Section 5 Declaration - Application Form

1. **Name and address of person seeking the declaration:**

Jiao Xue. [redacted]

Phone Number: [redacted] E-Mail: [redacted]

2. **Name and address of agent (if any):**

Phone Number: ________________ E-Mail: ____________________

3. **Name and address for all correspondence (if not completed, correspondence will be sent to person seeking declaration)**

Same Above.

4. **Interest in site of the person seeking declaration:**

Freeholds.

(If applicant is not freehold owner of the property in question, please provide name and address of owner if known)

5. **Location and full address of development referred to in Question 7**

Chinese Market, Murphy's Building, Bachelors Lane, Drogheda. Co. Louth.

6. **Eircode OR Grid Co-ordinates must be submitted. Grid references may be found on Google Maps or at https://irish.gridreferencefinder.com**

A92 D7PY

7. **Question for determination under Section 5 (See Note 1 above).**
   The question must be framed in the following format, i.e. Is the construction of a shed development and is it or is it not exempted development:

   WOULD THE USE OF THE PREMESIS (IN USE AS A SUPERMARKET FROM (MON - SAT) FOR SUNDAY CHURCH SERVICES, OF UP TO 30 NO. PEOPLE ON SUNDAY'S FROM 11AM TO 2pm BE CONSIDERED DEVELOPMENT? ADDITIONALLY, IS THIS USE CONSIDERED OR NOT CONSIDERED EXEMPTED DEVELOPMENT?
   (FURTHER DETAIL AT BACK OF APPLICATION)* →

8. **Does the development consist of works to be carried out to an existing or proposed protected structure?** Yes ☐ No ☐

   If Yes, has a Declaration under Section 57 of the Planning and Development Act 2000 been requested or issued for the property by the Planning Authority?

   ____

   ____

I certify that the aforementioned is correct.

Signature of Applicant: Jiao Xue **Date** 8/6/26

<u>Please include one copy of the following documents with this application form:</u>

- **Site Location Map**: (Scale 1:1000)
- **Site Layout Map:** (Scale 1:200 or 1:500)
- **Floor Plans & Elevations**: (Scale 1:50, 1:100 or 1:200)
  Existing & Proposed, where applicable
- **Application fee:** (€80)

