



COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

**Registered Post**

**Conor Burke**  
**11A Carmody Street Business Park**  
**Mill Road**  
**Ennis**  
**Co. Clare**  
**V95 FD72**

RL 5431 0194 6 IE

**25th August, 2022**

**Section 5 referral Reference R22-50 – Conor Burke**

Is the renovation and reconstruction of office spaces into professional creative workspaces at Knockaunvickteera, Thomand View, Lisdoonvarna, Co. Clare V95 DC42 considered to be development and if so, is it exempted development?

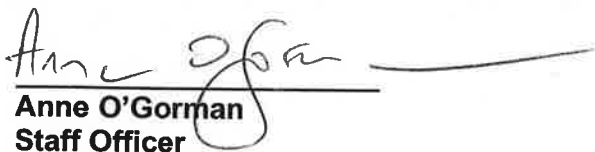
A Chara,

I refer to your application received on 11th 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](http://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.: R22-50**



Comhairle Contae an Chláir  
Clare County Council

**Section 5 referral Reference R22-50**

**Is the renovation and reconstruction of office spaces into professional creative workspaces at Knockaunvickteera, Thomand View, Lisdoonvarna, Co. Clare V95 DC42 considered to be development and if so, is it exempted development?**

**AND WHEREAS, Conor Burke** 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 –**

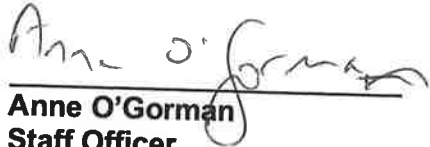
- (a) Sections 2, 3 of the Planning and Development Act, 2000, as amended,
- (b) Part 4, Article 10, Exempted Development Class of Use, Class 2 (Office opened to visiting members of the public)
- (c) Classes 41 of Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended. (Exempted works to comply with Fire Regulations)
- (d) The planning history on site and the nature of the previous use on site.
- (e) The proposed works and proposed use as indicated in submitted documents from the referrer as received by the Planning Authority on the 11<sup>th</sup> July 22, 28<sup>th</sup> July 22 and on the 16<sup>th</sup> August 22.

**And whereas Clare County Council has concluded:**

- (a) the renovation and reconstruction of existing office space comes 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 works to the offices being works which affect only the interior of the structure and do not materially affect the external appearance of the structure so as to render the appearance of the structure inconsistent with the character of the structure or neighbouring structures and are therefore considered to constitute exempted development under Section 4 (1) (h) of the Planning and Development Act 2000 as amended.
- (d) the said development and use as professional creative workshops/workspace and offices comes within the scope of Article 10 and classes of use (Class 2) as set out under Part 4, Schedule 2 of the Planning and Development Regulations 2001, as amended.

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

The proposed development consisting of the renovation and reconstruction of office spaces into professional creative work spaces at Knockaunvickteera, Thomond View, Lisdoonvarna, County Clare is development and is exempted development, as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.



**Anne O'Gorman**  
**Staff Officer**  
**Planning Department**  
**Economic Development Directorate**

**25th August, 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:**

80360

**Reference Number:**

**R22-50**

**Date Referral Received:**

**11th July 2022**

**Further Information Requested:**

**28<sup>th</sup> July 2022**

**Further Information Received:**

**16<sup>th</sup> August 2022**

**Name of Applicant:**

**Conor Burke**

**Location of works in question:**

**Knockaunvickteera, Thomand View,  
Lisdoonvarna, Co. Clare**

**Section 5 referral Reference R22-50 – Conor Burke**

Is the renovation and reconstruction of office spaces into professional creative workspaces at Knockaunvickteera, Thomand View, Lisdoonvarna, Co. Clare V95 DC42 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 of the Planning and Development Act, 2000, as amended,
- (b) Part 4, Article 10, Exempted Development Class of Use, Class 2 (Office opened to visiting members of the public)
- (c) Classes 41 of Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended. (Exempted works to comply with Fire Regulations)
- (d) The planning history on site and the nature of the previous use on site.
- (e) The proposed works and proposed use as indicated in submitted documents from the referrer as received by the Planning Authority on the 11<sup>th</sup> July 2022, 28<sup>th</sup> July 2022 and on the 16<sup>th</sup> August 2022.

**AND WHEREAS Clare County Council has concluded:**

- (a) the renovation and reconstruction of existing office space comes 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 works to the offices being works which affect only the interior of the structure and do not materially affect the external appearance of the structure so as to render the appearance of the structure inconsistent with the character of the structure or neighbouring

structures and are therefore considered to constitute exempted development under Section 4 (1) (h) of the Planning and Development Act 2000 as amended.  
(d) the said development and use as professional creative workshops/workspace and offices comes within the scope of Article 10 and classes of use (Class 2) as set out under Part 4, Schedule 2 of the Planning and Development Regulations 2001, as amended.

**ORDER:** Whereas by Chief Executive's Order No. HR 152 dated 9<sup>th</sup> 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 Gareth 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 that the renovation and reconstruction of office spaces into professional creative work spaces at Knockaunvickteera, Thomond View, Lisdoonvarna, County Clare is development and is exempted development.

**Signed:**

  
\_\_\_\_\_  
**GARETH RUANE**  
**SENIOR EXECUTIVE PLANNER**

*A. J.*

**Date:** 25th August, 2022

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

<b>FILE REF:</b>	R22-50
<b>APPLICANT(S):</b>	Conor Burke
<b>REFERENCE:</b>	Whether the renovation and reconstruction of office spaces in to professional creative work spaces at Knockaunvickteera, Thomond View Lisdoonvarna is considered to be development and if so is it exempted development.
<b>LOCATION:</b>	Knockaunvickteera, Thomond View Lisdoonvarna , County Clare
<b>DUE DATE:</b>	2 <sup>nd</sup> September 22

Further information was requested as follows:

1.The Planning Authority notes the significant period of time which has elapsed since the building was last in use and is concerned that the resumption of the use of the building following a considerable period of non use could result in material considerations (i.e. impact on traffic safety and parking availability ) with respect to the proper planning and sustainable development of the area which may render the proposed change of use to be a material change of use which amounts to development requiring the benefit of planning permission. Notwithstanding the foregoing, the Planning Authority is of the opinion that the renovation and reconstruction of office spaces in to professional creative work spaces at Knockaunvickteera, Thomond View Lisdoonvarna may constitute development which is exempted development if it can be sufficiently demonstrated that the use of the building as Class 2 offices (building contractor) providing a professional service to visiting members of the public has merely been suspended rather than abandoned.

Please submit information to demonstrate whether or not the use as offices has been intentionally abandoned or merely suspended. Please also submit details of utility bill or commercial rates receipts or other documentation to prove the intention of the owner as regard the use of the building for the preceeding 15- 20 years.

**Summary of Applicants Reply**

1.The onsite workshop and offices proposed will be fully managed and operated by the applicant and his business The Gentian Press for the 10 years of the rental contract with the Property owners. ( Zinc Properties Ltd.) The space will offer a printing studio, 6 studio work spaces/ workshops, a 2D/3 D makerspace and a multi function space for workshops and exhibitions.

- Correspondence from Zinc Properties Limited confirms the building was purchased from a liquidator in 2016 and was previously used for offices and work shop . The

use was suspended at the time because of market conditions until the right tenant presents to carry out a similar purpose.

- A copy of the ESP Bill for the building has been submitted.
- Correspondence from D. Foran, Agent who confirms the building was used as a joinery and offices until the late 2000's. The use was suspended in anticipation of an investor or business taking it over with a view to re using it as commercial office space.
- The property has adequate parking and is served by pathway from the village.

### **Assessment**

I am satisfied having regard to the details received that onsite workshop and offices proposed will be fully managed and operated by the applicant and his business Gentian Press. The previous use of the building as offices and workshop are considered to be of a similar nature to the use now proposed to be carried out in the building. The copy of the utility bill as evidence that the former use had not been abandoned is noted.

I refer to Article 10 (1) (a) to (d) of the Planning and Development Regulations 2001 as amended. This article states that 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.

In this instance it is considered that the circumstances of the subject site meet criteria (a) to (d) above.

### **Recommendation**

**The following question has been referred to the Planning Authority:**

Whether the renovation and reconstruction of office spaces in to professional creative work spaces at Knockaunvickteera, Thomond View Lisdoonvarna is or is not development and is or is not exempted development.

**The Planning Authority in considering this referral had regard to:**

- (a) Sections 2, 3 of the Planning and Development Act, 2000, as amended,
- (b) Part 4, Article 10, Exempted Development Class of Use, Class 2 (Office opened to visiting members of the public)
- (c) Classes 41 of Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended. (Exempted works to comply with Fire Regulations)

- (d) The planning history on site and the nature of the previous use on site.
- (e) The proposed works and proposed use as indicated in submitted documents from the referrer as received by the Planning Authority on the 11<sup>th</sup> July 22 , 28<sup>th</sup> July 22 and on the 16<sup>th</sup> August 22.

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

- (a) the renovation and reconstruction of existing office space comes 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 works to the offices being works which affect only the interior of the structure and do not materially affect the external appearance of the structure so as to render the appearance of the structure inconsistent with the character of the structure or neighbouring structures, <sup>and</sup> are therefore considered to constitute exempted development under Section 4 (1) (h) of the Planning and Development Act 2000 as amended.
- (d) the said development and use as professional creative workshops/workspace and offices comes within the scope of Article 10 and classes of use ( Class 2) as set out under Part 4 , Schedule 2 of the Planning and Development Regulations 2001, as amended.

Now therefore Clare County Council (Planning Authority), hereby decides that the renovation and reconstruction of office spaces in to professional creative work spaces at Knockaunvickteera, Thomond View , Lisdoonvarna, County Clare is development and is exempted development.

Signed Glenn Coey  
E.P.

Date 24-08-22

Signed [Signature]  
S. E.P.

Date 24/08/22





COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

**Conor Burke**  
**11A Carmody Street Business Park**  
**Mill Road**  
**Ennis**  
**Co. Clare**  
**V95 FD72**

**16/08/2022**

**Section 5 referral Reference R22-50 – Conor Burke**

Is the renovation and reconstruction of office spaces into professional creative workspaces at Knockaunvickteera, Thomand View, Lisdoonvarna, Co. Clare V95 DC42 considered to be development and if so, is it exempted development?

A Chara,

I refer to your application received on 11th July 2022 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

I acknowledge receipt on 16<sup>th</sup> August 2022 of your response to the further information request issued by the Planning Authority on 28<sup>th</sup> July 2022

Please note that the Planning Authority is considering the further information submitted, and a reply will issue to you in due course.

