



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Registered Post

**Siau Ling Eng
C/o Mike Flynn
Hassett Leyden & Associates
Roslevan Shopping Centre
Ennis, Co. Clare
V95 YN93**

3rd March 2025

Section 5 referral Reference R25-11 – Siau Ling Eng

Is the material change of use of an existing shop/newsagent at 19 Market Place, Ennis, Co. Clare, V95 X231 to a nail salon exempted development within the same classification of Class 1 under the Planning & Development Regulations 2001?

A Chara,

I refer to your application received on 5th February 2025 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 Stiúirthóireacht Forbairt Gheilleagrach**

Áras Contae an Chláir, Bóthar Nua, Inis, Co. an Chláir, V95 DXP2

**Planning Department
Economic Development Directorate**

Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2



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

Reference No.: R25-11



**Comhairle Contae an Chláir
Clare County Council**

Section 5 referral Reference R25-11

Is the material change of use of an existing shop/newsagent at 19 Market Place, Ennis, Co. Clare, V95 X231 to a nail salon exempted development within the same classification of Class 1 under the Planning & Development Regulations 2001?

AND WHEREAS, Siau Ling Eng 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) Articles 5, 6, 9 and 10 of the Planning and Development Regulations 2001, as amended,
- (c) Classes 1 and 2 of Part 4 of Schedule 2 of the Planning and Development Regulations 2001, as amended,
- (d) Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended, and
- (e) The works as indicated in submitted documents from the referrer.

And whereas Clare County Council has concluded:

- (a) The current permitted use of the building as a shop falls within Class 1 of Schedule 2, Part 4 of the Planning and Development Regulations 2001, as amended, while the proposed use as a nail salon falls within Class 2 of the same Part and Schedule and is not included within the definition of a shop as stated under Article 5(1) of the Planning and Development Regulations 2001, as amended, therefore;
- (b) The material change of use of a shop to a nail salon is not exempted development under Class 1 of Schedule 2, Part 4, and Article 10(1) of the Planning and Development Regulations 2001 (as amended),
- (c) Any proposed alterations to the external façade of the building, including alterations to existing signage, is not exempted development under Article 9(xii) of the Planning and Development Regulations 2001 (as amended), and
- (d) There are no other exemptions included in Schedule 2, Part 1 of the Planning and Development Regulations 2001 (as amended) to which this proposed change of use can apply.

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 material change of use of a shop to a nail salon at 19 Market Street, Ennis, Co. Clare, V95 X231 **constitutes development** which is **not exempted development** as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations and planning permission will be required for any changes of use or external alterations to the building as described above.



Anne O'Gorman
Staff Officer
Planning Department
Economic Development Directorate

3rd March 2025

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:

85046

Reference Number:

R25-11

Date Referral Received:

5th February 2025

Name of Applicant:

Siau Ling Eng

Location of works in question:

19 Market Street, Ennis, Co. Clare, V95 X231

Section 5 referral Reference R25-11 – Siau Ling Eng

Is the material change of use of an existing shop/newsagent at 19 Market Place, Ennis, Co. Clare, V95 X231 to a nail salon exempted development within the same classification of Class 1 under the Planning & Development Regulations 2001?

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) Articles 5, 6, 9 and 10 of the Planning and Development Regulations 2001, as amended,
- (c) Classes 1 and 2 of Part 4 of Schedule 2 of the Planning and Development Regulations 2001, as amended,
- (d) Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended, and
- (e) The works as indicated in submitted documents from the referrer.

AND WHEREAS Clare County Council has concluded:

- (a) The current permitted use of the building as a shop falls within Class 1 of Schedule 2, Part 4 of the Planning and Development Regulations 2001, as amended, while the proposed use as a nail salon falls within Class 2 of the same Part and Schedule and is not included within the definition of a shop as stated under Article 5(1) of the Planning and Development Regulations 2001, as amended, therefore;
- (b) The material change of use of a shop to a nail salon is not exempted development under Class 1 of Schedule 2, Part 4, and Article 10(1) of the Planning and Development Regulations 2001 (as amended),
- (c) Any proposed alterations to the external façade of the building, including alterations to existing signage, is not exempted development under Article 9(xii) of the Planning and Development Regulations 2001 (as amended), and
- (d) There are no other exemptions included in Schedule 2, Part 1 of the Planning and Development Regulations 2001 (as amended) to which this proposed change of use can apply.

