



An
Coimisiún
Pleanála

Inspector's Report ABP-320275-24.

Question

Whether the extension to the rear of the building at Doonagore development is or is not development and if so, is it or is it not exempted development.

Location

Doonagore, Doolin, Co. Clare.

Declaration

Planning Authority

Clare County Council.

Planning Authority Reg. Ref.

R24-46.

Applicant for Declaration

Patrick Hartigan.

Planning Authority Decision

Is development and is not exempted development.

Referral

Referred by

Patrick Hartigan.

Owner/ Occupier

Patrick Hartigan.

Observer(s)

None.

Date of Site Inspection

11th day of July, 2025.

Inspector

Patricia M. Young.

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1.0 Site Location and Description

- 1.1. This referral case relates to an L-shaped site (Note: 0.195ha) that forms part of a larger rural plot of land (Note: 3.22ha) containing a detached dwelling house, ancillary shed type buildings, outbuildings and associated spaces which are together located at the southern end of a restricted in width cul-de-sac lane in the Townland of Doonagore, c500m from the R478 (The Wild Atlantic Way) and c1.8km to the south of the centre of Doolin respectively as the bird would fly, in north west Co. Clare.
- 1.2. Within the referral site sits a modest in size and height period cottage that has in some point of time been subject to alterations and extensions. This building which is subject of this referral case is setback c25m from the cul-de-sac lane that serves it and the Referrers family home via what appears to be a modified in recent times agricultural gated entrance. On inspection this building is in a derelict state with the interiors in particular showing significant deterioration, decay, mould, and damp. The interior space includes a toilet and wash hand basin but appears to have last functioned as an office space. The building is set in grassland that contains significant evidence of water loving plants and would appear to have been recently used for grazing. The L-shaped red line area is mainly demarcated in dry stone walls.
- 1.3. The topography of the site reflects the fall in ground levels in an east west direction towards the Atlantic coastline with significant fall in ground levels between the subject building and the R478 Scenic Route to the east.
- 1.4. The subject building forms part of a designated Heritage Landscape under the Clare County Development Plan, 2023-2029, and its site has expansive views over its rural landscape setting as a result of the site's exposed, elevated and proximity to the Atlantic coastline.

2.0 The Question

- 2.1. Whether the extension to the rear of the building at Doonagore development is or is not development and if so, is it or is it not exempted development.

3.0 Planning Authority Declaration

3.1. Declaration

- 3.1.1. The Planning Authority declared that the subject matter of the question is development and is not exempted development as defined within the Planning & Development Acts, 2000. Decision date: 28.06.2024.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Authority's Planning Officer's report included the following comments:

- The building was last used as an office (Class 3) and therefore the development does not fall within the scope of Section 4.
- The structure is not a dwelling.
- There are no applicable exemptions for extensions to office.
- Installation of a wastewater treatment system and percolation or upgrade to an existing system does not fall within the scope of this question and would require the benefit of permission.
- Change of use from office to dwelling is not included in the question.
- Concludes not exempted development for the purposes of Section 5.

3.2.2. Other Technical Reports

None.

4.0 Planning History

4.1. Site

- **P.A. Ref. No. 22/1003:** Permission **granted** subject to conditions for a development consisting of the change of use of the existing office to domestic use & extend the building, install a waste water treatment system & all other associated

site & ancillary works (Note: at the time this report was prepared no commencement notice lodged for these works and no works implemented on site).

Decision date: 18.05.2023.

- **P.A. Ref. No. 96/8:** Permission **granted** subject to conditions for a development consisting of the construction of a septic tank and change of use from outbuilding to office. (Note: Commencement Notice for this development dated 09.05.1996 – (P.A. Ref. No. C96/235).

Decision date: 11.03.1996.

5.0 Policy Context

5.1. Local

- 5.1.1. The Clare County Development Plan, 2023-2029, is applicable, and under which the site forms part of the rural countryside that it is located in is a Heritage Landscape and is visible from a Scenic Route.

5.2. Regional

- Regional Spatial & Economic Strategy for Southern Region, 2020-2032.

5.3. National

- National Development Plan, 2021.
- National Planning Framework (Project Ireland 2040), as revised.
- National Biodiversity Action Plan (NBPA), 2023-2030.
- Climate Action Plan, 2025.

5.4. Natural Heritage Designations

- 5.4.1. The site is located c385m to the east of Special Protection Areas: Cliffs of Moher SPA (Site Code: 004005), and c1.9km to the south east of Special Area of Conservation: Black Head-Poulsallagh Complex SAC (Site Code: 000020), respectively, as the bird would fly.

- 5.4.2. I also note that the site is located c1.4km to the east of Proposed Natural Heritage Areas: Cliffs of Moher (Site Code: 000026), as the bird would fly.

5.5. Environmental Impact Assessment

- 5.5.1. The proposed development has been subject to preliminary examination for environmental impact assessment (Refer to Form 1 and Form 2 in Appendices of this report). Having regard to the characteristics and location of the proposed development and the types and characteristics of potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The proposed development, therefore, does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.

6.0 The Referral

6.1. Referrer's Case

- 6.1.1. The referrers submission can be summarised as follows:
- The derelict building was used by them as an office from 1996 to 2016.
 - This building dates to circa 1842 and was constructed for use as a dwelling.
 - Permission has been granted under P.A. Ref. No. P22/1003 for this building to be developed into a dwelling house.
 - The extension to this derelict building is exempt under Section 5 of the Planning and Development Act, 2000.
 - The plans submitted show negligible change to its external appearance and includes retention of four walls, all door and window openings as well as its original gable, ridge height and roof design, with the works primarily impact its interior.
 - No works are for natural light.
 - The Council conflates the existing structure with the proposed extension in error.
 - It is not reasonable to rigidly apply the standards set out under the Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning

Authorities, as this is a 200-year-old rural cottage, and the bed spaces relate to urban high rise living, with its relevance to the country questionable.

- National policy supports this type of development.
- Questions the procedural burdens for property owners to get exemption certificates for vacant properties.

6.2. Planning Authority Response

6.2.1. None.

7.0 Statutory Provisions

7.1. Planning and Development Act, 2000, as revised.

- Under Section 2(1) of the Act, “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.
- “use”, in relation to land, does not include the use of the land by the carrying out of any works thereon.
- “habitable house” means a house which:
 - (a) is used as a dwelling,
 - (b) is not in use but when last used was used, disregarding any unauthorised use, as a dwelling and is not derelict, or
 - (c) was provided for use as a dwelling but has not been occupied.
- “house” means a building or part of a building which is being or has been occupied as a dwelling or was provided for use as a dwelling but has not been occupied, and where appropriate, includes a building which was designed for use as 2 or more dwellings or a flat, an apartment or other dwelling within such a building.
- “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.

- “alteration” includes—
 - (a) plastering or painting or the removal of plaster or stucco, or
 - (b) the replacement of a door, window or roof, that materially alters the external appearance of a structure so as to render the appearance inconsistent with the character of the structure or neighbouring structures.
- Under Section 3(1) of the Act, “development” means “(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...”
- Section 4(1)(a) to (f) specifies various categories of development which shall be exempted for the purposes of the Act. It includes:
 - (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.
- Section 4(2) provides for certain classes of development to be designated as exempted development by way of regulation.
- Under Section 5 of the Act:
 - (1) If any question arises as to what, in any particular case, is or is not development or 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, and that person shall provide to the planning authority any information necessary to enable the authority to make its decision on the matter.
 - (3) (a) Where a declaration is issued under this section, any person issued with a declaration under subsection (2)(a) may, on payment to the Board of such fee as may be prescribed, refer a declaration for review by the Board within 4 weeks of the date of the issuing of the declaration.

