



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Registered Post

**Madge O Callaghan
Main Street
Labasheeda,
Co. Clare.**

1st April, 2021

Section 5 referral Reference R21-14 – Madge O Callaghan

Whether the change of use from commercial to residential use is considered development and if so, is it exempted development at St. Joseph's School, Kilbane, Broadford Co. Clare V94 P791.

A Chara,

I refer to your application received on 18th March 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

**Kieran O'Donnell
Administrative 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.: R21-14



Comhairle Contae an Chláir
Clare County Council

Section 5 referral Reference R21-14

Whether the change of use from commercial to residential use is considered development and if so, is it exempted development at St. Joseph's School, Kilbane, Broadford Co. Clare V94 P791.

AND WHEREAS, Madge O Callaghan 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, 9 and 10 of the Planning and Development Regulations 2001, as amended;
- (c) Classes 1, 2, 3 and 6 of Part 4 of Schedule 2 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 has concluded:

- (a) The change of use from commercial to residential 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 change of use from commercial to residential use at St. Joseph's National School, Kilbane, Co. Clare is not exempted development having regard to Section 2(1) of the Planning and Development Act, 2000 (as amended) and Classes 1, 2, 3 and 6 of Schedule 2, Part 4 of the Planning and Development Regulations 2001, as amended.

THEREFORE: The Planning Authority in exercise of the powers conferred on it by Section 5 of the Planning and Development Act, 2000 (as amended), hereby decides that:

The proposed development consisting of the change of use from commercial to residential use at St. Joseph's National School, Kilbane, Broadford, Co. Clare **constitutes development** which is **not exempted development** as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.



Kieran O'Donnell
Administrative Officer
Planning Department
Economic Development Directorate

1st April, 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:

77382

Reference Number:

R21-14

Date Referral Received:

18th March 2021

Name of Applicant:

Madge O Callaghan

Location of works in question:

St. Joseph's School, Kilbane, Broadford, Co. Clare V94 P791

Section 5 referral Reference R21-14 – Madge O Callaghan

Whether the change of use from commercial to residential use is considered development and if so, is it exempted development at St. Joseph's School, Kilbane, Broadford Co. Clare V94 P791.

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, 9 and 10 of the Planning and Development Regulations 2001, as amended;
- (c) Classes 1, 2, 3 and 6 of Part 4 of Schedule 2 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 has concluded:

- (a) The change of use from commercial to residential 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 change of use from commercial to residential use at St. Joseph's National School, Kilbane, Co. Clare is not exempted development having regard to Section 2(1) of the Planning and Development Act, 2000 (as amended) and Classes 1, 2, 3 and 6 of Schedule 2, Part 4 of the Planning and Development Regulations 2001, as amended.

ORDER: Whereas by Chief Executive's Order No. HR 334 dated 2nd June 2020, 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, A/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, A/ Senior Executive Planner, hereby declare that the change of use from commercial to residential use at St. Joseph's National School, Kilbane, Broadford, Co. Clare **constitutes development which is not exempted development** under the Planning & Development Acts, 2000 (as amended) and associated regulations.

Signed:



GARRETH RUANE
A/SENIOR EXECUTIVE PLANNER

Date:

1st April 2021

CLARE COUNTY COUNCIL
SECTION 5 DECLARATION OF EXEMPTION APPLICATION
PLANNERS REPORT

FILE REF: R24-14
APPLICANT(S): Madge O' Callaghan
REFERENCE: Whether the change of use from commercial to residential use is considered development and if so, is it exempted development.
LOCATION: St. Joseph's School, Kilbane, Broadford, Co Clare
DUE DATE: 14th April 2021

Site Location

The proposal site is located on the north side of the L-7004 in the village of Kilbane. The site is zoned Community in the Clare County Development Plan 2017-2023 (as varied) and comprises a detached, single storey building which was formerly used as national school, and surrounding grounds.

Recent Planning History

No recent planning applications on the proposal site or neighbouring properties.

Background to Referral

This Referral under Section 5(1) of the Planning and Development Act 2000 (as amended) has been made by Madge O' Callaghan. She is the stated owner of the property. .

Whether the change of use from commercial to residential use is considered development and if so, is it exempted development. She has indicated that no works are proposed to the exterior of the building.

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

Article 10 of the Planning and Development Regulations relates to Exempted Development and states:

Article 10.(1) Development which consists of a change of use within any one of the classes of use specified in Part 4 of Schedule 2, shall be exempted development for the purposes of the Act, provided that the development, if carried out would not—

- (a) involve the carrying out of any works other than works which are exempted development,
- (b) contravene a condition attached to a permission under the Act,
- (c) be inconsistent with any use specified or included in such a permission, or
- (d) be a development where the existing use is an unauthorised use, save where such change of use consists of the resumption of a use which is not unauthorised and which has not been abandoned.

