



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Registered Post

Lorna Fitzpatrick
C/o Diarmuid Keane & Associates Ltd
O' Curry Street
Kilkee
Co. Clare

4th June 2025

Section 5 referral Reference R25-39 – Lorna Fitzpatrick

Is the construction of a 1200mm high block boundary wall to the front of Fitzpatrick's Bar, Chapel St, Kilkee development and if so, is it exempted development?

A Chara,

I refer to your application received on 12th May 2025 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 Stiúthóireacht 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:

85617

Reference Number:

R25-39

Date Referral Received:

12th May 2025

Name of Applicant:

Lorna Fitzpatrick

Location of works in question:

Fitzpatrick's Bar, Chapel St, Kilkee, Co. Clare

Section 5 referral Reference R25-39 – Lorna Fitzpatrick

Is the construction of a 1200mm high block boundary wall to the front of Fitzpatrick's Bar, Chapel St. Kilkee 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) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended,
- (c) The works as indicated in submitted documents from the referrer on the 12th May 2025.

AND WHEREAS Clare County Council has concluded:

- (a) The construction of a 1.2-metre-high block boundary wall to the front of Fitzpatrick's Bar, Chapel Street, Kilkee, 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 of the construction of a 1.2-metre-high block boundary wall to the front of Fitzpatrick's Bar, Chapel Street, Kilkee, County Clare is not exempted development having regard to Article 9(xi) and 9(xii) of the Planning and Development Regulations 2001, as amended, as the development would obstruct a public right of way along the footpath and would also materially affect the character of the Kilkee Architectural Conservation Area.

ORDER: Whereas by Chief Executive's Order No. HR 343 dated 19th May 2025, Gordon Daly, 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 Kieran O'Donnell, Administrative Officer, 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, Kieran O'Donnell, Administrative Officer, hereby declare that the construction of a 1.2-metre-high block boundary wall to the front of Fitzpatrick's Bar, Chapel Street, Kilkee, County Clare is **considered development** which is **not exempted development**.

Signed: 
KIERAN O'DONNELL
ADMINISTRATIVE OFFICER 

Date: 4th June 2025

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

Reference No.: R25-39



**Comhairle Contae an Chláir
Clare County Council**

Section 5 referral Reference R25-39

Is the construction of a 1200mm high block boundary wall to the front of Fitzpatrick's Bar, Chapel St, Kilkee development and if so, is it exempted development?

AND WHEREAS, Lorna Fitzpatrick 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) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended,
- (c) The works as indicated in submitted documents from the referrer on the 12th May 2025.

And whereas Clare County Council has concluded:

- (a) The construction of a 1.2-metre-high block boundary wall to the front of Fitzpatrick's Bar, Chapel Street, Kilkee, 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 of the construction of a 1.2-metre-high block boundary wall to the front of Fitzpatrick's Bar, Chapel Street, Kilkee, County Clare is not exempted development having regard to Article 9(xi) and 9(xii) of the Planning and Development Regulations 2001, as amended, as the development would obstruct a public right of way along the footpath and would also materially affect the character of the Kilkee Architectural Conservation Area.

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 1.2-metre-high block boundary wall to the front of Fitzpatrick's Bar, Chapel Street, Kilkee, County 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

4th June 2025

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

FILE REF:	R25-39
APPLICANT(S):	Lorna Fitzpatrick
REFERENCE:	Whether the construction of a 1.2 metre high block boundary wall to the front of Fitzpatrick's Bar, Chapel Street, Kilkee, County Clare, is or is not development and is or is not exempted development.
LOCATION:	<i>Fitzpatrick's Bar, Chapel St, Kilkee, Co. Clare</i>
DUE DATE:	18 th April 2025

Site Location

The site is located in Kilkee Town Centre and the Kilkee Architectural Conservation Area. It is a corner site at the junction of Ballalley Lane and Chapel Street. The site accommodates Fitzpatrick's Bar and a footpath to the front. There is a wooden shelter structure on the footpath. Views towards the site are local in range.

