



# Comhairle Contae Chill Mhantáin Wicklow County Council

**Forbairt Pleanála agus Comhshaol  
Planning Development and Environment**

Áras An Chontae / County Buildings  
Cill Mhantáin / Wicklow  
Guthán / Tel: (0404) 20148  
Faics / Fax: (0404) 69462  
Rphost / Email: [plandev@wicklowcoco.ie](mailto:plandev@wicklowcoco.ie)  
Suíomh / Website: [www.wicklow.ie](http://www.wicklow.ie)

**PACC  
Unit S2  
Enterprise Centre  
Wicklow Town**

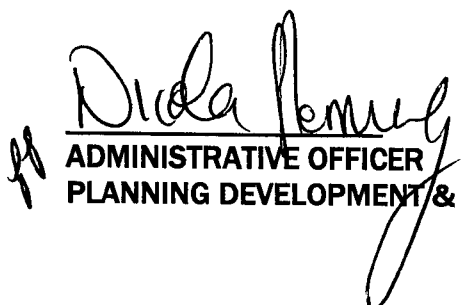
31<sup>st</sup> January 2024

**RE: Declaration in accordance with Section 5 of the Planning & Development Acts 2000 (As Amended) – EX02/2024**

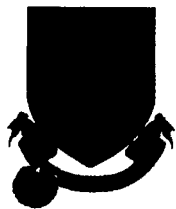
I enclose herewith Declaration in accordance with Article 5 (2) (A) of the Planning & Development Act 2000.

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 DEVELOPMENT & ENVIRONMENT.**





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

Applicant: Jiji Nadukudiyil Scaria

Location: No.1 Main Street, Wicklow Town

CHIEF EXECUTIVE ORDER NO. CE/PDE/118/2024

A question has arisen as to whether “the change of use from pharmacy to Asian grocery store” at No.1 Main Street, Wicklow Town is or is not exempted development.

### Having regard to:

- a) The details submitted with the Section 5 Declaration
- b) WTC PRR 1298/84
- c) Sections 2 , 3 of the Planning and Development Act 2000 (as amended)
- d) Definition of shop as set out in Article 5 of the Planning and Development Regulations 2001 (as amended).

### Main Reasons with respect to Section 5 Declaration:

- Having regard to the planning history of No. 1 Main Street, it is evident the use as a retail unit/ shop has been established.
- The use of the shop unit as a grocery which comes within the definition of shop would not give rise to a change of use, and would therefore not be development having regard to the definition of development as set out under Section 3 of the Planning and Development Act 2000(as amended).

The Planning Authority considers that “the change of use from pharmacy to Asian grocery store” at No.1 Main Street, Wicklow Town is not development.

Signed:

  
ADMINISTRATIVE OFFICER

PLANNING DEVELOPMENT & ENVIRONMENT

Dated 31 January 2024



WICKLOW COUNTY COUNCIL

PLANNING & DEVELOPMENT ACTS 2000 (As Amended)  
SECTION 5

CHIEF EXECUTIVE ORDER NO. CE/PDE/118/2024

Reference Number: EX02/2024

Name of Applicant: Jiji Nadukudiyil Scaria

Nature of Application: Section 5 Referral as to whether or not "the change of use from pharmacy to Asian grocery store" is or is not exempted development.

Location of Subject Site: No.1 Main Street, Wicklow Town

Report from Edel Bermingham SEP

With respect to the query under section 5 of the Planning & Development Act 2000 as to whether "the change of use from pharmacy to Asian grocery store" at No.1 Main Street, Wicklow Town is or is not exempted development within the meaning of the Planning & Development Acts 2000 (as amended).

Having regard to:

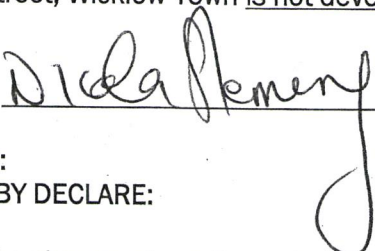
- a) The details submitted with the Section 5 Declaration
- b) WTC PRR 1298/84
- c) Sections 2, 3 of the Planning and Development Act 2000 (as amended)
- d) Definition of shop as set out in Article 5 of the Planning and Development Regulations 2001 (as amended).

