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COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

**Registered Post**

**Cathal Bennett  
The Prom,  
Lahinch,  
Co. Clare.**

**10th August, 2023**

**Section 5 referral Reference R23-52 – Cathal Bennett**

**Is the opening of a pedestrian entrance in the wall at the rear of Ben's Surf Clinic on the laneway from the Promenade to Liscannor Road car park is development and if so, is it exempted development?**

A Chara,

I refer to your application received on 19th 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](http://www.pleanala.ie)

Mise, le meas

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

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

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



**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:**

822/3

**Reference Number:**

**R23-52**

**Date Referral Received:**

**19th July 2023**

**Name of Applicant:**

**Cathal Bennett**

**Location of works in question:**

**At the rear of Ben's Surf Clinic on the laneway from the Promenade to the Liscannor Rd car park.**

**Section 5 referral Reference R23-52 – Cathal Bennett**

**Is the opening of a pedestrian entrance in the wall at the rear of Ben's Surf Clinic on the laneway from the Promenade to Liscannor Road car park is 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, and 3 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended,
- (c) Class 9 of Part 1 of Schedule 2, Article 6 of the Planning and Development Regulations 2001, as amended,
- (d) The nature and extent of works as indicated in submitted documents from the referrer.

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

- (a) the opening of a pedestrian entrance / gateway 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 comprising the opening of a pedestrian entrance in the wall at the rear of Ben's Surf Clinic on the laneway from the Promenade to the Liscannor Rd car park is exempted development having regard to the extent of works involved, and the provisions of Class 9 Schedule 2 of Part 1 of the Planning and Development Regulations 2001 as amended,

**ORDER:** Whereas by Chief Executive's Order No. HR 152 dated 9<sup>th</sup> April 2021, Pat Dowling, Chief Executive for Clare County Council, did, pursuant to the powers conferred on him by Section 154 of the Local Government Act 2001, delegate to Kieran O'Donnell, Administrative Officer, 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, Kieran O'Donnell, Administrative Officer, hereby declare that opening of a pedestrian entrance in the wall at the rear of Ben's Surf Clinic on the laneway from the Promenade to the Liscannor Rd car park is development and is exempted development.

**Signed:**

  
KIERAN O'DONNELL,  
ADMINISTRATIVE OFFICER 

**Date:** 10th August, 2023

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

**Reference No.: R23-52**



Comhairle Contae an Chláir  
Clare County Council

**Section 5 referral Reference R23-52**

**Is the opening of a pedestrian entrance in the wall at the rear of Ben's Surf Clinic on the laneway from the Promenade to Liscannor Road car park is development and if so, is it exempted development?**

**AND WHEREAS, Cathal Bennett** has requested a declaration from Clare County Council on the said question.

- (a) Sections 2, and 3 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended,
- (c) Class 9 of Part 1 of Schedule 2, Article 6 of the Planning and Development Regulations 2001, as amended,
- (d) The nature and extent of works as indicated in submitted documents from the referrer.

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

- (a) the opening of a pedestrian entrance / gateway 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 comprising the opening of a pedestrian entrance in the wall at the rear of Ben's Surf Clinic on the laneway from the Promenade to the Liscannor Rd car park is exempted development having regard to the extent of works involved, and the provisions of Class 9 Schedule 2 of Part 1 of the Planning and Development Regulations 2001 as amended,

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

**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 that opening of a pedestrian entrance in the wall at the rear of Ben's Surf Clinic on the laneway from the Promenade to the Liscannor Rd car park **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

10th August, 2023

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

<b>FILE REF:</b>	R23-52
<b>APPLICANT(S):</b>	Cathal Bennet
<b>REFERENCE:</b>	Whether the opening of a pedestrian entrance in the wall at the rear of Ben's Surf Clinic on the laneway from the Prom to the Golf Rd car park is development and if so is it exempted development.
<b>LOCATION:</b>	Lahinch , County Clare
<b>DUE DATE:</b>	15 <sup>th</sup> August 23

**Recent Planning History on Site**

No recent history

**Background to Referral**

The applicant is seeking a Section 5 Declaration as to whether the opening of a pedestrian entrance in the wall at the rear of Ben's Surf Clinic on the laneway from the Prom to the Golf Rd car park is or is not development and is or is not exempted development.

**Statutory Provisions**

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

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

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.*

**Planning & Development Regulations 2001 , as amended**

### Sundry works Class 9

The construction, erection, renewal or replacement , other than within or bounding the curtilage of a house of any gate or gateway.

