



Comhairle Contae Chill Mhantáin Wicklow County Council

**Pleanáil, Forbairt Eacnamaíochta agus Tuaithe
Planning, Economic and Rural Development**

Áras An Chontae / County Buildings
Cill Mhantáin / Wicklow
Guthán / Tel. (0404) 20148
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Suíomh / Website www.wicklow.ie

21 May 2025

David Mulcahy Planning Consultants Ltd
67 Old Mill Race
Athgarvan
Newbridge
Co. Kildare

RE: Declaration in accordance with Section 5 of the Planning & Development Acts 2000 (As Amended) – EX 54/2025

I enclose herewith Declaration in accordance with Article 5 (2) (A) of the Planning & Development Act 2000.

Where a Declaration is used under this Section any person issued with a Declaration under subsection (2) (a) may, on payment to An Bord Pleanála of such fee as may be prescribed, refer a declaration for review by the Board within four weeks of the date of the issuing of the declaration by the Local Authority.

Is mise, le meas,


**ADMINISTRATIVE OFFICER
PLANNING ECONOMIC & RURAL DEVELOPMENT**





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DECLARATION IN ACCORDANCE WITH ARTICLE 5 (2) (A) OF THE PLANNING & DEVELOPMENT ACT 2000 AS AMENDED

Applicant: Cedarglade Ltd

Location: Centra/Circle K, Church Road, Greystones, Co. Wicklow

Reference Number: EX54/2025

CHIEF EXECUTIVE ORDER NO. CE/PERD/2025/541

Section 5 Declaration as to whether “the replacement of underground fuel tanks and associated pipe works with new underground tanks and associated pipework” at Centra/Circle K, Church Road, Greystones, Co. Wicklow constitutes exempted development within the meaning of the Planning and Development Act, 2000(as amended).

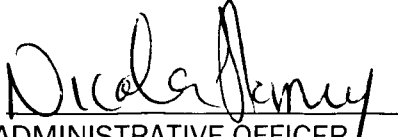
Having regard to:

- a) Details submitted with the Section 5 referral
- b) Planning Permissions Register Reference PRR 93/545 and PRR 92/8523
- c) Appeal Reference RL 3489, RL 2850 and RL 3069
- d) Sections 2 , 3 and 4 of the Planning and Development Act 2000 (as amended)

Main Reasons with respect to Section 5 Declaration:

- 1) The removal and replacement of existing Petrol/ Diesel Tanks and associated pipework would be works, and therefore development having regard to the definition as set out in Section 3 (1)(a) of the Planning and Development Act 2000(as amended).
- 2) No intensification of usage would arise as a result of the replacement of the tanks.
- 3) The works would come within the provisions of Section 4(1)(h) of the Planning and Development Act 2000 (as amended) as they would consist of the carrying out of works for the maintenance/ improvement of the existing petrol station, and would not have any impact on the externally appearance of the structure given the location underground and therefore would not materially affect the character of the petrol station.

The Planning Authority considers that “the replacement of underground fuel tanks and associated pipe works with new underground tanks and associated pipework” at Centra/Circle K, Church Road, Greystones, Co. Wicklow is development and is exempted development within the meaning of the Planning & Development Act 2000 (as amended).

Signed: 
ADMINISTRATIVE OFFICER
PLANNING ECONOMIC & RURAL DEVELOPMENT

Dated  21st May 2025



WICKLOW COUNTY COUNCIL
PLANNING & DEVELOPMENT ACTS 2000 (As Amended)
SECTION 5
CHIEF EXECUTIVE ORDER NO. CE/PERD/2025/543

Reference Number: EX54/2025

Name of Applicant: Cedarglade Ltd

Nature of Application: Section 5 Declaration request as to whether or not:-“the replacement of underground fuel tanks and associated pipe works with new underground tanks and associated pipework” is or is not development and is or is not exempted development.

Location of Subject Site: Centra/Circle K, Church Road, Greystones, Co. Wicklow

Report from Edel Bermingham, SEP

With respect to the query under section 5 of the Planning & Development Act 2000 as to whether “the replacement of underground fuel tanks and associated pipe works with new underground tanks and associated pipework” at Centra/Circle K, Church Road, Greystones, Co. Wicklow is or is not exempted development within the meaning of the Planning & Development Act 2000 (as amended).

Having regard to:

- a) Details submitted with the Section 5 referral
- b) Planning Permissions Register Reference PRR 93/545 and PRR 92/8523
- c) Appeal Reference RL 3489, RL 2850 and RL 3069
- d) Sections 2 , 3 and 4 of the Planning and Development Act 2000 (as amended)

Main Reason with respect to Section 5 Declaration:

- 1) The removal and replacement of existing Petrol/ Diesel Tanks and associated pipework would be works, and therefore development having regard to the definition as set out in Section 3 (1)(a) of the Planning and Development Act 2000(as amended).
- 2) No intensification of usage would arise as a result of the replacement of the tanks.
- 3) The works would come within the provisions of Section 4(1)(h) of the Planning and Development Act 2000 (as amended) as they would consist of the carrying out of works for the maintenance/ improvement of the existing petrol station, and would not have any impact on the externally appearance of the structure given the location underground and therefore would not materially affect the character of the petrol station.

Recommendation:

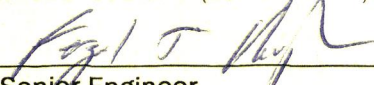
The Planning Authority considers that “the replacement of underground fuel tanks and associated pipe works with new underground tanks and associated pipework” at Centra/Circle K, Church Road, Greystones, Co. Wicklow is development and is exempted development as recommended in the report by the SEP.

Signed 

Dated 27th day of May 2025

ORDER:

I HEREBY DECLARE THAT “the replacement of underground fuel tanks and associated pipe works with new underground tanks and associated pipework” at Centra/Circle K, Church Road, Greystones, Co. Wicklow is development and is exempted development within the meaning of the Planning & Development Act 2000 (as amended).

Signed: 
Senior Engineer
Planning, Economic & Rural Development

Dated 27th day of May 2025

Section 5 Application EX 54/2025

Date : 23/5/2025

Applicant : Cedarglade Ltd.

Address : Centra/ Circle K, Church Road, Greystones, Co. Wicklow.

Exemption Whether or not :

the replacement of underground fuel tanks and associated pipe works with new underground tanks and associated pipework constitutes exempted development within the meaning of the Planning and Development Acts, 2000(as amended).

Relevant Planning History :

14/1028 Permission granted for off licence sales area (6sqm), to include the sale of beer, spirits, and wine, subsidiary to main retail use.

12/6094 Permission granted for two new single storey retail units (c.140sqm and c.165sqm respectively) attached to the existing petrol station building (c.240 sqm); relocation of existing car wash facility to the rear of the existing petrol filling station; provision of a single store.

11/4398 Permission granted for illuminated totem sign, 5 metres height

09/13 Permission granted for revisions to the scheme permitted by reference to Reg Ref 07/818 (PI 27.225488), Reg Ref 08/1191 and Reg Ref 08/1532

93/545 Permission granted for alteration of sales building and forecourt layout of approved service station development

92/8523 Permission granted for Demolition of Existing Petrol Station and provision of new petrol station, convenience storey, canopy signs, car wash, automatic cash dispensing machine and ancillary works.

Section 5 Declaration - ABP -316125-23 (EX 7/2023) (Decision Date 23/4/2024)

RL 3489

An Bord Pleanála has concluded that the installation of two underground fuel storage tanks of 40,000 litres capacity each and the decommissioning of an existing 28,000 litres tank could not be considered as being within the scope of section 4(1)(h) of the Planning and Development Act, 2000 as the new tanks are to be located in a different location to the tank which is being decommissioned and the existing tank is not being replaced but being left in situ, albeit that it is being taken out of use, and could not, therefore, be considered as works for the maintenance, improvement or other alteration of a structure.

