



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Registered Post

Beckman Coulter
Lismeehan
O Callaghan Mills
Co Clare

23/7/2021

Section 5 referral Reference R21-39 – Beckman Coulter

Whether the construction of a chimney stack at Lismeehan, Callaghan Mills, Co Clare is considered development and if so, is it exempted development.

A Chara,

I refer to your application received on 2nd July, 2021 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 Stiúrthóireacht Forbairt Gheilleagrach
Áras Contae an Chláir, Bóthar Nua, Inis, Co. an Chláir, V95 DXP2

Planning Department
Economic Development Directorate
Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2



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

Reference No.: R21-39



Comhairle Contae an Chláir
Clare County Council

Section 5 referral Reference R21-39

Whether the construction of a chimney stack at Lismeehan, Callaghan's Mills, Co Clare is considered development and if so, is it exempted development.

AND WHEREAS, Beckman Coulter has requested a declaration from Clare County Council on the said question.

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

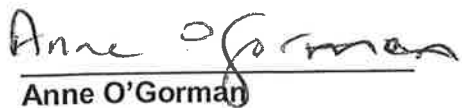
- (a) Sections 2, 3 and 4(1) (h) of the Planning and Development Act, 2000, as amended;
- (b) Articles 6, 9 and 10 of the Planning and Development Regulations, 2001 as amended and in particular Appendix 1 Planning and Development (Amendment)(No. 2) Regulations 2018 (S.I. No. 30 of 2018);
- (c) Part 4 Article 10 Exempted Development – Classes of use, Class 1- use as a shop ;
- (d) The planning history on site; (e) Sustainable Urban Housing: Design Standards for New Apartments -Guidelines for Planning Authorities', December 2020.

And whereas Clare County Council has concluded:

- (a) The construction of chimney stack 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 construction of chimney stack is exempted development by virtue of Schedule 2, Part 1, Class 21 of the Planning and Development Regulations 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 chimney stack at Lismeehan, O'Callaghan's Mills, Co. Clare constitutes development which is exempted development as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.



Anne O'Gorman
Staff Officer
Planning Department
Economic Development Directorate

23/7/2021

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:

78085A

Reference Number:

R21-39

Date Referral Received:

2nd July, 2021

Name of Applicant:

Beckman Coulter

Location of works in question:

Lismeehan O'Callaghan's Mills Co Clare

Section 5 referral Reference R21-39 – Beckman Coulter

Whether the construction of a chimney stack at Lismeehan, Callaghan's Mills, Co Clare is considered development and if so, is it exempted development.

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

- (a) Sections 2, 3 and 4(1) (h) of the Planning and Development Act, 2000, as amended;
- (b) Articles 6, 9 and 10 of the Planning and Development Regulations, 2001 as amended and in particular Appendix 1 Planning and Development (Amendment)(No. 2) Regulations 2018 (S.I. No. 30 of 2018);
- (c) Part 4 Article 10 Exempted Development – Classes of use, Class 1- use as a shop ;
- (d) The planning history on site; (e) Sustainable Urban Housing: Design Standards for New Apartments -Guidelines for Planning Authorities', December 2020.

AND WHEREAS Clare County Council has concluded:

- (a) The construction of chimney stack 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 construction of chimney stack is exempted development by virtue of Schedule 2, Part 1, Class 21 of the Planning and Development Regulations 2000 (as amended).

ORDER: Whereas by Chief Executive's Order No. HR 152 dated 9th April 2021, Pat Dowling, Chief Executive for Clare County Council, did, pursuant to the powers conferred on him by Section 154 of the Local Government Act 2001, delegate to Garreth 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, Garreth Ruane, Senior Executive Planner, hereby declare that the construction of a chimney stack at Lismeehan, O'Callaghan's Mills, Co. Clare is considered development which is exempted development

Signed:



GARRETH RUANE
SENIOR EXECUTIVE PLANNER

Date:

23/7/2021 

CLARE COUNTY COUNCIL
SECTION 5 DECLARATION OF EXEMPTION APPLICATION
PLANNERS REPORT

FILE REF:	R21-39
APPLICANT(S):	Beckman Coulter
REFERENCE:	Whether the construction of a chimney stack at Lismeehan, Co. Clare is considered development and if so, is it exempted development.
LOCATION:	Lismeehan, O' Callaghan's Mills, County Clare
DUE DATE:	23 rd July 2021

Site Location

The proposal site is located on the north side of the R352 between Tulla and Bodkye. The site comprises a large industrial facility located in an otherwise rural part of the county.