7.2. Planning and Development Regulations, 2001.

- Under Article 6(4) of the Regulations: (a) Subject to paragraph (b), the carrying out of such works as are necessary to secure compliance with the Building Regulations, 1997 (S.I. No. 497 of 1997) shall, in the case of development consisting of the construction of a dwelling or dwellings in respect of which permission under Part IV of the Act of 1963 was granted before 1 June 1992, be exempted development.
- Article 5 provides Interpretations and includes: “house” does not, as regards development of classes 1, 2, 3, 4, 6(b)(ii), 7 or 8 specified in column 1 of Part 1 of Schedule 2, or development to which articles 10(4) or 10(5) refer, include a building designed for use or used as 2 or more dwellings or a flat, an apartment or other dwelling within such a building.
- Article 6(1) provides 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 2.
- Part 1 (Classes 1 – 8) of Schedule 2 describes classes of development situated within the curtilage of a house which are exempted development, provided that such development complies with the conditions and limitations expressed at Column 2 for each class.
- Part 4 of Schedule 2
Class 2- Use for the provision of-
(a) Financial services,
(b) Professional services (other than health or medical services)
(c) Any other services (including use as a betting office), where the services are provided principally to visiting members of the public.
Class 3-
Use as an office, other than a use to which Class 2 of this Part of this Schedule applies.

- Part 4 of Schedule 2 exempted development classes of use-

Class 3 provides use as an office, other than a use to which class 2 of this Part of this Schedule applies.

- Under Article 9(1) of the Regulations: Development to which Article 6 relates shall not be exempted development for the purposes of the Act.
- Under Article 10(1) of the Regulations: 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.

8.0 Similar Referral Cases

- 8.1.1. I have reviewed the previous decisions of the Commission relating to similar questions and consider that the following cases relate to determination of issues, which are relevant in this case:

- **ABP-318429-23**

The Commission decided that the alterations and an extension to an ancillary building to the rear of the former Lakehouse Hotel is development and is not exempted development. The Commission reached this determination on the basis that the alterations and extensions to the ancillary building constituted works under Section 2(1) of the Planning & Development Act, 2000, as amended, and therefore development under Section 3(1) of the said Act. To this it was considered that there are no exempted development provisions for extensions to buildings in hotel use under the Act or the Planning & Development Regulations, 2001, as amended. It was further considered that the maintenance, improvement, or alterations to the ancillary building would materially alter its external appearance so as to render its appearance inconsistent with its original character as such Section 4(1) (h) of the said Act or any other provision within the said Act or said Regulations are applicable. Decision date: 08.05.2024.

- **ABP-304129-19**

The Commission decided that proposed extension to the rear of Rockwell Cottage, Spanish Point, Miltown Malbay, County Clare, is or is not development or is or is not exempted development. The Commission decided that the proposed extension

is development and is not exempted development on the basis that the extension would constitute development that would fall within the definition of Class 1 of Part 1 of Schedule 2 to the Planning & Development Regulations, 2001, (as amended) and the relevant conditions and limitations as set out under Column 2; however, having regard to the provisions of Article 9(1)(a)(vi) and Clare County Development Plan, 2017-2013, the extension would be located in an area wherein an objective of the said Plan related to where landscape character applies and it would be visible in views from the public road and other locations within the designated landscape area. The Commission was not satisfied on the basis of the information provided that the extension would not interfere with the character of the landscape at this location. Decision date: 02.08.2019.

9.0 Assessment

9.1. Preliminary Comment

- 9.1.1. The Referrer in my view raises a number of matters that fall outside of the Commissions remit. These matters include planning procedural concerns in relation to having to lodge a referral to the Commission for its determination in a context where there is an urgent requirement for delivering housing stock. They also raise procedural concerns in relation to the Planning Authority's determination of this Section 5 referral through to the implementation of the development permitted under P.A. Ref No. 22/1003 is cost prohibitive for them and therefore this extension is proposed to this derelict building as part of its refurbishment for its use as a dwelling.
- 9.1.2. Against this context I consider it appropriate to clarify that the sole purpose of a Section 5 Referral is to determine, when a question arises in any particular case, what is or is not development or what is or is not exempted development within the meaning of the Act. As such the purpose of a Section 5 Referral is not to adjudicate on the particular planning merits associated with a case, or whether or not a proposal is in accordance with the proper planning and sustainable development of the area as provided for under local through to national planning policy provisions as well as guidance. But rather a referral under Section 5 of the Planning and Development Act, 2000, as amended, is confined to a legal interpretation as to whether or not planning permission is required in accordance with it and the associated provisions set out under the

Planning and Development Regulations, 2001, as amended. With this being the case the Commission should therefore restrict its deliberations to the referral question before it.

9.2. Is or is not development

9.2.1. The question asked by the Referrer in this case is whether the extension to the rear of a building which is described as being derelict and forming part of a separate 0.195ha site within their larger landholding in the Townland of Doonagore, Doolin, Co. Clare, is or is not 'development' and if so, is it or is it not 'exempted development'. I therefore propose to assess firstly the question of development below.

9.2.2. As part of this assessment, I note that the submitted documents provided by the Referrer indicate:

- The structure is derelict forming part of L-shaped site with a given area of 0.195ha that forms part of a larger T-shaped plot that is indicated as being in the Referrers ownership that has a given area of 3.22ha when the referral site is included. The larger plot is outlined in blue and with the red line area demarcating the referral site for this question in part overlapping with part of the north eastern end of the private lane and entrance. The adjoining structures in the 3.22ha adjoining plot is indicated to includes the Referrers detached family home which lies to the south of its entrance on the southernmost end of a restricted in width cul-de-sac lane.
- The drawings show that the subject building has exterior measures of 9.3m width, 4.75m depth and ridge height of c4.3m. With this relating to the original cottage and a later extension built on its western side. The internal space is indicated to include a main space that is indicated to be an office area converted to kitchen/living use (Note: 4.9 by 3.2m (c15.64m²)) and a later southern side extension of 2.6m by 4.1m (Note: c10.66m² - at the time of inspection was partitioned including a WC). Thus, an internal space of c26.3m² and I note also an external footprint of 44.175m². It is of note that this structure is in a derelict state at the time my inspection was carried out.
- The drawings show that the proposed extension consists of a link hallway (Note: Exterior - c3.7m in width by 1.4m in depth/Internal 3m in width by 1.4m in depth) which would attach to the rear elevation at a point where it would provide access

to the existing structure's hallway. The proposed hallway would provide access to a two-bedroom extension (Note: Exterior – 7.5m in width by 4.7m in depth / Internal bedroom labelled 'B1' 3.7m by 4m and bedroom labelled 'B2' 3.0m by 4m). Thus, an additional footprint of c39.5m² and an additional floor space of c30.9m². This equates to a combined external footprint of c83.67m² and an internal floor space of 57.2m².

- The drawings show that the subject building would be served by a separate access onto the cul-de-sac lane, a separate driveway and would be within its own independent plot created from the existing curtilage of the Referrers detached rural residential plot. It would be served by a separate wastewater treatment system and soakaway within the red line area. It is of note that these associated infrastructure and services are not currently *in situ*.
- It is contended that the cottage structure and its later extension are pre S.I. No. 236/1964 – Local Government (Planning and Development) Act, 1963, (Exempted Development) Regulations, 1964. On this point it is indicated that it was likely constructed for habitable use in circa 1842 or earlier.

9.2.3. Having regards to the above I am cognisant that under Section 3(1) of the Planning & Development Act, 2000, as amended, that “development” means “(a) *the carrying out of any works in, on, over or under land*”, and “works includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal”.