ORDER: Whereas by Chief Executive's Order No. HR 46 dated 1st January 2025, Carmel Kirby, Interim 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 Garreth 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, Garreth Ruane, Senior Executive Planner, hereby declare that the material change of use of a shop to a nail salon at 19 Market Street, Ennis, Co. Clare, V95 X231 is **considered development** which is **not exempted development** and planning permission will be required for any changes of use or external alterations to the building as described above.

Signed:



GARRETH RUANE
SENIOR EXECUTIVE PLANNER *As*

Date:

3rd March 2025

CLARE COUNTY COUNCIL
SECTION 5 DECLARATION OF EXEMPTION APPLICATION
PLANNERS REPORT

FILE REF: R25-11
APPLICANT(S): Siau Ling Eng
REFERENCE: Is the material change of use of an existing shop/newsagent at 19 Market Place, Ennis, Co. Clare, V95 X231 to a nail salon exempted development within the same classification of Class 1 under the Planning and Development Regulations 2001?
LOCATION: 19 Market Street, Ennis, Co Clare, V95 X231
DUE DATE: 4th March 2025

Site Location

The subject site is located in the town of Ennis on lands zoned Mixed-Use. The site comprises a 2 storey building, with a retail unit at the ground floor which has been in use as a newsagents. The site is located at 19 Market Street (L-4535), in Ennis Town Centre. The site is located within the Ennis Architectural Conservation Area (ACA), an Archaeological Complex and in a Recorded Monument zone of notification. The subject site is also located within Flood Zone B.

Recent Planning History

On-Site:

None.

South:

22/1011 – Jada Property Investments – the development will consist of the construction of a two-storey infill building to an existing vacant site with ground floor retail unit, two storey duplex two bedroom apartment and first floor one bedroom apartment, with connections to services. Granted Permission.

17/206 – Jada Projects Ltd – for development which will consist of the construction a three storey infill building to an existing vacant site with ground floor retail unit, first floor office and second floor apartment, with connection to services. Granted Permission.

14/21002 – Food Heaven Ltd – for development which will consist of change of use from existing retail premises to use as Cafe / Delicatessen in adjoining Shop Unit No. 1, into Shop Unit No. 2, new signage and associated works will apply. Granted Permission.

19/167 – Ardimus Ltd – to 1. Demolish vacant premises formerly known as "Paw Pourri" on Lower Drimbiggle Road, Ennis, Co. Clare, 2. Demolish portion of shed to rear of "Food Heaven", Market Place, Ennis, Co. Clare, 3. Redevelop ground floor barber unit formerly known as Brownie's, first and second floor of premises known as Ennis Snooker and Pool Club, rear yard and adjoining site into 9

No. one bedroom apartments and 5 No. two bed apartments including associated service rooms and site works. Granted Permission.

Background to Referral

This referral under Section 5(1) of the Planning and Development Act 2000 (as amended) has been made by Siau Ling Eng.

The applicant is seeking a Section 5 Declaration as to whether the material change of use of a retail unit to a nail salon is exempted development under Class 1 of the Planning and Development Regulations 2001 (as amended).

No detail in respect of the works proposed or requirement for alterations to the existing signage on the building have been submitted with this referral.

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

Article 5 refers to Exempted Development Interpretation for this Part and under Article 5(1) a “shop” means a structure used for any or all of the following purposes, where the sale, display or service is principally to visiting members of the public –

(a) for the retail sale of goods,

(b) as a post office,

(c) for the sale of tickets or as a travel agency,

(d) for the sale of sandwiches or other food or of wine for consumption off the premises, where the sale of such food or wine is subsidiary to the main retail use, and “wine” is defined as any intoxicating liquor which may be sold under a wine retailer's off-licence (within the meaning of the Finance (1909-1910) Act, 1910), 10 Edw. 7. & 1 Geo. 5, c.8

(e) for hairdressing,

(f) for the display of goods for sale,

(g) for the hiring out of domestic or personal goods or articles,

(h) as a launderette or dry cleaners,

(i) for the reception of goods to be washed, cleaned or repaired,

but does not include any use associated with the provision of funeral services or as a funeral home, or as a hotel, a restaurant or a public house, or for the sale of hot food or intoxicating liquor for consumption off the premises except under paragraph (d), or any use to which class 2 or 3 of Part 4 of Schedule 2 applies.”

