

Lita Clarke

From: Brian Fahy <bfahy@clarecoco.ie>
Sent: Tuesday 21 January 2025 17:06
To: Lisa Quinn
Cc: Lita Clarke
Subject: RE: ABP-321231-24 - Substitute Consent Application - Declan Lyons
Attachments: ABP-321231-24 Letter.pdf; ABP-321231-24 Report.pdf

Caution: This is an **External Email** and may have malicious content. Please take care when clicking links or opening attachments. When in doubt, contact the ICT Helpdesk.

Dear Lisa / Lita,

Please see attached correspondence in relation to APB-321231-24 – Substitute consent application for Declan Lyons.

The planner's report is also attached and will follow by hard copy.

Kind Regards,

Brian Fahy

Clerical Officer

Planning Department

Clare County Council, Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2

T: 065 6846382 | **E:** bfahy@clarecoco.ie | **W:** www.clarecoco.ie

LOCAL AUTHORITY OF THE YEAR 2022



COMHAIRLE CONTAE AN CHLÁIR
CLARE COUNTY COUNCIL







COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

22nd January 2025

Your Ref: ABP-321231-24

**An Bord Pleanála
64 Marlborough Street
Dublin 1
D01 V902**

**Re: Application for substitute consent under Section 177E of the
Planning and Development Act 2000 (as amended) for repairs to
concrete slipway & gravel pathway.
Lands at Ballinkillew, Whitegate, Co. Clare**

I refer to your letter dated 15th November 2024, please see attached report as requested including all items set out in section 177I (2) (a), (b), (c), (d) & (e).

Report of the Planning Authority under Section 177I of the Planning and Development Act, 2000 (as amended).

ABP reference: ABP-321231-24

Applicant: Declan Lyons

Location: Lands at Ballynakillew, Whitegate, Co. Clare

Proposal: Substitute Consent for repairs to the gravel slipway and adjoining wall with concrete together with widening and repairs to the gravel pathway running to the jetty. The application is accompanied by a Remedial Natura Impact Statement.

Date documents were received by the Planning Authority: 15/11/20204

Site Description

The site is located in a rural area between Mountshannon and Whitegate on the shores of Lough Derg. The site comprises an area of the lake margin which has been fenced with post and rail fencing. A gravel path leads to the water where there is a jetty structure, small concrete slipway, lights and electricity pillars.

Planning History

- Enforcement proceedings were first initiated on the site in 2007 (ref. UD07-219) when a Warning Letter was issued to Declan Lyons re: the construction of jetty. At that time, the applicant removed the unauthorised structure from the site, and no further enforcement action was deemed necessary.
- In 2018 Declan and Gemma Lyons were granted permission to redevelop the dwelling house on the landholding (located to the north of this substitute consent application site). The permitted works were as follows:

An Roinn Pleanála

An Stiúrthóireacht Forbairt Gheilleagrach

Áras Contae an Chláir, Bóthar Nua, Inis, Co. an Chláir, V95 DXP2

Planning Department

Economic Development Directorate

Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2



development which will consist of the modification and extension of the existing bungalow. The extension shall include three bay windows to the front of the existing bungalow, and the addition of a gym, WC and store at lower ground level. The application includes for the replacement of the existing septic tank with a new on-site secondary waste water treatment unit and packaged tertiary polishing filter, and includes for all associated site works

- In January 2022 a Warning Letter was issued to Declan Lyons re: *The construction of a concrete slip way and wooden jetty within the Lough Derg Special Protection Area and the construction of wooden fencing and a pathway without the benefit of planning permission.*
- Under Section 5 Referral ref. R22-84 Declan Lyons queried whether (a) repairs to gravel slipway with concrete, (b) repairs to wooden jetty, (c) repairing gravel pathway with gravel and (d) replacing wire fence with timber post and rail is or is not development and is or is not exempted development.

