



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Registered Post

**Paul Haugh
c/o O'Kelly Moylan Solicitors
Market Square
Kilrush
Co. Clare**

28th July 2023

Section 5 referral Reference R23-41 – Paul Haugh

Is the provision of a permanent structure by way of metal plates bolted to the ground at Hylands Burren Hotel development and if so is it exempted development?

A Chara,

I refer to your application received on 13th June 2023 and by way of Further Information on 12th July 2023 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





COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Registered Post

**Mr. David Quinn
Managing Director
Hylands Burren Hotel
Ballyvaughan
Co. Clare
H91 EY00**

28th July 2023

Section 5 referral Reference R23-41 – Paul Haugh

Is the provision of a permanent structure by way of metal plates bolted to the ground at Hylands Burren Hotel development and if so is it exempted development?

A Chara,

I refer to the Section 5 declaration application received on 13th June 2023 and by way of Further Information on 12th July 2023 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

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**Planning Department
Economic Development Directorate**
Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2



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

Reference No.: R23-41



Comhairle Contae an Chláir
Clare County Council

Section 5 referral Reference R23-41

Is the provision of a permanent structure by way of metal plates bolted to the ground at Hylands Burren Hotel development and if so is it exempted development?

AND WHEREAS, Paul Haugh has requested a declaration from Clare County Council on the said question.

AND WHEREAS Clare County Council, in considering this referral, had regard in particular to –

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended;
- (b) The works as indicated in submitted documents from the referrer.
- (c) The location of the works not being on a public road.

And whereas Clare County Council has concluded:

- (a) The installation of the proposed "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 subject development is on land which is not on in, over or under a public road and therefore the provisions of Section 254 of the Act do not apply in this instance;
- (d) The said provision of a permanent structure by way of metal planters bolted to the ground (on the open common ground area externally) in front of Hyland's Burren Hotel and adjacent to Greene's Bar at Ballyvaughan does not come within the scope of section 4(1)(h) of the Planning and Development Act, 2000, as amended, not being works for the maintenance, improvement or other alteration of an existing structure but rather the provision of new structures and is, therefore, not exempted development, and
- (e) There are no other provisions in the Act or Regulations, by which the subject development is exempted development.

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 said provision of a permanent structure by way of metal planters bolted to the ground (on the open common ground area externally) in front of Hyland's Burren Hotel and adjacent to Greene's Bar at Ballyvaughan, Co. Clare, H91 EY00

constitutes development which is not exempted development as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.

A handwritten signature in black ink, appearing to read 'Anne O'Gorman', is written over a horizontal line.

Anne O'Gorman
Staff Officer
Planning Department
Economic Development Directorate

28th July 2023

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:

82157

Reference Number:

R23-41

Date Referral Received:

13th June 2023

Date Further Information Received:

12th July 2023

Name of Applicant:

Paul Haugh

**Location of works in question:
Clare, H91 EY00**

Hylands Burren Hotel, Ballyvaughan, Co.

Section 5 referral Reference R23-41 – Paul Haugh

Is the provision of a permanent structure by way of metal plates bolted to the ground at Hylands Burren Hotel development and if so is it exempted development?

AND WHEREAS Clare County Council, in considering this referral, had regard in particular to –

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended;
- (b) The works as indicated in submitted documents from the referrer.
- (c) The location of the works not being on a public road.

AND WHEREAS Clare County Council has concluded:

- (a) The installation of the proposed "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 subject development is on land which is not on, in, over or under a public road and therefore the provisions of Section 254 of the Act do not apply in this instance;
- (d) The said provision of a permanent structure by way of metal planters bolted to the ground (on the open common ground area externally) in front of Hyland's Burren Hotel and adjacent to Greene's Bar at Ballyvaughan does not come within the scope of section 4(1)(h) of the Planning and Development Act, 2000, as amended, not being works for the maintenance, improvement or other alteration of an existing structure but rather the provision of new structures and is, therefore, not exempted development, and
- (e) There are no other provisions in the Act or Regulations, by which the subject development is exempted development.

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 said provision of a permanent structure by way of metal planters bolted to the ground (on the open common ground area externally) in front of Hyland's Burren Hotel and adjacent to Greene's Bar at Ballyvaughan, Co. Clare, H91 EY00 is considered development which is not exempted development.

Signed:


GARETH RUANE
SENIOR EXECUTIVE PLANNER

A-6

Date:

28th July 2023

CLARE COUNTY COUNCIL
SECTION 5 DECLARATION OF EXEMPTION APPLICATION
PLANNERS REPORT

FILE REF:	R23-41
Report : No 2	
APPLICANT(S):	Paul Haugh
REFERENCE:	Whether the provision of a permanent structure by way of metal planters bolted to the ground (on the open common ground area externally) in front of Hyland's Burren Hotel and adjacent to Greene's Bar is development and if so is it exempted development.
LOCATION:	Ballyvaughan, County Clare
DUE DATE:	1 st August 23

Further information was requested 4th July 23 in accordance with section 5 (2) (b) of the planning and Development Act 2000, as amended.

The Planning Authority refers to the description of the subject matter (item 2 (b) of the application form received wherein the location of the development is referred to ' open common ground area externally in front of Hyland's Burren Hotel and adjacent to Greene's bar'. The Planning Authority also notes to the correspondence received from O' Kelly Moylan Solicitors which refers to a land registry map showing the area of ground over which the structure exists. Please arrange to submit details of folio entries to accompany the particular land registry map submitted and clarify what is meant by ' open common ground area'.

Summary of Applicant's Response

A photograph shows the area prior to the covid pandemic. Photographs no. 5- 12 show that Hyland's Burren Hotel have installed permanent structure in the area in front of the premises and to the side of Greene's Bar thus restricting their clients access to an egress from the rear of Greene's bar and therefore affecting patrons ability to evacuate in the event of an emergency. The permanent structure being metal planters bolted to the ground have been in place for over 60 days. The area of ground over which these planters stand is unregistered title and the same has been an open square/ open access historically. Greene's Bar is also unregistered title with Hyland's bar being comprised in Folio ,

Assessment

- I carried out inspection of the site and can confirm that the metal planter are bolted into the ground (See photo of same on file).

