

COMHAIRLE CONTAE AN CHLÁIR COUNTY COUNCIL

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Melcorpo Commercial Properties Ltd. c/o Paul Finlay The Building Consultancy, 23 Frederick Street South, **Dublin 2**

RL 5660 3350 716

28th July, 2022

Section 5 referral Reference R22-47 – Melcorpo Commercial Properties Ltd.

Is the replacement of the existing signage with new signage at Empire Movieplex, 36 Parnell Street, Ennis, Co. Clare considered to be development and if so, is it exempted development?

A Chara,

I refer to your application received on 5th July 2022 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

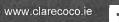
Planning Department Economic Development Directorate

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.: R22-47



Section 5 referral Reference R22-47

Is the replacement of the existing signage with new signage at Empire Movieplex, 36 Parnell Street, Ennis, Co. Clare considered to be development and if so, is it exempted development?

AND WHEREAS, Melcorpo Commercial Properties Ltd. 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, 4 and 82 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended
- (c) Class 1 of Part 2 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (d) Planning permission ref. no. P95-16
- (e) The existing signage at the subject building
- (f) The works as indicated in submitted documents from the referrer.

And whereas Clare County Council has concluded:

- (a) the replacement of the existing side and front elevations signage with internally illuminated sign / display box at Empire Movieplex, 36 Parnell Street, Ennis, Co. Clare constitutes "works" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended
- (b) the said works constitute "development" which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended
- (c) The proposed signage in its material and composition is a material alteration to the existing signage
- (d) The proposed signage constitutes signage which affects the external appearance of the structure so as to render the appearance inconsistent with the character of the structure and of neighbouring structures and are works which would materially affect the character of the Ennis Architectural Conservation Area.

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

The proposed development consisting of the replacement of the existing side and front elevations signage with internally illuminated sign / display box at Empire Movieplex, 36 Parnell Street, Ennis, Co. Clare is development and 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

28th July, 2022

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:

80206

Reference Number:

R22-47

Date Referral Received:

5th July 2022

Name of Applicant:

Melcorpo Commercial Properties Ltd.

Location of works in question:

Empire Movieplex, 36 Parnell Street, Ennis,

Co. Clare

Section 5 referral Reference R22-47 - Melcorpo Commercial Properties Ltd.

Is the replacement of the existing signage with new signage at Empire Movieplex, 36 Parnell Street, Ennis, Co. Clare considered to be 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, 4 and 82 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended
- (c) Class 1 of Part 2 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (d) Planning permission ref. no. P95-16
- (e) The existing signage at the subject building
- (f) The works as indicated in submitted documents from the referrer.

AND WHEREAS Clare County Council has concluded:

- (a) the replacement of the existing side and front elevations signage with internally illuminated sign / display box at Empire Movieplex, 36 Parnell Street, Ennis, Co. Clare constitutes "works" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended
- (b) the said works constitute "development" which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended
- (c) The proposed signage in its material and composition is a material alteration to the existing signage
- (d) The proposed signage constitutes signage which affects the external appearance of the structure so as to render the appearance inconsistent with the character of the structure and of neighbouring structures and are works which would materially affect the character of the Ennis Architectural Conservation Area.

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 Helen Quinn, Acting Senior 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, Helen Quinn, Acting Senior Planner, hereby declare that the replacement of the existing side and front elevations signage with internally illuminated sign / display box at Empire Movieplex, 36 Parnell Street, Ennis, Co. Clare is development and is not exempted development.

Signed:

HELEN QUINN

ACTING SENIOR PLANNER

Date:

28th July, 2022

CLARE COUNTY COUNCIL SECTION 5 DECLARATION OF EXEMPTION APPLICATION

FILE REF:

R22 47

APPLICANT(S):

Melcorpo Commercial Properties Ltd

REFERENCE:

Whether the replacement of the existing signage with new signage at EMPIRE

Movieplex, 36 Parnell Street, Ennis Co. Clare is development and if so is it

exempted development.

