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Co. Clare
V95 V028**

27th October, 2022

Section 5 referral Reference R22-63 – Richard O'Connor & Anna Podlewska

Is the proposed change of use to residential and the proposed works to the front elevation development, and if so, is it exempted development?


A Chara,

I refer to your application received on 5th October 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



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: 80676
Reference Number: R22-63
Date Referral Received: 5th October 2022
Name of Applicant: Richard O'Connor & Anna Podlowska
Location of works in question: 'Hayes', Church St Ennistymon, Co. Clare

Section 5 referral Reference R22-63 – Richard O'Connor & Anna Podlowska

Is the proposed change of use to residential and the proposed works to the front elevation 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, 9 and 10 of the Planning and Development Regulations 2001, as amended
- (c) The details including photographs of the condition of the existing building, the details of the proposed works and the details of the proposed change of use as indicated in submitted documents from the referrer as received by the Planning Authority on the 5th October 2022.

AND WHEREAS Clare County Council has concluded:

- (a) the proposed change of use to residential and the proposed internal works and works to the front elevation constitutes "works" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended
- (b) the said works constitute "development" which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended
- (c) the said development consisting of a change of use to residential and associated internal and external works at Hayes, Church St. Ennistymon is exempted development having regard to Section 4 and 82 of the Planning and Development Act 2000, and Article 10 of the Planning and Development Regulations 2001 (S.I. No. 75 of 2022)

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 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 proposed change of use to residential and proposed works to the front elevation at 'Hayes', Church St. Ennistymon is development and is exempted development

Signed:



GARETH RUANE
SENIOR EXECUTIVE PLANNER 

Date:

27th October, 2022

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

Reference No.: R22-63



Comhairle Contae an Chláir
Clare County Council

Section 5 referral Reference R22-63

Is the proposed change of use to residential and the proposed works to the front elevation development, and if so, is it exempted development?

AND WHEREAS, Richard O'Connor & Anna Podlowska 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 –

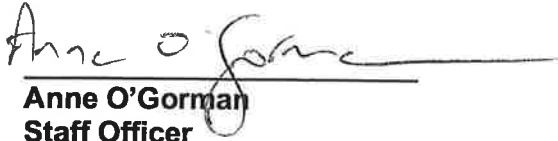
- (a) Sections 2, 3, 4 and 82 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6, 9 and 10 of the Planning and Development Regulations 2001, as amended
- (c) The details including photographs of the condition of the existing building, the details of the proposed works and the details of the proposed change of use as indicated in submitted documents from the referrer as received by the Planning Authority on the 5th October 2022.

And whereas Clare County Council has concluded:

- (a) the proposed change of use to residential and the proposed internal works and works to the front elevation constitutes "works" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended
- (b) the said works constitute "development" which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended
- (c) the said development consisting of a change of use to residential and associated internal and external works at Hayes, Church St. Ennistymon is exempted development having regard to Section 4 and 82 of the Planning and Development Act 2000, and Article 10 of the Planning and Development Regulations 2001 (S.I. No. 75 of 2022)

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 proposed change of use to residential and proposed works to the front elevation at 'Hayes', Church St. Ennistymon, Co. Clare **constitutes development** which is **exempted development** as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.


Anne O'Gorman
Staff Officer
Planning Department
Economic Development Directorate

27th October, 2022

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

FILE REF: R22-63
APPLICANT(S): Richad O Connop~~r~~ and Anna Podlowska
REFERENCE: Whether the proposed change of use to residential and proposed works to the front elevation is considered to be development and if so is it exempted development.
LOCATION: 'Hayes', Church St Ennistymon, County Clare
DUE DATE: 31st October 22

Site Location

The subject site is located on land zoned mixed use within an Architectural Conservation Area. The building is not a protected structure .

Planning History on Site

06/ 3055 Congregation of the Brothers of Charity. Planning permission granted to renovate, extend and change the use of premises (change 1st and 2nd floor from residential to office and training space) and ancillary works
04/2699 Patrick Boland. Application to extend and renovate existing building to provide 4 no. self-contained apartments and 1 no. commercial unit with all necessary ancillary services. WITHDRAWN
01/1737. Stephen and Jimmy Considine. Permission granted to alter, renovate and extend existing buildings (71/ 72 Church St.

Background to Referral

This referral under Section 5(3)(a) of the Planning and Development Act 2000 (as amended) has been made. The applicant is seeking a Section 5 Declaration as to whether the proposed change of use to residential and proposed works to the front elevation 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
- internal floor plan, existing and proposed
- Planning history details and history of nature of use (former public house on ground floor and residence on upper floors

- Detailed description of the existing structural state of the building and detailed description of the proposed internal and external works (itemised by Glennwood Preservation Ltd)

It would appear from the details submitted , in particular the photographs, that the use of the building as public house and residence has ceased and that the building could reasonably be described as vacant.

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*.

Section 2

'Works' are defined in Section 2 of the *Planning and Development Act 2000, as amended* as follows:

"works" includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

Section 3.(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 (l) (h) 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.*

Section 82

Notwithstanding paragraphs (a) (h) (i) (ia) (j) (k) or (l) section 4(1) or any Regulation made under section 4 (2) 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 & Development Regulations, 2001, as amended

Article 6 refers to Exempted Development and states that subject to Article 9, development of a class specified in column 1 of Part 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.*

Article 10 Change of use

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

- (a) involve the carrying out of any works other than works which are exempted development,*
 - (b) contravene a condition attached to a permission under the Act,*
 - (c) be inconsistent with any use specified or included in such a permission, or*
 - (d) be a development where the existing use is an unauthorised use, save where such change of use consists of the resumption of a use which is not unauthorised and which has not been abandoned.*
- (2) (a) A use which is ordinarily incidental to any use specified in Part 4 of Schedule 2 is not excluded from that use as an incident thereto merely by reason of its being specified in the said Part of the said Schedule as a separate use.*
- (b) Nothing in any class in Part 4 of the Schedule 2 shall include any use—*
- (i) as an amusement arcade,*
 - (ii) as a motor service station,*
 - (iii) for the sale or leasing, or display for sale or leasing, of motor vehicles,*
 - (iv) for a taxi or hackney business or for the hire of motor vehicles,*
 - (v) as a scrap yard, or a yard for the breaking of motor vehicles,*
 - (vi) for the storage or distribution of minerals,*
 - (vii) as a supermarket, the total net retail sales space of which exceeds 3,500 square metres in the greater Dublin Area and 3,000 square metres in the remainder of the State,*
 - (vii) as a retail warehouse, the total gross retail sales space of which exceeds 6,000 square metres (including any ancillary garden centre), or*
 - (viii) as a shop, associated with a petrol station, the total net retail sales space of which exceeds 100 square metres.*
- (3) Development consisting of the provision within a building occupied by, or under the control of, a State authority of a shop or restaurant for visiting members of the public shall be exempted development for the purposes of the Act.*
- (4) Development consisting of the use of not more than 4 bedrooms in a house, where each bedroom is used for the accommodation of not more than 4 persons as overnight guest accommodation, shall be exempted development for the purposes of the Act, provided that such development would not contravene a condition attached to a permission under the Act or be inconsistent with any use specified or included in such a permission.*
- (5) Development consisting of the use of a house for child minding shall be exempted development for the purposes of the Act.*

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

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

Statutory Instrument No. 75 of 2022 has extended this exemption to 31/12/2025 and added a new use class (Class 12 - public houses), to the specified use classes that can qualify to avail of the planning exemption, subject to certain conditions and limitations.

Article 10 of the Planning and Development Regulations 2001 (S.I. No. 75 of 2022) is amended by inserting the following sub-article after sub-article (5):

“(6) (a) In this sub-article—‘habitable room’ means a room used for living or sleeping purposes but does not include a kitchen that has a floor area of less than 6.5 square metres;

‘relevant period’ means the period from the 08th February 2018 until 31 December 2025.

(b) This sub-article relates to a proposed development, during the relevant period, that consists of a change of use to residential use from Class 1, 2, 3, 6 of 12 of Part 4 to Schedule 2.

(c) Notwithstanding sub-article (1), where in respect of a proposed development referred to in paragraph (b)—
(i) the structure concerned was completed prior to the making of the Planning and Development (Amendment) (No. 2) Regulations 2018, Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 13th February 2018.[30]

3(ii) the structure concerned has at some time been used for the purpose of its current use class, being Class 1, 2, 3, 6, and 12.

(iii) the structure concerned, or so much of it that is the subject of the proposed development, has been vacant for a period of 2 years or more immediately prior to the commencement of the proposed development, then the proposed development for residential use, and any related works, shall be exempted development for the purposes of the Act, subject to the conditions and limitations set out in paragraph (d).

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

(ii) Subject to sub-paragraph (iii), any related works, including works as may be required to comply with sub-paragraph (vii), shall

(I) affect only the interior of the structure

(II) retain 50 per cent or more of the existing external fabric of the building, and

(III) not materially affect the external appearance of the structure so as to render its appearance inconsistent with the character of the structure or of neighbouring structures.

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

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

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

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

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

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

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

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

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

(II) an area of special planning control;

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

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

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

(e) (i) Where a person proposes to undertake development to which sub-paragraph (b) relates, then he or she shall in the case of development relating to Class 1, 2, 3, 6 or 12 of Part 4 to Schedule 2, notify the planning authority in whose functional area that the change of use concerned will occur in writing at least 2 weeks prior to the commencement of the proposed change of use and any related works.

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

(I) the location of the structure, and

(II) the number of residential units involved, including the unit sizes and number of bedrooms in each unit, and

(III) the Eircode of the property,

shall be entered in a record by the planning authority maintained for this purpose and the record shall be available for inspection at the offices of the planning authority during office hours and on the planning authority's website.

(iii) During the years 2019, 2020, 2021, 2022, 2023, 2024 and 2025 each planning authority shall provide information to the Minister on the number of notifications received by it under this paragraph during the preceding calendar year, including details of the information so received for the purposes of subparagraph (ii)."

Schedule 2 Article 6 Part 1 Exempted Development

CLASS 14

Development consisting of a change of use—

- (a) from use for the sale of hot food for consumption off the premises, or for the sale or leasing or display for sale or leasing of motor vehicles, to use as a shop,*
 - (b) from use as a public house, to use as a shop,*
 - (c) from use for the direction of funerals, as a funeral home, as an amusement arcade or a restaurant, to use as a shop,*
 - (d) from use to which class 2 of Part 4 of this Schedule applies, to use as a shop,*
 - (e) from use as 2 or more dwellings, to use as a single dwelling, of any structure previously used as a single dwelling,*
 - (f) from use as a house, to use as a residence for persons with an intellectual or physical disability or mental illness and persons providing care for such persons.*
- The number of persons with an intellectual or physical disability or a mental illness living in any such residence shall not exceed 6 and the number of resident carers shall not exceed 2.*

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

Minimum Requirements for Residential Units

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

- A maximum of 9 residential units can be provided in any structure.
- The minimum floor area and minimum storage space requirements of the 'Sustainable Urban Housing: Design Standards for New Apartments -Guidelines for Planning Authorities', 2018 must be complied with.