Main Reason with respect to Section 5 Declaration:

- Having regard to the planning history of No. 1 Main Street, it is evident the use as a retail unit/ shop has been established.
- The use of the shop unit as a grocery which comes within the definition of shop would not give rise to a change of use, and would therefore not be development having regard to the definition of development as set out under Section 3 of the Planning and Development Act 2000(as amended).

Recommendation

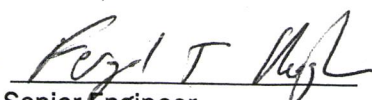
The Planning Authority considers that "the change of use from pharmacy to Asian grocery store" at No.1 Main Street, Wicklow Town is not development as recommended in the report by the SEP.

Signed 

Dated 31<sup>st</sup> day of January 2024

ORDER:  
I HEREBY DECLARE:

That "the change of use from pharmacy to Asian grocery store" at No.1 Main Street, Wicklow Town is not development within the meaning of the Planning & Development Act 2000 (as amended).

Signed:   
Senior Engineer  
Planning Development & Environment

Dated 31<sup>st</sup> day of January 2024

## **Section 5 Application : EX 02/2024**

Date : 29<sup>th</sup> January 2024  
Applicant : Jiji Nadukudiyil Scaria  
Address : 1 Main Street, Wicklow , Co. Wicklow.

Whether or not :

The change of use from pharmacy to Asian grocery at No 1 Main Street Wicklow is development and is exempted development.

### **Planning History :**

WTC PRR 1298/84 Grant extension to existing ground floor shop and 4 flats at first floor level.

### **Wicklow Town – Rathnew Development Plan 2013-2019**

Architectural Conservation Area – Wicklow Town.

### **Relevant Legislation :**

*Planning and Development Act 2000 (as amended)*

Section 2 : (1) In this Act, except where the context otherwise requires—

“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 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, 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(2) provides that the Minister may by regulations provide any class of development to be exempted development. The Regulations which are applicable in this case are the Planning and Development Regulations 2001 (as amended).

#### Section 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;

**(3);** A reference in this Act to exempted development shall be construed as a reference to development which is—

(a) any of the developments specified in *subsection (1)*, or

(b) development which, having regard to any regulations under *subsection (2)*, is exempted development for the purposes of this Act.

#### *Planning and Development Regulations 2001(as amended)*

#### Article 5

*'shop' means a structure used for any or all of the following purposes, where the sale, display or service is principally to visiting members of the public –*

*(a) for the retail sale of goods,*

*(b) as a post office,*

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

*(d) for the sale of sandwiches or other food or of wine for consumption off the premises, where the sale of such food or wine is subsidiary to the main retail use, and "wine" is defined as any intoxicating liquor which may be sold under a wine retailer's off-licence (within the meaning of the Finance (1909-1910) Act, 1910),*

*(e) for hairdressing,*

*(f) for the display of goods for sale,*

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

*(h) as a launderette or dry cleaners,*

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

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

#### Class 10

(1)

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

(a) involve the carrying out of any works other than works which are exempted development,

(b) contravene a condition attached to a permission under the Act,

- (c) be inconsistent with any use specified or included in such a permission, or
- (d) be a development where the existing use is an unauthorised use, save where such change of use consists of the resumption of a use which is not unauthorised and which has not been abandoned.

(2)

(a) A use which is ordinarily incidental to any use specified in Part 4 of Schedule 2 is not excluded from that use as an incident thereto merely by reason of its being specified in the said Part of the said Schedule as a separate use.

(b) Nothing in any class in Part 4 of the Schedule 2 shall include any use—

- (i) as an amusement arcade,
- (ii) as a motor service station,
- (iii) for the sale or leasing, or display for sale or leasing, of motor vehicles,
- (iv) for a taxi or hackney business or for the hire of motor vehicles,
- (v) as a scrap yard, or a yard for the breaking of motor vehicles,
- (vi) for the storage or distribution of minerals,
- (vii) as a supermarket, the total net retail sales space of which exceeds 3,500 square metres in the greater Dublin Area and 3,000 square metres in the remainder of the State,
- (viii) as a retail warehouse, the total gross retail sales space of which exceeds 6,000 square metres (including any ancillary garden centre), or
- (ix) as a shop, associated with a petrol station, the total net retail sales space of which exceeds 100 square metres.

