



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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Rphost / Email: plandev@wicklowcoco.ie
Suíomh / Website: www.wicklow.ie

23rd September 2024

Fulvio Pellegrini

RE: Declaration in accordance with Section 5 of the Planning & Development Acts 2000 (As Amended) – EX73/2024

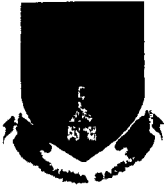
I enclose herewith Declaration in accordance with Article 5 (2) (A) of the Planning & Development Act 2000.

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 ECONOMIC & RURAL DEVELOPMENT





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

Applicant: Fulvio Pellegrini

Location: Lizzie Keoghs, Weaver Square, Baltinglass, Co. Wicklow W91 HX31

CHIEF EXECUTIVE ORDER NO. CE/PERD/2024/1174

Section 5 Declaration as to whether “the placing of a temporary kitchen trailer on site, while building is being refurbished for use as a restaurant” at Lizzie Keoghs, Weaver Square, Baltinglass, Co. Wicklow W91 HX31 constitutes exempted development within the meaning of the Planning and Development Act, 2000(as amended).

Having regard to:

- The details submitted with the Section 5 Declaration.
- Sections 2 , 3 and 4 of the Planning and Development Act 2000 (as amended)
- Schedule 2, Part 1 , Planning and Development Regulations 2001 (as amended)

Main Reasons with respect to Section 5 Declaration:

- The placing of a temporary kitchen trailer on site while a building is being refurbished for use as a restaurant is development having regard to the provisions of Section 3 of the Planning and Development Act 2000 (as amended).
- The placing of a temporary kitchen trailer on site while a building is being refurbished for use as a restaurant does not come within the scope of exempted development as set out in the Planning and Development Act 2000 (as amended) or the Planning and Development Regulations 2001 (as amended).

The Planning Authority considers that “the placing of a temporary kitchen trailer on site, while building is being refurbished for use as a restaurant” at Lizzie Keoghs, Weaver Square, Baltinglass, Co. Wicklow W91 HX31 **is development and is NOT exempted development**

Signed:

ADMINISTRATIVE OFFICER
PLANNING ECONOMIC & RURAL DEVELOPMENT

Dated ^{BKd} 23 September 2024



WICKLOW COUNTY COUNCIL
PLANNING & DEVELOPMENT ACTS 2000 (As Amended)
SECTION 5

CHIEF EXECUTIVE ORDER NO. CE/PERD/2024/1174

Reference Number: EX73/2024
Name of Applicant: Fulvio Pellegrini
Nature of Application: Section 5 Declaration request as to whether or not: -
"the placing of a temporary kitchen trailer on site, while building is
being refurbished for use as a restaurant" is or is not
development and is or is not exempted development.
Location of Subject Site: Lizzie Keoghs, Weaver Square, Baltinglass, Co. Wicklow W91
HX31

Report from Andrew Spencer, EP & Suzanne White, SEP

With respect to the query under section 5 of the Planning & Development Act 2000 as to whether "the placing of a temporary kitchen trailer on site, while building is being refurbished for use as a restaurant" at Lizzie Keoghs, Weaver Square, Baltinglass, Co. Wicklow W91 HX31 is or is not exempted development within the meaning of the Planning & Development Act 2000 (as amended).

Having regard to:

- a) The details submitted with the Section 5 Declaration.
- b) Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended)
- c) Schedule 2, Part 1, Planning and Development Regulations 2001 (as amended)

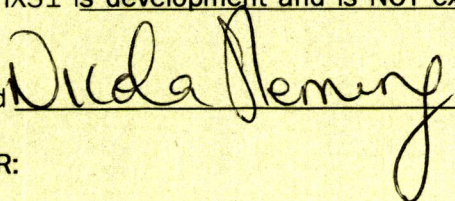
Main Reason with respect to Section 5 Declaration:

- i. The placing of a temporary kitchen trailer on site while a building is being refurbished for use as a restaurant is development having regard to the provisions of Section 3 of the Planning and Development Act 2000 (as amended).
- ii. The placing of a temporary kitchen trailer on site while a building is being refurbished for use as a restaurant does not come within the scope of exempted development as set out in the Planning and Development Act 2000 (as amended) or the Planning and Development Regulations 2001 (as amended).