Recent Planning History

P95/168 – GRANTED - Permission to construct a road and effluent holding tank at their premises

P03/745 – GRANTED - to add a two storey, offices, laboratory block, fronting a single storey production area at ground floor to existing facilities

P15/481 – GRANTED - to construct a warehouse/coldroom and compressor room extension to the main facility building, to complete work on existing hardcore area to become a permanent carpark, to increase the permitted production capacity from the limit of 1,295,000 kits as permitted under P03-745 to 10,000,000 kits annually, and all associated site works

P16/611 – GRANTED - for proposed development which will consist of an extension to the existing facility of 6,840sqms gross floor area. A total of 5,112sqms will be at ground floor level including new production and warehouse space. There will be additional office space extending to 1,728sqms at first floor level. There will also be an extended service yard at the north west of the proposed development with additional dock levellers. The development also includes additional parking for 137cars bringing the total parking to 388 cars. A new internal service road to the east of the facility and additional turning areas are proposed. The smoking shelter located to the east of the existing facility will be removed. The existing on site Waste Water Treatment infrastructure will be upgraded as follows: installation of additional process water treatment tank; installation of additional foul water treatment tank; installation of chemical spill tank; installation of water recycling system; and the installation of a third reed bed to the north of the facility, close to the existing reed beds. The development includes all construction and site development works (including all site compounds and work areas). It includes all new and amended drainage arrangements, hard and soft landscaping, lighting and boundary treatments. The application is accompanied by a Natura Impact Statement. This application site included two Recorded Monuments which will remain in situ.

Background to Referral

This Referral under Section 5(3)(a) of the Planning and Development Act 2000 (as amended) has been made by Michael Flynn on behalf of Beckman Coulter, who are the legal owners of the site.

The applicant is seeking a Section 5 Declaration as to whether the construction of a chimney stack at Lismeehan, O' Callaghan's Mills, Co. Clare is considered development and if so, is it 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.

Part 2, Article 5 of the Planning and Development Regulations includes the follows definitions:

An “Industrial building” is *a structure (not being a shop, or a structure in or adjacent to and belonging to a quarry or mine) used for the carrying on of any industrial process.*

An “Industrial process” is *any process which is carried on in the course of trade or business, other than agriculture, and which is*

a) for or incidental to the making of any article or part of an article, or

b) for or incidental to the altering, repairing, ornamenting, finishing, cleaning, washing, packing, canning, adapting for sale, breaking up or demolition of any article, including the getting, dressing or treatment of minerals

and for the purposes of this paragraph, “article” includes

(i) a vehicle, aircraft, ship or vessel, or

(ii) a sound recording, film, broadcast, cable programme, publication and computer program or other original database

An “industrial undertaker” means *a person by whom an industrial process is carried on and “industrial undertaking” shall be construed accordingly.*

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

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 1, Class 21

(a) Development of the following descriptions, carried out by an industrial undertaker on land occupied and used by such undertaker for the carrying on, and for the purposes of, any industrial process, or on land used as a dock, harbour or quay for the purposes of any industrial undertaking—

(i) the provision, rearrangement, replacement or maintenance of private ways or private railways, sidings or conveyors,

(ii) the provision, rearrangement, replacement or maintenance of sewers, mains, pipes, cables or other apparatus,

(iii) the installation or erection by way of addition or replacement of plant or machinery, or structures of the nature of plant or machinery.

(b) Any works for the provision within the curtilage of an industrial building of a hard surface to be used for the purposes of or in connection with the industrial process carried on in the building.

This is subject to the following conditions and limitations:

- Any such development shall not materially alter the external appearance of the premises of the undertaking.
- The height of any plant or machinery, or any structure in the nature of plant or machinery, shall not exceed 15 metres above ground level or the height of the plant, machinery or structure replaced, whichever is the greater.

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

Basis of Referral

The applicant is seeking a Section 5 Declaration as to whether the construction of chimney stack at Lismeehan, O' Callaghan's Mills, Co. Clare is considered development and if so, is it exempted development.

Particulars of Proposal

The applicant has indicated that the chimney was installed as part of factory fit-out works. The chimney is 14.060m high.

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 1, Class 21

(a) Development of the following descriptions, carried out by an industrial undertaker on land occupied and used by such undertaker for the carrying on, and for the purposes of, any industrial process, or on land used as a dock, harbour or quay for the purposes of any industrial undertaking—

(i) the provision, rearrangement, replacement or maintenance of private ways or private railways, sidings or conveyors,

(ii) the provision, rearrangement, replacement or maintenance of sewers, mains, pipes, cables or other apparatus,

(iii) the installation or erection by way of addition or replacement of plant or machinery, or structures of the nature of plant or machinery.

(b) Any works for the provision within the curtilage of an industrial building of a hard surface to be used for the purposes of or in connection with the industrial process carried on in the building.