Mise, le meas

*Tadhg Holmes*

**Tadhg Holmes**  
**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





11 A Carmody Street  
Mill Road  
Ennis  
Co. Clare  
V95 FD72  
085 272 8801  
Conor@thegentianpress.com

**Re: Conor Burke, Lisdoonvarna, Co. Clare. Planning Ref: R22/50**

**16<sup>th</sup> August 2022**

A Chara,

Please see attached requested documents from your previous Letter, which outline that the use of the office spaces and workshop in Knockaunvickteera, Thomad View, Lisdoonvarna was **suspended** rather than abandoned.

I would also like to confirm that the entire workshop and offices proposed in my section 5 application will be fully managed and exclusively operated by myself and my business The Gentian Press Limited for the 10 years of my rental contract with Zinc Properties Limited.

“As one of the leading local authorities in arts development in Ireland, Clare County Council responds and reacts to changes in the cultural climate, which surrounds us, in innovative and strategic ways - working with the wealth of artistic talent in the county. At national level Project Ireland 2040 lists Arts, Culture and Heritage as elements supporting quality of life.

As a Local Authority we want to ensure there is a cultural vibrancy in the places where we live and work, places where artists and creative practitioners are active and respected, places where cultural expression is a welcomed and access to creative activity is easy for all our citizens, regardless of where they are or where they have come from". Clare County Council Arts Development Plan 2019-2023."

The Burren Creative space will offer a world class print studio, 6 individual Studio workspaces, a 2D/3D Makerspace accessible to all which is unheard of on the west coast of Ireland and a multifunctional space for workshops, exhibitions, storytelling and dance.

I am 100% confident that with a positive decision of this application, we will be able to offer facilities that meets all the targets and criteria outlined in the "Flourish" arts development plan.

Please do not hesitate in contacting me if any further information is required.

Kind Regards

Conor Burke

A handwritten signature in black ink, appearing to be 'CB', written over a horizontal line.

Ms. Anne O'Gorman  
Planning Dept.  
Clare County Council,  
New Road,  
Ennis, Co. Clare  
V95 DXP2



Eastway Business Park  
Ballysimon Road  
Limerick  
V94 K267  
T: 061-603848

15<sup>th</sup> August 2022

Re: Knockaunvickteera, Thomond View, Lisdoonvarna, Co. Clare

Dear Anne,

As owners of Zinc Properties Ltd, we wish to write to you regarding our property in Knockaunvickteera, Thomond View, Lisdoonvarna, Co. Clare. This property was purchased in late 2016 from a liquidator, the building was once owned by Michael Bernard McNamara with the existing commercial use in place as offices & a workshop.

When the property was purchased, we merely suspended the use of the building rather than abandoned it, this was due to current market conditions, and we were waiting until the right tenant came along to carry out a similar purpose. We are supportive of the fact Conor Burke is bringing the building back into the use in which it was built for, it is a good opportunity for his business and a positive boost for the area.

Kind regards,

  
Zinc Properties Ltd

Your account number

To ask about this bill

call 1800 372 372

Open Mon - Fri, 9am - 5.30pm

ZINC PROPERTIES  
4 THE ELMS  
DROMBANNA  
CO. LIMERICK

For emergencies or  
electricity interruptions

ESB Networks  
call 1800 372 999

Open 24 hours, 7 days a week

Please have this MPRN number ready



This bill is for

Thomond Road, Lisdoonvarna, Co. Clare

DC  
DG

Date of issue

29 Jul 22

## Your electricity bill at a glance

> Full details of your account are on the back of this bill

Billing period

Reading type

Bill summary

Your last bill

Payments/Transactions

Balance brought forward

Charges for this period

VAT



Energy tips

- Up to 45% of energy costs go on heating and cooling. Keep your air ducts clean and your costs down.
- Occupancy sensors on lighting can cut energy use by up to 30%.

VAT Reg No IE 8F 52100V

E&OE



0001 9047455819 000001625233 798258



93-20-86  
Bank date/Brand

Bank Giro Credit Transfer  
Allied Irish Banks plc.  
7/12 Dame Street, Dublin 2  
Giro No. 81900087

904745581

ZINC PROPERTIES

electric  
ireland





Date

Notes/Coins €

Total cash €

Cheques etc €

Total amount €

	Deirdre Foran, B.Eng. (Civil), M.E.I., Chartered Building Engineer, Lisdoonvarna, Co Clare. <a href="mailto:dforandesign@gmail.com">dforandesign@gmail.com</a> 087 675 0327	
	 <b>ENGINEERS IRELAND</b>	 

Reference: Section 5 Referral R22-50

Conor Burke,  
Former Michael McNamara & Co. Builder's  
Joinery and Offices,  
Knockaunvictiera, Lisdoonvarna.

On May 4th 2022, I visited and inspected the property at Knockaunvictiera, Lisdoonvarna in order to prepare an internal layout plan for the reuse of the former office area, joinery and entrance to Professional Creative Work Spaces.

The matter currently being decided on by Clare County Council planning section is whether this development is considered development and if so, is it considered exempted development, under reference R 22-50.

I can confirm that the building was used as a joinery and office area for Michael McNamara & Co. Builders, up until the late 2000's. I can also confirm that there has been no activity in the building since that time, with the use being suspended in anticipation of an investor or business taking it over with a view to reusing it as a commercial office space.

The property has adequate parking available for the number of people anticipated to be making use of the building and is within the 50km/p/h traffic limit speed in an area of few residential units and is serviced by a pathway from the village.

Signed:

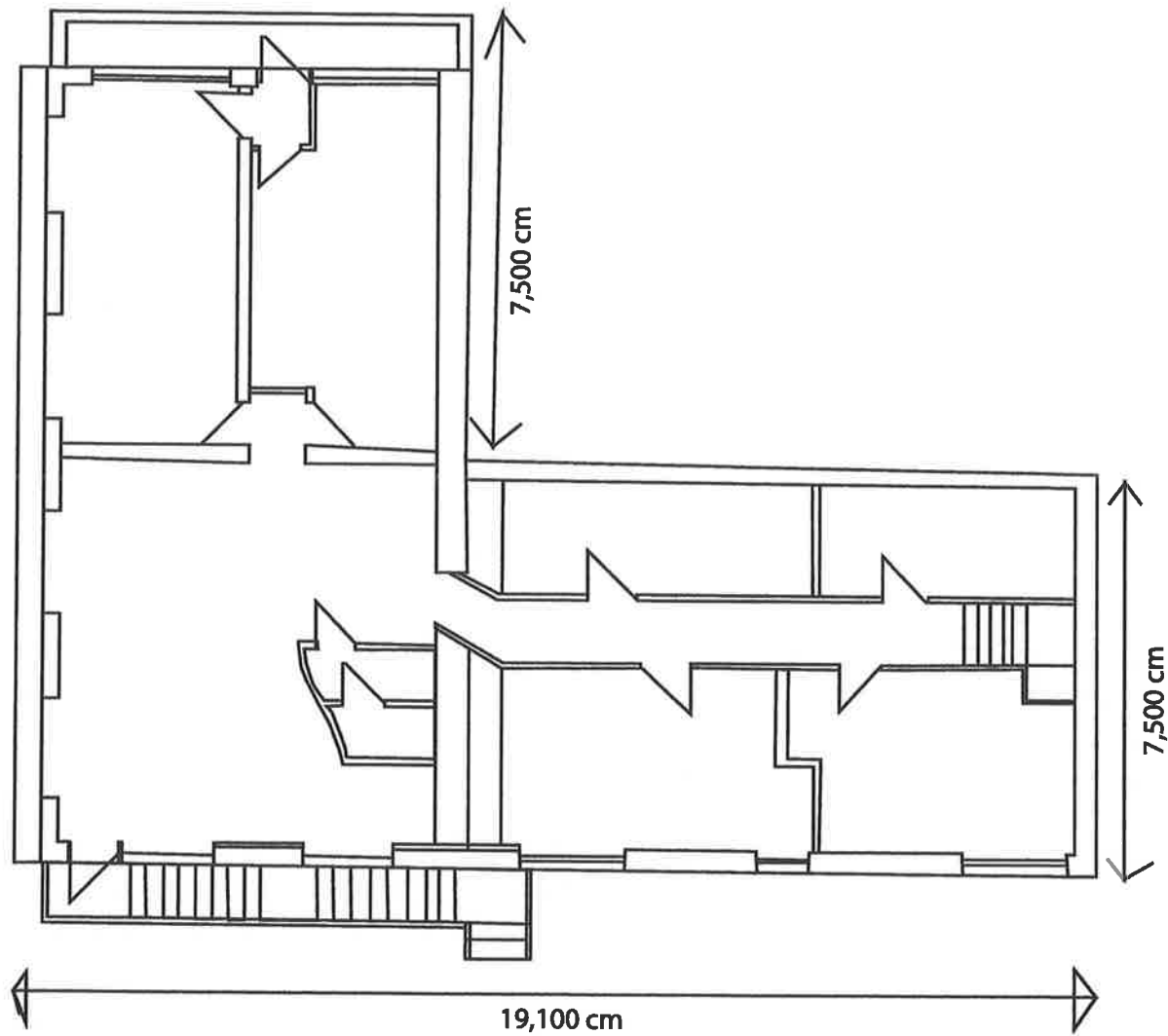
*Deirdre Foran*

B.Eng, Chartered Building Engineer

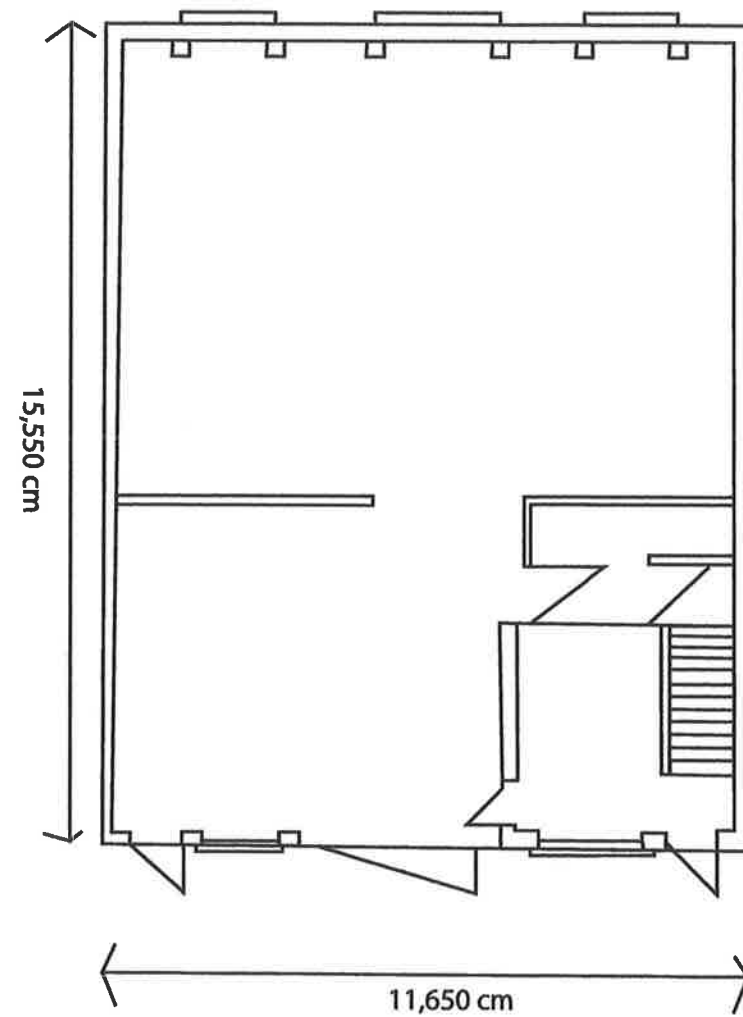
Dated:

