Comhairle Contae Chill Dara
Kildare County Council

Date: 13th October 2026
Our Ref: ED/1201

Fairgreen Properties Limited,
C/O Derek Whyte,
Great Connell,
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 Unit 3 Millbrook, Naas, Co Kildare.

Dear Sir/Madam,

I refer to your correspondence received on 6th March 2025 in connection with the above. Please find enclosed Receipt no. FIN1/0/509599 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,

PP
Senior Executive Officer,
Planning Department.

Comhairle Contae Chill Dara
Kildare County Council

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

ED/1201

WHEREAS a question has arisen as to whether change of use of existing building for use as a building for Class 20F of Part 1 Schedule 2 of the Planning and Development Regulations 2001 (as amended) at Unit 3, Millbrook, Naas, Co Kildare

AS INDICATED on the plans and particulars received by the Planning Authority on 06th March 2025

AND WHEREAS Fairgreen Properties Ltd 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
c. Documentation received with the application

AND WHEREAS Kildare County Council has concluded that

a. Sections 2, 3, 4 and 5 of the Planning and Development Act 2000 (as amended),
b. Articles 6 and 9 of the Planning and Development Regulations 2001 (as amended),
c. Class 20(f) of Schedule 2, Part 1 of Article 6 of the Planning and Development Regulations 2001 (as amended), and
d. 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 -

Change of use of existing building for use as building for Class 20F of Part 1 Schedule 2 of the Planning and Development Regulations 2001 (as amended) at Unit 3, Millbrook, Naas.

IS development and IS NOT EXEMPTED development pursuant to Sections 2, 3, 4 and 5 of the Planning and Development Act 2000 (as amended) and Article 6, Article 9 of the Planning and Development Regulations 2001 (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 Coimisiún Pleanála within 4 weeks of the issuing of the decision.

13th October 2026

pp
Senior Executive Officer,
Planning Department.

KILDARE COUNTY COUNCIL

PLANNING & STRATEGIC DEVELOPMENT DEPARTMENT

Section 5 referral & declaration on development and exempted development

Planning & Development Act 2000, as amended

Reference No. ED/1201

Name Of Applicant(s):	Fairgreen Properties Ltd
Address Of Development:	Unit 3, Millbrook, Naas, Co. Kildare
Development Description:	Change of use of existing building for use as building for Class 20F to Part 1 of Schedule 2 of the 2001 regulations

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:

1. Change of use of existing building for use as building for Class 20F of Part 1 Schedule 2 of the regulations at Unit 3, Millbrook, Naas.

is or **is not** development and **is** or **is not** exempted development.

Site Location

The subject site is located within the Naas town boundary, approximately 390m east of the main street. The site is located on lands zoned K Commercial and Residential in the Naas Local Area Plan 2021-2027. The site is located to the rear of Millbrook House (Protected structure NS19-037) and is accessed from a car park located to the east of the structure, to the rear of Millbrook House.

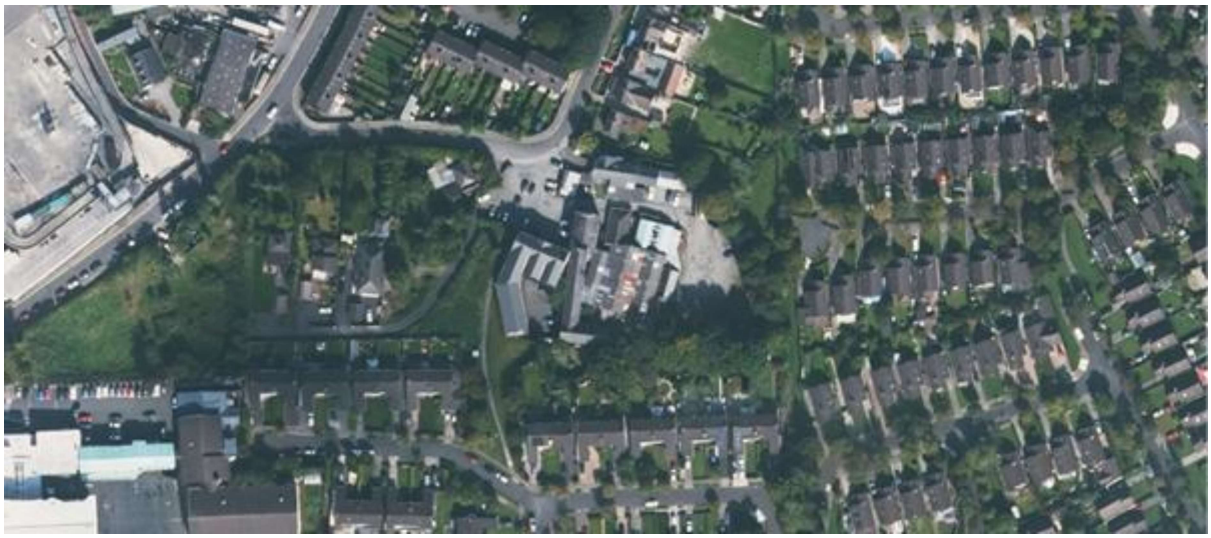


Fig 1: Aerial view of subject site (Google Images)

Planning History

14/1115: Permission granted for the change of use of a carpet showroom of 210 sqm to a single-storey Community Facility / Hall and application for permission for development for the replacement of an existing failed double pitched roof structure and valley gutter with a new single pitched roof construction with roof lights and associated alterations to the gable wall; revisions to existing entrance doors; a new small gable window and associated internal services. This permission was not taken-up.