I am satisfied based on the submitted information and the definitions set out under Article 2, Part 5 of the Planning and Development Regulations that the applicant is an *industrial undertaker* who is undertaking and *industrial process* on the land. The chimney stack which has been constructed is associated with the industrial process taking place on the site. The applicant has submitted detailed drawings of the structure and it is directly connected to the main industrial building on the site. I am satisfied that the chimney stack can be consider as Class 21 (iii) *the installation or erection by way of addition or replacement of plant or machinery, or structures of the nature of plant or machinery.*

This is subject to the following conditions and limitations:

1. *Any such development shall not materially alter the external appearance of the premises of the undertaking.*

The chimney which is the subject of this referral is approximately 2.5m higher than the surrounding buildings on the site. It is visible from the public road. However, the structure is located within a substantial industrial facility. The finishes of the chimney are in keeping with the existing buildings on the site and it is not at odds with its setting. Given the small physical footprint of the chimney in the context of the overall industrial setting, the development is not considered to materially alter the appearance of the premises.

2. *The height of any plant or machinery, or any structure in the nature of plant or machinery, shall not exceed 15 metres above ground level or the height of the plant, machinery or structure replaced, whichever is the greater.*

The chimney is 14.060m in height and therefore does not exceed the height limitation.

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 in this instance.

- (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 in this instance

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

Not applicable in this instance

- (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.*

This site is located within a Settled Landscape. Having regard to the nature of the proposed development, the nature of the proposal site and its receiving environs and the view available towards the site it is considered that development proposed would not interfere with the character of the local landscape.

- (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 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,*

The site is located in close proximity to Recorded Monument CL035-034 Wedge Tomb. All permitted developments on the site have been subject to archaeological assessment and monitoring. The chimney which is the subject of this referral is based in a brownfield part of the site and no new assessment is required.

- 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 proposed development is not likely to have a significant effect on the integrity of 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 to the proposed development

- (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 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 not applicable in this instance.

- (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

The following questions have been referred to the Planning Authority:

Whether the construction of a chimney stack at Lismeehan, O' Callaghan's Mills, Co. Clare is considered development and if so, is it exempted development.

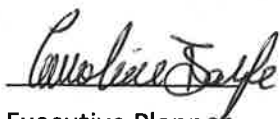
The Planning Authority in considering this referral had regard to:

- a. Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended;
- b. Articles 5, 6 and 9 of the Planning and Development Regulations 2001, as amended;
- c. Class 21 of Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended;
- d. The works as indicated in submitted documents from the referrer.

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

- (a) The construction of chimney stack 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 construction of chimney stack is exempted development by virtue of Schedule 2, Part 1, Class 21 of the Planning and Development Regulations 2000 (as amended).

Now therefore Clare County Council (Planning Authority) hereby decides that construction of a chimney stack at Lismeehan, O' Callaghan's Mills, Co. Clare is development and is exempted development.