Recent Planning History

Onsite

None.

East

06-2163 – Incomplete application.

06-2657 – Granted - Noel McGrath - to demolish existing rear sheds, demolish existing rear bathroom, to alter and extend existing dwelling houses including the addition of a 2nd storey and ancillary works at Houses No. 1 & 2 Ballalley Lane, Kilkee, Co. Clare.

Background to Referral

This Referral under Section 5(3)(a) of the Planning and Development Act 2000 (as amended) has been made by Lorna Fitzpatrick. I inspected the site on the 30th May 2025.

The applicant is seeking a Section 5 Declaration as to whether the construction of a 1.2-metre-high block boundary wall to the front of Fitzpatrick's Bar, Chapel Street, Kilkee, County Clare, is or is not development and is or is not exempted development.

Statutory Provisions

Planning and Development Act, 2000 (as amended)

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

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

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

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

Planning & Development Regulations, 2001, 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.

Planning & Development Regulations, 2001, as amended Schedule 2, Part 1, Class 11

The construction, erection, lowering, repair or replacement, other than within or bounding the curtilage of a house, of –

- a) any fence (not being a hoarding or sheet metal fence), or*
 - b) any wall of brick, stone, blocks with decorative finish, other concrete blocks or mass concrete.*
- 1. The height of any new structure shall not exceed 1.2 metres or the height of the structure being replaced, whichever is the greater, and in any event shall not exceed 2 metres.*
 - 2. Every wall, other than a dry or natural stone wall, constructed or erected bounding a road shall be capped and the face of any wall of concrete or*

concrete blocks (other than blocks of a decorative finish) which will be visible from any road, path or public area, including a public open space, shall be rendered or plastered

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,

(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.

Assessment

Particulars of the Development

- Wall height 1.2 metres
- Wall finishes Plastered and capped
- Location On the footpath to the front of the public house

Planning Exemption Assessment

Planning & Development Regulations, 2001, as amended Schedule 2, Part 1, Class 11

The construction, erection, lowering, repair or replacement, other than within or bounding the curtilage of a house, of –

The proposed walls would be located on the public footpath to the front of the public house.

a) any fence (not being a hoarding or sheet metal fence), or

Plastered and capped walls of 1.2 metres in height are proposed.

- b) any wall of brick, stone, blocks with decorative finish, other concrete blocks or mass concrete.*

Plastered and capped walls of 1.2 metres in height are proposed.

- 3. The height of any new structure shall not exceed 1.2 metres or the height of the structure being replaced, whichever is the greater, and in any event shall not exceed 2 metres.*

Plastered and capped walls of 1.2 metres in height are proposed.

Every wall, other than a dry or natural stone wall, constructed or erected bounding a road shall be capped and the face of any wall of concrete or concrete blocks (other than blocks of a decorative finish) which will be visible from any road, path or public area, including a public open space, shall be rendered or plastered

Plastered and capped walls of 1.2 metres in height are proposed.

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 (for both the dwelling extension and the garage):

- (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,*

Not applicable.

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

The proposal would partially block the public footpath and reduce the area available for pedestrians to 1.2 metres. This would not be wide enough to allow for the likes of wheelchairs or buggies to pass one another possibly requiring such persons to use the public road. However, in such circumstances, and as there would be clear visibility between both sides of the path where same is narrowed, and as there is also a stand in ^{place} ~~at~~ at the access, this eventuality is unlikely to result in significant issues with regard to conflict between pedestrians and vehicles.

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

The proposal would not 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.

The proposed partial enclosure would not be in keeping with the settlement pattern and existing built vernacular along Chapel Street and would have adverse impacts on the character of the Kilkee ACA.

(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,

This is not applicable in this instance.

(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,*

This is not applicable in this instance.

- 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."*

This is not applicable in this instance.

- (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,*

This is not applicable in this instance.

- (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,*

This is applicable in this instance. The public footpath would be enclosed by the walls. This would obstruct the public right of way along the path.

