

ROSCOMMON COUNTY COUNCIL

PLANNING AND DEVELOPMENT ACT, 2000 (as amended)

SECTION 5 - DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT

NOTIFICATION OF DECISION

MCN Property,


Reference Number: DED 532

Application Received: 05th December, 2022.

Location: St. Patrick's Street, Castlerea, Co. Roscommon, F45 X006

WHEREAS a question has arisen as to whether development consisting of material alterations of ground floor internal layout and "change of sub-group use within same class (Place of Assembly)" on ground floor at St. Patrick's St., Castlerea, Co. Roscommon is not development or is or is not exempted development.

AND WHEREAS Roscommon County Council, in considering this application, had regard particularly to:

- (a) Sections 2, 3, 4 and 5 of the Planning and Development Act, 2000 (as amended)
- (b) Articles 6, 9 and 10 of the Planning and Development Regulations, 2001 (as amended)
- (c) The record forwarded to Roscommon County Council in accordance with subsection (6)(c) of Section 5 of the Planning and Development Act 2000 (as amended)
- (d) The planning history of the site

AND WHEREAS Roscommon County Council has concluded that:

- (a) The works are development.
- (b) Alterations of the ground floor internal layout is exempted development.
- (c) The proposed change of use on the ground floor is not exempted development.
- (d) The proposed development individually and in combination with other plans or projects would not be likely to have a significant effect on any European site and the requirement for AA or EIAR does not apply with respect to the current case.

NOW THEREFORE: By virtue of the powers vested in me by the Local Government Acts 1925 – 2019 and Section 5(2)(a) of the Planning and Development Act 2000 (as amended) and having considered the various submissions and reports in connection with the application described above, it is hereby declared that the works consisting of:

- 1) Material alterations of ground floor internal layout at St. Patrick's St., Castlerea, Co. Roscommon constitutes development that is exempted development and
- 2) Change of use of the ground floor at St. Patrick's St., Castlerea, Co. Roscommon constitutes development that is not exempted development


as defined within the Planning and Development Act 2000 (as amended) and associated Regulations.

Any person issued with a Declaration under Section 5 of the Planning and Development Act, 2000 (as amended) may, on payment to An Bord Pleanála of the prescribed fee, refer a Declaration for review within 4 weeks of the date of the issuing of the Declaration.

ADVICE NOTE

This Declaration is based on the relevant Planning and Development Act 2000 (as amended) and the Planning and Development Regulations 2001 (as amended) at the date of issue. In the event that the Planning and Development Act 2000 (as amended) or the Planning and Development Regulations 2001 (as amended) change prior to the works being carried out this Declaration may no longer apply.

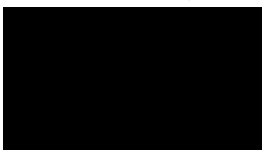
Signed on behalf of the Council:



Administrative Officer,
Planning.

Date: 10th January, 2023

CC: Sean McNeill,



**Planner's Report on application under
Section 5 of the Planning and Development Act 2000-2015**

Reference Number:	DED 532
Re:	Application for a Declaration under Section 5 of the Planning and Development Act 2000, regarding Exempted Development. Development consisting of material alterations of ground floor internal layout and change of sub-group use within same use class (place of assembly) at St. Patrick Street, Castlerea, County Roscommon
Name of Applicant:	Sean McNeill, MCN Property
Date:	06.01.2023

WHEREAS a question has arisen as to whether the following works; material alterations of ground floor internal layout and change of sub-group use within same use class (place of assembly) at St. Patrick Street, Castlerea, County Roscommon, is or is not development and is or is not exempted development:

I have considered this question, and I have had regard particularly to –

- (a) Sections 2, 3, 4 and 5 of the Planning and Development Act, 2000, as amended
- (b) Articles 6, 9 and 10 of the Planning and Development Regulations, 2001, as amended
- (c) The record forwarded to Roscommon County Council in accordance with subsection (6)(c) of Section 5 of the Planning and Development Acts 2000 – 2011
- (d) The planning history of the site

Site Location & Development Description

The subject existing property is located along St. Patrick Street, Castlerea, County Roscommon and is accessed off the N60 National Route. Situated outside the Castlerea Architectural Conservation Area, the property forms part of lands zoned Existing Residential in the Castlerea Settlement Plan, part of the Roscommon County Development Plan 2022-2028.

The subject site is not situated within any designated sites. The nearest designated site is the Cloonchambers Bog SAC, approximately 3.1km west of the subject site. Having regard to the separation distances between the site and the Natura 2000 network, it is considered that the conservation objectives of the network will not be impacted.