LOCATION:

36 Parnell Street, Ennis Co. Clare.

DUE DATE:

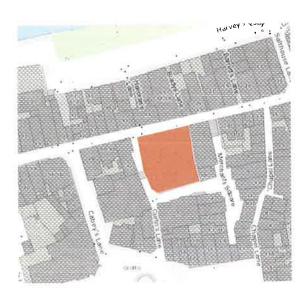
1st Aug. 2022

Site Location and Description of the Proposed Development

The existing cinema is located along Parnell Street, and occupies a corner site, a the junction of Parnell Street and Curtain's Lane. The site is located in the settlement of Ennis as per the Clare County Development Plan 2017-2023 (as varied), is zoned for "Mixed Use" development and is within the designated "Town Centre Area" and the Architectural Conservation Area (ACA) of the town. It is within an archaeological complex and is also within the zone of archaeological potential of a recorded monument.



Site context



Planning History

P96 16

Application by Galvin Construction for planning permission to demolish the existing buildings, construct licensed premises, two retail units, cinema complex, 12 residential units and connect to public services. Permission granted subject to 19 no conditions.

Note condition 2 stated the following:

No signs or nameplates, other than the cinema sign and signs painted directly onto the nameboards contained in the shop fronts indicated on submitted plans shall be provided without the prior consent of the Council. Any signs shall be hand painted on timber or plaster board. Details of the cinema sign shall be agreed with the Council before provision.

From a review of the file, I cannot see any correspondence in relation to compliance with this condition and specifically the cinema signage.

Background to Referral

This Referral under Section 5(3)(a) of the Planning and Development Act 2000 (as amended) has been made by Melcorpo Commercial properties Ltd.

The applicant is seeking a Section 5 Declaration as to whether replacement of existing signage with new signage at Empire Movieplex is development and if so is it exempted development.

The proposed works are as follows:

 Replacement of the existing side and front elevations signage with internally illuminated sign / display box.

Statutory Provisions

Planning and Development Act 2000, as amended

- Section 2(1) interpretation of "works" and "structure".
- Section 3(1) meaning of "development".

 Section 2 of the Planning and Development 2000, as amended also defines the terms used within the Act and the following terms are relevant for the purposes of this referral.

A structure - means any building structure, excavation or other thing constructed or made on, in or under any land or any part of a structure so defined.

Works - include any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal.

- Section 3 (1) of the Act defines development except where the context otherwise requires the carrying out of 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 sets out development which is deemed to be exempted development.
- Section 4(1)(h) states the following:

The following shall be exempted developments for the purposes of this Act—

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

 Section 5 set out consideration in relation to a declaration and referral on development and exempted development.

Section 5 (6) - (a) The Board shall keep a record of any decision made by it on a referral under this section and the main reasons and considerations on which its decision is based and shall make it available for purchase and inspection.

(c) The Board shall, from time to time and at least once a year, forward to each planning authority a copy of the record referred to in paragraph (a).

Section 5 (7) - A planning authority, before making a declaration under this section, shall consider the record forwarded to it in accordance with *subsection* (6)(c).

Section 82.—(1) Notwithstanding <u>section 4</u> (1)(h), the carrying out of works to the exterior of a structure located in an architectural conservation area shall be exempted development only if those works would not materially affect the character of the area.

Planning and Development Regulations 2001, as amended

Article 5 relates to interpretation for Part 2

Section 5(1) - illuminated" in relation to any advertisement, sign or other advertisement structure means illuminated internally or externally by artificial lighting, directly or by reflection, for the purpose of advertisement, announcement or direction

Article 6 Relates to Exempted Development.

Article 6 (1)

Subject to article 9, development of a class specified in <u>column 1 of Part 1 of Schedule 2</u> 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 6 (2)

Subject to article 9, development consisting of the use of a structure or other land for the exhibition of advertisements of a class specified in column 1 of Part 2 of Schedule 2 shall be exempted development for the purposes of the Act, provided that —

- (I) such development complies with the conditions and limitations specified in column 2 of the said Part 2 opposite the mention of that class in the said column 1, AND
- (II) the structure or other land shall not be used for the exhibition of any advertisement other than an advertisement of a class which is specified in column 1 of the said Part 2 and which complies with the conditions and limitations specified in column 2 of the said Part 2 opposite the mention of that class in the said column 1.
- (III) further to section 57 of the Act, the advertisement structure is not erected on a protected structure or a proposed protected structure save an advertisement structure referred to in Classes 5, 9 or 15 of column 1 of Part 2 of Schedule 2
- (IV) further to section 82 of the Act, the advertisement structure is not located on 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 development plan, so as to materially affect the character of the area, save an advertisement structure referred to in Classes 5, 9 or 15 of column 1 of Part 2 of Schedule 2

Article 9 Relates to restrictions on exemptions.