RL2850 (2011)

An Bord Pleanála, in exercise of the powers conferred on it by section 5(4) of the 2000 Act, hereby decides that the said renovation of a service station at Woodstock Service Station, Woodstock Street, Athy, County Kildare is exempted development.

An Bord Pleanála has concluded that –

- (a) The removal of underground fuel storage tanks (20,000 litres) and the installation of two underground fuel storage tanks (30,000 litres) of limited scale, located underground, does not result in intensification of the site, does not raise new planning issues and comes within the scope of section 4(1)(h) of the Planning and Development Act, 2000;
- (b) The construction of a new drainage layout and services duct layout, on the basis of the evidence submitted, does not raise new planning issues and comes within the scope of section 4(1)(h) of the Planning and Development Act, 2000;
- (c) The erection of four number "Amber" signs and droplet logo signs on the stanchions of the canopy structure, which provide information about the relevant pump and which are smaller than the company logos previously permitted and generally comes within the scope of section 4(1)(h) of the Planning and Development Act, 2000;
- (d) The erection of new side cladding and three number "Amber" signs and droplet logos on the canopy structure, generally comes within the terms of the permitted development and the colour change of the canopy reflect the company colours in the same way that condition number 3 of TP/32/95 reflected the colour of the company for which the petrol filling station was applied for;
- (e) The erection of new cladding and the new logo "Diesel", "Petrol", "Costcutter" "Hotfood/Deli" and "Fresh Coffee" on the roadside double pole ID sign, are not out of character with the structure permitted and generally comes within the scope of section 4(1)(h) of the Planning and Development Act, 2000:

RL 3069

An Bord Pleanála, in exercise of the powers conferred on it by section 5 (3) (a) of the 2000 Act, hereby decides that the said removal of two oil tanks and their replacement with a larger tank at the site of an established fuel depot business at Marmullane, Pembroke, Passage West, Co. Cork is development and is exempted development.

- (a) the removal of two fuel tanks and their replacement with a single tank does not result in intensification of use of the site,
- (b) does not result in a material alteration of the external appearance of the site, and
- (c) does not raise new planning issues and comes within the scope of section 4(1)(h) of the Planning and Development Act, 2000

Relevant legislation :

Planning and Development Act 2000 (as amended)

"structure" means any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined, and—

(a) where the context so admits, includes the land on, in or under which the structure is situate, and

(b) in relation to a protected structure or proposed protected structure, includes—

- (i) the interior of the structure,
- (ii) the land lying within the curtilage of the structure,
- (iii) any other structures lying within that curtilage and their interiors, and
- (iv) all fixtures and features which form part of the interior or exterior of any structure or structures referred to in *subparagraph (i) or (iii)*;

"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 :

3.—(1) In this Act, "development" means, except where the context otherwise requires,

(a) the carrying out of any works in, on, over or under land, or the making of any material change in the use of any land or structures situated on land, or

(2) For the purposes of subsection (1) and without prejudice to the generality of that subsection—

(a) where any structure or other land or any tree or other object on land becomes used for the exhibition of advertisements, or

(b) where land becomes used for any of the following purposes—

- (i) the placing or keeping of any vans, tents or other objects, whether or not moveable and whether or not collapsible, for the purpose of caravanning or camping or habitation or the sale of goods,
 - (ii) the storage of caravans or tents, or
 - (iii) the deposit of vehicles whether or not usable for the purpose for which they were constructed or last used, old metal, mining or industrial waste, builders' waste, rubbish or debris,
- the use of the land shall be taken as having materially changed.

Section 4 :

- 4.— (1) The following shall be exempted developments for the purposes of this 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;

(4) Notwithstanding paragraphs (a), (i), (ia) and (l) of subsection (1) and any regulations under subsection (2), development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required.

(4A) Notwithstanding subsection (4), the Minister may make regulations prescribing development or any class of development that is—

- (a) authorised, or required to be authorised by or under any statute (other than this Act) whether by means of a licence, consent, approval or otherwise, and
(b) as respects which an environmental impact assessment or an appropriate assessment is required, to be exempted development.]

Submission :

2 underground fuel tanks with a cumulative capacity of 80,000l. Tanks over 25 years old and single skin. Intended to replace the existing 2 no. tanks with a like for like replacement involving 2 x 40,000 l tanks . Replacement tank will be located at the same location.

An Bord Pleanála References RL 2850, RL 3069 refer both concluded replacement of tanks exempted development as come within the scope of Section 4(1)(h) of the Planning and Development Act 2000 (as amended). Reference to Dun Laoghaire Exemption Declaration.

Indicated that site not located within or adjacent to any Natura 2000 site and there is no material risk to protected habitats in the Bray Head SAC or any other Natura 2000 site.

Assessment

The Section 5 application seeks a declaration as to whether the replacement of underground fuel tanks and associated pipe works with new underground tanks and associated pipework is or is not development and is or is not exempted development.

The replacement of the existing tanks would result in works of excavation and construction, and is therefore development having regard to the definition set out in Section 3(1) of the Planning and Development Act 2000(as amended).

From review of previous An Bord Pleanála Referrals it is identified that having regard to the definition of structure as set out in Section 2 of the Planning and Development Act 2000 (as amended) that the existing tanks , associate pipework and pumps would form one structure.

Section 4(1)(h) of the Act provides that

- (1) The following shall be exempted developments for the purposes of this 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;

From the details the existing tanks (permitted by reference to PRR 92/8533 & PRR 93/545) are to be replaced and their associated pipework, the location of the tanks and sizing will remain the same. Therefore the works would not give rise to any intensification of usage of the filling station. The works which are identified for improvement i.e. single skin tanks to double skin tanks, would given location underground not materially affect the external appearance of the petrol station. Therefore the works would come within the provisions of Section 4(1)(h) of the Planning and Development Act 2000 (as amended), and are therefore exempted development.

Note the site is not located within or adjoining any Natura 2000 site, and it not hydrologically connected to any Natura 2000 site, it is therefore concluded that the works would not on their own or in combination give rise to any negative impacts on any Natura 2000 site.

Recommendation :

With respect to the query under Section 5 of the Planning and Development Act 2000(as amended), as to whether

the replacement of underground fuel tanks and associated pipe works with new underground tanks and associated pipework at Centra/ Circle K, Church Road, Greystones, Co. Wicklow., Co. Wicklow

constitutes exempted development within the meaning of the Planning and Development Acts, 2000(as amended).

The Planning Authority consider that the replacement of underground fuel tanks and associated pipe works with new underground tanks and associated pipework **is Development and is Exempted Development**

Main Considerations with respect to Section 5 Declaration :

- a) Details submitted with the Section 5 referral
- b) Planning Permissions Register Reference PRR 93/545 and PRR 92/8523
- c) Appeal Reference RL 3489, RL 2850 and RL 3069
- d) Sections 2 , 3 and 4 of the Planning and Development Act 2000 (as amended)

Main Reasons with respect to Section 5 Declaration :

(i) The removal and replacement of existing Petrol/ Diesel Tanks and associated pipework would be works, and therefore development having regard to the definition as set out in Section 3 (1)(a) of the Planning and Development Act 2000(as amended).

(ii) No intensification of usage would arise as a result of the replacement of the tanks.

(iii) The works would come within the provisions of Section 4(1)(h) of the Planning and Development Act 2000 (as amended) as they would consist of the carrying out of works for the maintenance/ improvement of the existing petrol station, and would not have any impact on the externally appearance of the structure given the location underground and therefore would not materially affect the character of the petrol station.

