



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Registered Post

**Declan Leahy
C/o Joe Keating
Kilkee Road
Kilrush
Co. Clare
V15 FF80**

15th November 2024

Section 5 referral Reference R24-83 – Declan Leahy

Is the demolition of part of an existing wall and construction of an access gate at the rear of 3/4 Henry Street, Kilrush development and if so, is it exempted development?

A Chara,

I refer to your application received on 23rd October 2024 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

The Planning Authority has considered the matter and I attach herewith the Council's findings in this matter.

Where a declaration is issued by the Planning Authority, any person issued with a declaration, may on payment to an Bord Pleanála of the required fee, refer a declaration for review by An Bord Pleanála within 4 weeks of the date of the issuing of the declaration. Details on making such appeal are available on the Board's website at www.pleanala.ie

Mise, le meas

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

**An Roinn Pleanála
An Stiúirtheacht Forbairt Gheilleagrach**

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

**Planning Department
Economic Development Directorate**

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



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

Reference No.: R24-83



Comhairle Contae an Chláir
Clare County Council

Section 5 referral Reference R24-83

Is the demolition of part of an existing wall and construction of an access gate at the rear of 3/4 Henry Street, Kilrush development and if so, is it exempted development?

AND WHEREAS, Declan Leahy 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 –

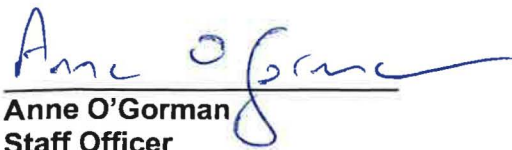
- (a) Sections 2, 3, 4 and 40 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended, and
- (c) The works as indicated in submitted documents from the referrer.

And whereas Clare County Council has concluded:

- (a) The demolition of part of an existing wall and the construction of an access gate at the rear of 3-4 Henry Street, Kilrush, County Clare constitutes "*works*" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended,
- (b) The said works constitute "*development*" which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended,
- (c) The said development comprising of the demolition of part of an existing wall and the construction of an access gate at the rear of 3-4 Henry Street, Kilrush, County Clare is not exempted development having regard to Article 9 (ii) & (iii) of the Planning and Development Regulations 2001 (as amended) as the proposal would consist of the formation of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width, and the development would also would endanger public safety by reason of traffic hazard due to vehicular traffic associated with the access having adverse impacts on the existing traffic movements and parking within the Place de Plouzane car park.

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 demolition of part of an existing wall and the construction of an access gate at the rear of 3-4 Henry Street, Kilrush, Co. Clare **constitutes development** which is **not exempted development** as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.



Anne O'Gorman
Staff Officer
Planning Department
Economic Development Directorate

15th November 2024

CLARE COUNTY COUNCIL

SECTION 5 OF THE PLANNING AND DEVELOPMENT ACT 2000 AS AMENDED

DECLARATION ON DEVELOPMENT AND/OR EXEMPTED DEVELOPMENT

Chief Executive's Order No: 84470

Reference Number: R24-83

Date Referral Received: 23rd October 2024

Name of Applicant: Declan Leahy

Location of works in question: 3-4 Henry Street, Griffin Road, Kilrush,
Co. Clare

Section 5 referral Reference R24-83 – Declan Leahy

Is the demolition of part of an existing wall and construction of an access gate at the rear of 3/4 Henry Street, Kilrush 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, 4 and 40 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended, and
- (c) The works as indicated in submitted documents from the referrer.

AND WHEREAS Clare County Council has concluded:

- (a) The demolition of part of an existing wall and the construction of an access gate at the rear of 3-4 Henry Street, Kilrush, County Clare constitutes "*works*" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended,
- (b) The said works constitute "*development*" which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended,
- (c) The said development comprising of the demolition of part of an existing wall and the construction of an access gate at the rear of 3-4 Henry Street, Kilrush, County Clare is not exempted development having regard to Article 9 (ii) & (iii) of the Planning and Development Regulations 2001 (as amended) as the proposal would consist of the formation of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width, and the development would also would endanger public safety by reason of traffic hazard due to vehicular traffic associated with the access having adverse impacts on the existing traffic movements and parking within the Place de Plouzane car park.