Conditions and limitation :The height of any such structure shall not exceed 2m.

### 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.

Under Article 9 (1) of the same Regulations, *development to which Article 6 relates shall not be exempted development for the purposes of the Act:*

*(a) if the carrying out of such development would –*

- (i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act*
- (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,*
- (iiia) endanger public safety by reason of hazardous glint and/or glare for the operation of airports, aerodromes or aircraft,*
- (iv) except in the case of a porch to which class 7 specified in column 1 of Part 1 of Schedule 2 applies and which complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1, comprise the construction, erection, extension or renewal of a building on any street so as to bring forward the building, or any part of the building, beyond the front wall of the building on either side thereof or beyond a line determined as the building line in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,*
- (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,*
- (vii) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan.*

(vii) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,

(viiA) consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12(1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to and in accordance with a consent granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended,

(viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,

(viiC) consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000."

(viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,

(ix) consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,

(x) consist of the fencing or enclosure of any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility,

(xi) obstruct any public right of way,

(xii) further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area.

## Assessment

### Basis of Referral

The applicant is seeking a Section 5 Declaration as to whether the opening of a pedestrian entrance in the wall at the rear of Ben's Surf Clinic on the laneway from the Prom to the Golf Rd car park (Liscannor Rd car park) is or is not development and is or is not exempted development.

The West Clare Municipal D.A.O. has advised that the laneway which links the public car park at Liscannor Rd to the Promenade is privately owned by <sup>Y&F</sup> there is a public right of way across it.

### Particulars of Proposal

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

- Site drawing not to scale.
- Photos of the pedestrian entrance with existing low stone wall on either side.
- Completed application form.

### Planning and Development Regulations 2001 (as amended)

Class 9 states the construction, erection, renewal or replacement, other than within or bounding the curtilage of a house of any gate or gateway is exempted development provided The height of any such structure shall not exceed 2m. In this instance the wall on either side of the gateway is approximately 300- 400m high.

### 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.*

N/A

- (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,*

N/A

- (iii) *endanger public safety by reason of traffic hazard or obstruction of road users,*

N/A

- (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.*

No adverse impacts envisaged.

- (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,*

This is not applicable in this instance.

- (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,*

This is not applicable in this instance.

- (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,*

This is not applicable in this instance.

- 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,*

Having regard to the nature and scale of the proposed development, and the absence of proximity or connectivity to a European Site, no Appropriate Assessment issues arise and it is



not considered that the development carried out would be likely to have a significant effect individually or in combination with other plans or projects, on a European Site. An appropriate assessment screening report and determination is attached to this report.

- 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."*

No adverse impacts envisaged.

- (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,*

This is not applicable in this instance.

- (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,*

This is not applicable in this instance.

- (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,*

This is not applicable in this instance.

- (xi) *obstruct any public right of way,*

This is not applicable in this instance.

- (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.*

This is not applicable in this instance.

### Conclusion

Having regard to the provisions of Class 9 of Schedule 1, Part 1 of the Planning and Development Regulations 2000, as amended, it is considered that the works comprising the opening of a pedestrian entrance in the wall at the rear of Ben's Surf Clinic on the laneway from the Promenade to the Liscannor Rd car park constitute development which is exempted development .

### Recommendation

I recommend that the following is issued to the applicant by the Planning Authority in this instance:

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

- (a) Sections 2, and 3 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended ,
- ( c) Class 9 of Part 1 of Schedule 2, Article 6 of the Planning and Development Regulations 2001, as amended,
- (c) The nature and extent of works as indicated in submitted documents from the referrer.

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

- (a) the opening of a pedestrian entrance / gateway 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 comprising the opening of a pedestrian entrance in the wall at the rear of Ben's Surf Clinic on the laneway from the Promenade to the Liscannor Rd car park is exempted development having regard to the extent of works involved, and the provisions of Class 9 Schedule 2 of Part 1 , Planning and Development Regulations 2001 as amended,

Now therefore Clare County Council (Planning Authority), hereby decides that opening of a pedestrian entrance in the wall at the rear of Ben's Surf Clinic on the laneway from the Promenade to the Liscannor Rd car park is development and is exempted development.

  
Executive Planner  
Date: 8/08/23.

  
Senior Planner  
Date: 10-08-2023.

