



COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

**Registered Post**

**Kate Power  
Patrick Street  
Clarecastle  
Co. Clare  
V95 Y11H**

**14th January 2025**

**Section 5 referral Reference R24-97 – Kate Power**

Is the construction of a front door at No. 5 St Flannan's Avenue, Clarecastle development and if so, is it exempted development?

A Chara,

I refer to your application received on 13th December 2024 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

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

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

**\*Advice Note:**

The planning authority notes that there is no available planning history for the existing lean-to extension to the side of the dwelling facing the Old Road. Any future application for planning permission should clarify the status of this extension and, if required, seek to regularise its use if required.

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:

84753

Reference Number:

R24-97

Date Referral Received:

13th December 2024

Name of Applicant:

Kate Power

Location of works in question:

No. 5 St Flannan's Avenue, Clarecastle,  
Co. Clare, V95 YW1E

**Section 5 referral Reference R24-97 – Kate Power**

Is the construction of a front door at No. 5 St Flannan's Avenue, Clarecastle development and if so, is it exempted development?

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

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

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

- (a) The installation of a front door in place of part of an existing window and the removal of the porch and closing up of the front door on the side elevation, in the curtilage of a dwellinghouse, 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 would materially affect the external appearance of the dwelling so as to render the appearance of the dwelling inconsistent with the character of the surrounding area and neighbouring structures, whereby the end terrace units in the immediate surrounding area, on both St. Flannan's Avenue and Church Drive, are of similar design and layout, contrary to Section 4(1)(h) of the Planning and Development Act 2000 (as amended). The said development is, therefore, not exempted development having regard to Section 4(1)(h) of the Planning and Development Act 2000 (as amended).

**ORDER:** Whereas by Chief Executive's Order No. HR 46 dated 1<sup>st</sup> January 2025, Carmel Kirby, Interim 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 construction of a front door at No. 5 St Flannan's Avenue, Clarecastle, Co. Clare is considered development which is not exempted development.

Signed:

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

Date:

14th January 2025

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

**Reference No.: R24-97**



**Section 5 referral Reference R24-97**

**Is the construction of a front door at No. 5 St Flannan's Avenue, Clarecastle development and if so, is it exempted development?**

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

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

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

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

- (a) The installation of a front door in place of part of an existing window and the removal of the porch and closing up of the front door on the side elevation, in the curtilage of a dwellinghouse, 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 would materially affect the external appearance of the dwelling so as to render the appearance of the dwelling inconsistent with the character of the surrounding area and neighbouring structures, whereby the end terrace units in the immediate surrounding area, on both St. Flannan's Avenue and Church Drive, are of similar design and layout, contrary to Section 4(1)(h) of the Planning and Development Act 2000 (as amended). The said development is, therefore, not exempted development having regard to Section 4(1)(h) of the Planning and Development Act 2000 (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 construction of a front door at No. 5 St Flannan's Avenue, Clarecastle, Co. Clare **constitutes development** which is **not exempted development** as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.

**\*Advice Note:**

The planning authority notes that there is no available planning history for the existing lean-to extension to the side of the dwelling facing the Old Road. Any future application for planning permission should clarify the status of this extension and, if required, seek to regularise its use if required.

A handwritten signature in blue ink, appearing to read "Anne O'Gorman", with a long horizontal flourish extending to the right.

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

**14th January 2025**

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

**FILE REF:** R24-97  
**APPLICANT(S):** Kate Power  
**REFERENCE:** Is the construction of a front door at no. 5 St Flannan's Avenue, Clarecastle considered development, and if so, is it exempted development?  
**LOCATION:** 5 St Flannan's Avenue, Clarecastle, V95 YW1E  
**DUE DATE:** 17<sup>th</sup> January 2025

**Site Location**

The subject site is located in St Flannan's Avenue in Clarecastle on lands zoned 'Existing Residential'. The site is located at no. 5 St. Flannan's Avenue, a cul-de-sac within a residential estate to the north of Clarecastle village centre. The site comprises an end terrace residential dwelling located on a corner plot in the wider residential estate. The dwelling elevation facing St. Flannan's Avenue has a 3-bay window on the ground floor, which matched that of the end of terrace dwelling on the opposite side of the terrace, which also comprises a small porch and front door facing onto Barrack Street. Similar designed dwellings are also present adjacent to the site on Church Drive.

