

Ballinkillew
Whitegate
Co Clare
V 94 AEW9

An Bord Pleanála
64 Marlboro Street
Dublin 1

3rd October 2024

**Background to Acquisition and Division of lands at
Ballinkillew, Whitegate, Co Clare**

Dear Sir or Madam

By way of information on the acquisition of property in Ballinkillew, the following is a chronology and background

The property was originally purchased by the Lyons' in 2001; the purchase consisted of a house on .5 of an acre, on the other side of an access road running along the lake shore and a right of way over a pathway to the foreshore and jetty, which was also acquired with the property. At the time of acquisition, the inlet surrounding the Jetty was lined with boulders. The path way was always fenced and gated as the surrounding lands were grazed by cattle and was owned, at that time, as tenants in common, by two neighbouring parties.

Subsequent to acquisition, in 2018, planning permission was sought and secured for improvements to the house. In 2020, some of the adjoining lands containing a hayshed adjacent to the house and 8 acres of the foreshore lands were acquired from one of the neighbouring landowners. The adjoining lands continued to be grazed and fencing of the path was still required. The path, at this time, was resurfaced with loose gravel and a small concrete slip (8.8m sq) was poured, over the

existing gravel, beside the jetty. The small dry stone wall was grouted, as the stones were being washed away.

In late 2020, this led to an agreement between the Lyons, the new owners of one of the neighbouring properties, who also acquired the foreshore lands and the original farmer, the other tenant in common of the remaining lands, to divide the lands, previously held in common, along agreed boundaries and this led to the fencing of the agreed area and the full definition of the boundaries, as agreed and legally transferred between the parties.

In July 2022 the foreshore, originally the ESB owned the entire foreshore of Lough Derg, running the length of the property, was acquired from the ESB by the Lyons'

It was never anticipated that there would be any problem with these works, as similar repairs had been carried out, over the more than 20, years since purchasing the property.

Once an enforcement notice was received from Clare Co. Council regarding the repairs to the wooden jetty, the replacing of the fence with timber post and rail, the repairs to the gravel slip way with concrete and the repairing of the gravel pathway with gravel, we immediately made a S5 Referral, in the belief that the works were exempted developments, in keeping with previous repairs, carried out over a long period.

Clare Co Council concurred that the repairs to the wooden jetty and the fencing constituted exempted development but that the slipway repairs and the gravel pathway were not exempted developments.

I engaged an Architect and an Environmental Consultant to carry out surveys and reports in order to regularize matters.

The foreshore, previously owned by EBS is in an SPA, however; the lands bordering this, purchased from the previous co-owners are in a PNHA. The mapping of these areas is unclear and this has been conceded, by the NPWS officer, locally. She has

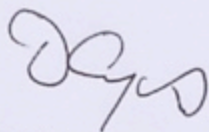
placed markers in the form of metal stakes, to assist us with identifying the protected areas, however, the precise mapping of this area is in doubt and had led us in to error in identifying the areas of protection necessitating enhanced environmental reporting

I am therefore seeking leave to apply for substituted consent, under s177C as an environmental impact assessment has now been carried out. At the time the works were done and given the pattern of events, throughout the period of ownership of the property in Ballinakillew, we held an honest belief that the works were exempted. However, given the decision of Clare Co Council, in relation to two aspects of the works, we now seek to exercise the option under s 177C 2 (b) in order to regularize matters. The Council, in its letter further submission, raised the issue of boulders, these were in position since the time of acquisition of the right of way and jetty, as set out above.

I would also point out that permission has recently been granted in Williamstown, Whitegate, Co Clare (Planning permission ref P21996), a neighboring bay, for the construction of a boat house and attendant works, right on the shores of Lough Derg which may act as a useful precedent for our, much more limited, repairs.

I await the outcome of your decision.

Yours Faithfully

A handwritten signature in dark ink, appearing to be 'Declan Lyons', written in a cursive style.

Declan Lyons