9.2.4. The alterations to the original building and its later side extension would involve significant alterations to it externally and internally in order to accommodate the provision of a hallway, two bedrooms to the rear, which would more than double the original footprint of this buildings existing external footprint and internal floor area as well as including alterations and renewal of its external envelope including the construction of a chimney stack centrally in this building's roof structure.

9.2.5. Additionally, the connection of the rear extension would involve a loss of this buildings rear building envelope in order to connect the two spaces through to works to the roof structure which appear to include the removal of its end detail as well as the increase in height of the later addition so that it has a ridge height, shape and profile that integrates with that of the original cottage structure.

- 9.2.6. Moreover, the drawings show that the extended structure would be connected to a proprietary waste water treatment system, soakaway and would be accessed from a driveway and entrance that would connect to the driveway serving the Referrer's 3.22ha adjoining site at a point where it would be proximate to the entrance that serves it onto the southern end of the local road which at this point marks the end of a public cul-de-sac lane. This would include a variety of works including excavation, demolition, construction and alteration as this infrastructure and services that are not currently *in situ*.
- 9.2.7. As 'development' is defined in the said Act as the carrying out of any 'works' on, in, under or over land or the making of any material change of use in any of the structures or other land and 'works' are defined as including the act or operation of construction, excavation, demolition, extension, alteration, repair or renewal, it is my considered opinion that there can be no doubt that the subject extension to the subject building involves construction, demolition, extension and alteration to this structure. I am therefore satisfied that the subject extension together with the associated works indicated undoubtedly falls within the definition of 'works' as defined under the said Act.
- 9.2.8. To this I am cognisant that the definition of development set out in Section 3(1) of the Planning and Development Act, 2000 – 2015, comprises two arms, i.e. that of "the carrying out of works" and "the making of any material change of use". In relation to the carrying out of works I am also therefore satisfied on the basis of the above that as the subject extension and its associated works as shown in the submitted documentation falls within the definition of 'works' it therefore constitutes 'development'.
- 9.2.9. In relation to 'the making of a material change of use', this consideration also requires separate consideration, that further adds to the fact that the carrying out of works as set out is tangibly linked with the question of whether the 'making of any material change of use' arises.
- 9.2.10. On this point the extension relates to a building that up to 2016 was used as an office on foot of a grant of planning permission P.A. Ref. No. 96/8. This point is made by the Referrer's submission which states that: "*the derelict building was used (under planning permission P96/08) as an office*" by them.

- 9.2.11. I note that P.A. Ref. No. P96/08 related to a grant of planning permission for a development consisting of the change of use from outbuilding to office and the construction of a septic tank. It would appear that whilst the change of use was implemented from outbuilding to office no septic tank was installed but instead the WC within the subject building appears to have been linked to foul drainage and potable water serving the Referrers larger adjoining landholding which includes a detached dwelling with it, the subject site and its setting forming part of a rural unserved location.
- 9.2.12. I note also that under P.A. Ref. No. 22/1003 that permission was granted for the change of use of the existing office to domestic use, with this including an extension to the building, the installation of a waste water treatment systems and all other associated site as well as ancillary works. This grant of permission was not implemented.
- 9.2.13. I also note that this permitted development which extends, refurbishes, and alters the subject building is significantly different in its design, scale, layout and so forth to that indicated in the drawings and documentation accompanying this referral case. At the time this report was prepared there was no commencement notice submitted with the Planning Authority for it.
- 9.2.14. Therefore, the subject extension would entail works to a building whose last permitted use was as an office and prior to this use was an outbuilding within the site of the referrers rural detached dwelling plot. This would correlate with what I observed on site alongside its derelict and decaying structural condition.
- 9.2.15. On the basis of the information provided and having inspected the subject building I am satisfied that it has no established or permitted use as a habitable house in the context of the interpretations set out under Section 2(1) of the said Act.
- 9.2.16. On this point I note that this section defines a “house” as meaning a building or part of a building which is being or has been occupied as a dwelling. This is not the case and with the Referrer describing it as derelict and it is without the spaces and services one would expect for a dwelling unit, i.e. foul sanitation through to bedroom spaces. It also defines “habitable house” as: (a) is used as a dwelling, (b) is not in use but when last used was used, disregarding any unauthorised use, as a dwelling and is not derelict, or (c) was provided for use as a dwelling but has not been occupied.

- 9.2.17. The subject building does not accord with these definitions but rather would appear to be an ancillary now derelict building within the Referrers rural residential plot whose most recent use was as an ancillary office space. With I note the planning history for P.A. Ref. No. 96/8 indicating that the change of use from outbuilding to office related to the Referrer's teleworking telecommunications business, with it also used by them for marketing via telephone, fax and internet as well as translating software programming, scientific, engineering, and technical consultancy. Additionally, it indicates that the change of use sought would be incidental to the dwelling house and clients would be unlikely to visit.
- 9.2.18. In terms of defining office use I refer to Part 4 of Schedule 2 of the Planning and Development Regulations of the Planning provides for such land use under Class 2 and Class 3. Having regards to the nature of the office use sought under P.A. Ref. P.A. Ref. No. 96/8. In relation to Class 2 the office use in this case relates to the applicant's telecommunications business which they appear to have operated from the subject building with this providing a professional service outside of health or medical services. Notwithstanding, Class 2 office use is one that it indicates is provided principally to visiting members of the public and as such I do not consider the office use as permitted falls under this class but rather Class 3 as this relates to an office related use other than a use to which Class 2 applies.
- 9.2.19. In light of the above, I consider that the change of use permitted under P.A. Ref. No. 96/8 was a Class 3 office.
- 9.2.20. In addition to the above I consider that the extension which consists of facilitating the subject buildings change from its authorised last use to a habitable house is a material change of use as defined under Section 3(1) of the said Act. This consideration is based on the context that the proposed works associated with the subject extension consisting of a link hallway to the rear providing connection to a two-bedroom new single store extension to the rear of the subject building. This is also in a context where the existing subject building which consists of the original c1842 structure, and a later extension is internally comprised of a 15.68m² combined "*office area converted to kitchen/living use*" (Note: this occupies the interior space of the original structure). Alongside is served by a restricted in width hallway of 1m by c4.1m and wet room of 5.74m² (Note: these two internal spaces relate to the later extension to the side of the original cottage structure). These sundry internal spaces have a combined area of

c10.6m² and when taken together with the internal space of the original cottage an existing total internal floor area of 26.34m². Though given the interior presentation of the subject building on the day of inspection I do not accept that it is an office area converted to kitchen living space as suggested in the submitted drawings and as said this building is in a derelict state.

- 9.2.21. To this the subject extension would result in cumulatively an additional hallway space of 4.2m² and an extension with an internal floor area of c26.52m². Thus, a combined space of c30.72m². This is more than double the internal floor space of the existing subject building and it would contain two double bedrooms (Note: 4 Persons) with the existing building having no bedroom space.
- 9.2.22. The plans also indicate the provision of a waste water treatment system, yet the existing situation is that the subject building is not served by one. It also indicates a separate driveway and entrance opening in proximity to the entrance serving the Referrers property onto the public domain of a restricted in width cul-de-sac lane as well as containing a parking/turning space in front of the subject building with this requiring the removal of a period dry stone wall that is over c1m in its height. It would also appear that a separate plot would be created. However, it is unclear what works if any would be involved in the staggered western boundary of this c0.195ha site, with this space providing not only separate amenity space but also a soakaway to the south west of the subject building.
- 9.2.23. I also note that residential use as a habitable house is materially different to the ancillary office use, having regards to their significant different functional land use character, with office use generally providing a level of continual activity 24 hours 7 days of the week throughout the year. It is also a use that is not limited to particular hours, days and so forth whereas this is not the case for office use including particular those described as part of the planning application P.A. Ref. No. 96/8 which would generally be focused on business hours and business days throughout the year.
- 9.2.24. The subject extension and sundry works would significantly change the nature of this subject buildings use beyond that of what was permitted and implemented under P.A. Ref. No. 98/8 irrespective of whether the building being vacant and with its office use contended to have been abandoned in 2016. Its interiors do contain some storage of furniture and sundry items. However, there is no evidence of recent use with the extent

of damp, decay through to black mould not a safe environment for any active office or other type of use.