The Planning Authority's assessment report on this referral was included in the Substitute Consent documents and the Planning Authority is satisfied that it is available to the Bord for their consideration. In summary, it was determined that:

- Repairs to the wooden jetty; and
- Replacement of wire fencing with timber post and rail

is development and is exempted development.

- Repairs to gravel slipway with concrete; and
- Repairs to the gravel pathway with gravel

is development which is not exempted development

Additional Development on the Site

In addition to the developments as described in the Substitute Consent application, the Planning Authority notes the following:

- The Planning Authority refers to Tree Felling Licence TFL00741621 which relates to lands within the red line boundary of the current application. The licence application was received by the Department of Agriculture on 04th November 2021 and was granted on 20th June 2023. An Appropriate Assessment was undertaken, full details of which can be viewed on the Department of Agriculture, Food and the Marine forestry map viewer. The felling proposal has not been included in the assessment of cumulative / in-combination effects set out in the Remedial Natura Impact Statement.

The Planning Authority considers the extent of works undertaken as part of the subject development to be greater than that which is indicated in the submitted documents.

- The works undertaken include lighting along the pathway and the provision of electricity pillars at the jetty area. No overground wires were observed on the site. The excavation / trenching required to connect structures on the lakeshore with an electricity supply have not been described or considered in the assessment submitted with the application. No lighting specification has been provided and the impacts of lighting on

- the lake margins has not been assessed in the Remedial Natura Impact Statement.
- A large extent of vegetation clearance coincided with the widening of the pathway and other works undertaken on the site, and a temporary internal access track was created leading to the shoreline. This is a separate area of clearance from that covered by the aforementioned felling licence. The impacts of vegetation clearance and vehicle access in the lake margins has not been included or considered in the assessment. Please refer to images appended to this report.

Clare County Development Plan 2023-2029

The following objectives of the development plan are considered to be most relevant in the assessment of this application:

- CDP14.5 Heritage Landscapes
- CDP15.3 European Sites
- CDP15.4 Requirement for Appropriate Assessment
- CDP15.5 Natural Heritage Areas (NHAs) and proposed Natural Heritage Areas (pNHAs)
- CDP15.16 Inland Waterways and River Corridors
- CDP15.22 Wetlands

The potential impacts of the development on European sites and inland waterways / river corridors will be considered, and compliance with Objectives CDP15.3 and CDP15.16 will be determined through the assessment of this substitute consent proposal. In all other respects, the development undertaken does not appear to contravene the policies and objectives of the County Development Plan.

Opinion of the Planning Authority

The Planning Authority has no objection to the granting of Substitute Consent for the development that has taken place on the site. However, any such consent must be based on a full assessment of the overall works that have taken place within the red line boundary of the application, and the impacts of same on the adjoining European Site and associated SCIs. The Planning Authority is not satisfied that the assessment undertaken to date is adequate to conclude that there were no adverse impacts on European sites as a result of the development.

In the event that the Bord deem it appropriate to grant Substitute Consent, it is respectfully requested that conditions relating to the following issues be included:

- Landscaping / the replanting of riparian habitat cleared to facilitate construction.
- The use of the slipway and associated facilities as a private amenity connected to the associated dwelling house only. No commercial use of the facilities should be permitted.

Name: *Caroline Balfe*
Executive Planner
Date: 21/01/2025

Name: *Garreth Ruane*
Senior Executive Planner
Date: 21/01/2025

Yours sincerely,



Brian Fahy
Planning Department
Economic Development Directorate

Note: If you have any queries on the appeal, please contact the Planning Section, Clare County Council on telephone number (065) 6846232.

Report of the Planning Authority under Section 177I of the Planning and Development Act, 2000
(as amended).

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Applicant: Declan Lyons

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Name: Caroline Balfe
Executive Planner
Date: 21/01/2025


Name: Garreth Ruane
Senior Executive Planner
Date 21/01/25 .

Appendix 1 – site images



Above: Site before works were undertaken. Source: Geohive



Above: Site during construction works. Source: Apple Maps