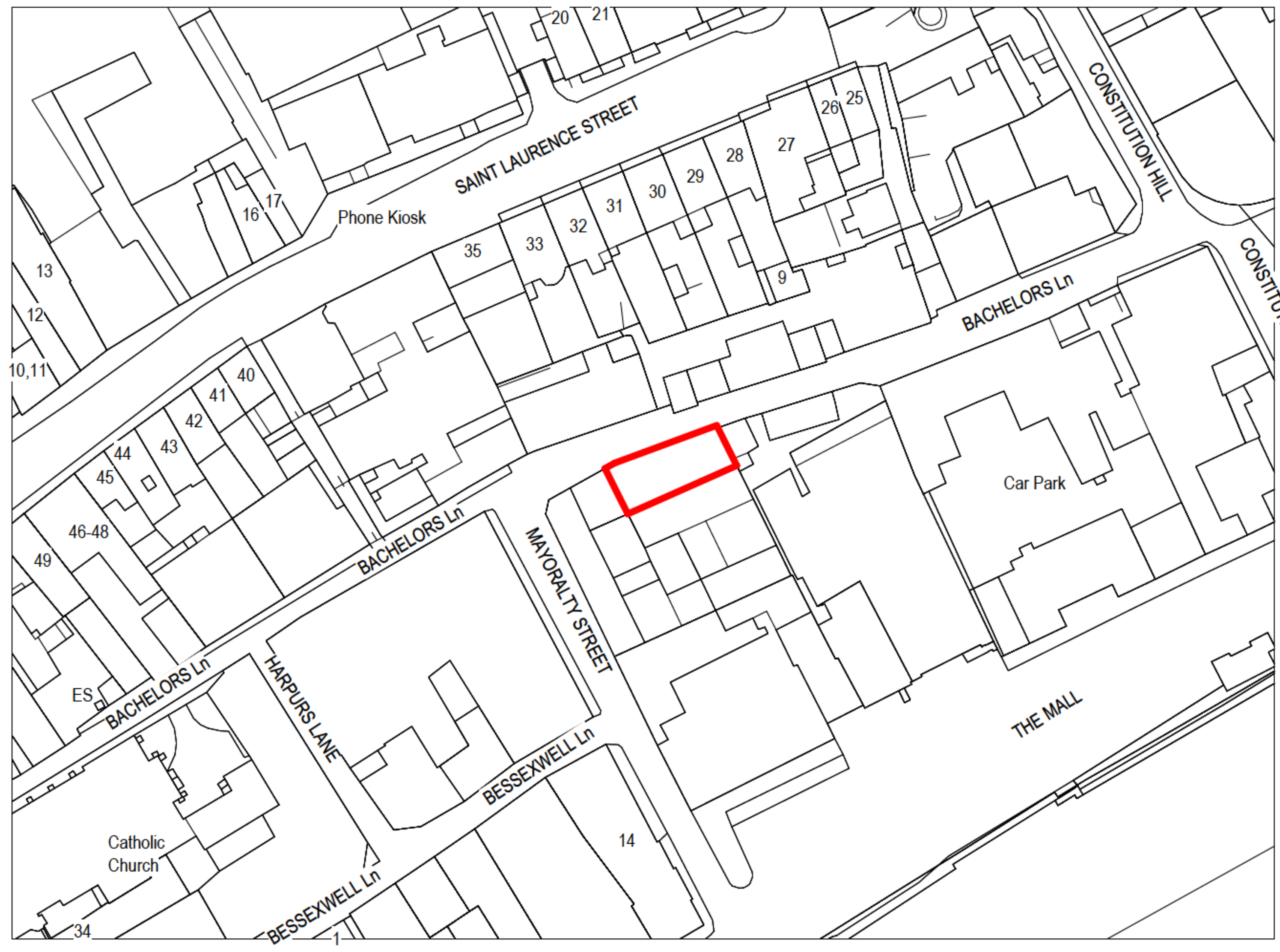
Completed Application Form & Fee of €80.00 may be sent to:

Planning Office, Louth County Council, Town Hall, Crowe Street, Dundalk, County Louth, A91W20C
OR
by email to planninggroup@louthcoco.ie with contact details to arrange payment of fee.

* QUESTION 7 CONT'D

THE FOLLOWING SHOULD BE NOTED:

- THE PREMISES HAS BEEN IN CONTINUOUS OPERATION AS A SUPERMARKET SINCE 2008.
- THE SPACES TO BE USED FOR SUNDAY CHURCH SERVICES ARE: THE POINTS OF ENTRY AND EXIT AS WELL AS A PORTION OF THE GROUND FLOOR THAT IS NOT CURRENTLY IN USE.
- THE SUPERMARKET IS NOT IN USE/OPEN ON SUNDAYS.
- THE BUILDING IS EQUIPPED WITH ALL APPROPRIATE FACILITIES SUCH AS WC'S AS WELL AS THOSE ASSOCIATED TO ESCAPE IN THE EVENT OF FIRE.



1 Exitsing Site Location Plan
1 : 1000

2 Exitsing Site Layout Plan
1 : 500

IMPORTANT

1. DO NOT SCALE FROM THIS DRAW NG.
2. WORK ONLY FROM FIGURED D MENSIONS.
3. ALL ERRORS & OMISSIONS TO BE REPORTED TO THE ARCHITECT.
4. THIS DRAW NG IS TO BE READ IN CONJUNCTION WITH ALL OTHER DRAW NGS.
5. IF UNSURE- CONTACT THE ARCHITECT

NOTES

N

Ver	Date	Revision Description

CODE: !

