Ciaran and Jane Bailey
Rathmoylan,
Dunmore East
Co. Waterford
X91D6Y0

The Secretary
An Bord Pleanala,
64 Marlborough Street,
Dublin 1

Submission re Referral as to whether works concerning creation of an access road and entrance are or are not development and/or are or are not exempted development at Rathmoylan, Dunmore East, Co. Waterford. Bord Pleanala Ref. ABP-304134-19, Planning Authority Ref. D5 2019/2

Dear Sir/Madam,

We have been given the opportunity by An Bord Pleanala to make submissions or observations on the submission dated 26th April 2019 received by the Board from Peter Thomson on behalf of Janice Murphy and Paul Lenehan. Our observations are as follows.

The submission by Peter Thomson seeks to make four essential points: (i) that our referral is 'clearly verxatious'; (ii) that the works have been deemed to be in accordance with planning permission 16/21 granted by Waterford and City Council; (iii) that our section 5 Referral is flawed as it relates to classes of development consisting of footpaths only; and (iv) that there is no issue with potential traffic hazard. We will deal with each of these matters in turn

1. Our referral is <u>not</u> vexatious

The submission by Peter Thomson on behalf of Janice Murphy and Paul Lenehan makes a number of incorrect claims. Firstly the submission claims that we 'sat back and witnessed the entire access road and most of the house being constructed before making a complaint to the Planning Authority' and that the 'complaint was not made until around 17 October 2018, almost fully 6 months after the works started.'

This is not the case. We contacted Waterford City and County Council by e-mail as soon as we became aware of the works. This can be verified from our first e-mail dated 26th April 2018 included in Appendix A of this submission. In this e-mail we expressed our concern at the works and their potential impacts. We followed up with phone calls and a subsequent e-mail dated 11th May 2018, also included in Appendix A. As Waterford City and County Council took no action, we wrote to the Planning Authority on the 15h of June 2018 outlining our concerns that the works might constitute unauthorized development, and requesting them to initiate enforcement action. A copy of this letter is also included in Appendix A. The reply to this letter was dated 28th August and is also included in Appendix A. The reply indicated that the Planning Authority was 'not in a position to initiate enforcement proceedings'. We followed this up with further correspondence until the Planning Authority finally issued a warning letter on November 16th 2018.

This shows that we did not 'sit back and witness the entire access road and most of the house being constructed before making a complaint to the Planning Authority.' It is evident that the claim that our 'complaint was not made until around 17 October 2018, almost fully 6 months after the works started' is without foundation. For the same reasons, the further claim that we 'chose not to challenge the change until October 2018 at which time the road was complete' is equally without foundation.

We note that the submission by Peter Thomson further claims that 'we chose not to challenge' the determination by Waterford City and County Council that the works did not constitute unauthorized development and claims that our Section 5 Referral is 'designed to frustrate Janice Murphy and Paul Lenehan completing the development of their house'. This claim is completely untrue and we hope that An Bord Pleanala will disregard it. The facts are that this course of action was suggested to us by Waterford City and County Council in their letter of the 29th January 2019, where it states that 'You are advised that you may pursue the matter further by making a formal submission to An Bord Pleanala for a "Section 5 Declaration and referral on development and exempted development" under the Planning and Development Act 2000 (as amended).' We enclose a copy of this letter in Appendix A. The same letter is also included in the submission by Peter Thomson [see Appendix 4 of the submission by Peter Thomson on behalf of Janice Murphy and Paul Lenehan]. Given that they included this letter in their submission, we cannot see how they could be able to construe our referral as vexatious.

Finally, we feel that we should clarify the issue of the right of way on our laneway. The submission by Peter Thomson on behalf of Janice Murphy and Paul Lenehan refers to an e-mail dated 19th July 2017 from us to Paul Lenehan in which we stated that 'we will not be signing' [the proposed contract]. The submission further states that 'in their correspondence to Janice Murphy and Paul Lenehan…it was only the construction traffic passing their property which was a concern to them.' In fact, in this e-mail we outlined that our concerns were that 'the matter has a lot of negative implications for us, now and in the future'. Indeed, our concerns were, and still are, largely to do with the 'future projects' that we fear might arise. They were not limited to the specific issue of construction traffic. In fact, our main concern was, and still is, that our area should not be 'overdeveloped' by the construction of too many inappropriately located houses.

