5):

*“(6) (a) In this sub-article—‘habitable room’ means a room used for living or sleeping purposes but does not include a kitchen that has a floor area of less than 6.5 square metres;
‘relevant period’ means the period from the 08th February 2018 until 31 December 2025.
(b) This sub-article relates to a proposed development, during the relevant period, that consists of a change of use to residential use from Class 1, 2, 3, 6 of 12 of Part 4 to Schedule 2.*

It is stated that the existing use is commercial. The unit is currently vacant.

(c) Notwithstanding sub-article (1), where in respect of a proposed development referred to in paragraph (b)—

(i) the structure concerned was completed prior to the making of the Planning and Development (Amendment) (No. 2) Regulations 2018, Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 13th February 2018.[30]

The structure was in place before 2018.

3(ii) the structure concerned has at some time been used for the purpose of its current use class, being Class 1, 2, 3, 6, and 12.

Applicable.

(iii) the structure concerned, or so much of it that is the subject of the proposed development, has been vacant for a period of 2 years or more immediately prior to the commencement of the proposed development, then the proposed development for residential use, and any related works, shall be exempted development for the purposes of the Act, subject to the conditions and limitations set out in paragraph (d).

It is not stated how long the unit has been vacant. Further information would be required on this issue.

(d) (i) The development is commenced and completed during the relevant period.

The time period for the carrying out and completion of the proposed change of use has not been specified. Further information would be required on this issue.

(ii) Subject to sub-paragraph (iii), any related works, including works as may be required to comply with sub-paragraph (vii), shall

(I) affect only the interior of the structure

No external works are proposed.

(II) retain 50 per cent or more of the existing external fabric of the building, and

100% of the external fabric of the building is to be retained.

(III) not materially affect the external appearance of the structure so as to render its appearance inconsistent with the character of the structure or of neighbouring structures.

No external works are proposed.

(iii) Any related works for the alteration of existing ground floor shop fronts shall be consistent with the fenestration details and architectural and streetscape character of the remainder of the structure or of neighbouring structures.

No external works are proposed.

(iv) No development shall consist of or comprise the carrying out of works to the ground floor area of any structure which conflicts with any objective of the relevant local authority development plan or local area plan, pursuant to the Part 1 of the First Schedule to the Act, for such to remain in retail use, with the exception of any works the purpose of which is to solely provide on street access to the upper floors of the structure concerned.

Not applicable.

(v) No development shall consist of or comprise the carrying out of works which exceeds the provision of more than 9 residential units in any structure.

The total number of units in the overall structure would be less than 9.

(vi) Dwelling floor areas and storage spaces shall comply with the minimum floor area requirements and minimum storage space requirements of the "Sustainable Urban Housing: Design Standards for New Apartments — Guidelines for Planning Authorities" issued under section 28 of the Act or any subsequent updated or replacement guidelines.

The proposal meets the minimum floor area requirement for a one-bedroom apartment.

(vii) Rooms for use, or intended for use, as habitable rooms shall have adequate natural lighting.

Based on the drawings received it is unclear how the proposed bedroom would be served in terms of natural lighting. Further information would be required on this issue.

(viii) No development shall consist of or comprise the carrying out of works to a protected structure, as defined in section 2 of the Act, save where the relevant planning authority has issued a declaration under section 57 of the Act to the effect that the proposed works would not materially affect the character of the structure or any element, referred to in section 57(1)(b) of the Act, of the structure.

Not applicable.

(ix) No development shall contravene a condition attached to a permission under the Act or be inconsistent with any use specified or included in such a permission.

Not applicable.

(x) No development shall relate to any structure in any of the following areas:

- 1. an area to which a special amenity area order relates;*

Not applicable.

2. *an area of special planning control;*

Not applicable.

3. *within the relevant perimeter distance area, as set out in Table 2 of Schedule 8, of any type of establishment to which the Major Accident Regulations apply.*

Not applicable.

(xi) No development shall relate to matters in respect of which any of the restrictions set out in subparagraph (iv), (vii), (viiA), (viiB), (viiC), (viii) or (ix) of article 9(1)(a), or paragraph (c) or (d) of article (9)(1), would apply.

As outlined earlier in the report further information is required on a number of these restrictions.

(xii) No development shall consist of or comprise the carrying out of works for the provision of an onsite wastewater treatment and disposal system to which the code of practice made by the Environmental Protection Agency pursuant to section 76 of the Environmental Protection Agency Act 1992 relates and entitled Code of Practice — Wastewater Treatment and Disposal Systems Serving Single Houses together with any amendment to that Code or any replacement for it.

