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**Gabrielle & David O Brien
Attycristora,
Lahinch,
Co Clare**

September, 2021

**Section 5 referral Reference R21-52 – Gabrielle & David O Brien
Attycristora,
Lahinch,
Co Clare**

Whether the repair & refurbishment of a derelict building at Main St Lahinch Co Clare is considered development and if so, is it exempted development.

A Chara,

I refer to your application received on 11th August, 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.: R21-52



Section 5 referral Reference R21-52

Whether the repair & refurbishment of a derelict building at Main St Lahinch Co Clare is considered development and if so, is it exempted development.

**AND WHEREAS, Gabrielle & David O'Brien
Attycristora,
Lahinch,**

Co Clare 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 proposal to extend the premises at the rear. (e) The planning history on site. (f) Sustainable Urban Housing: Design Standards for New Apartments - Guidelines for Planning Authorities, March 2018.

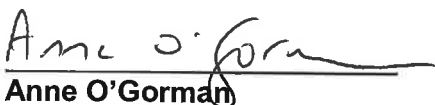
And whereas Clare County Council has concluded:

The repair and refurbishment of a derelict building at Main St Lahinch which included a change of use from retail to studio apartment and extension to the rear is considered development which is not exempted development under Article 10 of the Planning and Development Regulations, 2001 as amended because the floor area does not comply with the minimum floor area requirements for a studio apartment of the "Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities 2018" issued under section 28 of the Act in

addition the development includes a rear extension which is not exempted development under the Planning Regulations.

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 whether the repair and refurbishment of a derelict building at Main St Lahinch, Co. Clare constitutes development which is not exempted development as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.



Anne O'Gorman
Staff Officer
Planning Department
Economic Development Directorate

15th September, 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:

78307

Reference Number:

R21-52

Date Referral Received:

11th August, 2021

Name of Applicant:

**Gabrielle & David O Brien
Attycristora,
Lahinch,
Co Clare**

Location of works in question:

**Section 5 referral Reference R21-52 – Gabrielle & David O Brien
Attycristora,
Lahinch,
Co Clare**

Whether the repair & refurbishment of a derelict building at Main St Lahinch 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 proposal to extend the premises at the rear. (d) The planning history on site. (e) Sustainable Urban Housing: Design Standards for New Apartments -Guidelines for Planning Authorities', March 2018.

AND WHEREAS Clare County Council has concluded:

The repair and refurbishment of a derelict building at Main St Lahinch which included a change of use from retail to studio apartment and extension to the rear is considered development which is not exempted development under Article 10 of Planning and Development Regulations, 2001 as amended because the floor area does not comply with the minimum floor area requirements for a studio apartment of the "Sustainable Urban Housing: Design Standards for New Apartments —

Guidelines for Planning Authorities 2018" issued under section 28 of the Act in addition the development includes a rear extension which is not exempted development under the Planning Regulations.

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, Gareth Ruane, Senior Executive Planner, hereby declare whether the repair & refurbishment of a derelict building at Main St Lahinch, Co. Clare is considered development which is not exempted development

Signed:



GARRETH RUANE
SENIOR EXECUTIVE PLANNER

AG

Date: 01st September, 2021

CLARE COUNTY COUNCIL

SECTION 5 REFERRAL

Reference No: R21-52

Applicant: Gabriel and David O Brien

Location: Main St. Lahinch .

Proposal: Whether the repair and refurbishment of a derelict building at Main St Lahinch is or is not development and is / is not exempted development

Due Date: ~~29th August 2018~~ 7/9/21

This proposal is a request for a declaration under Section 5 of the Planning and Development Act, 2000 as amended to determine whether or not the following constitutes exempted development.

Whether the repair and refurbishment of a derelict building at Main St Lahinch is or is not development and is / is not exempted development.

Clare Co. Development Plan 2017- 2023 zoning objective.

The site is located on land zoned mixed use. The structure is not a protected building.

Planning history

10/ 882 Permission granted for a change of use from retail to takeaway creperie.

Details Submitted

- Site location map
- Existing plans, sections and elevations
- Proposed plans, sections and elevations
- The agent advised that the building was last used as a pop up shop during the golf open
- The drawings submitted show a change of use from retail/ shop to residential.

Background

Planning and Development Act, 2000 (as amended)

Section 2

'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.

Section 3

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.

Section 4 (1)(H)

Section 4 1 (h) states that the following shall be exempted development for the purpose of the Act.-

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

Planning & Development Regulations, 2001, as amended

Part 2 Exempted Development

Article 6 (1) states

'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 9 -Restrictions on Exemptions states

'Under Article 9 (1) of the same Regulations, development to which Article 10 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'.

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.
- (2) (a) A use which is ordinarily incidental to any use specified in Part 4 of Schedule 2 is not excluded from that use as an incident thereto merely by reason of its being specified in the said Part of the said Schedule as a separate use.
- (b) Nothing in any class in Part 4 of the Schedule 2 shall include any use—
- (i) as an amusement arcade,
 - (ii) as a motor service station,
 - (iii) for the sale or leasing, or display for sale or leasing, of motor vehicles,
 - (iv) for a taxi or hackney business or for the hire of motor vehicles,
 - (v) as a scrap yard, or a yard for the breaking of motor vehicles,
 - (vi) for the storage or distribution of minerals,
 - (vii) as a supermarket, the total net retail sales space of which exceeds 3,500 square metres in the greater Dublin Area and 3,000 square metres in the remainder of the State,
 - (viii) as a retail warehouse, the total gross retail sales space of which exceeds 6,000 square metres (including any ancillary garden centre),

or

(viii) as a shop, associated with a petrol station, the total net retail sales space of which exceeds 100 square metres.