As per the submitted details the nature of the proposed works includes material alterations to the ground floor internal layout and a change of use on the ground floor from commercial to non-residential educational use. On inspection of the subject site it was noted that external changes to the ground floor window and one of the 2 no. doors on the front elevation has occurred. It was further noted that alterations to the ground floor internal layout have been carried out recently.

Planning History

PD 06 1403 – An application was submitted for retention permission (change of use) for works carried out to convert a previously approved store to a kitchen, at the rear of premises, this application was *invalid*.

PD 95 392 – Permission was *granted* to develop a store extension to the rear of the pub.

17628/89 – Permission *granted* to extend the licensed premises.

Assessment

The question to be determined in this Section 5 referral is whether “material alterations of ground floor internal layout and change of sub-group use within same use class (place of assembly)” at St. Patrick Street, Castlerea, County Roscommon, is or is not development and is or is not exempted development.

In accordance with the Planning and Development Act, 2000 Section 3. (1) development is defined as the following: “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”. The proposed development is considered to be the carrying out of works. Works are defined in the Act as; “works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure....” In this Act, “land” includes any structure and any land covered with water (whether inland or coastal)”. Having considered the definition of both “works” and “development” the proposal constitutes works and is therefore development.

The material alterations of the ground floor internal layout come within the provisions of Section 4 (1)(h) of the Act, being development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures. Material alterations to the ground floor internal layout is considered to be exempted development.

While it is noted that the description detailed on the submitted DED application form refers to “*material alterations of ground floor internal layout and change of sub-group use within same use class (place of assembly)*”, such use classes are not legislatively grounded in the Planning and Development Act 2000 (as amended) and the Planning and Development Regulations 2001 (as amended). The proposed change of use must be examined in the context of Article 10 (Change of Use) of the Planning and Development Regulations 2001 (as amended) and associated Part 4 (Classes of Use) of Schedule 2 of the aforementioned Regulations.

Article 10 sets out the following:

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

- (a) involve the carrying out of any works other than works which are exempted development,
- (b) contravene a condition attached to a permission under the Act,
- (c) be inconsistent with any use specified or included in such a permission, or
- (d) be a development where the existing use is an unauthorised use, save where such change of use consists of the resumption of a use which is not unauthorised and which has not been abandoned.”

In considering any DED query pertaining to a change of use in the context of the above provisions, it is necessary to consider the use of the premises that is proposed to be changed and the use that the premises is proposed to be changed to. The records of the Planning Authority reflect the use / former use of the subject ground floor premises was previously identified in a Declaration of Exempted Development sought in 2021 (DED 494 refers) as a licensed premises. In the context of Part 4 of Schedule 2 of the Planning and Development Regulations 2001 (as amended), Class 12 is the relevant class of use, with the only use in this class being a licensed premises/public house. There are no further uses specified within Class 12 such as to facilitate, as exempted development, any change of use from a licensed premises / public house. The proposed change of use of use in this particular case does not therefore meet the provisions of Article 10 and is not therefore exempted development.

With Regard to Article 9 (1)(a) of the Planning and Development Regulations, it is reasonable to conclude that on the basis of the information available, which I consider adequate in order to issue a screening determination, that the proposed development individually and in combination with other plans or projects

would not be likely to have a significant effect on any European site and that the need for AA does not apply with respect to the current case.

I am satisfied that an Environmental Impact Statement or Appropriate Assessment are not required. It should be noted that any development for which Environmental Impact Assessment or Appropriate Assessment is required shall not be exempted development unless specifically exempted in regulations where there is provision in other legislation for the carrying out of EIA or AA. In addition, the restrictions on exemption Art 9 (1)(a) (viiB) exclude development which would otherwise be exempted development under these regulations where an AA is required.

Recommendation

WHEREAS a question has arisen as to whether the following works; material alterations of ground floor internal layout and "change of sub-group use within same use class (place of assembly)" at St. Patrick Street, Castlerea, County Roscommon, is or is not development and is or is not exempted development:

I have considered this question, and I have had regard particularly to –

- (e) Sections 2, 3, 4 and 5 of the Planning and Development Act, 2000, as amended
- (f) Articles 6, 9 and 10 of the Planning and Development Regulations, 2001, as amended
- (g) The record forwarded to Roscommon County Council in accordance with subsection (6)(c) of Section 5 of the Planning and Development Acts 2000 – 2011
- (h) The planning history of the site

AND WHEREAS I have concluded that

- a) The works are development.
- b) Alterations of the ground floor internal layout is exempted development.
- c) The proposed change of use on the ground floor is not exempted development.
- d) The proposed development individually and in combination with other plans or projects would not be likely to have a significant effect on any European site and that the requirement for AA or EIAR does not apply with respect to the current case.

and I recommend that a declaration to that effect should be issued to the applicant.