The site is in the vicinity of a Lesser Horseshoe Bat Foraging Range and the Fergus Estuary Landscape Character Area.

It is not located in an Architectural Conservation Area, however, it is located adjacent to the Clarecastle ACA. There are no Protected Structures or Recorded Monuments on or near the subject site and it is not directly or indirectly connected to any European Sites. The edge of the site is located within Flood Zone B, however, it is noted that this does not extend across the full site and the dwellings within this flood zone are well established in place.

**Recent Planning History**

None

**Background to Referral**

This referral under Section 5(1) of the Planning and Development Act 2000 (as amended) has been made by the owner of the subject dwelling, Kate Power.

The applicant is seeking a Section 5 Declaration as to whether the construction of a front door at no. 5 St. Flannan's Avenue, Clarecastle is considered development, and if so, is it exempted development?

The applicant has stated that they are seeking to remove the existing door, which is located on an extension to the side of the dwelling facing the L-4198 road (Old Road) and place the front door on the front elevation of the dwelling facing St. Flannan's Avenue, which is a small private road providing vehicular access to the other dwellings in this terrace.

It is noted that this dwelling has frontage onto both the Old Road and onto St. Flannan's Avenue, with all dwellings in the terrace having front door access to St. Flannan's Avenue.

A site inspection was carried out on 13<sup>th</sup> January 2025 to review both the proposed works and the character of the area. The fenestration detail and door/porch placement on this dwelling were similarly noted at the opposite end of the same terrace on St Flannan's Avenue and in pairs on Church Drive to the south-west, as illustrated below.

**Subject dwelling:**



Opposite end of St. Flannan's Avenue Terrace:





Church Drive Terraces adjacent to site:



## Recommendation

### The following questions have been referred to the Planning Authority:

Whether the construction of a front door at no. 5 St Flannan's Avenue, Clarecastle is considered development, and if so, is it exempted development?

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

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended;
- (b) The works as indicated in submitted documents from the referrer.

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


- (a) The installation of a front door in place of part of an existing window and the removal of the porch and closing up of the front door on the side elevation, in the curtilage of a dwellinghouse, 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 would materially affect the external appearance of the dwelling so as to render the appearance of the dwelling inconsistent with the character of the surrounding area and neighbouring structures, whereby the end terrace units in the immediate surrounding area, on both St. Flannan's Avenue and Church Drive, are of similar design and layout, contrary to Section 4(1)(h) of the Planning and Development Act 2000 (as amended). The said development is, therefore, not exempted having regard to Section 4(1)(h) of the Planning and Development Act 2000 (as amended).

Now therefore Clare County Council (Planning Authority), hereby decides that:

The construction of a front door at no. 5 St Flannan's Avenue, Clarecastle is considered development, and is not exempted development.



Áine Bourke  
Executive Planner  
Date: 13/01/2025



Gareth Ruane  
Senior Executive Planner  
Date: 13/01/25

### \*Advice Note:

The planning authority note that there is no available planning history for the existing lean-to extension to the side of the dwelling facing the Old Road. Any future application for planning permission should clarify the status of this extension and, if required, seek to regularise its use.

## 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.

S.4.—(1) The following shall be exempted developments for the purposes of this Act—

(h) development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures;

## Assessment

### Basis of Referral

The applicants are seeking a Section 5 Declaration as to whether the construction of a front door at no. 5 St Flannan’s Avenue, Clarecastle is considered development, and if so, is it exempted development?

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

In accordance with Sections 2 and 3(1) of the Planning and Development Act 2000 (as amended) (hereafter referred to as ‘the Act’), the items listed above do fall under the definition of ‘works’ as they are alterations to a structure and are, resultingly, characterised as ‘development’.

S.4(1)(h) of the Act states that development consisting of works for the alteration of any structure, which affects only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures would be exempted development.

It is noted that there are similar examples of this same style of fenestration and placement of the door on the side elevation and within a small brown metal porch, none of which appear to have been materially altered in the immediate surrounding area on St Flannan’s Avenue and Church Drive, as indicated on the images above.

