



COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

**Registered Post**

**Declan Lyons  
c/o Mike Lyons  
Lyons Designs Architectural Services  
14 Bellewood  
Ballyneety  
Co. Limerick**

**11th January 2023**

**Section 5 referral Reference R22-84 – Declan Lyons**

Are the following works exempted development; (a) Repairs to gravel slipway with concrete. (b) Repairs to wooden jetty. (C) Repairing gravel pathway with gravel. (d) Replacing wire fence with timber post and rail.

A Chara,

I refer to your application received on 9th December 2022 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

The Planning Authority has considered the matter and I attach herewith the Council's findings in this matter.

Where a declaration is issued by the Planning Authority, any person issued with a declaration, may on payment to an Bord Pleanála of the required fee, refer a declaration for review by An Bord Pleanála within 4 weeks of the date of the issuing of the declaration. Details on making such appeal are available on the Board's website at [www.pleanala.ie](http://www.pleanala.ie)

Mise, le meas

**Josephine Connors  
Staff Officer  
Planning Department  
Economic Development Directorate**

**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





**DECLARATION ISSUED UNDER SECTION 5 OF THE  
PLANNING & DEVELOPMENT ACT 2000 (AS AMENDED)**

**Reference No.: R22-84**



Comhairle Contae an Chláir  
Clare County Council

**Section 5 referral Reference R22-84**

**Are the following works exempted development; (a) Repairs to gravel slipway with concrete. (b) Repairs to wooden jetty. (C) Repairing gravel pathway with gravel. (d) Replacing wire fence with timber post and rail.**

**AND WHEREAS, Declan Lyons** has requested a declaration from Clare County Council on the said question.

**AND WHEREAS Clare County Council, in considering this referral, had regard in particular to –**

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended;
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended;
- (c) Schedule 2, Part 1 of the Planning and Development Regulations 2001 (as amended);
- (d) The works as indicated in submitted documents from the referrer;
- (e) The planning history of the site;
- (f) The inspection of the site by the Planning Authority and the nature of the works as carried out to date.

**And whereas Clare County Council has concluded:**

- (a) Repairs to gravel slipway with concrete, repairs to the wooden jetty, repairing the gravel pathway with gravel and replacing wire fencing with timber post and rail constitutes "works" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended;
- (b) The said works constitute "development" which comes within the scope of section 3(1) of the Planning and Development Act 2000, as amended;
- (c) The said repairs to the wooden jetty is exempted development having regard to Section 4(1)(h) of the Planning and Development Act, 2000 (as amended)
- (d) The said replacing of wire fencing with timber post and rail is exempted development having regard to Class 11 of Schedule 2, Part 1 of the Planning and Development Regulations 2001 (as amended)
- (e) The said repairs to gravel slipway with concrete is not exempted development having regard to:
  - a. The meanings of descriptions of the Classes of Development provided for in Schedule 2, Part 1 of the Planning and Development Regulations, 2001 (as amended)



- b. Article 9(1)(a)(viiB) of the Planning and Development Regulations 2001 (as amended), whereby the works comprise 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,
- (f) The said repairing of the gravel pathway is not exempted development having regard to:
  - a. Class 13 Schedule 2, Part 1 of the Planning and Development Act, 2001 (as amended) whereby the works consist of the construction of a private footpath and the width exceeds the 3m width limitation
  - b. Article 9(1)(a)(viiB) of the Planning and Development Regulations 2001 (as amended), whereby the works comprise 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,

**THEREFORE:** The Planning Authority in exercise of the powers conferred on it by Section 5 of the Planning and Development Act, 2000 (as amended), hereby decides that:

The proposed development of repairs to the wooden jetty and the replacement of wire fencing with timber and post rail at Ballynakilliew, Mountshannon, Co. Clare **constitutes development** which is **exempted development** as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations. The repairs to the gravel slipway with concrete and the repairs to the gravel pathway with gravel **constitutes development** which is **not exempted development** as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.

  
**Josephine Connors**  
**Staff Officer**  
**Planning Department**  
**Economic Development Directorate**

**11th January 2023**