Executive Planner

Date: 21/07/2021



Senior Executive Planner

Date: 21/07/2021

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

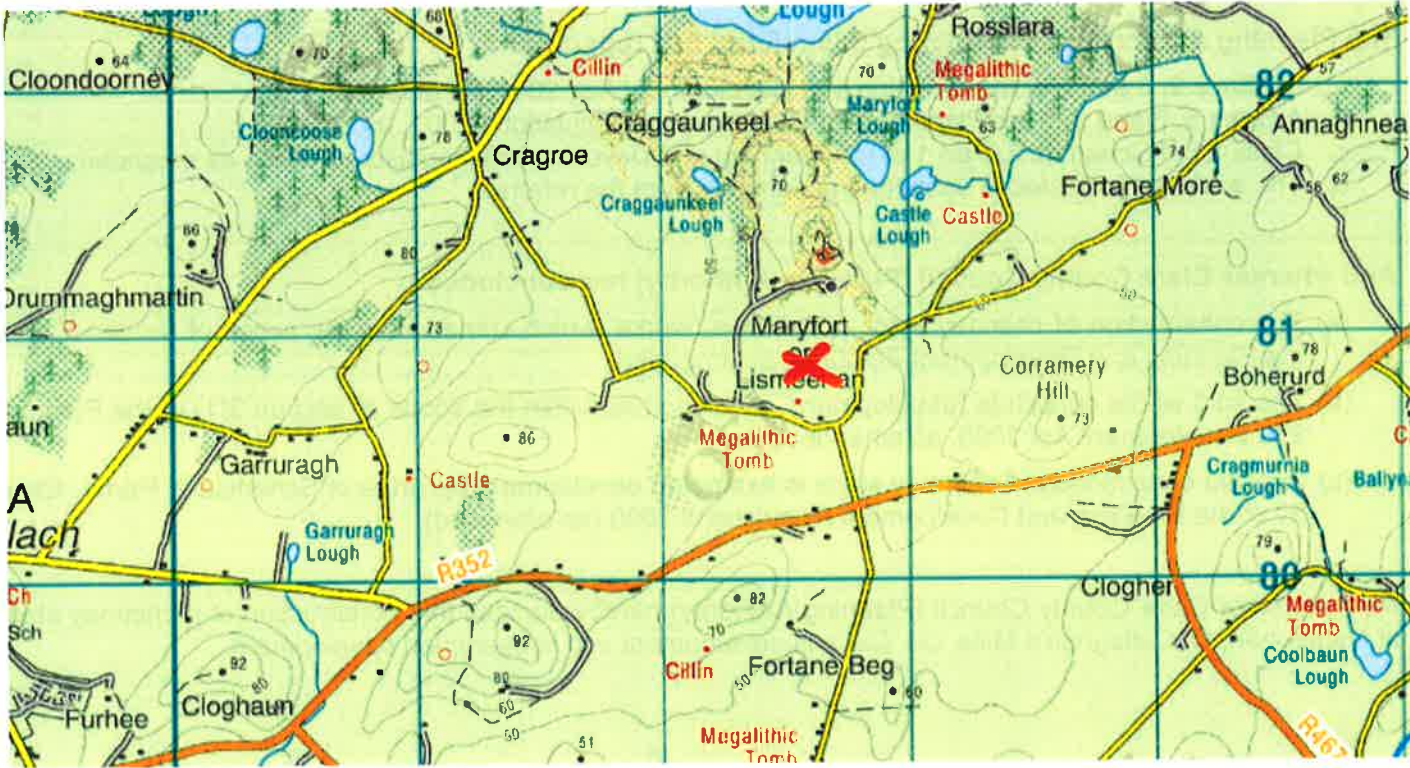
Planning File Reference	R21-39
Applicant Name	Beckman Coulter
Development Location	at Lismeehan, O' Callaghan's Mills, Co. Clare
Application accompanied by an EIS	No
Application accompanied by an NIS	No
Description of the project (To include a site location map):	
<p>Whether the construction of a chimney stack is development and if so, is it exempted development</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.

Having regard to the nature, scale and location of the proposed development and the lack of connectivity to European Sites, I consider the likely zone of impact of the project to be no greater than 3km.

Table 2 (a): European Sites within 3km 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)
Slieve Aughty Mountains SPA	<ul style="list-style-type: none"> • Hen Harrier <i>Circus cyaneus</i> [A082] breeding • Merlin <i>Falco columbarius</i> [A098] breeding 	1.6km

1	Impacts on designated rivers, streams, lakes and fresh water dependant habitats and species.	Is the development in the catchment of or immediately upstream of a watercourse that has been designated as a European site?	No
2	Impacts on terrestrial habitats & species.	Is the development within 1km of a European site with terrestrial based habitats or species?	No
3	Impacts on designated marine habitats & species.	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	No
4	Impacts on birds in SPAs	Is the development within 1km of a Special Protection Area	No
5	Indirect effects	Is the development, in combination with other existing or proposed developments likely to impact on an adjacent European site? Is any emission from the development (including noise) likely to impact on an adjacent habitat or species?	No in-combination effects likely No emissions likely

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.

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	R21-39
Proposed Development	Whether the construction of a chimney stack is exempted development
Development Location	at Lismeehan, O'Callaghan's Mills, Co. Clare
European sites within impact zone	Slieve Aughty Mountains SPA
Description of the project:	
Construction of a chimney stack	
Qualifying Interests (QIs)/Special Conservation Interests (SCIs) of European site	
Slieve Aughty Mountains SPA <ul style="list-style-type: none"> • Hen Harrier <i>Circus cyaneus</i> [A082] breeding • Merlin <i>Falco columbarius</i> [A098] breeding 	
Describe how the project or plan (alone or in combination) is likely to affect the European site(s).	
No likely effects due to the nature, scale and location of the proposed development and lack of proximity or connectivity to European Sites	
If there are potential negative impacts, explain whether you consider if these are likely to be significant, and if not, why not?	
N/A – no likely effects	
Documentation reviewed for making this statement	
<ul style="list-style-type: none"> - County Development Plan (including Flood Maps, SEA & AA) - NPWS website - Documents received as part of the Section 5 declaration application 	
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 Sites³	Yes
(c) The potential for significant effects to European Site(s) cannot be ruled out⁴	
(d) Significant effects to European sites are certain or likely or where potential for significant effects to European sites remains following receipt of Further Information requested under S177U of the Planning and Development (Amendment) Act 2010⁵	
Completed By	Caroline Balfe
Date	21/07/2021

³ Appropriate Assessment is not required and therefore Planning permission may be granted at this stage subject to all other planning considerations. However, no material 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.