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 demolition of part of an existing wall and the construction of an access gate at the rear of 3-4 Henry Street, Kilrush, Co. Clare is considered development which is not exempted development.

Signed:



GARETH RUANE
SENIOR EXECUTIVE PLANNER 

Date:

15th November 2024

CLARE COUNTY COUNCIL
SECTION 5 DECLARATION OF EXEMPTION APPLICATION
PLANNERS REPORT 1

FILE REF:	R24-83
APPLICANT(S):	Declan Leahy
REFERENCE:	Whether the demolition of part of an existing wall and the construction of an access gate at the rear of 3-4 Henry Street, Kilrush, County Clare is or is not development and is or is not exempted development.
LOCATION:	3-4 Henry Street, Griffin Road, Kilrush, County Clare
DUE DATE:	19 th November 2024

Recent Planning History

Onsite

None.

South

10-31027 – Granted - Mrs P Hogan, Mrs M Haugh and Mrs J O'Donoghue - PERMISSION for development at No 2, 3 and 4 Henry Street, Kilrush, Co Clare. The 2-storey development will consist of modifications to the front facade to accommodate installation of traditional shop fronts and windows; alterations and extensions to rear of buildings, including installation of traditional style shop fronts to rear façade, so as to provide additional commercial and residential space. Works to include associated rear access to public carpark.

Background to Referral

This Referral under Section 5(3)(a) of the Planning and Development Act 2000 (as amended) has been made by Declan Leahy who is the stated owner of the site. He is seeking a Section 5 Declaration as to whether the demolition of part of an existing wall and the construction of an access gate at the rear of 3-4 Henry Street, Kilrush, County Clare is or is not development and is or is not exempted development. It is stated that the access would initially be used as a works access and thereafter would be used as a residential access. The gate would be 8ft tall, 12 ft wide, would include 2 new piers and would comprise of a galvanised iron gate with recycled pvc sheeting.

Statutory Provisions

Planning and Development Act, 2000 (as amended)

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

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

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

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

Planning & Development Regulations, 2001, as amended

Article 6 refers to Exempted Development and states that subject to Article 9, development of a class specified in column 1 of Part 3 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 3 opposite the mention of that class in the said column 1.

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

- (a) *if the carrying out of such development would –*
 - (i) *contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act*
 - (ii) *consist of or compromise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,*
 - (iii) *endanger public safety by reason of traffic hazard or obstruction of road users,*
 - (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.

Assessment

Particulars of the Development

On the date of the site visit on the 05th November 2024 I noted that there was no access in place. There is an access serving the rear of the adjacent premises to the south. The metaled surface of the road is greater than 4 metres in width and the existing parking layout would inhibit vehicular access to this gate.

Planning Exemption Assessment

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

Article 9 of the Planning and Development Regulations 2001, as amended outlines restrictions on exempted development, and these are assessed below:

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

Not applicable.

- (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,*

The road is significantly greater than 4 metres in width.

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

The existing parking layout would inhibit access to/from the proposed gate and would lead to conflict between vehicles.

- (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.*

No drawings have been received. I'd have concerns pertaining to the type of gate as specified by the applicant and the potential implications for the character of the Kilrush Architectural Conservation Area.

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

This is not applicable in this instance.

- (vi) *consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local*

area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,

Not applicable.

(vii)

- a. *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,*

This is not applicable in this instance.

- b. *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,*

The site is located outside of any European Site designation. Having regard to the nature and scale of the proposed development and the absence of proximity or connectivity to a European Site, no Appropriate Assessment issues arise and I do not consider that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects, on a European Site. An appropriate assessment screening report and determination is attached to this report.

- c. *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."*

Not applicable.

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

Not applicable.

- (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,

This is not applicable in this instance.

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

This is not applicable in this instance.

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

Vehicular access to the gate would be inhibited by the existing parking layout in the Place du Plouzane car park.

- (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.*

This is not applicable in this instance.

