

Comhairle Contae Chill Dara
Kildare County Council



Date: 30th April 2024.
Our Ref: ED/1114.

Alan & Elaine Jordan,
c/o DH Architectural,
Clownings,
Newbridge,
Co. Kildare.

RE: Application for a Declaration of Exempted Development under Section 5 of Planning and Development Act 2000 (as amended) for development at Centra, Caragh Village, Naas, Co. Kildare.

Dear Sir/Madam,

I refer to your correspondence received on 15th March 2024 in connection with the above.
Please find enclosed receipt no. FIN1/0/497635 in relation to fee paid.

Please find attached declaration made under Section 5 of Planning and Development Acts 2000 (as amended) in this regard.

Yours sincerely,


Senior Executive Officer,
Planning Department.



Declaration of Development & Exempted Development under Section 5 of the Planning and Development Act 2000 (as amended).

ED/1114.

WHEREAS a question has arisen as to whether a change of use from offices to three apartments at Centra, Caragh Village, Naas, Co. Kildare is exempted development,

AS INDICATED on the plans and particulars received by the Planning Authority on 15th March 2024

AND WHEREAS Alan & Elaine Jordan requested a declaration on the said question from Kildare County Council,

AND WHEREAS Kildare County Council as the Planning Authority, in considering this application for a declaration under Section 5 of the Planning and Development Act 2000 (as amended), had regard to;

- (a) Planning and Development Act 2000 (as amended) and
- (b) Planning and Development Regulations 2001 (as amended); and

AND WHEREAS Kildare County Council has concluded that the proposal comprises of development to which the provisions of the following applies:

- (a) Sections 2, 3, 4 & 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 nature, extent and purpose of the works,

NOW THEREFORE Kildare County Council, in exercise of the powers conferred on it by Section 5(2)(a) of the Planning and Development Act 2000 (as amended), hereby decides that the change of use from office space to 3 no. apartments

IS development and IS EXEMPTED development pursuant to Section 2, 3, 4 & 5 of the Planning and Development Act as amended and Article 6, Article 9 of the Planning and Development Regulations as amended

Please note that any person issued with a declaration under subsection 2(a) of the Planning and Development Act 2000 (as amended) may on payment to the Board of the prescribed fee, refer a declaration to An Bord Pleanála within 4 weeks of the issuing of the decision.

30th April 2024.


Senior Executive Officer,
Planning Department.

KILDARE COUNTY COUNCIL



PLANNING & STRATEGIC DEVELOPMENT DEPARTMENT

Section 5 referral & declaration on development & exempted development

Planning & Development Act 2000 (as amended)

Reference No. ED/1114.

Name Of Applicant(s):	Alan & Elaine Jordan
Address Of Development:	Centra, Caragh Village, Naas, Co. Kildare.
Development Description:	COU offices to three apartments.
Due date	12/4/2024.

Introduction

This is a request for a **DECLARATION** under Section 5(1) of the Planning and Development Act 2000 (as amended) to establish whether under Section 5 of the Act the change of use of 3 no. offices to 3 no. 1 bed apartments is exempted development.

Site Location

The subject site is located at the 1st floor of the Centra shop in Caragh Village, located on the R409. Development in the vicinity consists primarily of village centre and residential development. It is submitted in the application documents that the first-floor office space is not in use.

Description of Proposed Development

The proposed development consists of the change of use of first floor office space to 3 no. 1-bedroom apartments. Existing and proposed first floor plans have been submitted. It is submitted that the 3 no. units will total 69.2sqm, 69sqm and 79sqm. There are no external works proposed only the addition of a roof light to the inner slope of the roof structure.