- (3) Development consisting of the provision within a building occupied by, or under the control of, a State authority of a shop or restaurant for visiting members of the public shall be exempted development for the purposes of the Act.
- (4) Development consisting of the use of not more than 4 bedrooms in a house, where each bedroom is used for the accommodation of not more than 4 persons as overnight guest accommodation, shall be exempted development for the purposes of the Act, provided that such development would not contravene a condition attached to a permission under the Act or be inconsistent with any use specified or included in such a permission.
- (5) Development consisting of the use of a house for child minding shall be exempted development for the purposes of the Act.

Planning & Development Regulations, Amendment no. 2 Regulations 2018 , (s.i.no 30 of 2018)

Article 2 of these Regulations amends Article 10 of the Principal Regulations, by inserting a new sub-article, to provide that development consisting of the change of use, and any related works, from an existing specified use class to residential use, in certain circumstances and subject to conditions and limitations, is exempt from the requirement to obtain planning permission. The exemption shall apply from when these Regulations come into force until 31 December 2021.

Article 10 of the Planning and Development Regulations 2001 (S.I. No. 600 of 2001) is amended by inserting the following sub-article after sub-article (5):

“(6) (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 1.

(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, Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 13th February 2018.[30]

3(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.

(e) (i) Where a person proposes to undertake development to which sub-paragraph (b) relates, then he or she shall accordingly notify the planning authority in whose functional area that the change of use concerned will occur in writing at least 2 weeks prior to the commencement of the proposed change of use and any related works.

(ii) Details of each notification under subparagraph (i), which shall include information on—

(I) the location of the structure, and

(II) the number of residential units involved, including the

unit sizes and number of bedrooms in each unit, shall be entered in a record by the planning authority maintained for this purpose and the record shall be available for

inspection at the offices of the planning authority during office hours and on the planning authority's website.

(iii) During the years 2019, 2020, 2021 and 2022, each planning authority shall provide information to the Minister on the number of notifications received by it under this paragraph during the preceding calendar year, including details of the information so received for the purposes of subparagraph(ii)."

Part 4 Article 10 Exempted Development- Class of use- Class 1 is use as a shop.

Schedule 2 Article 6 part 1 Exempted Development

CLASS 14

Development consisting of a change of use—

(a) from use for the sale of hot food for consumption off the premises, or for the sale or leasing or display for sale or leasing of motor vehicles, to use as a shop,

(b) from use as a public house, to use as a shop,

(c) from use for the direction of funerals, as a funeral home, as an amusement arcade or a restaurant, to use as a shop,

(d) from use to which class 2 of Part 4 of this Schedule applies, to use as a shop,

(e) from use as 2 or more dwellings, to use as a single dwelling, of any structure previously used as a single dwelling,

(f) from use as a house, to use as a residence for persons with an intellectual or physical disability or mental illness and persons providing care for such persons.

The number of persons with an intellectual or physical disability or a mental illness living in any such residence shall not exceed 6 and the number of resident carers shall not exceed 2.

Appendix 1 Planning and Development (Amendment)(No. 2) Regulations 2018 (S.I. No. 30 of 2018)

Minimum Requirements for Residential Units

The Regulations set out some minimum standards that apply to any residential units being provided, including minimum floor areas, storage space and the provision of natural light.

- A maximum of 9 residential units can be provided in any structure.
- The minimum floor area and minimum storage space requirements of the 'Sustainable Urban Housing: Design Standards for New Apartments -Guidelines for Planning Authorities', 2017 must be complied with. This ensures that apartments will be of adequate size and will include adequate storage. The minimum floor areas allowed are:

-
Studio apartment: Minimum ³⁷~~40~~ sq. m

-
1 bedroom apartment: Minimum 45 sq. m

-
2 bedroom apartment: Minimum 73 sq. m

-
3 bedroom apartment: Minimum 90 sq.m

The minimum storage space requirements are:

- Studio apartment: Minimum 3 sq. m
- 1 bedroom apartment: Minimum 3 sq. m
- 2 bedroom apartment: Minimum 6 sq. m
- 3 bedroom apartment: Minimum 9 sq. m

Assessment

Primary legislation

Having regard the details submitted it is considered that the proposal constitutes 'works' as defined by to section 2 of the Act. It is also considered that the proposal constitutes 'development' having regard to the definition of development which includes for making of any material change in the use of any structures includes for repair and refurbishment . In respect of Section 4 (1)(H) it is noted that while the section makes provision for development consisting for the carrying out of works for maintenance, improvement or other alterations of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or neighbouring structures' to be considered exempted development , it does

not expressly clarify that the internal alterations can result in a change of use and that this new use is exempted development. I therefore consider that section 4 (1) (h) is not relevant to the query.

The Regulations

- I refer to Part 4 Article 10 Exempted Development- Class of use- Class 1 is use as a shop. It is considered that the existing use falls under the this class of use and definition of Shop.
- I refer to Schedule 2 part 1 Article 6 Exempted Development – General, wherein in class 14 sets out changes of use that are considered to be exempted development . I do not consider that the proposed change of use falls under the provision of class 14 of the Planning and Development Regulations 2001 as amended.
- I refer to part 2 Article 6 (1) Exempted Development and Article 9 Restrictions on Exemptions–. It is considered that the provisions of article 9 are not applicable to the query.
- I refer to Article 10 of the Planning and Development Regulations 2001 (S.I. No. 600 of 2001) as amended by the Planning and Development Regulations 2018 (no 2). Article 10 of the Planning and Development Regulations 2001 (S.I. No. 600 of 2001) is amended by inserting the following sub-article after sub-article (5):

“(6) (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 1.