Article 9 (1) concerns development to which Article 6 relates and shall not be exempted development for the purposes of the Act.

(a) If the carrying out of such development would inter alia,
(vi) 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 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 26of 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 18of 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,

Part 1, Schedule 2 relates to Exempted Development - Advertisements:

Class 1

Advertisements (other than those specified in classes 2, 3 or 5 of this Part of this Schedule) exhibited on business premises, wholly with reference to the business or other activity carried on or the goods or services provided on those premises.

Conditions and Limitations

- The total area of such advertisements exhibited on or attached or affixed to the front of any building on the premises shall not exceed an area equal to 0.3 square metres for every metre length of such front, less the total area of any such advertisements exhibited on the premises but not exhibited on or attached or affixed to a building, and in any event shall not exceed 5 square meters;
- he total area of such advertisements exhibited on or attached or affixed to any face of a building on the premises other than the front thereof shall not exceed 1.2 square metres and the total area of any such advertisements on such face which are illuminated shall not exceed 0.3 square metres;
- 3. he total area of such advertisement which are not exhibited on or attached or affixed to a building on the premises shall not exceed 3 square metres, of which not more than 1.5 square metres shall consist of advertisements which are illuminated;
- (a) No part of any such advertisement which is not exhibited on or attached or affixed to a building on the premises, or of an advertisement structure on which it is exhibited, shall be more than 2.5 metres in height;
- (b) No part of any such advertisement which is exhibited on or attached or affixed to a building on the premises shall be more than 4 metres in height above ground level;

- 5. Where any such advertisement projects more than 5 centimetres over any public road, the sign or other advertisement structure on which it is exhibited shall not be less than 2 metres above the level of such road and shall not project more than 1 metre over such road;
- 6. Where any such advertisement consists of a circular sign and projects more than 5 centimetres over any public road, the diameter of such sign shall not exceed 1 metre and no other such advertisement shall be exhibited on a sign or other advertisement structure projecting more than 5 centimetres over such road;
- 7. Where any one or more such advertisements are exhibited on a swinging or fixed sign or other advertisement structure (other than a circular sign) projecting more than 5 centimetres from any external face of a building, the total area of such advertisements shall not exceed 1.2 square metres and the area of any face of any such advertisement shall not exceed 0.4 square metres;
- 8. No such advertisement shall contain or consist of any symbol, emblem, model, logo or device exceeding 0.6 metres in height or any letter exceeding 0.3 metres in height;
- 9. No such advertisement shall cover any part of any window or door of any building on which the advertisement is exhibited or to which it is attached or affixed.

Assessment

Is it development?

Works are defined in the Act as "any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal".

The proposed works involve the replacement of existing back lit advertising signage with internally illuminated advertising signage. As such it can be reasonably and logically concluded that the erection of the proposed new signage constitutes "development" under the meaning of development as stipulated in the Act, as development is defined as, inter alia, "the carrying out of any works on, in, over or under land".

Is / is not exempted development?

A question now arises as to whether or not development constitutes exempted under the broader provisions of Section 4 of the Planning and Development Act 2000, namely Section 4 (1)(h) and Section 82 of the Planning and Development Act 2000, as amended.

Section 4 (1) (h) relates to development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which **do not materially affect the external appearance of the structure** so as to render the appearance inconsistent with the character of the structure or of neighbouring structures;

Section 82.—(1) Notwithstanding <u>section 4 (1)(h)</u>, the carrying out of works to the exterior of a structure located in an architectural conservation area shall be exempted development only if those works would not materially affect the character of the area.

The existing signage addressing Parnell Street consists of a flat white surface which is back lit. The various movies are displayed by removable black letters. The signage addressing Curtain Lane does not appear to be back lit / internally illuminated, merely boards on the shop front. The applicant is proposing to replace same with neon tubular lighting used to illuminate the ARC Cinema with the lettering raised up from the fore of the signage.

I would consider these two styles / types of signage to be <u>materially different from each other</u>. Having regard to Section 82 of the Act I would consider that the proposed development constitutes works to the exterior of a structure located in an architectural conservation which would materially affect the character of the area.

The next question arises as to whether or not the works undertaken could be considered exempted development under the provisions of Article 6 of the Planning and Development Regulations 2001 as amended.