August 9<sup>th</sup> 2022



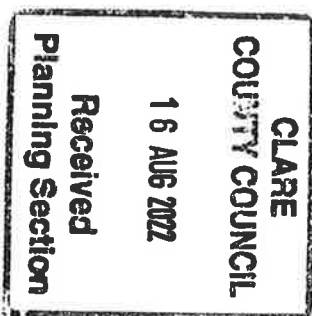


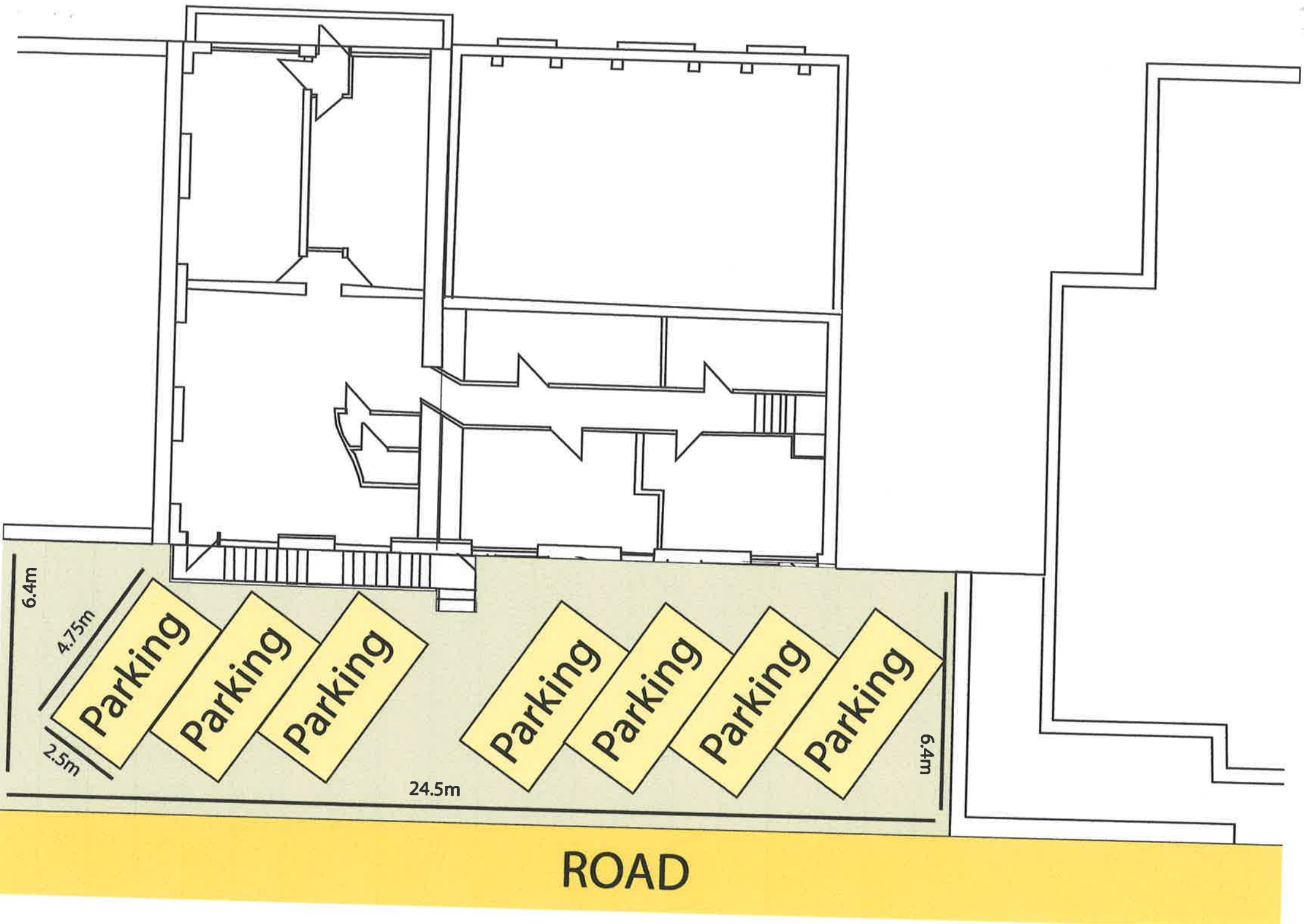
FIRST FLOOR



GROUND FLOOR

THE GENTIAN PRESS (McNamaras Joinery Lisdoonvarna)









Clare County Council,  
New Road,  
Ennis,  
Co. Clare

**Re: Conor Burke, Lisdoonvarna, Co. Clare. Planning Ref: R22/50**

A Chara,

I am writing in my capacity as an Oireachtas Member in North Clare who has an interest in economic development in the areas outside of the main towns of Ennis and Shannon.

Conor Burke is proposing to renovate and reconstruct office spaces and workshops in the property previously operated by Michael McNamara & Company Contractors. This building has been vacant now in excess of ten years. When it was operational it provided employment for many people in the North Clare area over several decades.

I am very impressed with the commitment that Conor Burke, a young gentleman, is making to his community. It would be a lot easier for Conor to locate his business in the industrial zones of Ennis, Shannon, Limerick or Galway but he chosen to locate it in his own rural hometown of Lisdoonvarna where he will create employment for himself and others. I am also very impressed that The Clare Local Development Company are positively supporting Conor's business venture which is a vote of confidence in him and in the area.

I would hope that Clare County Council will show the same faith in Conor as the CLDC and as his financial providers and ensure that whatever roadblocks arise are dismantled and that this project is not lost to the Lisdoonvarna due to bureaucracy and red tape.

Please do not hesitate to contact me if I can be of any further assistance.

Yours sincerely,



**Senator Martin Conway**

senator  
**MARTIN  
CONWAY**

Seanad Spokesperson  
for Health

**CONSTITUENCY OFFICE:**

The Square  
Ennistymon  
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☎ 065 7072222  
☎ 087 2612977

**WEB & EMAIL:**

✉ martin.conway@oir.ie  
f martin.conway.96  
@ConwayforClare  
ConwayforClare



**LEINSTER HOUSE:**

Seanad Éireann  
Kildare Street  
Dublin 2

Seanad Éireann  
Teach Laighean  
Sráid Chill Dara  
Baile Átha Cliath 2

☎ 01 618 3035

Cllr Joe Garrihy

Ardeamush

Lisdoonvarna

Co Clare

Member of Clare County Council at West Clare Municipal District

M. 0868219624 . email cllrgarrihy@gmail.com

Re. Section 5 Application ref R22-50

30/07/2022

A Chara

I write in my capacity as elected representative for the west Clare municipal district and chairman of community development company Lisdoonvarna Failte CLG.

I have reviewed the proposal by Conor Burke for the renovation and reconstruction of office spaces and workshop areas in a building which was previously a major employer and centre of positive enterprise. The buiding is located at Knockaunvictiera adjacent to the small town of Lisdoonvarna and was formerly McNamaras joinery employing over 60 people.

I submit that the initiative and enterprise of a local young business person in comitting to this enterprise is to be commended and encouaged / supported at every possible level. This has clearly been recognised by Clare Local Developemnt Company in mentoring and working with Conor Burke to bring the enterprise forward for capital funding support throught the LEADER program. It is my undrstanding that the final approval of a significant grant support through the LEADER program is now at final stages and that the requested Section 5 clarificationon planning status is the remaining hurdle in securing the funding. It is also my understanding that the funding support at final approval stage is a key element of the business plan that would result in a new innovative and creative enterprise to progress and fully launch with major positives impacts on the town. These include job creation , economic activity , bringing back into use buildings where operations have been suspended due to market and economic conditions.

I have lived in Lisdoonvarna for the last 25 years and can confirm that many times over

**CLARE  
COUNTY COUNCIL**

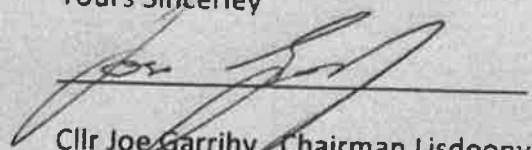
**16 AUG 2022**

**Received  
Planning Section**

this period I am aware of efforts and initiatives to regenerate former pillars of the local economy which have failed due to delays and lack of joined up support from state and agencies. I also confirm that to my knowledge and understanding of previous owners and people involved with this building over the years that it has always been the intention to bring back to life and use this building for the purpose of office , workshop and enterprise use for which they were developed and operated succesfully for many many years. In my opinion based on local knowledge the use of these buildings as office and workshop spaces was never abandoned as it was always the intention to bring back into use when the opportunity and market aligned. I submit that the use of the buildings in question was suspended awaiting willing able and appropriate enterprise to move in. This opportunity is now and I sincerley urge you to acknowledge and support this by approving the proposal as exempted development. I further conside that ample parking is available both on the frontage of the building and on nearby town / community parking areas to accomodate the proposed development

Please do not hesitate in contacting me should you require anything further on this matter.

Yours Sincerley

A handwritten signature in dark ink, appearing to read 'Joe Garrihy', written over a horizontal line.