St L. Longman

23/5/2025

*Issue declaration as recommended
Agd T Mij L se
29/05/25*



Comhairle Contae Chill Mhantáin Wicklow County Council

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MEMORANDUM

WICKLOW COUNTY COUNCIL

TO: Edel Bermingham
Senior Executive Planner

FROM: Nicola Fleming
Staff Officer

**RE:- Application for Certificate of Exemption under Section 5 of the
Planning and Development Acts 2000 (as amended).
EX54/2025**

I enclose herewith application for Section 5 Declaration received completed on 08/05/2025.

The due date on this declaration is 4th June 2025



Staff Officer
Planning, Economic & Rural Development





Comhairle Contae Chill Mhantáin Wicklow County Council

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13th May 2025

**David Mulcahy Planning Consultants Ltd
67 Old Mill Race
Athgarvan
Newbridge
Co. Kildare**

**RE: Application for Certificate of Exemption under Section 5 of the Planning and
Development Act 2000 (as amended). – EX54/2025 –**

A Chara

I wish to acknowledge receipt on 08/05/2025 details supplied by you in respect of the above
Section 5 application. A decision is due in respect of this application by 4th June 2025.

Mise, le meas

**Nicola Fleming
Staff Officer
Planning, Economic & Rural Development**



icola Fleming

From: David Mulcahy <david@planningconsultant.ie>
Sent: Thursday 8 May 2025 10:02
To: Planning - Planning and Development Secretariat
Subject: Section 5 Application Greystones
Attachments: P5006-C001.pdf; P5006-C002.pdf; P5006-C003.pdf; s.5 report Greystones.pdf; Section 5 application_2018.pdf

**External Sender - From: (David Mulcahy
<david@planningconsultant.ie>)**

This message came from outside your organisation.

CAUTION This email originated from outside Wicklow County Council. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Dear Sir/Madam

We act on behalf of Cedarglade Ltd who seek a section 5 declaration concerning the replacement of underground fuel tanks.

I attach the following:


- Section 5 Application form
- Planning Statement
- Site Location Map
- Existing Site Layout Plan
- Proposed Site Layout Plan

I trust this is in order

In terms of the **€80 fee** can you have someone ring me to pay same over the phone.

David Mulcahy, Ba (Mod), MRUP, MSc Urban Design.
David Mulcahy Planning Consultants Ltd
CHARTERED PLANNING CONSULTANTS

Tel: 0863504471/045405030

	DAVID MULCAHY
	PLANNING CONSULTANTS LTD
	67 The Old Mill Race, Athgarvan, Co. Kildare
	PH: 045 405030/086 350 44 71
	E-mail: david@planningconsultant.ie www.planningconsultant.ie
Company No: 493 133 Directors: D. Mulcahy & M. Mulcahy	

PLANNING REPORT

TO SUPPORT SECTION 5
APPLICATION FOR

REPLACEMENT OF UNDERGROUND FUEL TANKS

AT

**CENTRA / CIRCLE K SERVICE STATION, CHURCH ROAD,
GREYSTONES, CO. WICKLOW**

Client: Cedarglade Ltd

6th May 2025

1.0 INTRODUCTION

David Mulcahy Planning Consultants Ltd have been instructed by **Cedarglade Ltd** to prepare a planning report to support a section 5 application in relation to replacement of underground replacement fuel tanks at Centra / Circle K Service Station, Church Road, Greystones, Co. Wicklow.

A declaration is sought under Section 5 of the Planning and Development Act 2000 (as amended) from Wicklow County Council to establish:

"Whether the replacement of underground fuel tanks and associated pipework, with new underground fuel tanks and associated pipework at Centra / Circle K Service Station, Church Road, Greystones, Co. Wicklow is or is not development and is or is not exempted development".

This report will demonstrate that the proposed replacement of underground fuel tanks with new fuel tanks is development and is exempted development.

All bold and underlined italics are author's own.

2.0 SITE LOCATION & DESCRIPTION

2.1 Site Location

The subject site is located at the junction of Victoria Road and Church Road in Greystone - see Fig No.1 below.



Fig No.1: Site Location Map (source: Myplan.ie - OSI Licence No.EN 0080915).

2.2 Site Description

The subject site currently contains a fuel filling station with 2 no. underground fuel tanks south of the fuel pumps (not visible) with a combined capacity of 80,000l.

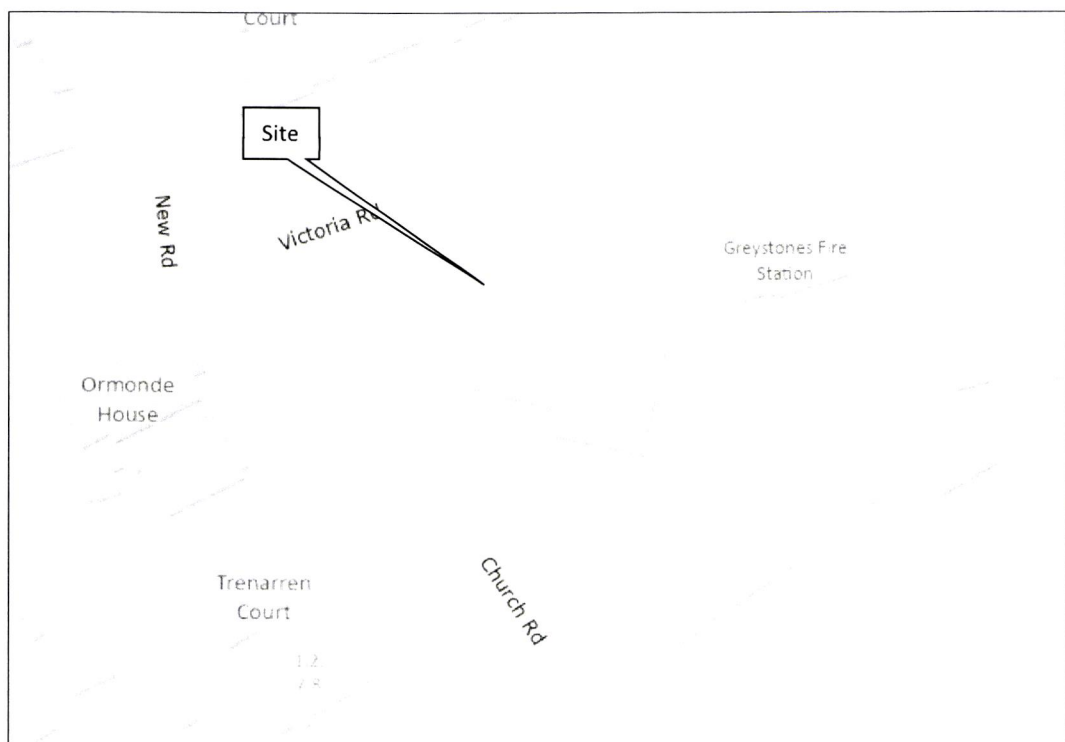


Fig No.2: Location of existing underground fuel tanks (source: Myplan.ie - OSI Licence No.EN 0080915).