#### Schedule 2 : Part 4

#### CLASS 1

Use as a shop.

**Assessment :**

The querist seeks a declaration as to whether the change of use of ground floor pharmacy to Asian grocery at No 1 Main Street Wicklow is development and is exempted development.

No 1 Main Street is currently unoccupied, and when last in use it was used as a pharmacy, and had been in use as a pharmacy for a number of years. The unit is c. 125sqm in size.



From a review of planning history, it is evident that the use as a shop has been established. The current query seeks confirmation that usage as a Asian grocery would be exempted development.

It is considered that given the established use for retail, the definition of a shop as set out in Article 5 of the Planning and Development Regulations 2001(as amended) that usage as a grocery is materially the same, and therefore no change of use has occurred, and as such no development having regard to the definition of development as set out in the Planning and Development Act 2000 (as amended).

**Recommendation :**

With respect to the query under Section 5 of the Planning and Development Act 2000(as amended), as to whether the change of use from ground floor pharmacy to Asian grocery at No 1 Main Street Wicklow constitutes exempted development within the meaning of the Planning and Development Acts, 2000(as amended).

The Planning Authority consider that the change of use from pharmacy to Asian grocery at No 1 Main Street Wicklow is not development.

Main Considerations with respect to Section 5 Declaration :

- a) The details submitted with the Section 5 Declaration
- b) WTC PRR 1298/84
- c) Sections 2, 3 of the Planning and Development Act 2000 (as amended)
- d) Definition of shop as set out in Article 5 of the Planning and Development Regulations 2001 (as amended).

Main Reasons with respect to Section 5 Declaration

- Having regard to the planning history of No. 1 Main Street, it is evident the use as a retail unit/ shop has been established.
- The use of the shop unit as a grocery which comes within the definition of shop would not give rise to a change of use, and would therefore not be development having regard to the definition of development as set out under Section 3 of the Planning and Development Act 2000(as amended).

*Stella Cunningham SP*

29/1/2024

*Issue as recommended  
Agd T. M. L. S.  
31/01/24*



**MEMORANDUM**  
**WICKLOW COUNTY COUNCIL**

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**TO: Edel Bermingham**  
**Senior Executive Planner**

**FROM: Nicola Fleming**  
**Staff Officer**

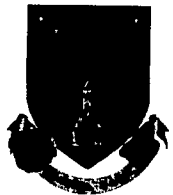
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**RE:- Application for Certificate of Exemption under Section 5 of the  
Planning and Development Acts 2000 (as amended).  
EX02/2024 –**

I enclose herewith application for Section 5 Declaration received 22<sup>nd</sup> January 2024.

The due date on this declaration is 19<sup>th</sup> February 2024.

  
\_\_\_\_\_  
**Staff Officer**  
**Planning Development & Environment**



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Suíomh / Website: [www.wicklow.ie](http://www.wicklow.ie)

23<sup>rd</sup> January 2024

**PACC  
Unit S2  
Enterprise Centre  
Wicklow Town**

**RE: Application for Certificate of Exemption under Section 5 of the Planning and Development Acts 2000 (as amended). – EX02/2024 – Jiji Nadukudiyil Scaria**

A Chara

I wish to acknowledge receipt on 22/01/2024 details supplied by you in respect of the above Section 5 application. A decision is due in respect of this application by 19/02/2024.