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

Article 6(2)(b) *“Subject to article 9, development consisting of the erection of any advertisement structure for the exhibition of an advertisement of any one of the classes specified in column 1 of Part 2 of Schedule 2 shall be exempted development for the purposes of the Act, provided that—*

(iv) further to section 82 of the Act, the advertisement structure is not located on the exterior of a structure where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft development plan, so as to materially affect the character of the area, save an advertisement structure referred to in Classes 5, 9 or 15 of column 1 of Part 2 of Schedule 2,”

Article 10 refers to Changes of Use and specified in Article 10(1) *“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.”

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 4 – Exempted Development Classes of Use

Class 1

Use as a shop

Class 2

Use for the provision of –

(a) Financial services,

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

(c) Any other services (including use as a betting office),

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

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 applicants are seeking a Section 5 Declaration as to whether the material change of use of a shop to a nail salon is exempted development under Class 1 of the Planning and Development Regulations 2001 (as amended).

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 1 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 1 opposite the mention of that class in the said column 1.

As outlined in Article 6(2)(b)(iv), advertisements located on the exterior of a structure (including a building) which is located within a Conservation Area and materially affects to the character of the area, is not exempted under the Planning and Development Regulations 2001 (as amended).

As no detail has been provided in respect of the advertisement of the business, it cannot be determined whether there would be a material affect on the character of the area and whether such works would be exempted or permission required.

Article 5(1) sets out the definition of a shop which is a use "where the sale, display or service is principally to visiting members of the public" only for the purposes of the uses indicated in this article. While I note that this definition includes use for hairdressing (part e), this specifically states hair dressing and does not state that it includes any similar type of use. Further, the final paragraph of the definition states that the use of a shop "*does not include ... any use to which class 2 or 3 of Part 4 of Schedule 2 applies.*"

Given the proposed use is not specifically for hairdressing, it is not exempted as a use within the definition of a shop.

In respect of Article 10 relating to Changes of Use, it is noted that developments which are within the same use class as specified in Part 4 of Schedule 2 of the Planning and Development Regulations 2001 (as amended), are exempted development, providing they 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."*

The classes of use referred to in Article 10 are indicated as follows below:

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 4 – Exempted Development Classes of Use

Class 1

Use as a shop

Class 2

Use for the provision of –

- (a) Financial services,
- (b) Professional services (other than health or medical services)
- (c) Any other services (including use as a betting office),

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

Class 1 includes only the use of a premises as a shop, which the subject site and use is classified as. However, Class 2 relates to the provision of services where services are provided principally to visiting members of the public. It is considered that the provision of services which are provided principally to visiting members of the public includes a nail salon, which sits within Class 2.

Therefore, I do not consider that this proposal is exempted under Article 10(1) of the Planning and Development Regulations 2001 (as amended) as both uses are not within the same use class as specified under Part 4 of Schedule 2. Further, as I do not consider this proposed use is a hairdresser or any other defined use as set out in Article 5 under the definition of a shop, it is not within the same use class and therefore, not exempted under Class 1,

Additionally, I note there are no exemptions for such a proposal set out within Schedule 2, Part 1, 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*

The proposal does not contravene a condition of any previous permission.

- (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,*

Not applicable.

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

Not applicable.

- (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.*

The site is located on zoned land within Ennis Town Centre, and the change of use of the unit would not interfere with the character of a landscape, view or prospect, or the preservation of a building or use which is an objective of the Clare County Development Plan 2023-2029.