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

This ensures that apartments will be of adequate size and will include adequate storage

Primary Legislation

Having regard the details submitted it is considered that the proposal constitutes 'works' as defined by to section 2 of the Act. It is also considered that the proposal constitutes 'development' having regard to the definition of development which includes for making of any material change in the use of any structures. In respect of Section 4 (1)(H) it is noted that while the section makes provision for development consisting for the carrying out of works for maintenance, improvement or other alterations of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or neighbouring structures' to be considered exempted development, it does not expressly clarify that the internal alterations can result in a change of use and that this new use is exempted development. I therefore consider that section 4 (1) (h) is only relevant to the query in so far as the works only affect the interior of the building and the external works do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or neighbouring structures within the ACA. In this regard I refer to the report received from the Conservation Officer 26th inst. wherein it is advised that the works will enhance the character of the ACA and are considered exempted development under Section 82 of the Planning and Development Act 2000.

The issue of change of use from public house and residence to public house is further assessed under the Regulations.

The Regulations

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

Article 10 of the Planning and Development Regulations 2001 (S.I. No. 75 of 2022) is amended by inserting the following sub-article after sub-article (5):

“(6) (a) In this sub-article—‘habitable room’ means a room used for living or sleeping purposes but does not include a kitchen that has a floor area of less than 6.5 square metres;

‘relevant period’ means the period from the 08th February 2018 until 31 December 2025.

(b) This sub-article relates to a proposed development, during the relevant period, that consists of a change of use to residential use from Class 1, 2, 3, 6 of 12 of Part 4 to Schedule 2.

The building is currently vacant and has been vacant since before 2004. The part of the building that is relevant to the change of use proposal was last used as a public house.

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

(i) the structure concerned was completed prior to the making of the Planning and Development (Amendment) (No. 2) Regulations 2018, Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 13th February 2018.[30]

The structure was in place before 2018.

3(ii) the structure concerned has at some time been used for the purpose of its current use class, being Class 1, 2, 3, 6, and 12.

The part of the building that is relevant to the change of use proposal was last used as a public house (Class 12).

(iii) the structure concerned, or so much of it that is the subject of the proposed development, has been vacant for a period of 2 years or more immediately prior to the commencement of the proposed development, then the proposed development for residential use, and any related works, shall be exempted development for the purposes of the Act, subject to the conditions and limitations set out in paragraph (d).

The building has been vacant since before 2007 and was last used as a public house and residence.

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

It is stated that the works are likely to take place by February 2023.

(ii) Subject to sub-paragraph (iii), any related works, including works as may be required to comply with sub-paragraph (vii), shall

(I) affect only the interior of the structure

No external works are proposed.

(II) retain 50 per cent or more of the existing external fabric of the building, and

100% of the external fabric of the building is to be retained.

- (III) *not materially affect the external appearance of the structure so as to render its appearance inconsistent with the character of the structure or of neighbouring structures.*

External works are proposed which considered to be in keeping with character of the structure and neighbouring structures in the ACA.

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

Details of proposed external works in drawings and written description demonstrate that this is the case.

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

Not applicable.

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

Only one residential unit is proposed.

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

The floor area of the proposed dwelling exceeds the minimum requirements.

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

This is achieved.

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

Not applicable.

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

Not applicable.

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

1. *an area to which a special amenity area order relates;*

Not applicable.

2. *an area of special planning control;*

Not applicable.

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

Not applicable.

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

The development does not relate to these restrictions.

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

Not Applicable .

(e) (i) Where a person proposes to undertake development to which sub-paragraph (b) relates, then he or she shall in the case of development relating to Class 1, 2, 3, 6 or 12 of Part 4 to Schedule 2, notify the planning authority in whose functional area that the change of use concerned will occur in writing at least 2 weeks prior to the commencement of the proposed change of use and any related works.

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

(I) the location of the structure, and

(II) the number of residential units involved, including the unit sizes and number of bedrooms in each unit, and

(III) the Eircode of the property, shall be entered in a record by the planning authority maintained for this purpose and the record shall be available for inspection at the offices of the planning authority during office hours and on the planning authority's website.

No notification was received to date.

(iii) During the years 2019, 2020, 2021, 2022, 2023, 2024 and 2025 each planning authority shall provide information to the Minister on the number of notifications received by it under this paragraph during the preceding calendar year, including details of the information so received for the purposes of subparagraph (ii)."

Noted.

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 7 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.

Conclusion

In considering this notification I have had regard to the following:

(a) Sections 2, 3 and 4(1) (h) and 82 of the Planning and Development Act, 2000, as amended.

(b) Articles 6, 9 and 10 of the Planning and Development Regulations, 2001 as amended and in particular Appendix 1 Planning and Development (Amendment)(No. 2) Regulations 2018 (S.I. No. 30 of 2018) as amended by Sub Article 5 (2022).

(d) The Sustainable Urban Housing: Design Standards for New Apartments -Guidelines for Planning Authorities', March 2018.

Having regard to the assessment in this report I conclude that the proposed change of use of the former public house and associated dwelling to use as a three bedroom dwelling including all internal and external refurbishment works at Church St. Ennistymon , County Clare constitutes works and development that is exempted development.

Recommendation

The following question has been referred to the Planning Authority:

Whether the the proposed change of use to residential and proposed works to the front elevation at 'Hayes' , Church St. Ennistymon 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, ~~and~~ 4 and 82 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6, 9 and 10 of the Planning and Development Regulations 2001, as amended
- (c) The details including photographs of the condition of the existing building, the details of the proposed works and the details of the proposed change of use as indicated in submitted documents from the referrer as received by the Planning Authority on the 5th October 22.

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

- (a) the proposed change of use to residential and the proposed internal works and works to the front elevation constitutes "works" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended
- (b) the said works constitute "development" which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended
- (c) the said development consisting of a change of use to residential and associated internal and external works at Hayes, Church St. Ennistymon is exempted development having regard to Section ~~4~~ ⁴ and ~~8~~ ⁸ of the Planning and Development Act 2000, and Article 10 of the Planning and Development Regulations 2001 (S.I. No. 75 of 2022) ~~as amended by sub-article (5)~~.

Now therefore Clare County Council (Planning Authority), hereby decides the proposed change of use to residential and proposed works to the front elevation at 'Hayes', Church St. Ennistymon is development and is exempted development.


Executive Planner
Date: 26/10/22.


Senior Planner ^{60P}
Date: 26/10/22

Clare County Council
Screening for Appropriate Assessment & Determination

1. Table 1 to be filled in for all development applications.
2. Where proposed development is within a European site(s) site, go directly to table 3.
3. For all other development proposals, fill in table 2, and if required, table 3.
4. A Habitats Directive Screening Statement should be sought for all developments regardless of location which require an EIS

Table 1: Project Details

Planning File Reference	R 22/63
Applicant Name	Richard O Connor and Anna Podlewska
Development Location	Ennistymon
Application accompanied by an EIS	
Application accompanied by an NIS	
Description of the project (To include a site location map):	
 Section 5 referral Whether the proposed change of use to residential and proposed works to the front elevation at 'Hayes' , Church St. Ennistymon is or is not development and is or is not exempted development.	

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

This section identifies the European Sites within the likely zone of impact of the plan or project. For plans an initial 15km zone of influence (NPWS-DAHG)¹ is recommended. For projects, the distance could be much less than 15km, and in some cases less than 100m, but this must be evaluated on a case-by-case basis with reference to the nature, size and location of the project, and the sensitivities of the ecological receptors, and the potential for in combination effects. Qualifying Interests/Special conservation Interests for each site and the distance relevant to the proposal are listed (Table 2 (a)).

Table 2 (a): European Sites within 15km of Applicant Site

European Sites ²	Qualifying Interests (QIs)/Special Conservation Interests (SCIs) and conservation objectives (either generic or detailed) (available on www.npws.ie/protectedsites) or through Intranet.	Distance to Applicant Site (km)
Inagh River estuary SAC	Annex I Habitats • Salicornia and other annuals colonising mud and sand [1310] • Atlantic salt meadows (Glauco- Puccinellietalia maritima) [1330] • Mediterranean salt meadows Juncetalia maritima [1410] • Shifting dunes along the shoreline with Ammophila arenaria (white dunes) [2120] • *Fixed coastal dunes along the shoreline with herbaceous vegetation (grey dunes) [2130]	237.5m

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

¹ European Sites that are more than 15km from the proposal may have to be considered. For example in the case of sites with water dependent habitats or species and where a proposal could affect water quality or quantity it may be necessary to consider the full extent of the upstream and/or downstream catchment.

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

5	Indirect effects	<p><i>Is the development, in combination with other existing or proposed developments likely to impact on an adjacent European site?</i></p> <p><i>Is any emission from the development (including noise) likely to impact on an adjacent habitat or species?</i></p>	No
---	------------------	---	----

Conclusion:

- If the answer to all of the above is *no*, significant impacts on European sites are unlikely. No further assessment is required; go directly to the conclusion statement.
- If the answer is *unknown* or *yes* proceed to Table 3 and refer to the relevant sections of Table 3.

Table 3: Identification of potential impacts.

1	Impacts on designated rivers, streams, lakes and fresh water dependant habitats and species. <i>Please answer the following if the answer to question 1 in table 2 was "yes" or "unknown". Does the development involve any of the following:</i>	
1.1	Removal of or interference with habitat within a European site. This may include any element of a project liable to interfere with breeding, nesting or roosting sites of birds, bats, water based species	NA
1.2	Discharges either directly (via pipe from the development) or indirectly (via sewer) to surfacewater or groundwater What is the likely volume of the discharge?	NA
1.3	Abstraction from surfacewater or groundwater in or adjacent to a European site, where hydrology is a critical element in the protection of habitat and species at the site? What is the likely volume of the abstraction?	NA
1.4	Is removal of topsoil proposed within 500m of watercourses? What transportation requirements are provided? Does the removal involve reduction in area, population density or fragmentation of area of any habitat or species?	NA
1.5	Infilling or raising of ground levels within 500m of watercourses? What transportation requirements are provided? Does the infilling or raising involve interference with area, population density or fragmentation of area of any habitat or species?	NA
1.6	Construction of drainage ditches - (scale?) Where the run off is directed to? Is the drainage run off directed to a European site where species are identified and whose conservation status may be impacted by this drainage?	NA
1.7	Installation of waste water treatment systems; percolation areas; septic tanks within 500m of watercourses?	NA
1.8	Construction within a floodplain or within an area liable to flood (See www.floodmaps.ie , internal flood risk maps, County Development Plan SFRA and www.cframs.ie)	NA
1.9	Crossing or culverting of rivers or streams, installation of weirs, temporary watercourse crossings or any interference with a watercourse.	NA

1.10	Storage of chemicals or hydrocarbons (including oils and fuels) within 500m of a watercourse	NA
1.11	Development within catchment of a European site of a scale or type which involves the production of an EIS	NA
1.12	Consideration of effects in combination with existing development?	NA
2	Impacts on terrestrial habitats and species. <i>Please answer the following if the answer to question 2 in table 2 was yes.</i> <i>Does the development involve any of the following:</i>	
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	Impacts on designated marine habitats and species. <i>Please answer the following if the answer to question 3 in table 2 was yes.</i> <i>Does the development involve any of the following:</i>	
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	Impacts on birds in SPAs <i>Please answer the following if the answer to question 5 in table 2 was yes.</i> <i>Does the development involve any of the following:</i>	
4a	Removal of or interference with habitats within an SPA. This includes consideration of indirect and in combination effects on the feeding, breeding and nesting grounds of Annex 1 birds	NA
4b	Erection of wind turbines within 1km of an SPA.	NA
4c	All construction works within 100m of intertidal areas – Coastal SPAs, including indirect and in combination effects on the feeding, breeding and nesting grounds of Annex 1 birds	NA
4d	Infilling of coastal habitats within 500m of SPA, including indirect and in combination effects on the feeding, breeding and nesting grounds of Annex 1 birds	NA
4e	Discharges to coastal SPA, including any element of a discharge liable to give rise to disturbance of this habitat, either by direct, indirect, or in combination effects	NA
4f	Development of cycleways or walking routes within 100m of intertidal areas. This includes consideration of indirect and in combination effects on the feeding, breeding and nesting grounds of Annex 1 birds	NA
4g	Development within 1km of SPA of a scale or type which involves the production of an EIS. This includes consideration of indirect and in combination effects on the feeding, breeding and nesting grounds of Annex 1 birds	NA