In order to clarify the reasons why we did not sign the legal document granting the right of way, we enclose a copy of the proposed contract of transfer that we were asked to sign by Janice Murphy and Paul Lenehan as Appendix B of this submission. We also enclose some background information to these matters in Appendix C. When we read the contract document we were surprised and taken aback to find that ourselves, Janice Murphy and all her 9 cousins were defined as 'Registered Owners'. Moreover, Schedule C of the transfer document seemed to imply that all 9 cousins, by virtue of being 'Registered Owners' would be able to exercise the same 'rights and privileges' as granted to Janice Murphy in the Second Schedule of the document. In effect by signing this document, we would be granting the same access rights to all 9 cousins, and not just to Janice Murphy and Paul Lenehan. We sought legal advice and were given an opinion that our interpretation may well be the correct. Thus, by including ourselves and all the 9 cousins of Janice Murphy together as 'Registered Owners', it is likely that we would under the provisions of Section B and Schedule C in effect be granting the same right of way and easements as per the Second Schedule to all 9 cousins, thereby potentially opening the way for 9 further dwellings on their

common landholding. We were not aware of this possibility when we talking to Janice and Paul in advance of seeing the legal document. On foot of the legal advice, we felt that we could not sign the document as it could potentially give rise to 'overdevelopment' of this rural and scenic area. However, we stand by our position that we would willingly facilitate an easement of the right of way to Janice Murphy and Paul Lenehan, as long as that does not extend to any other of the landowners.

2. The claims that the works have been deemed by Waterford and City Council to be in accordance with planning permission 16/21 should not preclude An Bord Pleanala from making a decision on this referral

To us it is clear from the Google Maps photographs and site layout plans (see drawings JP/14A and JP/14B) that the access road and entrance as constructed should not be construed as an 'immaterial deviation' to any previous planning permission. The revised site layout plan shows that the works are substantial and anything but 'immaterial'. We also note that there do not appear to be any engineer's reports as to the possible impacts of the access road with regard to safety and drainage. We would therefore disagree with the view of Waterford City and County Council that these works comprise 'immaterial deviations' from planning permission 16/21.

In support of our view that the works do not constitute an 'immaterial deviation' from Planning Permission 16/21, we would point out that the site of that development (as outlined in red on the Sity Layout Plan and the Rural Place Map) comprises only the land in the immediate vicinity of the dwelling house. The site of the development does not include our laneway or the existing agricultural road that were to be used for access to the house. The fact that the location of the access road and entrance is approximately two hundred metres from the site of the dwelling that was the subject of Planning Permission 16/21 must surely add weight to our contention that these works should not be considered an 'immaterial deviation' from that planning permission.

We further note that the entrance referred to in Condition no. 6 of Planning Permission 16/21 is the existing entrance from our lane onto the main Dunmore East to Tramore Road, as clearly indicated on the original Site Layout Plan. Therefore, there is nothing in Condition no. 6, or in any other condition of the planning permission, that can be construed as granting permission to the entrance and access road that is the subject of this referral.

We would point out that the reason that we have made this referral is to establish whether the works in question are or are not exempted development. We believe that this is a reasonable request on the basis that if An Bord Pleanala decides that the works constitute exempted development, then the matter will be fully clarified and we will be spared the time and expense of pursuing the matter any further. If the Board decides otherwise, then it will be up to ourselves and, possibly, the Planning Authority to decide what course of action to take.

In this regard, it should be noted that it is not the role of a Planning Authority to make a final legally-binding determination as to whether a deviation is material or not. Their opinion should naturally be taken into account, but they are not the final instance in such matters. In the present case, we would consider that the photographs and plans submitted to An Bord Pleanala suggest that there must be at the very least considerable doubt as to whether the access road and entrance

development is consistent with planning permission 16/21. We therefore do not consider that the conflicting views concerning ref. 16/21 should be seen an impediment to An Bord Pleanala making a decision on the issue at stake, namely whether or not the access road and entrance constitutes exempted development.

3. Our section 5 Referral is not flawed

The submission by Peter Thomson seeks to suggest that our referral is flawed and 'cannot be answered' as it relates to 'the construction of footpaths and pavements'. We would disagree with this claim for the following reasons. Firstly, it is clear from the drawings and photographs that the works in questions concern an entrance onto our lane and a stretch of road within the site owned by Janice Murphy and her cousins. The subject matter is therefore clearly defined and our request that An Bord Pleanala make a determination is a reasonable one on that basis alone.