(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, Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 13th February 2018.[30]. **The structure has been in existence prior to the coming in to effect of the amendment.**

(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). **The structure has been used as commercial purposes (shop class 1) and the agent confirmed that it has been vacant for more than 2 years.**

(d) (i) The development is commenced and completed during the relevant period. No details were submitted in this regard.

(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. **While the front elevation changes are consistent with the character of the structure or of neighbouring structures, having regard to the drawings submitted it is considered that the proposal does not comply with this requirement because the proposal involves the construction of an extension at the rear of the property which would materially affect the external appearance of the structure and which could not be considered exempted development at a commercial premises.**

(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. **Having regard to the drawings submitted it is considered that the proposal complies with this requirement.**

(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. **There is no objective in the Co. Development Plan requiring ground floor use to remain as retail in Lahinch**

(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. **One residential unit is proposed.**

(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. This document was up dated in March 2018 **The proposed change of use does not comply with foregoing .**

Apartment no.1. is 35 sq.m.,

which all fall below the 37 sq.m minimum floor area specified by the standard for a studio apartment .

Minimum storage space requirement for a one bedroom apartment is 3 sq.m. **The storage space provided is 2.4 sq.m.**

(vii) Rooms for use, or intended for use, as habitable rooms shall have adequate natural lighting. **Having regard to the drawings submitted it appears this requirement can be satisfied.**

(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. **The structure is not protected**

(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. **Not applicable.**

(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; **Not applicable.**

(II) an area of special planning control; **Not applicable.**

(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. **Not applicable.**

(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.

The proposal does not comply with internal space standards referred to in 6 (d)(vi).

(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. **The building is connected to public services.**

(e) (i) Where a person proposes to undertake development to which sub-paragraph (b) relates, then he or she shall accordingly notify the planning authority in whose functional area that the change of use concerned will occur in writing at least 2 weeks prior to the commencement of the proposed change of use and any related works.

(ii) Details of each notification under subparagraph (i), which shall include information on—

(I) the location of the structure, and

(II) the number of residential units involved, including the unit sizes and number of bedrooms in each unit, shall be entered in a record by the planning authority maintained for this purpose and the record shall be available for inspection at the offices of the planning authority during office hours and on the planning authority's website.

Notification by the applicant is pending the determination by the Planning Authority or An Bord Pleanála that the section 5 query re proposed change of use is considered to be exempted development .

(iii) During the years 2019, 2020, 2021 and 2022, each planning authority shall provide information to the Minister on the number of notifications received by it under this paragraph during the preceding calendar year, including details of the information so received for the purposes of subparagraph(ii).” **Noted**

‘Sustainable Urban Housing: Design Standards for New Apartments -Guidelines for Planning Authorities’, March 2018 and Appendix 1 Planning and Development (Amendment)(No. 2) Regulations 2018(S.I. No. 30 of 2018)

Minimum Requirements for Residential Units

The Regulations set out some minimum standards that apply to any residential units being provided, including minimum floor areas, storage space and the provision of natural light.

- A maximum of 9 residential units can be provided in any structure.
- The minimum floor area and minimum storage space requirements of the ‘Sustainable Urban Housing: Design Standards for New Apartments -Guidelines for Planning Authorities’, December 2018 must be complied with. This ensures that apartments will be of adequate size and will include adequate storage. The minimum floor areas allowed are:

Minimum Apartment Floor Areas:

- **Studio apartment (1 person) 37 sq.m**
- 1-bedroom apartment (2 persons) 45 sq.m
- 2-bedroom apartment (4 persons) 73 sq.m
- 3-bedroom apartment (5 persons) 90 sq.m

Minimum storage space requirements

One bedroom apartment : 3 sq.m.

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 **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, **Not applicable.**

(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. **Not applicable**

(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, **Not applicable.**

(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, **Not applicable.**

(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, **Not applicable.**

(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.” **Not applicable.**

(viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use, **Not applicable.**

(ix) consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan, **Not applicable.**

(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, **Not applicable**

(xi) obstruct any public right of way, **Not applicable.**

(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.

Conclusion

With reference to the above assessment, and the stated restrictions on exempted development, in particular Article 10 of the Planning and Development Regulations 2001- 2018 that the proposed development cannot be considered exempted development as per Section 5 because the internal space dimensions do not meet minimum design standards guidelines for a studio apartment and because in addition the proposed development involves the repair and refurbishment including extension to the rear (see cross section survey of existing development compared to cross section of proposed development) which cannot be considered exempted development.

Recommendation

Having regard to Articles 10, of the Planning and Development Regulations, 2001-2018.

WHEREAS a question has arisen as to whether the repair and refurbishment of a derelict building at Main St Lahinch is development and is not exempted development.

AND WHEREAS Clare County Council in considering this referral, had regard particularly 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 proposal to extend the premises at the rear.
- (e) The planning history on site.
- (f) Sustainable Urban Housing: Design Standards for New Apartments -Guidelines for Planning Authorities', March 2018.

AND WHEREAS Clare County Council has concluded that –

The repair and refurbishment of a derelict building at Main St Lahinch which included a change of use from retail to studio apartment and extension to the rear is considered development which is not exempted development under Article 10 of Planning and Development Regulations, 2001 as amended because the floor area does not comply with the minimum floor area requirements for a studio apartment of the "Sustainable Urban Housing: Design Standards for New Apartments — Guidelines for Planning Authorities 2018" issued under section 28 of the Act ~~and because~~ ^{in addition,} the development includes a rear extension which is not exempted development ^{under the} ~~under the~~ ^{Planning Acts or Regulations.}

NOW THEREFORE Clare County Council, in exercise of the powers conferred on it by section 5(2) (a) of the 2000 Act, hereby decides

The repair and refurbishment of a derelict building at Main St Lahinch Co. Clare is considered development which is not exempted development.