Planning history of sites within the vicinity of the subject site

26/60613: Further information requested for The change of use of a carpet showroom of 197sqm to a single storey community facility / hall and development comprising: the replacement of an existing failed double pitched, double roof structure (spanning in east west direction) including valley gutter and chimney with a new double pitched roof structure spanning in north south direction with roof lights; associated alterations to the gable walls; alterations to existing entrance doors; new high level windows on eastern facade; associated internal alterations and site works. The development is within the curtilage of a protected structure (NS 19-037).

26/60544: Permission for the construction of 3 No. detached three storey apartment blocks consisting of 9 Apartments in total (Block A and C-3 No one bed units each and Block B - 3 no two bed units), boundary treatments, connection to public foul sewer, landscaping and all associated site works was refused on 16/07/2026.

26/60168: Permission was granted to amend granted planning reference 24/61161 (ABP-322381-25). The amendment consists of the change of finished floor levels of dwelling no. 5-9 including all associated site works and services.

24/61161 (ABP-322381-25): Planning permission was refused by Kildare County Council but granted by An Coimisiún Pleanála, on appeal, subject to conditions for A) The demolition of an existing detached dwelling, B) The construction 3 no. 3 bedroom end-of-terrace dwellings (Type A1), C) The construction 4 no. 3 bedroom mid-terrace dwellings (Type A2) D) The construction of 1 no. 4 bedroom detached dwelling (Type

B1), E) The construction 1 no. 3 bedroom end-of-terrace dwelling (Type B2), F) A modification to existing access road off the Millbrook Court road servicing Millbrook Villas and all associated services and site works.

22/1490 (ABP-316042-23): Planning permission was refused by KCC and upheld by An Coimisiún Pléanála on appeal for a change of use of existing building to residential use as constructed and all associated site works. The development is within the curtilage of a Protected Structure (NS 19-037). Reasons for refusal related to a lack of window openings and private amenity space.

Enforcement Case Files

UD8091: Alleged unauthorised retail/commercial use and all associated works. Warning Letter issued for this file. This file is active.

UD7665: Unauthorised residential use and all associated works. Warning Letter issued for this file. The file remains active.

Relevant Legislative Background

Primary Legislation: 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.*
>
> *'use' in relation to land, does not include the use of the land by the carrying out of any works thereon.*

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.*

Secondary Legislation: 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—

(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,

(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,

Schedule 2, Part 1

Class 20F	
Temporary use by or on behalf of the Minister for Children, Equality, Disability, Integration and Youth to accommodate or support displaced persons or persons seeking international protection of any structure or part of a structure used as a school, college, university, training centre, social centre, community centre, non-residential club, art gallery, museum, library, reading room, sports club or stadium, gymnasium, hotel, convention centre, conference centre, shop, office, Defence Forces barracks, light industrial building, airport operational building, wholesale warehouse or repository, local authority administrative office, play centre, medical and other health and social care accommodation, event and exhibition space or any structure or part of structure normally used for public worship or religious instruction.	1. The temporary use shall only be for the purposes of accommodating displaced persons or for the purposes of accommodating persons seeking international protection. 2. Subject to paragraph 4 of this class, the use for the purposes of accommodating displaced persons shall be discontinued when the temporary protection introduced by the Council Implementing Decision (EU) 2022/382 of 4 March 2022[1] comes to an end in accordance with Article 6 of the Council Directive 2001/55/EC of 20 July 2001[2]. 3. The use for the purposes of accommodating persons seeking international protection shall be discontinued not later than 31 December 2028. 4. Where the obligation to provide temporary protection is discontinued in accordance with paragraph 2 of this class, on a date that is earlier than 31 December 2028, the temporary use of any structure which has been used for the accommodation of displaced persons shall continue for the purposes

	of accommodating persons seeking international protection in accordance with paragraph 3 of this class. 5. The relevant local authority must be notified of locations where change of use is taking place prior the commencement of development. 6. 'displaced persons', for the purpose of this class, means persons to whom temporary protection applies in accordance with Article 2 of Council Implementing Decision (EU) 2022/382 of 4 March 2022. 7. 'international protection', for the purpose of this class, has the meaning given to it in section 2 (1) of the International Protection Act 2015 (No. 66 of 2015). 8. 'temporary protection', for the purpose of this class, has the meaning given to it in Article 2 of Council Directive 2001/55/EC of 20 July 2001."

Assessment

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.

Question 1 - Is it development?

The first question to address is whether or not:

1. Change of use of existing building for use as building for Class 20F of Part 1 Schedule 2 of the regulations at Unit 3, Millbrook, Naas.

would constitute development in accordance with the provisions of the Planning and Development Act, 2000 (as amended).

The Act defines "development" as 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 3(1)) and defines "*'works' to include any act or operation of* construction*, excavation, demolition, extension, alteration, repair or renewal"*

Having regard to the description, describing a material change of use, where a material change of use is defined as development under Section 3(1) as *'the making of any material change in the use of any structures or other land'* of the Primary

Legislation, it is therefore, deemed that the material change of use would therefore constitute **development.**

Furthermore, the question which is the subject of this declaration request would comprise construction works to upgrade the structure(s) to habitable units and is therefore deemed to constitute development under the definition of **works.**

Question 2 - Is it or is it not exempted development?