Recommendation:

The Planning Authority considers that "the placing of a temporary kitchen trailer on site, while building is being refurbished for use as a restaurant" at Lizzie Keoghs, Weaver Square, Baltinglass, Co. Wicklow W91 HX31 is development and is NOT exempted development as recommended in the report by the SEP.

Signed



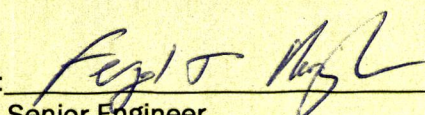
Dated 18th day of September 2024

ORDER:

I HEREBY DECLARE:

That "the placing of a temporary kitchen trailer on site, while building is being refurbished for use as a restaurant" at Lizzie Keoghs, Weaver Square, Baltinglass, Co. Wicklow W91 HX31 is development and is NOT exempted development within the meaning of the Planning & Development Act 2000 (as amended).

Signed:


Senior Engineer
Planning, Economic & Rural Development

Dated 25th day of September 2024



**WICKLOW COUNTY COUNCIL
PLANNING DEPARTMENT**

Section 5 – Application for declaration of Exemption Certificate

REF: EX 73/2024
NAME: FULVIO PELLEGRINI
DEVELOPMENT: TEMPORARY KITCHEN TRAILER
LOCATION: WEAVER SQUARE BALTINGLASS

The Site:

The subject site is an existing established public house with rear beer garden (Lizzie Keogh's) located in Baltinglass Town Centre. The property is located at the southern end of Weaver's Square along the R747 regional road. The property is attached on its southern side to a commercial property whilst on its northern side is a vehicular access to the rear area, which is abutting an Auto repair shop on the northern side.

To the rear of the public house is a canopy covered beer garden and to the rear of that is an old stone building with rear single storey leanto extension.

Planning History (subject site):

PRR2360485:

Retention for 1. An existing outdoor beer garden which covers 153.18 sq. metres and which is situated between the rear of Lizzie Keogh's Public House and an existing 2 storey stone building. 2. A concrete block storage structure which covers an area of 29.75 sq. metres located to the rear of the existing 2 storey stone building.

Permission for the following: 3. The refurbishment of an existing two-storey stone building which covers an area of 48.38 sq. metres and which is located behind Lizzie Keogh's Public House and the use of this structure as a restaurant, with a mezzanine level. 4. The use of the open space between the rear of Lizzie Keogh's Public House and the existing 2 storey stone building as a beer garden and as an outdoor dining area in conjunction with the proposed new restaurant. 5. To convert and use the concrete block structure storage area located to the rear of the 2 storey stone building as a kitchen, food preparation area and a store, in conjunction with the proposed restaurant. 6. All associated site and building improvement works.

Decision: Granted with Conditions 9/4/2024.

Question:

The applicant has applied to see whether or not the following is or is not development; and is or is not exempted development:

1. The placing of a temporary kitchen trailer on site while a building is being refurbished for use as a restaurant.

Legislative Context:

Planning and Development Act, 2000 (as amended):

Section 2(1) of the Act states the following in respect of the interpretation of 'works': following: "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 of the Act states the following in respect of 'development':-

(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."

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

(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,

the use of the land shall be taken as having materially changed.

Section 4 sets out the types of works that while considered 'development', can be considered 'exempted development' for the purposes of the Act.

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) Note see Regulations for full Article

Development to which article 6 relates shall not be exempted development for the purposes of the Act.

Schedule 2: Part 1 - Exempted Development General.

Part 1 (Classes 1-61) of Schedule 2 describes classes of general development, which are exempted development, provided that such development complies with the associated conditions and limitations.

Assessment:

The first assessment must be whether or not the proposal outlined above constitutes development within the remit of Section 3 of the Planning and Development Act 2000 (as amended). In this regard, Section 3 of the Planning and Development Act provides that:

"development" means, except where the context otherwise requires,

(1) 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.

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

(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,

the use of the land shall be taken as having materially changed.

It should be noted that Section 2 of the Act defines works as including 'any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal'.

Having regard to the above I am satisfied that the *placing of a temporary kitchen trailer while a building is being refurbished for use as a restaurant* involves works and constitutes development.