Mise, le meas

  
\_\_\_\_\_  
**NICOLA FLEMING**

**STAFF OFFICER**

**PLANNING DEVELOPMENT AND ENVIRONMENT**



Wicklow County Council  
County Buildings  
Wicklow  
0404 20100

22/01/2024 13:20:57

Receipt No: 11/0/324223

Select Asia  
Apartment 282, Block G1  
Lansdown Gate  
Longmile Road  
Dublin 12  
D12 F8YY

EXEMPTION CERTIFICATES	80.00
GOODS	80.00
VAT Exempt/Non-vatable	

Total	80.00 EUR
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Tendered	
Cash	80.00

Change	0.00
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Issued By: Lorraine Byrne  
From: Customer Service Hub  
Vat reg No: 0015233H



Wicklow County Council  
County Buildings  
Wicklow  
Co Wicklow  
Telephone 0404 20148  
Fax 0404 69462

**Office Use Only**

Date Received \_\_\_\_\_

Fee Received \_\_\_\_\_

**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**

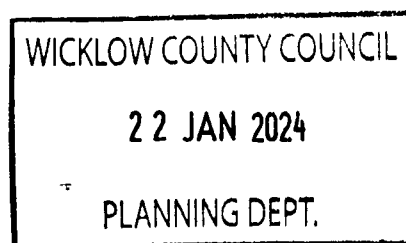
- (a) Name of applicant: Jiji Nadukudiyil Scaria
- Address of applicant: \_\_\_\_\_
- \_\_\_\_\_

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

**2. Agents Details (Where Applicable)**

- (b) Name of Agent (where applicable) PACC
- Address of Agent : Unit S2 Enterprise Centre Wicklow Town.
- \_\_\_\_\_

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



### **3. Declaration Details**

i. Location of Development subject of Declaration Retail Unit  
No. 1 Main Street Wicklow A67 KP46

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  
PHX Ireland United Drug House  
Magna Draive Magna Bussiness Park Citywest Road  
D24XKE5 Ireland

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 \_\_\_\_\_

A determination regarding an planning exemption for  
an Asian Grocery Store trading in the former Lloyds Retail Pharmacy  
unit located at No. 1 Main Street Wicklow A67 KP46.

*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 \_\_\_\_\_

Existing Use is Retail Pharmacy Unoucpied.

Proposed Use as a Retail Asian Grocery.