Is the development of:

1. Change of use of existing building for use as building for Class 20F of Part 1 Schedule 2 of the regulations at Unit 3, Millbrook, Naas.

exempted development?

Primary Legislation

The question specifically asks if the change of use **under Class 20F** of Part 1 Schedule 2 of the Planning and Development Regulations 2001, as amended is exempt. Notwithstanding this, in the interest of a full and thorough assessment Sections 4 and 5 of the Primary legislation have been reviewed. In this instance there are no exemptions under these sections.

Secondary Legislation

Class 20F of Part 1, of Schedule 2 of the Planning and Development Regulations entitled- '*Exempted Development – General'* applies to the question being asked and this exemption is subject to the limitations and conditions set out in the second column of Class 20F.

Class 20F	**Conditions and Limitations**
Temporary use by or on behalf of the Minister for Children, Equality, Disability, Integration and Youth to accommodate or support displaced persons or persons seeking international protection of any structure or part of a structure used as a school, college, university, training centre, social centre, community centre, non-residential club, art gallery, museum, library, reading room, sports club or stadium, gymnasium, hotel, convention centre, conference centre, shop, office, Defence Forces barracks, light industrial building, airport operational building, wholesale	1. The temporary use shall only be for the purposes of accommodating displaced persons or for the purposes of accommodating persons seeking international protection. 2. Subject to paragraph 4 of this class, the use for the purposes of accommodating displaced persons shall be discontinued when the temporary protection introduced by the Council Implementing Decision (EU) 2022/382 of 4 March 2022[1] comes to an end in accordance with Article 6 of the Council Directive 2001/55/EC of 20 July 2001[2] 3. The use for the purposes of accommodating persons seeking international protection shall be

warehouse or repository, local authority administrative office, play centre, medical and other health and social care accommodation, event and exhibition space or any structure or part of structure normally used for public worship or religious instruction.	discontinued not later than 31 December 2028. 4. Where the obligation to provide temporary protection is discontinued in accordance with paragraph 2 of this class, on a date that is earlier than 31 December 2028, the temporary use of any structure which has been used for the accommodation of displaced persons shall continue for the purposes of accommodating persons seeking international protection in accordance with paragraph 3 of this class. 5. The relevant local authority must be notified of locations where change of use is taking place prior the commencement of development. 6. 'displaced persons', for the purpose of this class, means persons to whom temporary protection applies in accordance with Article 2 of Council Implementing Decision (EU) 2022/382 of 4 March 2022. 7. 'international protection', for the purpose of this class, has the meaning given to it in section 2 (1) of the International Protection Act 2015 (No. 66 of 2015). 8. 'temporary protection', for the purpose of this class, has the meaning given to it in Article 2 of Council Directive 2001/55/EC of 20 July 2001."

The Applicant is seeking an exemption under S.I No. 376 of 2023 Planning and Development (Exempted Development) (No. 4) Regulations 2023 for the change of use of the existing structure for those seeking international protection.

A review of the planning history indicates that permission was granted for a change of use under Reg. Ref. 14/1115 to a carpet showroom. This planning permission was not taken up and the documentation submitted with this application does not clarify what the change of use was from. In this instance, the existing use of the structure has not been established.

The existing use of the structure on site is unknown and the question asked as part of this application specifically relates to a change of use of existing building for use as building for Class 20F. However, due to insufficient information within this subject declaration application regarding the existing use of the structure and the above assessment of the planning history, it cannot be determined what the use of the structure is being changed from. Accordingly, the proposal cannot be assessed under Class 20F, of the Planning and Development Regulations 2001, (as amended), as it

has not been demonstrated that the development relates to a qualifying structure for the purposes of this class.

Notwithstanding the above, in the event that the use of the structure is considered to fall within the uses listed under Class 20F of the Planning and Development Regulations 2001, (as amended), then the proposed change of use may be considered to be exempted development, pending a full assessment against the restrictions outlined in Article 9 of the Planning and Development Regulations 2001, (as amended) and all other relevant sections. It is therefore considered relevant to consider these at this stage in the interest of a thorough assessment.

Article 6(1) applies in this instance:

> 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.

Under Article 9(1)(a)(vii) and (viii) the following restrictions are relevant to this site;

> *(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,

The site is located within the curtilage of Millbrook House which is a Protected Structure (NS 19-037), therefore there is a restriction on the exemptions under Article 9 (1)(a)(vii) as this declaration is sought for the change of use of existing building for use as building for Class 20F of Part 1 Schedule 2 of the regulations. This declaration seeks to make alterations to this historical structure and is therefore cannot be exempted development.

Furthermore, the following Article applies

> 9 (1)(a)*(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*****,**

UD7665 for the "unauthorised residential use and all associated works" relates to part of the site for which this declaration of exempted development is sought, a Warning Letter was issued on this file. This file remains active.

UD8091 for the "alleged unauthorised retail/commercial use and all associated works" relates to this site and a warning letter was also issued for this file and is also active therefore the restriction on exemption as outlined above applies in this case.