Not applicable.

(e) (i) Where a person proposes to undertake development to which sub-paragraph (b) relates, then he or she shall in the case of development relating to Class 1, 2, 3, 6 or 12 of Part 4 to Schedule 2, notify the planning authority in whose functional area that the change of use concerned will occur in writing at least 2 weeks prior to the commencement of the proposed change of use and any related works.

(ii) Details of each notification under subparagraph (i), which shall include information on—

(I) the location of the structure, and

(II) the number of residential units involved, including the unit sizes and number of bedrooms in each unit, and

(III) the Eircode of the property,

shall be entered in a record by the planning authority maintained for this purpose and the record shall be available for inspection at the offices of the planning authority during office hours and on the planning authority's website.

Notification by the applicant is pending the determination by the Planning Authority or An Bord Pleanála that the section 5 query re proposed change of use is considered to be exempted development.

(iii) During the years 2019, 2020, 2021, 2022, 2023, 2024 and 2025 each planning authority shall provide information to the Minister on the number of notifications received by it under this

paragraph during the preceding calendar year, including details of the information so received for the purposes of subparagraph(ii)."

Noted.

Environmental Impact Assessment

In assessing this application I have had regard to the provisions of EU Directive 2014/52/EU (which amends EU Directive 2011/92/EU), and which has been transposed into Irish legislation by the European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018 (SI No. 296 of 2018). The subject development does not fall within the mandatory requirements for EIA as set out in Schedule 7 of the Planning and Development Regulations 2001, as amended. I therefore consider that the proposal constitutes a sub-threshold development and note the requirements of Article 103 (1)(a) and (b) of the Planning and Development Regulations 2001, as amended. As such having regard to the nature and scale of the proposed development and the nature of the receiving environment I consider that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

Recommendation

I recommend that the following FURTHER INFORMATION be requested by the Planning Authority:

1. You are requested to provide the following further information:

(a)

The period of time that the existing ground floor commercial unit has been vacant.

(b)

When the proposed works associated with the change of use are to be carried out.

(c)

Revised drawings and particulars which demonstrate how the proposed bedroom would be adequately served in terms of natural lighting.

Signed

Date:


Executive Planner
10th April 2024


Senior Executive Planner

Date:

10/04/24

Clare County Council

Screening for Appropriate Assessment & Determination

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

Table 1: Project Details

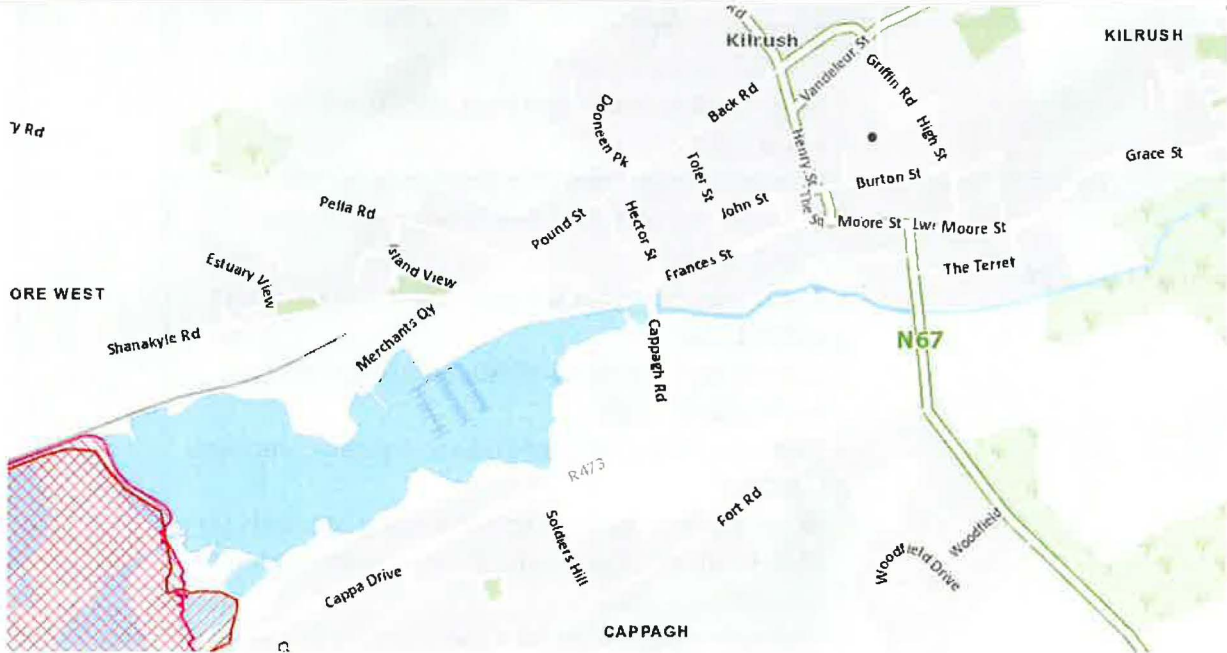
Planning File Reference	R24-30
Applicant Name	Corry
Development Location	Place De Plouzane Kilrush
Application accompanied by an EIS	No
Application accompanied by an NIS	No
Description of the project (To include a site location map):	
Change of use – Commercial to residential	
	