Conclusion:

- If the answer to all of the above is *no*, significant impacts on European sites are unlikely. No further assessment is required; go directly to the conclusion statement.
- If the answer to any of the above is *yes*, or *unknown* effects on the European sites need to be assessed and a Natura Impact Statement will be required

Appropriate Assessment Screening Determination	
Planning File Reference	R22/63
Proposed Development	Section 5 referral
Development Location	Ennistymon
European sites within impact zone	Inagh River estuary
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"> - County Development Plan (including Flood Maps, SEA & AA) - NPWS website - Documents received as part of the planning application - EPA Code of Practice 	
Conclusion of assessment (a, b, c or d)	
(a) The proposed development is directly connected with or necessary to the nature conservation management of a European Site(s)³	No
(b) There is no potential for significant effects to European Sites³	There is no potential for significant effects to European Sites³

³ Appropriate Assessment is not required and therefore Planning permission may be granted at this stage subject to all other planning considerations. However, no material changes may be made to the proposed development after this conclusion has been reached as this would invalidate the findings of the screening exercise.

(c) The potential for significant effects to European Site(s) cannot be ruled out⁴	The potential for significant effects to European Site(s) can be ruled out⁴
(d) Significant effects to European sites are certain or likely or where potential for significant effects to European sites remains following receipt of Further Information requested under S177U of the Planning and Development (Amendment) Act 2010⁵	N/A
Completed By	Ellen Carey
Date	26 th October 22

⁴ In accordance with S177U of the Planning and Development (Amendment) Act 2010, the applicant should be requested to submit an 'Appropriate Assessment Screening Matrix' completed by a suitably qualified ecologist, by way of Further Information. Following receipt of this information a new Appropriate Screening Report should be completed. The requested 'Appropriate Assessment Screening Matrix' should be in accordance with the template outlined in Annex 2, Figure 1 of the EU (2001) guidance document 'Assessment of plans and projects significantly affecting European Sites – Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC. This guidance document is available from http://ec.europa.eu/environment/nature/natura2000/management/docs/art6/natura_2000_assess_en.pdf Alternatively, where other planning concerns arise the proposal could be refused planning permission.

⁴ In accordance with S177U of the Planning and Development (Amendment) Act 2010, the applicant should be requested to submit an 'Appropriate Assessment Screening Matrix' completed by a suitably qualified ecologist, by way of Further Information. Following receipt of this information a new Appropriate Screening Report should be completed. The requested 'Appropriate Assessment Screening Matrix' should be in accordance with the template outlined in Annex 2, Figure 1 of the EU (2001) guidance document 'Assessment of plans and projects significantly affecting European Sites – Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC. This guidance document is available from http://ec.europa.eu/environment/nature/natura2000/management/docs/art6/natura_2000_assess_en.pdf Alternatively, where other planning concerns arise the proposal could be refused planning permission.

⁵ The proposed development must either by refused planning permission or alternatively an 'Appropriate Assessment' (AA) should be carried out by the Planning Authority. In order to facilitate the preparation of an AA the applicant should be requested to submit a Natura Impact Statement (NIS) in accordance with S177 (T) of the Planning and Development (Amendment) Act 2010. However, in the case of an application to retain unauthorised development of land and where the authority decides that an 'appropriate assessment' should have been carried out prior to the commencement of development, the application is required to be invalidated by the Planning Authority as per S34 (12) of the Planning and Development (Amendment) Act 2010 and accordingly an NIS should not be requested in such instances.

MEMORANDUM – SECTION 5
Architectural Conservation Officer's Note

Ref: R22/63 – G. Haye's, Church Street, Ennistymon

To: Ellen Carey - Executive Planner

Gareth Ruane – Senior Executive Planner

26/10/2022

The Architectural Conservation Officer conducted a site visit on 01/09/2022.

The development is proposed is within the Ennistymon Architectural Conservation Area.

Architectural Conservation Areas are defined under the Clare County Council Development Plan 2017-2023 15.3.4 as *"places, areas, groups of structures or a townscape which are of special interest or contribute to the appreciation of a protected structure. The ACA provision is complementary to the Record of Protected Structures. The spatial character of ACAs can be the basis for their delegation and development proposals must enhance and support the definition of that space. The designation of an area as an ACA is not intended to bring excessive restrictions on development in that area, but rather to be a positive influence, to ensure that developments make a positive contribution to an area that has been identified as being of significant importance. The aim is to retain the overall special architectural or historical character of an area or place."* The objectives for ACAs are outlined in CDP 15.5:

It is the objective of the Development Plan:

A – To ensure that new developments within or adjacent to ACA respect the context of the area and contribute positively to the ACA in terms of design, scale, setting and material finishes;

B To protect existing buildings, structures, groups of structures, sites, landscapes and features such as street furniture and paving, which are considered to be intrinsic elements of the special character of the ACA, from demolition or removal and non-sympathetic alterations;

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

05/10/2022 14:08:22

Receipt No. : L1CASH/0/339414
***** REPRINT *****

RICHARD O'CONNOR & ANNA
PODLEWSKA
8 KNOCKADERRY
LISCANNOR
CO. CLARE V95 V028
R22-63

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

R22-63

P07 Request for a Declaration on Development and Exempted Development (March 2017)

P07

CLARE COUNTY COUNCIL
COMHAIRLE CONTAE AN CHLÁIR

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

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



REQUEST FOR A DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT
(Section 5 of the Planning & Development Act 2000 (as amended))

FEE: €80

This following form is a non-statutory form which has been prepared by Clare County Council for the purpose of obtaining the necessary information required for a declaration to be made under Section 5 by the Planning Authority

1. CORRESPONDENCE DETAILS.

(a) Name and Address of person seeking the declaration	Richard O'Connor & Anna Podlowska 8 Knockaderry Liscannor Co. Clare V95 V028
(b) Telephone No.:	0852722886
(c) Email Address:	richitecture@gmail.com
(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 proposed change of use to residential and the proposed works to the front elevation exempt from requiring planning permission?

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

The property has been vacant since the grant of planning permission for the site in 2007, and possibly for some years prior. Under the 2018 Planning Regulations, certain vacant commercial premises are exempt from requiring planning permission for change of use to residential. This application seeks clarification that such a change of use for this property is exempt from requiring planning permission.

This application also seeks clarification that the proposed works to the front elevation (as detailed in the accompanying drawings and Description of Proposal) are exempt from requiring planning permission. These works include re-rendering, window refurbishment and refurbishment of the shopfront.

- (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 location map, existing floor plans, proposed floor plans, existing front elevation, proposed front elevation, shopfront elevation and detail, Description of Proposal, photographs and condition survey (dated 17th August 2022) .

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

(a) Postal Address of the Property/Site/Building for which the declaration sought:	G. Hayes, Church Street, Ennistymon, Co. Clare Note: no eircode exists for this address
(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):	"Sale agreed" status - purchasing this property on condition of planning exemption.
(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>	The Brothers of Charity Services Ireland Clare Region, Banner House, Clare Road, Ennis, Co. Clare, V95 PV29
(e) Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?:	Yes, our solicitor sent a letter to the owner's solicitor on 30.09.2022.
(f) Are you aware of any enforcement proceedings connected to this site? <i>If so please supply details:</i>	No
(g) Were there previous planning application/s on this site? <i>If so please supply details:</i>	Yes. Planning permission granted in 2007 (Ref. No. P06/3055).
(h) Date on which 'works' in question were completed/are likely to take place:	February 2023 (subject to purchase of property)

SIGNED:




DATE:

03/10/22

03/10/22

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:.....			


Planning Pack Map

not a protected
structure.
6/16/99



National Mapping Agency

CENTRE COORDINATES:
ITM 513067,688634
PUBLISHED: 18/09/2022
ORDER NO.: 50291926_1
MAP SERIES: 1:1,000
MAP SHEETS: 4084-12

 Site Location

COMPILED AND PUBLISHED BY:
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Phoenix Park,
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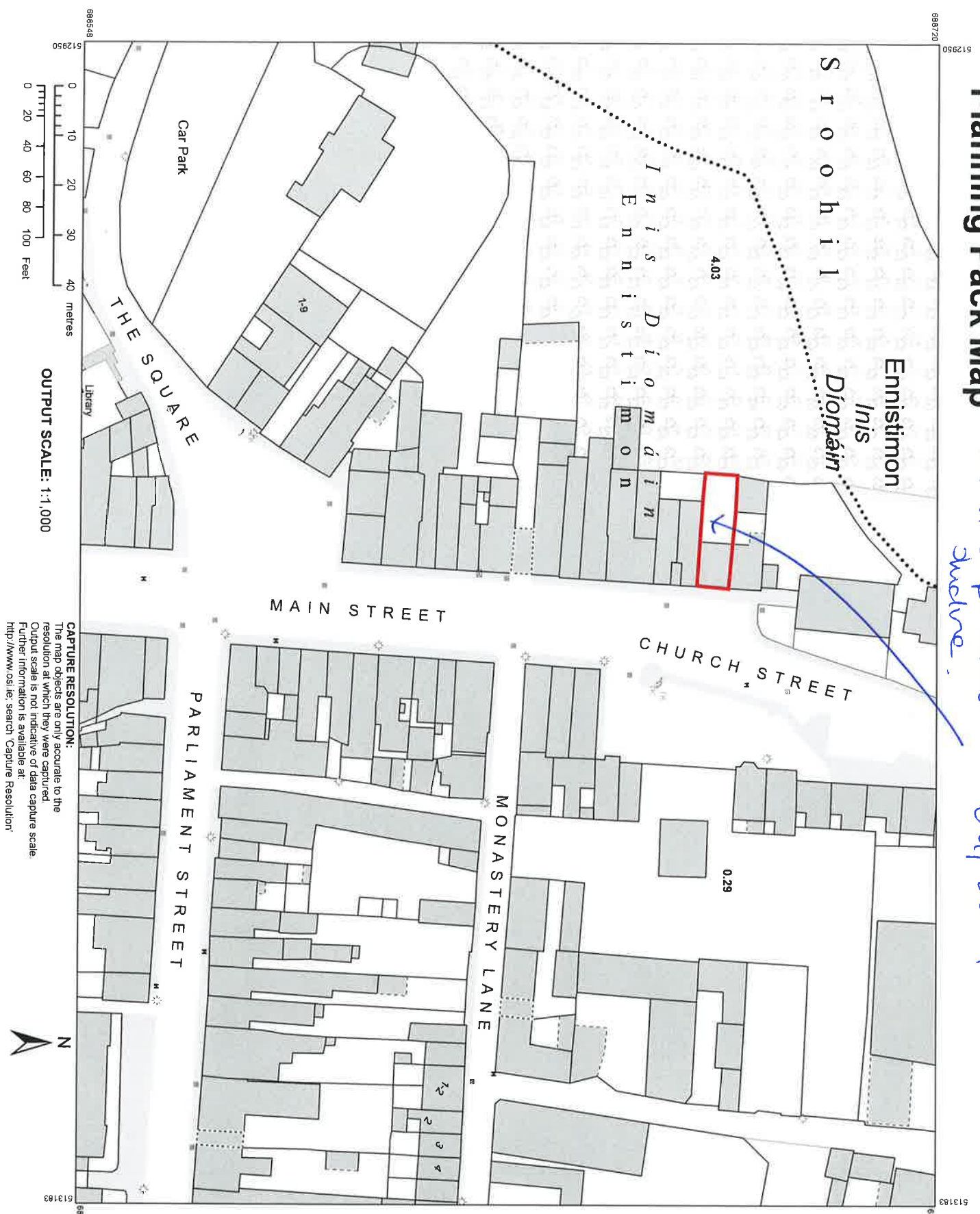
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Output scale is not indicative of data capture scale.
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35A.