Article 6(2) states that inter alia, Article 6 (2) states inter alia, subject to article 9, development consisting of the use of a structure or other land for the exhibition of advertisements of a class specified in column 1 of Part 2 of Schedule 2 shall be exempted development for the purposes of the Act, provided that (Note: I have outlined the wording of the regulations in *italics*, with my response in **bold**) —

- (I) such development complies with the conditions and limitations specified in column 2 of the said Part 2 opposite the mention of that class in the said column 1, and **To be discussed below**
- (II) the structure or other land shall not be used for the exhibition of any advertisement other than an advertisement of a class which is specified in column 1 of the said Part 2 and which complies with the conditions and limitations specified in column 2 of the said Part 2 opposite the mention of that class in the said column 1. To be discussed below
- (III) further to section 57 of the Act, the advertisement structure is not erected on a protected structure or a proposed protected structure save an advertisement structure referred to in Classes 5, 9 or 15 of column 1 of Part 2 of Schedule 2. **Not applicable**
- (IV) further to section 82 of the Act, the advertisement structure is not located on 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 development plan, so as to materially affect the character of the area, save an advertisement structure referred to in Classes 5, 9 or 15 of column 1 of Part 2 of Schedule 2. The site is located within the ACA of Ennis. Having regard to the signage as proposed, I would consider that same would materially affect the character of the area.

Having regard to the foregoing the proposed development cannot be considered 'exempted development' Art. 6(2) cannot be relied upon in the consideration of the proposed development.

Having regard to Art. 6 (2)(i) &(ii) above, the subject development is being considered under Part 2, Schedule 2, Class 1 which relates to the following Exempted Development – Advertisements (other than those specified in classes 2, 3 or 5 of this Part of this Schedule) exhibited on business premises, wholly with reference to the business or other activity carried on or the goods or services provided on those premises.

Conditions and Limitations

1. The total area of such advertisements exhibited on or attached or affixed to the front of any building on the premises shall not exceed an area equal to 0.3 square metres for every metre

length of such front, less the total area of any such advertisements exhibited on the premises but not exhibited on or attached or affixed to a building, and in any event shall not exceed 5 square meters; From the information submitted it would appear the total are would exceed 5 m^2 (signage on the front elevation measures 5.732m x 1.734m = 9.93 m^2 , while signage on the side elevation measures 1.767m x 1.595m = 2.8 m^2 . The aggregate total thus exceeds the 5 m^2 threshold.

- 2. The total area of such advertisements exhibited on or attached or affixed to any face of a building on the premises other than the front thereof shall not exceed 1.2 square metres and the total area of any such advertisements on such face which are illuminated shall not exceed 0.3 square metres; The proposed signage is affixed to the front of the building as opposed to the face of the building.
- 3. The total area of such advertisement which are not exhibited on or attached or affixed to a building on the premises shall not exceed 3 square metres, of which not more than 1.5 square metres shall consist of advertisements which are illuminated; the entirety of the signage is to be illuminated thus exceeding this threshold.
- 4. (a) No part of any such advertisement which is not exhibited on or attached or affixed to a building on the premises, or of an advertisement structure on which it is exhibited, shall be more than 2.5 metres in height; the signage does not breech this threshold.
- 5. No part of any such advertisement which is exhibited on or attached or affixed to a building on the premises shall be more than 4 metres in height above ground level; the proposed signage is located 3.3m from the ground level however extends to 1.73 m in height thus giving a maximum height of 5.034, thus exceeding this threshold.
- 6. Where any such advertisement projects more than 5 centimetres over any public road, the sign or other advertisement structure on which it is exhibited shall not be less than 2 metres above the level of such road and shall not project more than 1 metre over such road; it would appear that the signage projects more than 5 cm over the public road (notwithstanding that this is a pedestrianised road), and is greater than 2 meters above the level of the road and thus exceeds this threshold.
- 7. Where any such advertisement consists of a circular sign and projects more than 5 centimetres over any public road, the diameter of such sign shall not exceed 1 metre and no other such advertisement shall be exhibited on a sign or other advertisement structure projecting more than 5 centimetres over such road; no circular signs are proposed.
- 8. Where any one or more such advertisements are exhibited on a swinging or fixed sign or other advertisement structure (other than a circular sign) projecting more than 5 centimetres from any external face of a building, the total area of such advertisements shall not exceed 1.2 square metres and the area of any face of any such advertisement shall not exceed 0.4 square metres;
- **9.** No such advertisement shall contain or consist of any symbol, emblem, model, logo or device exceeding 0.6 metres in height or any letter exceeding 0.3 metres in height; **a swinging sign is not proposed.**
- 10. No such advertisement shall cover any part of any window or door of any building on which the advertisement is exhibited or to which it is attached or affixed. The proposed signage does not cover any window.