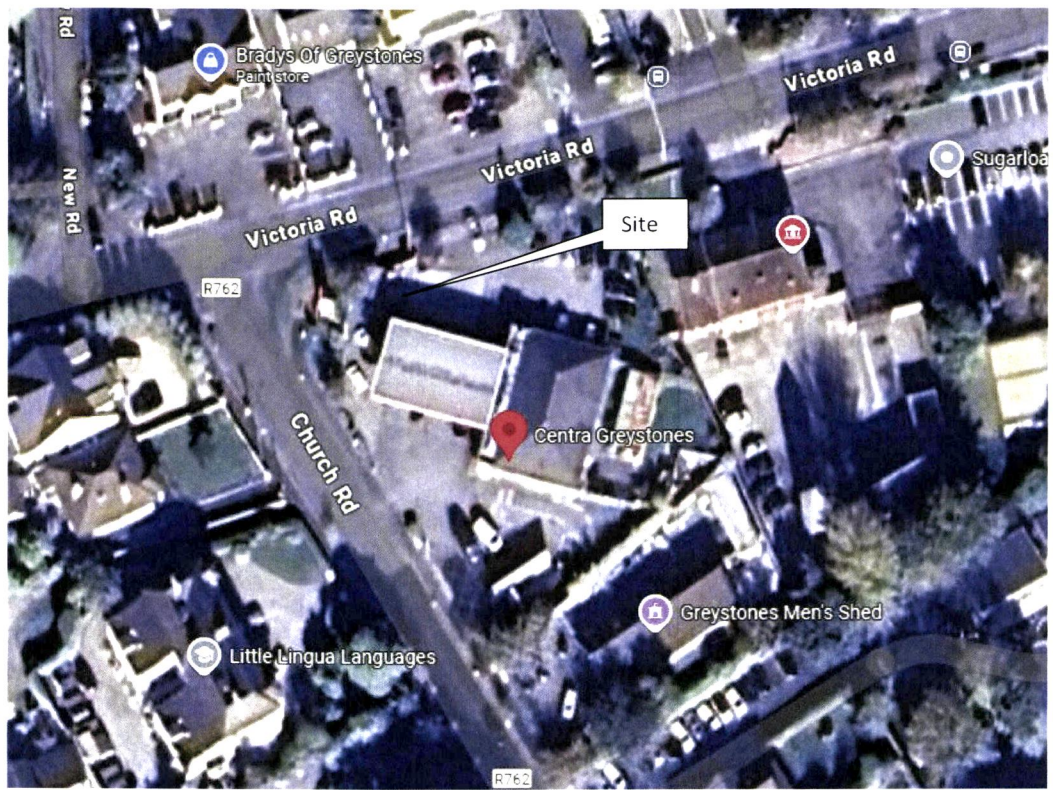


Fig No.3: Satellite image of the site – Google Maps.



Fig No.4: View of site from public road (source: Google Street View).

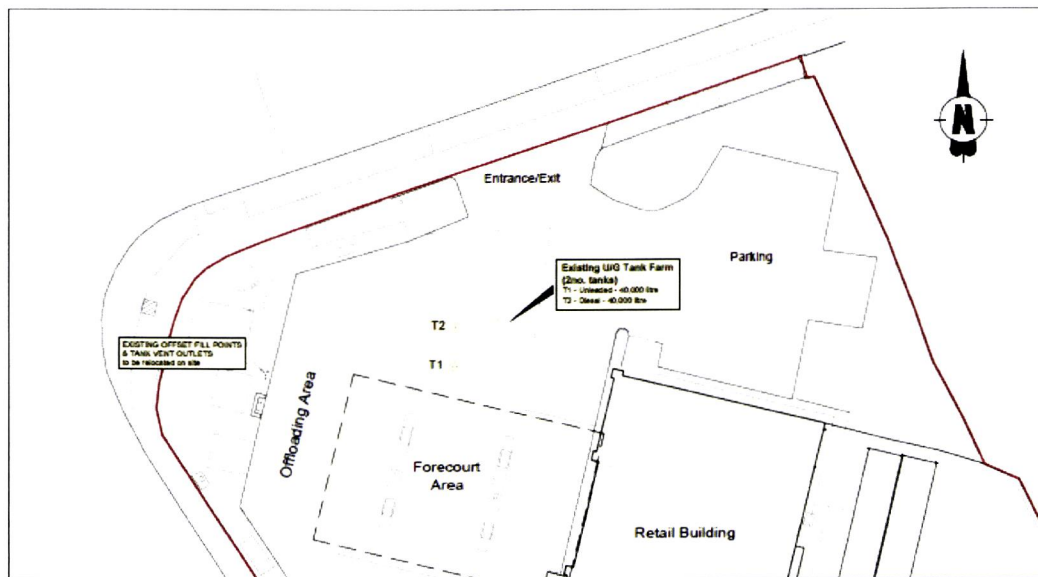


Fig No.5 Extract from site layout plan prepared by JA Gorman Consulting Engineers showing location of existing tanks.

3.0 PLANNING CONTEXT

3.1 Zoning

The site is zoned SLC - Small Local Centre -

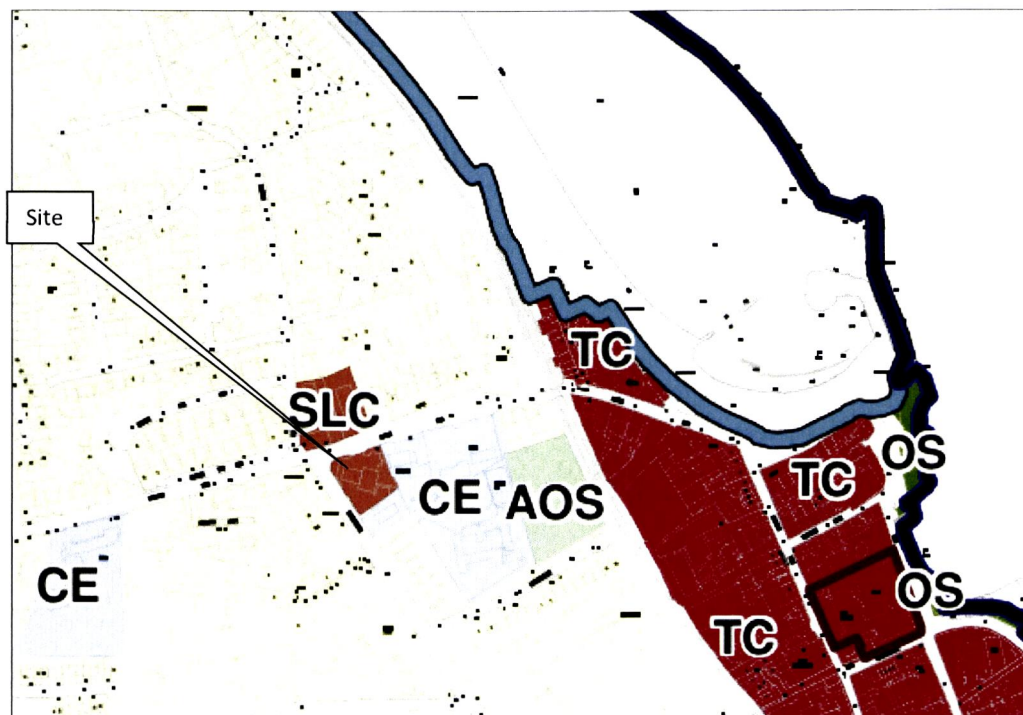


Fig No.X Extract from Greystones Delgany & Kilcoole Local Area Plan (Lap) 2013-2019

4.0 PLANNING HISTORY

4.1 Subject Site

There is a planning history relating to the subject site. Granted permissions include:

07818	Mixed use commercial and residential scheme
081191	Minor modifications

0913	Minor modifications
114398	Signage
141028	Off licence
126094	2 retail units attached to petrol station

5.0 DESCRIPTION

5.1 Introduction

At present there are 2 no. underground fuel tanks with a cumulative capacity of 80,000 litres.

The tanks are over 25 years old and single skin so it is best practice is to replace them.

The applicant intends to replace the existing 2 no. tanks with a like for like replacement involving 2 40,000l tanks - refer to JA Gorman Drawings where replacement tanks are identified.

The proposed replacement underground fuel tank will be located at the same location.