*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 \_\_\_\_\_

Map-23-026-001 Site Location Map 1-500

Map-23-026-002 Existing Retail Unit Layout 1-100

Map-23-026-003 Proposed Retail Unit Layout 1-100

viii. Fee of € 80 Attached ? Yes

Signed :  Dated : 22-01-24

**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

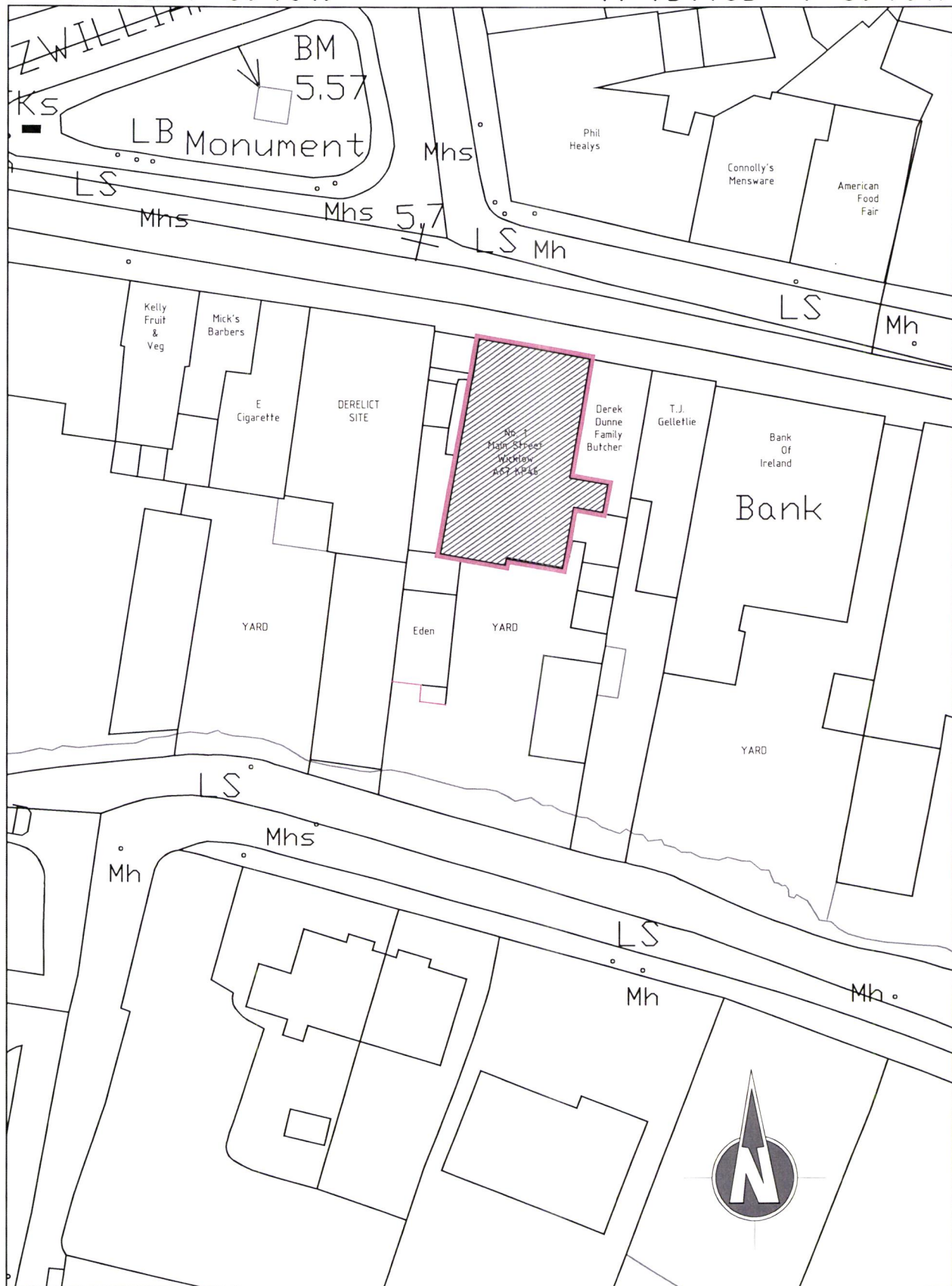
- Site Location Map
- Floor area of structure in question - whether proposed or existing.
- Floor area of all relevant structures e.g. previous extensions.
- Floor plans and elevations of relevant structures.
- Site Layout Plan showing distance to boundaries, rear garden area, adjoining dwellings/structures 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