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

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

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

European Sites ²	Qualifying Interests (QIs)/Special Conservation Interests (SCIs) and conservation objectives (either generic or detailed) (available on www.npws.ie/protectedsites) or through Intranet.	Distance to Applicant Site (km)
Lower River Shannon SAC	Sandbanks which are slightly covered by sea water all the time [1110] Estuaries [1130] Mudflats and sandflats not covered by seawater at low tide [1140] Coastal lagoons [1150] Large shallow inlets and bays [1160] Reefs [1170] Perennial vegetation of stony banks [1220] Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330] Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] Water courses of plain to montane levels with the <i>Ranunculus fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation [3260] Molinia meadows on calcareous, peaty or clayey-silt-laden soils (<i>Molinion caeruleae</i>) [6410]	1.4

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

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

European Sites ²	Qualifying Interests (QIs)/Special Conservation Interests (SCIs) and conservation objectives (either generic or detailed) (available on www.npws.ie/protectedsites) or through Intranet.	Distance to Applicant Site (km)
	<p>Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, <i>Alnion incanae</i>, <i>Salicion albae</i>) [91E0]</p> <p><i>Margaritifera margaritifera</i> (Freshwater Pearl Mussel) [1029]</p> <p><i>Petromyzon marinus</i> (Sea Lamprey) [1095]</p> <p><i>Lampetra planeri</i> (Brook Lamprey) [1096]</p> <p><i>Lampetra fluviatilis</i> (River Lamprey) [1099]</p> <p><i>Salmo salar</i> (Salmon) [1106]</p> <p><i>Tursiops truncatus</i> (Common Bottlenose Dolphin) [1349]</p> <p><i>Lutra lutra</i> (Otter) [1355]</p>	
River Shannon and River Fergus Estuaries SPA	<p>Cormorant (<i>Phalacrocorax carbo</i>) [A017]</p> <p>Whooper Swan (<i>Cygnus cygnus</i>) [A038]</p> <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Shelduck (<i>Tadorna tadorna</i>) [A048]</p> <p>Wigeon (<i>Anas penelope</i>) [A050]</p> <p>Teal (<i>Anas crecca</i>) [A052]</p> <p>Pintail (<i>Anas acuta</i>) [A054]</p> <p>Shoveler (<i>Anas clypeata</i>) [A056]</p> <p>Scaup (<i>Aythya marila</i>) [A062]</p> <p>Ringed Plover (<i>Charadrius hiaticula</i>) [A137]</p> <p>Golden Plover (<i>Pluvialis apricaria</i>) [A140]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Lapwing (<i>Vanellus vanellus</i>) [A142]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Curlew (<i>Numenius arquata</i>) [A160]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Greenshank (<i>Tringa nebularia</i>) [A164]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Wetland and Waterbirds [A999]</p>	1.4