- 9.2.25. Additionally, the extension works are dependent upon significant changes to the nature of the grounds within the 0.195ha red line area, with this as said including but not limited to access, wastewater through to surface water infrastructure and services.
- 9.2.26. Arising from the above considerations, in my view it can be reasonably be determined that the use of the subject building was last used as an office space by the Referrer which has been abandoned since 2016, and the building is now in a derelict state. This use and the existing circumstance of this building is functionally materially different to the use for which the development works would facilitate, i.e. a habitable house. As such I am satisfied that in this case the subject extension together with the associated works to this building constitutes works that constitute the making of a material change of use as per Section 3(1) of the said Act.
- 9.2.27. My final comment in relation to the question of development relates to Section 4(1) (h) of the Planning and Development Act, 2000, as amended. In this regard I consider that it is applicable given that the works as set out in the documentation provided with this referral case show that they would materially affect the external appearance of the subject structure as well as would rendering it out of character with its vernacular appearance as it currently survives. These external changes associated with the extension subject of this question result in material changes to this subject structure as it observed in the round.
- 9.2.28. Conclusion: On the basis of the above it is reasonable for the Commission to conclude that the proposed extension to the subject building falls within the scope of the definition of 'works' and therefore constitutes 'development'. I now propose to assess the whether the extension is or is not exempted development separately in the following section of this assessment.

9.3. Is or is not exempted development

- 9.3.1. As concluded upon above I consider that the subject derelict building's last authorised use was as Class 3.
- 9.3.2. I note firstly to the Commission that S.I. No. 75/2022 - Planning and Development Act (Exempted Development) Regulations 2022 amended Article 10 of the Planning and

Development Regulations as amended by Statutory Instrument No. 30 of 2018, provides an exemption for the change of use, and any related works, of certain vacant commercial premises to residential without the need to obtain planning permission. This amendment relates to existing buildings that have a current commercial use, and which fall under Class 1, 2, 3, and 6 of Part 4 to Schedule 2 of the said Regulations, subject to limitations.

- 9.3.3. In this regard the change of use, and any related works, must occur between when the 2018 Regulation came into operation on 8th day of February, 2018, until 31st day of December, 2025. Therefore, while this exempted development provision would be permanent in nature, it can only be availed of for this defined temporary period and is subject to safeguards.
- 9.3.4. I also note that this amendment to Article 10 requires that the applicable Planning Authority, in this case Clare County Council, must be notified in writing of the details of the development at least 2 weeks prior to the commencement of the proposed change of use. With the details to include the related works and the notification must include information on the location as well the number of dwelling units being developed. The amendment to Article 10 also requires that the Planning Authority maintain a record of any notifications received; make the record publicly available online and at their office.
- 9.3.5. I can find no such record of any notification relating to the change of use from office which is a commercial use, and I accept having inspected the building the contentions of the Referrer that the office use of the subject building ceased in 2016 with the building in a derelict state.
- 9.3.6. I therefore consider that the extension and use of the derelict building is exempted development having regards to the above discussed amendment to Article 10 of the said Regulations.
- 9.3.7. To this I note that the exempted development provisions considered relevant that relate to a change of use in this instance are set out in Article 10 and Part 4 of said Regulations and are referenced above.
- 9.3.8. The authorised use of the subject building as said is office is one that falls under the scope of Class 3 use of Part 4 of Schedule 2 of the said Regulations. The nature of the subject extension when taken together with the existing building would effectively

change the character of its authorised Class 3 use under Part 4 of Schedule 2 of the said Regulations to Class 1, Schedule 2, Part 1 of the said Regulations, which I note relates to habitable houses.

- 9.3.9. On this point I am of the view if there was any previous residential use of the subject building, with no evidence provided to support that this building was used as such, it has been abandoned for a significant length. With the use prior to the permitted and implemented Class 3 change of use being an outbuilding. I therefore do not consider that the subject building's authorised and/or established use is one that falls under Class 1, Schedule 2 of Part 1 of the said Regulations, with this Class relating to habitable dwellings.
- 9.3.10. Article 10 and Part 4 of Schedule 2 of the said Regulations does not set out that this material change in use of this building is one that is exempt. I therefore consider that the change of use constitutes development for the purposes of the said Act and that it is not exempted development. For further clarity I therefore note that as the subject building is not a Class 1 use under Schedule 2, Part 1 of the said Regulations the exemptions applicable to this use class are not relevant considerations.
- 9.3.11. In terms of Article 9 of the said Regulations I also consider it to be of particular relevance to this referral question in that it sets out a list of restrictions on exempted development.
- 9.3.12. Having consulted the various restrictions set out under Article 9, the provisions of Article 9(1)(a)(iii); (vi); (viii) and (viiB) are material considerations in the Commission's deliberation of the above referral, I raise the following concerns.
- 9.3.13. *Article 9(1)(a)(iii) sets out that if the carrying out of such development would endanger public safety by reason of traffic hazard or obstruction of road users the proposed development would not be exempt.*

The subject extension which as said would effectively facilitate the subject buildings use as an independent two-bedroom four person dwelling unit would generate additional traffic at the southernmost end of a substandard in width and horizontal as well as vertical alignment cul-de-sac lane that is poorly surfaced. This lane already accommodates five detached dwellings units which includes the Referrers family home and agricultural entrances to a number of fields. Moreover, journeying to the referral site for most of the cul-de-sac lane the width of the lane is not suitable for two

vehicles journeying in opposite directions to pass safely and conveniently. Additionally, the grass verges are raised with grass running through the centre of the road.

I therefore consider that the separate entrance serving the subject building would be at a point where it has the potential to obstruct vehicle movements associated with the Referrers family home and it is not demonstrated adequate sightlines can be achieved. With the Referrer's home providing accommodation for international refugees with this generating additional though modest traffic movements during my inspection of the site.

Of additional concern, I observed that the sightlines of where the cul-de-sac lane meets the local road network to the north is also seriously substandard in both directions as well as horizontal and vertical alignment.

On the basis of the above I am not satisfied that this development is one that would not endanger public safety by reason of a traffic hazard or obstruction to road users of the cul-de-sac lane.

Similarly, I am not satisfied that it would not endanger public safety by reason of a traffic hazard or obstruction to road users of the T-junction serving this cul-de-sac lane onto the local road network which at the day of inspection was heavily trafficked as well as in part obstructed by a mixture of vehicles, cyclists through to pedestrians.

The latter in my view reflects the draw of this scenic rural location which includes Doonagore Castle and views towards the Cliffs of Moher through to the Arran Islands beyond. With this location being at an elevated position where there are sweeping panoramic views.

In conclusion the above considerations trigger the restriction from being exempted development provided for under 9(1)(a)(iii) of the said Regulations.

- 9.3.14. *Article 9(1)(a)(iv) sets out that if the carrying out of such development would 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.*

This referral site forms part of a Heritage Landscape (Note: Map C – Clare County Development Plan, 2023-2029). Also, the subject building is visible in views westwards from the R478 Scenic Route (Note: Map Ref. H3 of the aforementioned County Development Plan). Therefore, objective CDP14.5, which relates to Heritage Landscapes, and objective CDP 14.7 of the County Development are relevant consideration for developments at this sensitive to change location.