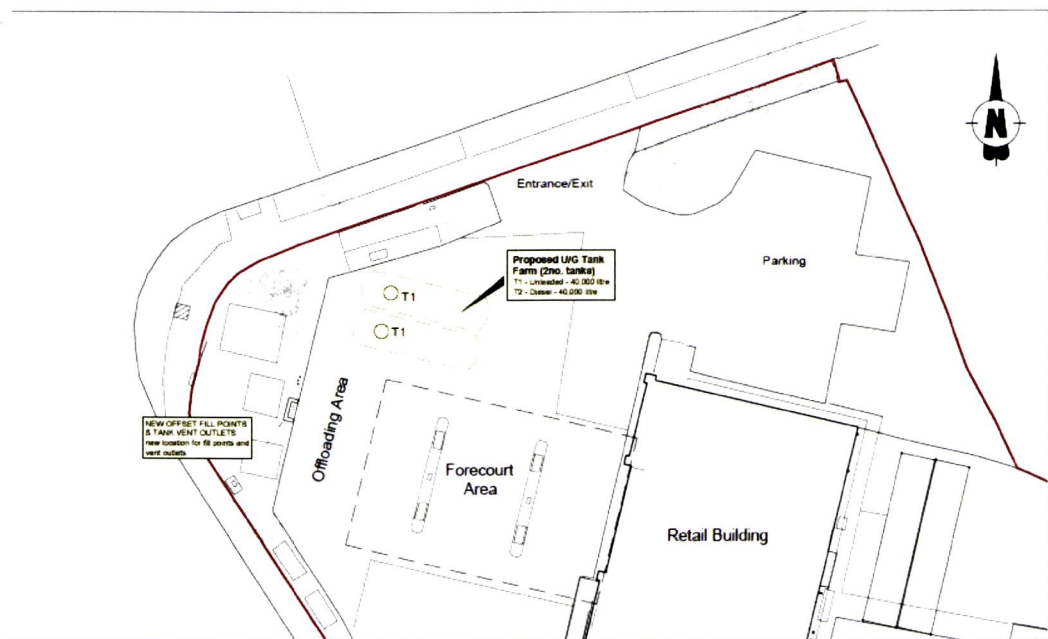


Fig No.6 Extract from site layout plan prepared by JA Gorman Consulting Engineers showing location of proposed tank.

6.0 RELEVANT LEGISLATION

6.1 Development

Section 3(1) of the Planning and Development Act, 2000 definitions:

'development' is *"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"*.

"structure" means *"any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined, and—*

(a) where the context so admits, includes the land on, in or under which the structure is situate"

"works" includes *"any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal"*.

6.2 Section 4 (1) (h) of the PDA,2000

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.

7.0 ESTABLISHED PRECEDENT

7.1 Introduction

The following precedents relating to underground fuel storage tanks are considered relevant.

7.2 Woodstock Service Station, Woodstock Street, Athy, County Kildare: ABP Ref: 35.RL.2850

Questions came before the Board as to whether the renovation of a service station to include:

1. **the removal of underground fuel storage tanks (20,000 litres) and the installation of two underground fuel storage tanks (30,000 litres);**
 2. the construction of a new drainage layout and services duct layout;
 3. the erection of four number "Amber" signs and droplet logo signs on the stanchions of the canopy structure;
 4. the erection of new side cladding and three number "Amber" signs and droplet logos on the canopy structure; and
 5. the erection of new cladding and the new logo "Diesel", "Petrol", "Costcutter" "Hotfood/Deli" and "Fresh Coffee" on the roadside double pole ID sign;
- at Woodstock Service Station, Woodstock Street, Athy, County Kildare, are or are not exempted development:

An Bord Pleanála, in considering this referral, had regard particularly to –

- (a) section 4 of the Planning and Development Act 2000, as amended,
- (b) articles 6, 9 and Part 2 of Schedule 2 to the Planning and Development Regulations 2001, and
- (c) the planning history of the site.

An Bord Pleanála concluded, inter alia, that -

- (a) The removal of underground fuel storage tanks (20,000 litres) and the installation of two underground fuel storage tanks (30,000 litres) of limited scale, located underground, does not result in intensification of the site, does not raise new planning issues and comes within the scope of section **4(1)(h) of the Planning and Development Act, 2000;**

Therefore An Bord Pleanála, decided that the said renovation of a service station at Woodstock Service Station, Woodstock Street, Athy, County Kildare is **exempted development**.

7.3 Passage West, County Cork: An Bord Pleanála Reference Number: 04.RL.3069

A question arose as to whether the **removal of two oil tanks of 2,500 litres and 3,000 litres capacity with their replacement with a 5,000 litre tank** at the site of an established fuel depot business at Marmullane, Pembroke, Passage West, County Cork is or is not development or is or is not exempted development.

An Bord Pleanála, in considering this referral, had regard particularly to –

- (a) sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- (b) articles 5, 6, and 9 of the Planning and Development Regulations, 2001, as amended, and
- (c) Class 21 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001:

An Bord Pleanála has concluded that -

- (a) the removal of two fuel tanks and their replacement with a single tank does not result in intensification of use of the site,
- (b) does not result in a material alteration of the external appearance of the site, and

-
- (c) does not raise new planning issues and comes **within the scope of section 4(1)(h) of the Planning and Development Act, 2000:**

An Bord Pleanála decided that the said removal of two oil tanks and their replacement with a larger tank at the site of an established fuel depot business at Marmullane, Pembroke, Passage West, Co. Cork is development and **is exempted development.**

7.4 Rochestown Avenue

We refer also to a decision by Dun Laoghaire Rathdown to declare the replacement of underground tanks as being exempted development.

Planning Department
Rannóg Pleanála
Registry Section
Clárán Carolan
Asst. Staff Officer
Direct Tel: 01 2054863

David Mulcahy
67, Old Mill Race
Athgarvan
Newbridge
Co Kildare

Reference No: Ref12421

Application Type: Declaration on Development and Exempted Development Act
– Section 5, Planning & Development Act (as amended)

Registration Date: 16-Sep-2021

Decision Date: 08-Oct-2021

Location: Texaco, Rochestown Service Station, Rochestown Avenue, Dun
Laoghaire, Co. Dublin, A96EK7

Development Works: Whether the replacement of 4 no underground
fuel storage tanks (cumulative capacity of 110000 litres) and underground fill
points with 3 no. new underground tanks of 120,000 litre tanks and underground
fill points at Texaco, Rochestown Service Station, Rochestown Avenue, Dun
Laoghaire, Co. Dublin, A96EK79 is or is not exempt development.

NOTIFICATION OF DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT

In pursuance of its functions under the Planning & Development Act, 2000 (as
amended), Dún Laoghaire-Rathdown County Council has, by Order
No. REF145/21 Dated 08-Oct-2021 decided to issue a Declaration pursuant to
Section 5 of the Planning & Development Act 2000 (as amended), to, David
Mulcahy 67, Old Mill Race, Athgarvan, Newbridge, Co Kildare that having regard
to:

- (a) Sections 2,3 and 4(1)(h) of the Planning and Development Act 2000, as
amended,
- (b) Article 6 and Article 9(1)(a) of the Planning and Development
Regulations, 2001 (as amended),
- (c) The plans and particulars lodged with this Section 5,
- (d) An Bord Pleanála RL2850 and RL3069,

the replacement of 4 no underground fuel storage tanks (cumulative capacity of
110000 litres) and underground fill points with 3 no. new underground tanks of
120,000 litre tanks and underground fill points at Texaco, Rochestown Service
Station, Rochestown Avenue, Dun Laoghaire, Co. Dublin, A96EK79, constitutes
development and constitutes exempted development.

Dated: 08-Oct-2021

Signed: Clárán Carolan
For Senior Executive Officer.

NOTE: Where a Declaration is issued under Section 5, any Person issued with such a
Declaration, may, on payment to An Bord Pleanála, 64, Marlborough Street, Dublin 1, of a
fee of €220, refer the Declaration for review, within 4 weeks of the date of issue of the
Declaration.

8.0 APPROPRIATE ASSESSMENT SCREENING

8.1 Requirement for Appropriate Assessment Screening

It is noted that Section 177U (9) of the PDA, 2000 (as amended) states that "*In deciding upon [a declaration or a referral under section 5] of this Act a planning authority or the Board, as the case may be, shall where appropriate, conduct a screening for appropriate assessment in accordance with the provisions of this section.]*".