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

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

Appropriate Assessment Screening Determination	
Planning File Reference	R24-30
Proposed Development	Change of use – commercial to residential
Development Location	Kilrush
European sites within impact zone	Lower River Shannon SAC River Shannon and River Fergus Estuaries SPA
Description of the project	
Change of use – commercial to residential	
Qualifying Interests (QIs)/Special Conservation Interests (SCIs) of European site	
As per report	
Describe how the project or plan (alone or in combination) is likely to affect the European site(s).	
Water quality	
General disturbance	
If there are potential negative impacts, explain whether you consider if these are likely to be significant, and if not, why not?	
Connection to public utilities	
Minor works in an urban area	
Documentation reviewed for making this statement	
NPWS website	
Plans and particulars received	
GIS mapping database	
Conclusion of assessment (a, b, c or d)	
(a) The proposed development is directly connected with or necessary to the nature conservation management of a European Site(s) ³	
(b) There is no potential for significant effects to European Sites ³	Yes
(c) The potential for significant effects to European Site(s) cannot be ruled out ⁴	
(d) Significant effects to European sites are certain or likely or where potential for significant effects to European sites remains following receipt of Further	

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

⁴ In accordance with S177U of the Planning and Development (Amendment) Act 2010, the applicant should be requested to submit an 'Appropriate Assessment Screening Matrix' completed by a suitably qualified ecologist, by way of Further Information. Following receipt of this information a new Appropriate Screening Report should be completed. The requested 'Appropriate Assessment Screening Matrix' should be in accordance with the template outlined in Annex 2, Figure 1 of the EU (2001) guidance document 'Assessment of plans and projects significantly affecting European Sites – Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC. This guidance document is available from http://ec.europa.eu/environment/nature/natura2000/management/docs/art6/natura_2000_assess_en.pdf Alternatively, where other planning concerns arise the proposal could be refused planning permission.

Information requested under S177U of the Planning and Development (Amendment) Act 2010⁵	
Completed By	John O'Sullivan
Date	10 TH April 2024

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

R24-30
04th April 2024





COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Cyril Corry
C/o Padraig Neylon
PND Building Consultancy Ltd
Kilrush House, Frances Street
Kilrush
Co. Clare

22/03/2024

Section 5 referral Reference R24-30 – Cyril Corry

Is the change of use from a commercial unit to a residential unit development and if so, is it exempted development?

A Chara,

I refer to your application received on 21st March 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 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





REGISTERED BUILDING SURVEYORS
REGISTERED QUANTITY SURVEYORS
PLANNING CONSULTANTS
ARCHITECTURAL DESIGN

t: 087 - 976 5226

e: padraig@pndconsultancy.com

BUILDING CONSULTANCY

KILRUSH HOUSE, FRANCES ST, KILRUSH, CO. CLARE, IRELAND

PND Building Consultancy Ltd.,
Kilrush House,
Frances Street,
Kilrush,
Co. Clare.

March 2024

Planning Department,
Economic Development Directorate,
Clare County Council,
Áras Contae an Chláir,
New Road,
Ennis,
Co. Clare.

**REQUEST FOR A DECLARATION ON DEVELOPMENT AND
EXEMPTED DEVELOPMENT
(Section 5 of the Planning & Development Act 2000)**

A Chara,

Please find enclosed all relevant documentation for this application on behalf of
Cyril Corry @ 19A Place De Plouzane, Kilrush, Co. Clare.

Mise le meas,

Pádraig Neylon
B. Sc. (Surveying) MCIOB
Registered Building Surveyor

Note:

All correspondence in relation to the above application to be sent to –
Cyril Corry, C/o - PND Building Consultancy Ltd.
Kilrush House, Frances Street, Kilrush, Co. Clare. V15 CH68

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



22/03/2024 10:21:38

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CYRIL CORRY
C/O PADRAIG NEYLON
PND Building Consultancy Ltd
Kilrush House, Frances St. Kilrush
Co Clare REF R24-30

COMHAIRLE
CONTAE
AN CHLAIR

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

Total : 80.00 EUR

Tendered :
CREDIT CARDS 80.00

Change : 0.00



Issued By : L1CASH - Colm Murphy
From : MAIN CASH OFFICE LODGEMENT AF
Vat reg No 0033043E

COMHAIRLE

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



R24-30

**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	Cyril Corry, 19A Place De Plouzane, Kilrush, Co. Clare.
Eircode	N/a
(b) Telephone No.:	
(c) Email Address:	N/a
(d) Agent's Name and address:	Note: All <u>Correspondence</u> to be sent to the below address - Padraig Neylon, PND Building Consultancy Limited, Kilrush House, Frances Street, Kilrush, Co. Clare.



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 change of use from a commercial unit to a residential unit an exempted development?

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

The applicant wishes to convert his former commercial unit into residential living accommodation.