- (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.

The proposed partial enclosure would not be in keeping with the settlement pattern and existing built vernacular along Chapel Street and would have adverse impacts on the character of the Kilkee ACA.

Recommendation

The following question has been referred to the Planning Authority:

Whether the construction of a 1.2-metre-high block boundary wall to the front of Fitzpatrick's Bar, Chapel Street, Kilkee, County Clare, is or is not development and is or is not 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) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended
- (c) The works as indicated in submitted documents from the referrer on the 12th May 2025.

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

- (a) The construction of a 1.2-metre-high block boundary wall to the front of Fitzpatrick's Bar, Chapel Street, Kilkee, 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 of the construction of a 1.2-metre-high block boundary wall to the front of Fitzpatrick's Bar, Chapel Street, Kilkee, County Clare is not exempted development having regard to Article 9(xi) and 9(xii) of the Planning and Development Regulations 2001, as amended, as the development would obstruct a public right of way along the footpath and would also materially affect the character of the Kilkee Architectural Conservation Area.

Now therefore Clare County Council (Planning Authority), hereby decides that the construction of a 1.2-metre-high block boundary wall to the front of Fitzpatrick's Bar, Chapel Street, Kilkee, County Clare, is development and is not exempted development.


Executive Planner
Date: 04th June 2025


Senior Planner
Date: 4/6/25

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	R25-39
Applicant Name	Fitzpatrick
Development Location	Kilkee
Application accompanied by an EIS	No
Application accompanied by an NIS	No

Description of the project (To include a site location map):

Boundary walls

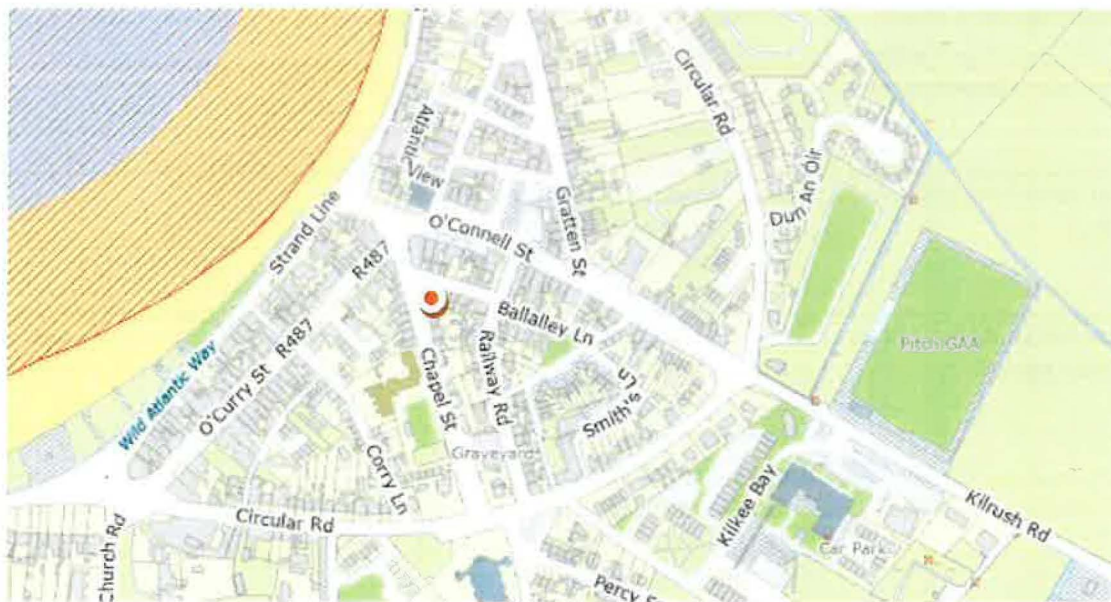


Table 2: Identification of European sites which may be impacted by the proposed development.