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.

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) 682166
Fax No. (065) 6892071
Email: planoff@clarecoco.ie
Website: www.clarecoco.ie



**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	BECKMAN COULTER LISMEEHAN O'CALLAGHAN MILLS CO. CLARE IRELAND.
(b) Telephone No.:	
(c) Email Address:	
(d) Agent's Name and address:	MICHAEL FLYNN BECKMAN COULTER O'CALLAGHAN MILLS 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 CHIMNEY STACK
 AT BECKMAN COULTER, LISMECHAN, O'CALLAGHAN MILLS
 EXEMPT DEVELOPMENT

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

Chimney stack installed As part of
 Factory fit out works.

As The STACK WAS UNDER 15 meters, IT
 WAS DEAMED UNDER THE EXEMPT DEVELOPMENT.

HOWEVER UNDER EPA INSPECTION IT
 WAS REQUESTED TO GET CONFIRMATION
 FROM CLARE COUNTY COUNCIL PLANNING
 SECTION THAT THE STACK IS EXEMPT.

- (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)

ELEVATION OF FRONT & SIDE OF BUILDING (SCALE TO FIT)

FRONT & SIDE ELEVATIONS OF STACK (1/100)

OSI MAPS 1/2500 & 1/10560

PICTURES OF STACK.

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT	
(a) Postal Address of the Property/Site/Building for which the declaration sought:	Beckman Coulter Lismeehan O'Callaghan Mills 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):	YES Beckman Coulter is The OWNER
(d) If the person in (c) above is not the owner and/or occupier, state the name and address of the owner of the property in question: <i>Note: Observations in relation to a referral may be requested from the owner/occupier where appropriate.</i>	N/A
(e) Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?:	YES. N/A.
(f) Are you aware of any enforcement proceedings connected to this site? If so please supply details:	YES
(g) Were there previous planning application/s on this site? If so please supply details:	YES. 15/481 16/611
(h) Date on which 'works' in question were completed/are likely to take place:	2016 - 2017.

SIGNED: Michael Hyer

DATE 31/6/21

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:	

FOR PAYMENT: MICHAEL FLYNN 087-2945384.

Planning Pack Map

CENTRE COORDINATES:
ITM 552612.680779

PUBLISHED: 06/05/2021 **ORDER NO.:** 50190666_1

MAP SERIES: 1:5,000 **MAP SHEETS:** 4269

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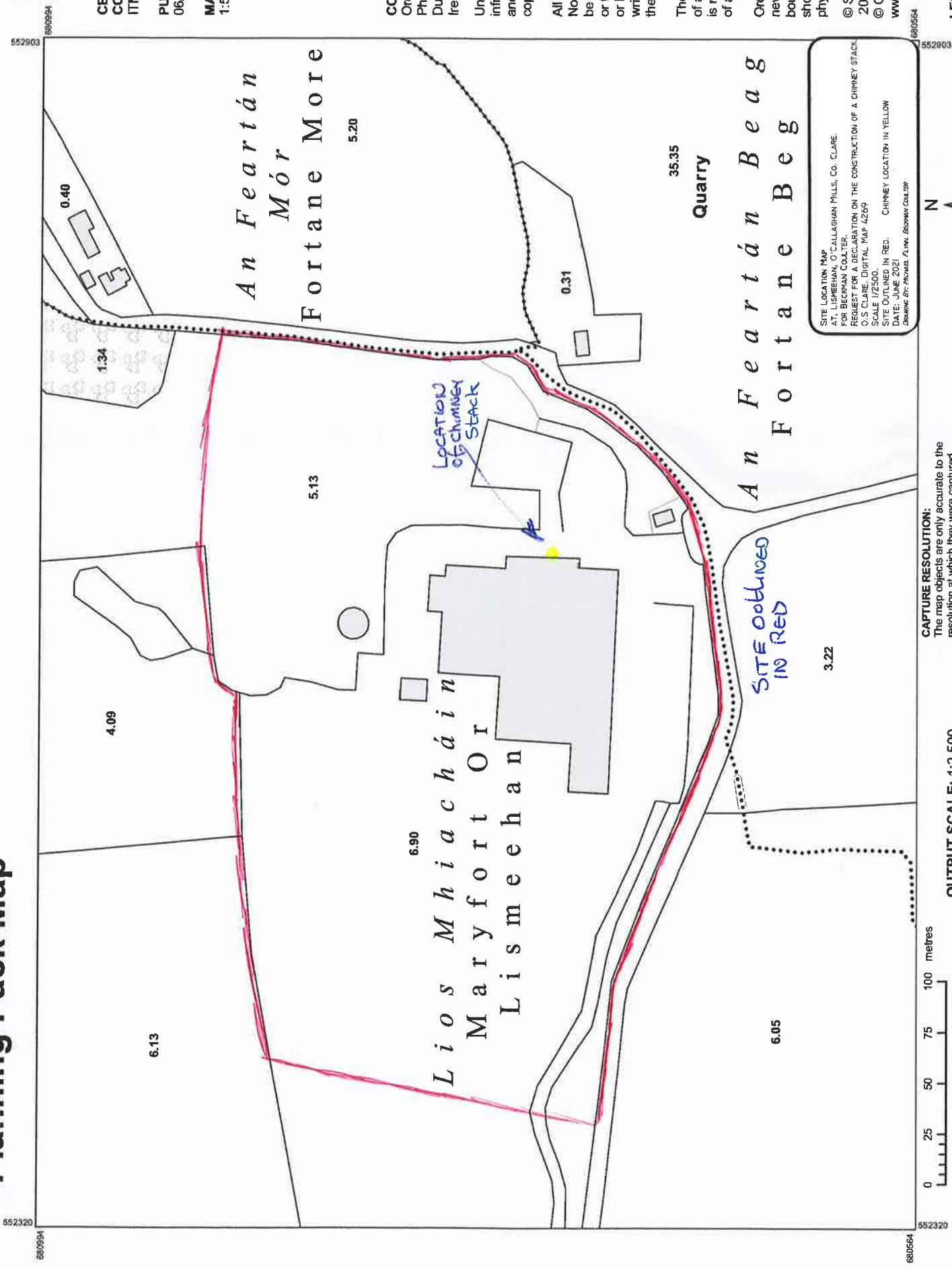
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<http://www.osi.ie/>
search 'Large Scale Legend'