The second assessment is to determine whether or not the works would be exempted development under the Planning and Development Act 2000 (as amended) or its associated Regulations.

The Planning and Development Act provides under Section 4 that the Minister may by regulations provide any class of development to be exempted development. To this end Part 1 Schedule 2 of the Planning and Development Regulations 2001 (as amended), provides for Exempted Development Classes with respect to General development.

In respect of the above there are currently no exempted development classes within Part 1 Schedule 2 which refer to the setting up/placing of a kitchen trailer on site whilst a permitted restaurant is being developed. In addition I am of the opinion that the construction of the permitted development under PRR2360485 is not dependent upon the setting up/placing of the kitchen trailer on site and the granted development can be carried out independent of the kitchen trailer.

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

The placing of a temporary kitchen trailer while a building is being refurbished for use as a restaurant

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

The Planning Authority considers that:


The placing of a temporary kitchen trailer on site, while a building is being refurbished for use as a restaurant is development and is **NOT** exempted development.

Main Considerations with respect to the Section 5 Declaration:

- a) The details submitted with the Section 5 Declaration.
- b) Sections 2 , 3 and 4 of the Planning and Development Act 2000 (as amended)
- c) Schedule 2, Part 1 , Planning and Development Regulations 2001 (as amended)

Main Reasons with respect to Section 5 Declaration:

- i. The placing of a temporary kitchen trailer on site while a building is being refurbished for use as a restaurant is development having regard to the provisions of Section 3 of the Planning and Development Act 2000 (as amended).
- ii. The placing of a temporary kitchen trailer on site while a building is being refurbished for use as a restaurant does not come within the scope of exempted development as set out in the Planning and Development Act 2000 (as amended) or the Planning and Development Regulations 2001 (as amended).


Andrew Spencer
Executive Planner
17/9/2024

Agreed
Stibbe SEP
17/9/24

Issue declaration as recommended
Aogil T. Mij LSM
23/09/24

MEMORANDUM

WICKLOW COUNTY COUNCIL

TO: Andy Spencer
A/EP

FROM: Peggy King
Assistant Staff Officer

**RE:- Application for Certificate of Exemption under Section 5 of the
Planning and Development Acts 2000 (as amended).
EX73/2024**

I enclose herewith application for Section 5 Declaration received completed on 27/08/2024.

The due date on this declaration is 23/09/2024.



Assistant Staff Officer
Planning, Economic & Rural Development



COMHAIRLE CONTAE CHILL Mhantáin
Wicklow County Council

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29th August 2024

Fulvio Pellegrini

RE: Application for Certificate of Exemption under Section 5 of the Planning and Development Acts 2000 (as amended). – EX73/2024 – Greenfield Mushrooms Ltd

A Chara

I wish to acknowledge receipt on 27/08/2024 details supplied by you in respect of the above Section 5 application. A decision is due in respect of this application by 23/09/2024

Mise, le meas

Peggy King

Assistant Staff Officer

Planning, Economic & Rural Development



Wicklow County Council
County Buildings
Wicklow
0404-20100

27/08/2024 11 51 14

Receipt No L1/0/333744
***** REPRINT *****

FULVIO PELLEGRINI

EXEMPTION CERTIFICATES	80 00
GOODS	80 00
VAT Exempt/Non-vatable	

Total 80 00 EUR

Tendered
Cheque 80 00
LIZZIE KEOGHS, BALTINGLASS

Change 0 00

Issued By Cashier5MW
From Customer Service Hub
Vat reg No 0015233H



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

WICKLOW COUNTY COUNCIL
CUSTOMER SERVICE
27 AUG 2024

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: Fulvio Pellegrini
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) _____
Address of Agent : _____

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

3. Declaration Details

WICKLOW COUNTY COUNCIL
21 AUG 2024
PLANNING DEPT.

i. Location of Development subject of Declaration Lizzie Keoghs
Weaver Sq, Ballyglass Co. Wicklow.
W91 H2X31

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 Colm Daly - Tynock, Kiltegan Co. Wicklow
Ireland. (owner)

Jamie McTernan - Weaver Sq Ballyglass. W91 H2X31 (lessee)

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 The lessee (Jamie) & myself (Fulvia) wish to set up a temporary kitchen trailer while Colm (owner) renovates the restaurant approved on site by WCC.