Fig 1: Site Location and context

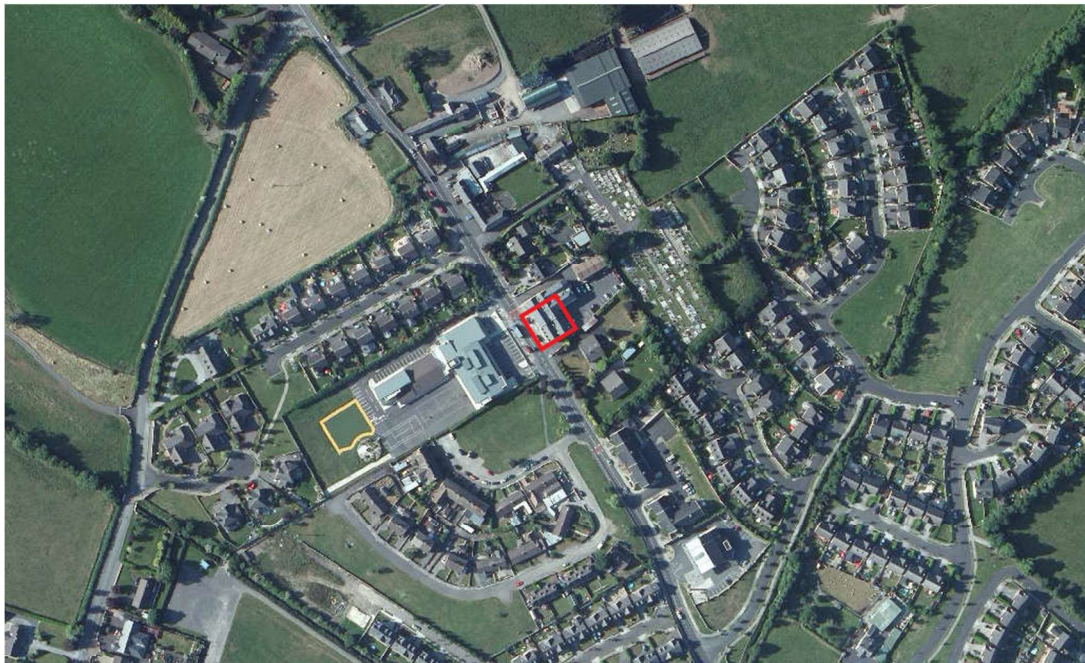


Fig 2: Aerial view of subject site (Google Images)

Planning History

06/2216 - Permission was **granted** to Robert Iannucci for change of use of proposed subdivided retail unit (subject to current app reg ref. 06/2020) from retail unit to take away and associated works.

06/2020 - Permission was **granted** to Alan & Elaine Jordan for subdivision of existing ground floor retail unit (Reg. Ref. 03/2271 & 05/1158) into two retail units, modifications to existing shop front and associated site works.

05/1158 - Permission was **granted** to Majec Stores for variations within previously approved footprint to include the following: increased floor area to main shop unit at ground floor level. Relocation of main shop units, storage etc.

03/2271 - Permission was **granted** to Jacqueline Taylor & James Cummins for (a) commercial development comprising of 2 shop units, including stores on ground floor, and 7

office units on first floor, (b) Pedestrian crossing, complete with traffic lights to the front of the development, (c) Associated site development works.

Built Heritage

The site is not a Protected Structure and is not located within an identified Architectural Conservation Area.

Relevant Legislative Background

Planning and Development Act 2000 (as amended)

Section 2(1)

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

Section 3(1)

In this Act, 'development' means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land.

Section 4(1)

The following shall be exempted development for the purposes of the Act-

(h) development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only 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;

Section 5(7) EIA Screening

The proposed development is not specified in Part 2 of Schedule 5 of the Planning and Development Regulations 2001(as amended). In any event, it is considered, having regard to nature, size and location, the proposed development would not be likely to have significant effects on the environment. Therefore, EIA is not required.

Planning and Development Regulations 2001 (as amended)

Article 6(1)

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 9 (1)(a)(i)

Restrictions on exemption.

9. (1) 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—.....(15 items)

Article 10 of the Planning and Development Regulations 2001, as amended by S.I. 30 of 2018, refers to the change of use, and certain related works, of certain vacant commercial premises to residential use without the need to obtain planning permission. The exemption applies to existing buildings that have a current commercial use with reference to Class 1, 2, 3, and 6 of Part 4 to Schedule 2 of the Principal Regulations.

Article 10 (6)(b) The exemption allows developments that consist of a change of use to residential use from Class 1, 2, 3 or 6 of Part 4 Schedule 1.

The definition of which Classes are set out below:

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 3: Use as an office, other than a use to which class 2 of this Part of this Schedule applies.