Secondly, the paragraphs in our referral document that refer to developments of Classes 9 and 13 in Schedule 2 of the Planning and Development Regulations were included on the basis that they were the only instances that we could find in the Schedule of exempted development that might include entrances and roads; specifically the term 'gateway' could include 'entrances', while 'paving' could also include the paved surface of a road. Perhaps there are other classes that might encompass entrances and roads, but we could not find any specific reference to them in the other classes of development in Schedule 2. For example, the works do not appear to fall into Class 6 of Schedule 2, as they fall outside the site, and hence the curtilage, of the house (as outlined on Drawings nos. JP/14A and JP/14B).

In any event, the key thrust of the argument presented in our referral document is that in the event of the entrance and access road falling into one or other of the categories of development included in Schedule 2 of the Planning Regulations then, under Article 9 (a) (iii) of the Regulations, such works would <u>not</u> constitute exempted development if they would 'endanger public safety by reason of traffic hazard or obstruction of road users.' Moreover, if the works to <u>not</u> fall into any of these classes, then they would *a priori* require planning permission and thus, on that basis alone, would <u>not</u> constitute exempted development.

Thus, if the works in question do <u>not</u> fall into Classes 9 or 13 of Schedule 2 of the Regulations, then this would, if anything strengthen our claim that they do <u>not</u> constitute exempted development.

We would therefore suggest that any claims that our referral is flawed should be disregarded by An Bord Pleanala.

4. The access road and entrance are likely to give rise to traffic hazard on our laneway

With regard to the issue of potential traffic hazard, the submission by Peter Thomson refers to the letter from Waterford City and County Council to us dated 29th January 2019 (see Appendix A of this submission) where it states that 'the section of road does not impact on sight lines at the

junction with the public road, does not interfere with drainage on the public road and does not create a traffic or public safety hazard for public road users.'

We would point out that we did not claim that the entrance and access road would create a hazard for users of the *public road* (that is, the main Tramore to Dunmore East Road). This is due to the fact that any issues with sightlines and drainage were already resolved by us as part of the planning permission required for the development of our own house. The hazards we were referring to in our submission were those created by the access road and entrance for members of the public, including ourselves, using our laneway. As pointed out in our referral submission, the photograph of the road and entrance makes it clear that this entrance is hazardous. Moreover. the aerial photographs and layout drawing included as part of the submission by Peter Thomson lend substance to the view that this is a potentially dangerous layout.

We would note that, should it be determined that the entrance and access road fall into one of the classes specified in Schedule 2 of the Planning and Development Regulations, then the issue at stake with respect to the potential application of Article 9 (a) (iii) of the Regulations would be whether the works would 'endanger public safety by reason of traffic hazard or obstruction of road users'. We would point out that there is no restriction in Article 9 (a) (iii) to users of *public* roads. Thus, it is clear that Article 9 (a) (iii) applies to <u>all</u> roads, including our laneway in particular. Therefore, we believe that the potential for traffic hazard on our laneway should constitute grounds for the application of Article 9 (a) (iii) in the event that the works are deemed to fall into one or other of the classes in Schedule 2 of the Regulations.

5. Conclusion

In summary, we hope that An Bord Pleanala will agree with the thrust of the arguments presented in our submission, which are:

- Our referral has been made in good faith and is <u>not</u> vexatious.
- We will willingly facilitate an easement of the right of way to Janice Murphy and Paul Lenehan, as long as this does <u>not</u> extend to any other of the landowners.
- Any claims that the access road and entrance constitute an 'immaterial deviation' form Planning Permission 16/21 are extremely doubtful and should <u>not</u> preclude An Bord Pleanala from making a decision on this referral.
- Our section 5 Referral is not flawed.
- The access road and entrance are likely to give rise to traffic hazard on our laneway.

We hope our observations will be of use in clarifying the issues raised in the submission by Peter Thomson. We further hope that An Bord Pleanala will agree with our view that these works are development and are <u>not</u> exempted development.

Yours sincerely,

Ciaran 20/5/19 Jane Bailey.

Ciaran and Jane Bailey

AN BORD PLEANÁLA
22 MAY 2019
LTR DATED _____ FROM _____
LDG- _____
ABP- _____

Appendix A

Letters to Council

Croi Amhain
Rathmoylan, Dunmore East
Co Waterford X91D6Y0
Tel 051 383889, 086 2253709
Ciaran.bailey@gmail.com

26-04-18

Your Ref 16/21 Paul & Janice Lenehan

Dear Mr O'Neill,

Presumably you have been made aware development works have commenced at Rathmoylan Dunmore East for the purpose of construction of the above referenced property. My wife and I, as residents of the adjoining property, did not appeal the grant of planning as we were satisfied the conditions imposed would ensure that we would not be negatively affected by the development.