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 _____

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've attached pictures on the trailer in its intended location, along with an aerial view of the site

If you require any more information - please contact - jmceternan2701@gmail.com

viii. Fee of € 80 Attached ? Yes.

Signed : Fulvio Peltzman Dated : 22 - 7 - 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 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

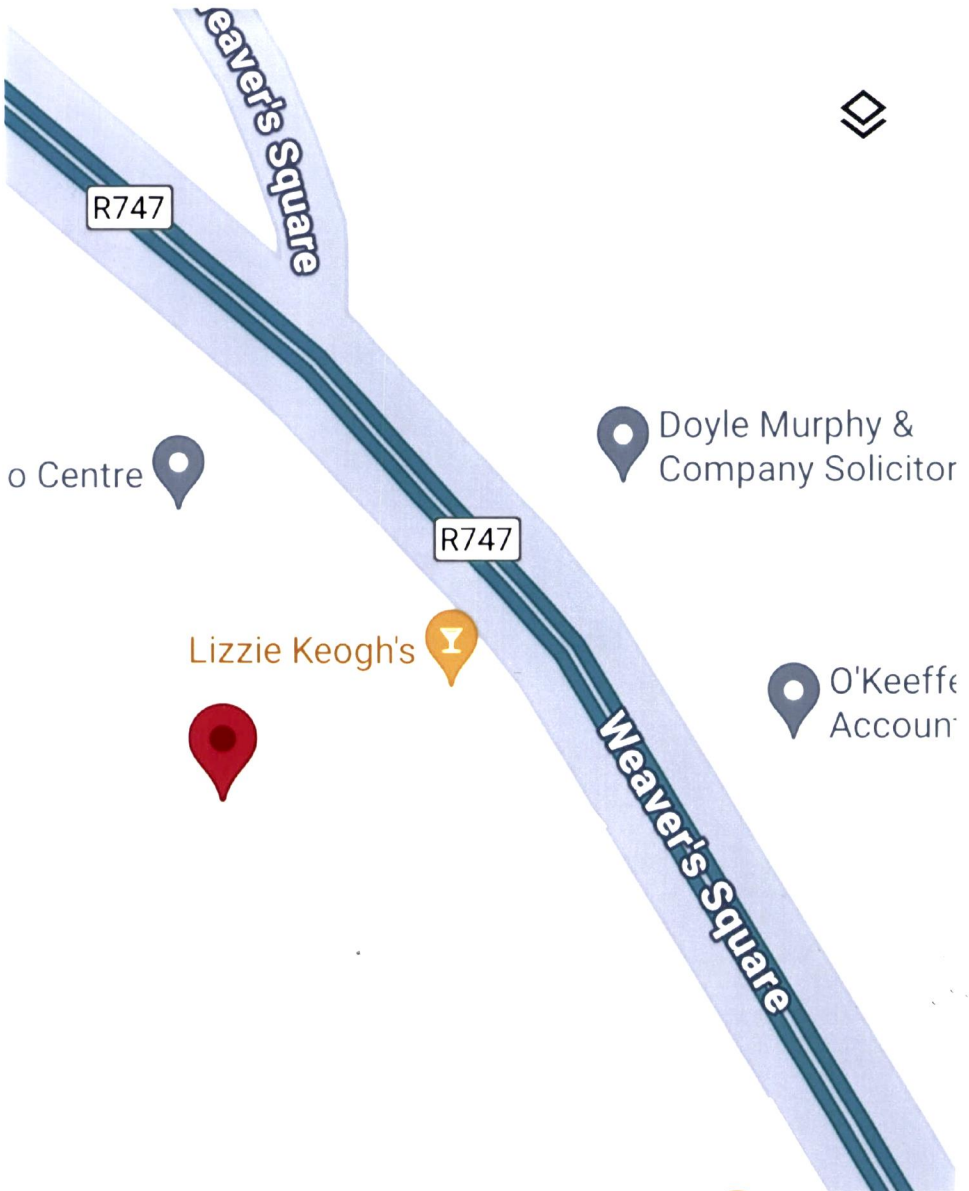
Agriculture, Fisheries and Food.

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.