Class 6: Use as a residential club, a guest house or a hostel (other than a hostel where care is provided).

There are certain limitations on the nature and type of buildings that may benefit from the exemption, and these are set out in Article 10(6)(c) and Article 10(6)(d).

Each of these conditions and limitations will be set out in the assessment below and the application examined in respect of each of them.

Assessment

The proposed development consists of the change of use of first floor office space to 3 no. 1-bedroom apartment units. S.I. 30 of 2018 amended Article 10(6) of the Planning and Development Regulations 2001, as amended, to allow for the change of use of an existing vacant commercial unit to residential as exempted development.

Article 10(6)(c) and 10(6)(d) of the Planning and Development Regulations 2001, as amended identified limitations to the exemption described in Article 10(6)(b). The proposed development must be assessed against these limitations.

The proposed development will be assessed against Article 10(6)(c) of the Planning and Development Regulations.

Article 10(6)(c)(i) *the structure concerned was completed prior to the making of the Planning and Development (Amendment) (No. 2) Regulations 2018.*
Permission for the unit was granted in 2004.

Article 10(6)(c)(ii) *the structure concerned has at some time been used for the purpose of its current use class, being Class 1, 2, 3 or 6.*

It is submitted in the application documents that the office units have been vacant since the Covid 19 pandemic and remain currently vacant.

It appears the most recent permitted use associated with the site would relate to either Class 2 or Class 3 of the Planning and Development Regulations 2001 (as amended). Class 2 is defined as follows: 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 3 is defined as follows: Use as an office, other than a use to which class 2 of this Part of this Schedule applies. It is therefore considered the proposed change of use may fit within the scope of Article 10(6)(c)(ii).

Article 10(6)(c)(iii) *the structure concerned, or so much of it that is the subject of the proposed development, has been vacant for a period of 2 years or more immediately prior to the commencement of the proposed development.*

The applicant states in their submitted documentation that the subject offices have been vacant since the beginning of the Covid 19 pandemic (c. 2020).

Article 10(6)(d)

Table 1: Conditions and Limitations of Article 10(6)(d)

Article 10(6)(d) (i)	The development is commenced and completed during the relevant period.	N/A
Article 10(6)(d) (ii)	Subject to sub-paragraph (iii), any related works, including works as may be required to comply with sub-paragraph (vii), shall affect only the interior of the structure and shall not materially affect the external appearance of the structure so as to render its appearance inconsistent with the character of the structure or of neighbouring structures	Plans have been submitted. No works are proposed which will materially affect the external appearance of the structure.
Article 10(6)(d) (iii)	Any related works for the alteration of existing ground floor shop fronts shall be consistent with the fenestration details and architectural and streetscape character of the remainder of the structure or of neighbouring structures.	There are no works to the ground floor proposed.
Article 10(6)(d) (iv)	No development shall consist of or comprise the carrying out of works to the ground floor area of any structure which conflicts with any objective of the relevant local authority development plan or local area	There are no works to the ground floor proposed.

	plan, pursuant to the Part 1 of the First Schedule to the Act, for such to remain in retail use, with the exception of any works the purpose of which is to solely provide on street access to the upper floors of the structure concerned.	
Article 10(6)(d) (v)	No development shall consist of or comprise the carrying out of works which exceeds the provision of more than 9 residential units in any structure.	The subject development provides 3 no. residential units (3 no 1 Bed Apartments).
Article 10(6)(d) (vi)	Dwelling floor areas and storage spaces shall comply with the minimum floor area requirements and minimum storage space requirements of the “Sustainable Urban Housing: Design Standards for New Apartments — Guidelines for Planning Authorities” issued under section 28 of the Act or any subsequent updated or replacement guidelines.	The units comply with the minimum standards.
Article 10(6)(d) (vii)	Rooms for use, or intended for use, as habitable rooms shall have adequate natural lighting.	All habitable rooms have windows.
Article 10(6)(d) (viii)	No development shall consist of or comprise the carrying out of works to a protected structure, as defined in section 2 of the Act, save where the relevant planning authority has issued a declaration under section 57 of the Act to the effect that the proposed works would not materially affect the character of the structure or any element, referred to in section 57(1)(b) of the Act, of the structure.	The proposal does not involve works to a protected structure.
Article 10(6)(d) (ix)	No development shall contravene a condition attached to a permission under the Act or be inconsistent with any use specified or included in such a permission.	The proposal does not contravene a condition on a permission.
Article 10(6)(d) (x)	No development shall relate to any structure in any of the	The proposal does not involve works to a