X=731382 Y=694019

X=731465 Y=694019

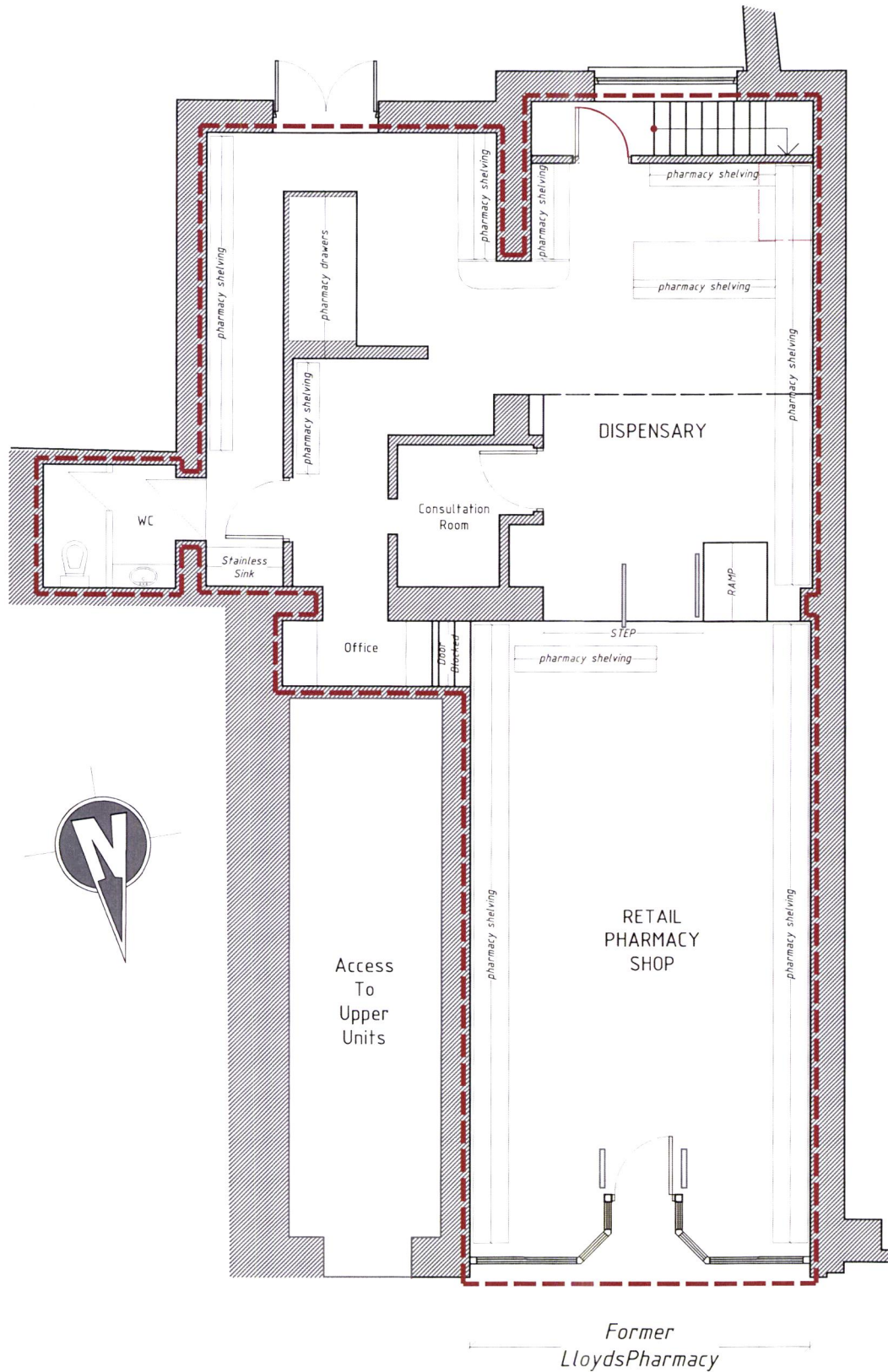


X=731382 Y=693907


X=731465 Y=693907

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<p>INFORMATION SHOWN IS SCHEMATIC AND INDICATIVE OF THE DESIGN PROPOSALS FOR THE BASIC FUNCTIONAL AND ARCHITECTURAL REQUIREMENTS. THE DRAWINGS DO NOT INDICATE A DETAILED SOLUTION, NOR DO THEY PREJUDICE THE SUBMISSION OF ALTERNATIVE PROPOSALS COMPLYING WITH THE SPECIFIED REQUIREMENTS.</p>	<p>Copyright National Mapping Division of Tailte Éireann</p>	<p>PACC</p>	<p>RIAI Practice Member 23015</p>	<p>PROJECT TITLE No. 1 Main Street, Wicklow A67 KP46 DRAWING TITLE Site Location Map DATE 22-01-24 SCALE 1:500 P:0404, 64078 M:086 0794819 E: info@pacc.ie</p>	<p>DRAWING NUMBER: 002</p>