Cllr Joe Garrihy, Chairman Lisdoonvarna Failte CLG



COMHAIRLE | CLARE  
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**Conor Burke**  
**11A Carmody Street Business Park**  
**Mill Road**  
**Ennis**  
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**V95 FD72**

RL 5660 3341 91E

28/07/2022

**Section 5 referral Reference R22-50 – Conor Burke**

Is the renovation and reconstruction of office spaces into professional creative workspaces at Knockaunvickteera, Thomond View, Lisdoonvarna, Co. Clare V95 DC42 considered to be development and if so, is it exempted development?

A Chara,

I refer to your application received on 11th July 2022 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

I wish to advise that in accordance with Section 5 (2) (b) of the Planning & Development Act, 2000, as amended, the following further information is requested by the Planning Authority:

The Planning Authority notes the significant period of time which has elapsed since the building was last in use and is concerned that the resumption of the use of the building following a considerable period of non-use could result in material considerations (i.e. impact on traffic safety and parking availability) with respect to the proper planning and sustainable development of the area which may render the proposed change of use to be a material change of use which amounts to development requiring the benefit of planning permission.

Notwithstanding the foregoing, the Planning Authority is of the opinion that the renovation and reconstruction of office spaces into professional creative work spaces at Knockaunvickteera, Thomond View, Lisdoonvarna may constitute development which is exempted development if it can be sufficiently demonstrated that the use of the building as Class 2 offices (building contractor) providing a professional service to visiting members of the public has merely been suspended rather than abandoned.

Please submit information to demonstrate whether or not the use as offices has been intentionally abandoned or merely suspended. Please also submit details of utility bill or commercial rates receipts or other documentation to prove the intention of the owner as regard the use of the building for the preceding 15-20 years.

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




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

**FILE REF:** R22-50  
**APPLICANT(S):** Conor Burke  
**REFERENCE:** Whether the renovation and reconstruction of office spaces into professional creative work spaces at Knockaunvickteera, Thomond View Lisdoonvarna is considered to be development and if so is it exempted development.  
**LOCATION:** Knockaunvickteera, Thomond View Lisdoonvarna , County Clare  
**DUE DATE:** 3<sup>rd</sup> August 22

**Site Location**

The subject site is located on land zoned commercial.

**Planning History on Site**

**P8/ 12394.** ( 1978) Michael McNamara. Planning permission granted for the reconstruction and enlarging of offices at Knockaunvickteera. 

**Background to Referral**

This referral under Section 5(3)(a) of the Planning and Development Act 2000 (as amended) has been made by Conor Burke . The applicant is seeking a Section 5 Declaration as to whether the renovation and reconstruction of office spaces into professional creative work spaces at Knockaunvickteera, Thomond View Lisdoonvarna is or is not development and is or is not exempted development.

**Statutory Provisions**

**Planning and Development Act, 2000 (as amended)**

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

'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.*

*'Development' is defined in Section 4 of the Planning and Development Act 2000, as amended as follows*

*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 states that the following shall be exempted for the purposes of the Act:*

*(h) development consisting of the carrying out of works for the maintenance, improvement, or other alteration of any structure being **works which affect only 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 structure.*

*Planning and Development Regulations Part 4 Article 10. Exempted Development Classes of use*

*Class 2*

*Use for the provision of:*

*(a) Financial services*

*(b) Professional services ( other than health or medical)*

*(c) any other services ( including use as a betting office)*

*Where the services are principally to visiting members of the public.*

**Ejusdem Generis Principle in law-** This principle espouses that where items are enumerated in law, it is generally confined to things of the same or similar class. The implication of this is further assessed below.

Planning & Development Regulations, 2001, as amended

*Class 14 change of use*

*Use to which class 2 of part 4 of the schedule applies to use as a shop.*

*It is noted that works include for replacement of existing fire door and existing escape stairs. Therefore regard is had to class 41.*

*Class 41*



*Works consisting of or incidental to the carrying out of development in compliance with a condition or conditions attached to a fire safety certificate granted in accordance with part III of the Building Control Regulations 1997 other than the construction or erection of an external fire escape or water tank.*

Article 6 refers to Exempted Development and states that subject to Article 9, development of a class specified in column 1 of Part 3 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 3 opposite the mention of that class in the said column 1.

Article 9 of the Planning and Development Regulations 2001, as amended

Article 9 of the Planning and Development Regulations 2001, as amended outlines restrictions on exempted development, and these are assessed below:

- (i) *contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act*
- (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.*
- (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,*
- (vi) *consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,*
- (vii)
  - a. *consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12(1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any*

*excavation or any works, pursuant to and in accordance with a consent granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended,*

- b. comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,*
  - c. consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000.”*
- (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.*



### Basis of Referral

The applicant is seeking a Section 5 Declaration as to whether the renovation and reconstruction of office spaces in to professional creative work spaces at Knockaunvickteera, Thomond View Lisdoonvarna County Clare is or is not development and is or is not exempted development.

### Particulars of Proposal

The particulars of the proposal and site are set out below:

- Completed application form
- Site map
- Internal and external photographs
- E tender quotation for works
- First floor internal floor plan
- Planning history details
- The building was use as former office space for Bernard Mc Namara ( Building contractors) and has been unused for 15- 20 years
- The building ( ground floor) has been leased by the applicant to produce limited edition books and posters
- The aim is to renovate office space upstairs into 6 individual work spaces for artist work space for professional artist/ designers/ graphic designers/ animators/ web site designers/ painters etc.
- The construction will consist of internal partitions, plumbing, plumbing and electrical fire alarms etc.
- There will be no work carried out to any of the exiting external / internal structural walls , windows , roof lights the roof . ( internal fit out only)
- Replace existing fire escape door and existing fire escape stairs.

It would appear from the details submitted , in particular the photographs, that the use of the building as office ( Class 2) has ceased and that the building could reasonably be described as vacant.

The query refers to offices as though they were existing whereas a more accurate query may have referred to change of use in respect of a vacant building ( formerly used as offices).

I consider from the planning history that the former use as offices was an authorised use as class 2 Offices accommodating a professional service ( Building Contractors) to visiting members of the public and that the new use would be similar in that office would accommodate use as professional services to visiting members of the public.

However the question arises as to whether the former use as offices has been abandoned or merely suspended.

It is considered that the mere suspension (as opposed to cessation) of development does not, generally, amount to abandonment. It has been held (Dublin Co Co v Tallagh Block Company Ltd. [1982]) that where a previous development has not merely been suspended for a temporary period but has ceased for a considerable time, with no evidenced intention of resuming it at any particular time, it is a question of fact whether or not the former use has been abandoned.

It seems that the issue of an intention to resume the development is an important factor in determining where or not there has been an abandonment of use. In Cork Co Co v Ardfert Quarry Production Ltd [1982] the court held that where the use of a premises as a general industrial building was suspended for a period of four years without any satisfactory explanation, the use had been abandoned.

An English court ruling has applied four criteria for assessing whether a use had been abandoned. These are:

- (1) the physical condition of the buildings;
- (2) the period of non-use;
- (3) whether there has been any other use; and
- (4) the owner's intentions.

In Hughes v SSETR & South Holland DC [2000] the Court of Appeal held that the test of the owner's intentions should be objective and not subjective. In this regard the test was the view to be taken by "a reasonable man with knowledge of all the relevant circumstances".

Having regard to the foregoing criteria the following is noted :

- The physical condition of the buildings- The building does not appear derelict and the front façade is painted and in good condition. Internally the fixtures and fitting have been removed leaving internal walls only. See photos
- The period of non use – The applicant has advised the period of non use is 15- 20 years.
- Whether there has been any other use- No details were submitted in this regard.
- The owner intention – No details have been submitted in this regard.

I consider that if the use of the building has ceased for a considerable period and there is no evidence of intention to resume activities in the intervening period I would conclude the use of the building for office ( Class 2 ) has been abandoned. In this regard it is noted that the building is not on the derelict site register or on the vacant site register both of which would indicate the use has been abandoned.

However if it was not the intention of the owner to abandon the use completely then it would be reasonable to assume that utilities services such as water connection, electricity supply connection, etc would still be in place. There is no information on file to indicate if commercial rates have been paid or not during the period in which the building was vacant. Neither is there any information on file to show continuous payment of utility bills in the period the building was vacant.

Ejusdem Generis Principle in law- This principle espouses that where items are enumerated in law, it is generally confined to things of the same or similar class. So for example the types of offices listed under class 2 above are enumerated as falling under a class of office use which is principally for visiting members of the public to distinguish them from Class 3 offices which are not for visiting members of the public. Any other professional service although not expressly enumerated under class 2 but offering a professional service to visiting members of the public could under the Ejusdem Generis rule be considered to fall within class 2 .

### Recommendation

I recommend requesting additional information as follows:

1.The Planning Authority notes the significant period of time which has elapsed since the building was last in use and is concerned that the resumption of the use of the building following a considerable period of non use could result in material considerations (i.e. impact on traffic safety and parking availability ) with respect to the proper planning and sustainable development of the area which may render the proposed change of use to be a material change of use which amounts to development requiring the benefit of planning permission.

Notwithstanding the foregoing, the Planning Authority is of the opinion that the renovation and reconstruction of office spaces in to professional creative work spaces at Knockaunvickteera, Thomond View Lisdoonvarna may constitute development which is exempted development if it can be sufficiently demonstrated that the use of the building as Class 2 offices (building contractor) providing a professional service to visiting members of the public has merely been suspended rather than abandoned.

Please submit information to demonstrate whether or not the use as offices has been intentionally abandoned or merely suspended. Please also submit details of utility bills or commercial rates receipts or other documentation to prove the intention of the owner as regard the use of the building for the preceeding 15- 20 years.