39A.





51A.

Description of Proposals

G.Hayes, Church Street, Ennistymon

Change of Use

Planning approval was sought by the Congregation of the Brothers of Charity for the renovation, extension and change of use of this property in 2006 (Planning Ref. No. P06/3055). Planning approval was granted by Clare County Council on 05.10.2007 and the expiry date was set for 04.10.2015. The approval included the change of use of the first and second floors of the property from residential to "office and training space". While planning approval was granted, the owner did not move forward with the proposed development and the property has been vacant / unoccupied since receipt of planning approval, and perhaps some years prior to planning approval.

There is still evidence of the building's uses throughout the property. A number of photos are included in this application to provide a record of this.

The ground floor was used as a public house / bar and there are still crates of beer bottles located in the front room of the ground floor. To the rear of the ground floor there is a range / oven and kitchen sink. It is likely that this kitchen was used by the residents of the building as there is no evidence of a kitchen on the upper floors. It is clear that the upper storeys were used as a private residence with a number of bed frames, a wardrobe, armchairs, a sofa and numerous personal effects still present in the property.

We have been in communication with Clare County Council regarding the proposed change of use of this property and have been advised that certain vacant commercial premises changing to residential use are exempt from requiring planning permission under the 2018 Planning Regulations (extended to end of 2025). Under the new Regulations and previous use of this building, we feel it is appropriate for it to be used as a private residence throughout.

Works to Front Elevation

This application also seeks confirmation that the proposed works to the front of elevation of the building (facing Church Street) are considered exempted development. The proposed works would be carried out on a minimum intervention basis with as much of the original building fabric retained as possible. The proposal does not seek to materially alter the character of the building.

The proposed works to the front facade (East) include the following, and are also detailed in the accompanying drawings.

- A. Removal of existing cementitious render from the front elevation and replace with lime-based render and painted with breathable mineral paint (colour to be agreed with Conservation Officer). Render to chimney also to be replaced with lime-based render

- and flaunching at chimney pots to be replaced. No proposal to change height or profile of chimney.
- B. Removal of existing cementitious rendered quoins and replace with lime-based render. Profile and pattern of quoins to match existing.
 - C. Refurbishment of the sliding sash windows at first and second floors. Existing glazing and frames to be retained. Defective / rotten glazing bars, frames and cills to be replaced with timber (red deal / European redwood) on a like-for-like basis to match existing profiles, only where necessary. Existing putty to be carefully removed, timber to be carefully sanded down, existing glazing to be retained where possible, new linseed-oil putty to be installed and allowed to be fully dried. Timber to be repainted with oil-based paint.
 - D. Existing front door to be re-painted with oil-based paint (colour to be agreed with Conservation Officer).
 - E. Damaged limestone cill on first floor to be reset and stitched.
 - F. Remove existing uPVC gutter and replace with heritage cast iron adequately sized to accommodate roof area.
 - G. Retain existing cast iron downpipe.
 - H. Carefully remove 1950s asbestos cement roof tiles and dispose as advised by HSA guidelines. Replace with natural slate. Lead flashing at chimney to be replaced. The ridge and eaves levels will be maintained.
 - I. Carefully remove perspex from shopfront window frames and install putty-beaded glazing to existing frames. All shopfront joinery to be repainted with oil-based paint (colour to be agreed with Conservation Officer).
 - J. Replace modern plywood fascia / signage board with painted pine fascia (colour to be agreed with Conservation Officer).
 - K. Existing shopfront door to be re-painted with oil-based paint (colour to be agreed with Conservation Officer).
 - L. A recent condition survey carried out 17th August 2022 identified that the timber bressummer beam over the shopfront was defective. The condition report and accompanying photographs are appended to this application. It is proposed that this is replaced with a steel beam(s) (to Structural Engineer's design and specification) maintaining the size of the existing structural opening. Appropriate temporary works (designed by Structural Engineer) will be carried out to ensure integrity of building structure and retained shopfront joinery are not affected.
 - M. Reinstall existing raised "G. Hayes" timber lettering to new fascia and repaint white.
 - N. Decayed base sections of timber pilasters carefully cut out and new timber sections spliced and bolted to retained timber. Profile of timber to match existing.
 - O. Install limestone kneeler to the base of pilasters.

Note: Repair works will also be carried out internally (as recommended in the appended Glen Wood condition report) to ensure the longevity of the building's structure.



Front Elevation (East)



Shopfront



Beer crates, Bar (front room), Ground Floor



Front door, Bar (front room), Ground Floor



Kitchen, Ground Floor



Living Room, First Floor



Living Room, First Floor



Bedroom 2, Second Floor



Bedroom 4, Second Floor



Bedroom 3, Second Floor



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Registered No : 8236554H
Directors : J. F. Galvin
N. M. Galvin

DATE : 17th August 2022

File Ref.: 4765/G

RE: Church St. Ennistymon, Co. Clare

Page 1/7

Dear Anna and Rich,

Further to your recent instructions, I carried out an inspection of the above.

No opening up was undertaken prior to or during the course of our inspection and the survey therefore was of a superficial nature only.

Note: All directions referred to facing front elevations from outside of building – **pic. no. 1.**

This report should be read in conjunction with the attached photographic schedule.

Roof

The roof has been re-clad in manmade slate – **pic. no. 2** – likely to have an asbestos content. The presence of bituminous sarking membrane at the underside – **pic. no. 3** would suggest that this was carried out within the last 5 – 6 decades. From the ground, the slates appear in reasonable condition and once no leaks are occurring, the roof coverings can be retained. A raised barge detail exists at the left-hand side with a considerable gap between this and the adjoining neighbours raised barge detail. This gap should be investigated at closer quarters once access becomes available.

A chimney exists at the right-hand side – **pic. no. 4** with a number of flues. The flue tops have been covered in lead – probably relatively recently to prevent ingress of rainwater. A flue exists to the rear – likely to be serving the range at ground floor level. This may be unprotected and often, a considerable gap will exist between any newer flue lining and the old flues which are unlikely to be unlined. The flue tops (chimney pots) will require inspection at closer quarters.

Any disused flues should be capped with a ventilated cap e.g C-Cap – **pic. no. 5** and also ventilated within the old fire place location.

Any flue that will be in use should be lined within by a specialist installer.

Chimney cappings, chimney plaster and flashings should all be investigated at closer quarters. There is a possibility that the chimney has been replastered at the time of reroofing works as the flashings look quite modern. The considerable damp ingress noted internally in the right-hand elevation – **pic. no. 6, 7 & 8** is likely to be mainly due to ingress of rainwater through the flues.

Gutters

The front gutter is blocked at the right-hand side – **pic. no. 9** with vegetation etc. and is likely to be overflowing during heavy rainfall. The gutter is also significantly lower than the slate – **pic. no. 10** which could lead to overflowing during heavy rainfall.

No access was available to the rear of the building. The roof is constructed of a main truss at the centre, purlins and rafters – **pic. no. 11**. The ceilings at the front and rear are coved (sloped) considerably – **pic. nos. 11 & 12**. As a result, rafter ends, wall plates etc. are not accessible from within the roof void. Their true condition therefore, can only be ascertained by stripping sections of ceiling at a low level internally.

The dark condensation pattern on the ceilings – **pic. no. 13** are an indication of no insulation existing in the ceilings.

It will be difficult to install insulation to the coved (sloped) areas without removal of the ceiling finishes internally.

From within the roof void, the timbers appear in reasonable condition – **pic. no. 14** and are likely to be suitable for retention. Ends of purlins bearing on gable walls should be opened up to allow for their true condition to be determined – **pic. no. 14, 15 & 16**. This is best achieved by forming a pocket in the masonry at the upper side of the purlin end – **pic. no. 16**. Where defective, usually the deterioration is confined to the bearing end. This can be repaired by removing the defective section and installing a steel angle bracket/shoe to the purlin end.

The large truss is bearing on the front and rear elevations – **pic. nos. 17 & 18**. The truss ends should be exposed by forming a pocket in the masonry at one side of the truss end. The end of the truss bearing on the rear elevation appears to be defective within the wall – **pic. nos. 19 & 20**. Defective truss ends will require the fitting of a steel shoe to engineers detail.

From within the roof void, the remaining timbers appear in reasonable condition – **pic. no. 19**. During the course of previous repairs, additional rafters were placed alongside the originals by "doubling up" – **pic. no. 21** – often carried out to eliminate any dip or sag in the original roof profile due to settlement.

Evidence of active woodworm infestation was noted in the roofing timbers - **pic. no. 22** – predictable in timbers of this age. Specialist woodworm eradication treatments are recommended. Such treatments entail the spray application of a water based, low odour (bat friendly) insecticidal fluid to all accessible roofing timbers. Without removing sections of ceiling in the coved (sloped) areas, access to rafters, roof wall plates etc. will be difficult to achieve.

I have included a figure at the end of this report for woodworm eradication treatments of the roofing timbers if carried out by our company.

Timber Ceilings

At second floor level, the ceilings are of tonged and grooved timber sheeting – **pic. no. 23**. The centre truss is also clad in similar sheeting below the ceiling line. One of the problems associated with such finishes is the constant migration of dust into the rooms below through the gaps in the sheeting which have occurred over a period of time due to shrinkage. It should also be noted that a timber sheeted ceiling is also considerably more flammable than plastered ceilings.

Suspended Timber Floors

Suspended timber floors exist at first and second floor levels. Evidence of active woodworm was noted in many of the flooring boards – **pic. no. 24**. Often, where some individual boards have been heavily affected, these tend to break or fracture when being lifted and can also fracture under point loads – castors etc. Some replacement of boards may therefore be necessary. Some localised sections of flooring have been damaged in the past – **pic. no. 26**. Often, in buildings such as this, enough existing flooring boards may be salvageable to refloor one complete no. floor level. This would entail the fitting of new decking to the remaining floor level in perhaps plywood and subsequent floor finish.

Woodworm eradication treatments of the flooring boards and joists will also be required.

The joists are spanning from front to rear and are therefore bearing on or embedded in the front and rear elevations. Joist ends embedded in external walls that have been subject to damp ingress (at any stage during the life of the building) are likely to undergo deterioration.