As a result of the two active enforcement cases, which are still live within the Enforcement Section of the Planning Department of Kildare County Council and the sites location within the curtilage of Millbrook House which is a Protected Structure, the restrictions on exemptions under Article 9 (1)(a)(vii) and (viii) apply in this case and this Exempted Development application for a 'change of use of existing building for use as building for Class 20F of Part 1 Schedule 2 of the regulations at Unit 3, Millbrook, Naas', is restricted from classes of exemption under Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended and is therefore not exempted.

Conclusion

Having regard to:

- Sections 2, 3, 4 and 5 of the Planning and Development Act 2000 (as amended),
- Articles 6 and 9 of the Planning and Development Regulations 2001 (as amended),
- Class 20(f) of Schedule 2, Part 1 of Article 6 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 not exempted development** as defined by the Planning and Development Act 2000 (as amended) and the Planning and Development Regulations 2001 (as amended).

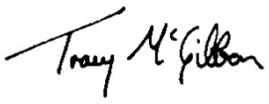
Recommendation

It is recommended that the applicant be advised that:

1. Change of use of existing building for use as building for Class 20F of Part 1 Schedule 2 of the regulations at Unit 3, Millbrook, Naas.

is *development and* ***is not*** *exempted development.*

Saidbh O'Grady
Assistant Planner
12th October 2026



Tracy McGibbon

Senior Executive Planner

13/10/2026

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 Change of use of existing building for use as building for Class 20F of Part 1 Schedule 2 of the regulations at Unit 3, Millbrook, Naas.

AS INDICATED on the plans and particulars received by the Planning Authority on 06/03/2025.

AND WHEREAS Fairgreen Properties Ltd 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:

- Sections 2, 3, 4 and 5 of the Planning and Development Act 2000 (as amended),
- Articles 6 and 9 of the Planning and Development Regulations 2001 (as amended),
- Class 20(f) of Schedule 2, Part 1 of Article 6 of the Planning and Development Regulations 2001 (as amended), and
- 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 -

1. Change of use of existing building for use as building for Class 20F of Part 1 Schedule 2 of the regulations at Unit 3, Millbrook, Naas.

IS development and IS NOT EXEMPTED development pursuant to Section (2, 3, 4 and 5) of the Planning and Development Act, 2000, as amended and Article 6, Article 9 of the Planning and Development Regulations, 2001, 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 Coimisiún Pleanála within 4 weeks of the issuing of the decision.

Appendix 1: Appropriate Assessment Screening

APPROPRIATE ASSESSMENT SCREENING REPORT
AND
DETERMINATION

(A) Project Details	
Planning File Ref	ED1201
Applicant name	Fairgreen Properties Ltd
Development Location	Unit 3, Millbrook, Naas, Co. Kildare
Site size	N/A
Application accompanied by an EIAR (Yes/NO)	No
Distance from Natura 2000 site in km	The application site is located approximately 8.2km west of Red Bog, Kildare SAC.
Description of the project/proposed development – Change of use of existing building for use as building for Class 20F to Part 1 of Schedule 2 of the 2001 regulations.	

(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.** Sites to consider: River Barrow and Nore, Rye Water/Carton Valley, Pollardstown Fen, Ballynafagh lake	*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?*	No
2	**Impacts on sites designated for wetland habitats - bogs, fens, marshes and heath.** Sites to consider: River Barrow and Nore, Rye	*Is the development within a Special Area of Conservation whose qualifying interests include wetland habitats (bog, marsh, fen or*	No

	Water/Carton Valley, Pollardstown Fen, Mouds Bog, Ballynafagh Bog, Red Bog, Ballynafagh Lake	*heath), or within 1 km of same?*	
3	**Impacts on designated terrestrial habitats.** Sites to consider: River Barrow and Nore, Rye Water/Carton Valley, Pollardstown Fen, Ballynafagh Lake	*Is the development within a Special Area of Conservation whose qualifying interests include woodlands, dunes or grasslands, or within 100m of same?*	No
4	**Impacts on birds in SPAs** Sites to consider: Poulaphouca Resevoir	*Is the development within a Special Protection Area, or within 5 km of same?*	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 *Selected relevant category for project assessed by ticking box.*		
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)
Having regard to the scale and nature of the proposed works, it is not considered that there will be any impact on the nearest SAC.

Name:	Saidbh O'Grady
Position:	Assistant Planner
Date:	12/10/2026

COMHAIRLE CONTAE CHILL DARA

KILDARE COUNTY COUNCIL

Director of Services Order

I, Alan Dunney, Director of Services of Planning, Enterprise & Economic Development, by the powers conferred on the Chief Executive of Kildare County Council under Section 151 of the Local Government Act 2001, as amended by the Local Government Reform Act 2014, and which powers are delegated to me pursuant to Section 154 of the Local Government Act 2001 (as amended) by Chief Executive's Order number: CE63325, do hereby make the following Order:

ORDER NO: DO68361 **Section:** Planning

SUBJECT: ED/1201
Fairgreen Properties Ltd C/O Derek Whyte, Great Connell, Newbridge, Co Kildare Exempt Development Application for change of use of existing building for use as a building for Class 20F of Part 1 Schedule 2 of the Planning and Development Regulations 2001 (as amended) at Unit 3, Millbrook, Naas, Co Kildare

SUBMITTED: File Ref. ED1201 with recommendation from the Senior Executive 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 Not exempted development.