Executive Planner

Date: 27-07-22



Senior Planner

Date: 28-07-2022

**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**

<b>Planning File Reference</b>	R 22/50
<b>Applicant Name</b>	Conor Burke
<b>Development Location</b>	Lisdoonvarna
<b>Application accompanied by an EIS</b>	
<b>Application accompanied by an NIS</b>	
<b>Description of the project (To include a site location map):</b>	
<p>Section 5 referral</p> <p>Whether the renovation and reconstruction of office spaces in to professional creative work spaces at Knockaunvickteera, Thomond View Lisdoonvarna is or is not development and is or is not exempted development.</p>	

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

This section identifies the European Sites within the likely zone of impact of the plan or project. For plans an initial 15km zone of influence (NPWS-DAHG)<sup>1</sup> 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 <sup>2</sup>	Qualifying Interests (QIs)/Special Conservation Interests (SCIs) and conservation objectives (either generic or detailed) (available on <a href="http://www.npws.ie/protectedsites">www.npws.ie/protectedsites</a> ) or through Intranet.	Distance to Applicant Site (km)
Ballyteige SAC 000094	Annex I habitats: • Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae) [6410]	1.30km

1	Impacts on designated rivers, streams, lakes and fresh water dependant habitats and species.	Is the development in the catchment of or immediately upstream of a watercourse that has been designated as a European site?	no
2	Impacts on terrestrial habitats & species.	Is the development within 1km of a European site with terrestrial based habitats or species?	no
3	Impacts on designated marine habitats & species.	Is the development located within marine or intertidal areas and within 5 km of a European site whose qualifying habitats or species include the following: Mudflats, sandflats, saltmarsh, shingle, reefs, sea cliffs	no
4	Impacts on birds in SPAs	Is the development within 1km of a Special Protection Area	no
5	Indirect effects	Is the development, in combination with other existing or proposed developments likely to impact on an adjacent European site?	No

<sup>1</sup> 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.

<sup>2</sup> European Site details are available on <http://webgis.npws.ie/npwsviewer/> or maybe obtained from internal mapping systems.

		<i>Is any emission from the development (including noise) likely to impact on an adjacent habitat or species?</i>	
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**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.**

<b>1</b>	<b>Impacts on designated rivers, streams, lakes and fresh water dependant habitats and species.</b> <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>	
<b>1.1</b>	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
<b>1.2</b>	Discharges either directly (via pipe from the development) or indirectly (via sewer) to surfacewater or groundwater What is the likely volume of the discharge?	NA
<b>1.3</b>	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
<b>1.4</b>	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
<b>1.5</b>	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
<b>1.6</b>	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
<b>1.7</b>	Installation of waste water treatment systems; percolation areas; septic tanks within 500m of watercourses?	NA
<b>1.8</b>	Construction within a floodplain or within an area liable to flood (See <a href="http://www.floodmaps.ie">www.floodmaps.ie</a> , internal flood risk maps, County Development Plan SFRA and <a href="http://www.cframes.ie">www.cframes.ie</a> )	NA
<b>1.9</b>	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	<b>Impacts on terrestrial habitats and species.</b> <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>	
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	<b>Impacts on designated marine habitats and species.</b> <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>	
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	NA



	species. This includes any works which may give rise to potential changes in hydrology or salinity of these areas.	
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	<p align="center"><b>Impacts on birds in SPAs</b></p> <p align="center"><i>Please answer the following if the answer to question 5 in table 2 was yes.</i></p> <p align="center"><i>Does the development involve any of the following:</i></p>	
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	R22/50
Proposed Development	Section 5 referral
Development Location	Lisdonvarna
European sites within impact zone	Ballyteige SAC
Description of the project:	
As above	
Qualifying Interests (QIs)/Special Conservation Interests (SCIs) of European site	
As above	
Describe how the project or plan (alone or in combination) is likely to affect the European site(s).	
Not likely-	
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"> <li>- County Development Plan (including Flood Maps, SEA &amp; AA)</li> <li>- NPWS website</li> <li>- Documents received as part of the planning application</li> <li>- EPA Code of Practice</li> </ul>	
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) <sup>3</sup>	No
(b) There is no potential for significant effects to European Sites <sup>3</sup>	There is no potential for significant effects to European Sites <sup>3</sup>

<sup>3</sup> 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.

<b>(c) The potential for significant effects to European Site(s) cannot be ruled out<sup>4</sup></b>	<b>The potential for significant effects to European Site(s) can be ruled out<sup>4</sup></b>
<b>(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 2010<sup>5</sup></b>	N/A
<b>Completed By</b>	Ellen Carey
<b>Date</b>	27 <sup>th</sup> July 22

<sup>4</sup> 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](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.

<sup>4</sup> 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](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.

<sup>5</sup> 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

**Conor Burke**  
**11A Carmody Street Business Park**  
**Mill Road**  
**Ennis**  
**Co. Clare**  
**V95 FD72**

**11/07/2022**

**Section 5 referral Reference R22-50 – Conor Burke**

Is the renovation and reconstruction of office spaces into professional creative workspaces at Knockaunvickteera, Thomand View, Lisdoonvarna, Co. Clare V95 DC42 considered to be development and if so, is it exempted development?

A Chara,

I refer to your application received on 11th 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

*Tadhg Holmes*

**Tadhg Holmes**  
**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, Telephone No. (065) 6821616 Economic Development Directorate, Fax:  
 No. (065) 6892071 Clare County Council, Email: [planoff@clarecoco.ie](mailto:planoff@clarecoco.ie) New Ross, Ennis,  
 Website: [www.clarecoco.ie](http://www.clarecoco.ie)  
 Co. Clare.  
 V95DXP2



**CLARE**  
**COUNTY COUNCIL**

**11 JUL 2022**

**Received**  
**Planning Section**

**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*

<b>1. CORRESPONDENCE DETAILS.</b>	
(a) Name and Address of person seeking the declaration	Conor Burke  11 A Carmody Street Business Park Mill Road Ennis Co. Clare V95 FD72
(b) Telephone No.:	
(c) Email Address:	
(d) Agent's Name and address:	N/A

## 2. DETAILS REGARDING DECLARATION BEING SOUGHT

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

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

Is the renovation and reconstruction of office spaces into Professional Creative Workspaces at Knockaunvickteera, Thomand View, Lisdoonvarna, Co. Clare V95DC42 development? And if so is it exempted development?

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

I am currently at the later stages of receiving a LEADER Grant and I am required to provide proof that planning is not a requirement to carry out the renovation and reconstruction of old office spaces into new Professional Creatives Workspaces.

The building was used as a former office space for Bernard McNamara and has been unused for over 15/20 Years, which lead to the building being broken into and vandalised.

The building is located on a "Commercial" Local Authority Zone with a code of: C1.1 – Commercial, facilitation of enterprise, office type uses, retail etc.

I recently acquired a 10 year lease on the property to use for my own business, which is producing limited edition books and posters through Letterpress Printing, with the further aim to renovate the office spaces upstairs into artist workspaces for professional Artist/designers/creatives . (Graphic Designers, Animators, Website Designers, Videographers, Painters, Writers etc)

The proposed development and renovations will consist of the construction of 6 individual Workspaces and one Multifunctional space in the previous office spaces.

The construction work will consist of internal partitions/studwork with a 1 hour fire rate, Plumbing (Renovate existing toilet space and to add sinks into each workspace) and electrical work that will all be carried out to commercial standards (All cables being carried in metal trunking and piping, Fire Alarm with Zones for each room and Emergency Lighting etc).

There will be no work carried out to any of the existing external/internal structural walls, windows, Velux roof windows, the roof etc.

As the proposed development is for an internal fitout we wish the Council to provide a decision on whether there is a requirement for planning or not by way of response.

Kind Regards

Conor Burke

- (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)*
- Site Map of Knockaunvickteera, Lisdoonvarna with the proposed works taking place in the area highlighted Red (#34)
  - Drawings of the proposed Workspaces and Multifunctional Space.
  - Pdf Files showing the current space.
  - Quotation from successful E-Tender

### 3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT

(a) Postal Address of the Property/Site/Building for which the declaration sought:	Knockaunvickteera, Thomand View, Lisdoonvarna, Co. Clare V95 DC42
(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):	The Gentian Press / Burren Creative Space. (10 Year Lease)
(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>	Zinc Properties Limited  Four Elms Drombanna Co. Limerick V94 W9H0
(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? <i>If so please supply details:</i>	Yes, It was for the construction, renovation and extension of the old offices and workshop areas for McNamara Builders.  Application Ref No: P.8/12394 Year: 1978
(h) Date on which 'works' in question were completed/are likely to take place:	Upon a positive outcome of this application the Grant would be drawn down straight away with works beginning in early September.  <u>September 2022</u>

SIGNED:



DATE: 11/07/2022

### 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:.....

513840 mE, 698040 mN

The Property  
Registration Authority  
An tÚdarás  
Clárúcháin Maoine

Folio: ~~513840~~

This map should be read in conjunction with the folio.

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

For details of the terms of use and limitations as to scale, accuracy and other conditions relating to Land Registry maps, see [www.pra.ie](http://www.pra.ie).

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

(centre-line of parcel(s) edged)

- Freehold
- Leasehold
- SubLeasehold

Burdens (may not all be represented on map)

- Right of Way / Wayleave
- Turbary
- Pipeline
- Well
- Pump
- Septic Tank
- ▽ Soak Pit



A full list of burdens and their symbology can be found at [www.landdirect.ie](http://www.landdirect.ie)

The registry operates a non-conclusive boundary system. The Registry Map identifies properties not boundaries meaning neither the description of land in a register nor its identification by reference to a registry map is conclusive as to the boundaries or extent. (see Section 88 of the Registration of Title Act, 1964). As inserted by Section 62 of the Registration of Deed and Title Act 2006.