Recommendation

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

The Planning Authority in considering this referral had regard to:

- (a) Sections 2, 3, 4 and 40 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended, and
- (c) The works as indicated in submitted documents from the referrer.

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

- (a) The demolition of part of an existing wall and the construction of an access gate at the rear of 3-4 Henry Street, Kilrush, County Clare constitutes "*works*" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended
- (b) the said works constitute "*development*" which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended
- (c) the said development comprising of the demolition of part of an existing wall and the construction of an access gate at the rear of 3-4 Henry Street, Kilrush, County Clare is not exempted development having regard to Article 9 (ii) & (iii) of the Planning and Development Regulations 2001 (as amended) as the proposal would consist of the formation of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width, and the development would also would endanger public safety by reason of traffic hazard due to vehicular traffic associated with the access having adverse impacts on the existing traffic movements and parking within the Place de Plouzane car park.

Now therefore Clare County Council (Planning Authority), hereby decides that demolition of part of an existing wall and the construction of an access gate at the rear of 3-4 Henry Street, Kilrush, County Clare constitutes both works and development that is not exempted development.



Executive Planner

Date: 11th November 2024



Senior Executive Planner

Date: 11/11/24

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	R24-83
Applicant Name	Leahy
Development Location	Kilrush
Application accompanied by an EIS	No
Application accompanied by an NIS	No
Description of the project (To include a site location map):	
<p>New access</p> 	

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

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?</i>	No effects envisaged

		<i>Is any emission from the development (including noise) likely to impact on an adjacent habitat or species?</i>	
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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	R24-83
Proposed Development	New access
Development Location	Kilrush
European sites within impact zone	As per report
Description of the project	
New rear works & residential access	
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).	
None.	
If there are potential negative impacts, explain whether you consider if these are likely to be significant, and if not, why not?	
Limited nature of the proposed 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	

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.

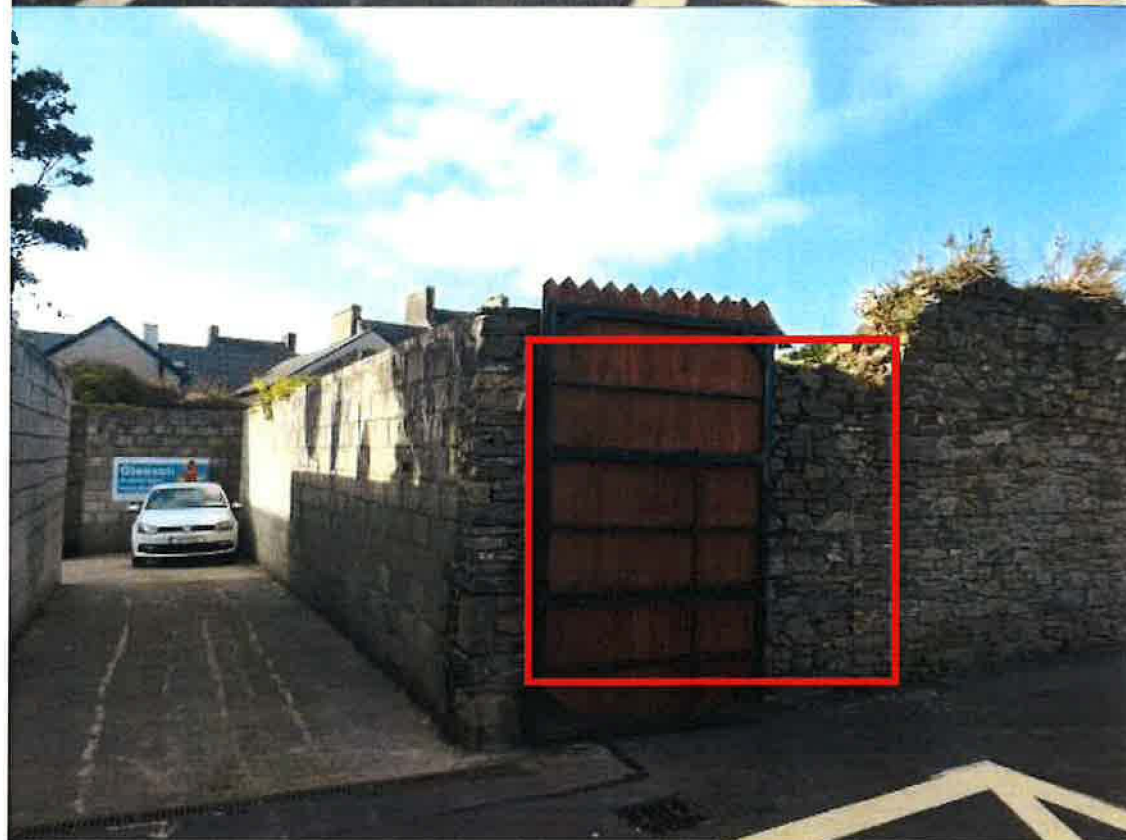
⁴ In accordance with S177U of the Planning and Development (Amendment) Act 2010, the applicant should be requested to submit an 'Appropriate Assessment Screening Matrix' completed by a suitably qualified ecologist, by way of Further Information. Following receipt of this information a new Appropriate 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.