Having regard to the foregoing, the proposed development breeches the thresholds as outlined in Class 1, Part 2, Schedule 2 of the Planning and Development Regulations 2001, as amended, and therefore cannot be considered exempted development under this part of the regulations.

Article 9 of the Planning and Development Regulations 2001, as amended, outlines the following restrictions on exempted development:

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 – Condition 2 attached to pl. ref. no. p95 16 explicitly required agreement with the Council in relation to the cinema sign before provision. There is no record of such an agreement on file. Therefore it may be considered that the proposed would represent the replacement of a structure which was not authorised by the Council.

- (ii) consist of or comprise 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) except in the case of a porch to which class 7 specified in column 1 of Part 1 of Schedule 2 applies and which 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, comprise the construction, erection, extension or renewal of a building on any street so as to bring forward the building, or any part of the building, beyond the front wall of the building on either side thereof or beyond a line determined as the building line 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**
- (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 **Not applicable**
- (vi) 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 26of 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 – refer to AA screening below**

(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 — as noted above, there is no record of the existing signage having been previously agreed on the planning file.

(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 - **Not applicable**

Under Section 7 of the Planning and Development Act 200, as amended, the Planning Authority is required to consider any relevant decision as made by An Bord Pleanala. I have searched and examined the Board's database of referrals and note there are a number of referrals relating to provision of replacement signage.

Environmental Impact Assessment

In assessing this application I have had regard to the provisions of EU Directive 2014/52/EU (which amends EU Directive 2011/92/EU), and which has been transposed into Irish legislation by the European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018 (SI No. 296 of 2018). The subject development does not fall within the mandatory requirements for EIA as set out in Schedule 5 of the Planning and Development Regulations 2001, as amended. I therefore consider that the proposal constitutes a sub-threshold development and note the requirements of Article 103 (1)(a) and (b) of the Planning and Development Regulations 2001, as amended. As such having regard to the nature and scale of the proposed development and the nature of the receiving environment I consider that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

Appropriate Assessment

The proposed development is located approx.. 70m from the Lower River Shannon SAC. Having regard to:

- the nature of the development,
- the absence of a pathway to the European site by reason of the proposed works,

it is considered that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on the Natura 2000 network and appropriate assessment is not therefore required.

Conclusion

The proposed works are considered to constitute 'development' which is not 'exempted development'.

Recommendation

The following questions have been referred to the Planning Authority:

Whether the replacement of the existing side and front elevations signage with internally illuminated sign / display box at Empire Movieplex, Parnell Street, Ennis, Co. Clare is development and if so, it is exempted development.

The Planning Authority in considering this referral had regard to:

- (a) Sections 2, 3, 4 and 82 of the Planning and Development Act, 2000, as amended.
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended
- (c) Class 1 of Part 2 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (d) Planning permission ref. no. p96 16
- (e) The existing signage at the subject building
- (f) The works as indicated in submitted documents from the referrer.

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

- (a) the replacement of the existing side and front elevations signage with internally illuminated sign / display box at Empire Movieplex, Parnell Street, Ennis, Co. Clare constitutes "works" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended
- (b) the said works constitute "development" which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended
- (c) The proposed signage in its material and composition is a material alteration to the existing signage
- (d) The proposed signage constitutes signage which affects the external appearance of the structure so as to render the appearance inconsistent with the character of the structure and of neighbouring structures and are works which would materially affect the character of the Ennis Architectural Conservation Area

Now therefore Clare County Council (Planning Authority), hereby decides that the replacement of the existing side and front elevations signage with internally illuminated sign / display box at Empire Movieplex, Parnell Street, Ennis, Co. Clare is development and is not exempted development.

Rowing

Fiona Barry Executive Planner Date: 27/7/22 Helen Quinn

Senior Planner
Date: 28/7/27

6th July 2022

To: Fiona Barry, Area Planner

Section 5 referral Reference R22-47 - Melcorpo Commercial Properties Ltd.

Is the replacement of the existing signage with new signage at Empire Movieplex, 36 Parnell Street, Cloonbeg Road, Ennis considered to be development and if so, is it exempted development.