Signed Allen Corey
E.P.

Date 28/August/21.

Signed [Signature]
S.E.P.

Date 30/08/21

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/ 52 |
| Applicant Name | Gabriel and David O Brien |
| Development Location | Main St. Lahinch |
| Application accompanied by an EIS | |
| Application accompanied by an NIS | |
| Description of the project (To include a site location map): | |
| Section 5 referral | |

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) |
|-----------------------------|---|---------------------------------|
| Inagh River estuary SAC | Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330] Mediterranean salt meadows (Juncetalia maritimi) [1410] Shifting dunes along the shoreline with Ammophila arenaria (white dunes) [2120] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] | 300m |
| | | |
| | | |
| | | |
| | | |
| | | |

| | | | |
|---|--|---|-----|
| 1 | Impacts on designated rivers, streams, lakes and fresh water dependant habitats and species. | <i>Is the development in the catchment of or immediately upstream of a watercourse that has been designated as a European site?</i> | No |
| 2 | Impacts on terrestrial habitats & species. | <i>Is the development within 1km of a European site with terrestrial based</i> | yes |

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.

| | | | |
|----------|---|--|----|
| | | <i>habitats or species?</i> | |
| 3 | Impacts on designated marine habitats & species. | <i>Is the development located within marine or intertidal areas and within 5 km of a European site whose qualifying habitats or species include the following: Mudflats, sandflats, saltmarsh, shingle, reefs, sea cliffs</i> | no |
| 4 | Impacts on birds in SPAs | <i>Is the development within 1km of a Special Protection Area</i> | no |
| 5 | Indirect effects | <i>Is the development, in combination with other existing or proposed developments likely to impact on an adjacent European site? Is any emission from the development (including noise) likely to impact on an adjacent habitat or species?</i> | No |

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.

Table 3: Identification of potential impacts.

| | | |
|----------|--|----------------|
| 1 | Impacts on designated rivers, streams, lakes and fresh water dependant habitats and species. <i>Please answer the following if the answer to question 1 in table 2 was “yes” or “unknown”. Does the development involve any of the following:</i> | |
| 1.1 | Removal of or interference with habitat within a European site. This may include any element of a project liable to interfere with breeding, nesting or roosting sites of birds, bats, water based species | NA |
| 1.2 | Discharges either directly (via pipe from the development) or indirectly (via sewer) to surfacewater or groundwater What is the likely volume of the discharge? | To public main |
| 1.3 | Abstraction from surfacewater or groundwater in or adjacent to a European site, where hydrology is a critical element in the protection of habitat and species at the site? What is the likely volume of the abstraction? | NA |
| 1.4 | Is removal of topsoil proposed within 500m of watercourses? What transportation requirements are provided? Does the removal involve reduction in area, population density or fragmentation of area of any habitat or species? | NA |
| 1.5 | Infilling or raising of ground levels within 500m of watercourses? What transportation requirements are provided? Does the infilling or raising involve interference with area, population density or fragmentation of area of any habitat or species? | NA |
| 1.6 | Construction of drainage ditches - (scale?) Where the run off is directed to? Is the drainage run off directed to a European site where species are identified and whose conservation status may be impacted by this drainage? | NA |
| 1.7 | Installation of waste water treatment systems; percolation areas; septic tanks within 500m of watercourses? | NA |
| 1.8 | Construction within a floodplain or within an area liable to flood (See www.floodmaps.ie , internal flood risk maps, County Development Plan SFRA and www.cframs.ie) | No |
| 1.9 | Crossing or culverting of rivers or streams, installation of weirs, temporary watercourse crossings or any interference with a watercourse. | NA |

| | | |
|------|---|----|
| 1.10 | Storage of chemicals or hydrocarbons (including oils and fuels) within 500m of a watercourse | NA |
| 1.11 | Development within catchment of a European site of a scale or type which involves the production of an EIS | NA |
| 1.12 | Consideration of effects in combination with existing development? | NA |
| 2 | <p align="center">Impacts on terrestrial habitats and species. <i>Please answer the following if the answer to question 2 in table 2 was yes.</i> <i>Does the development involve any of the following:</i></p> | |
| 2a | Removal of or interference with habitat within the European site. This includes reduction in habitat area or fragmentation of habitat. Is the timing of this interference liable to impact on the nesting or breeding period of any protected species? | NA |
| 2b | Construction of roads or other infrastructure on peat habitats within 1km of bog, marsh, fen or heath habitat within a European site | NA |
| 2c | Is the development liable to impact on water quality in the European site, or liable to give rise to any change in a key indicator of water quality, including salinity. If yes, is the site designated for any bird species or other plant species whose feeding ground or life cycle may be affected by changes in water quality? | NA |
| 2d | Development within 1km of terrestrial European site of a scale or type which involves the production of an EIS. | NA |
| 3 | <p align="center">Impacts on designated marine habitats and species. <i>Please answer the following if the answer to question 3 in table 2 was yes.</i> <i>Does the development involve any of the following:</i></p> | |
| 3a | Removal of or interference with habitat within the European site. This includes timing of the project if there is potential to interfere with nesting or breeding periods, either directly or indirectly (e.g. by noise emission) or any aspect of the life cycle of a protected species. This also includes potential fragmentation, size reduction of habitat, or reduction in species density. | NA |
| 3b | Coastal protection works on intertidal or marine habitats within 5km of a European site supporting coastal or marine habitats or species. This includes any works which may give rise to potential changes in hydrology or salinity of these areas. | NA |