Objective CDP 14.5 of the County Development Plan indicates that the Council will require that all proposed developments in Heritage Landscapes demonstrate that every effort has been made to reduce visual impact. It further indicates that this must be demonstrated for all aspects of the proposal including but not limited to design. Though the proposed extension to the rear is modest in its overall built form and height relative to the original cottage structure I raise concerns that as an architectural design resolution the proposed extension would be highly visible and would change the presentation of this modest building that appears as period vernacular cottage within its Heritage Landscape setting.

Alongside I consider it would be a development that due to its location to the rear of this structure which is visible from the R478 Scenic Route as a modest period in character feature in the sweeping and exposed views towards the Atlantic coastline would materially change its visual appreciation as appreciated as a positive built element that contributes to the visual aesthetics of this protected view.

With the extension being of a design that is not one that could reasonably be considered qualitative or innovative in terms of its architectural design response either as an example of contemporary of its time building layer that is legible as a sympathetic to this subject building's earlier building layers. Nor could it be reasonably be considered that as an architectural response is one that seeks to respond in harmonious manner to its more vernacular and period character.

Further the overall alterations and additions as sought would erode this building period building layers and its features that inform its character as observed as part of the protected Heritage Landscape and views it forms part of.

To this I also note that Objective CDP16.4 of the County Development Plan supports the revitalisation and refurbishment of vernacular buildings that are in a sub-standard or derelict condition. However, this is subject to safeguards including:

- (i) That appropriate traditional building materials and methods are used to carry out repairs to the historic fabric.
- (ii) That proposals for extensions to vernacular structures are reflective and proportionate to the existing building and do not erode the setting and design qualities of the original structure which make it attractive.
- (iii) That direction for the design is taken from the historic building stock of the area, though it can be expressed in contemporary architectural language.

Further, Objective CDP 14.7 of the County Development Plan which relates to developments in the visual context of a scenic route, seeks to protect sensitive areas from inappropriate development through to it seeks to ensure that proposed developments take into consideration their effects on views from the public road towards scenic features through to are of an appropriate standard of design.

To this I note that the site forms part of a highly scenic setting as observed from the scenic route which includes views towards the Atlantic coastline, the Recorded Monument and Place Doonagore Castle (Note: CL008-087001), the Cliffs of Moher through to the Arran Islands.

I note that Doonagore Castle is included as a Protected Structure under Volume 4 of the County Development Plan which sets out its Record of Protected Structures. It is described as a Round Tower house and Bawn that dates to c1450-1550 and is given a National rating with its categories of special interest listed as 'Architectural', 'Detail/Design', 'Setting' and 'Archaeological Feature'. The County Development Plan provides protection for Protected Structures including under Objective CDP16.1 and CDP16.2.

In relation to Recorded Monuments and Places (RMP) the referral site though located c320m to the east of RMP CL008A004002 – Souterrain and CL01079 – Ring fort as well as is located c337m to the south west of 'Doonagore' Castle, RMP CL008-087 Castle/Tower House, Ruins, BAWN). Notwithstanding, it does not form part of a zone of archaeological constraint; however, it does form part of a landscape that is rich in archaeological potential.

In this case the extension and its associated refurbishment as well as alterations works as indicated in the accompanying documentation have potential implications on the structure, the Heritage Landscape, the Scenic Route, the natural and built attributes

that inform this locality's intrinsic character and unique sense of place, with the Clare County Development Plan 2023-2029 containing a wide range of protections for this landscape and specific requirements that must be considered as part of assessing developments in this rural locality.

In conclusion, I consider that having regard to the above considerations they trigger the restriction of the subject extension from being exempted development as provided for under 9(1)(a)(iv) of the said Regulations.

- 9.3.15. *Article 9(1)(a)(viiB) sets out that the development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site [Natura 2000 site] ...*

I note that this development, if carried out, would effectively change the function of the subject building to an independent habitable house. There is no existing proprietary waste water treatment system serving the subject building nor is their adequate detail provided on how foul, surface through to storm water would be provided to meet the demands of this use or that this would be provided in a manner that is consistent with minimum standards.

There is also no assurance the provision of foul drainage or capturing pollutants from the driveway and entrance would not be prejudicial to public health or that it would not have any adverse impact on qualifying features of any Natura 2000 site or sites.

The drawings indicate a proprietary waste water treatment system which would be located c395m to the east of the Special Protection Areas (SPA) Cliffs of Moher (Site Code: 004005) at its nearest point. The landscape in between falls steeply downwards in its ground levels and dwelling along this cul-de-sac lane including the Referrers family home are served by proprietary waste water treatment systems.

I also note that the Cliffs of Moher SPA overlaps with the Proposed Natural Heritage Areas: Cliffs of Moher (Site Code: 000026) and that the referral site is located c2.1km to the south east of Special Area of Conservation (SAC): Black Head-Poulsallagh Complex (Site Code: 000020).

Having regard to the lack of detail provided in relation to the construction and installation of the foul, surface, storm water drainage through to capturing of

contaminants for the extension subject of this referral case which would materially change the use of the subject building from office to a 4 Person Bed Space dwelling I am of the view that it would require an appropriate assessment.

This conclusion is based on the information provided it cannot be ruled out that it would not be likely to have a significant effect on the integrity of any Natura 2000 site or sites.

In conclusion, the above considerations trigger the restriction from being exempted development provided for under Article 9(1)(a)(viiB) of the said Regulations.

9.3.16. In light of the above considerations and the exempted development restrictions provided for under Article 9(1)(a)(vi); (iv) and (viiB) the development subject of this referral case is not exempted development.

9.3.17. My final comment is I note to the Commission that the change from office to habitable house use is one that is within a use class that is considered to be exempted development under Article 10 of the said Regulations.

9.3.18. I am satisfied that there are no exemptions provided for under the said Regulations that apply to the subject development.

9.3.19. Conclusion: On the basis of the above the subject development is not exempted development under the said Regulations.

10.0 Water Framework Directive (WFD)

10.1. This referral site is located in the rural Townland of 'Doonagore', with water drainage ditches running in proximity to the south of the subject building through the Referrers land holding and with the land sloping downwards mainly in a westerly direction towards the Atlantic Coast. Within the referral site setting there are a number of in proximity to the Referrers landholding drainage ditches that run along the field system, with these in similar manner following the steadily falling ground levels of this rural locality. These do not connect to a watercourse and the site is up slope from larger water bodies within its wider rural coastal landscape setting.

10.2. In general, nearly all rainfall enters the bedrock aquifer, flowing either to the waterbodies or in a westerly direction where drainage ditches/watercourses drain into the Atlantic coast.

- 10.3. The Atlantic coast to the immediate west and south west of the site is part of the Shannon Plume (Site Code: IE_SH_070_0000) which is not deemed to be at WFD risk. Further the groundwater at this location, i.e. Milltown Malbay (Site: Code: IE_SH_G_167) is also not a ground water body at WFD risk. The coastline to the north west of the site forms part of the transitional waterbody Aille Clare Estuary (Site Code IE_SH110_0100). This catchment is not a waterbody at WFD risk.
- 10.4. The proposed development comprises extension, alterations, and refurbishment work to a derelict building to facilitate its use as a habitable house. The sundry works as indicated in the drawings show its connection to a new onsite wastewater treatment system and soakaway. A new accessway linking to the main internal access road serving the Referrers landholding in proximity to its entrance at the southernmost end of a cul-de-sac road is also proposed.
- 10.5. No water deterioration concerns were raised in this referral case.
- 10.6. I have assessed the proposed development and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface & ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. Having considered the nature, scale, and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any surface and/or groundwater water bodies either qualitatively or quantitatively.
- 10.7. The reason for this conclusion is as follows.
- The modest nature, scale, and extent of the development.
 - The location from the nearest water bodies and lack of hydrological connections.
 - Compliance with standard measures for dealing with foul drainage, storm/surface water through to pollution would be required during construction and operational phases of this development.
- 10.8. Taking into account of the above I conclude that on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or

quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its Water Framework Directive objectives and consequently can be excluded from further assessment.