It is essential therefore that the joist ends are investigated during the course of any renovations. This will entail the lifting of a pair of flooring boards adjacent to the external walls (not necessary if ceilings are being removed at the underside) and forming pockets in the masonry at the side of the joist end to reveal the embedded section.

Deterioration is usually due to wet rot and is usually confined to the embedded section. In this event, localised repairs of the joists ends can be carried out by splicing. The traditional method of splicing has been the use of timber splices – often wrapping the new splice in PVC (DPC) within the wall. This is not recommended and our preferred method of repair is the use of galvanised steel shoes or “bower” beams – **pic. no. 27**.

Often, in a building of this age, the joists may be bearing on a horizontal timber wall plate. Where deterioration of the joist ends occurs, deterioration of the wall plate usually occurs also. Defective wall plates should be removed and replaced in new masonry – concrete soap bar (slimline concrete block), sections of precast lintel, engineering brick etc. Under no circumstances should timber wall plate be reused. I will be glad to revisit the property at any time once the joist ends are exposed and issue any further recommendations in this regard.

Where joists tend to be undersized in dimension for the spans that exist, vibration of the floors can occur when walked upon. Once the size of the joists, amount and types of bridging's etc. are ascertained, we can issue further recommendations in this regard. Often, the installation of additional joists alongside the existing particularly at the centre of the floors will reduce the vibration significantly.

Ground Floors

The ground floors are of concrete construction. Owing to their age, it can be assumed that no damp-proof membrane or insulation exists – **pic. no. 28**. Ideally, any such floors should be removed and replaced in concrete incorporating a damp-proof membrane and insulation. When installing new floors in a building of this age it is essential that the membrane is fully returned upwards at all wall edges ensuring that the edges of the floor slabs are fully isolated from the old walls. Failure to do this can result in dampness being absorbed by the edges of the floors from the perimeter walls causing the floors to become damp at the perimeter.

Stairway

At the top quarter landing, evidence of rot deterioration was noted in the corner step – **pic. no. 29**. It is likely that further deterioration will be unfolded in the stairway supporting timbers particularly in the rear, left-hand corner of the building which was found to be particularly damp.

Heavy woodworm infestation has also caused deterioration of the tread nosings – **pic. nos. 30 & 31**. A number of steps were also found to be missing from the first flight. It is likely that the stairway will be repairable and will also require treatments against woodworm infestation.

Lintels

A traditional shop front detail exists at the front elevation – **pic. no. 32**. While the front elevation has been replastered in a cementitious plaster, the shop front joinery was not removed and the plaster was finished up to these timbers. This is evident by the significant shrinkage gaps which now exists between the plaster and the timbers – **pic. nos. 33 & 34** such gaps will allow significant ingress of damp. The top of the wooden canopy also appears poorly flashed – **pic. no. 35**.

It would appear (from internally) that the lintels over the shop front are of timber and appear defective where visible – **pic. no. 35A** and are likely to require complete replacement, more than likely in steel due to the openings. Usually, these lintels will span the full width of the opening with intermediate timber or steel vertical supports internally at both sides of the doorway – **pic. no. 36**.

The canopy externally is in poor condition – **pic. nos. 37, 38 & 39A** and will also require removal and replacement. The external joinery timbers at a low level are also in poor condition – **pic. nos. 39 & 40**. Some hairline cracks were noted in the plaster in the front elevation – **pic. no. 41** which will continue to allow damp ingress. There is also a possibility that a substantial gap exists in the plaster between both buildings at the rear side of the right-hand downpipe – **pic. no. 42**. Bearing in mind that the plaster has been finished up to the joinery, I would strongly recommend that the plaster to the front elevation be removed and replastered (in lime-based render).

The remaining lintels over the windows at upper floor levels appear to be of stone slab – commonly used in this locality – **pic. nos. 43 & 44**. A stone relieving arch was noted directly above – **pic. no. 45**. These will require to be examined in more detail to ensure that no hairline cracks have occurred. Once the lintels are found to be in sound condition, they can remain.

Internal Finishes

Severe damp staining has occurred in the right-hand elevation – **pic. nos. 46, 47 & 48** due to sulphur (soot) staining due to damp ingress in the flues. Deterioration of internal plaster has also occurred in the left-hand elevation, particularly at top floor level at the front – **pic. no. 49** but particularly at the rear – **pic. no. 50**.

Some plaster was found to be contaminated by salts – **pic. no. 51A** which causes displacement of skimcoat finishes, decorations etc. In spite of the elimination of damp ingress, any plaster contaminated by salts, will, require removal.

All damp, defective internal plaster will require removal to:

- A. Expedite the drying out of the masonry
- B. Prevent any plaster from becoming delaminated and detached from the wall in the future as the drying out proceeds.
- C. Allow for the masonry to be inspected for the presence of any fungal infestations and subsequent treatments if necessary.

Ceilings

The ceilings at ground and first floor level are of lath/plaster construction. Substantial sections have become displaced – **pic. nos. 51,52 & 53**. Many ceilings are cracked – **pic. no. 54** and there is a risk of further displacement of plaster in the future where the plaster has delaminated from the laths. This plaster is very heavy and could cause serious injury. The removal of defective ceiling finishes can be advantageous as it will facilitate access for new plumbing installation, electrical insulation etc. and timber treatments.

Rising Damp

Owing to the age of the building, we can be satisfied that no form of effective damp-proof course exists at the base of the solid walls. This allows dampness to rise at a low level in the wall by capillary action – usually up to a height of 1 metre. A retrospective DPC system can be installed in a building of this age during the course of renovations. A number of systems are available including:

- A. An electro osmotic DPC system

Or

- B. Injection of a liquid DPC (our preferred option).

The chemical injection entails the forming of a line of drill holes along the base of the wall and injecting a damp-proofing fluid. The fluid is readily absorbed along with any other porous matter within the walls e.g. pointing mortar, lightweight infill rubble, porous stone or brick.

Finally, if you have any queries on any matter, please do not hesitate to contact me, in the meantime, the following figures should be borne in mind for the specialist aspects of the work:

- | | | |
|--|-----|------------------|
| 1. Woodworm Eradication: Spray application of a water based, low odour insecticidal fluid to all accessible main roofing timbers, first and second flooring boards and joists, staircase timbers etc. | ... | €1,600.00 |
| 2. Damp Proofing: Injection of a liquid DPC to base of all Solid (stone) walls at ground floor level | ... | €1,380.00 |

The above figures are **subject to Vat @13.5%**.

Yours Sincerely

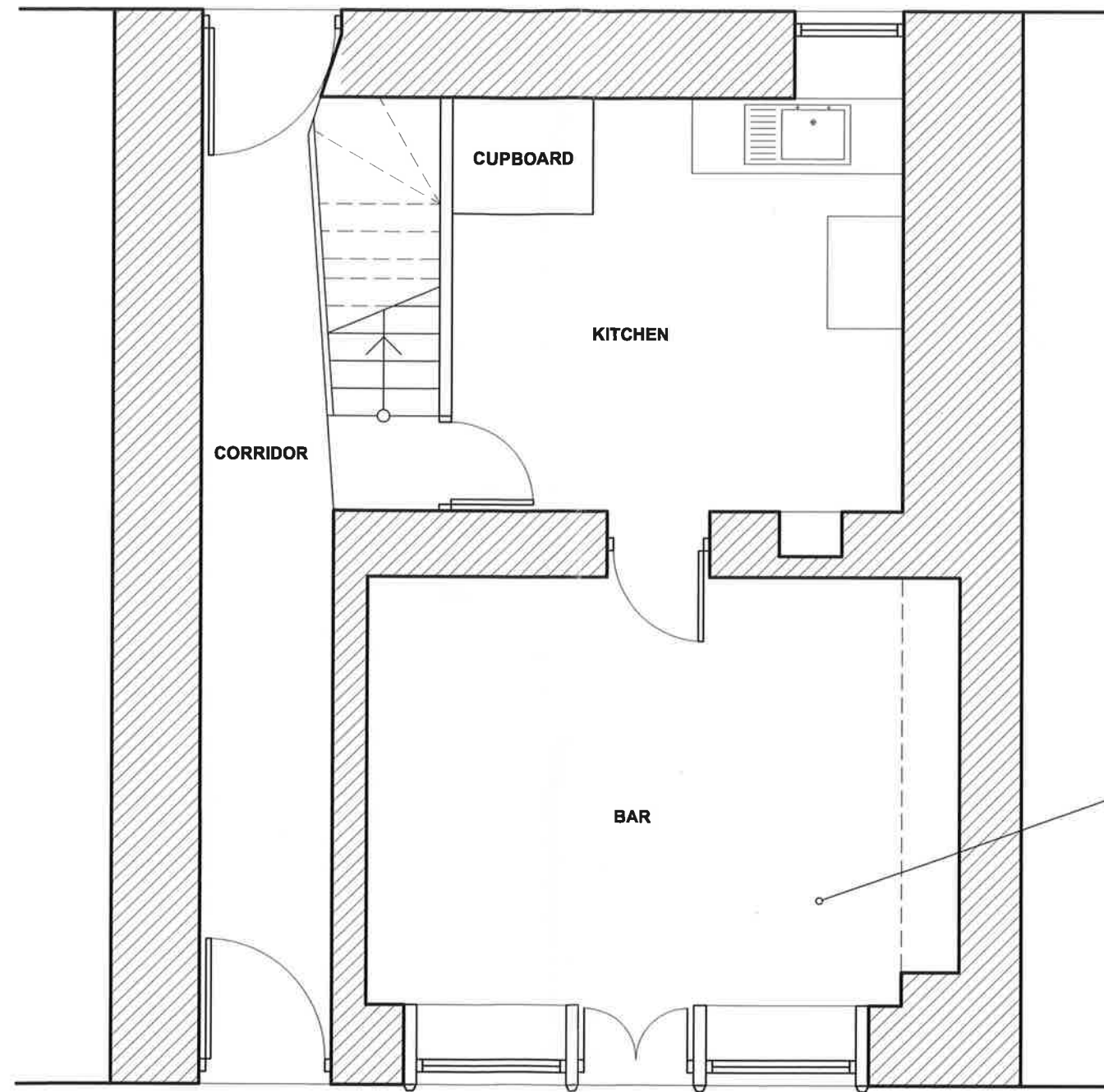


Jerry Galvin

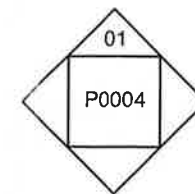

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01 - EXISTING GROUND FLOOR PLAN