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Further information is available at:
<http://www.osi.ie>, search 'Capture Resolution'

OUTPUT SCALE: 1:2,500

Beckman Coulter Chimney Stack

Picture 1 of 3



Chimney stack form entrance to factory

Picture 2 of 3

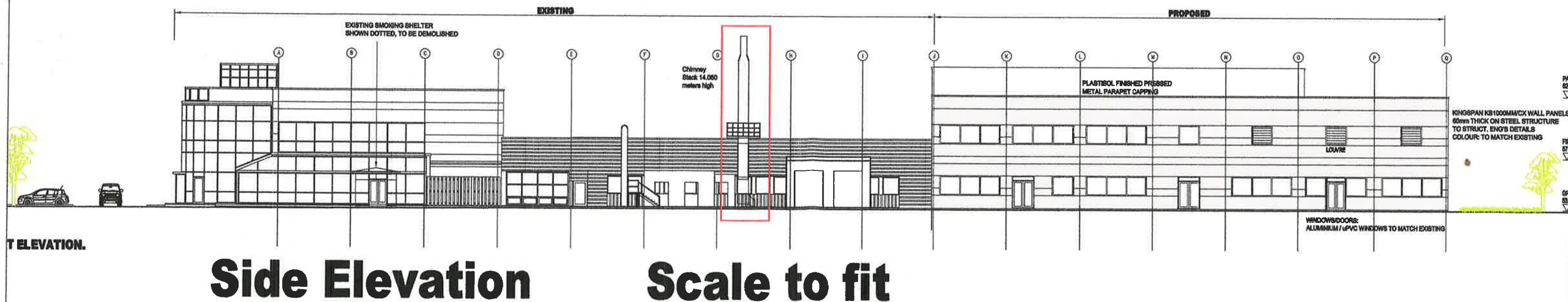
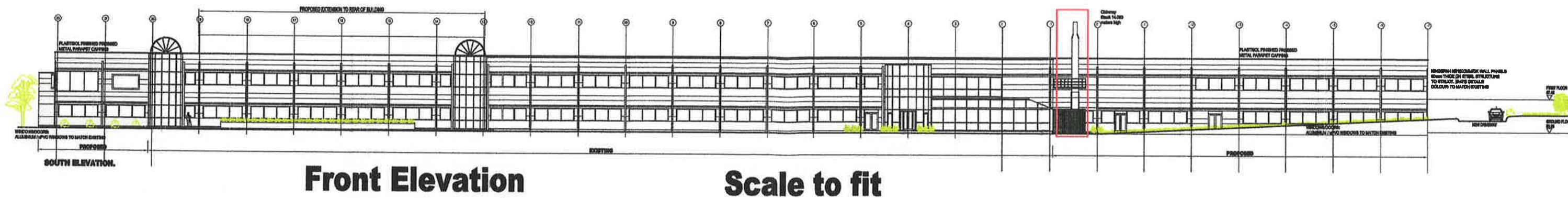