11.0 Recommendation

11.1. I recommend that the Commission should decide this referral in accordance with the following draft order:

WHEREAS a question has arisen as to whether the extension to the rear of a derelict building in the Townland of Doonagore, Doolin, Co. Clare, is development or is not development and if so, is it or is it not exempted development:

AND WHEREAS Patrick Hartigan requested a declaration on this question from Clare County Council and the Council issued a declaration on the 28th day of June, 2024, stating that the matter was development and was not exempted development:

AND WHEREAS Patrick Hartigan referred this declaration for review to the Commission on the 25th day of July, 2024:

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

- (a) Section 2(1) of the Planning and Development Act, 2000, as amended.
- (b) Section 3(1) of the Planning and Development Act, 2000.
- (c) Section 4(1)(a) of the Planning and Development Act, 2000, as amended.
- (d) The Interpretations of a house as provided for under Article 5 of the Planning and Development Regulations, 2001, as amended.

- (e) Article 6(1) and article 9(1) of the Planning and Development Regulations, 2001, as amended, with particular regard had to Article 9(1)(a)(vi); (iv) and (viiB).
- (f) Parts 4 of Schedule 2 to the Planning and Development Regulations, 2001, as amended.
- (g) The provisions of the Clare County Development Plan 2023-2029.
- (h) The planning history of the site.
- (i) The pattern of development in the area.
- (j) The distance between the referral site and Natura 2000 sites.
- (k) All documentation on file including photographs submitted by the Referrer; the Planning Authority and the details regarding the proposed works.

AND WHEREAS An Bord Pleanála has concluded that:

- (a) The extension to this derelict building constitutes “works” under Section 2(1) of the Planning and Development Act, 2000, as amended and so they are development under Section 3(1) of the said Act.
- (b) The proposed extension would be located in an area wherein an objective of the statutory development plan relating to landscape character, view, prospect of special amenity value/special interest which includes its natural and built features, applies.
- (c) The proposed extension would be visible in views from the public road which is a designated scenic route and from other locations within its designated as sensitive to change landscape area and including natural as well as built structures, including this vernacular though altered and extended period cottage, on the basis of the documentation submitted with this referral, does not demonstrate that it would interfere with the character of the landscape at this location, including its visual natural built features and attributes for which the statutory Development Plan, by way of objectives applies.

(d) The extension works indicated in the referral documentation to the subject derelict building would have the potential for consequences in planning terms including:

- Road safety/traffic hazard issues arising from the development onto a substandard restricted in width and alignment cul-de-sac road that provides access to the wider public road network via a substandard junction where sightlines are restricted in both directions as well as this local road is also substandard in its restricted width as well as horizontal and vertical alignment. As such the proposal would come within the restrictions on exemption as set out in Article 9(1)(a)(iii) of the Planning and Development Regulations, 2001, as amended.

- The extension has the potential to interfere with the character of a designated heritage landscape, a scenic route, natural and built features in a manner that is inconsistent with the Clare County Development Plan, 2023-2029, which includes objectives to protect from development that has the potential to result in visual diminishment. As such the proposal would come within the restrictions on exemption as set out in Article 9(1)(a)(iv) of the Planning and Development Regulations, 2001, as amended.

- The extension is one that fails to accord with Clare County Development Plan, 2023-2029, objectives for refurbishment and extensions to vernacular buildings, which includes objectives to protect them as a feature within their local setting through to from unsympathetic developments. Vernacular buildings are part of the built features of interest in this Heritage Landscape and as visible from the Scenic Route. As such the proposal would come within the restrictions on exemption as set out in Article 9(1)(a)(iv) of the Planning and Development Regulations, 2001, as amended.

- The extension in respect of the works shown in an unzoned, unserviced rural area that is also proximate to Natura 2000 sites is a type of development for which Appropriate Assessment is required. As such the proposal would come within the restrictions on exemption as set out in

Article 9(1)(a)(viiB) of the Planning and Development Regulations, 2001, as amended.

The above indicated potential for consequences do not come within the scope of any of the legislative provisions for exempted development.

- (e) There are no applicable exemptions for refurbishment and extension to Class 3 authorised use, *albeit* abandoned such use is contended to be abandoned since 2016, exist under either the Planning and Development Act, 2000, as amended, and Planning and Development Regulations, 2001, as amended.
- (f) The erection of an extension to the existing structure, relies, for the purpose of the exempted development provisions, on the structure in question being construed as a 'house'. However, there is no evidence to support the subject buildings residential use and therefore the question does not come within the Scope of Class 1 of Part 1 of the Second Schedule of the Planning and Development Regulations, 2001, as amended.
- (g) The extension as set out in the accompanying documentation to the derelict building would materially alter its external appearance of the building so as to render its appearance inconsistent with its original character. Accordingly, the exempted development provisions under Section 4(1)(h) of the Act or any other provision within either the Planning and Development Act, 2000, as amended, and Planning and Development Regulations, 2001, as amended, are not applicable.
- (h) It is unclear from the information provided that it can be ruled out with scientific certainty that the nature, scale, and extent of this development would not be likely to have a significant effect on the environment or to require an environmental impact assessment, either alone or in combination with other projects.

NOW THEREFORE An Coimisiún Pleanála, in exercise of the powers conferred on it by section 5 (3) (a) of the 2000 Act, hereby decides that the said is development and is not exempted development.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Patricia M. Young
Planning Inspector

23rd day of July, 2025.

12.0 Form 1 - EIA Pre-Screening

Case Reference	ABP-320275-24
Proposed Development Summary	Whether the extension to the rear of the building at Doonagore development is or is not development and if so, is it or is it not exempted development.
Development Address	Doonagore, Doolin, Co. Clare.
	In all cases check box /or leave blank
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2.
	<input type="checkbox"/> No. No further action required.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input type="checkbox"/> Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	State the Class here.
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
<input checked="" type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994.	

<p>No Screening required.</p>	
<p><input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.</p> <p>EIA is Mandatory. No Screening Required</p>	<p>State the Class and state the relevant threshold.</p>
<p><input type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.</p> <p>Preliminary examination required. (Form 2)</p> <p>OR</p> <p>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</p>	<p>State the Class and state the relevant threshold.</p>

<p>4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?</p>	
<p>Yes <input type="checkbox"/></p>	<p>Screening Determination required (Complete Form 3)</p>
<p>No <input checked="" type="checkbox"/></p>	<p>Pre-screening determination conclusion remains as above (Q1 to Q3).</p>

Inspector: _____

Date: 23rd day of July, 2025.

13.0 Form 2 - EIA Preliminary Examination

Case Reference	ABP-320275-24
Proposed Development Summary	Whether the extension to the rear of the building at Doonagore development is or is not development and if so, is it or is it not exempted development.
Development Address	Doonagore, Doolin, Co. Clare.
This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
Characteristics of proposed development (In particular, the size, design, cumulation with existing/ proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).	Briefly comment on the key characteristics of the development, having regard to the criteria listed. The referral site is located in a predominantly rural locality setback from the Atlantic coastline and contains a modest derelict building surrounded in grass that appears to be used for grazing. The development as described in the referral as an extension to the derelict building and other works to accommodate its use as an independent dwelling unit. The land is part of a larger landholding owned by the Referrer with this containing their family home, agricultural shed, ancillary structures and associated infrastructure and services. To the east and west portions of their landholding outside of the main curtilage of their family home these lands appear to be used by them for grazing. The site is given to have a site area of 0.195ha with this forming part of the northernmost irregular T-shaped landholding which has a given area of 3.22ha. The development does not require the use of substantial natural resources or give rise to significant risk of pollution or nuisance. The development, by virtue of its type, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. It presents no risks to human health.