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

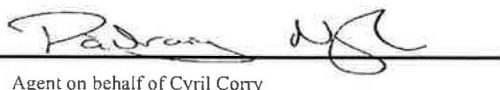
(Note: Please provide a site location map to a scale of not less than 1:2500 based on Ordnance Survey map for the areas, to identify the lands in question)

Drawings (1/200) – P/22/196/01

Site Location Map (1/1,000)

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT	
(a) Postal Address of the Property/Site/Building for which the declaration sought:	19A Place De Plouzane, Kilrush, 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):	The applicant is the owner.
(d) If the person in (c) above is not the owner and/or occupier, state the name and address of the owner of the property in question: <i>Note: Observations in relation to a referral may be requested from the owner/occupier where appropriate.</i>	N/a
(e) Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?:	Yes
(f) Are you aware of any enforcement proceedings connected to this site? <i>If so please supply details:</i>	No
(g) Were there previous planning application/s on this site? <i>If so please supply details:</i>	N/a
(h) Date on which 'works' in question were completed/are likely to take place:	The works will take place pending the outcome of this application.

SIGNED:


Agent on behalf of Cyril Corry

DATE: 19 / 03 / 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:.....			

Land Registry Compliant Map

**CENTRE
COORDINATES:**
ITM 499660,655211

PUBLISHED: 06/10/2022
ORDER NO.: 50295497_1

MAP SERIES: 1:1,000
MAP SHEETS: 4728-15
1:1,000 4728-20

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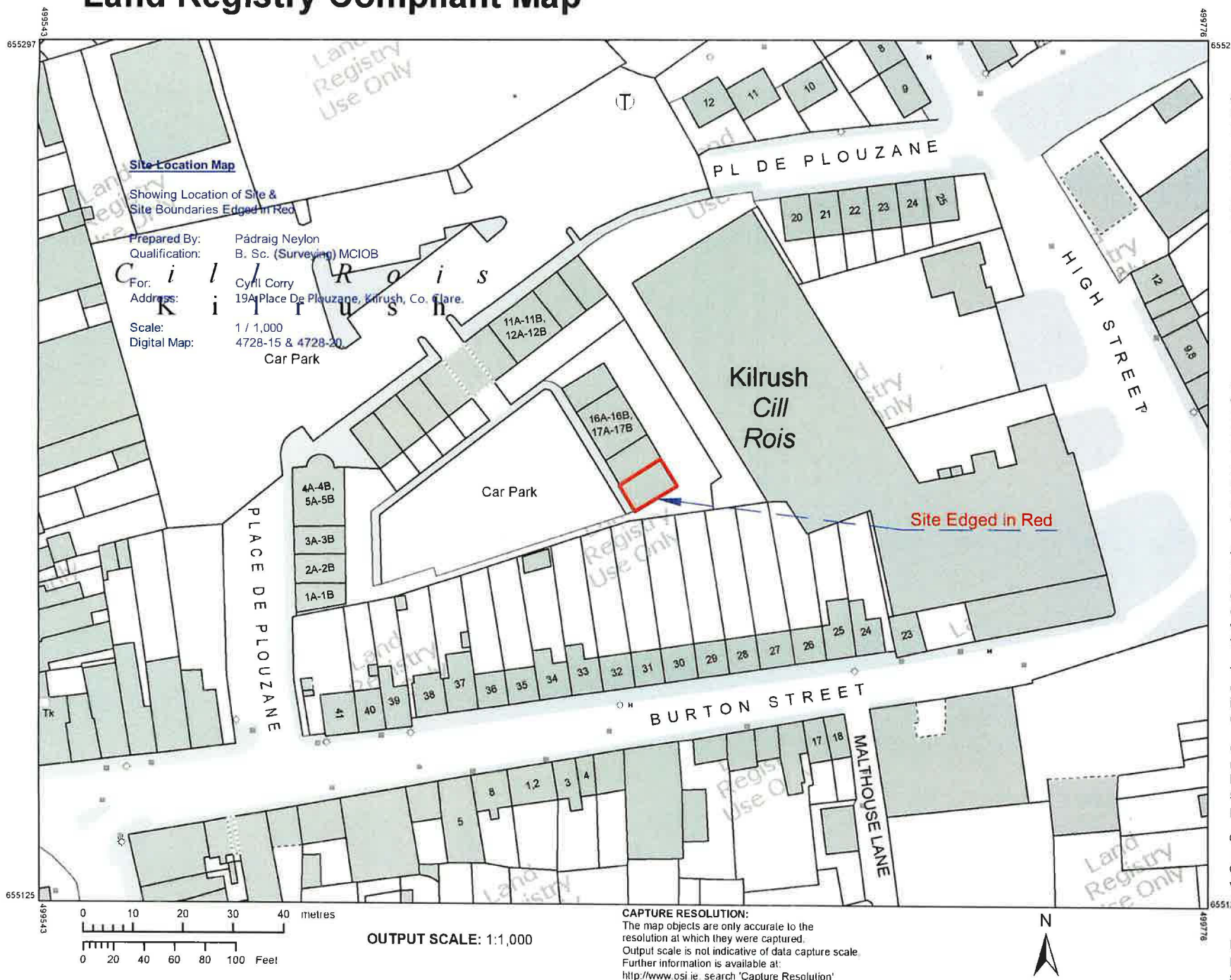
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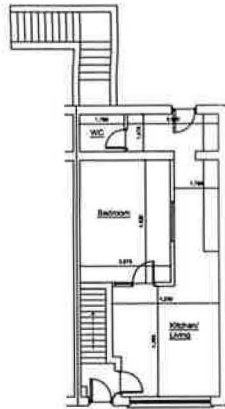
The representation on this map
of a road, track or footpath
is not evidence of the existence
of a right of way.