SUITABILITY DESCRIPTION: Section 5

KEY PLAN

CONSULTANT

CL ENT

PROJECT LEAD

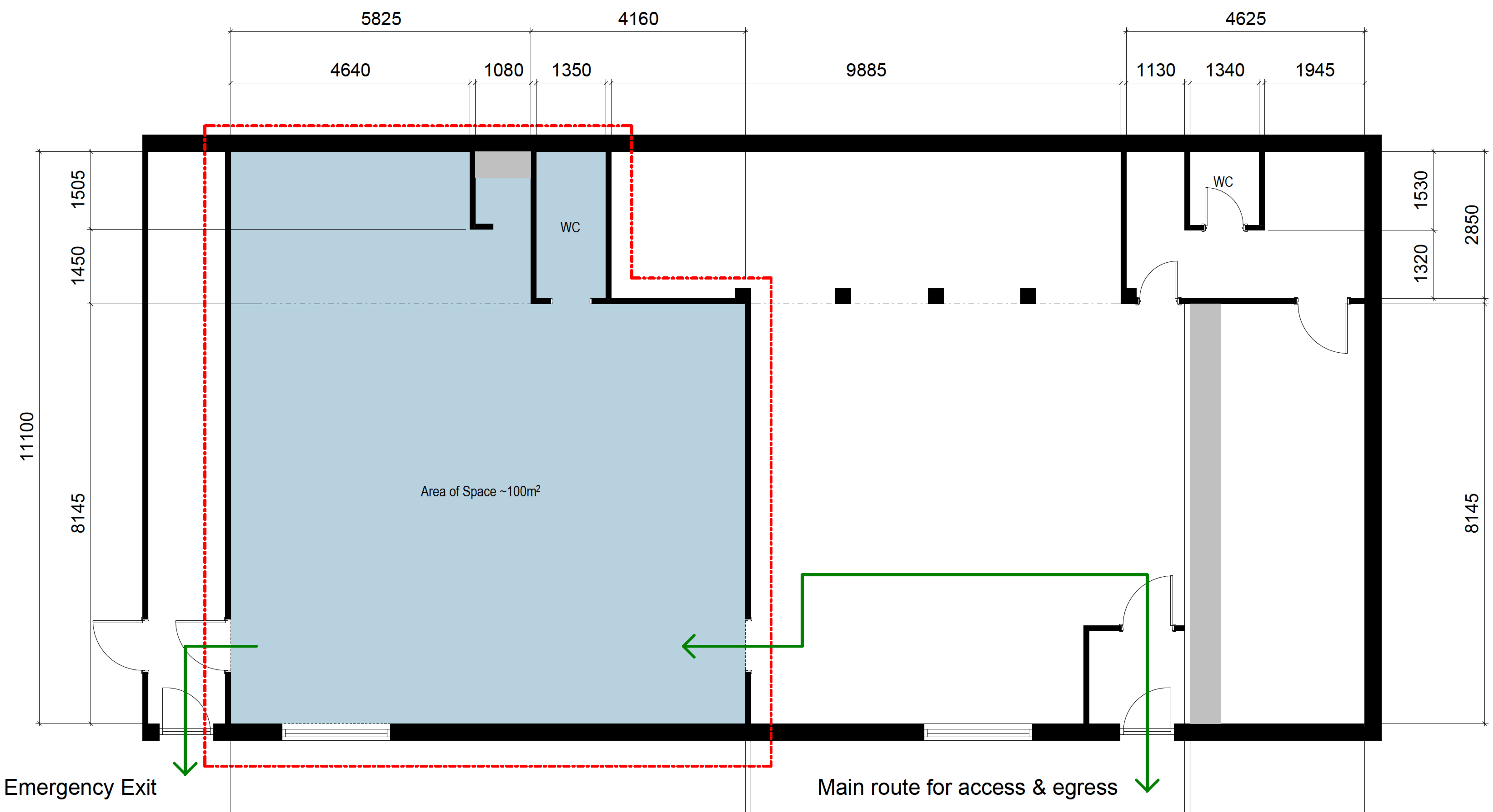
SITE
CHINESE MARKET
BACHELOR'S LANE

DESIGNED BY: CGCI
APPROVED BY: CGCI
DRAWN/ CHECKED BY: CGCI

SCALE (A1): As indicated
STAGE: Section 5
DATE:

DRAW NG DESCR PTION
Project: Drogheda Fellowship
Location:
Sheet Name: Existing Site PLan