- Generally the Planning Act makes provision for consent for development through the following mechanisms, which include planning permission, Section 5 Declarations, Section 254 licences and Section 57s (works on protected structure).
- I note that Hyland's bar did not seek a licence under section 254 of the Act because having regard to the details received the Planning Authority was satisfied that area of ground concerned did not form part of the public road.
- Given that the metal planter boxes are bolted to the ground I consider that the structures, are permanent and require the benefit of planning permission because there is no class of exemption in the Planning and Development Regulations, as amended for the provision of outdoor seating and planters within the curtilage of a business premises.
- In areas not regulated by the granting of a section 254 licence, the placing of tables and chairs outside the premises, albeit on unregistered land, has the effect of extending the area available for use by clients and as such requires the benefit of planning permission.
- I note that the area of ground concerned is not a public road and is not registered to any party.
- While it is not clear how a first party making a planning application would be able to demonstrate sufficient legal interest in the first instance, equally it is not clear what party's written consent would be required in the absence of the first party proving sufficient legal interest. This however does not mean that planning permission is not required.

Recommendation

The following questions have been referred to the Planning Authority:

Whether the provision of a permanent structure by way of metal planters bolted to the ground (on the open common ground area externally) in front of Hyland's Burren Hotel and adjacent to Greene's Bar at Ballyvaughan Co. Clare 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 of the Planning and Development Act, 2000, as amended;
- (b) The works as indicated in submitted documents from the referrer.
- (c) The location of the works not being on a public road.

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

- (a) The installation of the proposed "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 subject development is on land which is not on, over or under a public road and therefore the provisions of Section 254 of the Act do not apply in this instance;
- (d) The said provision of a permanent structure by way of metal planters bolted to the ground (on the open common ground area externally) in front of Hyland's Burren Hotel and adjacent to Greene's Bar at Ballyvaughan does not come within the scope of section 4(1)(h) of the Planning and Development Act, 2000, as amended, not being works for the maintenance, improvement or other alteration of an existing structure but rather the provision of new structures and is, therefore, not exempted development, and
- (e) There are no other provisions in the Act or Regulations, by which the subject development is exempted development.

Now therefore Clare County Council (Planning Authority), hereby decides that:

- (i) the said provision of a permanent structure by way of metal planters bolted to the ground (on the open common ground area externally) in front of Hyland's Burren Hotel and adjacent to Greene's Bar at Ballyvaughan is development and is not exempted development.

Ellen Coey .

Executive Planner

Date: 27/07/23 .

En

Senior Executive Planner

Date: 27/07/23 .

N23-41. Paul Hagl.

19/07/23





O'KELLY MOYLAN
SOLICITORS

**Market Square,
Kilrush,
Co. Clare.
V15 KP23**

Tel: 065 9080000

**Also by appointment at:
Lifford Court, Ennis, Co. Clare.**

Anne O'Gorman
Planning Department
Economic Development Directorate
Clare County Council
Aras Contae an Chlair
New Road
Ennis
Co. Clare

Date: 10th July 2023
Our Ref: PM/NOS/LIT/H14039
Your Ref:



Re/ Our Client: Paul Haugh, Greene's Bar, Ballyvaughan, Co. Clare
Section 5 referral reference R23-41-Paul Haugh

Dear Sirs,

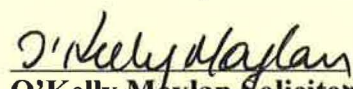
We refer to the above matter and to your letter of the 4th inst. We *enclose* herewith photograph showing the position in relation to the area in question prior to the Covid 19 pandemic. The *enclosed* photographs numbered 5-12 show that Hyland's Burren Hotel have installed permanent structures on the area in front of the premises and to the side of Greene's bar thus restricting our client's access to and egress from the rear of Greene's bar and thereby affecting our clients' patrons ability to evacuate the premises in the event of an emergency.

The permanent structure, being metal planters bolted to the ground have been in place for over 60 days. The area of ground over which these planters stand is unregistered title and we understand same has been an open square/open access historically.

Our client's property, being Greene's Bar is also unregistered title with Hyland's Burren Hotel being comprised in Folio [REDACTED].

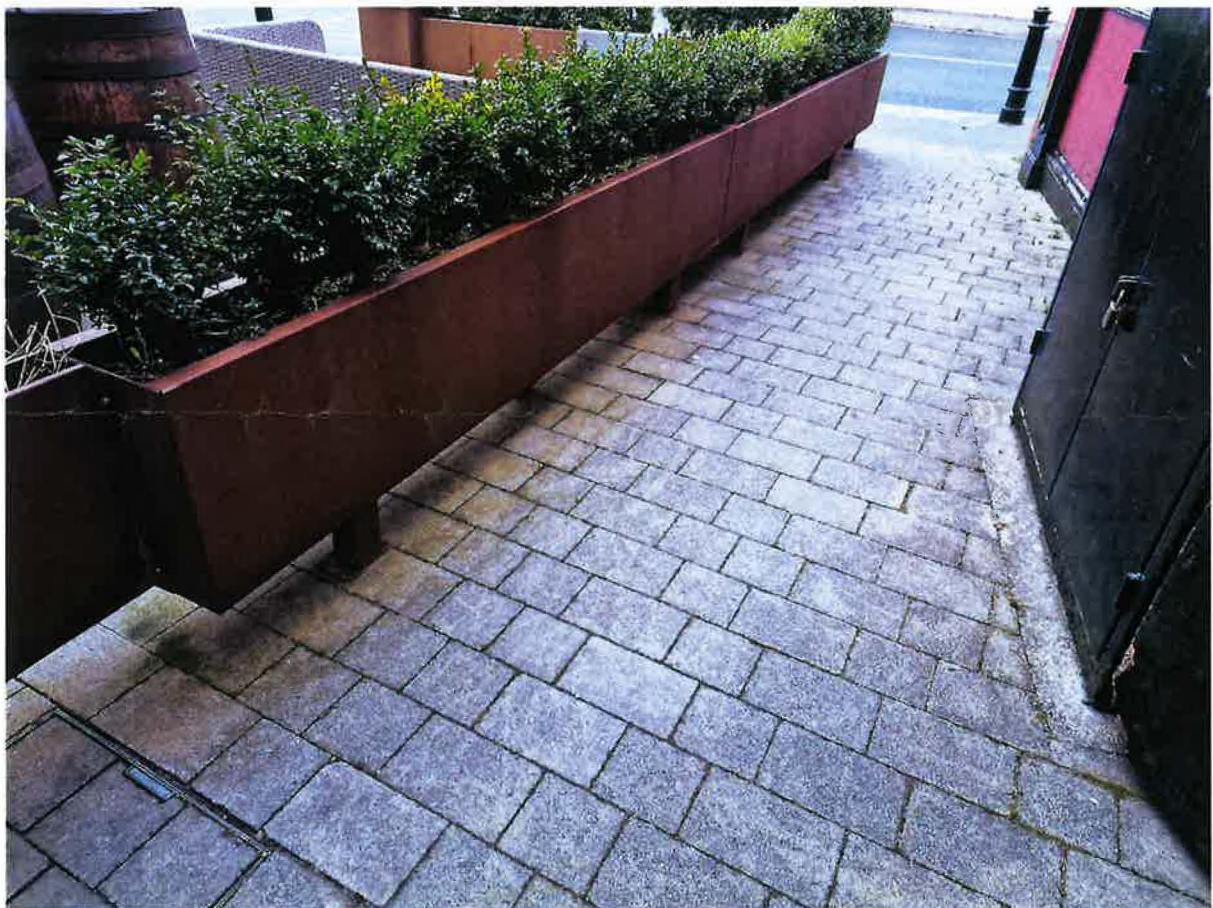
We look forward to hearing from you and thank you for your assistance.