| | | |
|----|---|----|
| 3c | Development of piers, slipways, marinas, pontoons or any other infrastructure within 5km of a European site that was designated because it supports marine habitats and/or species. | NA |
| 3d | Dredging within 5km of a European site supporting coastal or marine habitats or species. | NA |
| 3e | Removal of topsoil or infilling within 100m of marine habitats within the designated site. | NA |
| 3f | Land based development within 1km of a European site of a scale or type which involves the production of an EIS. | NA |
| 3g | Marine or intertidal based development within 5km of a European site of a scale or type which involves the production of an EIS. | NA |

| 4 | Impacts on birds in SPAs <i>Please answer the following if the answer to question 5 in table 2 was yes.</i> <i>Does the development involve any of the following:</i> | |
|----|--|----|
| 4a | Removal of or interference with habitats within an SPA. This includes consideration of indirect and in combination effects on the feeding, breeding and nesting grounds of Annex 1 birds | NA |
| 4b | Erection of wind turbines within 1km of an SPA. | NA |
| 4c | All construction works within 100m of intertidal areas – Coastal SPAs, including indirect and in combination effects on the feeding, breeding and nesting grounds of Annex 1 birds | NA |
| 4d | Infilling of coastal habitats within 500m of SPA, including indirect and in combination effects on the feeding, breeding and nesting grounds of Annex 1 birds | NA |
| 4e | Discharges to coastal SPA, including any element of a discharge liable to give rise to disturbance of this habitat, either by direct, indirect, or in combination effects | NA |
| 4f | Development of cycleways or walking routes within 100m of intertidal areas. This includes consideration of indirect and in combination effects on the feeding, breeding and nesting grounds of Annex 1 birds | NA |
| 4g | Development within 1km of SPA of a scale or type which involves the production of an EIS. This includes consideration of indirect and in combination effects on the feeding, breeding and nesting grounds of Annex 1 birds | NA |

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 to any of the above is *yes*, or *unknown* effects on the European sites need to be assessed and a Natura Impact Statement will be required

| Appropriate Assessment Screening Determination | |
|--|--|
| Planning File Reference | R21/ 52 |
| Proposed Development | Section 5 referral |
| Development Location | Lahinch |
| European sites within impact zone | Inagh River estuary |
| Description of the project: | |
| As above | |
| Qualifying Interests (QIs)/Special Conservation Interests (SCIs) of European site | |
| See above | |
| Describe how the project or plan (alone or in combination) is likely to affect the European site(s). | |
| Not likely- development connected to existing public services | |
| If there are potential negative impacts, explain whether you consider if these are likely to be significant, and if not, why not? | |
| Not significant | |
| 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 planning application - EPA Code of Practice | |
| 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 | No |
| (b) There is no potential for significant effects to European Sites ³ | There is potential for significant effects to European Sites |
| (c) The potential for | The potential for significant effects to European |

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.

| | |
|---|---------------------------------|
| significant effects to European Site(s) cannot be ruled out⁴ | Site(s) can be ruled out |
| (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 | N/A |
| Completed By | Ellen Carey |
| Date | 27 th August 2021 |

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.



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Gabrielle & David O Brien
Attycristora,
Lahinch,
Co Clare

16/8/2021

Section 5 referral Reference R21-52 – Gabrielle & David O Brien
Attycristora,
Lahinch,
Co Clare

Whether the repair & refurbishment of a derelict building at Main St Lahinch Co Clare is considered development and if so, is it exempted development.

A Chara,

I refer to your application received on 11th August, 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


Siobhan Mungovan
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



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 | <p>Gabrielle & David O'Brien</p> <hr/> <p>Attycristora</p> <hr/> <p>Lahinch</p> <hr/> <p>Co. Clare</p> <hr/> |
| (b) Telephone No.: | |
| (c) Email Address: | |
| (d) Agent's Name and address: | <p>Pádraig Fahy</p> <hr/> <p>Main Street</p> <hr/> <p>Ennistymon</p> <hr/> <p>Co. Clare</p> <hr/> |

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?

Does changing the use of the property on Main Street Lahinch from commercial to residential fall under "S.I No 30 change of use exemption from commercial to residential" and if so, is it exempted development?

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

The property on Main Street Lahinch has been derelict for a number of years and was last used as a pop up temporary shop in 2019 for the Irish Open. The property is in drastic need of repair and refurbishment with the rear section in a dangerous state of repair, the main roof leaking and no fire compartmentation in the attic space with the adjacent property, as part of the change of use from commercial to residential it is proposed to rebuild the ground floor lean to rear section on the same footprint with an additional floor above with a flat roof and repair the various elements of the main structure. The proposed upgrades will also enhance the appearance along the main street by removing the large signage while retaining and repairing the original shop front and returning the facade to it's original appearance enhancing the streetscape of main street Lahinch.

- (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)

Existing and proposed plans, section and elevations.

Site Location Map

| 3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT | |
|---|--|
| (a) Postal Address of the Property/Site/Building for which the declaration sought: | Main Street, Lahinch, Co. Clare V95 NY54 |
| (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> | 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 |
| (f) Are you aware of any enforcement proceedings connected to this site? <i>If so please supply details:</i> | No |
| (g) Were there previous planning application/s on this site? <i>If so please supply details:</i> | Change of use application 10882 Exempted Development (Withdrawn) R21/40 |
| (h) Date on which 'works' in question were completed/are likely to take place: | 08.09.2021 |

SIGNED: _____



DATE: 09.08.2021

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:..... | | | |

**Clare County Council,
Planning and Development Department,
New Road,
Cappahard,
Ennis,
Co. Clare,
V95 DXP2**

09th August 2021

Att: Administration Officer.