Signed:

Assistant Planner

Date: 6th January 2023

Roscommon County Council
Aras an Chontae
Roscommon
09068 37100

05/12/2022 12:39:20

Receipt No. : L01/0/220190

MCN PROPERTY

PLANNING APPLICATION FEES 80.00
GOODS 80.00
VAT Exempt/Non-vatable
DED 532

Total : 80.00 EUR

Tendered :
Cheque 80.00
500003

Change : 0.00

Issued By : Bernadine Duignan
From : Central Cash Office



Comhairle Contae
Ros Comáin
Roscommon
County Council

Áras an Chontae,
Roscommon,
Co. Roscommon
Phone: (090) 66 37100
Email: planning@roscommoncoco.ie

Roscommon County Council

Application for a Declaration under Section 5 of the Planning & Development Act 2000,
regarding Exempted Development

Name:	MCN Property
Address:	<div style="background-color: black; width: 100px; height: 40px;"></div>
Name & Address of Agent:	Sean McNeill, <div style="background-color: black; width: 100px; height: 40px;"></div>
Nature of Proposed Works	Material alterations of ground floor internal layout and change of sub-group use within same use class (Place of Assembly).
Location (Townland & O.S No.)	St Patrick Street, Castlerea, Roscommon, F45X006 (Map Attached)
Floor Area	1650sqft
Height above ground level	Current building - 3 floors. No changes will be made to this.
Total area of private open space remaining after completion of this development	No change in area.
Roofing Material (Slates, Tiles, other) (Specify)	Slates
Proposed external walling (plaster, stonework, brick or other finish, giving colour)	No change to current plastered finish.
Is proposed works located at front/rear/side of existing house.	N/A, internal changes only.



Roscommon County Council

**Application for a Declaration under Section 5 of the Planning & Development Act 2000,
regarding Exempted Development**

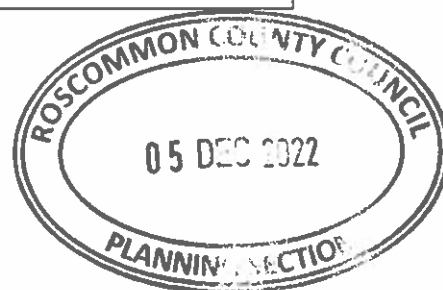
Has an application been made previously for this site	Yes
If yes give ref. number (include full details of existing extension, if any)	17628/89 - Extension to licensed premise. PD/95/392 - Erection of single story extension at rear of premises.
Existing use of land or structure	Ground Floor - Commercial (Place of Assembly)
Proposed use of land or structure	Ground Floor: Place of Assembly; Non-Residential educational establishment for Rehab Group. New DAC & FSC in place June '22
Distance of proposed building line from edge of roadway	No Change to current building.
Does the proposed development involve the provision of a piped water supply	No Change to current building.
Does the proposed development involve the provision of sanitary facilities	No Change to current building

Signature:

Seán McNeill (Director)

Date:

4/12/22



Note: This application must be accompanied by:-

- (a) €80 fee
- (b) Site Location map to a scale of 1:2500 clearly identifying the location
- (c) Site Layout plan to the scale of 1:500 indicating exact location of proposed development
- (d) Details specification of development proposed

Material alterations to ground floor internal layout only and change sub-group use within same use class. Previous licensed premises (place of assembly) to non-residential educational establishment for Rehab Group (place of assembly).
New DAC & FSC granted on BCMS, see ref numbers: DAC2201098RN & FSC2202723RN

567820 mE, 779580 mN

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.pra.ie.

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LAND TRANSFER MAP

Scale: 1:500

Date: 14/12/2020

Owner:

Transfer to:

Area of plot outlined in red, shaded green and marked **A** 0.0346 Hectares or thereabouts

Address: St Patrick St, Castlereagh, Co. Roscommon

Prepared by:

Deane Associates (094)9643079

Planning and Engineering Consultants

Area to be revised to 0.0338

Corner to be omitted

CASTLEREAGH

(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

Kilk

Devan

A5KAH A7K43

A3HVV

A3RD2

DH4QM

216

A65NT

01J

12B

0TK

0IC

01F

A3U2W

A25Y3

A4Q6V

124

226

DC8EN

C78M4

215

213

BN1PD

CY39R

CK5VW

CY4D6

567660 mE, 779450 mN

Creation Date: 26 November 2020 13:25:38

Application Number: S2020LR014618X

1:500



SUBMITTED ON - 19-02-2022

567900 mE, 779640 mN

The Property
Registration Authority
An tÚdarás
Clárúcháin Maoine



Folio: [REDACTED]