Yours faithfully,


O'Kelly Moylan Solicitors



PHOTOGRAPH 5



PHOTOGRAPH 6



PHOTOGRAPH 7



PHOTOGRAPH 8



PHOTOGRAPH 9



PHOTOGRAPH 10



PHOTOGRAPH 11



PHOTOGRAPH 12



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COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

**Paul Haugh
c/o O'Kelly Moylan Solicitors
Market Square
Kilrush
Co. Clare**

4th July 2023

Section 5 referral Reference R23-41 – Paul Haugh

Is the provision of a permanent structure by way of metal plates bolted to the ground at Hylands Burren Hotel development and if so is it exempted development?

A Chara,

I refer to your application received on 13th June 2023 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

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

1. The Planning Authority refers to the description of the subject matter (item 2 (b)) of the application form received wherein the location of the development is referred to as 'open common ground area externally in front of Hyland's Burren Hotel and adjacent to Greene's bar'. The Planning Authority also notes to the correspondence received from O'Kelly Moylan Solicitors which refers to a land registry map showing the area of ground over which the structure exists. Please arrange to submit details of folio entries to accompany the particular land registry map submitted and clarify what is meant by 'open common ground area'.

Note to Applicant

Please be advised that concerns raised regarding fire safety have been referred to the Chief Fire Officer.

Mise, le meas


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

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

**Planning Department
Economic Development Directorate
Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2**



CLARE COUNTY COUNCIL
SECTION 5 DECLARATION OF EXEMPTION APPLICATION
PLANNERS REPORT

FILE REF: R23-41
APPLICANT(S):
REFERENCE: Whether the provision of a permanent structure by way of metal planters bolted to the ground (on the open common ground area externally) in front of Hyland's Burren Hotel and adjacent to Greene's Bar is development and if so is it exempted development.
LOCATION: Ballyvaughan, County Clare
DUE DATE: 10th July 23

Recent Planning History on Site

95/ 890 Hyland's Hotel Ltd. Same Hylands Hotel Ltd. Permission granted for Conversion of existing ground floor function room to 6. no. bedrooms and 6 no. proposed bedrooms to newly constructed mezanine floor and extension to bar and ancillary works.

Recent Planning History NEARBY

12/ 451 Paul Haugh Greene's bar. Retention permission granted to alter the front elevation fenestration, creating a new doorway, and build external and internal walls to create a fire exit from the rear yard and for permission TO RETAIN the development to the rear (south) of Greene's Bar in the existing enclosed yard. The development includes permission for the retention of: 1. The partial demolition of the existing sheds; 2. The provision of ladies and gents toilets; 3. The roofed outdoor seating area; 4. The enclosed bar area for seasonal use; 5. The storage shed and gated yard; 6. The chimneys for outdoor heating purposes; 7. The increase of the existing smoking area; 8. All ancillary site works, landscaping, boundary works and surfaces. Greene's Bar is within the ACA of Ballyvaughan.

RECENT UD HISTORY

None

Background to Referral

The applicant is seeking a Section 5 Declaration as to whether the provision of a permanent structure by way of metal planters bolted to the ground in front of Hyland's Burren Hotel and adjacent to Greene's Bar is development and is or is not exempted development.

Statutory Provisions

Planning and Development Act, 2000 (as amended)

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

S.3.(1) In this Act, “development” means, except where the context otherwise requires, **the carrying out of any works on, in, over or under land** or the making of any material change in the use of any structures or other land.

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

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

Section 254

A person shall not erected, construct, place or maintain any appliance, apparatus or structure which may be prescribed as requiring a licence under this section on, under, over, or along a public road save in accordance with a licence granted by a planning Authority under this section.

Assessment

Basis of Referral

The applicant is seeking a Section 5 Declaration as to whether the provision of a permanent structure by way of metal planters bolted to the ground in front of Hyland’s Burren Hotel and adjacent to Greene’s Bar is development and is or is not exempted development.

Particulars of Proposal

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

- Site layout plan 1: 500.
- Description of works- set out above . Street furniture was put in place during the pandemic. Hyland’s hotel have now placed a permanent structure in the area enclosing the street furniture (photo enclosed.) This severely restricts both access to and means of escape from Greene’s Bar.
- The applicant own Greene’s bar which is adjacent to Hyland’s Hotel.

- A land registry map showing the subject area highlighted in yellow where the structure is located.
- A letter from the applicant's solicitor which advises that the structure has impacted the applicant access to and from the property and also impacts the property from a fire safety point of view.