Article 10(6) of the Planning and Development Regulations states:

(a) In this sub-article—

“habitable room” means a room used for living or sleeping purposes but does not include a kitchen that has a floor area of less than 6.5 square metres;

“relevant period” means the period from the making of these Regulations until 31 December 2021.

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

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

(i) the structure concerned was completed prior to the making of the Planning and Development (Amendment) (No. 2) Regulations 2018,

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

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

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

(d)

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

(ii) Subject to sub-paragraph (iii), any related works, including works as may be required to comply with sub-paragraph (vii), shall affect only the interior of the structure and shall not materially affect the external appearance of the structure so as to render its appearance inconsistent with the character of the structure or of neighbouring structures.

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

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

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

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

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

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

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

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

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

II) an area of special planning control;

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

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

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

Schedule 2, Part 4, of the Planning and Development Regulations

Class 1

Use as a shop.

Class 2

Use for the provision of—

(a) financial services,

- (b) professional services (other than health or medical services),
 - (c) any other services (including use as a betting office),
- where the services are provided principally to visiting members of the public.

Class 3

Use as an office, other than a use to which class 2 of this Part of this Schedule applies.

Class 6

Use as a residential club, a guest house or a hostel (other than a hostel where care is provided).

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 change of use from commercial to residential use is considered development and if so, is it exempted development.

Particulars of Proposal

The applicant proposes to change the use of St. Joseph's National School in Kilbane from a school to a dwelling house. The applicant has indicated that there will be no alterations to the exterior of the building. The windows, doors and accessible access ramp will remain in place. The building will be painted and gardens will be developed. All other works will relate to the interior of the building only.

Planning and Development Regulations 2001 (as amended) Article 10(6)

Under the provision of Article 10(6) of the Regulations, a proposed development that consists of a change of use to residential use from Class 1, 2, 3 or 6 of Part 4 of Schedule 1 of said regulations is exempt from planning permission provided certain criteria are met.

Classes 1, 2, 3 and 6 are set out above. The use of a building as a school is not provided for under these classes. Therefore I do not consider the former St. Joseph's National School to be a 'commercial' use for the purposes of Article 10(6) of the Regulations.

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*

The proposal does not contravene a condition of 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,*

Not applicable.

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

The proposal would not result in the creation of a traffic hazard.

- (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 site is located on zoned lands within an existing settlement.

- (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,*

Not applicable in this case

- 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,*

No likely significant effects on European Sites. An Appropriate Assessment Screening Report and Determination has been carried out and is attached to this report. An appropriate assessment is not required.

- 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 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.*

Not applicable in this instance.

Recommendation

The following questions have been referred to the Planning Authority:

Whether the change of use from commercial to residential is or is not development and is or is not exempted development at St. Joseph's National School, Kilbane, Broadford, Co. Clare.

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, 9 and 10 of the Planning and Development Regulations 2001, as amended;
- (c) Classes 1, 2, 3 and 6 of Part 4 of Schedule 2 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 change of use from commercial to residential 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 change of use from commercial to residential use at St. Joseph's National School, Kilbane, Co. Clare is not exempted development having regard to Section 2(1) of the Planning and Development Act, 2000 (as amended) and Classes 1, 2, 3 and 6 of Schedule 2, Part 4 of the Planning and Development Regulations 2001, as amended.

Now therefore Clare County Council (Planning Authority), hereby decides that the change of use from commercial to residential use at St. Joseph's National School, Kilbane, Broadford, Co. Clare is development and is not exempted development.



Executive Planner

Date: 31/03/2021



A/Senior Executive Planner

Date: 31/03/21



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	R21-14
Applicant Name	Madge O' Callaghan
Development Location	at St. Joseph's School, Kilbane, Co. Clare
Application accompanied by an EIS	No
Application accompanied by an NIS	No

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

The change of use from commercial to residential use at St. Joseph's, School, Kilbane, Co. Clare



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 and scale of the proposed development, the location on zoned land within an existing settlement and the lack of connectivity proximity to European sites, I am satisfied that the likely zone of impact of the proposed development is no greater than 1km.

Table 2 (a): European Sites within 1km of Applicant Site

There are no European sites within 1km of the applicant site

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.

Appropriate Assessment Screening Determination

Planning File Reference	R21-14
Proposed Development	The change of use from commercial to residential use
Development Location	at St. Joseph's School, Kilbane, Co. Clare
European sites within impact zone	None
Description of the project:	
The change of use from commercial to residential use at St. Joseph's School, Kilbane, Co. Clare	
Qualifying Interests (QIs)/Special Conservation Interests (SCIs) of European site	
None	
Describe how the project or plan (alone or in combination) is likely to affect the European site(s).	
No likely direct or indirect effects having regard to the nature of the proposed development and the location on zoned lands within an existing settlement	
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 referral 	
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)²	
(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	

² 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

(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	31/03/2021

'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.