NOTE
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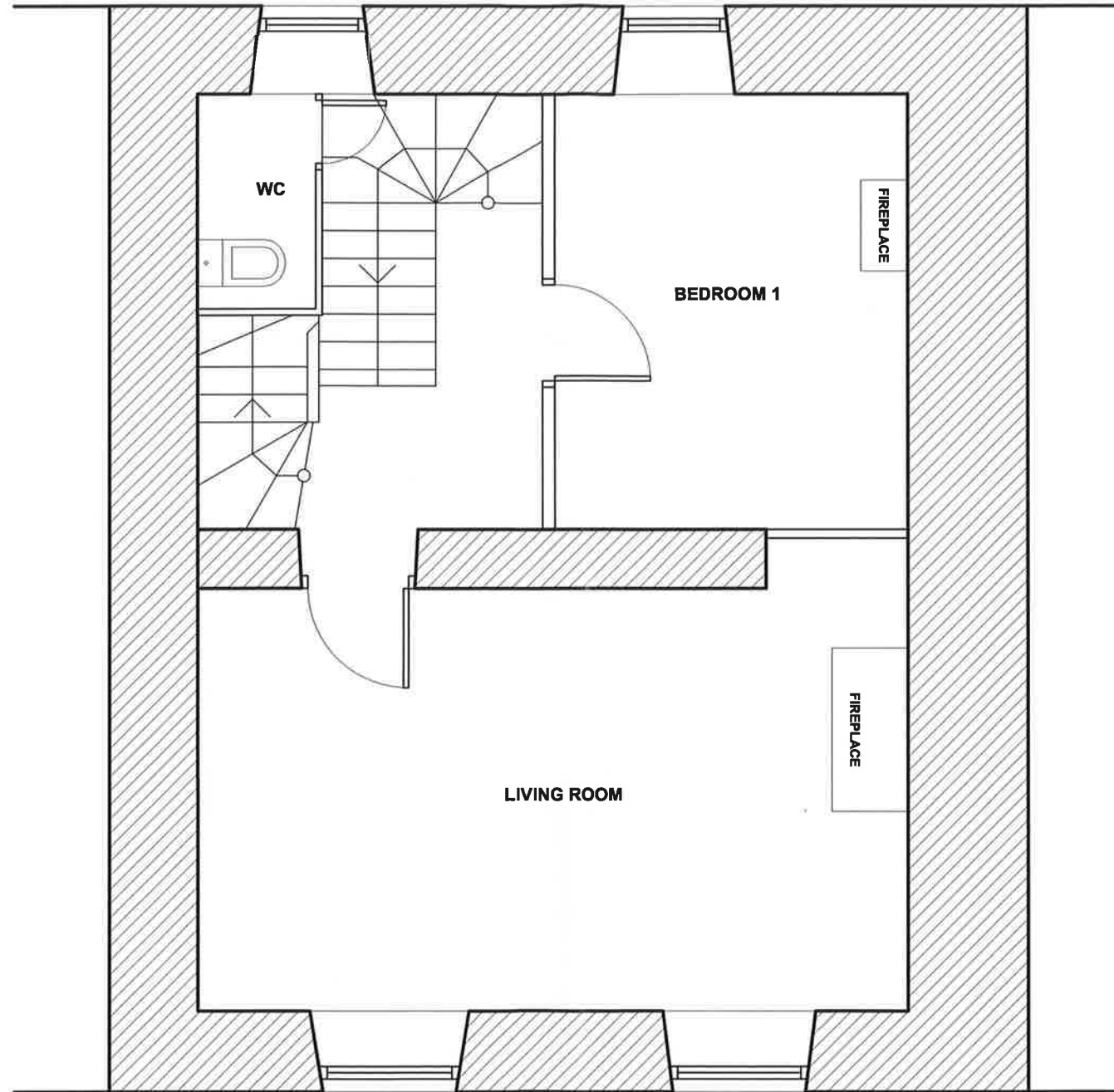


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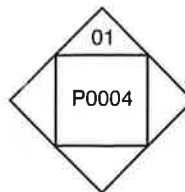
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P01	Oct. 2022	Issued To Clare County Council	AP	ROC

PROJECT
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Ennistymon, Co. Clare
DRAWING
Existing Ground Floor Plan

JOB NUMBER: 22-0001
DATE: October 2022
SCALE: 1:50 @ A3
DRAWN: ROC
FILE NAME: 22-0001-P0001
DRAWING NUMBER: P0001
REVISION: P01



01 - EXISTING FIRST FLOOR PLAN



*NOTE
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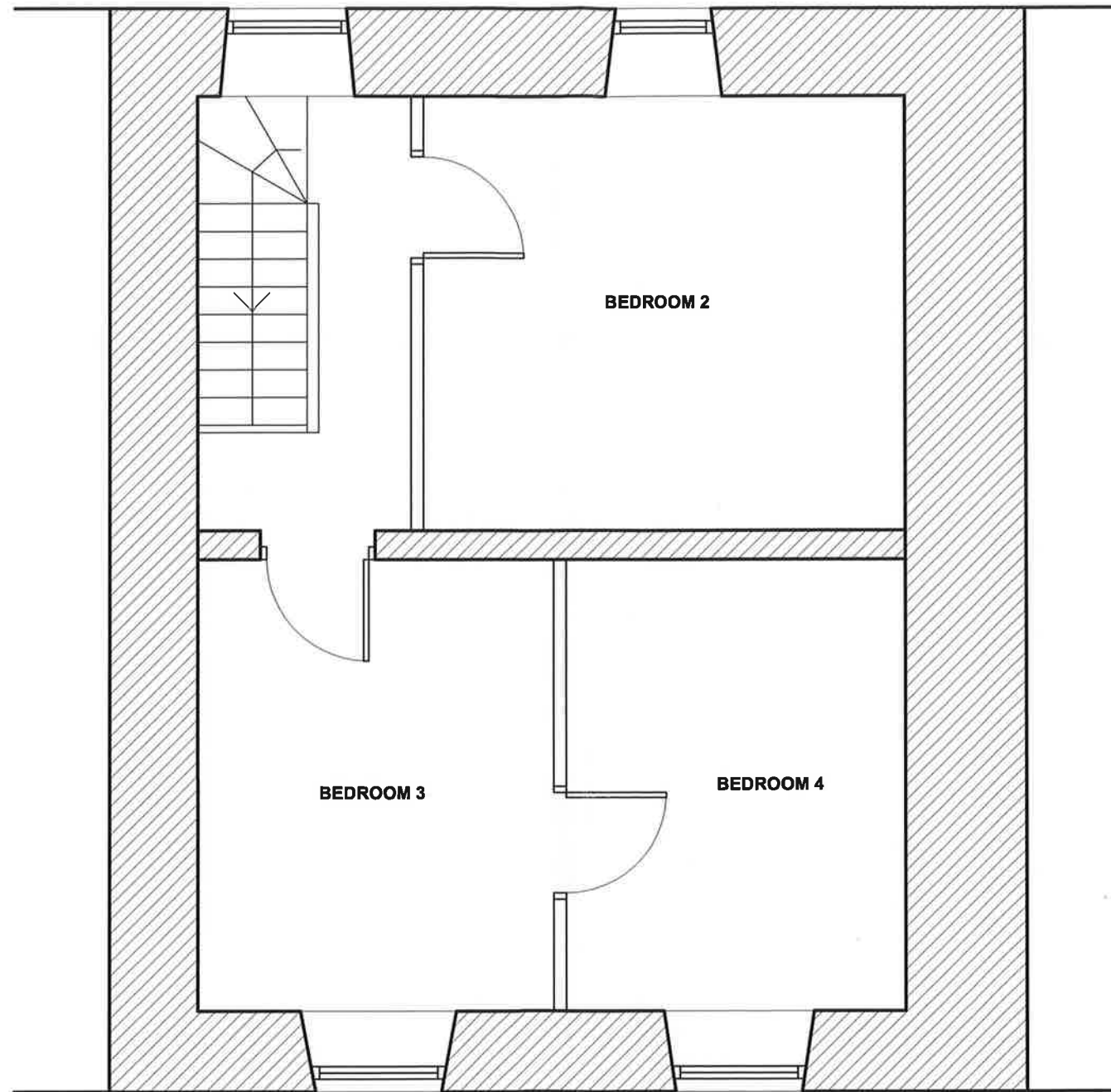


S5 APPLICATION

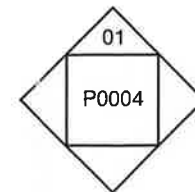
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P01	04.10.2022	Issued To Clare County Council	AP	ROC

PROJECT
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Ennistymon, Co. Clare
DRAWING
Existing First Floor Plan

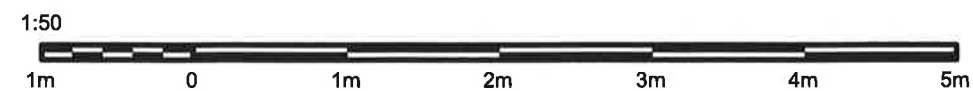
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FILE NAME: 22-0001-P0002
DRAWING NUMBER: P0002
REVISION: P01



01 - EXISTING SECOND FLOOR PLAN



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S5 APPLICATION

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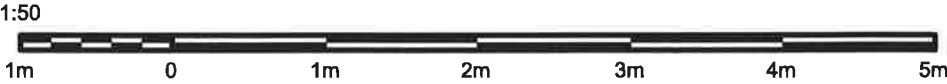
PROJECT
G. Hayes, Church Street,
Ennistymon, Co. Clare
DRAWING
Existing Second Floor Plan

JOB NUMBER: 22-0001
DATE: October 2022
SCALE: 1:50 @A3
DRAWN: ROC
FILE NAME: 22-0001-P0003
DRAWING NUMBER: P0003
REVISION: P01



01 - EXISTING FRONT ELEVATION

*NOTE
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S5 APPLICATION

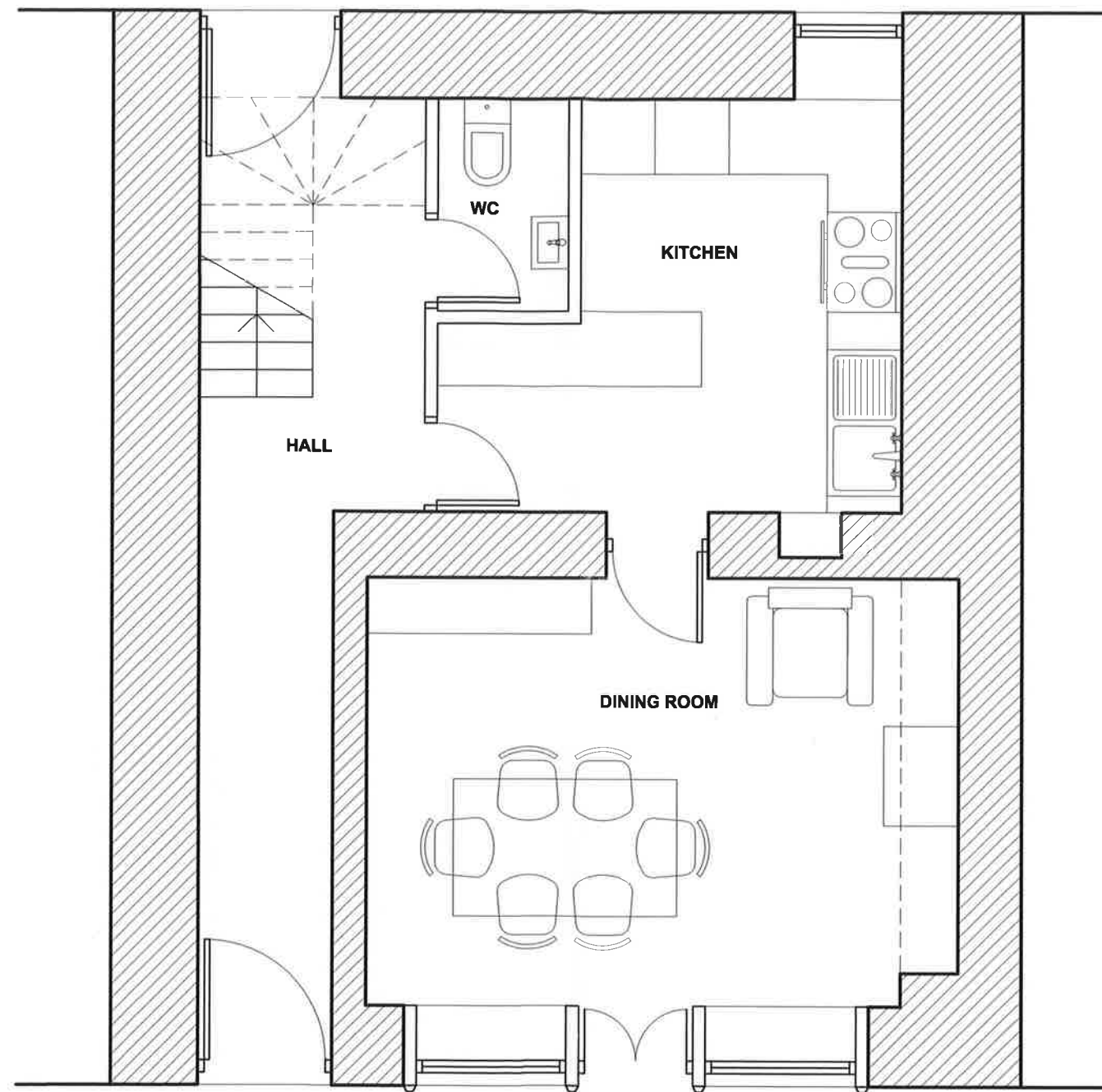
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PROJECT
G. Hayes, Church Street,
Ennistymon, Co. Clare
DRAWING
Existing Front Elevation