- (v) *consist of or comprise the carrying out under a public road of works other than a connection to a wired broadcast relay service, sewer, water main, gas main or electricity supply line or cable, or any works to which class 25, 26 or 31 (a) specified in column 1 of Part 1 of Schedule 2 applies,*

Not applicable 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,*

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,*

No likely significant effects on European Sites as the development relates to a change of use from Class 1 to Class 2 as set out in Schedule 2, Part 4 of the Regulations.

- 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."*

This is not applicable in this instance.

- (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.*

The subject unit is located within an Architectural Conservation Area (ACA) in Ennis Town Centre. There is no proposed detail in respect of any external alterations, however, it is noted that a change of use of the building would also likely entail a change of signage on the exterior of the building. Therefore, should external signage or any other external alterations be included in the proposal, this would not be exempted development.

Recommendation

The following questions have been referred to the Planning Authority:

Whether the material change of use of a shop to a nail salon is exempted development under Class 1 of the Planning and Development Regulations 2001 (as amended).

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) Articles 5, 6, 9 and 10 of the Planning and Development Regulations 2001, as amended,
- (c) Classes 1 and 2 of Part 4 of Schedule 2 of the Planning and Development Regulations 2001, as amended,
- (d) Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended, and
- (e) The works as indicated in submitted documents from the referrer.

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

- (a) The current permitted use of the building as a shop falls within Class 1 of Schedule 2, Part 4 of the Planning and Development Regulations 2001, as amended, while the proposed use as a nail salon falls

within Class 2 of the same Part and Schedule and is not included within the definition of a shop as stated under Article 5(1) of the Planning and Development Regulations 2001, as amended, therefore;

- (b) The material change of use of a shop to a nail salon is not exempted development under Class 1 of Schedule 2, Part 4, and Article 10(1) of the Planning and Development Regulations 2001 (as amended),
- (c) Any proposed alterations to the external façade of the building, including alterations to existing signage, is not exempted development under Article 9(xii) of the Planning and Development Regulations 2001 (as amended), and
- (d) There are no other exemptions included in Schedule 2, Part 1 of the Planning and Development Regulations 2001 (as amended) to which this proposed change of use can apply.

Now therefore Clare County Council (Planning Authority), hereby decides that the material change of use of a shop to a nail salon is not exempted development and planning permission will be required for any changes of use or external alterations to the building as described above.



Áine Bourke

Executive Planner

Date: 03/03/2025



Garreth Ruane

Senior Executive Planner

Date: 03/03/25.

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	R25-11
Applicant Name	Siau Ling Eng
Development Location	at 19 Market Street, Ennis, Co. Clare
Application accompanied by an EIS	No
Application accompanied by an NIS	No

Description of the project (To include a site location map):

The change of use of a shop to a nail salon at 19 Market Street, Ennis.