where potential for significant effects to European sites remains following receipt of Further Information requested under S177U of the Planning and Development (Amendment) Act 2010 ⁵	
Completed By	John O'Sullivan
Date	11 th November 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.

Site Photographs
05th November 2024





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

23/10/2024 12:58:35

Receipt No. L1CASH/0/370988
***** REPRINT *****

DECLAN LEAHY
C/O JOE KEATING
KILKEE ROAD
KILRUSH, CO. CLARE

COMHAIRLE

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

Total : 80.00 EUR

Tendered :
Cash

Change :

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

P07

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



Telephone No. (065) 6821616
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Website: www.clarecoco.ie



R24-83

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	DECLAN LEAHY THE OLD SCHOOLHOUSE NAYLAND ROAD, LEAVENHEATH COLCHESTER, SUFFOLK UNITED KINGDOM CO6 4PH
(b) Telephone No.:	
(c) Email Address:	
(d) Agent's Name and address:	MR JOE KEATING KILKEE ROAD KILRUSH CO. CLARE V15 FK80 (087 9718579)

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 DEMOLITION OF PART OF AN EXISTING WALL AND CONSTRUCTION OF AN ACCESS GATE AT THE REAR OF 3/4 HENRY STREET KILVAUGH DEVELOPMENT, AND IF SO IS IT EXEMPTED DEVELOPMENT?

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

THE PROPERTY AT 3/4 HENRY STREET, KILVAUGH IS CURRENTLY ONLY ACCESSIBLE FROM HENRY STREET. WE ARE SEEKING TO DEMOLISH PART OF THE EXISTING REAR WALL ON THE SITE'S EASTERN BOUNDARY AND CREATE A WORKS ACCESS TO ALLOW FOR NECESSARY RENOVATION AND MAINTENANCE OF THE PROPERTY. A GATE APPROXIMATELY 8 FEET TALL IS PROPOSED TO MATCH THE HEIGHT OF THE EXISTING WALL AND WITH A WIDTH OF APPROXIMATELY 12 FEET PLUS 2 PIERS. THE GATE WILL BE OF GALVANISED ~~STEEL~~ IRON AND RECYCLED PVC SIKAFLEX. WE WOULD SEEK TO RETAIN THIS ACCESS FOLLOWING COMPLETION OF THE CONSTRUCTION WORKS, TO SERVE AS A RESIDENTIAL ACCESS FROM THE EXISTING CAR PARK. THERE IS AN EXISTING ACCESS ALONG THIS REAR WALL, ONTO THE NEIGHBOURING PROPERTY. A PREVIOUS PEDESTRIAN ACCESS HAS AT SOME POINT BEEN CLOSED OFF, PROBABLY FOR REASONS OF SECURITY.