DRAW NG NUMBER: 2601-AB-ZZZ-DR-CGCI-AR-0002
PURPOSE: !
REVISION:



1 Level 00
1 : 50

IMPORTANT

1. DO NOT SCALE FROM THIS DRAW NG.
2. WORK ONLY FROM FIGURED D MENSIONS.
3. ALL ERRORS & OMISSIONS TO BE REPORTED TO THE ARCHITECT.
4. THIS DRAW NG IS TO BE READ IN CONJUNCTION WITH ALL OTHER DRAW NGS.
5. IF UNSURE- CONTACT THE ARCHITECT

NOTES

Ver	Date	Revision Description

CODE	SUITABILITY DESCRIPTION
I	Section 5

KEY PLAN

CONSULTANT

CL ENT

PROJECT LEAD

SITE
CHINESE MARKET
BACHELOR'S LANE

DESIGNED BY: CGCI	SCALE (A1) 1 : 50
APPROVED BY: CGCI	STAGE Section 5
DRAWN/ CHECKED BY: CGCI	DATE:

DRAW NG DESCR PTION
Project: Drogheda Fellowship
Location: Ground Floor Level
Sheet Name: Ground Floor Plan

DRAW NG NUMBER	PURPOSE	REVISION
2601-L01-L00-DR-CGCI-002	I	

Louth County Council
Section 5 Declaration

Planning Ref:	S5 2026/50
Applicant's Name:	**Jiao Xue**
Type of Application:	Section 5 Declaration
Question:	Would the use of the premises (currently a supermarket) for Sunday Church services for up to 30 people from 11am to 2 pm be considered development or could this use be considered exempt development?
Site Location:	**Chinese Market, Murphy's Buildings, Bachelors Lane Drogheda**, Co. Louth
Report Date:	10th July 2026
Due Date:	**27th July** 2026

1. Site Location and Description

The subject site is located in a single storey building located along Bachelor's Street Drogheda. It is occupied and acts as a Chinese supermarket and was operational on the date of site inspection (3rd July 2026). I noticed a room at the rear which is subject of the section 5 declaration which was vacant and this room is proposed to be converted and used for church services one day per week on Sundays.
The site is located within ACA No 10 North Quay including Back Lane. The building is not a Protected Structure, however there are protected structures located due south at Mayoralty Street.

The building is located in D1 Regeneration which has a zoning objective 'to facilitate social, economic and physical regeneration and or rejuvenation of an area or specific lands.

2. Planning History

None scanned - from Google Street view the building appears to be operating since 2008 as a supermarket.

3. Declaration Sought

I have reworded the declaration to the following *"Would the part use of a supermarket premises on a Sunday for church services for up to 30 people from 11am to 2 pm constitute development"?*

For the purposes of clarity, as Section 2 of the Planning and Development Act 024 (as amended has formally superseded Section 3 of the Planning and Development 2000 (as varied) in December 2024, the assessment of development will be made under the provisions of the 2024 Act.

4. Legislative Context

The Planning and Development Act, 2024
Sections 1-5 of the Planning and Development Act 2024 commenced in December 2024.

Section 2 states***:***
In accordance with Section 2 of the Planning & Development Act, 2024 "Development" means the carrying out of any works on, in, over or under land or on ,in ,over or under the maritime area, or the making of any material change in the use of any structures or other land, or the sea, seabed or any structure in the maritime area.

"Exempted development" means:
(a) development of a class prescribed under section 9, or
(b) development that is exempted development by virtue of section 152;

"structure" means:
a building, edifice, construction, excavation, or other thing constructed or made on, in or under any land, or a maritime site, or any part thereof, or(b) the land or maritime site on, in or under which such building, edifice, construction, excavation, other thing or part is situated.