Having regard to the similar style dwellings in the immediate surrounding area, the construction of a new door on the front elevation, in place of part of the existing 3-bay window and the closing up of the existing door on the side elevation facing the Old Road would materially affect the external appearance of the structure and would render the appearance of the dwelling inconsistent with the character of both the dwelling and of the similar end of terrace dwellings both on Flannan’s Avenue and on Church Drive adjacent, and would therefore not be exempted under this section of the Act.



COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

**Kate Power**  
Patrick Street  
Clarecastle  
Co. Clare  
V95 Y11H

13/12/2024

**Section 5 referral Reference R24-97 – Kate Power**

Is the construction of a front door at No. 5 St Fiannan's Avenue, Clarecastle development and if so, is it exempted development?

A Chara,

I refer to your application received on 13th December 2024 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

Please note that the Planning Authority is considering the matter and a reply will issue to you in due course.

Mise, le meas

**Brian Fahy**  
Planning Department  
Economic Development Directorate

**An Roinn Pleanála**  
**An Stiúirthóireacht Forbairt Gheilleagrach**

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

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

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





P07

**CLARE COUNTY COUNCIL  
COMHAIRLE CONTAE AN CHLÁIR**

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

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



R24-97

**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*

<b>1. CORRESPONDENCE DETAILS.</b>	
(a) Name and Address of person seeking the declaration	<p>Kate Power</p> <p>Patrick Street</p> <p>Clarecastle</p> <p>Co. Clare <span style="float: right;">Eircode: V95Y11H</span></p>
(b) Telephone No.:	0830955518
(c) Email Address:	Katepatriciapower@gmail.com
(d) Agent's Name and address:	<p>_____</p> <p>_____</p> <p>_____</p> <p align="right">EIRCODE: _____</p>

**2. DETAILS REGARDING DECLARATION BEING SOUGHT**

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

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

Would the construction of a front door at No. 5 St. Flannan's Avenue, Clarecastle be exempt from planning permission?

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

We are seeking an exemption from planning permission to construct a front door to the property, No. 5 St. Flannan's Avenue, Clarecastle. This house is an end of terrace and currently the main door is located to the side of the property, through an extension.

It is proposed that we build a main front door in the place of a current window at the front of the building and that the existing side entrance will be closed up. (see plans attached).

The existing houses adjoined on this terrace feature a front door located to the right of the ground floor window.

That is why we believe the addition of a front door to the facade of No. 5 St Flannan's Avenue will only compliment the terrace of 1960s houses and will aesthetically match the terrace.

(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)*

<b>3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT</b>	
(a) Postal Address of the Property/Site/Building for which the declaration sought:	5 St. Flannan's Avenue, Clarecastle, Co. Clare V95YW1E
(b) Do the works in question affect a Protected Structure or are within the curtilage of a Protected Structure? If yes, has a Declaration under Section 57 of the Planning & Development Act 2000 (as amended) been requested or issued for the property by the Planning Authority?	No
(c) Legal interest in the land or structure in question of the person requesting the declaration (Give Details):	Owner of property.
(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>	
(e) Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?:	—
(f) Are you aware of any enforcement proceedings connected to this site? <i>If so please supply details:</i>	—
(g) Were there previous planning application/s on this site? <i>If so please supply details:</i>	—
(h) Date on which 'works' in question were completed/are likely to take place:	—

SIGNED: Kate Power

DATE: 13/12/24



**GUIDANCE NOTES**

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

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

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

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

**FOR OFFICE USE ONLY**

Date Received: .....	Fee Paid: .....
Date Acknowledged: .....	Reference No.: .....
Date Declaration made: .....	CEO No.: .....
Decision: .....	