MADE THIS 13th DAY

OF OCTOBER YEAR 2026.

SIGNED: Alan Dunney

DIRECTOR OF SERVICES

Comhairle Contae Chill Dara
Kildare County Council

Date: 5th October 2026.
Our Ref: ED/1201.

Fairgreen Properties Ltd,
c/o Derek Whyte,
Great Connell,
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 Unit 3 Millbrook, Naas, Co. Kildare.

Dear Sir/Madam,

I refer to your application for a Declaration of Exempted Development under Section 5 of Planning and Development Act 2000 (as amended) recorded as received in this office on 06th March 2025 in connection with the above.

I apologise for the delay in issuing a determination for this application.

Please confirm if you still require a determination or if you wish to close the application and receive a refund of fees paid.

Yours sincerely,

pp
Senior Executive Officer,
Planning Department.

Kildare County Council

Declaration of Exempt Development under Section 5, of the Planning and Development Act 2000 as amended

Incomplete application forms will be deemed invalid and returned

All responses must be in block letters

Section 1	Details of Applicants

1. Name of Applicant(s) A. Surname **FAIRGREEN PROPERTIES LTD**
Phone No [redacted] Fax No

2. Address: **UNIT 3 MILLBROOOK, NAAS, CO. KILDARE.**

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

1. Name of Person/Agent: Surname **WHYTE** Forename **DEREK**
Phone No [redacted] Fax No
2. Address GREAT CONNELL, NEWBRIDGE, CO. KILDARE.

Kildare County Council Planning Department - 6 FEB 2025 RECEIVED

Section 3	Company Details (if applicable)

1. Name of Company **FAIRGREEN PROPERTIES LTD**
Phone No [redacted]
2. Company Reg. No **591795**

3. Address **No.8 CASTLE STREET, BRAY, CO. WICKLOW**

Section 4	Details of Site

1. Planning History of Site **NO PLANNING HISTORY, PRE 1963 BUILDING**

2. Location of Proposed Development **UNIT 3 MILLBROOOK, NAAS, CO. KILDARE.**

3. Ordnance Survey Sheet No **3559-07, 3559--08**

4. Please state the Applicants interest in the site **OWNER**

Kildare County Council Planning Department - 6 MAR 2025 RECEIVED

5. Please state the extent of the proposed development: **EXEMPT USE FOR CHANGE OF USE OF EXISTING BUILDING FOR USE AS BUILDING FOR CLASS 20F TO PART 1 OF SCHEDULE 2 OF THE 2001 REGULATIONS.**

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

STATUTORY INSTRUMENT 376 OF 2023 TITLED PLANNING AND DEVELOPMENT (EXEMPTED DEVELOPMENT) (NO. 4) REGULATIONS 2023 IS AN AMENDMENT TO THE 2001 REGULATIONS WHICH INSERTED A NEW CLASS 20F TO PART 1 OF SCHEDULE 2 OF THE 2001 REGULATIONS.

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

WE WOULD LIKE THE PLANNING AUTHORITY TO DETERMINE IF THE USE OF THE STRUCTURE IS EXEMPT FROM CHANGE OF USE FOR USE FOR IN ACCORADANCE WITH CLASS 20F TO PART 1 OF SCHEDULE 2 OF THE 2001 REGULATIONS (AS AMENDED) OF THE PLANNING AND DEVELOPMENT REGULATIONS.

WE DO NOT REQUIRE ANY DETERMINATION IN RELATION TO ANY STRUCTURAL WORKS, FIRE SAFETY REGULATIONS ETC AND WE WOULD WELCOME A DECISION MADE SOLELY ON SECTION 20F.

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)	X
2.	A Site Layout Plan (Scale 1:500) in full compliance with Article 23 of Planning and Development Regulations 2001 as amended	X
3.	Drawings of the development (Scale 1:50) in full compliance with Article 23 of Planning and Development Regulations 2001 as amended	X
4.	All drawings to differentiate between the original building, all extensions and proposed development	X
5.	Fee of 80 Euro	X

Kildare County Council
Planning Department
- 6 MAR 2025
RECEIVED

Kildare County Council
Planning Department
- 6 FEB 2025
RECEIVED

Derek Whyte
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Great Connell
Newbridge Co Kildare
Tel 086 6001194
info@derekwhyte.ie

Section 6	Declaration

I **IAN TALBOT (FIRGREEN PROPERTIES LTD)** 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: 4th March 2025.

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W h y t e Planning Consultants Ltd.
Great Connell, Newbridge, Co. Kildare. [redacted]

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EXPLANATORY PLANNING REPORT.

Applicant: FAIRGREEN PROPERTIES LTD

Development: Section 5 Application under the Planning and Development Regulations 2001(as amended)

Date: March 2025.

Introduction.

The submitter presents a site that is located at Unit 3 Millbrook, Naas, Co. Kildare. The building was previously used as a furniture store and warehouse and before that as a light industrial unit.

This building is of a structural quality capable of upgrading, renovating and re-purposing for use for the proposed accommodation.

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Planning History

The building is a pre-1963 structure. There is no planning history on the building.

Planning Legislation.

Development Plan.