"Works" includes an act or operation—
(a) of construction, excavation, demolition, extension, alteration, repair or renewal (including in relation to a protected structure, a proposed protected structure or a structure situated in an architectural conservation area), on, in, over or under land or a maritime site,
(b) consisting of the application of plaster, paint, wallpaper, tiles or other material to the surface of a protected structure or proposed protected structure or the removal of plaster, paint, wallpaper, tiles or other material from such surface, and
(c) consisting of the application of plaster, paint, wallpaper, tiles or other material to the exterior of a structure situated in an architectural conservation area or the

removal of plaster, paint, wallpaper, tiles or other material from such exterior

Planning and Development Regulations 2001 (as amended)
Article 9 (1) *provides detailing on restrictions on exemption as follows:*

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—

(i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,

(ii) consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,

(iii) endanger public safety by reason of traffic hazard or obstruction of road users,

(iiia) endanger public safety by reason of hazardous glint and/or glare for the operation of airports, aerodromes or aircraft,

(iv) except in the case of a porch to which class 7 specified in column 1 of Part 1 of Schedule 2 applies and which 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, comprise the construction, erection, extension or renewal of a building on any street so as to bring forward the building, or any part of the building, beyond the front wall of the building on either side thereof or beyond a line determined as the building line in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,

(v) consist of or comprise the carrying out under a public road of works other than a connection to a wired broadcast relay service, sewer, water main, gas main or electricity supply line or cable, or any works to which class 25, 26 or 31
(a) specified in column 1 of Part 1 of Schedule 2 applies,

(vi) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,

(vii) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or 13 other objects of archaeological, geological, historical, scientific or ecological interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or,

pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan, save any excavation, pursuant to and in accordance with a licence granted under section 26 of the National Monuments Act, 1930 (No. 2 of 1930),

(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,

(ix) consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,

(x) consist of the fencing or enclosure of any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility,

(xi) obstruct any public right of way,

(xii) further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area.

***Article 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.

5. Assessment

Does the proposed change from last known use Retail (Class 1) to Church Services (Class 7) constitute development and is it exempt development?

Having regard to the definition of 'development' in the Planning and Development Act, 2024 as being "the carrying out of works on, in, over or under lands or ***the making of any material change in the use of any structures*** or other land".

From review of the drawings submitted and having regard to a site visit held on the 3rd July 2026 where an internal inspection of the property was carried out, I noted that the existing room proposed for change of use is subdivided from the Chinese supermarket by a dividing wall which separated the two activities. The room was laid out with stacked chairs and a table was available. There was a separate exit door to the public road. Its current use (no scanned planning history) would appear to be retail use as this space would have been associated with the retail activity. I cannot determine from the scanned planning histories whether this use was ever authorised or not but it is clear that the premises has been operating from 2008 as a supermarket for Chinese community.

From review of the floor plans submitted, it is considered that the proposal constitutes a material change of use and given that the proposed use of the building for church services there will be larger numbers of people attending at any one period and for specific events than would be associated with its use for a retail shop and therefore as a consequence is considered development.

Does the proposed change of use constitute exempted development?
As the proposal involves a change of use from Retail (Class 1) to Church services (Class 7), the change of use does not *'consist of a change of use within any one of the classes of use specified in Part 4 of Schedule 2', as provided within Article 10 of the Planning and Development Regulations 2001 (as amended), and as such is not exempted development.*

In addition, the proposed *c*hange of use from Retail (Class 1) to Church Services (Class 7) does not benefit from any prescribed exemption within Class 14 of Schedule 2 or Article 6 in general, and an assessment on the restrictions on exemptions under Article 9 is not applicable.

Accordingly, it is considered that the proposed development **does not constitute exempted development.**

Does the proposed internal alterations as described with the application constitute development with the context of Section 2 of the Planning and Development Act 2024 (as amended).

While the minor nature of the proposed works are noted, it is apparent the works form part of a material change of use requiring express planning permission. The default position is that all development requires permission, therefore, the proposed works **are considered development** and are **not considered exempt development**.

6. EIA Screening and Determination

Council Directive 85/337/EEC (as amended) on the assessment of the effects of certain public and private projects on the environment (‘the EIA Directive’) is designed to ensure that projects likely to have significant effects on the environmental are subject to a comprehensive assessment of their environmental effects prior to development consent being given. The latest amendments to the EIA Directive are provided under Directive 2014/52/EU and Circular letter PL 1/2017. Based on information provided and having considered the nature, size and location of the proposed development, there is no real likelihood of significant effects on the environment and as such, an EIAR is **not** required.