Chimney stack form within the factory grounds. Front view

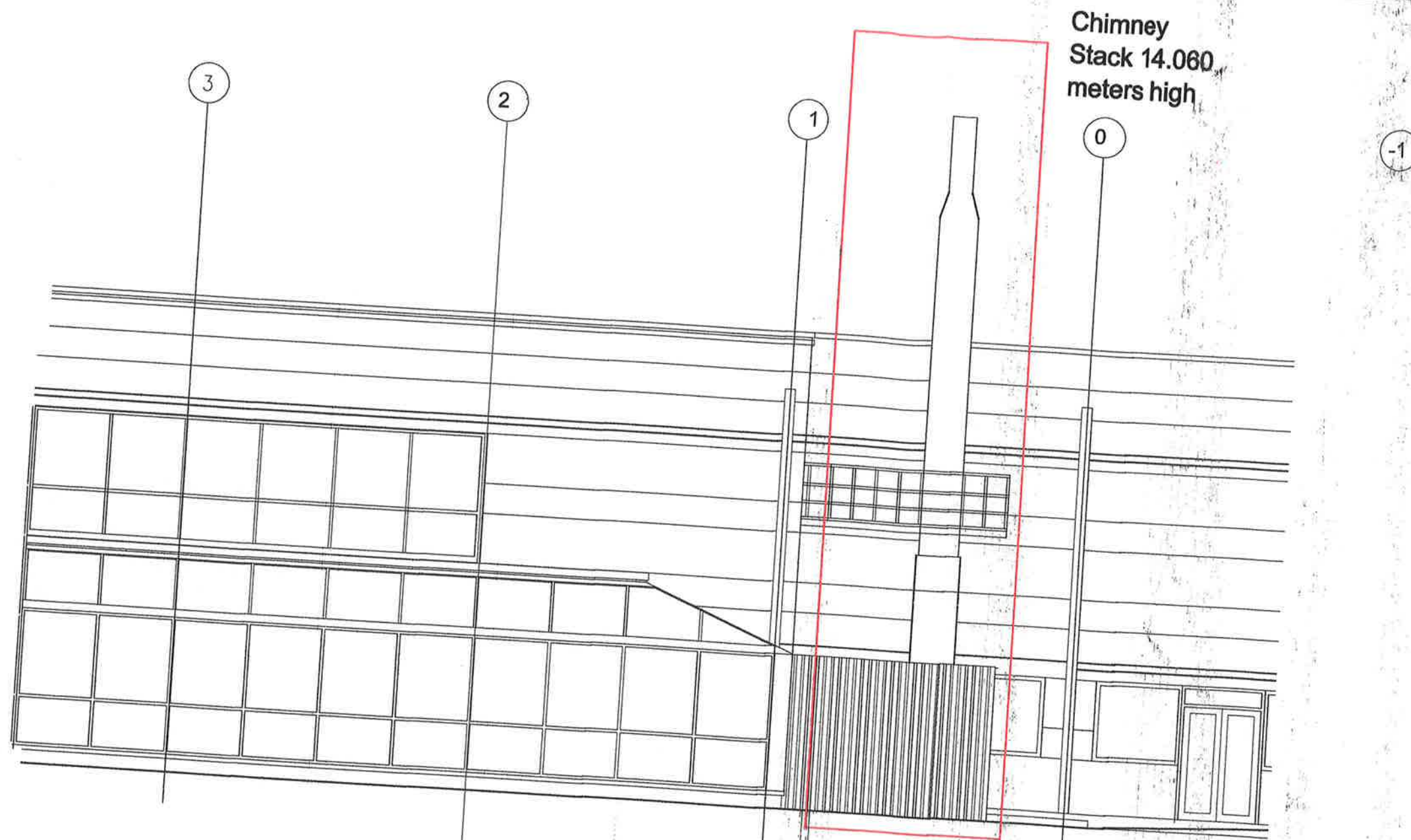
Picture3 of 3



Side view of Chimney stack form within the factory grounds



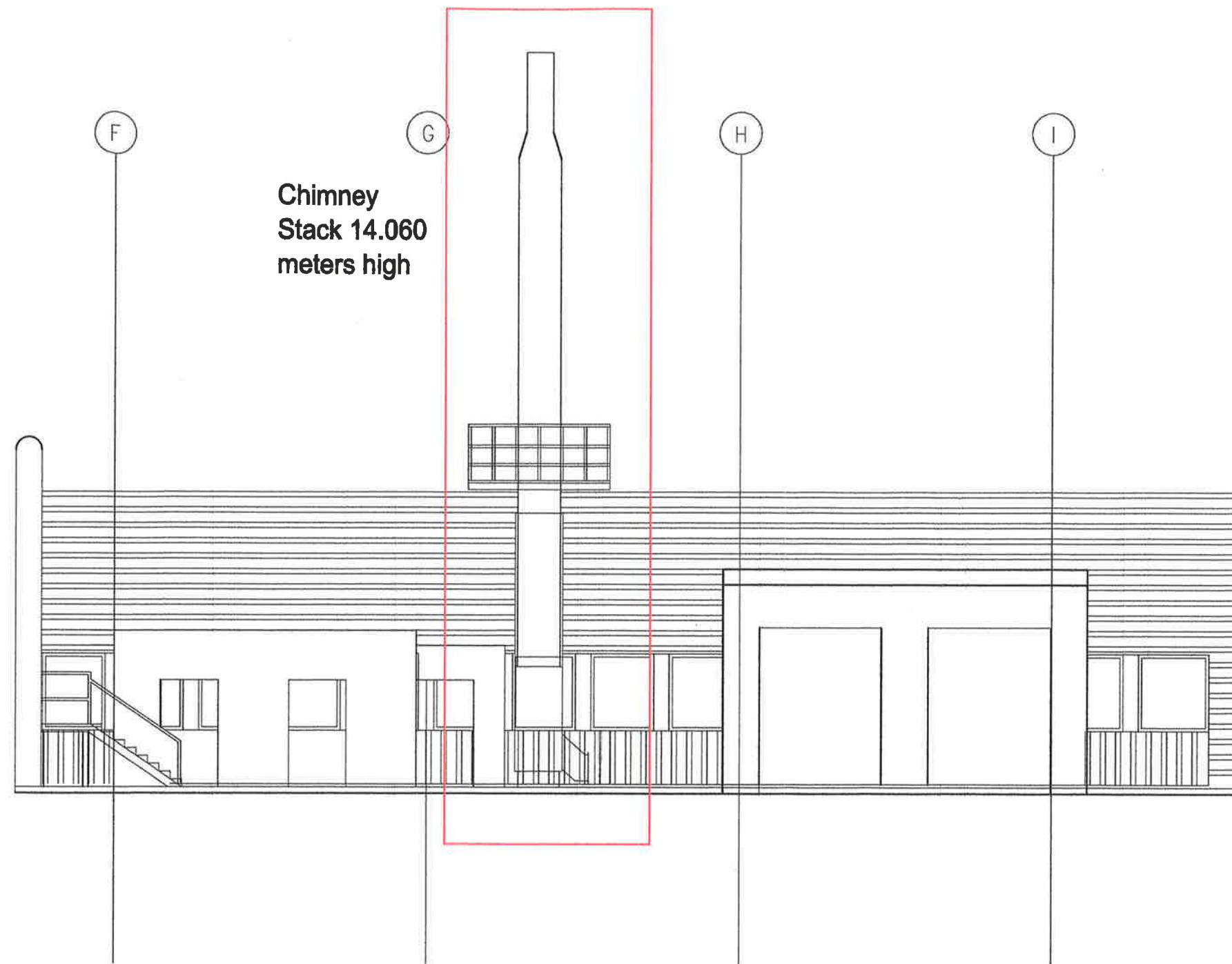
CLIENT:		Beckman Coulter.	
PROJECT:		Beckman Coulter Chimney stack	
LOCATION:		Lismeehan, O'Callaghan Mills, Co. Clare	
Date :	June 2021	Scale :	Scale to fit
Drawn :	M.F.	Stage :	PLANNING
Title:	ELEVATIONS	Rev:	
Drawing No :	1		



Chimney Stack Front Elevation.
Chimney Stack outlined in Red

Scale 1:100

CLIENT:		Beckman Coulter.	
PROJECT:		Beckman Coulter Chimney stack	
LOCATION:		Lismeehan, O'Callaghan Mills, Co. Clare	
Date :	June 2021	Scale :	1:100
Drawn :	M.F.	Stage :	PLANNING
Title:	ELEVATIONS	Rev:	
Drawing No :	2		



Chimney Stack Side Elevation.

Chimney Stack outlined in Red

Scale 1:100

CLIENT: Beckman Coulter.	
PROJECT: Beckman Coulter Chimney stack	Date : June 2021
	Scale : 1:250 (A1)
	Drawn : T.H.
LOCATION: Lismeehan, O'Callaghan Mills, Co. Clare	Stage : PLANNING
	Title : ELEVATIONS
	Drawing No : 3
	Rev:

AN CHLAIR

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

05/07/2021 11:37:38

Receipt No. : LICASH-0318788

REPRINT

BECKMAN COULTER
LISMEEHAN
O'CALLAGHAN'S MILLS
CO. CLARE
R21-39



SECTION 5 REFERENCES 80.00

GOODS 80.00

VAT Exempt/Non-vatable

Total : 80.00 EUR

Tendered :
CREDIT CARDS 80.00

Change : 0.00

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