Referral received on 5th July 2022

Due Date: Monday 1st August 2022

(Please note the applicant should have a response by this date)

Regards Tadhg Holmes

internally Ulimental Recorded numbers of notification zones of notification when some some certies. Tour certies Area Core Shopping Area mixed us.



COMHAIRLE CLARE CONTAE AN CHLÁIR COUNTY COUNCIL

Melcorpo Commercial Properties Ltd. c/o Paul Finlay The Building Consultancy, 23 Frederick Street South, Dublin 2

6th July 2022

Section 5 referral Reference R22-47 - Melcorpo Commercial Properties Ltd.

Is the replacement of the existing signage with new signage at Empire Movieplex, 36 Parnell Street, Cloonbeg Road, Ennis considered to be development and if so, is it exempted development.

A Chara,

I refer to your application received on 5th July 2022 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

Mark Kerin

Planning Department

Economic Development Directorate

An Roinn Pleanála
An Stiúrthóireacht Forbairt Gheilleagrach
Áras Contae an Chláir, Bóthar Nua, Inis, Co. an Chláir, V95 DXP2

/95 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 Comhairle Contae an Chl.

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

(a) Name and Address of person	Melcorpo Commercial Properties Ltd.	
seeking the declaration	Melcorpo Building,	
	Loughlinstown Drive,	
	Dun Laoghaire,	ARE CO. COUN
	County Dublin	0.5 1111 2022
b) Telephone No.:	086 2627585	NAME OF THE PARTY
c) Email Address:	brian@melcorpo.com	WWG SECTION
d) Agent's Name and address:	Paul Finlay	
	The Building Consultancy	
	23 Frederick Street South,	
-5.	Dublin 2.	31 Js

2.	DETAILS REGARDING DECLARATION BEING SOUGHT	
(a	PLEASE STATE THE SPECIFIC QUESTION FOR WHICH A DECLARATION IS SOUG Note: only works listed and described under this section will be assessed.	НТ
Sa	ple Question: Is the construction of a shed at 1 Main St., Ennis development and if so is it exempted development	t?
_	the replacement of the existing signage with new sigange at Empire Movieplex, 36 Parnell Street, Cloonb	eg
F	ad, Ennis development and if so is it exempted development?	
(b)	Provide a full description of the question/matter/subject which arises wherein a declaration of the questic is sought.	on iill
	e works will comprise the removal and replacement of the existing dated and dilapidated internally	
	ıminated signage to the cinema. The new signage will match the area of the existing signage, so there wi	ill
	no increase in area and no no material change to the elevation. The only element of change will be the	
_ (ted materials will be replaced and the colouring of the signage will be as per the attached drawings.	
	e proposed signage will be internally illuminated as per the existing sign.	_
	Y Control of the cont	
		-
		-
		-
c)	ist 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 tap for the areas, to identify the lands in question)	
	001 - Signage Details & Elevations	=
	002 - Site Plan	-
	003 - OS 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:	Empire Movieplex
		36 Parnell Street,
		Clonbeg Road,
		Ennis,
		County Clare
(b)	Do the works in question affect a Protected Structure or are within the curtilage of a Protected Structure? If yes, has a Declaration under Section 57 of the Planning & Development Act 2000 (as	_No
	amended) been requested or issued for the property by the Planning Authority?	
(c)	Legal interest in the land or structure in question of the person requesting the declaration (Give Details):	Leaseholder
	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: Note: Observations in relation to a referral may be requested from the owner/occupier where appropriate.	Coogee Park Limited
		Astor House
		29 Lower Georges Street,
		Dun Laoghaire, County Dublin
(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:	No
h)	Date on which 'works' in question were completed/are likely to take place:	September (Provisionally)

SIGNED: Bul Folly

DATE: 01 July 2022

THE BUILDING CONSULTANCY





p-d TBC/AB 04th July 2022

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

Dear Sir/Madam,



SECTION 5 APPLICATION FOR WORKS AT EMPIRE MOVIEPLEX (ARC CINEMA) 36 PARNELL STREET, **CLONBEG ROAD, ENNIS, COUNTY CLARE**

On behalf of Melcorpo Commercial Properties Ltd., we hereby formally apply for a Section 5 application for the replacement of the existing dated and dilapidated cinema signage with new signage. The new signage will match the area of the existing signage, so there will be no increase in area and no material change to the elevation. The only element to change will be the dated materials and the colour of the signage, all of which is indicated in the enclosed drawings.