COMHAIRLE | CLARE
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Madge O Callaghan
Main Street
Labasheeda,
Co. Clare.

18th March 2021

Section 5 referral Reference R21-14 – Madge O Callaghan

Whether the change of use from commercial to residential use is considered development and if so is it exempted development at St. Joseph's School, Kilbane, Broadford Co. Clare V94 P791.

A Chara,

I refer to your application received on 18th March, 2021 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

Josephine Connors
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



Main Street
Labasheeda
Co. Clare.



March 9th, 2021

A Chara

Please find attached completed application form Request for a Declaration on Development and Exempted Development, Section 5 of the Planning and Development Act 200 (as amended)

I am in the process of purchasing the property at St. Joseph's Primary School, Kilbane, Broadford, Co. Clare, as outlined in the attached Ordnance Survey maps.

I wish to request exemption from planning permission for a change of use from commercial use of the property to residential use, under the Planning and Development (No.2) Regulations 2018. I believe this exemption applies to vacant commercial premises.

St. Josephs Kilbane has been vacant for approximately seven years, when the school was amalgamated with Broadford National School because of the falling numbers in children attending the school. The building has been declining since, and in fact a neighbouring bungalow is completely overgrown.

I am a retired woman in need of suitable housing – I have a diagnosis of third stage COPD and I need single-story accommodation. I moved to Clare in 1981 and have raised my family here. My daughter and her family are living in Clare, as I am. However, when my accessibility needs changed, I was not in a financial position to buy a suitable home. I sold my house in Shannon in December and have been renting privately since.

I now wish to renovate the schoolhouse but will not be making any changes to the outside of the property, except to smarten it up by cleaning and painting it and developing the gardens. I will be making some internal changes, but nothing that will impact the outside of the building. The doors and windows will remain intact on all sides, as will the accessible access ramp to the front of the property, and the wide corridors and fire doors inside the property.

I hope that my request meets with your approval and I am happy to answer any questions you may have in relation to same.

Many thanks

Madge O'Callaghan

A handwritten signature in dark ink, appearing to read "Madge O'Callaghan".

(able)

P07

**CLARE COUNTY COUNCIL
COMHAIRLE CONTAE AN CHLÁIR**

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

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



**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	MADGE O'CALLAGHAN MAIN STREET LABASHEEDA CO. CLARE
(b) Telephone No.:	
(c) Email Address:	
(d) Agent's Name and address: N/A.	

2. DETAILS REGARDING DECLARATION BEING SOUGHT

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

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

IS THE CHANGE OF USE FROM COMMERCIAL TO RESIDENTIAL USE EXEMPT FROM PLANNING PERMISSION?

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

St. Joseph's School, Kiltane, Broadford Co. Clare, ~~the~~ is a commercial property which has been lying idle for approx seven years. I would like to use the building as my home, a residential single story building with existing accessible entrance. No changes to be made to the outside of the building; internal changes will only take place apart from painting the exterior of the building. I would like a declaration for exemption under section 5 of the Planning & Development Act 2000 (as amended). I also have a housing need for accessible, single story housing.

- (c) List of plans, drawings etc. submitted with this request for a declaration:
 (Note: Please provide a site location map to a scale of not less than 1:2500 based on Ordnance Survey map for the areas, to identify the lands in question)

2 x 1:2500 maps.

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT	
(a) Postal Address of the Property/Site/Building for which the declaration sought:	Kilbane School Kilbane Co. Clare V94 P791
(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)?:	YES
(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:	YES
(h) Date on which 'works' in question were completed/are likely to take place:	MAY 2021

SIGNED: 

DATE: 9/3/21.

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:.....			

562240 mE, 673120 mN



**The Property
Registration Authority**
An tÚdarás
Clárúcháin Maoine

Folio:

This map should be read in conjunction with the folio.

Registry maps are based on OSI topographic mapping. Where registry maps are printed at a scale that is larger than the OSI published scale, accuracy is limited to that of the original OSI map scale.

For details of the terms of use and limitations as to scale, accuracy and other conditions relating to Land Registry maps, see www.pral.ie.

This map incorporates Ordnance Survey Ireland (OSI) mapping data under a licence from OSI. Copyright © OSI and Government of Ireland.

(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

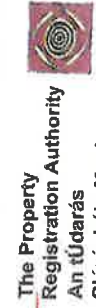
A full list of burdens and their symbology can be found at:
www.landdirect.ie

The registry operates a non-conclusive boundary system. The Registry Map identifies properties not boundaries meaning neither the description of land in a register nor its identification by reference to a registry 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.