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)
Kilkee Reefs SAC	Large shallow inlets and bays [1160] Reefs [1170] Submerged or partially submerged sea caves [8330]	0.15

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>	Yes
2	Impacts on terrestrial habitats and species.	<i>Is the development within 1km of a European site with terrestrial based habitats or species?</i>	Yes
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

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.

5	Indirect effects	<p><i>Is the development, in combination with other existing or proposed developments likely to impact on an adjacent European site?</i></p> <p><i>Is any emission from the development (including noise) likely to impact on an adjacent habitat or species?</i></p>	<p>No – minor nature of works, distance from designations and no direct hydrological link</p>
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Appropriate Assessment Screening Determination	
Planning File Reference	R25-39
Proposed Development	Boundary walls
Development Location	Chapel Street Kilkee
European sites within impact zone	As per report
Description of the project	
Boundary walls	
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).	
No impacts envisaged.	
If there are potential negative impacts, explain whether you consider if these are likely to be significant, and if not, why not?	
minor nature of works, distance from designation and no direct hydrological link	
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	04 th June 2025

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.







COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Lorna Fitzpatrick
C/o Diarmuid Keane & Associates Ltd
O' Curry Street
Kilkee
Co. Clare

13/05/2025

Section 5 referral Reference R25-39 – Lorna Fitzpatrick

Is the construction of a 1200mm high block boundary wall to the front of Fitzpatrick's Bar, Chapel St, Kilkee development and if so, is it exempted development?

A Chara,

I refer to your application received on 12th May 2025 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

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

Mise, le meas

Brian Fahy
Planning Department
Economic Development Directorate

An Roinn Pleanála
An Stiúarthóireacht Forbairt Gheilleagrach

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

Planning Department
Economic Development Directorate

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



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

13/05/2025 09:57:03

Receipt No. L1CASH/0/378859
***** REPRINT *****

LORNA FITZPATRICK
C/O Diarmuid Keane & Associates Ltd
O'Curry St, Kilkee, Co Clare
REF. R25-39

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

P07

**CLARE COUNTY COUNCIL
COMHAIRLE CONTAE AN CHLÁIR**

Planning Department,
Economic Development Directorate,
Clare County Council,
New Road, Ennis,
Co. Clare.
V95DNP2

Telephone No. (065) 6821616
Fax No. (065) 6892071
Email: planoff@clarecoco.ie
Website: www.clarecoco.ie



R25-39

**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	LORNA FITZPATRICK FITZPATRICKS BAR CHAPEL STREET KILKEE CO. CLARE
(b) Telephone No.:	1 -
(c) Email Address:	
(d) Agent's Name and address:	DIARMUID KEANE + ASSOCIATES LTD O'CURRY STREET KILKEE 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 CONSTRUCTION OF A 1200 MM HIGH BLOCK BOUNDARY WALL TO THE FRONT OF FITZPATRICKS BAR, CHAPEL ST. KILKEE 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 APPLICANT WISHES TO CONSTRUCT A 1200 MM HIGH BOUNDARY WALL ACROSS THE FRONT OF THEIR BAR.

THE WALL WILL BE BUILT WITH BLOCK, FINISHED WITH PAINTED SMOOTH PLASTER AND CAPPED WITH A CONCRETE CAPPING.

THE EXISTING TIMBER STRUCTURE, WHICH WAS PUT IN PLACE DURING COVID, IS NOW ROTTEN AND NO LONGER FIT FOR PURPOSE.

A MINIMUM OF 1.2 M WIDE PUBLIC FOOTPATH WILL BE MAINTAINED IN FRONT OF THE PROPOSED WALL, WHICH IS MORE THAN EXISTS AT PRESENT DUE TO THE TIMBER STRUCTURE.

THE APPLICANT IS WILLING TO RE-SURFACE THE PUBLIC PATH IN FRONT OF THE BAR AS PART OF THE PROPOSED WORKS, SUBJECT TO AGREEMENT WITH CLARE CO. CO.