## Appropriate Assessment & Determination

### STEP 1. Description of the project/proposal and local site characteristics:

(a) File Reference No:	R23/ 52
(b) Brief description of the project or plan:	Opening of a pedestrian entrance
(c) Brief description of site characteristics:	Back yard of commercial premises
(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 <sup>1</sup>	Distance from proposed development <sup>2</sup> (km)	Connections (Source-Pathway-Receptor)	Considered further in screening Y/N
Inagh River estuary SAC	<p>Annex I Habitats</p> <ul style="list-style-type: none"> <li>• <i>Salicornia</i> and other annuals colonising mud and sand [1310]</li> <li>• Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330]</li> <li>• Mediterranean salt meadows Juncetalia maritima) [1410]</li> <li>• Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</li> <li>• *Fixed coastal dunes along the shoreline with herbaceous vegetation</li> </ul>	500m	None	No

	(grey dunes) [2130]			

<sup>1</sup> Short paraphrasing and/or cross reference to NPWS is acceptable – it is not necessary to reproduce the full text on the QI/SCI.

<sup>2</sup> 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	
<b>(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:</b>	
Impacts:	Possible Significance of Impacts: (duration/magnitude etc.)
Construction phase e.g. <ul style="list-style-type: none"> <li>• Vegetation clearance</li> <li>• Demolition</li> <li>• Surface water runoff from soil excavation/infill/landscaping (including borrow pits)</li> <li>• Dust, noise, vibration</li> <li>• Lighting disturbance</li> <li>• Impact on groundwater/dewatering</li> <li>• Storage of excavated/construction materials</li> <li>• Access to site</li> <li>• Pests</li> </ul>	None
Operational phase e.g. <ul style="list-style-type: none"> <li>• Direct emission to air and water</li> <li>• Surface water runoff containing contaminant or sediment</li> <li>• Lighting disturbance</li> <li>• Noise/vibration</li> <li>• Changes to water/groundwater due to drainage or abstraction</li> <li>• Presence of people, vehicles and activities</li> <li>• Physical presence of structures (e.g. collision risks)</li> <li>• Potential for accidents or incidents</li> </ul>	None
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 landscaping .

**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 <b>no likelihood</b> of significant effects on a European site.	<input checked="" type="checkbox"/>	The proposal can be screened out: Appropriate assessment not required.
(ii) It is <b>uncertain</b> whether the proposal will have a significant effect on a European site.	<input type="checkbox"/>	<input type="checkbox"/> Request further information to complete screening

(iii) Significant effects are likely.

Signature and Date of  
Recommending Officer:

Signature and Date of the  
Decision Maker:

☐

- ☐ Request NIS
- ☐ Refuse planning permission

- ☐ Request NIS
- ☐ Refuse planning permission

8<sup>th</sup> August 23

Ellen Carey.  
Name: Ellen Carey E.P.





COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

**Cathal Bennett**  
**The Prom**  
**Lahinch**  
**Co. Clare**

**19/07/2023**

**Section 5 referral Reference R23-52 – Cathal Bennett**

Is the opening of a pedestrian entrance in the wall at the rear of Ben's Surf Clinic on the laneway from the Prom to Golf Road car park development and if so is it exempted development?

A Chara,

I refer to your application received on 19th July 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 Stiúrthóireacht Forbairt Gheilleagrach**  
Áras Contae an Chláir, Bóthar Nua, Inis, Co. an Chláir, V95 DXP2

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



P07

**CLARE COUNTY COUNCIL**  
**COMHAIRLE CONTAE AN CHLÁIR**

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

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R23-52

**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	Cathal Bennett The Prom Lahinch Co. Clare.
(b) Telephone No.:	087 3367788.
(c) Email Address:	Info@bensurfelnic.com.
(d) Agent's Name and address:	   



## 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 opening of a pedestrian Entrance in the wall at the rear of Bens Surf Clinic on the the laneway from Prom to Golf Rd Can Park development or 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.

Question arises whether the opening is a development or not. Is wall within the boundaries of property [OS Map Ref No 4083C] Grid Ref 3397. Is there a right of access to rear of property for fire safety etc. via stated laneway. Is laneway public access or privately owned. If public access allowed is access to property allowed via opening?