Appropriate Assessment
Having regard to the nature and scale of the proposed development and the nature of the receiving environment, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site (Special Area of Conservation or Special Protected Area) and as such, an Appropriate Assessment (Stage 2 AA) is **not** required.

7. Conclusion
In having regard to the foregoing and to the relevant provisions of the Planning and Development Act, 2024, The Planning and Development Act, 2000, (as amended), and The Planning and Development Regulations, 2001 (as amended) that the proposed material change of use and the works are considered to be **development that is not exempted development**.

8. Recommendation
Accordingly, it is recommended that an Order along the following lines is issued: -

> **WHEREAS** a question has arisen pursuant to Section 5 of the Planning and Development Act 2000 (as amended) as to whether the following is or is not development and is or is not exempt development:
>
> **AND WHEREAS** the said question was referred to Louth County Council by Jiao Xue (a freehold owner of the property) who resides at 9, The Oaks, Avourwen Drogheda, Co. Louth.
>
> **AND WHEREAS** Louth County Council, in consideration of this question has had regard particularly to:

(a) The definition of *“development”* in Section 2 of the Planning & Development Act 2024.
(b) The plans and particulars submitted to the applicant on 30th June 2026.
(c) Section 4 of the Planning & Development Act, 2000 (as amended).
(d) Article 6 of the Planning and Development Regulations, 2001 (as amended).
(e) Article 9 of the Planning and Development Regulations, 2001 (as amended).
(f) Article 10 of the Planning and Development Regulations, 2001 (as amended).

(g) Exempted Development Part 4 Article 10 Schedule 2 – Classes of Use with particular reference to Class 1 & Class 7 of the Planning and Development Regulations, 2001 (as amended).

AND WHEREAS Louth County Council has concluded that on the basis of the information submitted that:

a) the proposed change from Retail (Class 1) to public worship or religious instruction (Class 7) **constitutes development** and is **not exempt development** as a change of use between these two use classes is not deemed exempt development
b) No external works to the building are proposed.

NOW THEREFORE Louth 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 change from Retail (Class 1) to Church services (Class 7);
at Chinese Market Bachelors Lane Drogheda Co. Louth **<u>constitutes development that is not exempted development.</u>**

Declan Conlon	**Turlough King**	**Thomas McEvoy**
Executive Planner	**A/Senior Planner**	**Director of Services**
Date: 14/07/2026	**Date: 15/07/2026**	**Date: 17/07/2026**

LOUTH COUNTY COUNCIL

CHIEF EXECUTIVE'S ORDER

PLANNING & DEVELOPMENT ACT 2000 (as amended)

Section 5 Exempted Development

Chief Executive's Order No:	555/2026
Reference No:	S5 2026/50
Date Application Received:	30/06/2026
Description of Development:	Would the use of the premises (currently a supermarket) for Sunday Church services for up to 30 people from 11am to 2 pm be considered development or could this use be considered exempt development?
Name of Applicant:	Jiao Xue
Location of Development	Chinese Market, Murphy's Buildings, Bachelors Lane, Drogheda, Co. Louth

WHEREAS a question has arisen pursuant to Section 5 of the Planning and Development Act 2000 (as amended) as to whether the following is or is not development and is or is not exempt development:

Would the use of the premises (currently a supermarket) for Sunday Church services for up to 30 people from 11am to 2 pm be considered development or could this use be considered exempt development?

AND WHEREAS the said question was referred to Louth County Council by Jiao Xue (a freehold owner of the property) who resides at 9, The Oaks, Avourwen Drogheda, Co. Louth.

AND WHEREAS Louth County Council, in consideration of this question has had regard particularly to:

(a) The definition of *"development"* in Section 2 of the Planning & Development Act 2024.
(b) The plans and particulars submitted to the applicant on 30th June 2026.
(c) Section 4 of the Planning & Development Act, 2000 (as amended).
(d) Article 6 of the Planning and Development Regulations, 2001 (as amended).
(e) Article 9 of the Planning and Development Regulations, 2001 (as amended).
(f) Article 10 of the Planning and Development Regulations, 2001 (as amended).