535010 mE, 674280 mN



**Tailte Éireann**

Cláróidhín, Luacháil  
Suirbhéireacht  
Registration, Valuation  
Surveying

Folio: CE1248L

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

**Burdens** (may not all be represented on map)

— Right of Way / Wayleave

— Turbary

— Pipeline

○ Well

● Pump

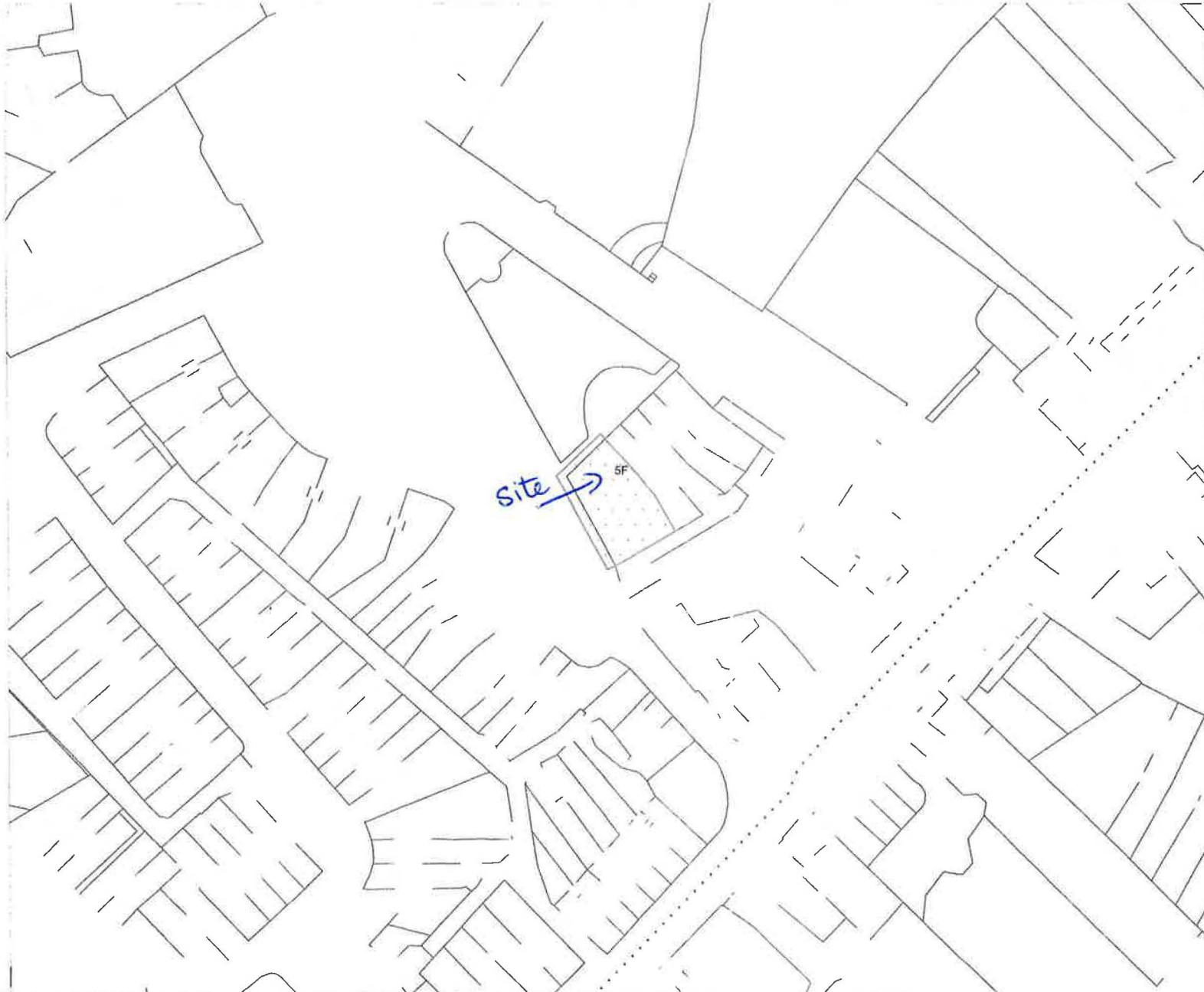
■ Septic Tank

▽ Soak Pit



A full list of burdens and their symbology can be found at: [www.landdirect.ie](http://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.





① Elevation North-West - existing  
1:100



② Elevation North-West - proposed  
1:100

5 ST. FLANNAN'S AVENUE CLARE COMMONS CLARECASTLE, CO. CLARE V95 YW1E	EXEMPTION FROM PLANNING PERMISSION - MINOR UPDATE TO HOUSE ELEVATION	Client		Stage	Scale	Drawing	Layout	Date
		DEAN POWER		CONCEPT	1:100	SB	A3	20.10.2024
		083 0939833	deanpower1@gmail.com					