. In support of our application, we enclose the following documentation:

- 1. Completed application form.
- 2. A drawing register, enclosing 2 no. copies of the following:

Drawing No. P001

Signage Details & Elevations,

Drawing No. P002

Site Plan,

Drawing No. P003

OS Map.

In relation to the €80 application fee, can you please contact me on 086 440 5738 to arrange payment.

We trust that the above and enclosed are satisfactory, however should you have any queries or require any further information, please do not hesitate to contact me.

Yours sincerely,

Paul Finlay MSCSI MRICS

Associate Director

23 Frederick Street South, Dublin 2.

T. +353 1 634 1000

info@tbci.le

www.thebuildingconsultancy.ie

REGISTERED COMPANY NAME. CNP (Chartered Surveyors Ireland) ltd.

REGISTERED IN IRELAND NO. 449498

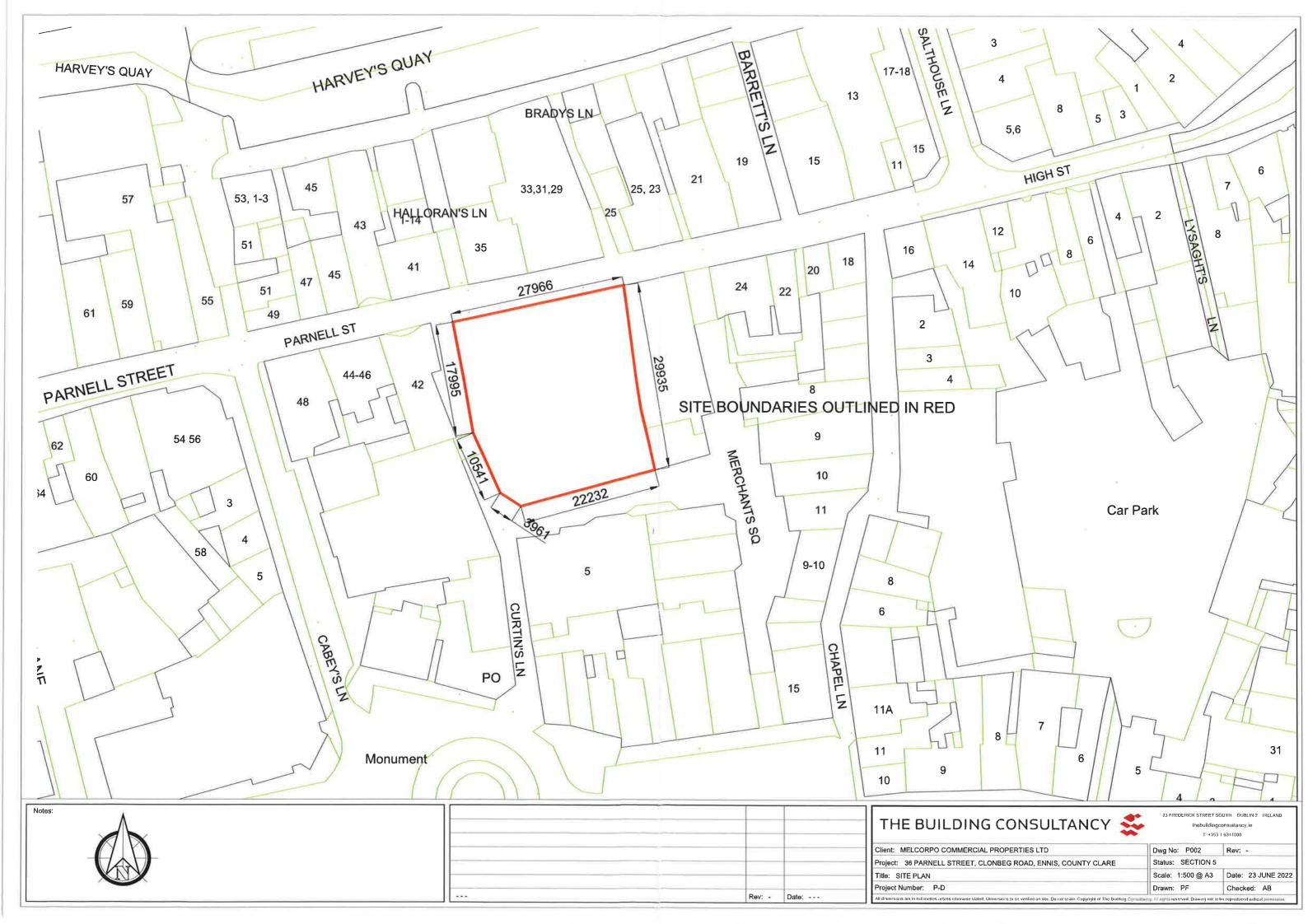
REGISTERED ADDRESS. 23 Frederick Street South, Dublin 2.