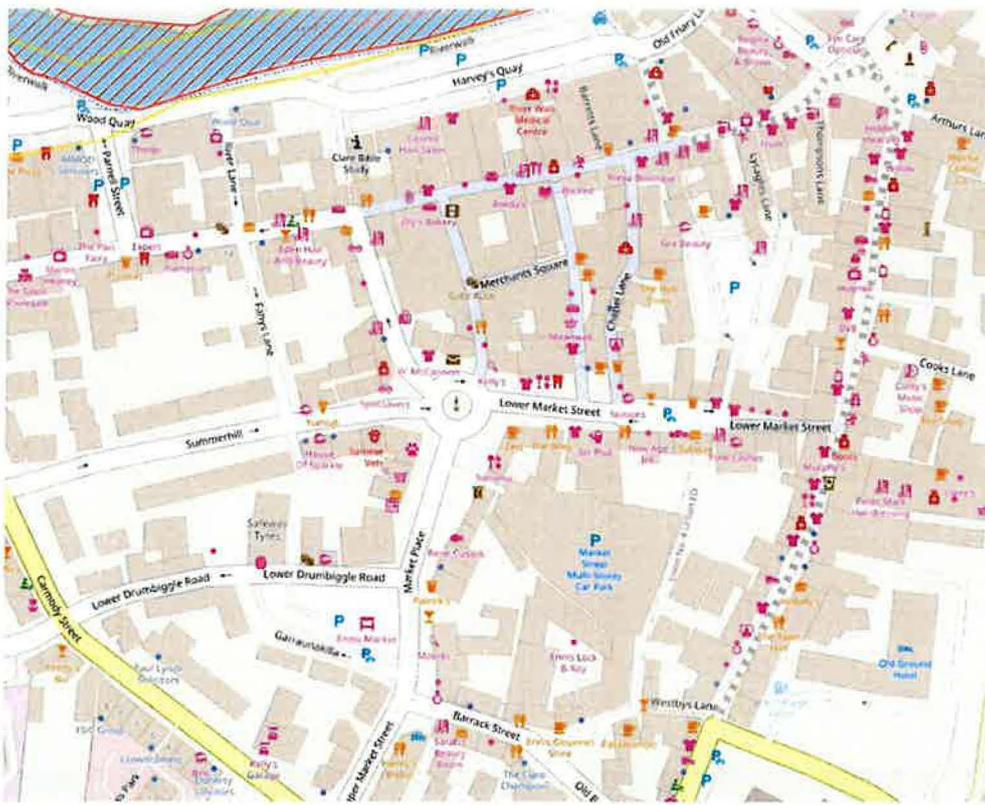


Table 2: Identification of European sites which may be impacted by the proposed development.

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.

Having regard to the nature and scale of the proposed development, the established use of the site, the location on zoned land within an existing settlement, I am satisfied that the likely zone of impact of the proposed development is no greater than 1km.

Table 2 (a): European Sites within 1km of Applicant Site

Lower River Shannon SAC (02165) – 166m.

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.

Appropriate Assessment Screening Determination

Planning File Reference	R25-11
Proposed Development	Whether the material change of use of a retail unit to a nail salon is exempted development under Class 1 of the Planning and Development Regulations 2001 (as amended).
Development Location	19 Market Street Ennis
European sites within impact zone	Lower River Shannon SAC

Description of the project:

Whether the material change of use of a retail unit to a nail salon is exempted development under Class 1 of the Planning and Development Regulations 2001 (as amended).

Qualifying Interests (QIs)/Special Conservation Interests (SCIs) of European site

Annex I habitats:

- Sandbanks which are slightly covered by sea water all the time [1110]
- Estuaries [1130]
- Mudflats and sandflats not covered by seawater at low tide [1140]
- *Coastal lagoons [1150]
- Large shallow inlets and bays [1160]
- Reefs [1170]
- Perennial vegetation of stony banks [1220]
- Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]
- *Salicornia* and other annuals colonizing mud and sand [1310]
- Atlantic salt meadows (*Glauco-Puccinellietalia maritimae*) [1330]
- Mediterranean salt meadows (*Juncetalia maritimi*) [1410]
- Water courses of plain to montane levels with the *Ranunculion fluitantis* and *Callitriche-Batrachion* vegetation [3260]
- *Molinia* meadows on calcareous, peaty or clayey-silt-laden soils (*Molinion caeruleae*) [6410]
- *Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion*, *Alnion incanae*, *Salicion albae*) [91E0]

Annex II species:

- Freshwater Pearl Mussel *Margaritifera margaritifera* [1029]
- Sea Lamprey *Petromyzon marinus* [1095]
- Brook Lamprey *Lampetra planeri* [1096]
- River Lamprey *Lampetra fluviatilis* [1099]
- Atlantic Salmon *Salmo salar* (only in fresh water) [1106]
- Bottlenose Dolphin *Tursiops truncatus* [1349]
- Otter *Lutra lutra* [1355]

Describe how the project or plan (alone or in combination) is likely to affect the European site(s).

No likely direct or indirect effects due to the nature and scale of the proposed development, the established use of the site, the location on zoned land within a settlement and the lack of connectivity or proximity to European sites.

If there are potential negative impacts, explain whether you consider if these are likely to be significant, and if not, why not?

The proposed development relates to the change of use of an existing building, with no external works proposed, there are no likely effects to the Lower River Shannon SAC or any European Sites.