Location of development	Briefly comment on the location of the development, having regard to the criteria listed.
<p>(The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).</p>	<p>The development comprises modest extension and associated sundry works which are indicated to include a waste water treatment plant, soakaway access road, whilst such modest works if carried out in accordance with best practices are unlikely to cause any significant risk to environmental sensitivities within the site's setting. Notwithstanding, this has not been demonstrated in the information provided.</p> <p>The site is located c385m to the east of Special Protection Areas: Cliffs of Moher SPA (Site Code: 004005), and c1.9km to the south east of Special Area of Conservation: Black Head-Poulsallagh Complex SAC (Site Code: 000020), respectively, as the bird would fly.</p> <p>These sites are of considerable conservation significance comprising, with for example the Cliffs of Moher SPA, which is the nearest to the site being home to over 20 different species of birds with 30,000 pairs on-site during the breeding season. It is home to kittiwakes, guillemots, fulmars, peregrine falcons, puffins, and chough, all of which are on the vulnerable species list. The aim of this SPA is to maintain and restore the favourable conservation conditions of the bird species listed as Special Conservation Interests for this SPA. It is unclear whether the site has any links to these mobile bird species given its proximity to the boundaries of this SPA.</p> <p>The site is considered to be outside of the zone of influences for other designated Natura 2000 sites.</p> <p>The site and its environs forms part of a protected Heritage Landscape area under the Clare County Development Plan, 2023-2029.</p> <p>The site and the subject building are visible from R478 Scenic Route. Views from this route are afforded protection under the aforementioned County Development Plan.</p> <p>The site is in the context of a number of Recorded Monuments and Places (RMP). RMPs are afforded protection under the aforementioned County</p>

	<p>Development Plan as well as under Section 12 of the National Monuments (Amendment) Act, 1994.</p> <p>The site forms part of the visual setting of Doonagore Castle which is a designated Protected Structure under the said Development Plan which also affords it protection.</p> <p>This rural landscape has limited capacity to absorb any significant development given the natural, visual, built through to environmental sensitivity.</p>
<p>Types and characteristics of potential impacts</p> <p>(Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).</p>	<p>Having regard to the characteristics of the development and the sensitivity of its location, consider the potential for SIGNIFICANT effects, not just effects.</p> <p>Given the site's proximity to the Cliffs of Moher SPA a precautionary approach should be had on the basis that there is insufficient evidence of the use of standard best practice in terms of dealing with foul and surface water drainage on site. Alongside that this site is not tangibly connected to any of its Qualifying Interests. Given that the development is one that is concluded to be development and is not exempted development it would require these details to be clarified as part of a detailed planning application.</p> <p>Despite this concern I consider that the development is modest in its nature, scale, and extent. Subject to standard best practice measures being employed it is not likely to be significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects, and opportunities for mitigation. I also observed no evidence of the site being used by any of the Cliffs of Moher SPA qualifying interests nor is there any evidence of the same in its planning history or otherwise.</p> <p>I am therefore of the view that this development is not likely to result in significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects, and opportunities for mitigation.</p>

Conclusion	
Likelihood of Significant Effects	Conclusion in respect of EIA
There is no real likelihood of significant effects on the environment.	<i>EIA is not required.</i>

Inspector: _____

Date: _____

DP/ADP: _____ Date: _____

(only where Schedule 7A information or EIAR required)

14.0 Appropriate Assessment Screening

Appropriate Assessment Screening Determination

Introduction

I have considered the extension and associated works to the subject derelict building on a 0.195ha site in the Townland of Doonagore, Doolin, Co. Clare, in light of the requirements of section 177U of the Planning and Development Act 2000, as amended.

Subject Site

This referral site lies within a designated Heritage Landscape in proximity to the Atlantic coastline in west County Clare and contains a modest in height as well as size derelict building. The subject building forms part of a ribbon of rural detached dwellings that are mainly located on the eastern side of the restricted in width cul-de-sac lane that provides access to the wider local road network and it as well as the referrers larger landholding to which this site forms part could be described as a modest collection of buildings with the principal land use being residential but also ancillary agricultural pastureland. The site and its environs are unzoned and unserviced rural lands. The site forms part of an exposed and highly visible rural locality within a protected Heritage Landscape Area under the Clare County Development Plan, 2023-2029. The subject derelict building is also visible from the R478 one of the protected views designated in this said Plan. The site forms part of changing in topography setting with the grounds sloping downwards towards the Atlantic coast and with the site on less elevated grounds in comparison to the R478.

The site is located c385m to the east of Special Protection Areas (SPA): Cliffs of Moher (Site Code: 004005), and c1.9km to the south east of Special Area of Conservation (SAC): Black Head-Poulsallagh Complex (Site Code: 000020).

The Cliffs of Moher SPA is home to over 20 different species of birds with 30,000 pairs on-site during the breeding season. Its qualifying interests are:

- Fulmar (*Fulmarus glacialis*)
- Kittiwake (*Rissa tridactyla*)
- Guillemot (*Uria aalge*)
- Razorbill (*Alca torda*)
- Puffin (*Fratercula arctica*)

- Chough (*Pyrrhocorax pyrrhocorax*)

All of which are on the vulnerable species list. The aim of this SPA is to maintain and restore the favourable conservation conditions of the bird species listed as Special Conservation Interests for this SPA. The SAC was designated on 4th June 2010 (Note: S.I. No. 269/2010). The referral site falls steeply from the cul-de-sac road serving the site in a west and northwest direction towards the Cliff edge and Atlantic Ocean.

This SPA overlaps with the Proposed Natural Heritage Areas: Cliffs of Moher (Site Code: 000026). This site is located just over 1km to the south west as the bird would fly. This area has not been statutorily proposed or designated.

The Black Head-Poulsallagh Complex SAC's is located c1.9km to the south east of Special Area of Conservation: Black Head-Poulsallagh Complex SAC (Site Code: 000020), as the bird would fly. The site is located on significantly steeper grounds in comparison to this SAC. The qualifying interests of this SAC are:

- Reefs
- Perennial vegetation of stony banks
- Fixed coastal dunes with herbaceous vegetation (grey dunes)
- Water courses of plain to montane levels with the *Ranunculus fluitantis* and *Callitriche-Batrachion* vegetation
- Alpine and Boreal heaths
- *Juniperus communis* formations on heaths or calcareous grasslands
- Semi-natural dry grasslands and scrubland facies on calcareous substrates (*Festuco-Brometalia*) (* important orchid sites)
- Lowland hay meadows (*Alopecurus pratensis*, *Sanguisorba officinalis*)
- Petrifying springs with tufa formation (*Cratoneurion*)
- Limestone pavements
- Submerged or partially submerged sea caves
- *Petalophyllum ralfsii* (Petalwort)

The overall aim of this SPA is the maintenance of habitats and species within Natura 2000 sites at favourable conservation condition will contribute to the overall maintenance of favourable conservation status of those habitats and species at a national level. This SPA was designated on 4th January, 2022 (Note: S.I. No. 758 of 2021).

There is a number of other Natura 2000 sites in the wider setting of the site. For example, Inagh River Estuary SAC (Site Code: 000036) which is located c6.8km to

the south east and Ballyteige (Clare) SAC (Site Code: 000994), which is located c8.8km to the north east, as the bird would.

Description of the Project

The project relates to a referral question which would comprise of an extension to a derelict cottage together with associated works which are indicated in the drawings as including refurbishment/alterations to this subject building, a waste water treatment system, soakaway, entrance, internal drive/turning area through to boundary changes.