	following areas: (I) an area to which a special amenity area order relates; (II) an area of special planning control; (III) within the relevant perimeter distance area, as set out in Table 2 of Schedule 8, of any type of establishment to which the Major Accident Regulations apply.	building in any of the referred areas.
Article 10(6)(d) (xi)	No development shall relate to matters in respect of which any of the restrictions set out in subparagraph (iv), (vii), (viiA), (viiB), (viiC), (viii) or (ix) of article 9(1)(a), or paragraph (c) or (d) of article (9)(1), would apply.	The proposal is consistent with this limitation.
Article 10(6)(d) (xii)	No development shall consist of or comprise the carrying out of works for the provision of an onsite wastewater treatment and disposal system to which the code of practice made by the Environmental Protection Agency pursuant to section 76 of the Environmental Protection Agency Act 1992 relates and entitled Code of Practice — Wastewater Treatment and Disposal Systems Serving Single Houses together with any amendment to that Code or any replacement for it.	No issues.

Conclusion


Having regard to:

- Sections 2, 3, 4 & 5 of the Planning and Development Act 2000 (as amended);
- Articles 6, 9 and 10 of the Planning and Development Regulations 2001 (as amended); and
- The nature, extent and purpose of the works;

it is considered that the proposed works **constitutes development** as defined in Section 3(1) of the Planning and Development Act 2000 (as amended) and **is exempted development** as defined by the Planning and Development Act 2000 (as amended) and the Planning and Development Regulations 2001 (as amended).


Recommendation

It is recommended that the applicant be advised that the development as described in the application *is development and is exempted development*.

Signed: 
Date: 12/04/2024


Bébhinn O'Shea
Senior Executive Planner

26/4/2024


Aoife Brangan
A/SP
30/04/24

Declaration of Development & Exempted Development under

Section 5 of the Planning and Development Act 2000 (as amended)

WHEREAS a question has arisen as to whether *the change of use from office space to 3 no. apartments*

AS INDICATED on the plans and particulars received by the Planning Authority on *15th March 2024*

AND WHEREAS *Alan & Elaine Jordan* requested a declaration on the said question from Kildare County Council,

AND WHEREAS Kildare County Council as the Planning Authority, in considering this application for a declaration under Section 5 of the Planning and Development Act 2000 (as amended), had regard to;

- (a) Planning and Development Act 2000 (as amended); and
- (b) Planning and Development Regulations 2001 (as amended);

AND WHEREAS Kildare County Council has concluded that the proposal comprises of development to which the provisions of the following applies:

- (a) Sections 2, 3, 4 & 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 nature, extent and purpose of the works,

NOW THEREFORE Kildare County Council, in exercise of the powers conferred on it by Section 5(2)(a) of the Planning and Development Act 2000 (as amended), hereby decides that -

The change of use from office space to 3 no. apartments

IS development and IS EXEMPTED development pursuant to Section 2, 3, 4 & 5 of the Planning and Development Act as amended and Article 6, Article 9 of the Planning and Development Regulations as amended

Please note that any person issued with a declaration under Section 5 of the Planning and Development Act 2000 (as amended) may on payment to the Board of the prescribed fee, refer a declaration to An Bord Pleanála within 4 weeks of the issuing of the decision.

