



An  
Coimisiún  
Pleanála

**Direction**  
**CD-022170-26**  
**ACP-324036-26**

The submissions on this file and the Inspector's report were considered at a meeting held on 13/05/2026.

**Planning**

**Commissioner:**

  
Paul Caprani

**Date:** 13/05/2026

**DRAFT WORDING FOR ORDER**

**WHEREAS** a question has arisen as to whether the structure under construction at 5 Dún Na Hinse, Ennis, County Clare, as currently built, is or is not development or is or is not exempted development,

**AND WHEREAS** Tatjana Merzvinska requested a declaration on this question from Clare County Council and the Council issued a declaration on the 7<sup>th</sup> day of January, 2026 stating that the matter is development and is not exempted development,

**AND WHEREAS** Tatjana Merzvinska referred this declaration for review to An Coimisiún Pleanála on the 19<sup>th</sup> day of January, 2026,

**AND WHEREAS** An Coimisiún Pleanála, in considering the referral, decided to rephrase the question to read as follows:

Whereas a question has arisen as to whether the alterations to the garage structure under construction, being the installation of glazed doors, construction of internal partition walls, installation of rooflights, construction of studwork and flooring at first floor level, internal pipework and installation of a meter box undertaken during the course of construction at 5 Dún Na Hinse, Ennis, County Clare, as currently built, is or is not development or is or is not exempted development,

**AND WHEREAS** An Coimisiún Pleanála, in considering the referral, had regard particularly to:

- (a) Sections 2(1), 3(1), 4(1)(h), and of the Planning and Development Act 2000, as amended,
- (b) The extent of the permitted development as indicated on the drawings submitted under Register Reference P22/409 received on the 5<sup>th</sup> Day of May 2022 and granted by the planning authority on the 21<sup>st</sup> Day of July 2002 including the conditions attached to the grant of planning permission,
- (c) The judgement in the High Court in the case of Horne vs Freeny (Unreported Murphy J HC 1982)
- (d) the planning and development history of the site,
- (e) the submissions on file, and
- (f) the report and recommendation of the Planning Inspector,

**AND WHEREAS** An Coimisiún Pleanála has concluded that:

- (a) the development, as proposed, constitutes development,
- (b) the referral concerns the following changes which have been undertaken during the course of the construction works, installation of glazed doors, construction of internal partition walls, installation of rooflights, construction of studwork and flooring at first floor level, internal pipework and installation of a meter box which comprises works and, therefore, comes within the scope of the definition

of development as set out in Section 3 of the Planning and Development Act 2000, as amended,

- (c) the development carried out differs from that for which planning permission was granted under planning register reference number 22/409, including the evidence presented which indicates that the ridge height may be higher than permitted under the Condition 2 of the grant of planning permissions under register reference 22/409 and the Commission is satisfied that the deviations from the permitted development are significant and material, and are not immaterial or de minimis, and are not, therefore, within the scope of the development granted permission,
- (d) there are no exemptions in the Planning and Development Act 2000, as amended, or in the Planning and Development Regulations 2001, as amended, whereby such material deviations would constitute exempted development,
- (e) the works which are the subject of this referral are not likely to have significant effects on any European Sites, and
- (f) the works which are the subject of this referral do not fall within a class of development set out in Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended, and, therefore, are not subject to EIA requirements.

**NOW THEREFORE** An Coimisiún Pleanála, in exercise of the powers conferred on it by section 5(3)(a) of the Planning and Development Act 2000, as amended, hereby decides that the alterations to the garage structure under construction, including the overall height of the structure, the installation of glazed doors, construction of internal partition walls, installation of rooflights, construction of studwork and flooring at first floor level, internal pipework and installation of a meter box undertaken during the course of construction at 5 Dún Na Hinse, Ennis, County Clare is development and is not exempted development.