### (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)*

Plan 1 - Site Map of Bens Surf Clinic / Laneway / Opening Marked  
Plan 2 - Clear Marking of Gap / Laneway  
Photo 1/2 - Photo of Gap & Laneway

**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>Bons Surf Clinic</u> <u>The Prom Lahinch Co. Clare.</u> <u>V95X</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>No.</u>
(c) Legal interest in the land or structure in question of the person requesting the declaration (Give Details):	<u>Owner of Property.</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>	
(e) Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?:	<u>yes.</u>
(f) Are you aware of any enforcement proceedings connected to this site? If so please supply details:	<u>No.</u>
(g) Were there previous planning application/s on this site? If so please supply details:	<u>See Attached 1.51.</u>
(h) Date on which 'works' in question were completed/are likely to take place:	<u>20th May 2023</u>

**SIGNED:** Cathal B. [Signature]
**DATE:** 17/7/23.

### **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

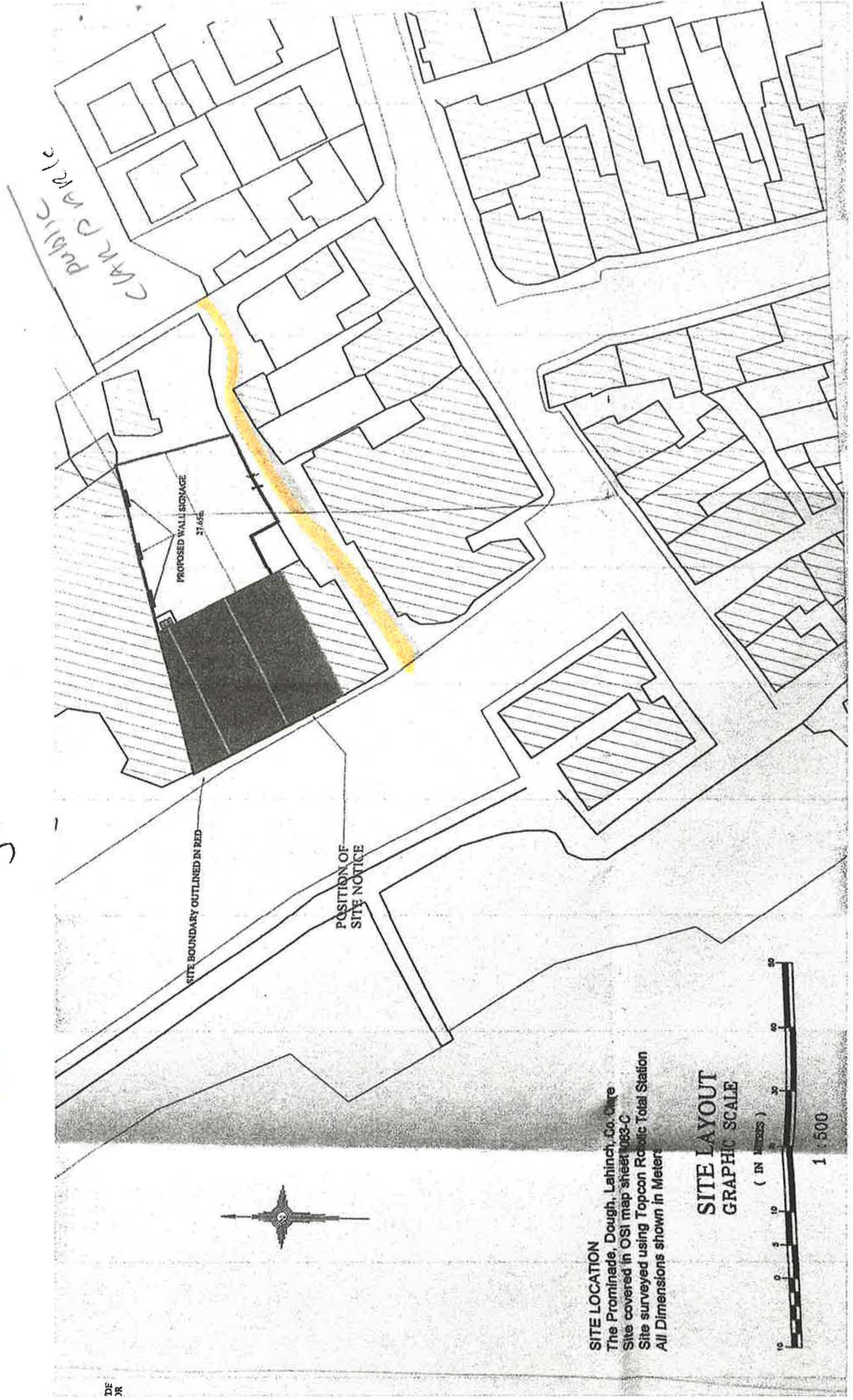
### **FOR OFFICE USE ONLY**

Date Received: .....	Fee Paid: .....
Date Acknowledged: .....	Reference No.: .....
Date Declaration made: .....	CEO No.: .....
Decision:.....	