Conditions 5, 6 (a,b,c,d) 8 &11 refer to works associated with the Boundary adjacent to our site and they include the necessity for Mr Lenehan, to have submitted plans to your good self, and for those plans to be agreed with the Local engineer. I do not know if you are aware of the extremely poor Drainage conditions in the farmlands of Rathmoylan and the high density of land drains etc in the surrounding fields. When we built our own home in 2010 we had to make a significant investment in land drains, to divert existing drainage pipes running down into our site from the farmlands and the local road upgradient of our house. Our concern is that the proposed driveway adjacent to our home, will be constructed in such a fashion that these land drains will be intercepted and the resulting flow plus the flow from the surface of the driveway, will be diverted towards our house. I have been informed (by Mr Tomas O'Donoghue) that the capacity of the drains protecting our residence is not sufficient to safely absorb this additional flow.

Because of the high water table associated with the poor soil permeability and the shallow depth to bedrock in the area, I believe soakaways are not a practical solution and it is of utmost importance that the existing drains and the proposed new driveway surface drainage , is carried via pipes to the location of the agreed entrance, and from there into the existing drainage ditch.

Unfortunately the works currently being carried out (today), have already exposed a land drain and I am concerned that this may have a detrimental effect on my property. I would ask that a representative from your office come for a short visit at the earliest possible date to inspect and approve the works , in order to avoid possible flooding when the season changes.

Yours Sincerely

Ciaran Bailey

1

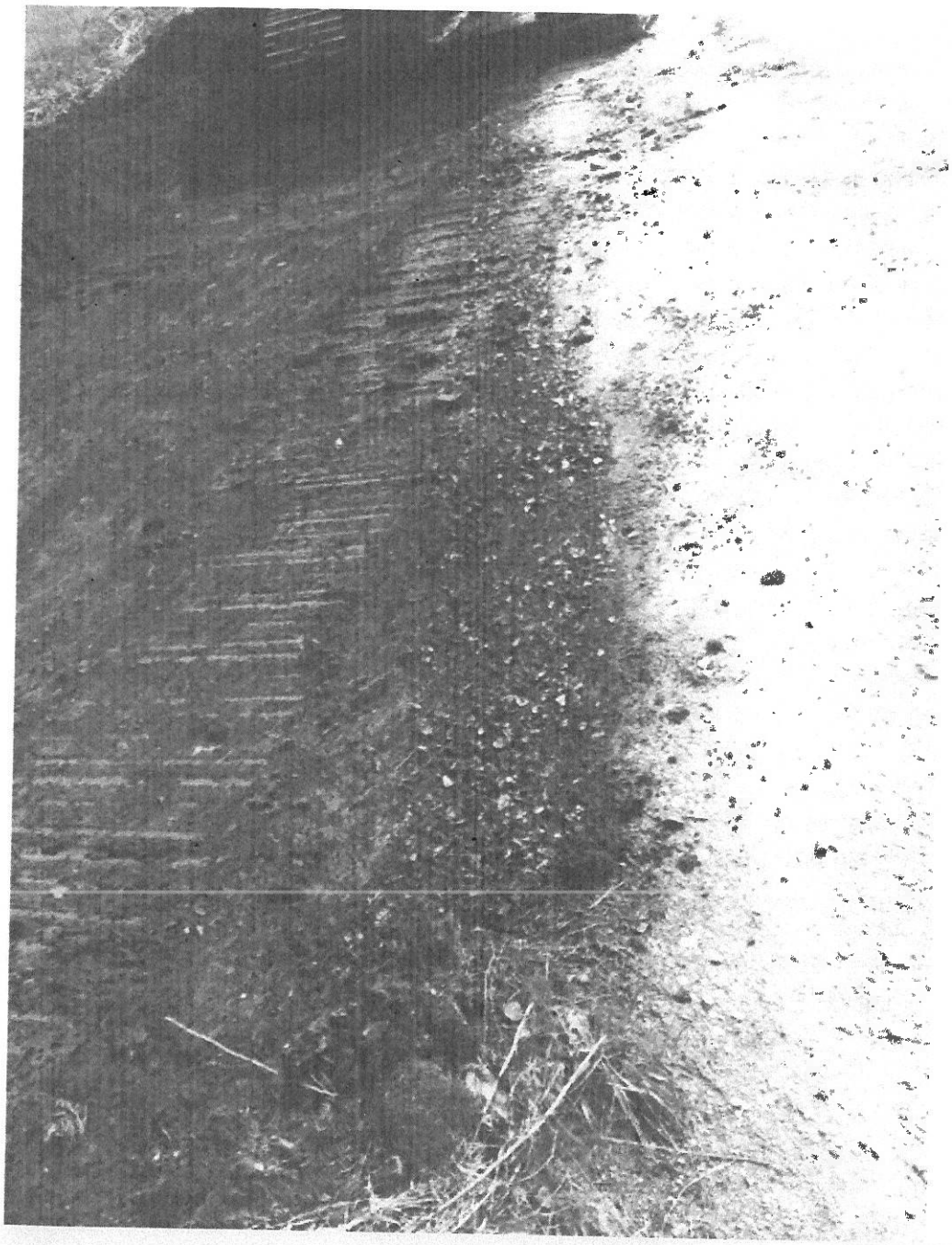
From: **Ciaran Bailey** ciaran.bailey@gmail.com
Subject: Your Ref 16/21 Paul & Janice Lenehan
Date: 26 April 2018 at 22:53
To: coneill@waterfordcouncil.ie
Cc: **tomas O'Donoghue** todonoghue@wit.ie