1:2500 Scale



562240 mE, 673120 mN



**The Property
Registration Authority**
An tÚdarás
Clárúcháin Maoine
Folio:

This map should be read in conjunction with the folio.

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(centre-line of parcel(s) edged)

- Freehold
- Leasehold
- SubLeasehold

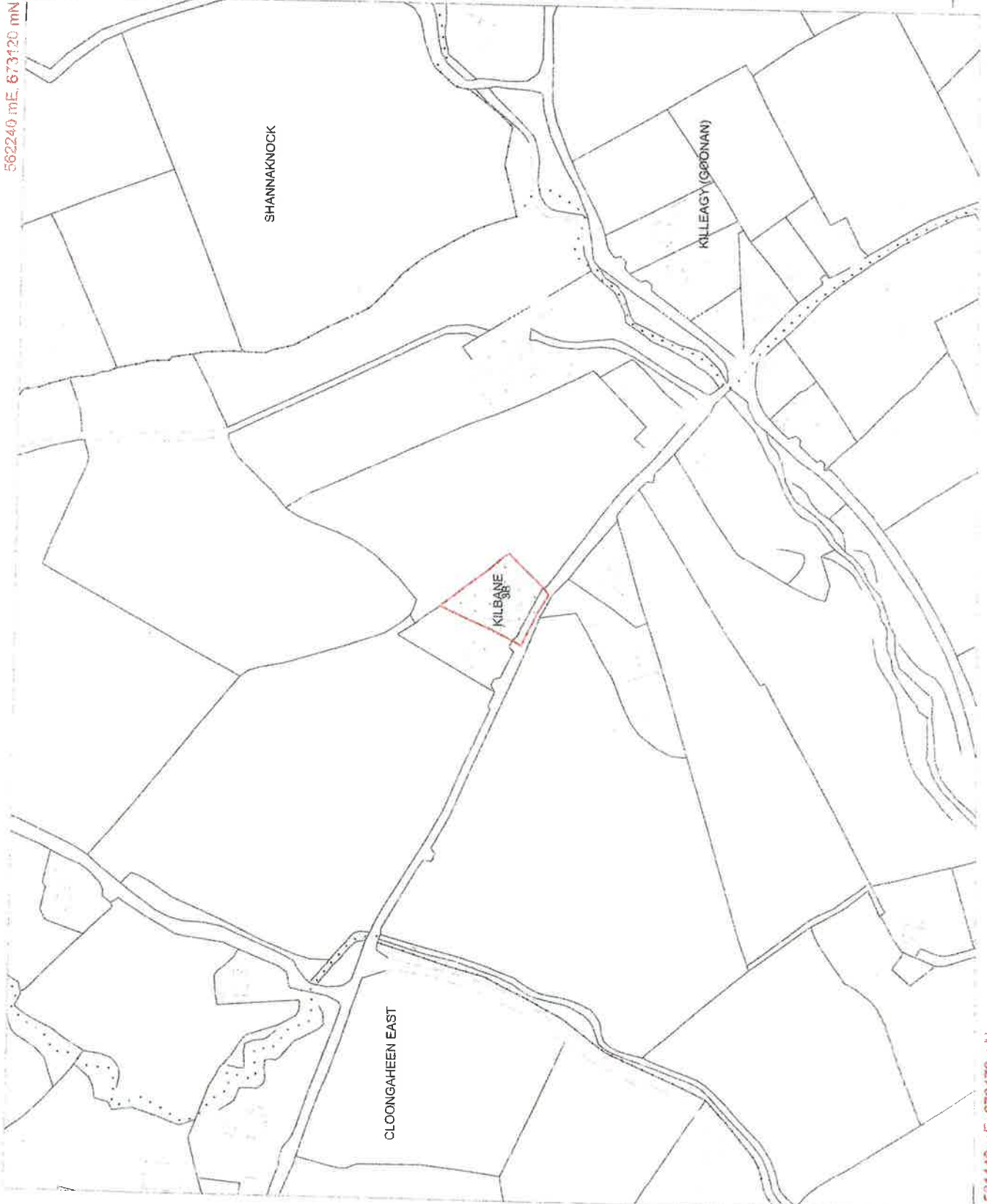
Burdens (may not all be represented on map)

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

The registry operates a non-conclusive boundary system. The Registry Map identifies properties not boundaries meaning neither the description of land in a register nor its identification by reference to a registry 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.



R21-14



COMHAIRLE

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

CONTAE

AN CHLÁIR

18/03/2021 14:44:50

Receipt No. : L1CASH/0/314036

REPRINT

MADGE O'CALLAGHAN
MAIN STREET
LABASHEEDA
CO. CLARE
R21/14



SECTION 5 REFERENCES
GOODS 80.00
VAT Exempt Non-vatable

80.00

Total :

80.00 EUR

Tendered :
MONEY ORDER

80.00

Change :

0.00

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