Our Ref; 21011

Re: Request for a declaration on exempted development at main street Lahinch

Dear Sir/Madam,

With reference to the above, and on behalf of my clients David and Gabrielle O'Brien, I would like to Request a declaration of exempted development
Please find the following documents enclosed within.

Exempted Development Application Form

2 No. copies of the Clare County Council declaration request form, Signed and Dated

Application Fee

Cheque in the amount of €80.00 made payable to Clare county Council

Drawings

2 No. copies of the following drawings

| Ref | Scale | Title |
|--------|--------|---|
| OS Map | 1:1000 | Rural Place Map (Site Location Map) |
| PL100 | 1:100 | Existing Plans, Sections and Elevations |
| PL110 | 1:100 | Proposed Plans, Sections and Elevations |

I trust this is in order, if you have any further queries please feel free to contact me.

Yours faithfully,

Pádraig Fahy

Pádraig Fahy Architectural Design,
Ennistymon, Co. Clare,

Planning Pack Map

509379 88773

509612 88773



National Mapping Agency

CENTRE COORDINATES:
ITM 509496, 687687
PUBLISHED: 05/07/2021
ORDER NO.: 50204690_1
MAP SERIES: 1:2,500
MAP SHEETS: 4083-C

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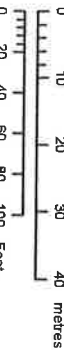
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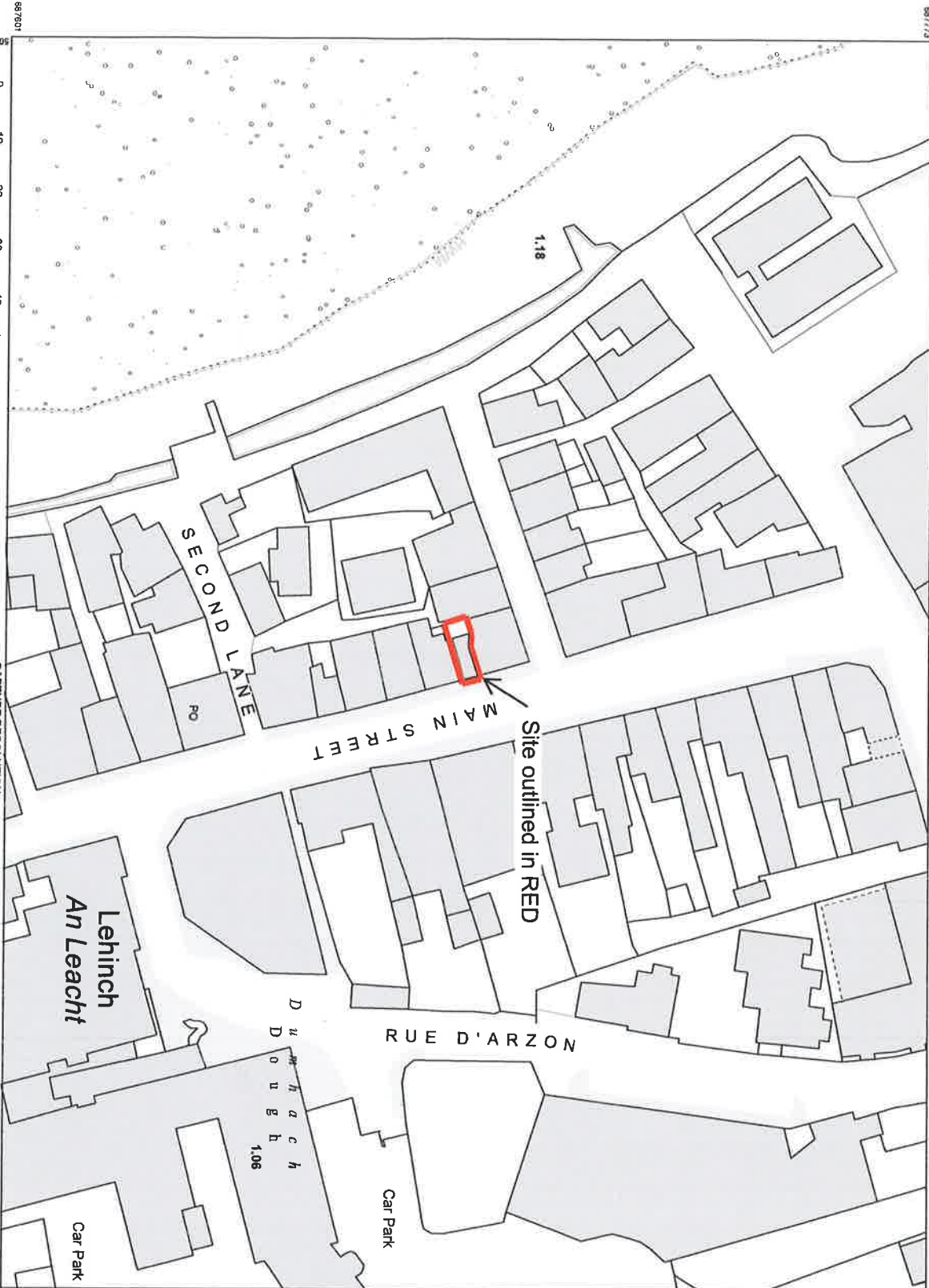
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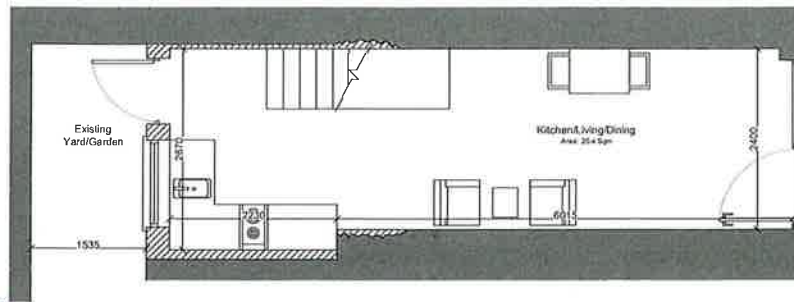
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CAPTURE RESOLUTION:
The map objects are only accurate to the
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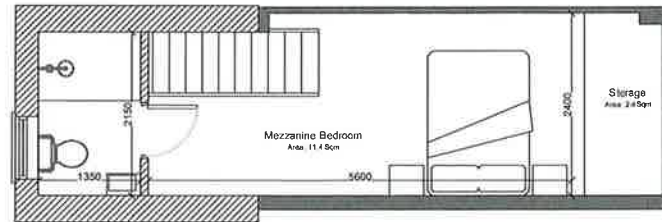