Signed: _____

Appendix 1: Appropriate Assessment Screening



APPROPRIATE ASSESSMENT SCREENING REPORT AND DETERMINATION

(A) Project Details

Planning File Ref	ED1114
Applicant name	Alan & Elaine Jordan
Development Location	Centra, Caragh Village, Naas, Co. Kildare
Site size	Not confirmed
Application accompanied by an EIS (Yes/NO)	No
Distance from Natura 2000 site in km	Mouds Bog SAC is located 4.5km southwest of the site
Description of the project/proposed development – Change of use of office space to 3 no. 1 bedroom apartments	

(B) Identification of Natura 2000 sites which may be impacted by the proposed development

			Yes/No If answer is yes, identify list name of Natura 2000 site likely to be impacted.
1	Impacts on sites designated for freshwater habitats or species. <u>Sites to consider:</u> River Barrow and Nore, Rye Water/Carton Valley, Pollardstown Fen, Ballynafagh lake	<i>Is the development within a Special Area of Conservation whose qualifying interests include freshwater habitats and/or species, or in the catchment (upstream or downstream) of same?</i>	No
2	Impacts on sites designated for wetland habitats - bogs, fens, marshes and heath.	<i>Is the development within a Special Area of Conservation whose qualifying interests include wetland habitats</i>	No

	<u>Sites to consider:</u> River Barrow and Nore, Rye Water/Carton Valley, Pollardstown Fen, Mouds Bog, Ballynafagh Bog, Red Bog, Ballynafagh Lake	<i>(bog, marsh, fen or heath), or within 1 km of same?</i>	
3	Impacts on designated terrestrial habitats. <u>Sites to consider:</u> River Barrow and Nore, Rye Water/Carton Valley, Pollardstown Fen, Ballynafagh Lake	<i>Is the development within a Special Area of Conservation whose qualifying interests include woodlands, dunes or grasslands, or within 100m of same?</i>	No
4	Impacts on birds in SPAs <u>Sites to consider:</u> Poulaphouca Reservoir	<i>Is the development within a Special Protection Area, or within 5 km of same?</i>	No

Conclusion:

If the answer to all of the above is **No**, significant impacts can be ruled out for habitats and bird species.

No further assessment in relation to habitats or birds is required.

If the answer is **Yes** refer to the relevant sections of **C**.

(G) SCREENING CONCLUSION STATEMENT		
<i>Selected relevant category for project assessed by ticking box.</i>		
1	AA is not required because the project is directly connected with/necessary to the conservation management of the site	
2	No potential significant affects/AA is not required	X
3	Significant effects are certain, likely or uncertain. Seek a Natura Impact Statement Reject proposal. (Reject if potentially damaging/inappropriate)	
Justify why it falls into relevant category above (based on information in above tables)		
Due to the nature and scale of the proposed works, no potential significant affects/ AA is not required.		
Name:	Abbie Baldwin	
Position:	Assistant Planner	
Date:	12/04/2024	

COMHAIRLE CONTAE CHILL DARA

KILDARE COUNTY COUNCIL



Director of Services Order

I, Alan Dunney, Director of Services, am duly authorised and delegated by Chief Executive's Order number: CE48043 to make the following Order in accordance with Section 154 of the Local Government Act, 2001, as amended.

ORDER NO: DO52437 **Section:** Planning

SUBJECT: ED1114.
Application for a Declaration of Exempted Development under Section 5 of Planning and Development Act 2000 (as amended) for development at Centra, Caragh Village, Naas, Co. Kildare.

SUBMITTED: File Ref. ED1114 with recommendation from the A/Senior Planner and reports from the Council's Technical Officers.

ORDER: I hereby order the following Kildare County Council, in exercise of the powers conferred on it by Section 5(2)(a) of the Planning and Development Act 2000 (as amended) hereby decides that the proposed development is development and is exempted development.

MADE THIS 30th DAY
OF April YEAR 2024

SIGNED: Alan Dunney
DIRECTOR OF SERVICES

Kildare County Council
Declaration of Exempt Development under Section 5
of the Planning and Development Act 2000

Kildare County Council
Planning Department

15 MAR 2024

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All responses must be in block
letters

Incomplete application forms will
be deemed invalid and returned



Section 1	Details of Applicants
------------------	------------------------------

1. Name of Applicant(s) A. Surname Alan + Elaine Forenames Jordan
Phone No. [REDACTED] Fax No. [REDACTED]
2. Address Centra Alderwood Ave, Springfield, Tallagh, Dublin

Section 2	Person/Agent acting on behalf of applicant (if applicable)
------------------	---

1. Name of Person/Agent: Surname Higgins Forenames David
Phone No. 087-6740531 Fax No. [REDACTED]
2. Address Clonmings, Navanbridge, Co. Kildare