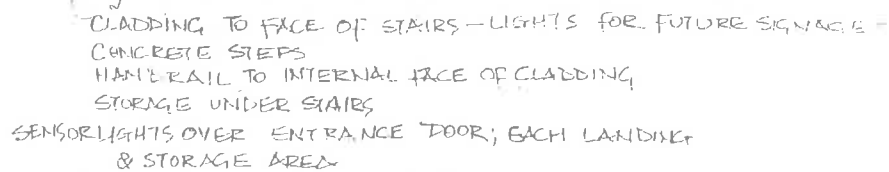
513520 mE, 697780 mN  
Date Printed: 01/07/2022

Creation Date: 30 June 2022 16:08:22

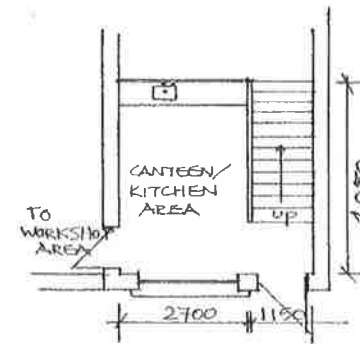
Application Number: P2022LR075970E

1:1000 Scale





5 NO DOUBLE SOCKETS  
KITCHEN: SINK WITH H/C WATER  
2 NO. DOUBLE SOCKETS  
2 NO. CEILING LIGHTS



-GROUND FLOOR LEVEL-



Myplan.ie

Department of Housing, Local Government and Heritage

Find address or place



Car Park

Gowlain

KNOCKAUNVICKTEERA

Cos Clocha

513,531 698,324 Meters

100m

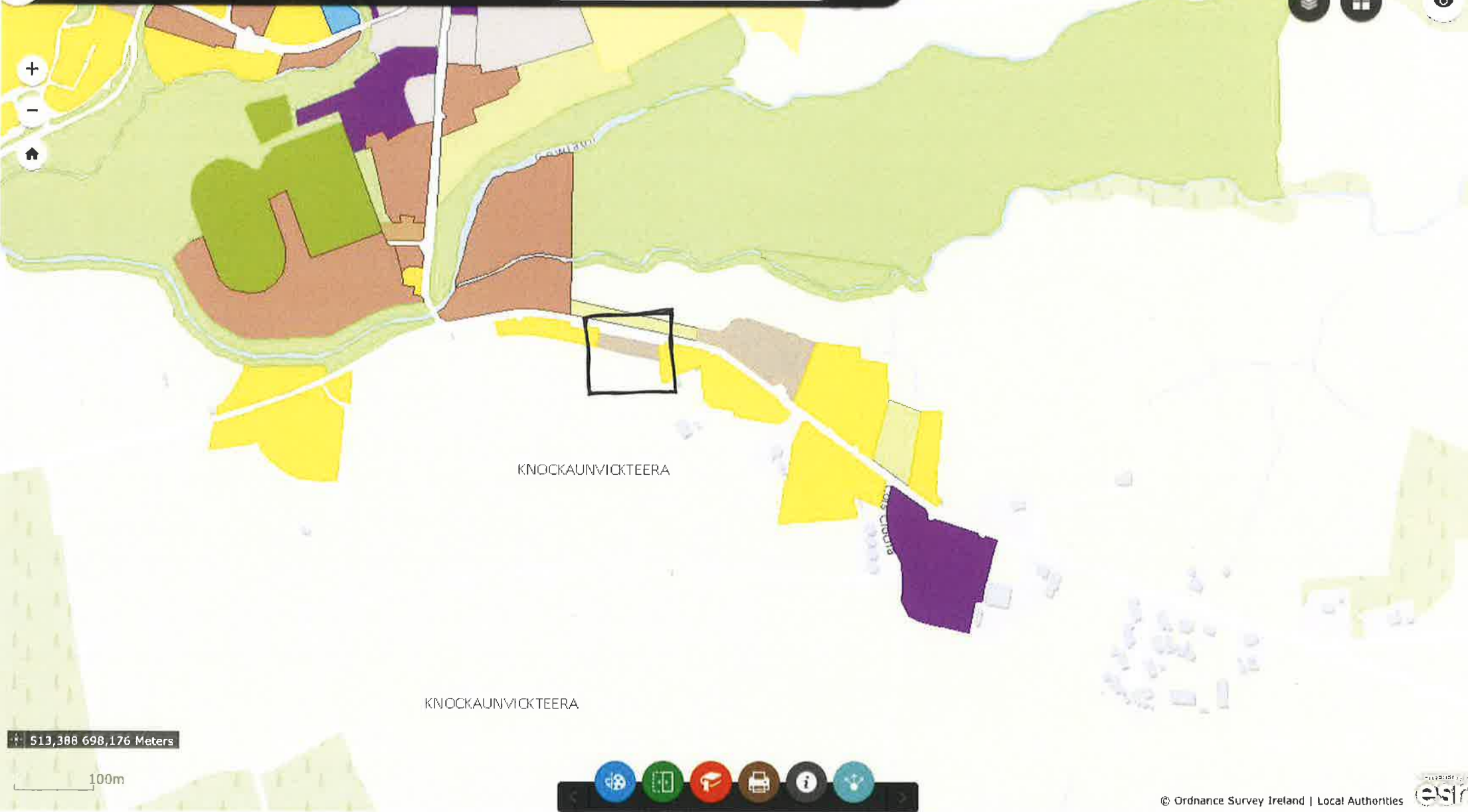
KNOCKAUNVICKTEERA



© Ordnance Survey Ireland







513,388 698,176 Meters

100m



**GZT Zone:**  
C1.1 - Commercial, retail

[Click here for GZT Code Reference](#)

**Local Authority Zone:**  
Commercial

**Local Authority Zone Description:**  
The use of land zoned for 'commercial' purposes shall be taken to incl. the use of the lands for commercial and business uses incl. offices, service industry, warehousing and the facilitation of enterprise/retail park/office type uses as appropriate

**Plan Currency:**  
From 25/1/2017 to 25/1/2023

**Local Authority:**  
[Zoom to](#) ...

KNOCKAUNVICKT

KNOCKAUNVICKTEERA

514,080 697,896 Meters

100m





COMMERCIAL | RESIDENTIAL | EXTENSIONS | RENOVATIONS | CIVILS

31/05/2022	Rate	Total
<i>proposed works to mcnamara's warehouse, lisdoonvarna as per deirdre foran drawing</i>		€
infill & make good opes in existing timber floors;		
<i>new partitions</i>		
- 1 hour fire rated stud partitions for all walls		
100mm stud partitions		
200mm stud partitions		
1/2 hour internal solid fire doors including frames, intumescent strips, locks, closers		
softwood architraves		
softwood skirtings		
works to kitchen/canteen area		
internal painting		
plumbing installation		
electrical installation		
builders work in connection with plumbing & electrical installation		
replace existing fire exit door including frame & overhead panel		

**Stringer McDonagh Construction Ltd t/a SMD** 1  
**Glasha**  
**Doolin**  
**Co Clare**  
**IE3437631EH**

**John 0879700831**  
**Shane 0876900682**  
[info@smdconstruction.ie](mailto:info@smdconstruction.ie)  
[www.smdconstruction.ie](http://www.smdconstruction.ie)





COMMERCIAL | RESIDENTIAL | EXTENSIONS | RENOVATIONS | CIVILS

existing fire escape stair; prepare & lay infill concrete screed to treads & landings, infill/clad ballustrade as necessary		
<i>prelims</i>		
health & safety, insurances, scaffolding, lifting, skips etc		
total excl vat		



COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

Mr. Conor Burke  
11A Carmody Street  
Mill Road  
Ennis  
Co. Clare

June 17<sup>th</sup>, 2022

### Letter of Support

Dear Conor

I am delighted to support your application to develop artist studios in North Clare. Clare County Council currently has studios in Ennis and Tulla and supports studios in Ennistymon.

Despite the fact that we are currently providing studios and workspaces for almost 30 artists currently, we have an additional 26 artists on our waiting list for studios at this point in time seeking studio space. This highlights the demand of the creative industries in Clare for accessible and affordable spaces to create work. This in turn enables them to live and work in their local communities and to become in many cases valuable assets to community life in their area.

The positioning of your proposed studios in North Clare is of particular interest, offering significant potential to engage with and provide complimentary activities to the artistic communities that surround KAVA at the Courthouse in Kinvara, the Burren College of Art and Ennistymon Courthouse Gallery.

Furthermore, we encourage studios, such as the ones you are proposing, to actively become involved in national annual community arts events such as Culture Night and Cruinniú na nÓg. The embedding of creative community activities, which is a central tenet to your proposal, is one way of ensuring activity and good community relationships locally, so we are very pleased to see this element in the proposal.

The North Clare area is abundant in rich, creative talent and we believe your proposal would further this reputation whilst addressing a pressing need for workspace in the county.

Wishing you every success with your endeavours

Yours sincerely

  
Siobhán Mulcahy  
County Arts Officer

**Oifig Ealaíon an Chontae**  
**Stiúrthóireacht Forbairt Shóisialta**

Leabharlann an Chontae, Bóthar an Mhuilinn, Inis, Co. an Chláir

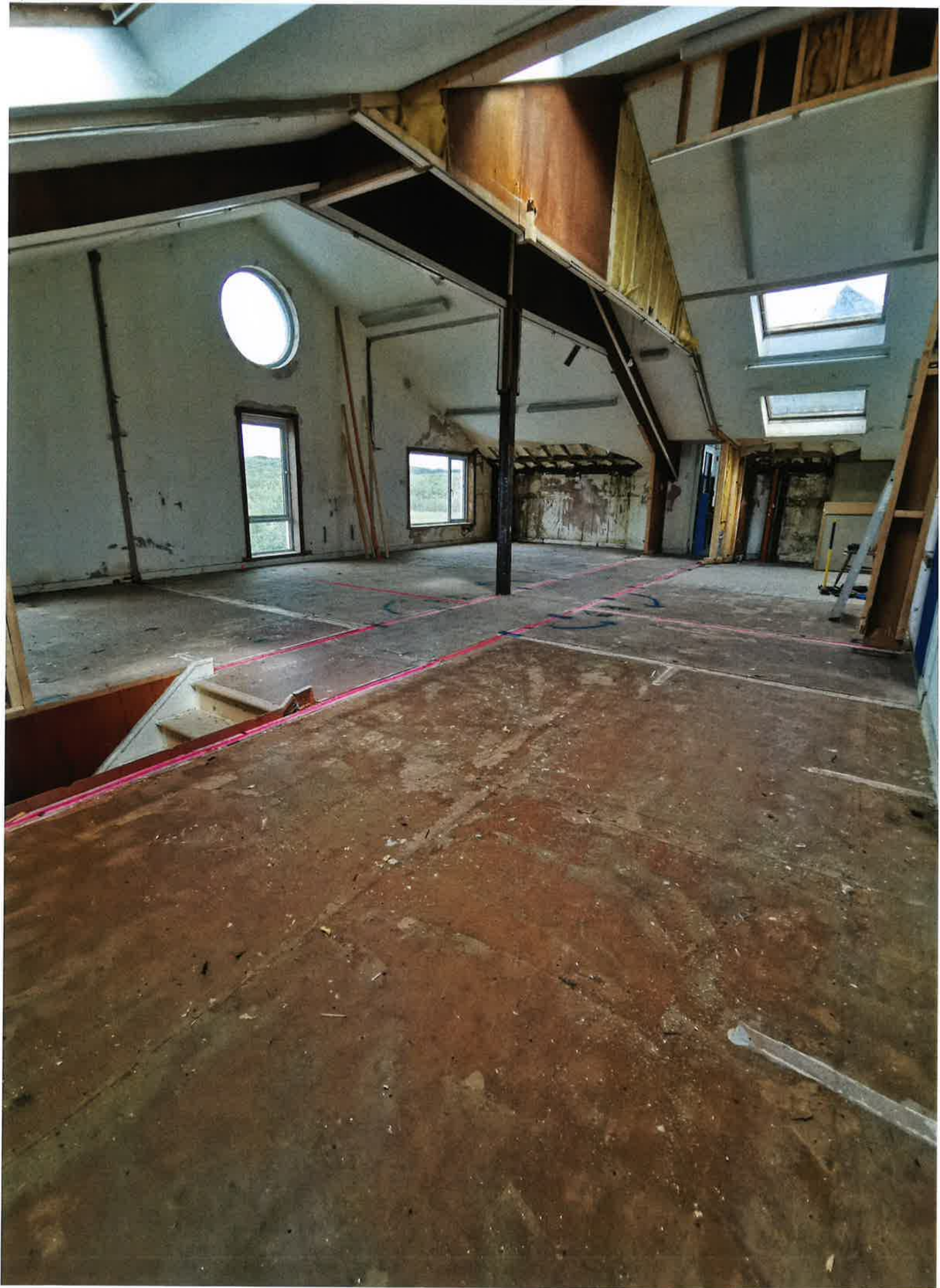
**County Arts Office**  
**Social Development Directorate**