The subject site is not situated within or adjacent to any Natura 2000 site. The closest Natura 2000 site **Bray Head SAC** is situated over **1km** from the site (see diagram below) and there is no direct pathway to same.

It is submitted therefore that there is no material risk to protected habitats in the Bray Head SAC or any other Natura 2000 site.

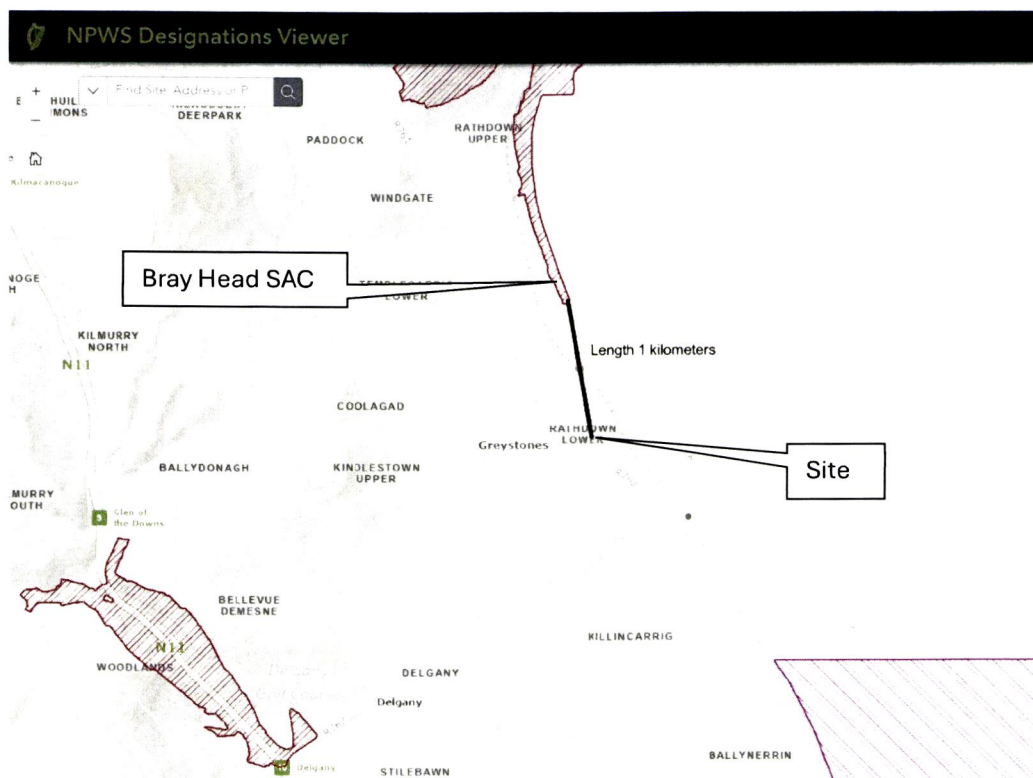


Fig. No.8 Location of site relative to Natura 2000 sites (source: EPA Mapping).

9.0 EXEMPTION

9.1 Introduction

The question before the Council is *"Whether the replacement of underground fuel tanks and associated pipework, with new underground fuel tanks and associated pipework at Centra / Circle K Service Station, Church Road, Greystones, Co. Wicklow is or is not development and is or is not exempted development"*.

Works

There is no dispute that the removal and installation of the underground tanks and associated pipework constitutes works; the key question is are they exempted development?

Exempt Development

Under Section 4 1 h of the PDA the key tests are as follows:

1. *Development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure,*

The replacement fuel tanks can reasonably be described as improvement (as more high spec replacement) or alteration of an existing structure – the structure being the established filling station infrastructure - of which the underground tanks and pipework form part of ie. they are directly connected to the fuel pumps and wider filling station.

The replacement tanks are at the exact same location as the original tanks.

-
2. *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.*

The replacement tanks will be located underground and will not be visible and therefore will not affect the character of the structure or any neighbouring structures.

Whilst it is fully accepted that every case is assessed on its own merits, due regard has to be had to the An Bord Pleanála decisions at Woodstock in Athy and Passage West, County Cork as well as the Dun Laoghaire Rathdown Section 5 Declaration.

In those cases the removal of underground fuel storage tanks and the installation of replacement storage tanks was not deemed to require planning permission by virtue of s.4 (1) (h) of the PDA, 2000, as amended.

10.0 CONCLUSION

The question before the Council is:

"Whether the replacement of underground fuel tanks and associated pipework, with new underground fuel tanks and associated pipework at Centra / Circle K Service Station, Church Road, Greystones, Co. Wicklow is or is not development and is or is not exempted development".

This report has demonstrated that the replacement of the underground fuel tanks and associated pipework is exempted development under s.4 (1) (h) of the PDA, 2000. The underground infrastructure being replaced forms part of the established structure, namely the filling station forecourt. The replacement of the underground infrastructure involves improvement/alteration of an existing structure.

There is established precedent for similar type development by An Bord Pleanála.

The Council are therefore requested to confirm the s.5 declaration that the works are **DEVELOPMENT AND ARE EXEMPTED DEVELOPMENT**.

SEPARATE ENCLOSURES

No.1 Drawings prepared by JA Gorman Consulting Engineers.

- i. OS Map with site outlined in red
- ii. Existing Site Plan showing existing underground tank and pipework
- iii. Proposed Site Plan showing replacement underground tank and pipework

Wicklow County Council
County Buildings
Wicklow
0404-20100

08/05/2025 10 41 23

Receipt No L1/0/345003
***** REPRINT *****

DAVID MULCAHY
67 OLD MILL RACE
ARTH GARVAN
NEWBRIDGE
CO KILDARE

PLANNING APPLICATION FEES	80 00
GOODS	80 00
VAT Exempt/Non-vatable	

Total	80 00 EUR
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Tendered	
Credit Card	80 00

Change	0 00
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**APPLICATION FORM FOR A
DECLARATION IN ACCORDANCE WITH SECTION 5 OF THE PLANNING &
DEVELOPMENT ACTS 2000(AS AMENDED) AS TO WHAT IS OR IS NOT
DEVELOPMENT OR IS OR IS NOT EXEMPTED DEVELOPMENT**

1. Applicant Details

- (a) Name of applicant: Cedarglade Ltd
Address of applicant: CENTRA / CIRCLE K SERVICE STATION, CHURCH
ROAD, GREYSTONES, CO. WICKLOW

Note Phone number and email to be filled in on separate page.

2. Agents Details (Where Applicable)

- (b) Name of Agent (where applicable) David Mulcahy Planning Consultants Ltd
Address of Agent : 67 Old Mill Race, Athgarvan, Newbridge, Co. Kildare

Note Phone number and email to be filled in on separate page.

3. Declaration Details

- i. Location of Development subject of Declaration CENTRA / CIRCLE K

SERVICE STATION, CHURCH ROAD, GREYSTONES, CO. WICKLOW

- ii. Are you the owner and/or occupier of these lands at the location under i. above ?
☒ Yes/ No.

- iii. If 'No' to ii above, please supply the Name and Address of the Owner, and or occupier _____

- iv. Section 5 of the Planning and Development Act provides that : If any question arises as to what, in any particular case, is or is not development and is or is not exempted development, within the meaning of this act, any person may, on payment of the prescribed fee, request in writing from the relevant planning authority a declaration on that question. You should therefore set out the query for which you seek the Section 5 Declaration _____
"Whether the replacement of underground fuel tanks and associated pipework, with new underground fuel tanks and associated pipework at Centra / Circle K Service Station, Church Road, Greystones, Co. Wicklow is or is not development and is or is not exempted development".

Additional details may be submitted by way of separate submission.