JOB NUMBER:	22-0001
DATE	October 2022
SCALE	1:50 @A3
DRAWN	ROC
FILE NAME	22-0001-P0004
DRAWING NUMBER	REVISION

P0004

P01



01 - PROPOSED GROUND FLOOR PLAN



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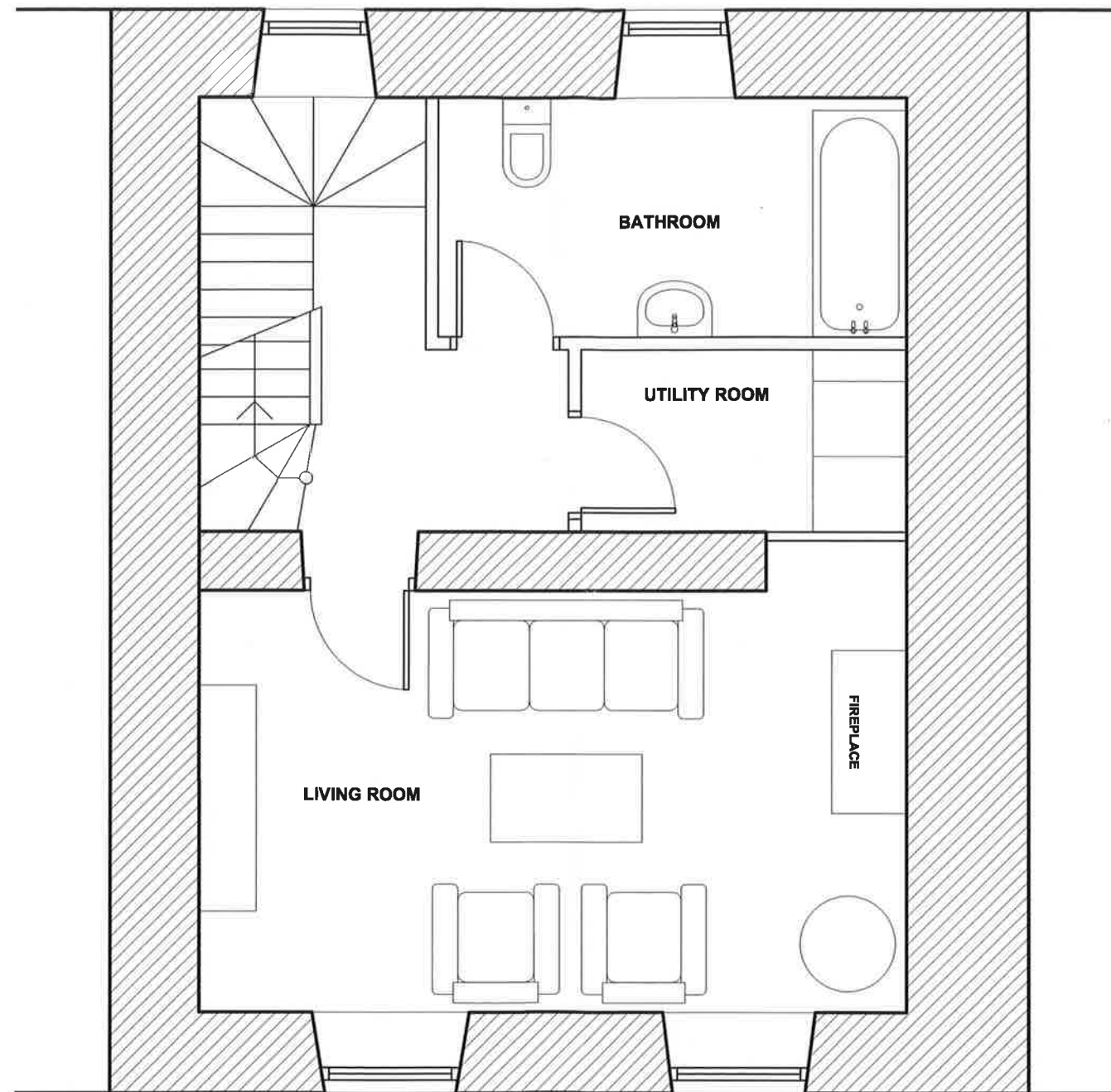


S5 APPLICATION

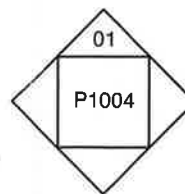
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P01	01st 2022	Issued To Clare County Council	AP	ROC
			CHKD	DRN

PROJECT
G. Hayes, Church Street,
Ennistymon, Co. Clare
DRAWING
Proposed First Ground Plan

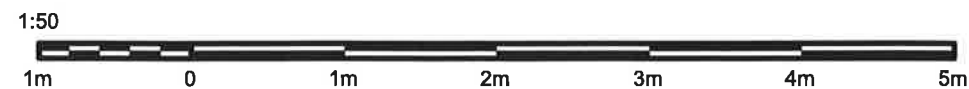
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DRAWING NUMBER: P1001
REVISION: P01



01 - PROPOSED FIRST FLOOR PLAN



*NOTE
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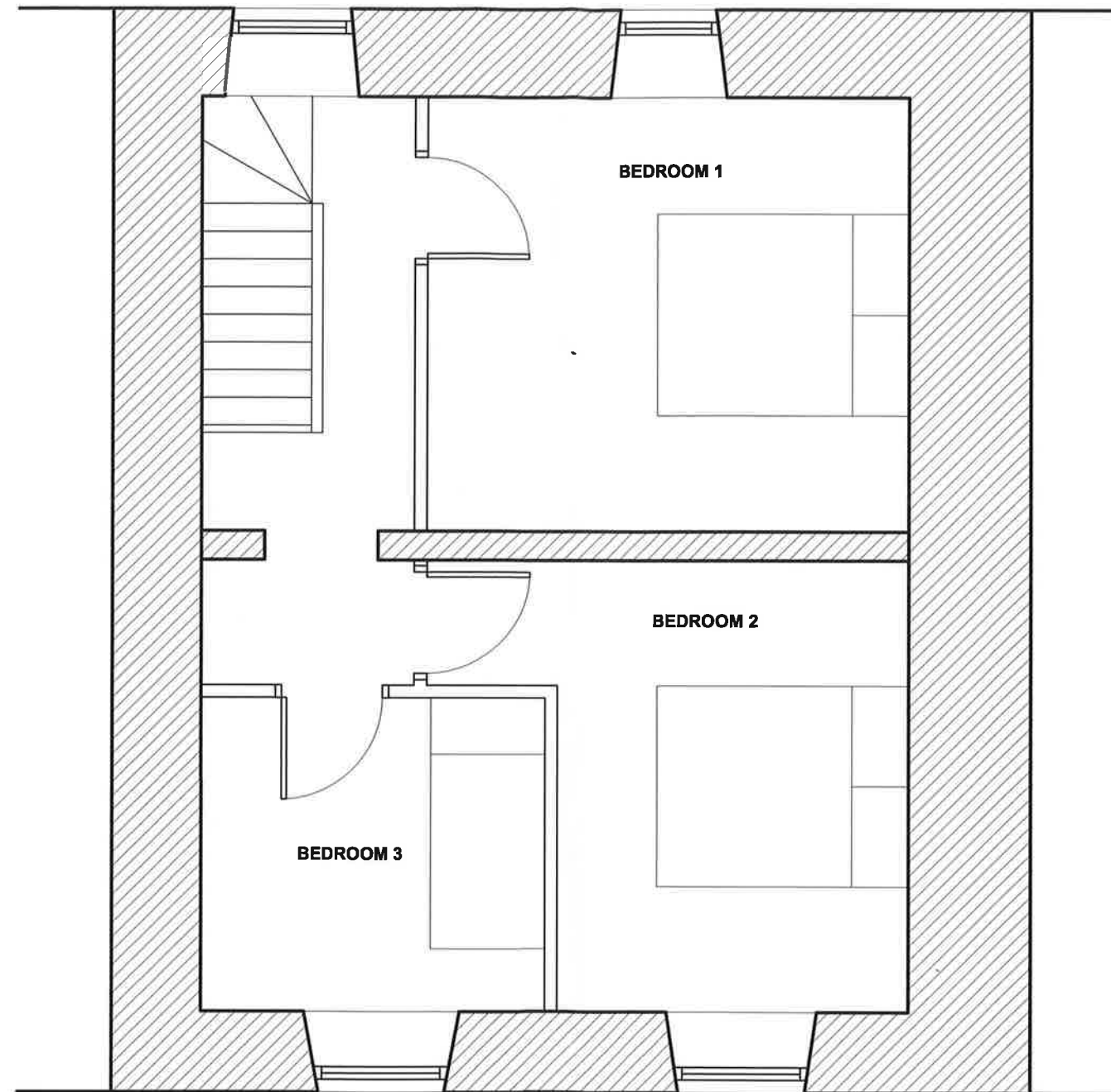


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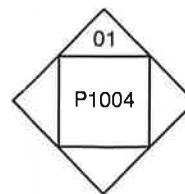
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REV	DATE	DESCRIPTION	CHNG	DRN

PROJECT
G. Hayes, Church Street,
Ennistymon, Co. Clare
DRAWING
Proposed First Floor Plan

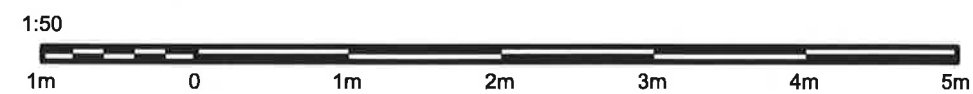
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DATE: October 2022
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DRAWING NUMBER: P1002
REVISION: P01



01 - PROPOSED SECOND FLOOR PLAN



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S5 APPLICATION

NO	01	01/10/2022	Issued To Clare County Council	AP	ROC
REV	DATE	DESCRIPTION		CHKD	GRN