Under section 5 (c) Hyland's Burren hotel was invited by the Planning Authority to submit details of the structures as erected. In response the following particulars were submitted by David Quinn MD of Hyland's Burren Hotel

- Copy of remittance from CCC for grant funding for outdoor seating tourism and hospitality scheme.
- As part of the application process it was established by the Planning Dept Section 254 licence was not required for the structure as it was located on the property of the hotel.
- The structure is not in any way bolted to the ground at Mr Paul Haigh notes in his observations. This information is accompanied by a land registry complaint map prepared by P Coleman & Associates showing the area in question shaded yellow.

Assessment

- It would appear from Land Direct website that the area of ground concerned is not registered as part of either Hyland's Hotel or Greene's Bar. However this does not infer that neither party owns the land and neither does it infer the area is part of the public road.
- I note the information submitted by Hyland's Hotel which states the structures did not require a Section 254 licence because they were located on the property of the hotel. Section 254 specifically relates to structures on, under over or along a public road. If the area of ground is NOT a public road and is owned privately then there is no requirement for a licence for the structures. The issue of ownership requires to be clarified.
- I am also advised by the West Clare MD office that the area of ground was repaved approximately 3 years ago. The paving extended 2m in width around the inside edge of the carriage way and Clare Co Council was given consent by the owners of Hylands Hotel to extend the paving up to the front of the hotel (at the Fountain Bar side). The Planning Authority would therefore understand that the area of ground inside the footpath where the street furniture and planting is laid out is under the ownership and control of Hyland's Hotel.
- It is noted that the applicant's solicitor has raised concern the structure has impacted the applicant access to and from the property and also impacts the property from a fire safety point of view. The matter has been referred to the CFO.

Recommendation

I recommend requesting additional information as follows:

1. The Planning Authority refers to the description of the subject matter (item 2 (b) of the application form received wherein the location of the development is referred to ' open common ground area externally in front of Hyland's Burren Hotel and adjacent to Greene's bar'. The Planning Authority also notes to the correspondence received from O' Kelly Moylan Solicitors which refers to a land registry map showing the area of ground over which the structure exists. Please arrange to submit details of folio entries to accompany the particular land registry map submitted and clarify what is meant by ' open common ground area'.

Note to Applicant

Please be advised that concerns raised re fire safety have been referred to the C.F.O.

Ellen Coery .

Executive Planner

Date: 04/07/23 .

GR

Senior Executive Planner

Date: 04/07/23

Appropriate Assessment & Determination

STEP 1. Description of the project/proposal and local site characteristics:	
(a) File Reference No:	R23/ 41
(b) Brief description of the project or plan:	the provision of a permanent structure by way of metal planters bolted to the ground (on the open common ground area externally) in front of Hyland's Burren Hotel and adjacent to Greene's Bar
(c) Brief description of site characteristics:	Paved area
(d) Relevant prescribed bodies consulted: e.g. DHLGH (NPWS), EPA, OPW	None
(e) Response to consultation:	None

STEP 2. Identification of relevant Natura 2000 sites using Source-Pathway-Receptor model and compilation of information on Qualifying Interests and conservation objectives.				
European Site (code)	List of Qualifying Interest/Special Conservation Interest ¹	Distance from proposed development ² (km)	Connections (Source-Pathway-Receptor)	Considered further in screening Y/N
Galway Bay Complex SAC 0268	Annex I habitats: <input checked="" type="checkbox"/> Mudflats and sandflats not covered by seawater at low tide [1140] <input checked="" type="checkbox"/> *Coastal lagoons [1150] <input checked="" type="checkbox"/> Large shallow inlets and bays [1160] <input checked="" type="checkbox"/> Reefs [1170] <input checked="" type="checkbox"/> Perennial vegetation of stony banks [1220]	234m	None	No

☐ *Salicornia* and other
 annuals
 colonising mud and
 sand [1310]
 ☐ Atlantic salt meadows
 (Glauco-
 Puccinetalia maritimae)
 [1330]
 ☐ Mediterranean salt
 meadows
 (Juncetalia maritime)
 [1410]
 ☐ *Turloughs [3180]
 ☐ *Juniperus communis*
 formations on
 heaths or calcareous
 grasslands [5130]
 ☐ Semi-natural dry
 grasslands and
 scrubland facies on
 calcareous
 grasslands (Festuco-
 Brometalia)(*Important
 orchid sites)
 [6210]
 ☐ Calcareous fens with
Cladium
mariscus and species of
 the Caricion
davallianae [7210]
 ☐ Alkaline fens [7230]
 Annex II Species
 ☐ Otter *Lutra lutra*
 [1355]
 ☐ Harbour seal *Phoca*
vitulina [1365]

Inner
 Galway bay
 SPA 4031

Cormorant
Phalacrocorax carbo
 [A017] wintering +
 breeding
 ☐ Grey heron *Ardea*
cinerea [A028]
 ☐ Light-bellied brent
 goose *Branta*

bernicle hrota [A046]

wintering

☐ Wigeon *Anas*

Penelope [A050] -

wintering

☐ Teal *Anas crecca*

[A052] wintering

☐ Shoveler *Anas*

clypeata [A056]

wintering

☐ Red-breasted

merganser *Mergus*

serrator [A069]

wintering

☐ Ringed plover

Charadrius hiaticula

[A137] wintering

☐ Golden plover

Pluvialis apricaria

[A140] wintering

☐ Lapwing *Vanellus*

vanellus [A142]

wintering

☐ Dunlin *Calidris alpina*

[A149]

wintering

☐ Bar-tailed godwit

Limosa lapponica

[A157] wintering

☐ Curlew *Numenius*

arquata [A160]

wintering

☐ Redshank *Tringa*

tetanus [A162]

wintering

☐ Black-headed gull

Chroicocephalus

ridibundus [A179]

wintering

☐ Common gull *Larus*

canus [A182]

wintering

☐ Sandwich tern *Sterna*

sandvicensis

[A191] breeding

☐ Common tern *Sterna
hirundo* [A193]
breeding
☐ Wetland and water
birds [A999]

- ¹ Short paraphrasing and/or cross reference to NPWS is acceptable – it is not necessary to reproduce the full text on the QI/SCI.
- ² If the site or part thereof is within the European site or adjacent to the European site, state here.