Section 3	Company Details (if applicable)
------------------	--

1. Name of Company Majinic Stores Ltd
Phone No. 086-8046659 Fax No. [REDACTED]
2. Company Reg. No. 389695
3. Address Centra, Alderwood Avenue, Springfield Tallagh, Dublin

Section 4	Details of Site
------------------	------------------------

1. Planning History of Site 03/2271 - 06/2020
2. Location of Proposed Development Centra, Carragh Village, Naas
Co. Kildare V91E16W
3. Ordnance Survey Sheet No. 3508-A / 5588-C
4. Please state the Applicants interest in the site Owners
5. Please state the extent of the proposed development Change of offices to 3rd floor
apartments on 1st floor -

6. Under what Section of the Planning and Development 2000 and/or what provision of the Planning and Development Regulations 2001 is exemption sought (specific details required).....

Change of use of unused office space to SNo 1 Bedroom apartments.
Section 5. Planning Act

7. Please give a detailed description of the Proposed Development (Use separate page if necessary).....

It is proposed to change the use of the existing first floor office above the Centra store to SNo 1 Bedroom apartments.

Kildare County Council
Planning Department

15-MAR-2024

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Section 5	The following must be submitted for a valid application
-----------	---

(Please Tick)		
1.	Site Location Map (1:2500 Rural Areas) (1:1000 Urban Areas)	<input checked="" type="checkbox"/>
2.	A Site Layout Plan (Scale 1:500) in full compliance with Article 23 of Planning and Development Regulations 2001	<input checked="" type="checkbox"/>
3.	Drawings of the development (Scale 1:50) in full compliance with Article 23 of Planning and Development Regulations 2001	<input checked="" type="checkbox"/>
4.	All drawings to differentiate between the original building, all extensions and proposed development	<input checked="" type="checkbox"/>
5.	Fee of 80 Euro	<input checked="" type="checkbox"/>

Section 6	Declaration
-----------	-------------

I, David Higgins certify that all of the above information is correct and I have submitted all the required documents as outlined at Section 6 above.

Signature:



Date:

14th March 2024.

DAVID HIGGINS DIP ARCH TECH
DHArchitectural

Clownings, Newbridge, Co. Kildare

Tel: 045-434763, Fax: 045-434763, Mobile: 087-6740531,

Email: david@dharchitectural.ie

VatNo-IE5163526U

The Planning Department,
Aras Chill Dara,
Devoy Park,
Naas,
Co. Kildare.

Date: 14th March 2024

Ref: Notification of proposed exempted development under Section 5 of the planning and development act, at current 1st Floor Office Space, Above Centra, Main Street, Caragh, Co Kildare.

Dear Sir/Madam,

Enclosed please find a copy of a completed notification of exemption form, in relation to the existing office space located over the Centra store in Carragh Village, Co. Kildare.

The office space originally serviced the Centra store, but has not been in use for a number of years and the owners intend to change the current unused office space unit into 3 no 1-bedroom apartments. Existing and proposed floor plans attached.

It is not intended to alter the external envelope of the building, other than the placing of additional roof light, which will not be visible as they are to be fitted on the inner slope of the roof structure.

Enclosed please find the following documents.

1. Application form,
2. Site Location Map,
3. Site Layout Plan,
4. First Floor Plans (Existing & Proposed),
5. Letter from Auctioneer confirming vacancy,
6. Application Fee €80.00

Kildare County Council
Planning Department

15 MAR 2024

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Please do not hesitate in contacting me if you require any further information with regard to this matter.