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567580 mE, 779380 mN
Date Printed: 17/12/2021

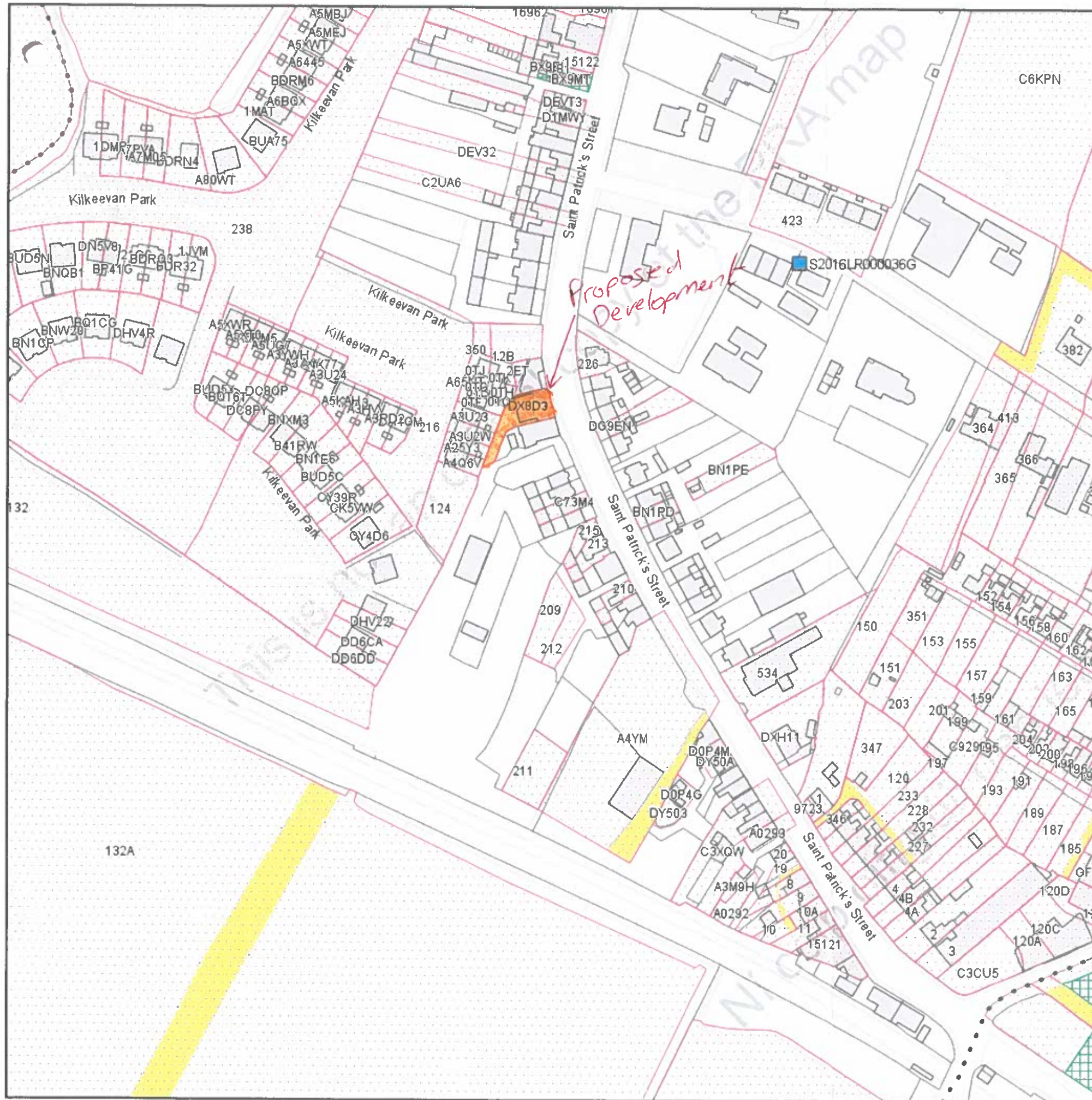
Creation Date: 17 December 2021 11:46:37

Application Number: P2021LR134750J

1:1000 Scale



Page 6 of 6



Scale 1:2500

Creation Date: 04 December 2022 11:14:06

The Property Registration Authority An tÚdarás Clárúcháin Maoine



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 - 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
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