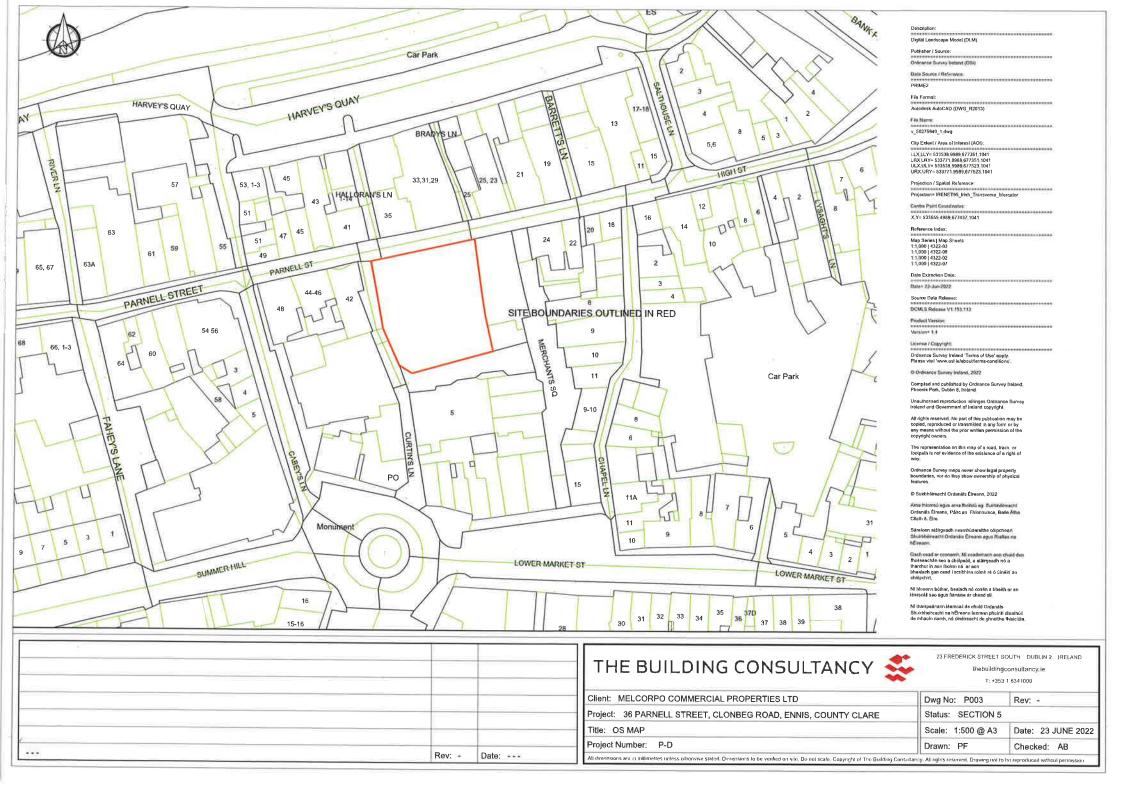
DIRECTORS. Alan Baldwin, Karl O'Donovan, Hugh Holt, Ken Mulligan, Michael Ferry











CHLAIR



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

05/07/2022 15:15:21

Receipt No.: L1CASH/0/834917_ ***** REPRINT *****

MELCORPO COMMERCIAL PROPERTIES L1 C/O PAUL FINLAY THE BUILDING CONSULTANCY 23 FREDERICK ST SOUTH **DUBLIN 2**

SECTION 5 REFERENCES GOODS 80.00 VAT Exempt/Non-vatable

80.00

Total:

80.00 EUR

Tendered CREDIT CARDS

d'ar nOidhrea

Change:

0.00

Issued By : L1CASH - DEIRDRE FRENCH From : MAIN CASH OFFICE LODGEMENT AF

Vat reg No.0033043E