PROJECT
G. Hayes, Church Street,
Ennistymon, Co. Clare
DRAWING
Proposed Second Floor Plan

JOB NUMBER: 22-0001
DATE: October 2022
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DRAWN: ROC
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DRAWING NUMBER: P1003
REVISION: P01

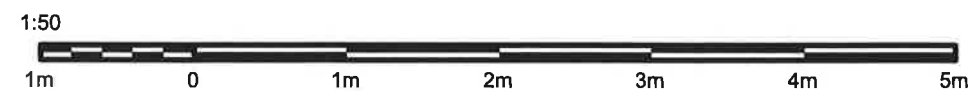


Materials Legend

- A** Remove cementitious render and replace with lime-based render, painted with mineral paint (colour to be agreed with Conservation Officer)
- B** Replace cementitious rendered quoins with lime-based render (profile and pattern to match existing)
- C** Refurbish sash windows
- D** Repaint existing timber door
- E** Damaged limestone cill reset and stitched
- F** Install new cast iron gutter (black)
- G** Retain cast-iron downpipe
- H** Replace cement roof tiles with natural slate tiles

NOTE: timber shuttering (indicated on existing elevation) will repainted and stored internally when not in use

NOTE:
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S5 APPLICATION

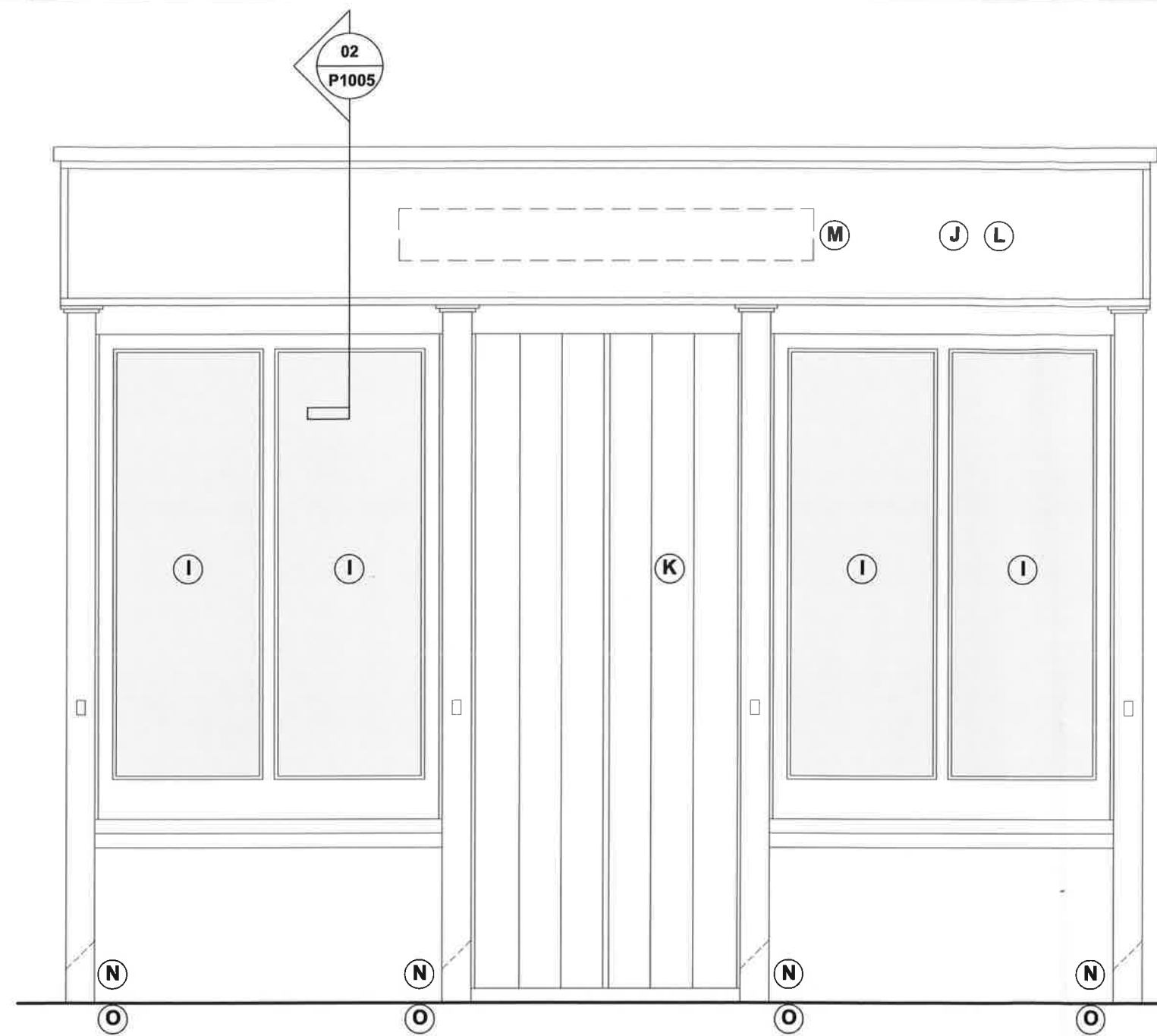
P01	Oct 2022	Issued To Clare County Council	AP	ROC
REV	DATE	DESCRIPTION	CHDR	DRN

PROJECT
G. Hayes, Church Street,
Ennistymon, Co. Clare
DRAWING
Proposed Front Elevation

JOB NUMBER: 22-0001
DATE: October 2022
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DRAWN: ROC
FILE NAME: 22-0001-P1004
DRAWING NUMBER: REV/SION

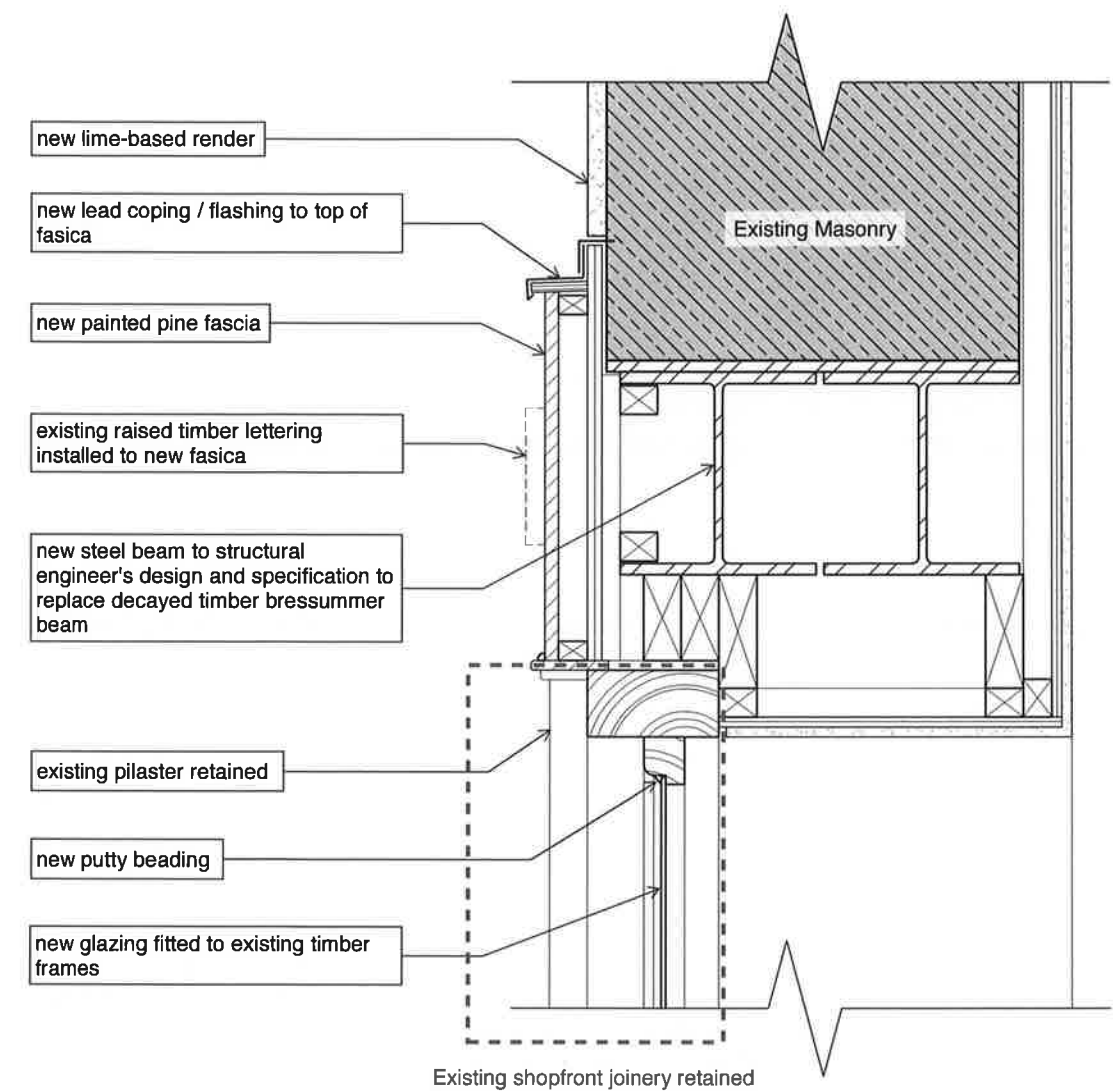
P1004

P01



01 - PROPOSED SHOPFRONT ELEVATION

SCALE 1:20



02 - PROPOSED SHOPFRONT HEAD DETAIL

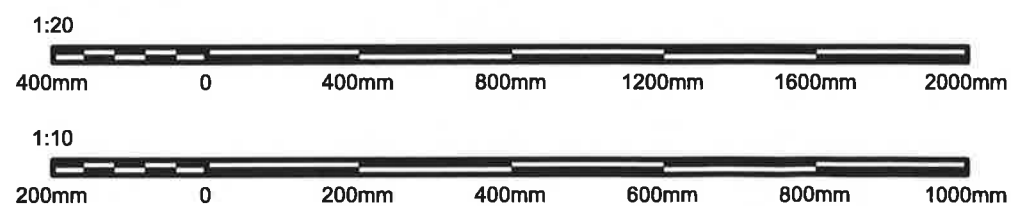
SCALE 1:10

Materials Legend

- I Remove perspex and install putty-beaded glazing to existing frames
- J Replace plywood fascia with painted pine fascia (colour to be agreed with Conservation Officer) with lead flashing / coping above
- K Existing door repainted
- L Replace decayed bressummer beam with steel beam (no change to external appearance)
- M Reinstall existing raised timber lettering (G. Hayes) to new fascia
- N Remove decayed pilaster base and splice new timber section and bolt to remaining timber (profile to match existing)
- O Install limestone kneeler to base of pilasters

Shopfront joinery to be repainted with oil-based paint, colour to be agreed with Conservation Officer.

*NOTE
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RELEVANT CONSULTANTS DRAWINGS



S5 APPLICATION

P01	Oct. 2022	Issued To Clare County Council	AP	ROC
REV	DATE	DESCRIPTION	CHG	DRN

PROJECT
G. Hayes, Church Street,
Ennistymon, Co. Clare

DRAWING
Proposed Shopfront Elevation & Detail

JOB NUMBER: 22-0001
DATE: October 2022
SCALE: Varied @ A3
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