Ordnance Survey maps
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boundaries, nor do they
show ownership of
physical features.

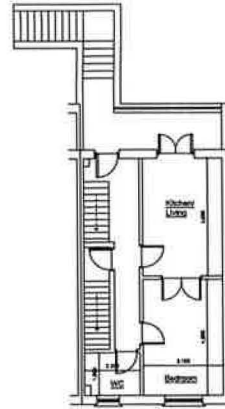
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LEGEND:
<http://www.osi.ie>;
search 'Large Scale Legend'

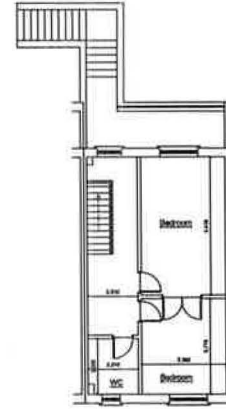




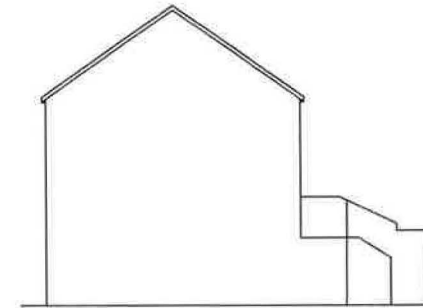
Apartment No. 1
Ground Floor Area = 61.35 m²
Ground Floor Plan



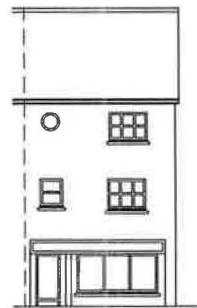
Apartment No. 2
First Floor Area = 46.16 m²
First Floor Plan



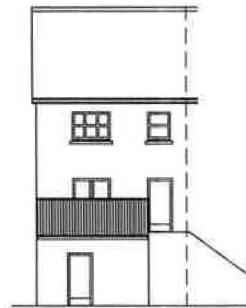
Apartment No. 2
Second Floor Area = 48.52 m²
Second Floor Plan



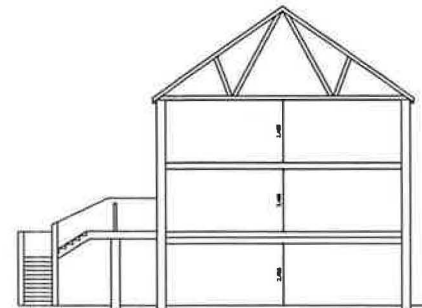
Side Elevation



Front Elevation



Rear Elevation



Typical Section

(C) Copyright - Drawings for Planning Purposes Only

Title - Floor Plans & Elevations

Project - Proposed Section 5 - Exempted Development

Client - Cyril Corry

Address - 19A Place De Plouzane, Kilrush, Co. Clare.

Scale - 1:200

Size - A3

PND BUILDING CONSULTANCY LTD.
Registered Building Surveyors & Quantity
Surveyors
Kilrush House, Frances Street, Kilrush, Co. Clare.
Tel: 087 976 5226
Email: padraig@pndconsultancy.com

P/22/196/01

P-01

12.03.24