Submissions/Observations

There are no submissions and/or observations that raise any Natura 2000 concerns. Nor is this raised as an issue by the Planning Authority in their determination of this referral question.

Potential Impact Mechanisms from the project

The subject site as it currently exists is of low ecological value, with the surrounding area around the subject building in a mixture of grasses through to water loving plants. There are no mature hedgerows or trees within the 0.195ha site area. There is no record of rare or protected habitats and no invasive species on the site nor any present at the time of inspection. The site forms part of an environ that contains a number of one-off dwellings including the Referrers family home.

However, the surrounding and wider landscape setting is predominantly rural in character.

A drainage ditch appears to run in proximity to the southern side of the site and to the east as well as west of the larger 3.22ha Referrers landholding to which this site forms part of. This does not connect on land to a larger waterbody before it reaches the coastline.

There are a number of similar drainage ditches within the immediate setting with them all falling to where they meet the Atlantic coastline to the west. At the nearest point, the coastline to the west of the site as the bird would fly.

As such there potential for this site to be hydrologically connect to these drainage ditches particularly that contained within the Referrer's site and which links to a connection of similar drainage ditches as it follows the falling topography and the agricultural fields which they in part define to the west of the site to where they meet the Atlantic coastline which overlaps with the Cliffs of Moher SPA.

European Sites

The site is not located within or immediately adjacent to any designated Natura 2000 Site, comprising a Special Area of Conservation (SAC) or Special Protection Area (SPA). The closest as set out above is the Cliffs of Moher SPA which at its nearest point has a lateral separation distance of c385m and with the next being Black Head-Poulsallagh Complex SAC with a lateral separation distance of c1.9km to the north west of the site. This Natura 2000 site is beyond the zone of influence of this project and with more significant lateral separation distance between the other Natura 2000 sites. As such Figure 1 below restricts its examination to the Cliffs of Moher SAC and the Black Head-Poulsallagh Complex SAC as there is no potential for this project to result in any significant effect on these sites either alone or in combination with other plans or projects given the significant distance together with the lack of any meaningful hydrological or other connectivity.

Table 1: European Sites

Site & Conservation Objective	Qualifying Interests	Distance from site	Connections/Pathways
Cliffs of Moher SPA (Site Code: 004005) Conservation Objective: To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA	Fulmar (Fulmarus glacialis) [A009] Kittiwake (Rissa tridactyla) [A188] Guillemot (Uria aalge) [A199] Razorbill (Alca torda) [A200] Puffin (Fratercula arctica) [A204] Chough (Pyrrhocorax pyrrhocorax) [A346]	C385m to the west.	Potential hydrological connection via the drainage ditch running through the site. However, this flows more westwards away from the site and would appear to connect to the coastline c0.5km from the site over undulating and falling mainly worked rural landscape.
Black Head-Poulsallagh Complex SAC (Site Code: 000020)	Reefs [1170] Perennial vegetation of stony banks [1220]	C1.9km to the north west.	None.

<p>Conservation Objective: To maintain the favourable conservation condition of QI as defined by attributes and targets</p>	<p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p> <p>Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation [3260]</p> <p>Alpine and Boreal heaths [4060]</p> <p>Juniperus communis formations on heaths or calcareous grasslands [5130]</p> <p>Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (* important orchid sites) [6210]</p> <p>Lowland hay meadows (Alopecurus pratensis, Sanguisorba officinalis) [6510]</p> <p>Petrifying springs with tufa formation</p>		
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	(Cratoneurion) [7220] Limestone pavements [8240] Submerged or partially submerged sea caves [8330] Petalophyllum ralfsii (Petalwort) [1395]		
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In-combination effect

Having examined the planning history of the site and its setting I am satisfied that there are no other plans or projects that could act in combination with this project within its zone of potential influence.

Findings

In screening the need for Appropriate Assessment, I have determined that the proposed development could result in potential for significant effects on Cliffs of Moher SPA in view of its conservation objectives when regard is had to the albeit modest in nature, scale and extent of the project, based on the source-pathway-receptor model and the potential for hydrological connectivity between the site during construction and operation.

Notwithstanding, I am satisfied that adverse effects arising from aspects of the proposed development can be excluded for the Natura 2000 sites considered in the Appropriate Assessment. No direct impacts are predicted given the low ecological value of the site with no apparent direct links on inspection of the site that the site is in use as a habitat for this Natura 2000 site qualifying interests. Indirect impacts during construction and operational phases of the project would be temporary in nature and it would be a requirement for such phases to incorporate standard mitigation measures to prevent ingress of silt, pollution of ground and surface water.

I am satisfied that in-combination effects with other plans or projects are not likely to occur on the basis of examination of its potential zone of influence as well as a beyond as a precaution.

As concluded upon in the main assessment this project is determined to be development and one that is not exempted development. As such this project would be required to apply for planning permission with this requiring more robust details on foul drainage, surface and storm water through to critically at this close proximity to the Cliffs of Moher SPA for carrying out an appropriate assessment of the project from which it would be required to demonstrate that no reasonable scientific doubt remains as to the absence of adverse effects on this Natura 2000 site or any other such site in the wider geographical setting.

Site Integrity

The project which is of a modest scale, nature, and extent. Projects of this scale subject to standard mitigation measures being employed during construction and operational phases should not affect the attainment of the Conservation Objectives of the Cliffs of Moher SPA. However, this conclusion requires the provision of scientific evidence to provide assurance that no doubt remains as to the absence of such effects. This information is not available given that this case is a referral case which poses a determination of a question on whether the project is or is not development or is not or is not exempted development and as concluded upon in the assessment of this question Article 9(1)(a)(viiB) of the Planning and Development Regulations, 2001, as amended is triggered on the basis of the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site [Natura 2000 site] and as such the project is development and is not exempted development.

Conclusion of Appropriate Assessment Screening

In screening the need for Appropriate Assessment, I have determined that it cannot be concluded upon beyond reasonable scientific doubt that this project would not result in significant effects on the Cliffs of Moher SPA in view of this site's

conservation objectives of those sites and that Appropriate Assessment under the provisions of S177V is required. This is despite the modest scale of the project and that subject to standard mitigation measures at construction as well as operational phases that significant effects are not likely. This is on the basis that standard practices during construction and operational phases would ensure there is no potential for diffuse groundwater or hydrologically linked surface water pollution from the project alone or in combination with other plans or projects within its zone of influence.

Additionally, I observed that the site is of low ecological value through to no likely habitat for the Qualifying Interest bird species of this Natura 2000 site nor were any of its Qualifying Interest bird species present during inspection of the site and its immediate environs on the day of inspection. There is however a lack of robust scientific evidence provided on file to support this conclusion.

Despite the modest nature, scale and location of the project through to standard mitigation measures during its construction and operational phases. Alongside the lack of any in-combination effects with any other plans or projects within the potential zone of influence of this project, I am however not satisfied that this project can be eliminated from further assessment on the basis that there is no conceivable risk to any European Site.

This determination is based on:

- Distance from and potential for indirect connections to the Cliffs of Moher SPA.
- This projects requirement for foul drainage, surface water and storm water infrastructure/services on these rural unserviced zoned lands to serve the subject building's use as extended and modified as a habitable house.
- The lack of detailed assessment of construction and operational impacts on Natura 2000 sites.
- The lack of certainty that this project will not affect the attainment of conservation objectives for Cliffs of Moher SPA or any other Natura 2000 site at further separation distance.
- Planning history of the site and its environs.

I therefore conclude that on the basis of objective information available to me that it is not possible to conclude that this project would not have a likely significant effect on any Natura 2000 site or sites.

Inspector: _____

Date: _____