LCP Order No. 555/2026 **Reference No: S5 2026/50**

Exempted Development Part 4 Article 10 Schedule 2 – Classes of Use with particular reference to Class 1 & Class 7 of the Planning and Development Regulations, 2001 (as amended).

AND WHEREAS Louth County Council has concluded that on the basis of the information submitted that:

a) the proposed change from Retail (Class 1) to public worship or religious instruction (Class 7) **constitutes development** and is **not exempt development** as a change of use between these two use classes is not deemed exempt development
b) No external works to the building are proposed.

NOW THEREFORE Louth 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 change from Retail (Class 1) to Church services (Class 7); at Chinese Market Bachelors Lane Drogheda Co. Louth **constitutes development that is not exempted development.**

SIGNED: Declan Conlon **Date:** 16/07/2026
Declan Conlon
Executive Planner

ORDER: In pursuance of the powers conferred upon the Council by the above Act, I concur with the above recommendation and hereby direct that a **Declaration of Exemption be REFUSED** for development as described above.

Signed: **Date: 17/07/2026**
Thomas McEvoy
Director of Service

To whom this function has been delegated in accordance with the provisions of Section 154 of the Local Government Act, 2001 by Order No. CE.S. 201/25 dated the 14th day of May 2025.

Comhairle Contae **Lú**
Louth County Council

Jiao Xue
9 The Oaks
Avourwen
Drogheda
Co Louth
A92H76X

Via email only : [redacted]

17th July 2026

Re: Ref. S5 2026/50

Application for Declaration of "Exempted Development" Part 1, Section 5 Planning & Development Act, 2000 (as amended) as to 'Would the use of the premises (currently a supermarket) for Sunday Church services for up to 30 people from 11am to 2 pm be considered development or could this use be considered exempt development?'

Dear Sir/Madam,

I wish to acknowledge receipt of your application received on 30th June 2026 in relation to the above. Having assessed all information and enclosures received with the application, the Planning Authority wishes to advise as follows: -

WHEREAS a question has arisen pursuant to Section 5 of the Planning and Development Act 2000 (as amended) as to whether the following is or is not development and is or is not exempt development:

Would the use of the premises (currently a supermarket) for Sunday Church services for up to 30 people from 11am to 2 pm be considered development or could this use be considered exempt development?

AND WHEREAS the said question was referred to Louth County Council by Jiao Xue (a freehold owner of the property) who resides at 9, The Oaks, Avourwen Drogheda, Co. Louth.

AND WHEREAS Louth County Council, in consideration of this question has had regard particularly to:

(a) The definition of *"development"* in Section 2 of the Planning & Development Act 2024.
(b) The plans and particulars submitted to the applicant on 30th June 2026.
(c) Section 4 of the Planning & Development Act, 2000 (as amended).
(d) Article 6 of the Planning and Development Regulations, 2001 (as amended).
(e) Article 9 of the Planning and Development Regulations, 2001 (as amended).
(f) Article 10 of the Planning and Development Regulations, 2001 (as amended).
(g) Exempted Development Part 4 Article 10 Schedule 2 – Classes of Use with particular reference to Class 1 & Class 7 of the Planning and Development Regulations, 2001 (as amended).

AND WHEREAS Louth County Council has concluded that on the basis of the information submitted that:

a) the proposed change from Retail (Class 1) to public worship or religious instruction (Class 7) **constitutes development** and is **not exempt development** as a change of use between these two use classes is not deemed exempt development
b) No external works to the building are proposed.

NOW THEREFORE Louth 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 change from Retail (Class 1) to Church services (Class 7); at Chinese Market Bachelors Lane Drogheda Co. Louth **constitutes development that is not exempted development.**

In Summary

A Declaration of Exemption is hereby REFUSED for the works as detailed on the plans and particulars submitted on 30th June 2026.

This decision may be referred by you to An Coimisiún Pleanála for review within 4 weeks of the date of this letter subject to the payment of the appropriate fee.

Yours faithfully,

Brian Duffy

Brian Duffy
Planning Section