- v. Indication of the Sections of the Planning and Development Act or Planning Regulations you consider relevant to the Declaration _____
s.41h

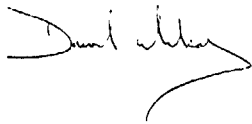
Additional details may be submitted by way of separate submission.

- vi. Does the Declaration relate to a Protected Structure or is it within the curtilage of a Protected Structure (or proposed protected structure) ? No

vii. List of Plans, Drawings submitted with this Declaration Application _____

- i. OS Map with site outlined in red
- ii. Existing Site Plan showing existing underground tank and pipework
- iii. Proposed Site Plan showing replacement underground tank and pipework

viii. Fee of € 80 Attached ? _____ Paid via phone _____



Signed : _____ Dated : 6.5.2025 _____

Additional Notes :

As a guide the minimum information requirements for the most common types of referrals under Section 5 are listed below :

- A. Extension to dwelling - Class 1 Part 1 of Schedule 2
 - Site Location Map
 - Floor area of structure in question - whether proposed or existing.
 - Floor area of all relevant structures e.g. previous extensions.
 - Floor plans and elevations of relevant structures.
 - Site Layout Plan showing distance to boundaries, rear garden area, adjoining dwellings/structures etc.
- B. Land Reclamation -

The provisions of Article 8 of the Planning and Development Regulations 2001 (as amended) now applies to land reclamation, other than works to wetlands which are still governed by Schedule 2, Part 3, Class 11. Note in addition to confirmation of exemption status under the Planning and Development Act 2000(as amended) there is a certification process with respect to land reclamation works as set out under the European Communities (Environmental Impact Assessment) (Agriculture) Regulations 2011 S.I. 456 of 2011. You should therefore seek advice from the Department of Agriculture, Fisheries and Food.

Any Section 5 Declaration should include a location map delineating the location of and exact area of lands to be reclaimed, and an indication of the character of the land.

C. Farm Structures - Class 6 -Class 10 Part 3 of Schedule 2.

- Site layout plan showing location of structure and any adjoining farm structures and any dwellings within 100m of the farm structure.
- Gross floor area of the farm structure
- Floor plan and elevational details of Farm Structure and Full details of the gross floor area of the proposed structure.
- Details of gross floor area of structures of similar type within the same farmyard complex or within 100metres of that complex.

Planning Pack Map



**Tailte
Éireann**

**CENTRE
COORDINATES:**
ITM 729043,712741

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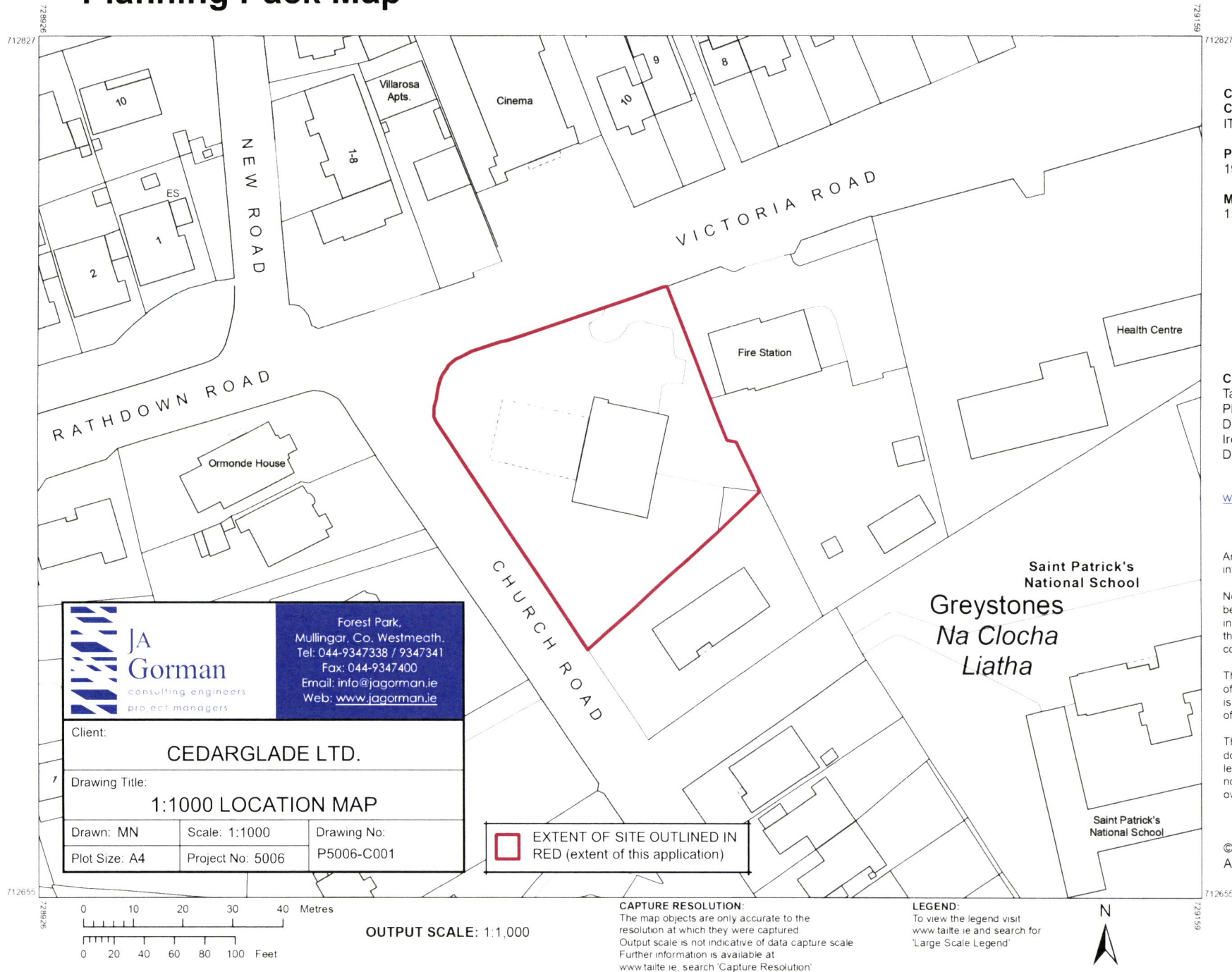
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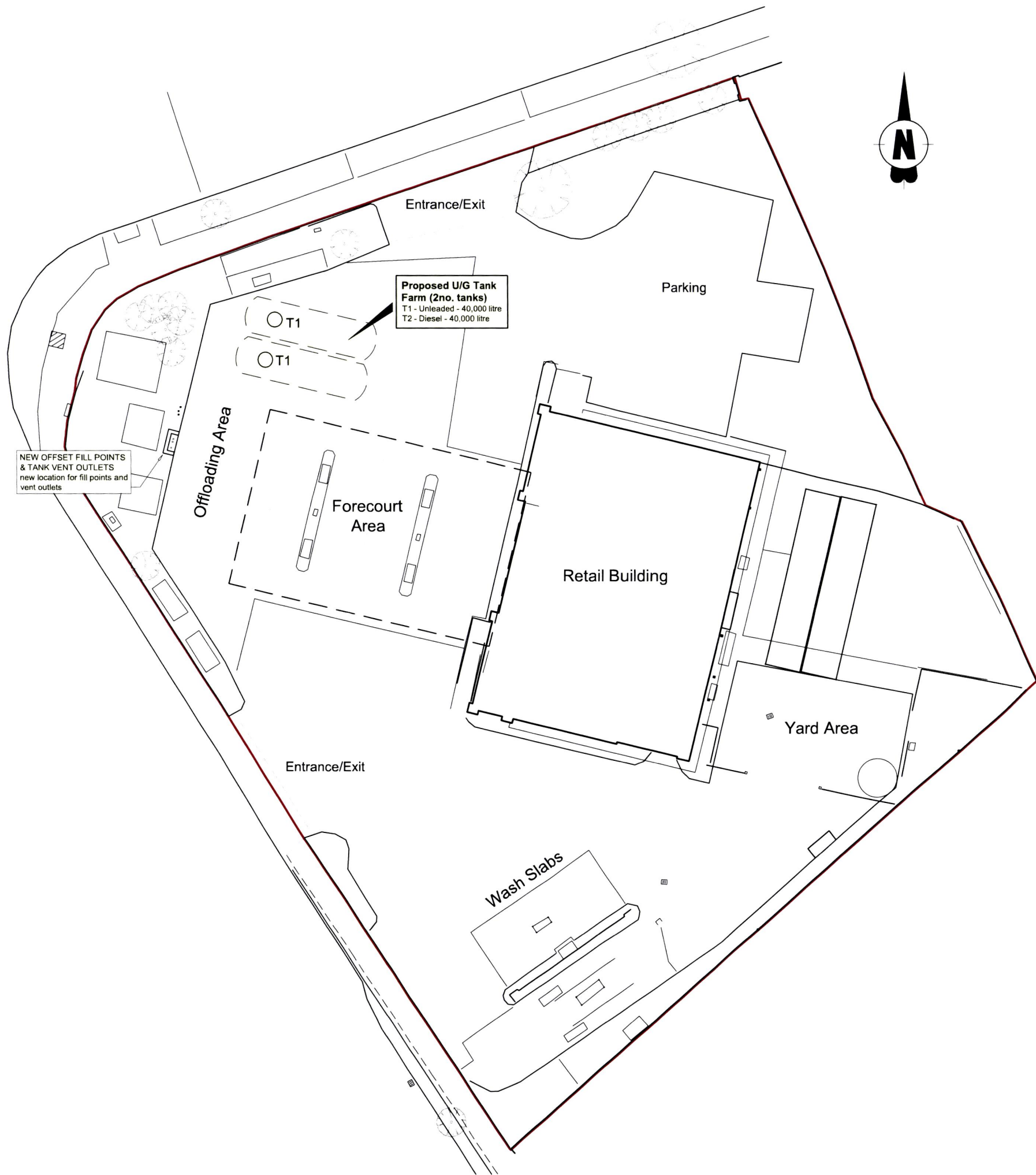
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- GENERAL NOTES:**
- Written dimensions take precedent over scaled dimensions
 - All dimensions are in metres (m) unless noted otherwise
 - Any discrepancies found on this drawing should be immediately reported to the engineers
 - This drawing is to be read in conjunction with all relevant engineers drawings, specifications and contract documents
 - All works are to be in accordance with the relevant and current Health and Safety legislation
 - Specification of the works to be to the appropriate Irish standard of the equivalent British standard