LEGEND:

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

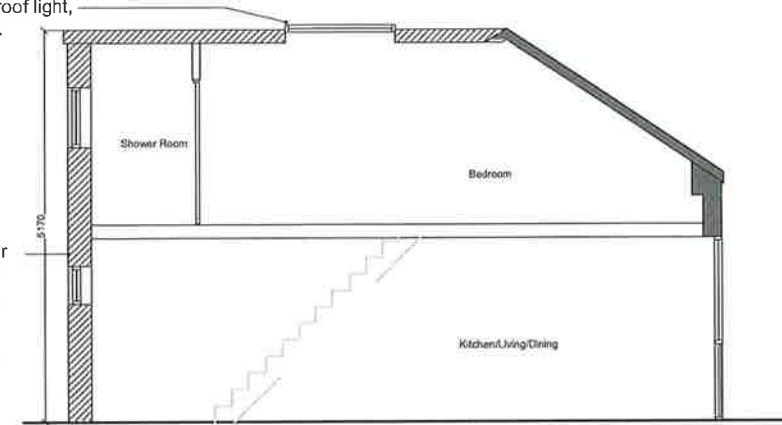


Plan: **A** Pr. Ground Floor Plan
Scale 1:100

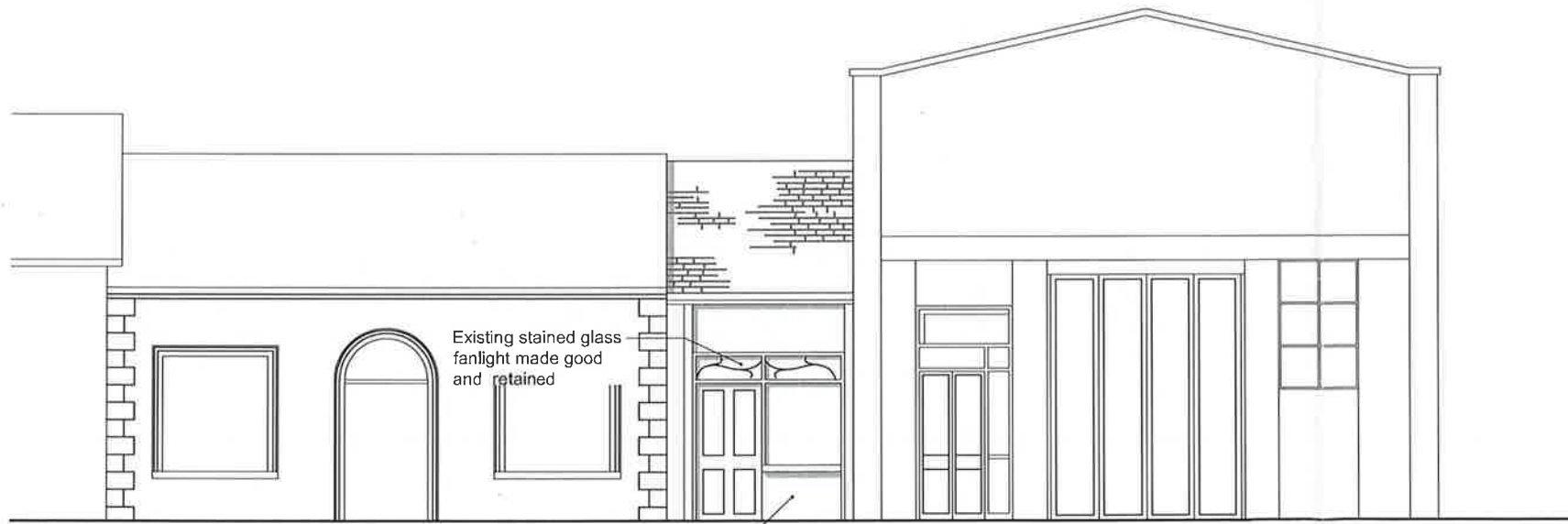


Plan: **B** Pr. First Floor Plan
Scale 1:100

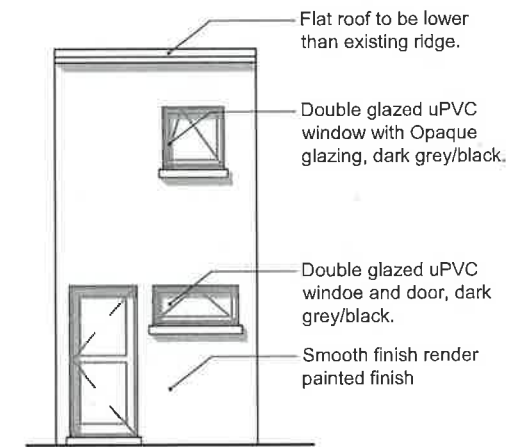
Double glazed roof light,
dark grey/black.