The site is governed by the policies and provisions contained in the Kildare County Council Development Plan 2023-2029 hereafter referred to as the Development Plan. The site is zoned "K" – Commercial/ Residential Use.

Planning and Development Regulations 2001.

Article 6(2) of the Regulations provides that, subject to Article 9, specific classes of development shall be exempted development, provided that the development complies with any conditions and limitations in set out in column 2 of that relevant class.

Statutory Instrument 376 of 2023 titled Planning and Development (Exempted Development) (No. 4) Regulations 2023 is an amendment to the 2001 Regulations which inserted a new Class 20F to Part 1 of Schedule 2 of the 2001 Regulations. Class 20F is set out as follows:

Temporary use by or on behalf of the Minister for Children, Equality, Disability, Integration and Youth to accommodate or support displaced persons or persons seeking international protection of any structure or part of a structure used as a school, college, university, training centre, social centre, community centre, non-residential club, art gallery, museum, library, reading room, sports club or stadium, gymnasium, hotel, convention centre, conference centre, shop, office, Defence Forces barracks, **light industrial building**, airport operational building, **wholesale warehouse** or repository, local authority administrative office, play centre, medical and other health and social care accommodation, event and exhibition space or any structure or part of structure normally used for public worship or religious instruction

1. The temporary use shall only be for the purposes of accommodating displaced persons or for the purposes of accommodating persons seeking international protection.

2. Subject to paragraph 4 of this class, the use for the purposes of accommodating displaced persons shall be discontinued when the temporary protection introduced by the Council Implementing Decision (EU) 2022/382 of 4 March 20221 comes to an end in accordance with Article 6 of the Council Directive 2001/55/EC of 20 July 2001.

3. The use for the purposes of accommodating persons seeking international protection shall be discontinued not later than 31 December 2028.

4. Where the obligation to provide temporary protection is discontinued in accordance with paragraph 2 of this class, on a date that is earlier than 31 December 2028, the temporary use of any structure which has been used for the accommodation of displaced persons shall continue for the purposes of accommodating persons seeking international protection in accordance with paragraph 3 of this class.

5. The relevant local authority must be notified of locations where change of use is taking place prior the commencement of development.

6. 'displaced persons', for the purpose of this class, means persons to whom temporary protection applies in accordance with Article 2 of Council Implementing Decision (EU) 2022/382 of 4 March 2022.

7. 'international protection', for the purpose of this class, has the meaning given to it in section 2 (1) of the International Protection Act 2015 (No. 66 of 2015).

8. 'temporary protection', for the purpose of this class, has the meaning given to it in Article 2 of Directive 2001/55/EC of 20 July 2001.

Therefore SI.376 of 2023 can be applied to the site as the site was previously used for light industrial and wholesale warehouse use.

This legislation provides for the non-application of the Planning and Development Act 2000 (as amended) for certain classes of development including Article 3, class 2 which provides for development comprising residential accommodation, for displaced persons.

In relation to Article 9 restrictions, I consider that the development is not restricted by any item.

CONCLUSION.

We would respectfully suggest that Class 20F to Part 1 of Schedule 2 of the 2001 Regulations be applied to the change of use of the site and building.

Regards,

Planning Consultant

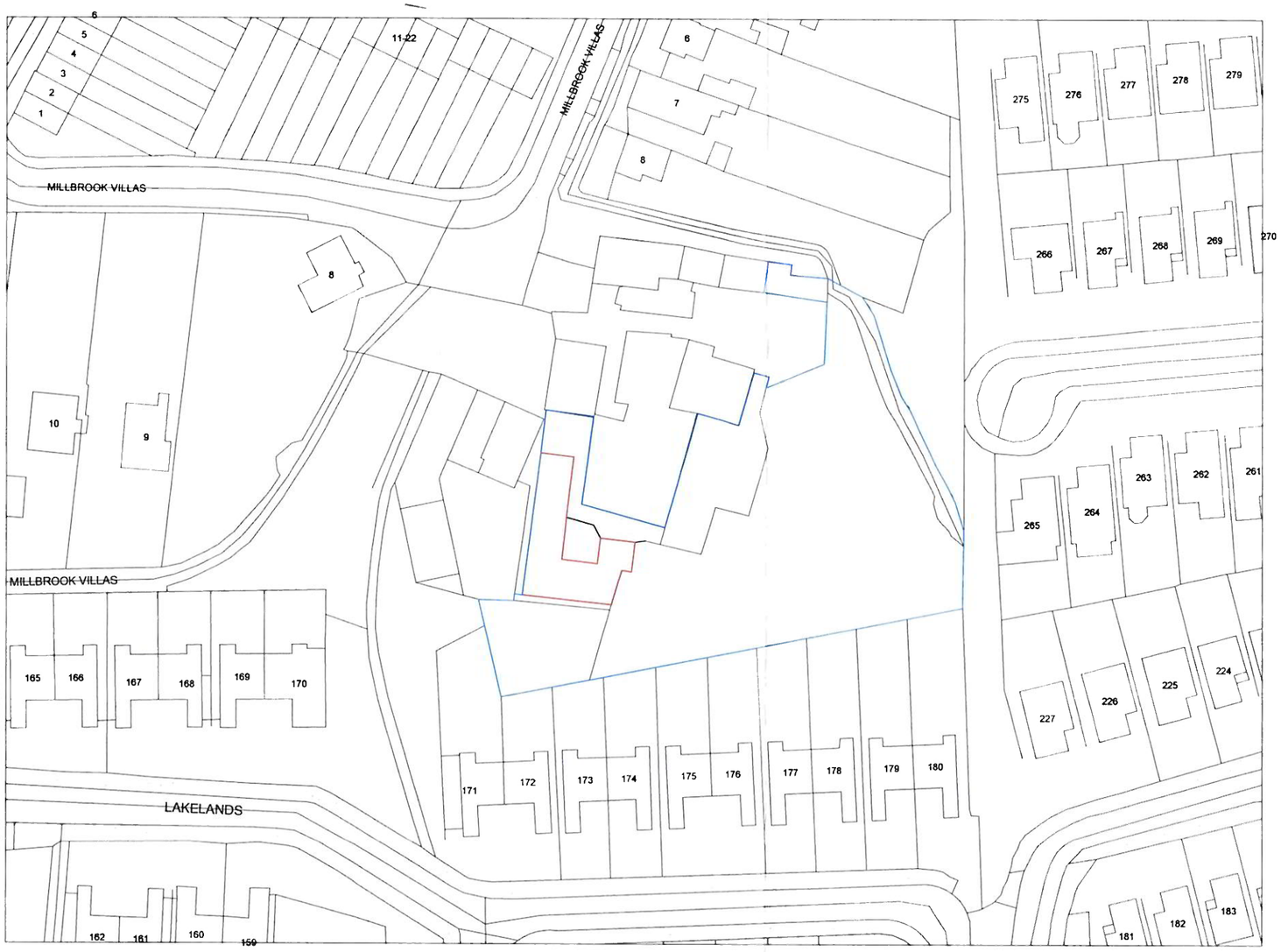
Cert Tech Eng. BEng. MSc Spatial Planning, Dip. Law, Dip. Planning and Environmental Law, MIEI, MIPI.