☑. 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.**

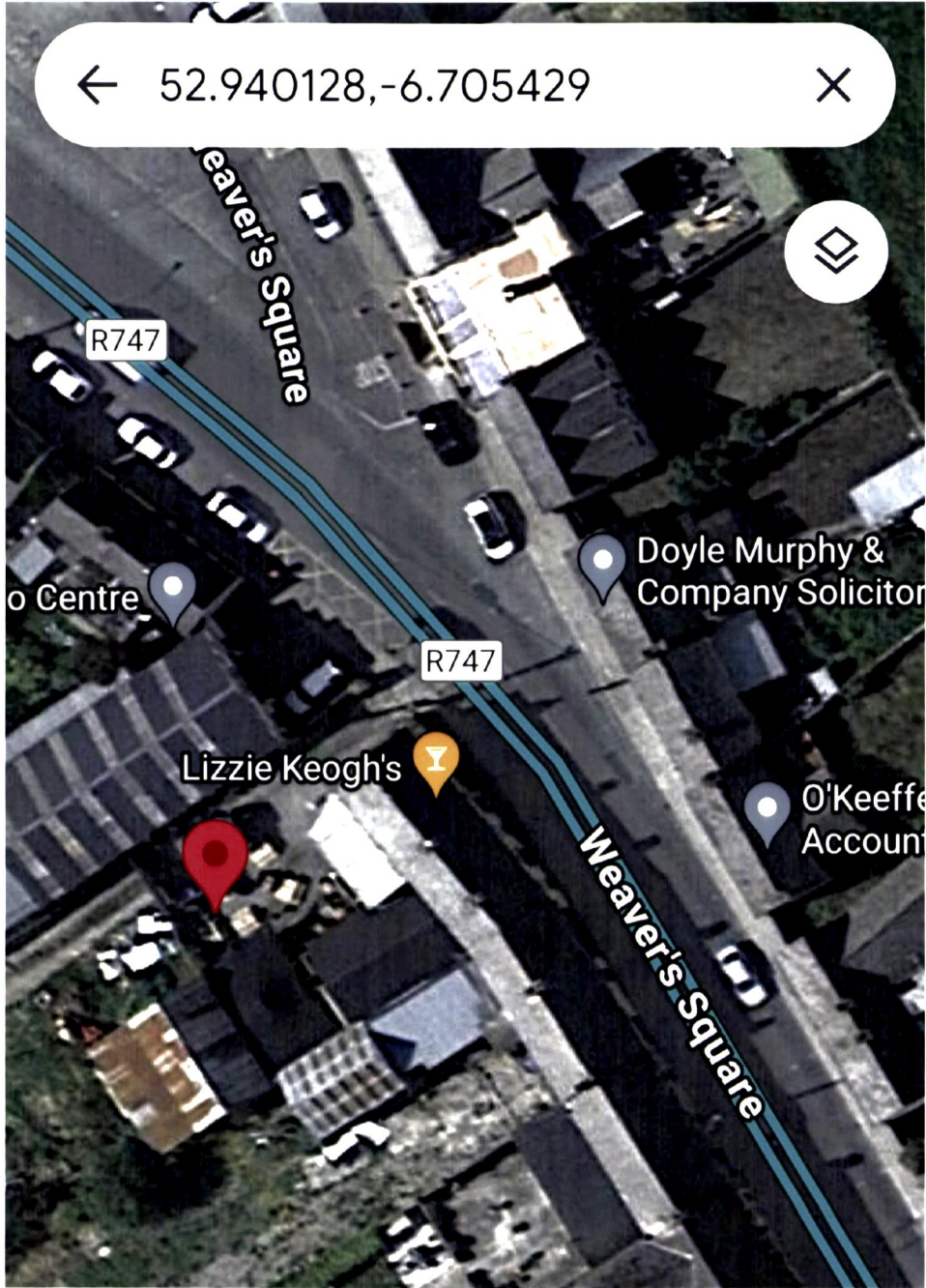
← 52.940128,-6.705429



Marked Coordinates of trailer position



52.940128,-6.705429



Co ordinates of site



Aerial shot of Yard



Aerial shot from
Road side



overhead view of yard





Front of trailer + External Yard



Entrance to Yard



END VIEW of Trailer



Front of Trailer



Rear of trailer