Documentation reviewed for making this statement

- County Development Plan (including Flood Maps, SEA & AA)
- NPWS website
- Documents received as part of the planning application

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)²	
(b) There is no potential for significant effects to European Sites³	Yes
(c) The potential for significant effects to European Site(s) cannot 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	
Completed By	Áine Bourke 
Date	03/03/2025

² 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.

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



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Siau Ling Eng
C/o Mike Flynn
Hassett Leyden & Associates
Roslevan Shopping Centre
Ennis, Co. Clare
V95 YN93

05/02/2025

Section 5 referral Reference R25-11 – Siau Ling Eng

Is the material change of use of an existing shop/newsagent at 19 Market Place, Ennis, Co. Clare, V95 X231 to a nail saloon exempted development within the same classification of Class 1 under the Planning & Development Regulations 2001?

A Chara,

I refer to your application received on 5th February 2025 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

P07

**CLARE COUNTY COUNCIL
COMHAIRLE CONTAE AN CHLÁIR**

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

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



Comhairle Contae an Chláir
Clare County Council

R25-11

**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	Siau Ling Eng 50 Pine Grove, Ennis, Co. Clare, V95 K5R2
(b) Telephone No.:	
(c) Email Address:	
(d) Agent's Name and address:	Mike Flynn Hassett Leyden & Associates Roslevan Shopping Centre Ennis, Co. Clare V95 YN93

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 material change of use of an existing shop/ newsagent at 19 Market Place, Ennis Co. Clare, V95 X231
to nail saloon exempted development within the same classification of Class 1 under the Planning &
Development Regulations 2001.

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

Proposed material change of use of an existing shop unit at 19 Market Place, Ennis, Co. Clare to nail
saloon providing similar services as provided by 'hairdresser' under Class 1 of Planning &
Development Regulations 2001.

(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)

P-01-L Site Location/ Layout

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT	
(a) Postal Address of the Property/Site/Building for which the declaration sought:	19 Market Place, Ennis Co. Clare, V95 X231 _____ _____ _____
(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):	Property currently for sale (sale agreed by applicant) _____ _____
(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>	Sheila O'Connor _____ 1 the Lane, Cappahard, Tulla Road, _____ Ennis, Co. Clare _____
(e) Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?:	Yes
(f) Are you aware of any enforcement proceedings connected to this site? <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>	No
(h) Date on which 'works' in question were completed/are likely to take place:	Works to be completed within 3 months