- (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)

2 COPIES OF TAILTE FÉIRÉANN PLANNING MAP AT 1:1000; SITE OUTLINED IN RED
 TAILTE FÉIRÉANN REGISTRATION MAPPING WITH ANNOTATIONS, WESTERN ARROW IS EXISTING ACCESS TO PROPERTY, EASTERN ARROW ('FÉIRÉANN') IS PROPOSED ACCESS TO PROPERTY

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT	
(a) Postal Address of the Property/Site/Building for which the declaration sought:	<div>3/4 HENRY STREET</div> <div>KILRUSH</div> <div>CO. CLARK</div> <div>V15 EV 52</div>
(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?	<div>NO</div>
(c) Legal interest in the land or structure in question of the person requesting the declaration (Give Details):	<div>OWNER</div>
(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>	<div>N/A</div>
(e) Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?:	<div>YES</div>
(f) Are you aware of any enforcement proceedings connected to this site? If so please supply details:	<div>NO</div>
(g) Were there previous planning application/s on this site? If so please supply details:	<div>NOT KNOWN</div>
(h) Date on which 'works' in question were completed/are likely to take place:	<div>NOVEMBER 2024</div>

SIGNED: Declan Leahy

DATE: 15.10.2024

GUIDANCE NOTES

This following are non-statutory advice notes prepared by Clare County Council for the purpose of advising people what information is required for a decision to be made under Section 5 by the Planning Authority

- (i) The request for a declaration under Section 5 must be accompanied by 2 copies of site location map based on the Ordnance Survey map for the area of a scale not less than 1:1000 in urban areas and 1:2500 in rural areas and should clearly identify the site in question.
- (ii) The request for a declaration under Section 5 must be accompanied by the required fee of €80.00.
- (iii) If submitting any additional plans/reports etc. as part of the request for a declaration, please submit 2 copies.
- (iv) The request for a declaration should be sent to the following address:

Planning Department,
Economic Development Directorate,
Clare County Council
Aras Contae an Chlair,
New Road,
Ennis,
Co. Clare
V95DXP2

- (v) Notwithstanding the completion of the above form, the Planning Authority may require the submission of further information with regard to the request in order to enable the Authority to issue a declaration on the question.
- (vi) The Planning Authority may also request other persons to submit information on the question which has arisen and on which the declaration is sought

FOR OFFICE USE ONLY

Date Received:

Fee Paid:

Date Acknowledged:

Reference No.:

Date Declaration made:

CEO No.:

Decision:

Planning Pack Map



**Tailte
Éireann**

**CENTRE
COORDINATES:**
ITM 499546,655198

PUBLISHED: 14/10/2024
ORDER NO.: 50428319_1

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

COMPILED AND PUBLISHED BY:
Tailte Éireann,
Phoenix Park,
Dublin 8,
Ireland.
D08F6E4