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

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

- 1: 1000 SITE LOCATION MAP
- 1: 1000 PLANS, ELEVATIONS, SECTION

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT	
(a) Postal Address of the Property/Site/Building for which the declaration sought:	FITZPATRICKS BAR CHAPEL ST KILLKEE CO. CLARE
(b) Do the works in question affect a Protected Structure or are within the curtilage of a Protected Structure? If yes, has a Declaration under Section 57 of the Planning & Development Act 2000 (as amended) been requested or issued for the property by the Planning Authority?	No
(c) Legal interest in the land or structure in question of the person requesting the declaration (Give Details):	OWNER
(d) If the person in (c) above is not the owner and/or occupier, state the name and address of the owner of the property in question: <i>Note: Observations in relation to a referral may be requested from the owner/occupier where appropriate.</i>	
(e) Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?:	No
(f) Are you aware of any enforcement proceedings connected to this site? If so please supply details:	No
(g) Were there previous planning application/s on this site? If so please supply details:	N/A
(h) Date on which 'works' in question were completed/are likely to take place:	JUNE 2025

SIGNED:



DATE:

01.05.25

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:.....			



FRONT ELEVATION (WEST)

01

SCALE 1:100

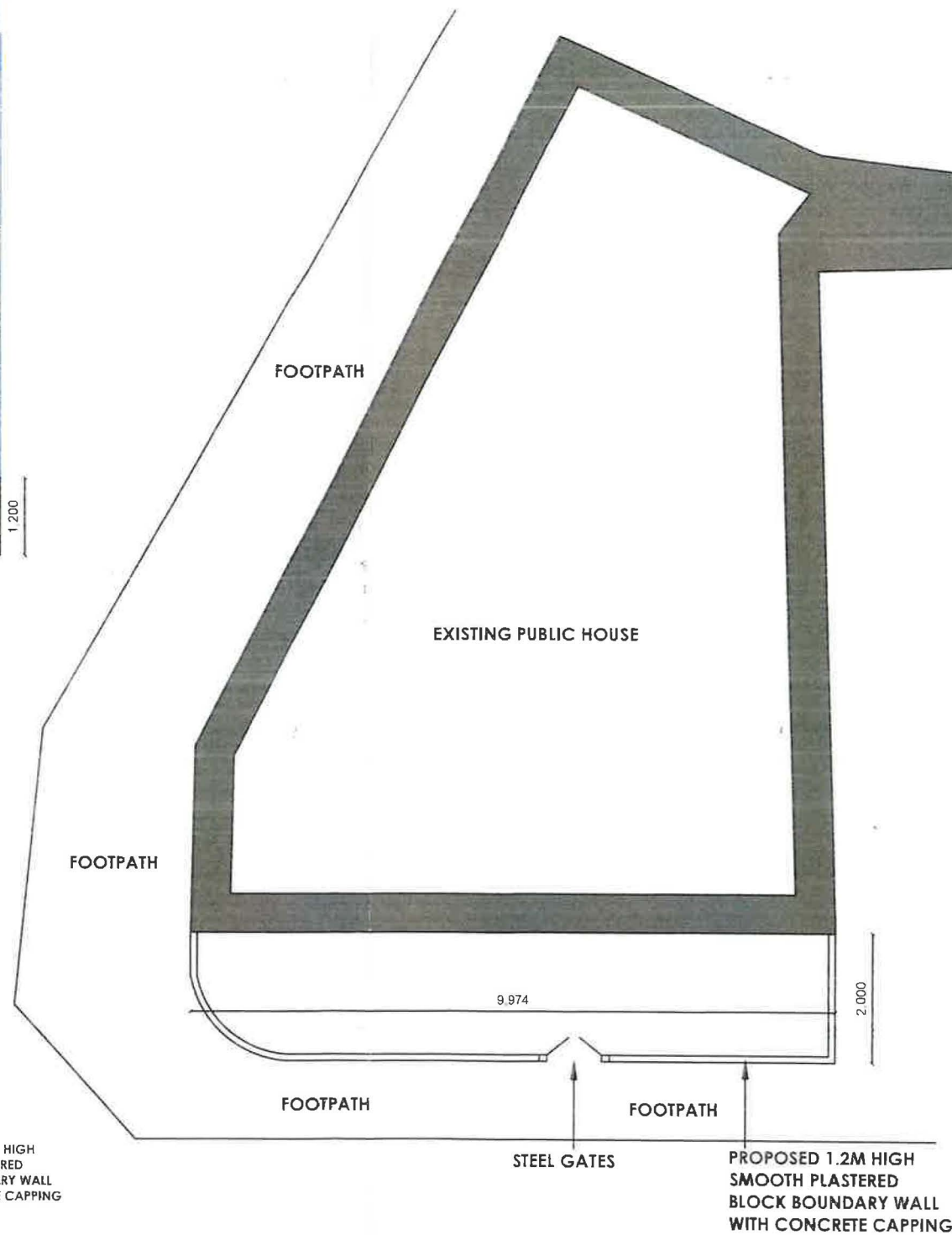
PROPOSED 1.2M HIGH
SMOOTH PLASTERED
BLOCK BOUNDARY WALL
WITH CONCRETE CAPPING



SIDE ELEVATION (NORTH)

03

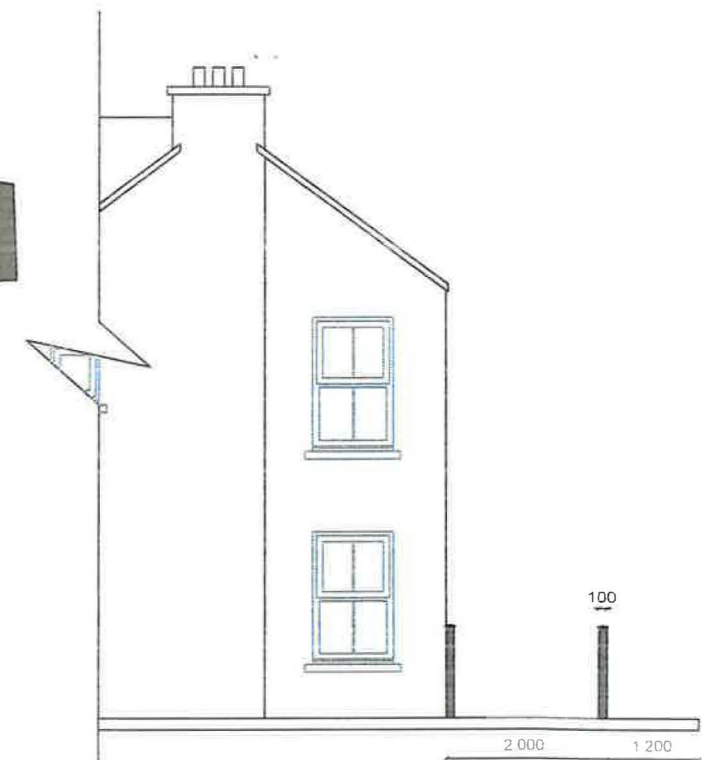
SCALE 1:100



GROUND FLOOR PLAN

02

SCALE 1:100



SECTION

04

SCALE 1:100

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DATE	REVISION	DETAILS	DRAWN

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O'Curry Street, Kilkee, Co. Clare.
T: 065-9083667 M: 087-4679682
E: info@diarmuidkeane.ie
W: www.diarmuidkeane.ie

DKA

<u>Project</u> Proposed Front Boundary Wall @ Fitzpatricks Bars Kilkee Co Clare		
<u>Client</u> Lorna Fitzpatrick	<u>Project Stage</u> Construction	
<u>Drawing</u> Proposed Ground Floor Plan Front & Side Elevation		
<u>Drawing By</u> Andrew Smith	<u>Checked By</u> Diarmuid Keane	<u>Client Ref No.</u> DKA-1572
<u>Date</u> 14-04-2025	<u>Drawing No.</u> DKA-1572-15	
<u>Scale</u> 1:100 @ A3		