STEP 3. Assessment of Likely Significant Effects	
(a) Identify all potential direct and indirect impacts that may have an effect on the conservation objectives of a European site, taking into account the size and scale of the project under the following headings:	
Impacts:	Possible Significance of Impacts: (duration/magnitude etc.)
Construction phase e.g. <ul style="list-style-type: none"> • Vegetation clearance • Demolition • Surface water runoff from soil excavation/infill/landscaping (including borrow pits) • Dust, noise, vibration • Lighting disturbance • Impact on groundwater/dewatering • Storage of excavated/construction materials • Access to site • Pests 	None
Operational phase e.g. <ul style="list-style-type: none"> • Direct emission to air and water • Surface water runoff containing contaminant or sediment 	None

- Lighting disturbance
- Noise/vibration
- Changes to water/groundwater due to drainage or abstraction
- Presence of people, vehicles and activities
- Physical presence of structures (e.g. collision risks)
- Potential for accidents or incidents

In-combination/Other

None

(b) Describe any likely changes to the European site:

Examples of the type of changes to give consideration to include:

- Reduction or fragmentation of habitat area
- Disturbance to QI species
- Habitat or species fragmentation
- Reduction or fragmentation in species density
- Changes in key indicators of conservation status value (water or air quality etc.)
- Changes to areas of sensitivity or threats to QI
- Interference with the key relationships that define the structure or ecological function of the site

None

(c) Are 'mitigation' measures necessary to reach a conclusion that likely significant effects can be ruled out at screening?

☐ Yes ☒ No

Step 4. Screening Determination Statement

The assessment of significance of effects:

Describe how the proposed development (alone or in-combination) is/is **not likely** to have **significant** effects on European site(s) in view of its conservation objectives.


Nature of works are limited to placing planters on the ground.

Conclusion: The proposed development is not likely to have significant effects on European site(s) in view of its conservation objectives.

	Tick as Appropriate:	Recommendation:
(i) It is clear that there is no likelihood of significant effects on a European site.	<input checked="" type="checkbox"/>	The proposal can be screened out: Appropriate assessment not required.
(ii) It is uncertain whether the proposal will have a significant effect on a European site.	<input type="checkbox"/>	<input type="checkbox"/> Request further information to complete screening <input type="checkbox"/> Request NIS <input type="checkbox"/> Refuse planning permission
(iii) Significant effects are likely.	<input type="checkbox"/>	<input type="checkbox"/> Request NIS <input type="checkbox"/> Refuse planning permission

Signature and Date of
Recommending Officer:

04/ 07/ 23


Name: Ellen Carey E.P.

Signature and Date of the
Decision Maker:

Brian Fahy

From: David
Sent: Monday 19 June 2023 14:29
To: Brian Fahy
Subject: Re: FAO: Anne O'Gorman Re: Section 5 Referral Reference R23-41 - Paul Haugh

Hi Brian,

Please find below invoice from 15 July 2021 when the planters were erected.

Kind Regards,

David



Brian Fahy

From: Planning Office
Sent: Thursday 15 June 2023 12:42
To: Brian Fahy
Subject: FW: FAO: Anne O'Gorman Re: Section 5 Referral Reference R23-41 - Paul Haugh
Attachments: 9601873454.pdf

From: David <cl> n>
Sent: Thursday, June 15, 2023 12:23 PM
To: Planning Office <planoff@clarecoco.ie>
Subject: FAO: Anne O'Gorman Re: Section 5 Referral Reference R23-41 - Paul Haugh

Dear Anne,

I refer to your letter with the above reference received today.

- Attached is remittance from Clare County Council of grant funding under the Outdoor Seating Tourism & Hospitality Scheme for the structure
- As part of the application process it was established by your department that a Section 254 Licence was not required for the structure as it is located on the property of the hotel
- The structure is not in any way bolted to the ground as Mr Paul Haugh notes in his observation

Should you require any further information on this matter please do not hesitate to contact me.

Sincerely,

David

David Quinn
MANAGING DIRECTOR



T: [+353657077037](tel:+353657077037)
Ballyvaughan, County Clare, H91 EY00
WWW.HYLANDSBURREN.COM





Hylands Burren Hotel
THE SQUARE
BALLYVAUGHAN
Clare
Ireland
HY1 EY00

Supp ID / Uimh. Áitheantais Soláthraí 40000388
Pay Date / Dáta Íocaíochta 08/10/2021
Page / Leathanach 1 of 1

REMITTANCE ADVICE OF PAYMENT BY EFT / DUILLÍN ÍOCAÍOCHTA FAOI ÍOCAÍOCHT EFT

Your Ref/ Bhur dTagairt	Inv Date/ Dáta Sonraisc	Our Ref/ Ár dTagairt	AMOUNT/ SUIM EUR	Payable/ Iníochta EUR
OUTDOOR SEATING TOURISM.HOSPITAL	28/09/2021	30640304	4,000.00	4,000.00
				
PAGE TOTAL / IOMLÁN AN LEATHANAIGH			EUR	
			4,000.00	4,000.00
GRAND TOTAL / MÓRIOMLÁN			EUR	
			4,000.00	4,000.00

WH = Withholding Tax CT = Subcontractors Tax RA = Non Resident Landlord
CMP = Late Payment Compensation

PAYMENT ACCOUNT DETAILS / SONRAÍ CUNTAIS ÍOCAÍOCHTA

BIC

IBAN

ACCOUNT NAME / AINM CUNTAIS

Hylands Burren Hotel



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Hylands Burren Hotel
Ballyvaughan
Co. Clare
H91 EY00

14th June 2023

Section 5 referral Reference R23-41 – Paul Haugh

Is the provision of a permanent structure by way of metal plates bolted to the ground at Hylands Burren Hotel development and if so is it exempted development?

A Chara,

I wish to advise you that a Section 5 declaration application has been received by the Planning Authority on 13th June 2023 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above to determine whether such works constitute exempted development or not.

Under Section 5 (c) of the Planning & Development Act 2000 (as amended), you are invited to submit details of the structures as erected, outline when they were erected and what consents (if any) were issued for same.

Could you please arrange to submit this information by no later than the 28th June 2023. You can email your response to planoff@clarecoco.ie and quote the reference number R23-41 or you can post the documentation to the Planning Department at the Clare County Council offices.