www.tailte.ie

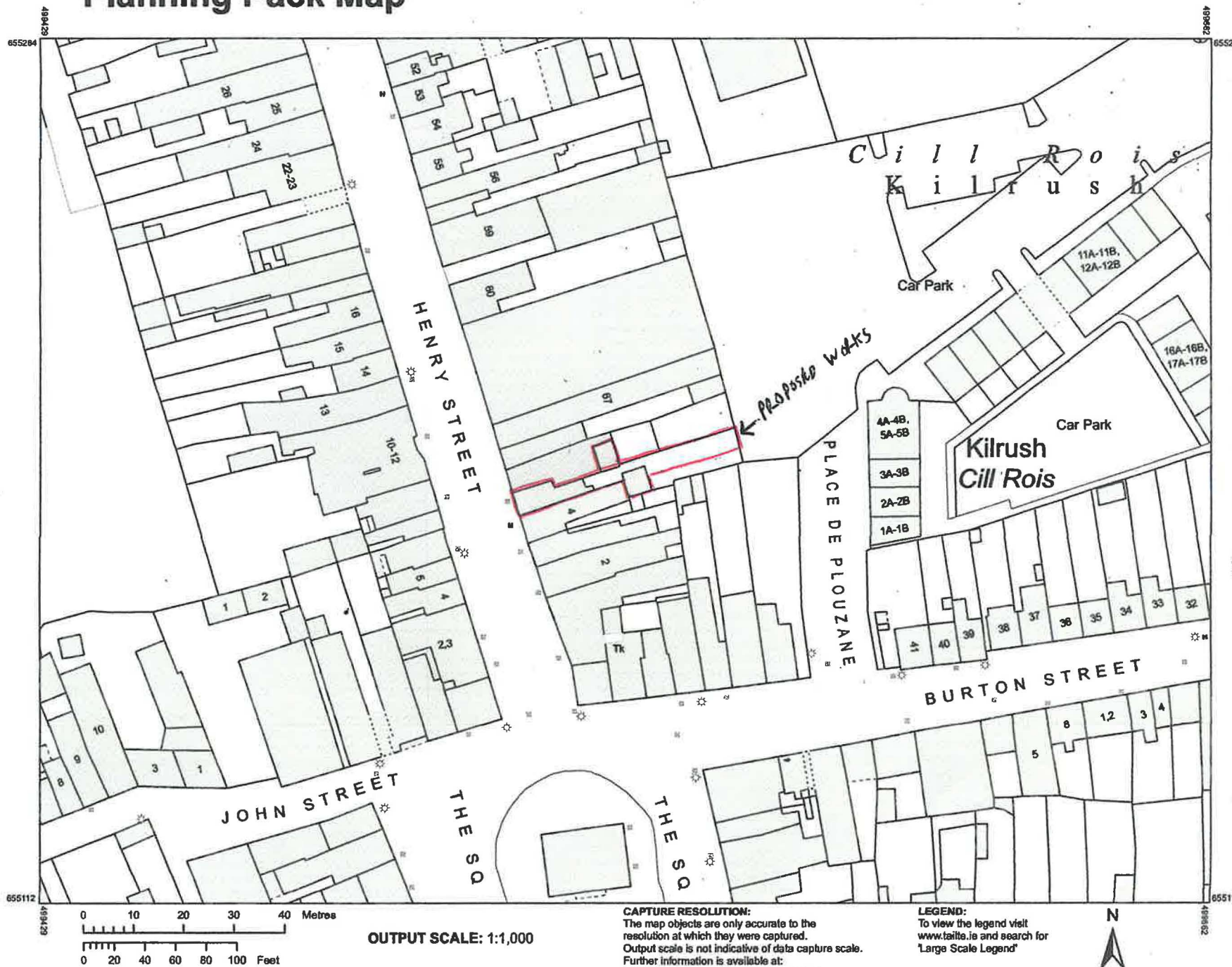
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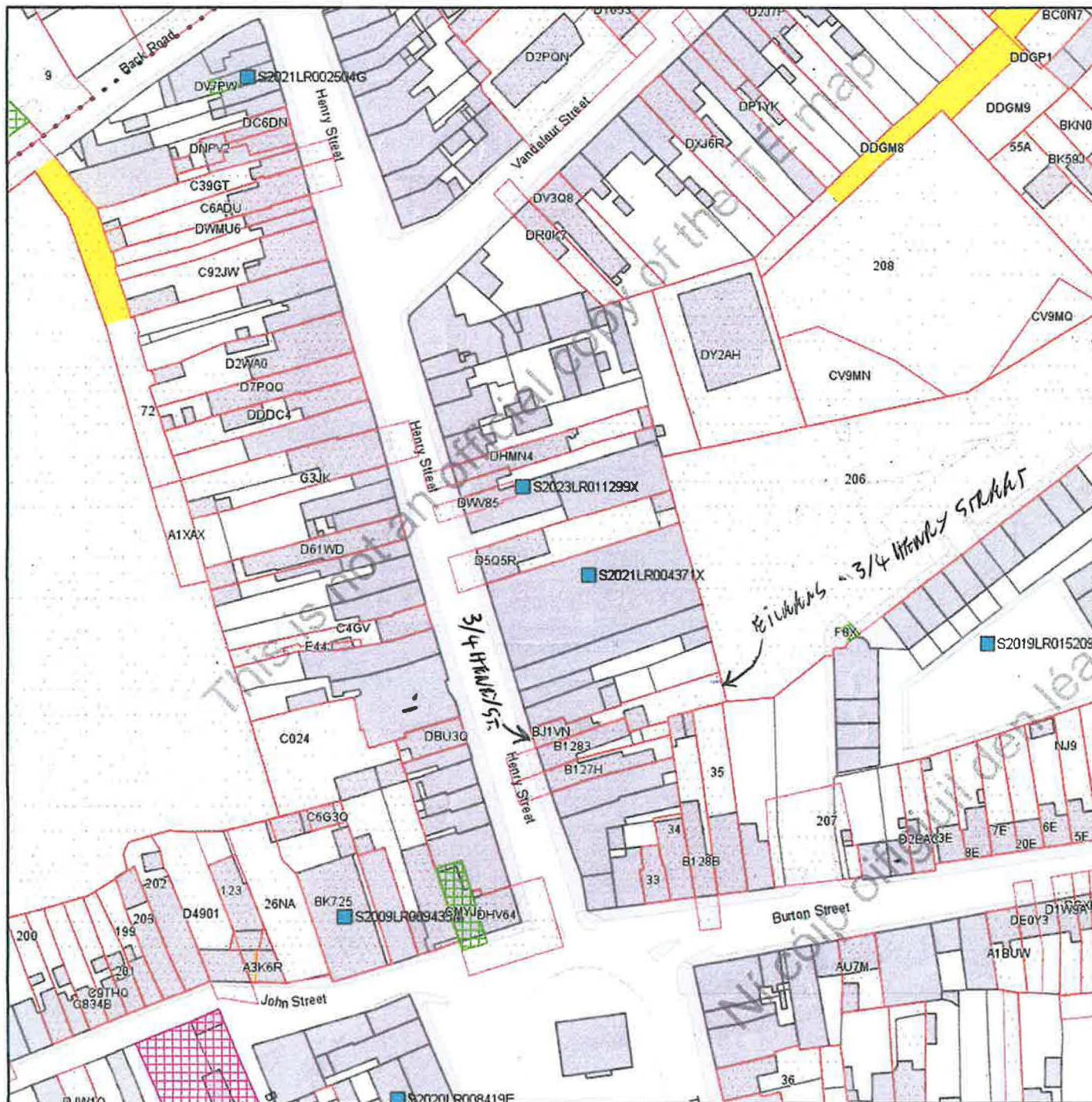
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**Tailte
Éireann**