Land Registry Compliant Map



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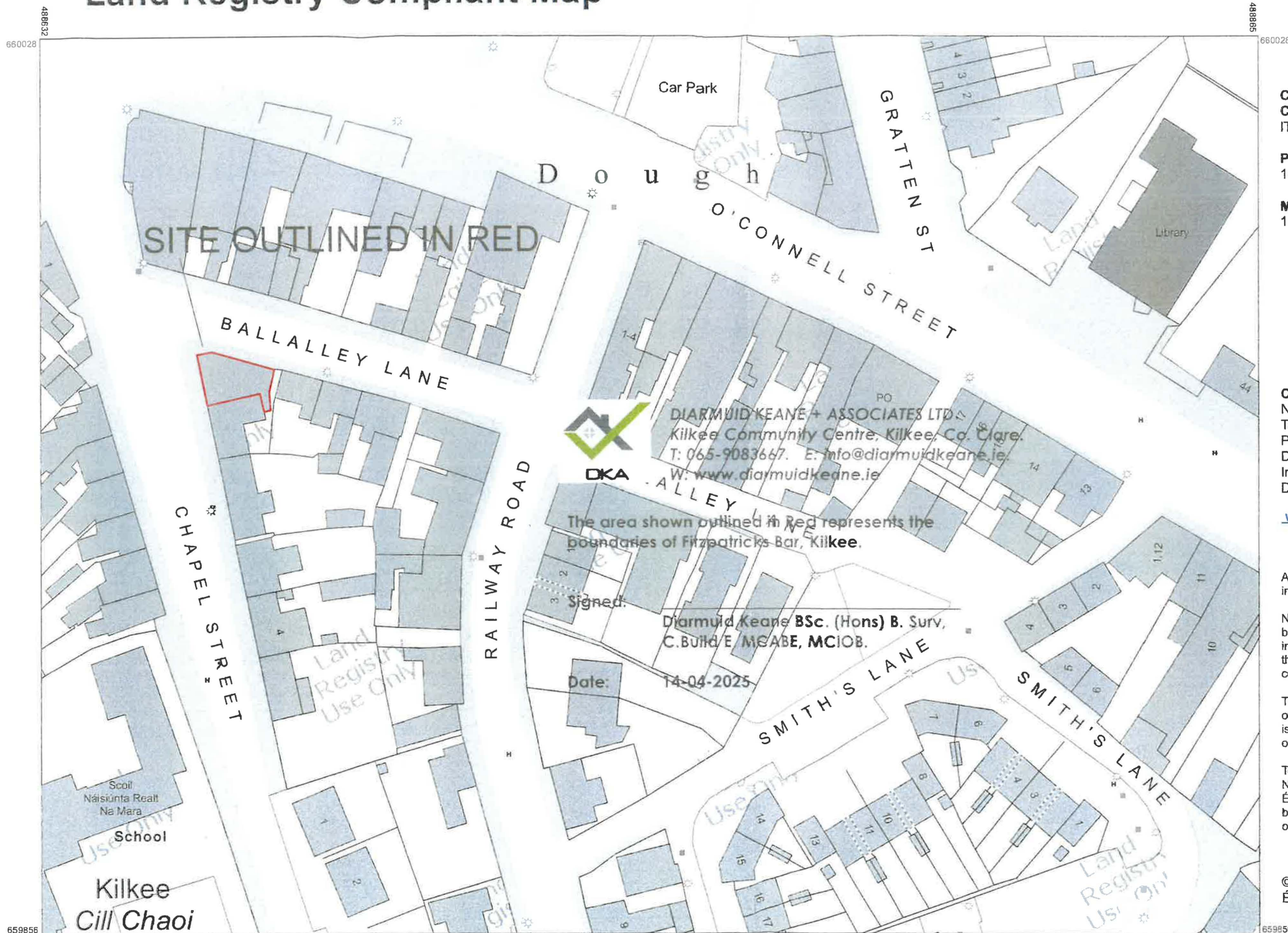
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