# YARD

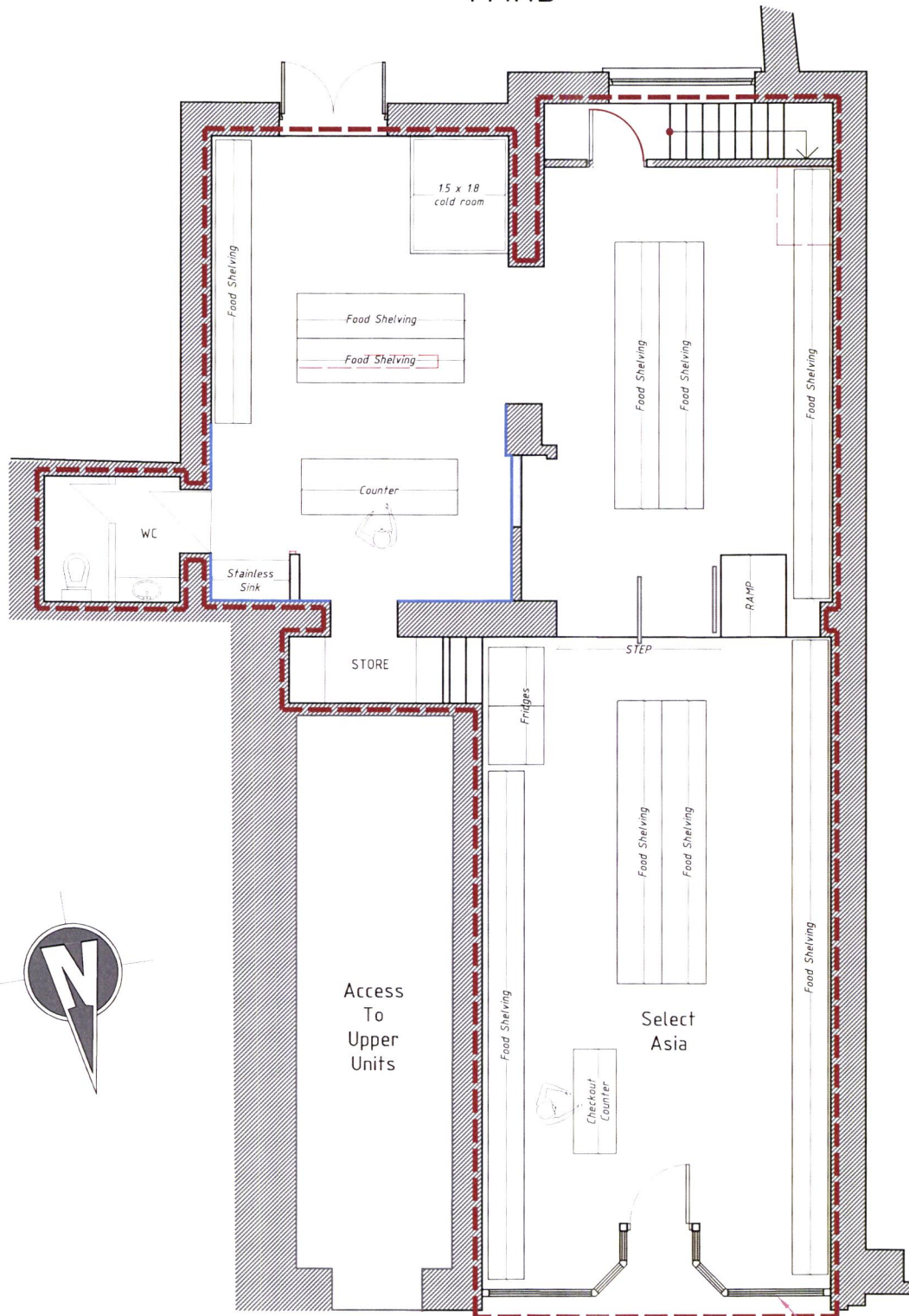


Existing Retail Unit  
Ground Floor  
Scale 1:100 A4 Sheet

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YARD



Purposed  
Select Asia

Works to Shop front  
Repaint and  
Branding for  
"SELECT ASIA"

Proposed Retail Unit  
Ground Floor  
Scale 1:100 A4 Sheet

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RIAI

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Architect  
2024  
PSQP  
Accreditation  
P

RIAI Practice Member  
23015

CLIENT:  
Jiji Nadukudiyil Scaria  
Select Asia

PROJECT TITLE  
No. 1 Main Street  
Wicklow A67 KP46

DRAWING TITLE  
Proposed Retail Unit

DATE 22-01-24

SCALE 1:100

P:0404 64078 M:086 0794819 E: info@pacc.ie

PROJECT NUMBER

DRAWING NUMBER:  
002