Yours Sincerely,

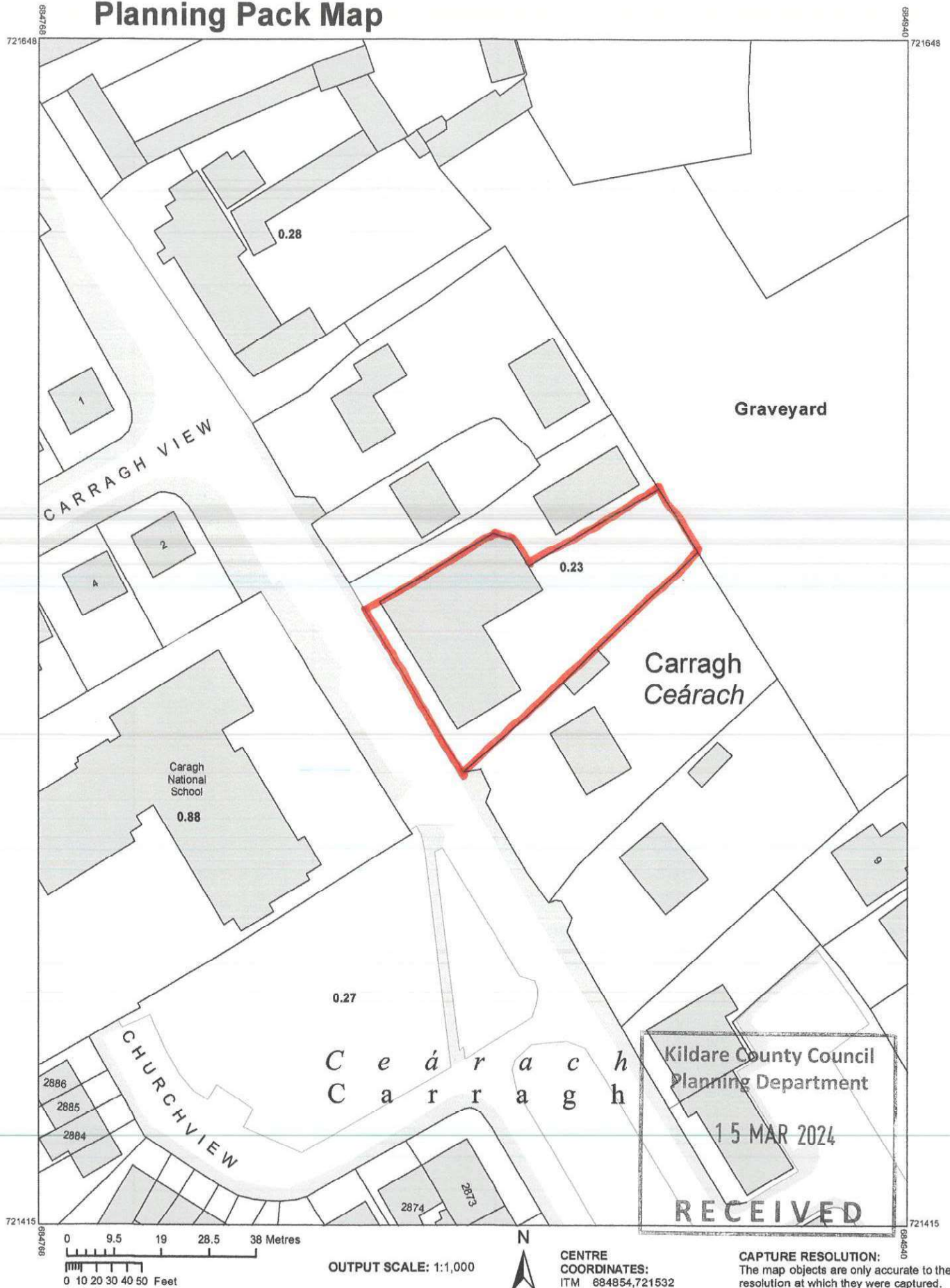


David Higgins Dip Arch Tech

Incl:



Planning Pack Map



COMPILED AND PUBLISHED BY:

Tailte Éireann,
Phoenix Park,
Dublin 8,
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COORDINATES:
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PUBLISHED:
14/03/2024

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**Tailte
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FINANCE CASH OFFICE
Kildare County Council
Aras Chill Dara
Devoy Park
Naas
Co. Kildare
15/03/2024 11:20:24

Receipt No. : FIN1/0/497635

DAVID HIGGINS ED

PLANNING EXEMPT DEVELOP FEES 80.00
GOODS 80.00
VAT Exempt/Non-vatable

Total : 80.00 EUR

Tendered :
Cheque 80.00

Change : 0.00

issued By : Pat Gibbons
From : Financial Lodgement Area
Vat reg No.0440571C