SIGNED: _____


DATE: 5/2/2025

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

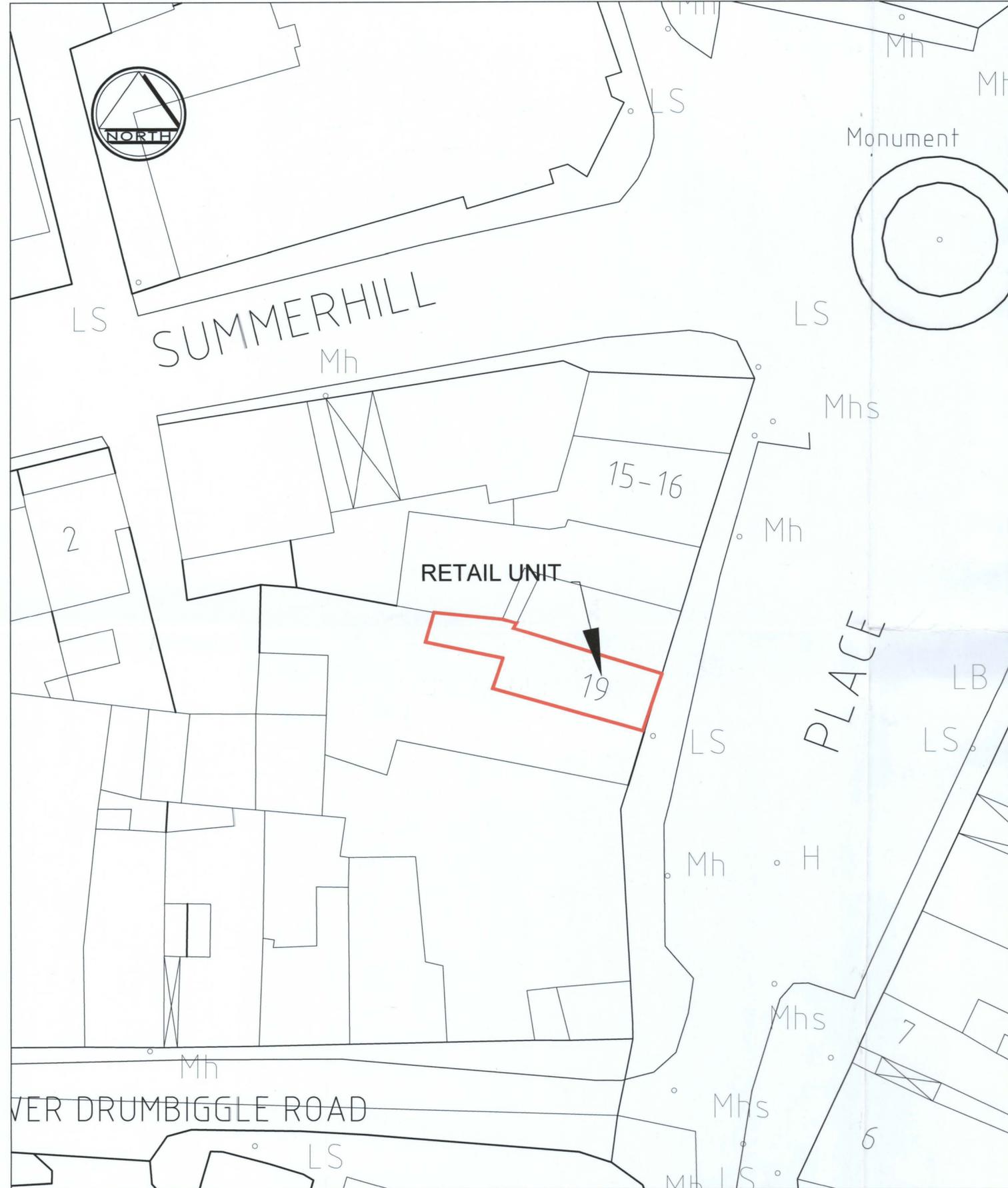
- (i) The request for a declaration under Section 5 must be accompanied by 2 copies of site location map based on the Ordnance Survey map for the area of a scale not less than 1:1000 in urban areas and 1:2500 in rural areas and should clearly identify the site in question.
- (ii) The request for a declaration 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