Clárúchán, Luacháil,
Suirbhéireacht
Registration, Valuation,
Surveying

Official Tailte Éireann Registration Map

This map should be read in conjunction with the folio.

Tailte Éireann (TÉ) Registration mapping is based on TÉ Surveying mapping. Where TÉ Registration maps are printed at a scale that is larger than the TÉ Surveying scale, accuracy is limited to that of the TÉ Surveying map scale.

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- (centre-line of parcel(s) edged)
- Freehold
- Leasehold
- SubLeasehold
- 'S' Register

(see Section 8(b)(II) of Registration of Title Act 1964 and Rule 224 & 225 Land Registration Rules 1972 - 2010).

Burdens (may not all be represented on map)

- Right of Way / Wayleave
- Turbary
- Pipeline
- Well
- Pump
- Septic Tank
- Soak Pit

A full list of burdens and their symbology can be found at: www.landdirect.ie

Tailte Éireann Registration operates a non-conclusive boundary system. The TÉ Registration map identifies properties not boundaries meaning neither the description of land in a folio nor its identification by reference to a TÉ Registration map is conclusive as to the boundaries or extent.

(see Section 85 of the Registration of Title Act, 1964). As Inserted by Section 62 of the Registration of Deed and Title Act 2006.



Site Location Map



**Tailte
Éireann**

**CENTRE
COORDINATES:**
ITM 499546,655198

PUBLISHED: 14/10/2024
ORDER NO.: 50428319_1

MAP SERIES: 6 Inch Raster
MAP SHEETS: CE067

COMPILED AND PUBLISHED BY:
Tailte Éireann,
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Dublin 8,
Ireland.
D08F6E4

www.tailte.ie

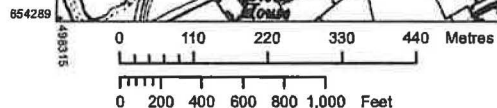
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OUTPUT SCALE: 1:10,560

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

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



Ordnance Survey Ireland