County Library, Mill Road, Ennis, Co. Clare

















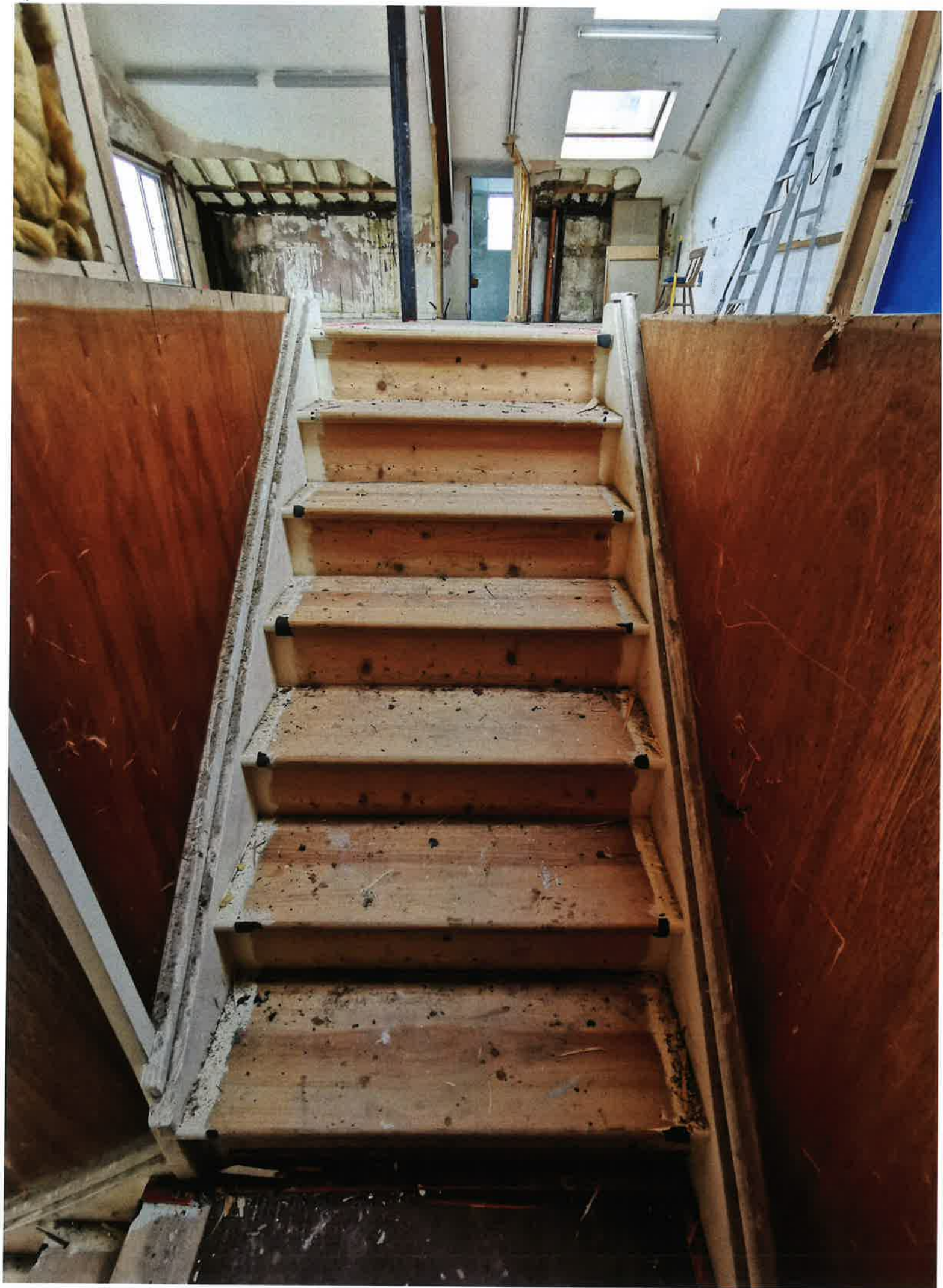








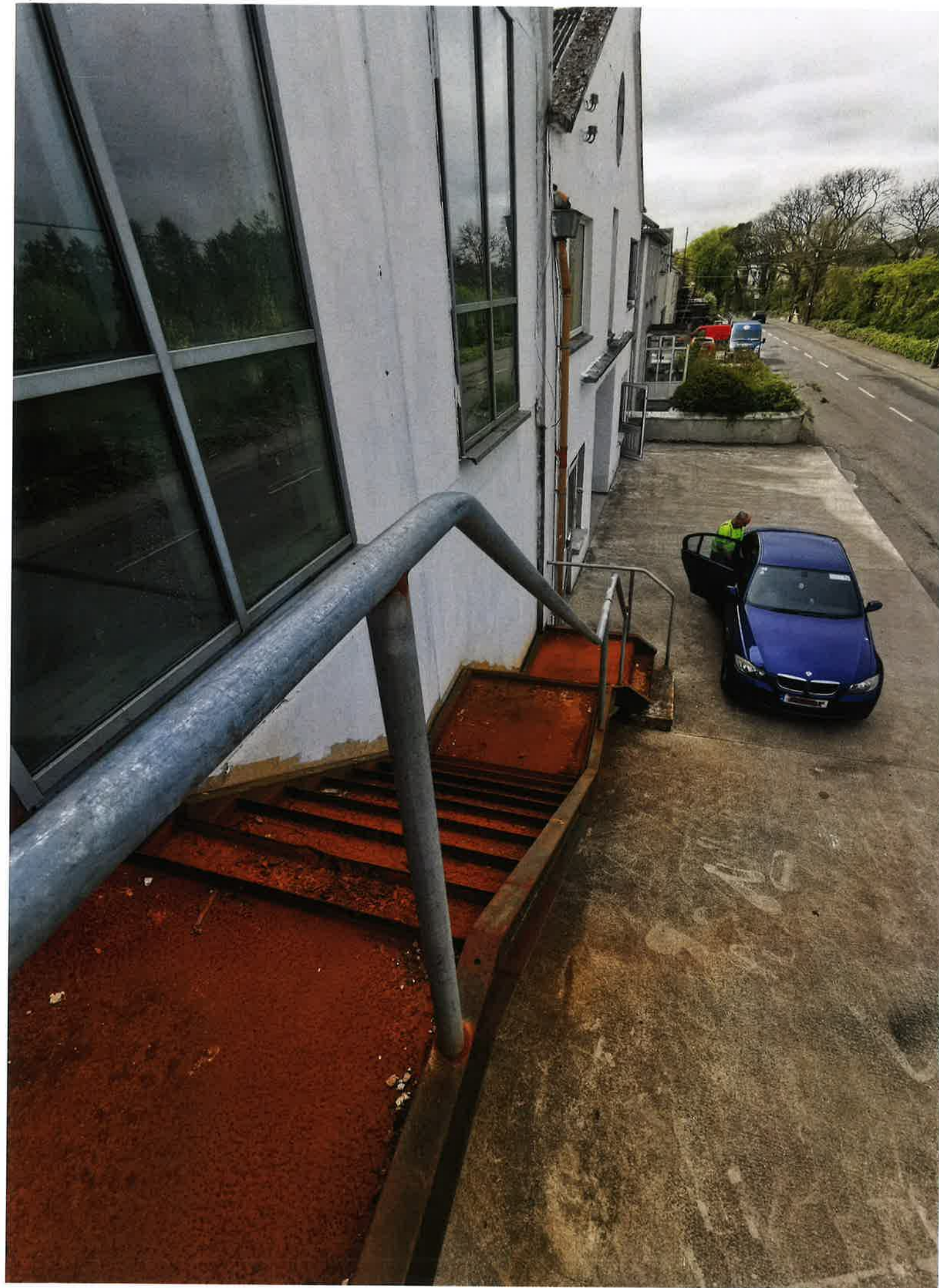






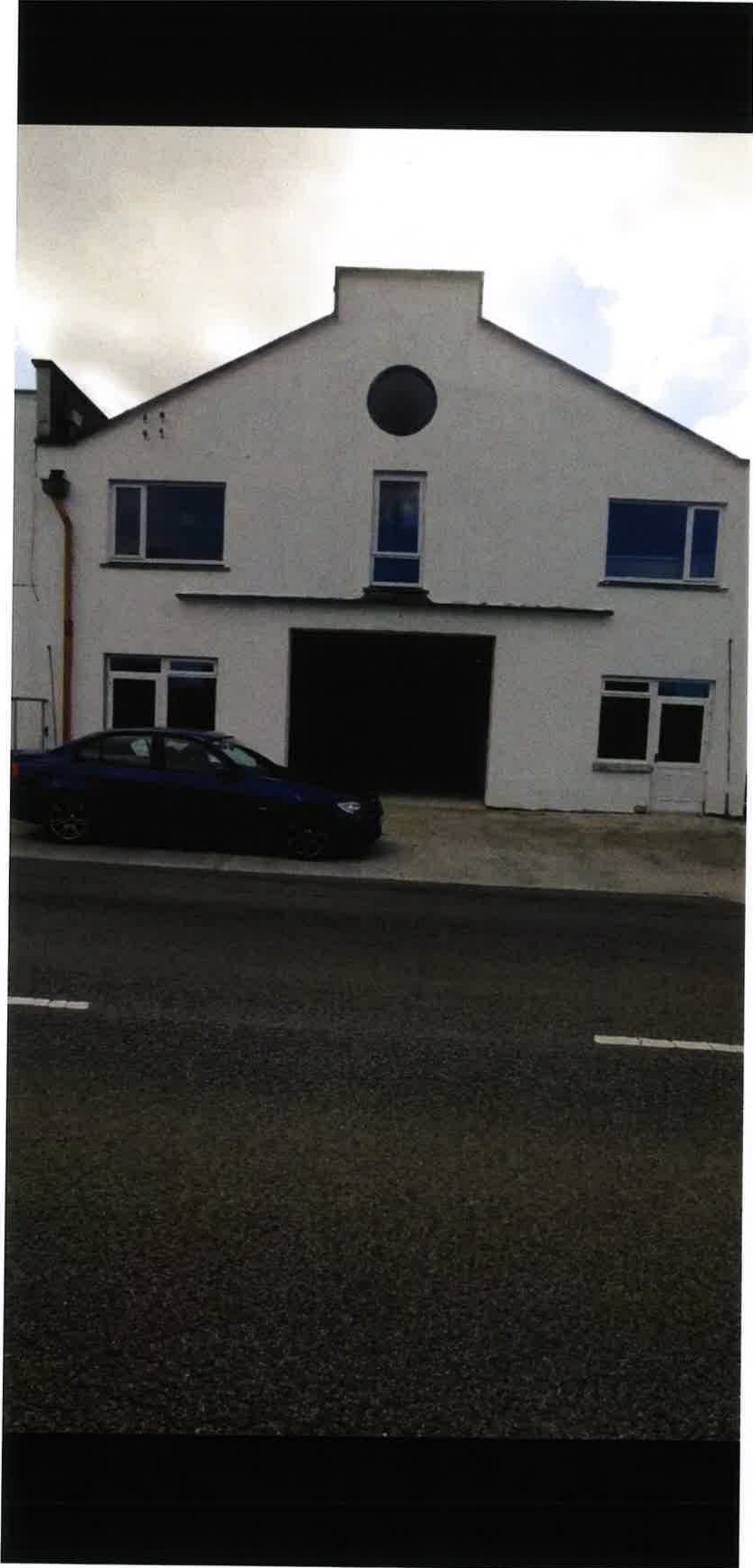


















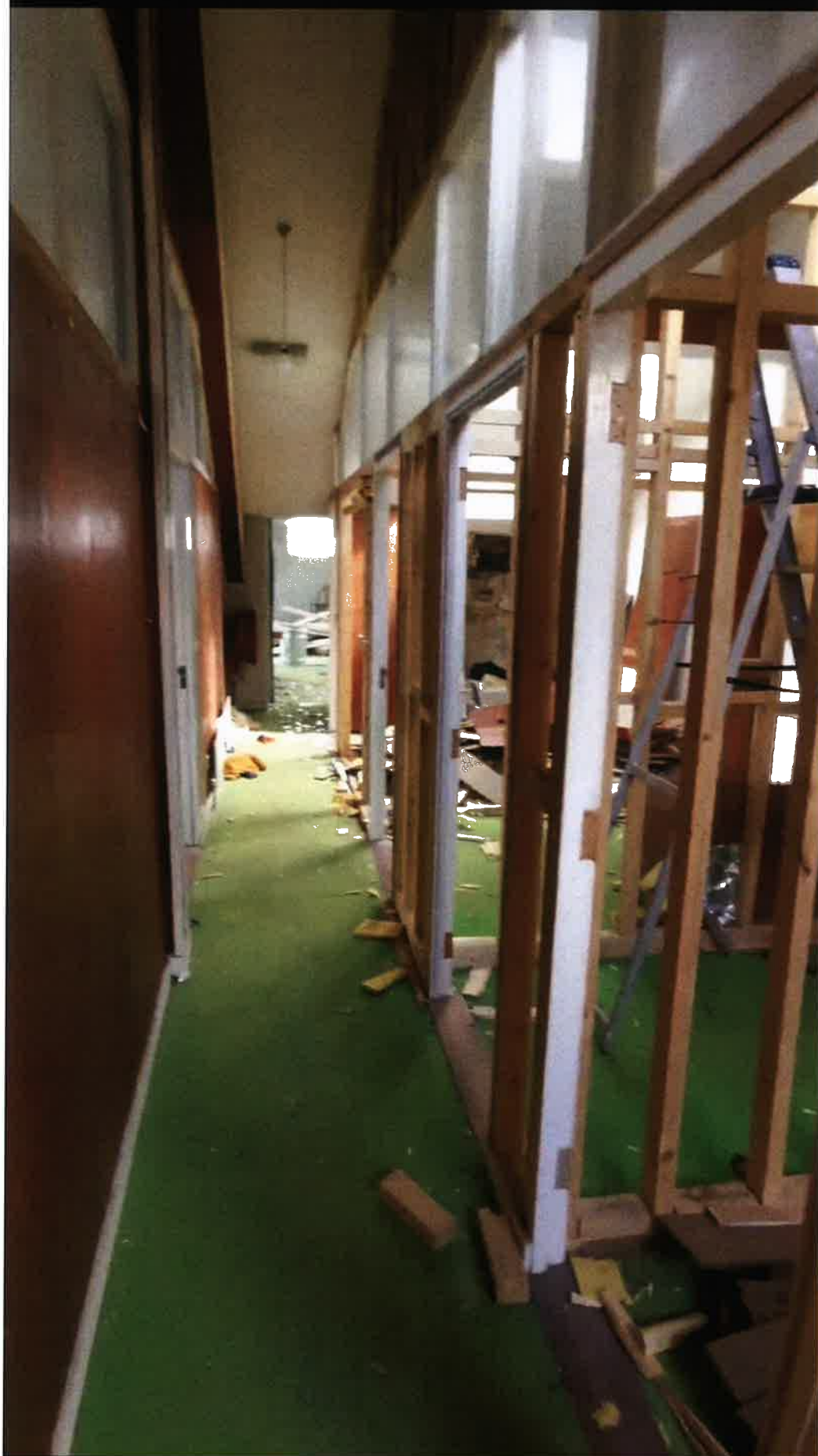




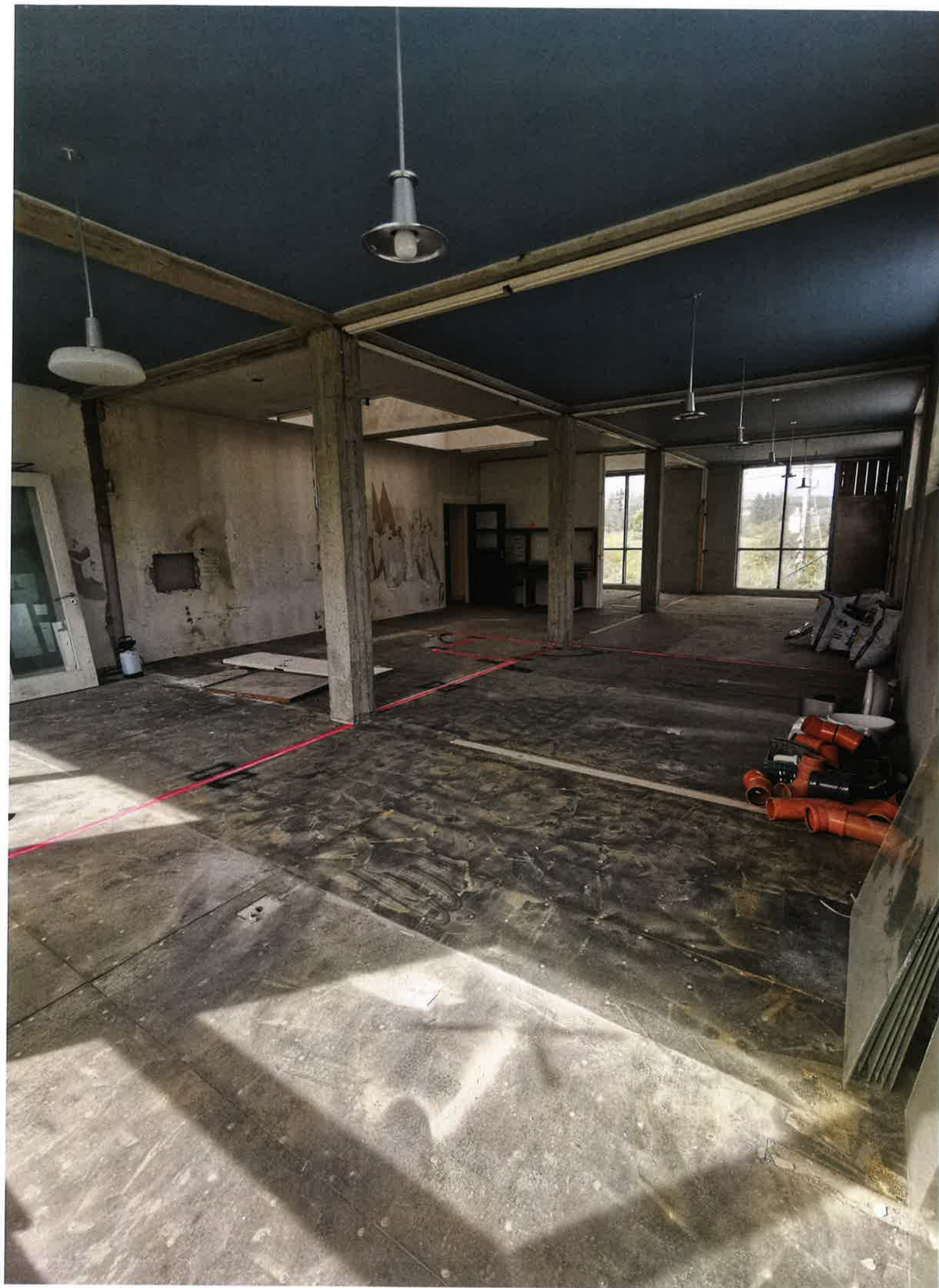


























COMHAIRLE

CONTAE

AN CHLÁIR

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

11/07/2022 11:29:13

Receipt No. L1CASH/0/335172  
\*\*\*\*\* REPRINT \*\*\*\*\*

CONOR BURKE  
11A CARMODY STREET  
BUSINESS PARK  
MILL ROAD  
ENNIS, CO. CLARE

SECTION 5 REFERENCES 80.00  
GOODS 80.00  
VAT Exempt/Non-vatable

Total : 80.00 EUR

Tendered :  
CREDIT CARDS 80.00

Change : 0.00

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