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





COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Paul Haugh
c/o O'Kelly Moylan Solicitors
Market Square
Kilrush
Co. Clare

13/06/2023

Section 5 referral Reference R23-41 – Paul Haugh

Is the provision of a permanent structure by way of metal plates bolted to the ground at Hylands Burren Hotel development and if so is it exempted development?

A Chara,

I refer to your application received on 13th June 2023 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

Please note that the Planning Authority is considering the matter and a reply will issue to you in due course.

Mise, le meas

Brian Fahy
Planning Department
Economic Development Directorate

An Roinn Pleanála
An Stiúthóireacht 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
Aras Contae an Chláir
New Road
Ennis
Co Clare

13/06/2023 14:03:37

Receipt No. L1CASH/0/350496
***** REPRINT *****

PAUL HAUGH
C/O O'KELLY MOYLAN SOLICITORS
MARKET SQUARE
KILRUSH
CO. CLARE
R23-41

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

Total : 80.00 EUR

Tendered :
CHEQUES

80.00

Change :

0.00

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

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: planning@clarecoco.ie
Website: www.clarecoco.ie



Comhairle Contae an Chláir
Clare County Council

**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	<u>Paul Haugh</u> <u>Greenes Bar</u> <u>Ballyvaughan</u> <u>Co. Clare</u>
(b) Telephone No.:	<u>O'Kelly Mayken Solicitors -</u>
(c) Email Address:	<u>info@okellymayken.ie</u>
(d) Agent's Name and address:	<u>O'Kelly Mayken Solicitors</u> <u>Market Square</u> <u>Kilrush</u> <u>Co. Clare</u>

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 provision of a permanent structure by way of metal plates bolted to the ground at Hylands Burren Hotel development and if so is it exempted development.

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

Is the provision of a permanent structure on the open common ground area externally in front of Hylands Burren Hotel and adjacent to Greene's Bar an exempted development. During the Covid pandemic restaurants and the hospitality industry were allowed to provide open-air seating without planning, Hylands Burren Hotel have now placed a permanent structure in the area basically enclosing it, as can be seen from the enclosed photographs. This severely restricts both access to and means of escape from Greene's bar.

- (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)

Land Registry map, photographs of the permanent fixture.

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT	
(a) Postal Address of the Property/Site/Building for which the declaration sought:	<u>Hylands Burren Hotel</u> <u>Ballyvaughan</u> <u>Co. Clare</u> <u>H91 EY00</u>
(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?	<u>Not that the applicant is</u> <u>aware of.</u>
(c) Legal interest in the land or structure in question of the person requesting the declaration (Give Details):	<u>The applicant owns Greenes bar</u> <u>the property adjacent to Hylands Hotel</u> <u>and access to its property is affected by the structure</u>
(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>	<u>MMD Rockland Limited</u> <u>Hylands Burren Hotel</u> <u>Ballyvaughan, Co. Clare</u>
(e) Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?:	<u>Not to the applicant's knowledge</u>
(f) Are you aware of any enforcement proceedings connected to this site? If so please supply details:	<u>Ditto</u>
(g) Were there previous planning application/s on this site? If so please supply details:	<u>Applicant is not aware</u>
(h) Date on which 'works' in question were completed/are likely to take place:	<u>During the Covid pandemic</u>

SIGNED: O'Kelly Maylan SolicitorsDATE: 1/6/2023

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:			



O'KELLY MOYLAN

SOLICITORS

**Market Square,
Kilrush,
Co. Clare.
V15 KP23**

Tel: 065 9080000

**Also by appointment at:
Lifford Court, Ennis, Co. Clare.**



Planning Department
Economic Development Directorate
Clare County Council
Aras Contae an Chlair
New Road
Ennis
Co. Clare
V95 DXP2

Date: 12th June 2023

Our Ref: PM/NOS/LIT/H14039

Your Ref:

Re/ Our Client: Paul Haugh, Greene's Bar, Ballyvaughan, Co. Clare

Dear Sirs,

We confirm we act on behalf of Paul Haugh owner of Greene's Bar Ballyvaughan, Co. Clare. We **enclose** herewith a request for a declaration on development and exempted development, in respect of a permanent structure that Hylands Burren hotel have established at the front of the hotel and adjacent to Greene's Bar. This structure has impacted our client's access to and from the property and also impacts the property from a fire safety point of view. As such we would be obliged to receive a declaration on whether or not this structure is an exempted development. We also **enclose** photographs of the said development and a Land Registry map showing the area of ground over which the structure exists.

We look forward to hearing from you and thank you for your assistance.

Yours faithfully,


O'Kelly Moylan Solicitors

Patrick Moylan B.B.L.S. Solicitor, Accredited Mediator, Principal
Monica Roche B.A., LL.B., LL.M. Solicitor
Caroline Bradley M.I.L.L.Ex. Senior Legal Executive

Website: www.okellymoylan.ie
Email: info@okellymoylan.ie
DX: 292003 Kilrush
Fax: 065 9080001