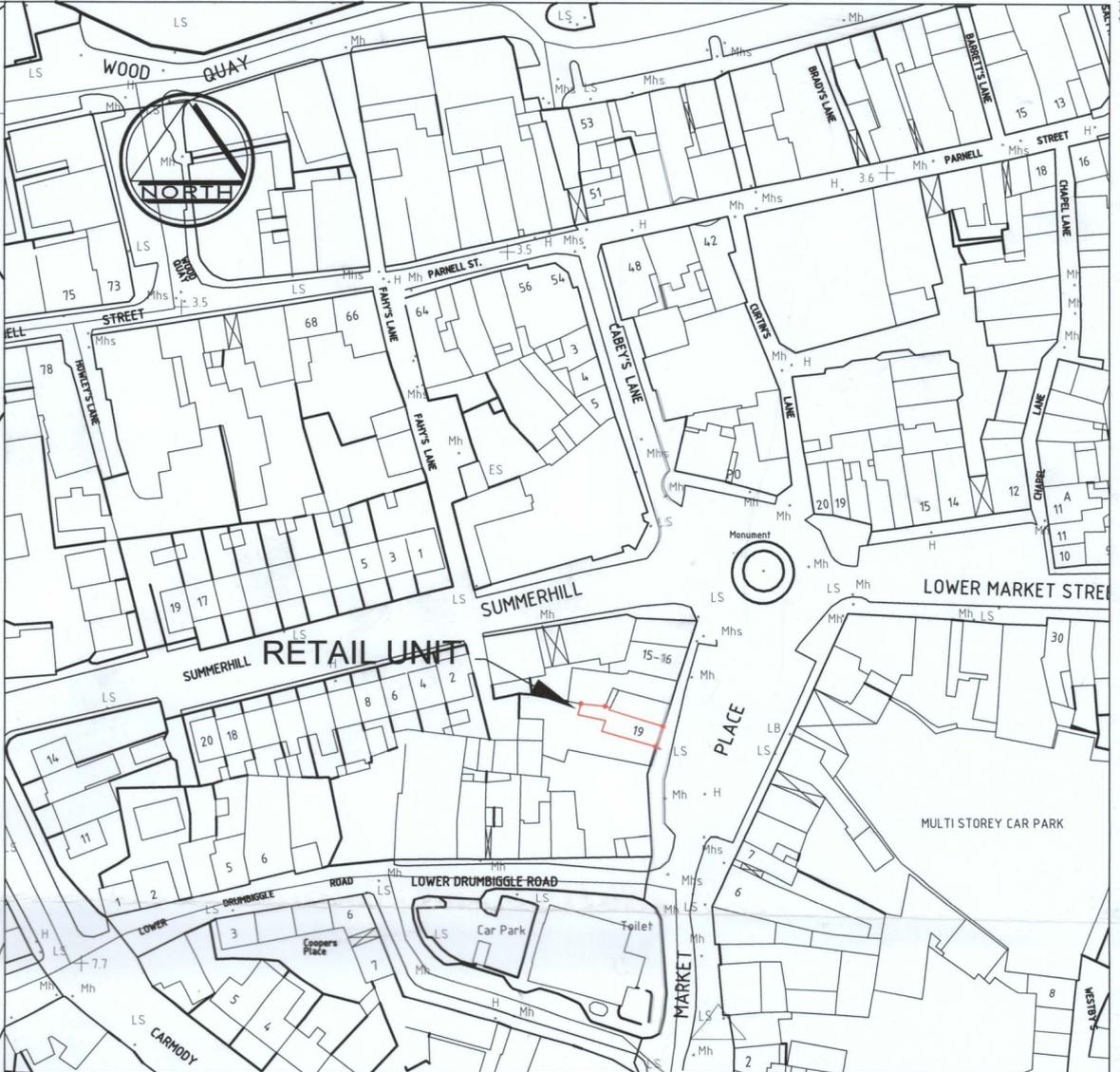
- (v) Notwithstanding the completion of the above form, the Planning Authority may require the submission of further information with regard to the request in order to enable the Authority to issue a declaration on the question.
- (vi) The Planning Authority may also request other persons to submit information 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:	.....	



SITE LAYOUT
Scale 1/250



SITE LOCATION
Scale 1/1000

SITE OUTLINED IN RED
PART OS 4322 - 2,3,7,8 CLARE

SITE OUTLINED IN RED
PART OS 4322 - 2,3,7,8 CLARE

Section 5 Declaration Purposes

Rev.	Revision	Date	Revised By
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- * Do not scale from this drawing. Use figured dimensions only.
- * This drawing is to be read in conjunction with all relevant specifications and drawings.
- * All dimensions to be checked on site.
- * In the event of any discrepancies between drawings the contractor is to inform the Architect immediately.

Project. Change of Use @ 19 Market Street, Ennis, Co. Clare	Survey <input type="checkbox"/>
Client. Siau Ling Eng	Sketch/Design <input checked="" type="checkbox"/>
	Planning <input type="checkbox"/>
	Fire <input type="checkbox"/>
	Tender <input type="checkbox"/>
	Working <input type="checkbox"/>



HASSETT LEYDEN ASSOCIATES
ARCHITECTS ENGINEERS & PROJECT MANAGERS
Roslivan Shopping Centre, Tulla
Roslivan
Ennis,
Co. Clare.
TEL: (065) 6828452
Email: hlamail@hassettleyden.ie



1835

Title.
Site Location/ Layout

Scale 1/250, 1/1000	Date 04.02.25	Drawn By mf	Sheet A2	Email hlamail@hassettleyden.ie
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Project No. 27++	Drawing No. P-01-L	Rev.
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