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PART V APPLICATION

SITE OUTLINED RED
OTHER LAND OWNED BLUE
OS SHEET No: 3559-07, 3559-08
OSi RECEIPT ATTACHED



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Prepared By:
Derek Whyte .
Cert. Tech. Engr. BEng MIEI. MSc Spatial Planning
[redacted]
Great Connell,
Newbridge,
Co.Kildare.
[redacted]

Client: Fairgreen Properties Ltd	Draft: SECT 5 APPLICATION
Project: Development at Unit 3 Millbrook, Naas, Co. Kildare. R91EC42	Drg. Type: SITE LOCATION MAP
Date: Feb 2025 / Scale: 1:1000.	Drg No: FP/PLN-001

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SECT 5 APP

SITE OUTLINED RED

OTHER LANDS OWNED BY APPLICANT

ADJAVCENT DEVELOPMENT

BUILDING TO BE USED FOR S20F
FFL: 100.000

EXISTING SURFACE WATER

EXISTING FOUL SEWER

PROPOSED OPEN SPACE
FFL: 100.000

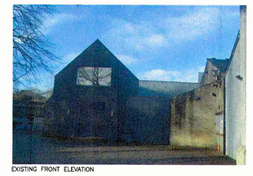
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Kildare County Council
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- 6 FEB 2025
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Prepared By:
Derek Whyte .
Cert Tech, Eng BEng MIEI, MSc Spatial Planning
[redacted]
Great Connell,
Newbridge,
Co. Kildare.
[redacted]

Client: Fairgreen Properties Ltd	Draft: IPAS SUBMISSION
Project: Development at Unit 3 Millbrook, Naas, Co. Kildare. R91EC42	Drg. Type: SITE LAYOUT PLAN
Date: Feb 2025	Scale: 1:500.
	Drg No: FP/PLN-002