PHOTOGRAPH 7



PHOTOGRAPH 8



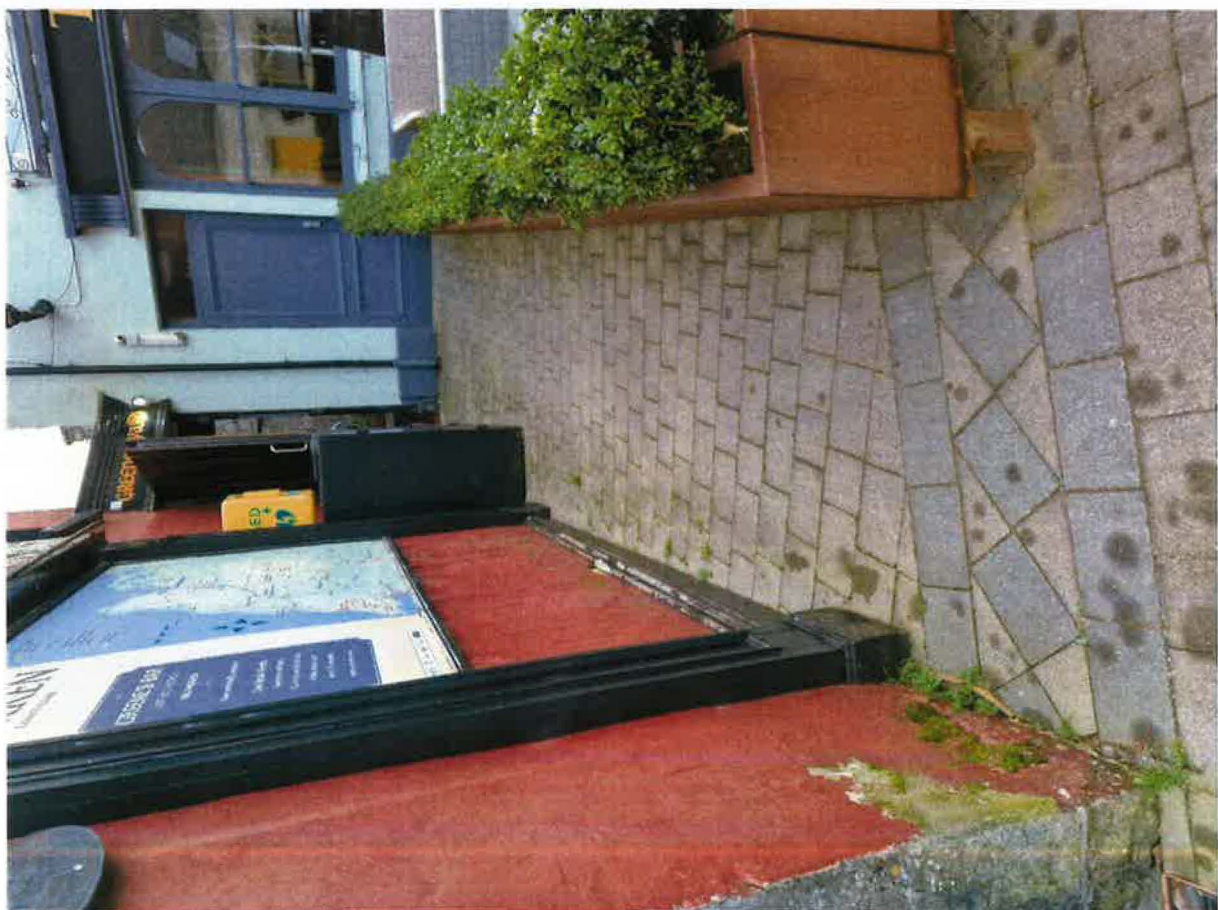
PHOTOGRAPH 9



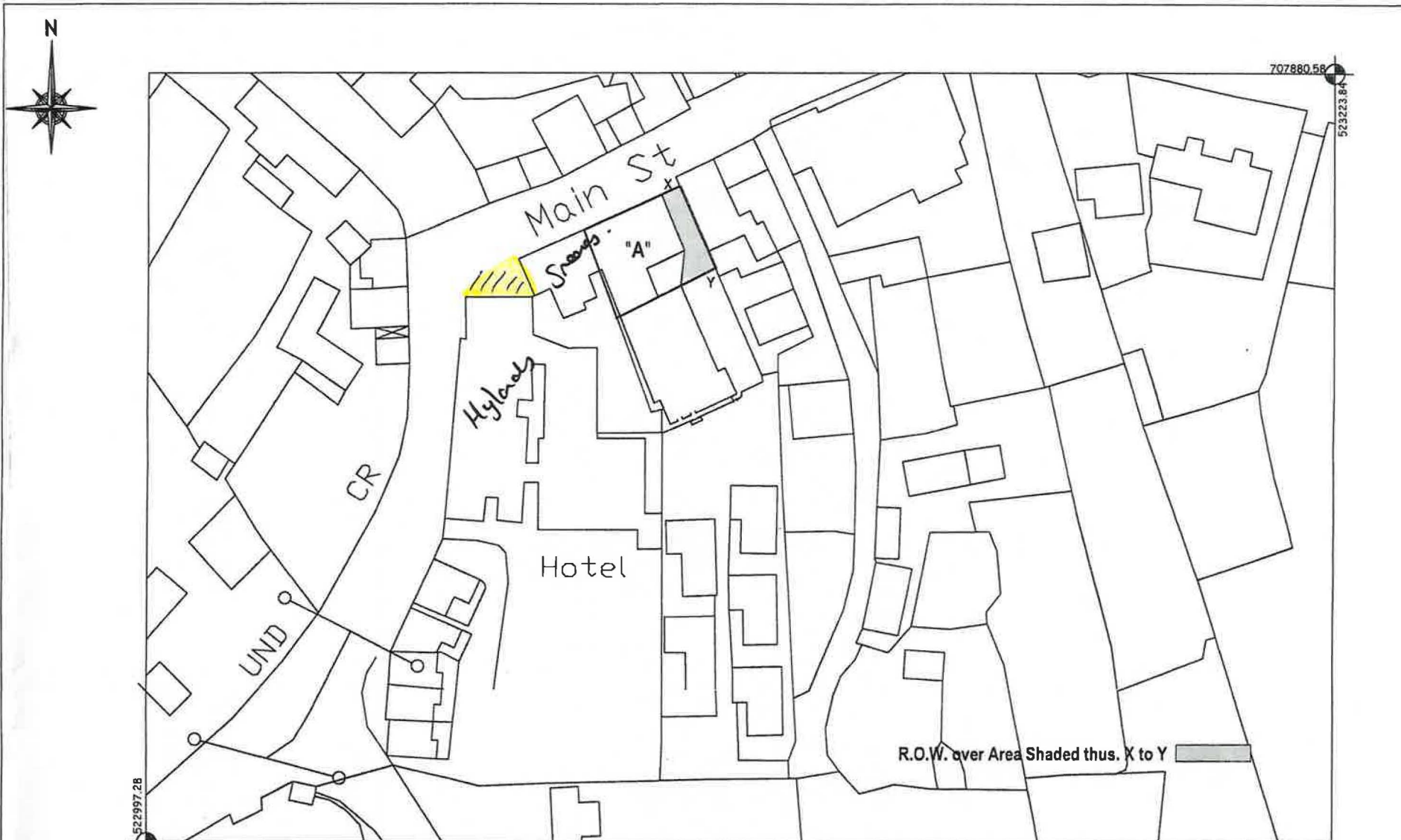
PHOTOGRAPH 10



PHOTOGRAPH 11



PHOTOGRAPH 12



Area of Plot Outlined in Red 0.036 hectares


O.S. Sheet Ref. No: 4738-B.