Sect: **A** Pr. Sect
Scale 1:100

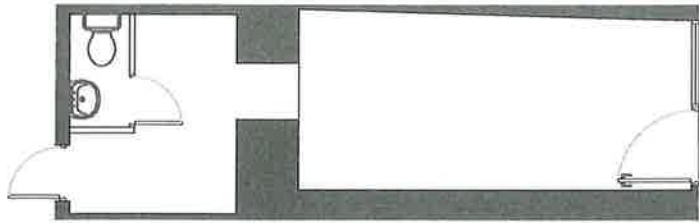


Elev: **A** Pr. Contiguous Elevation
Scale 1:100

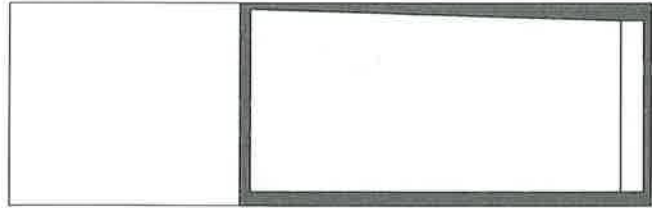


Elev: **B** Pr. Rear Elevation
Scale 1:100

| Rev. | Date: | By: | Description: |
|--|---------|-----------|---|
| | | | |
| | | | |
| | | | |
| Pádraig Fahy Ennistymon, Co.Clare Architectural Design Tel: 087 6980796 email: pauliefahy@hotmail.com | | | |
| Project: Change of Use | | | |
| Location: Main Street | | Date: | June 2021 |
| Lahinch | | Scale: | 1:100 @ A3 |
| Co.Clare | | Status: | Planning |
| Client: Dave & Gabrielle O'Brien | | Drawn By: | PF |
| Job No. | Dwg No. | Rev. | Dwg. Title |
| 21011 | PL110 | | Proposed Plans Sections & Elevations |



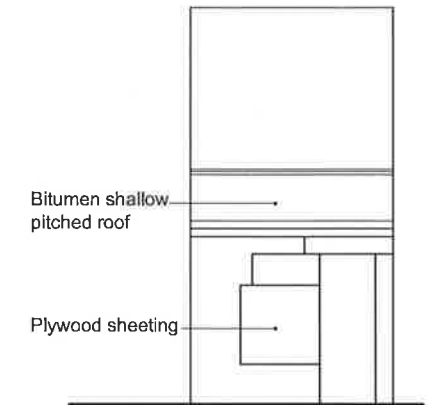
Plan: **A** Ex. Ground Floor Plan
Scale 1:100



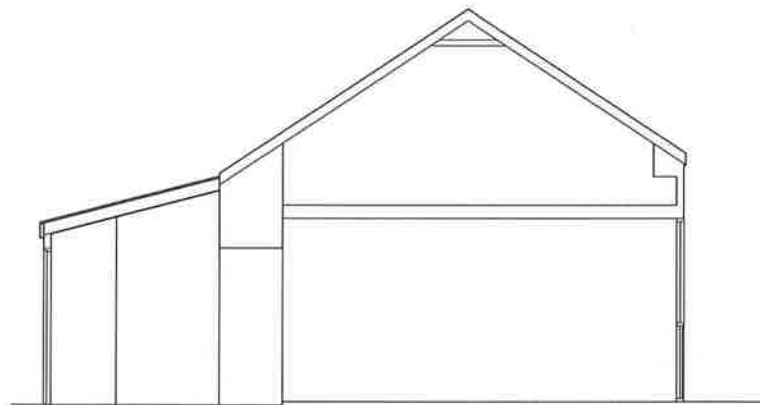
Plan: **B** Ex. First Floor Plan
Scale 1:100



Elev: **A** Ex. Contiguous Elevation
Scale 1:100



Elev: **B** Ex. Rear Elevation
Scale 1:100



Sect: **A** Ex. Typical Section
Scale 1:100



Pic: **A** Front Facade
Scale N.T.S



Pic: **B** Rear Facade
Scale N.T.S

| Rev. | Date: | By: | Description: |
|---|---------|-------------------|---|
| | | | |
| | | | |
| | | | |
| Pádraig Fahy Ennislymon, Co.Clare Tel: 087 6980796 email: pauliefahy@hotmail.com | | | |
| Project: Change of Use | | | |
| Location: Main Street Lahinch Co.Clare | | Date: June 2021 | |
| Client: Dave & Gabrielle O'Brien | | Scale: 1:100 @ A3 | |
| | | Status: Planning | |
| | | Drawn By: PF | |
| Job No. | Dwg No. | Rev. | Dwg. Title |
| 21011 | PL100 | - | Existing Plans Sections & Elevations |

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



11/08/2021 14:15:08

Receipt No.: LICASH/0/320499
***** REPRINT *****

GABRIELLE & DAVID OBRIEN
ATTYCRISTORA
LAHINCH
CO. CLARE

COMHAIRLE
CONTAE
AN CHLÁIR

| | |
|-------------------------|-------|
| SECTION 5 REFERENCES | 80.00 |
| GOODS | 80.00 |
| VAT Exempt/Non-variable | |

Total : 80.00 EUR

Tendered :
CREDIT CARDS 80.00

Change : 0.00

Issued By : BANKS - Theresa Tighe