-	MN	AOD	JG	PLANNING ISSUE	APR.25
Rev	Drawn	Chkd	Appd	Description	Date

SECTION 5 APPLICATION



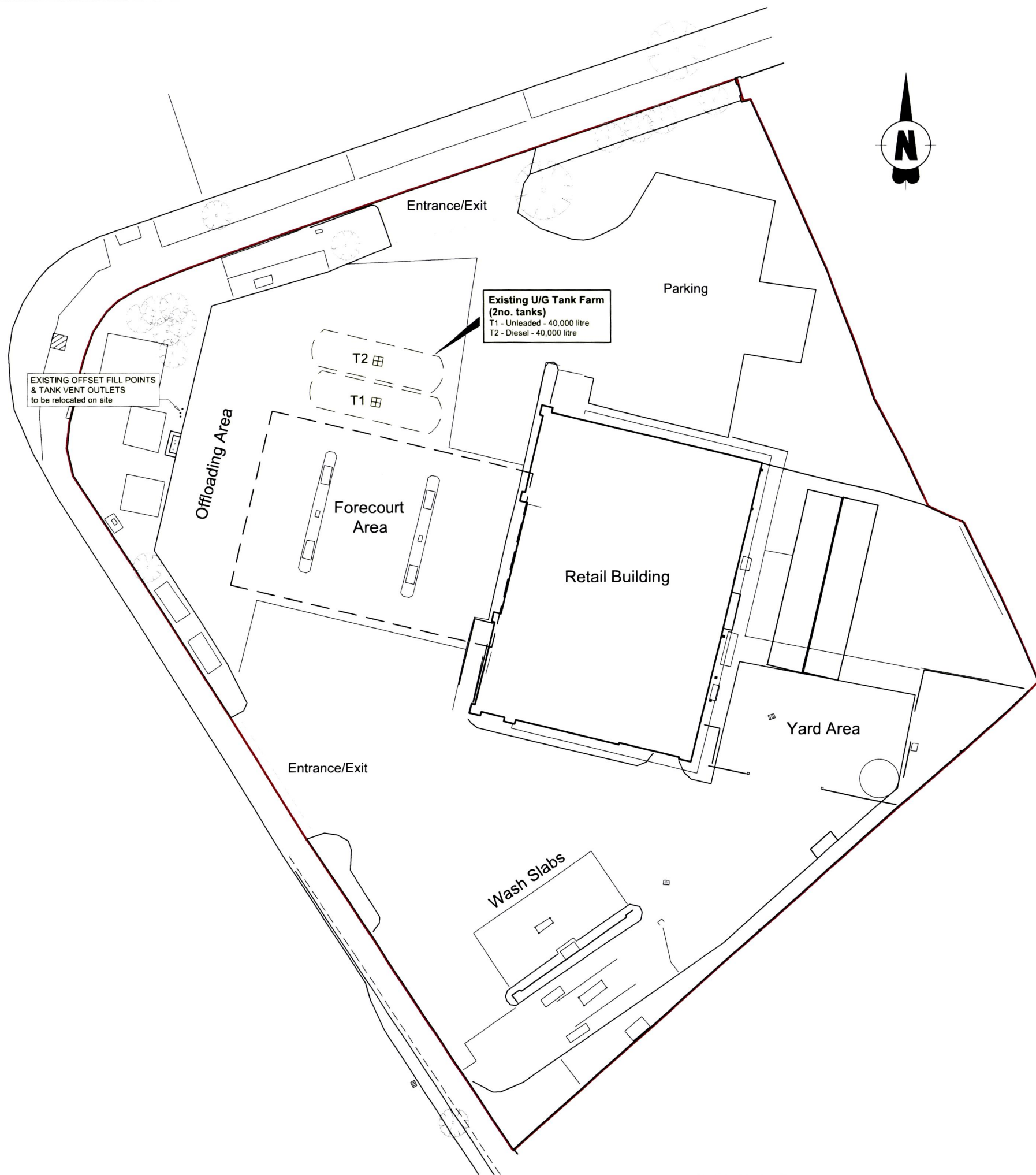
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Web: www.jagorman.ie

CLIENT:
CEDARGLADE LTD.

PROJECT TITLE:
**PROPOSED SERVICE STATION
WORKS AT CENTRA GREYSTONES**

DRAWING TITLE:
PROPOSED SITE PLAN

PLOT SIZE: A2	PLOT SCALE: 1:200	DRAWN BY: MN
PROJECT No: 5006	DRAWING No: P5006-C003	REV: -



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-	MN	AOD	JG	PLANNING ISSUE	APR.25
Rev	Drawn	Chkd	Appd	Description	Date

SECTION 5 APPLICATION



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CLIENT:
CEDARGLADE LTD.

PROJECT TITLE:
**PROPOSED SERVICE STATION
WORKS AT CENTRA GREYSTONES**

DRAWING TITLE:
EXISTING SITE PLAN

PLOT SIZE: A2	PLOT SCALE: 1:200	DRAWN BY: MN
PROJECT No: 5006	DRAWING No: P5006-C002	REV: -