Printed Under Ordnance Survey Ireland Licence No. AR 0011020

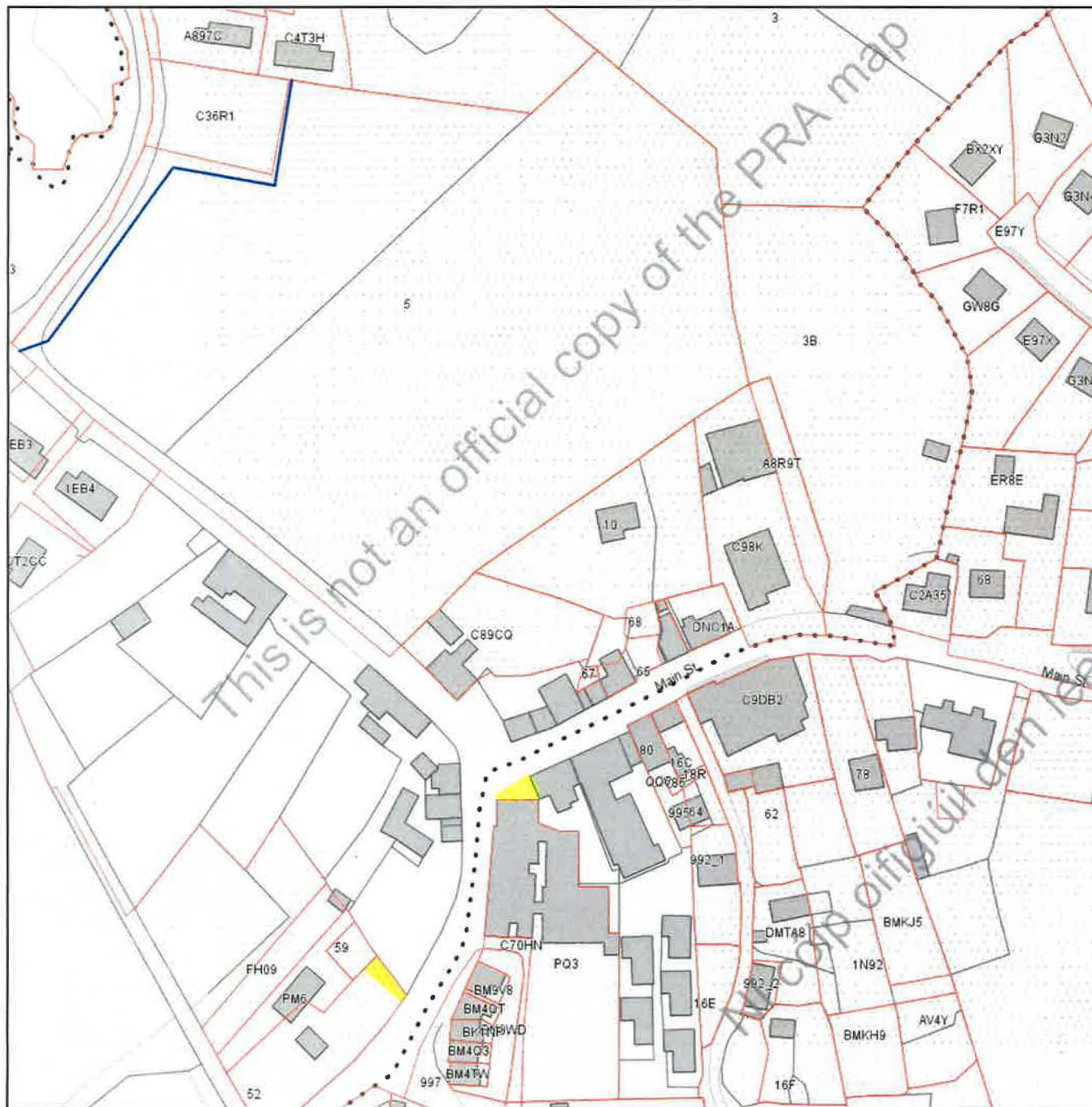
Land Registry Map

SCALE 1:1000

PROJECT: LAND REGISTRY COMPLIANT MAP			
ADDRESS: BALLYVAUGHAN			
SCALE: AS SHOWN	DRAWN: JH	APPROVED:	STAGE: I.R. Map
<p>0 5 10 15 20 25mm</p> <p>PRINT REDUCTION BAR A4 SHEET</p> <p>ALL RIGHTS RESERVED. THE COPYRIGHT OF THIS DRAWING (INCLUDING ALL ATTACHED AND INCORPORATED DOCUMENTS) IS THE PROPERTY OF THE COMPANY. NEITHER THE FORM OR ANY PART OF IT MAY BE USED OR REPRODUCED BY ANY METHOD WHATSOEVER OR INCORPORATED BY REFERENCE OR IN ANY MANNER WHATSOEVER IN ANY OTHER DOCUMENT WITHOUT THE PRIOR WRITTEN CONSENT</p>			

 <p>P. Coleman & Associates Consulting Engineers & Planners</p>	<p>5 Bank Place, Ennis, Co. Clare</p> <p>Tel: 065-6829731</p> <p>Web: www.pjcoleman.com</p> <p>Email: engineers@pjcoleman.com</p>	
	<p>CLIENT: GEORGE QUINN</p> <p>TITLE: LAND REGISTRY MAP - A</p>	<p>PROJECT No. DRAWING No. REVISION</p> <p>5778 - 06 A</p>

Revision A: Revised R.O.W 8/6/20



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

Official Property Registration Map

This map should be read in conjunction with the folio.

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

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

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

(centre-line of parcel(s) edged)

- Freehold
- Leasehold
- SubLeasehold
- 'S' Register

(see Section 8(b)(II) of Registration of Title Act 1964 and Rule 224 & 225 Land Registration Rules 1972 - 2010).

Burdens (may not all be represented on map)

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

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

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

(see Section 85 of the Registration of Title Act, 1964). As Inserted by Section 62 of the Registration of Deed and Title Act 2006.