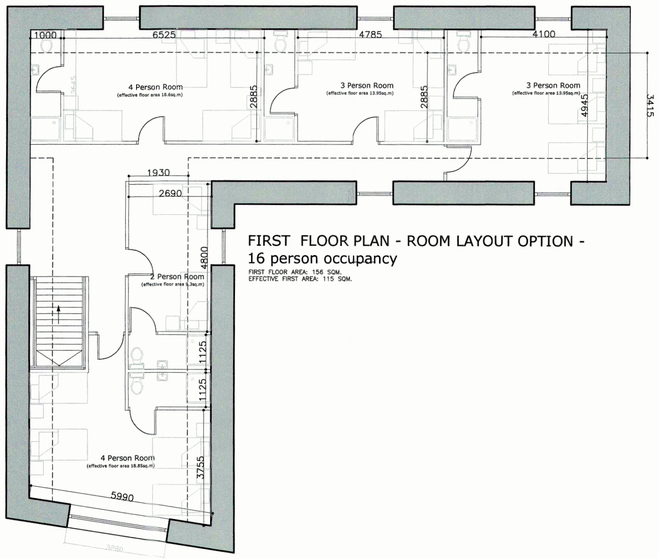
SECT 5 APPLICATION



EXISTING FRONT ELEVATION

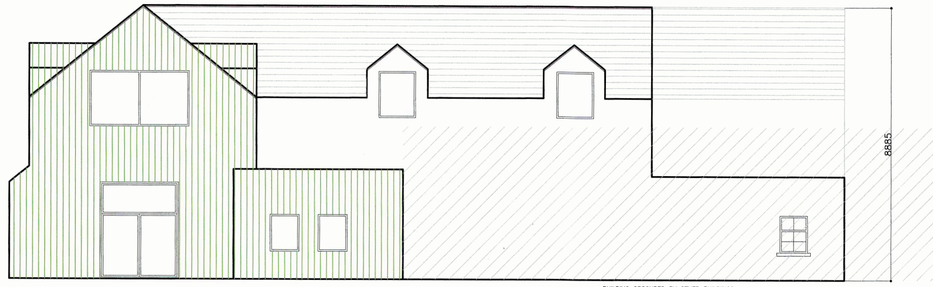
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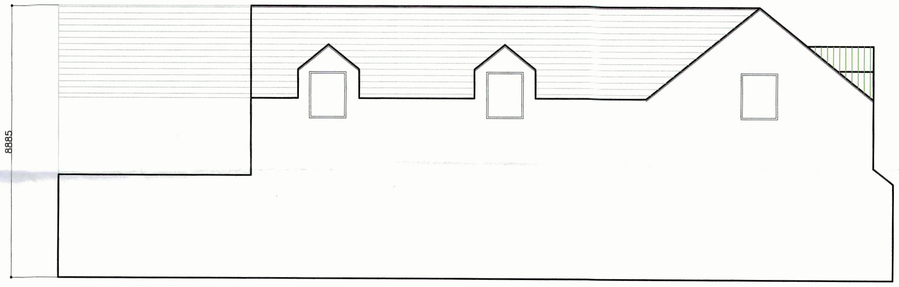
FIRST FLOOR PLAN - ROOM LAYOUT OPTION - 16 person occupancy

FIRST FLOOR AREA: 156 SQM.
EFFECTIVE FIRST AREA: 115 SQM.

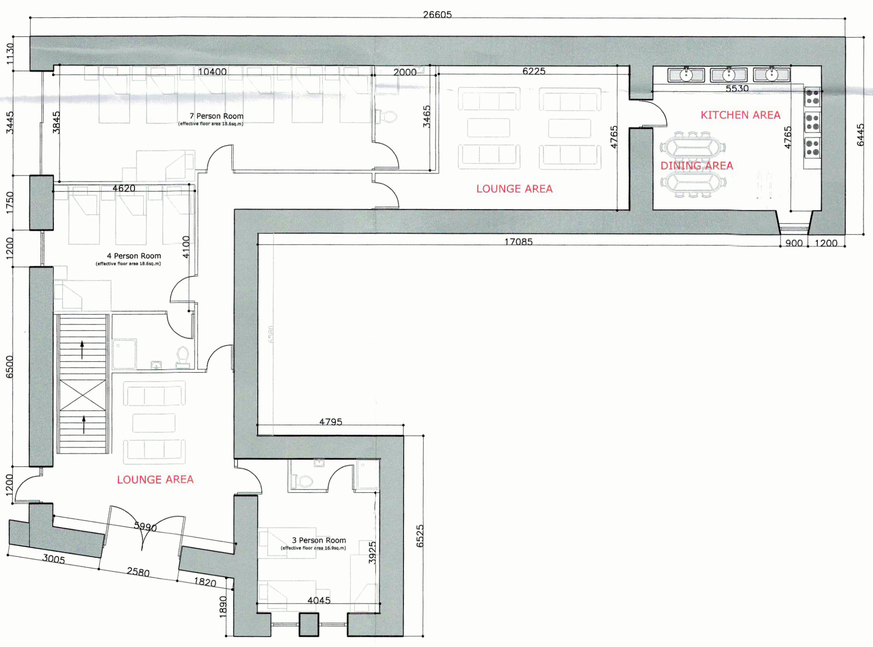


BUILDING OBSCURED BY OTHER BUILDINGS

FRONT ELEVATION

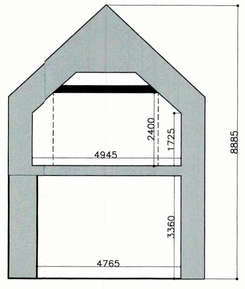


REAR ELEVATION



GROUND FLOOR PLAN - ROOM LAYOUT OPTION - 14 person occupancy

GROUND FLOOR AREA: 206 SQM.



SECTION



SIDE ELEVATION

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derek whyte
Cert Tech Eng BEng MIET MIPI MSc Spatial Planning
[redacted]
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Planning Consultant

Client: Fairgreen Properties Lts	Draft: SECT 5 APP
Project: Proposed development at Unit 3 Millbrook, Naas, Co. Kildare. W91EC42	Drg. Type: PLANS, ELEVATIONS and SECTION
Date: 17.02.25 / Scale: 1:100	Drg No: FP/PLN-003

FINANCE CASH OFFICE
Kildare County Council
Áras Chill Dara
Devoy Park
Naas
Co. Kildare
06/03/2025 12:15:47

Receipt No. : FIN1/0/509599

Fairgreen Properties Ltd

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

Total : 80.00 EUR

Tendered :
Money Order 80.00

Change : 0.00

Issued By : Sally Pallister Finance Section
From : Financial Lodgement Area
Vat reg No.0440571C