12/11/16

Site Map - Opening in wall -  
Lane way -





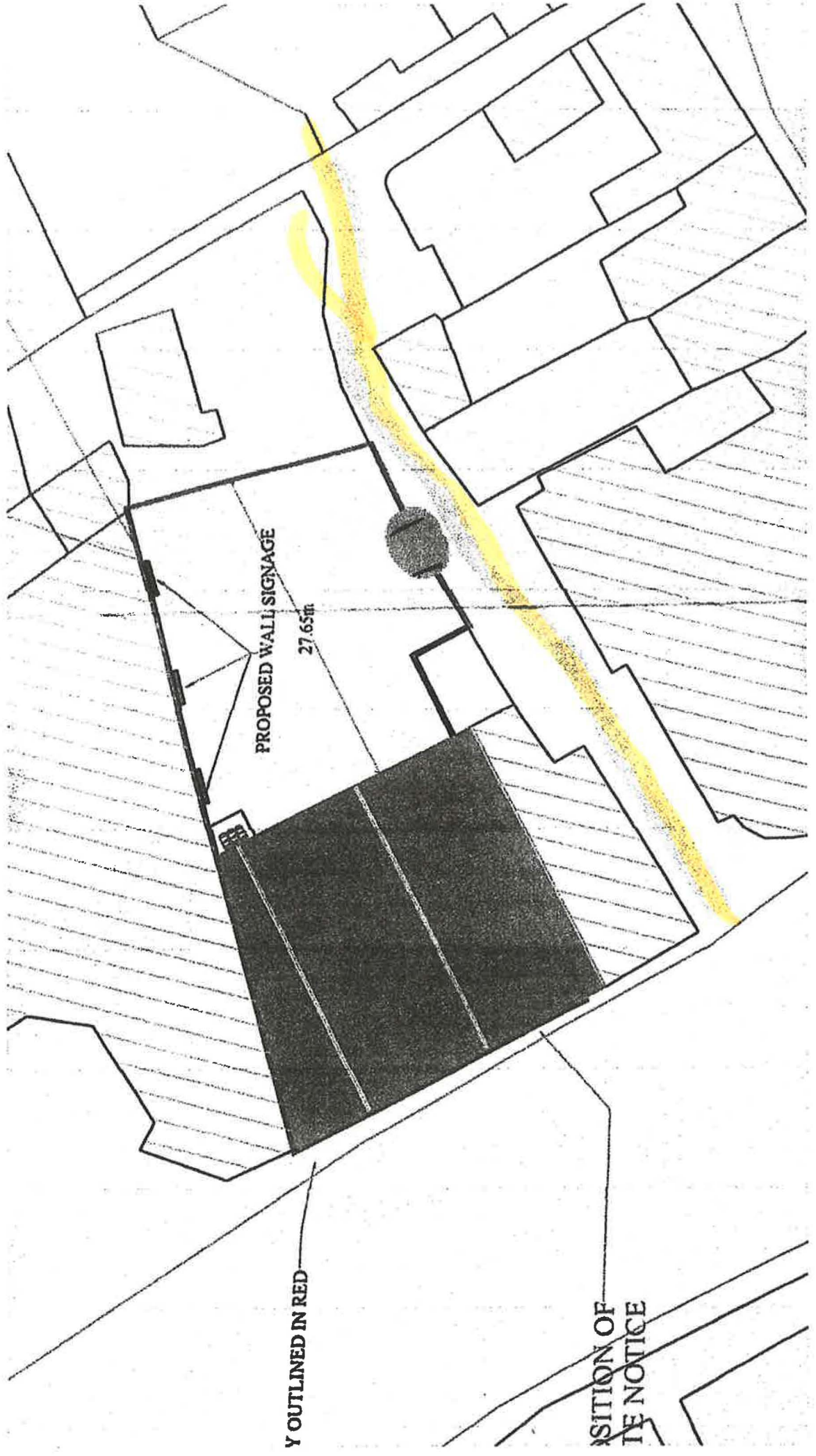
2

112

Plan.

11 = wall opening.

= laneway.









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

19/07/2023 10:33:44

Receipt No. L1CASH/0/352017  
\*\*\*\*\* REPRINT \*\*\*\*\*

CATHAL BENNETT  
THE PROM  
LAHINCH, CO CLARE  
REF. R23-52

COMHAIRLE

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

AN CHLÁIR

Total : 80.00 EUR

Tendered :  
CHEQUES 80.00

Change : 0.00

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