Dear Mr O'Neill,

Please find attached correspondence and photographs regarding development works re: above application.

Regards

Ciaran Bailey Letter to C O Neill.docx



2

Ciaran Bailey ciaran.bailey@gmail.com
Re: Your Ref 16/21 Paul & Janice Lenehan Maps 5980, Plot ref 25250135-1-5, Folio WD21533F
11 May 2018 at 11:37
To: Brendan Cullinan bcullinane@waterfordcouncil.ie
Cc: Tomas O'Donoghue tomasodonoghue.ceng@gmail.com, Tomas O'Donoghue todonoghue@wit.ie

Hello Mr Cullinane,

I refer to the attached email chain and the current construction works outside my gate. Your advice to us on this matter refers to " access to the site via an existing right of way lane ". However this is certainly not the case at present. Paul and Janice have cut into their lands and created a new entrance from which they have run a new road parallel to the existing lane, then a second cut through a bank (disturbing the existing Watercourse) to emerge out into the existing lane and onwards up to their site. Nowhere in the planning application is this level of engineering suggested. My wife and I are now taking legal advice regarding an injunction against Waterford Council to have current operations shut down pending a full review as to the legality of what is taking place in what is deemed by the Planning Authority itself, to be a Scenic and Sensitive area. I would be grateful for some clarity from your office on this matter as a matter of urgency, before embarking on the next step.

Regards

Ciaran Bailey Rathmoylan Dunmore East. 051 383889,

3

Regards
Ciaran Bailey

1

Rathmagilan
Dunmore East
Co. Waterford
X91 D6YC

15/6/18

ATTN. MR MICHAEL WALSH
MR JAMES O' MAHONY
MR PAUL KELLY

YOUR REF: PLANNING 16/21
ATTACHED E.MAIL.

Dear Sir,

Pursuant to Section 152 of the Planning & Development Act 2000 (as amended),

on writing in response to Mr Paul Kelly, stating inter alia that the Planning Authority 'is not in a position to issue enforcement proceedings'.

I would like to inform you that, in my opinion, the response from Waterford City & County Council is seriously flawed for the following two reasons.

1. The entrance and section of access road in question is not included on any site plan (or any other drawing) of any development for which planning permission has been granted. In particular entrance and section of access road in question, was not granted planning permission under ref. 16/21.

2. In my view, the exempted development provisions of the Planning and Development Regulations 2001 (as amended) do not apply to the works and use in question, by virtue of Article 9 of the Regulations which states that development that is exempted by virtue

Article 6 " shall not be exempted development for the purposes of the Act (a) if the carrying out of such development would ....
(ii) consist of or comprise the formation, laying out or material widening of a

means of access to a public road the surfaced carriageway of which exceeds 4 metres in width, [or] (iii) endanger public safety by reason of traffic hazard or obstruction of road users."

Given that the entrance and section of access road form a 'means of access' to the nearby main road to Drumcree East, I am of the opinion that Article 9(ii) applies, so that the works and use do not constitute exempted development.

In addition, I am concerned that the entrance, by virtue of its location, will endanger my safety and that of other members of the public. Thus, in my view,

Article 9(iii) of the Regulations also applies, so that this provides yet another reason

as to why the works and use, may constitute unauthorized development.

In view of the above information, I therefore am requesting that Waterford and City Council review its decision not to initiate enforcement proceedings in this matter.

Finally, I would like to note my dissatisfaction at the tone of the e-mail. I would point out that, as a concerned citizen, I made written representations to my Planning Authority, in the manner prescribed by Section 152 of the Planning and Development Act, outlining my concerns that unauthorised development may have taken place and stating my reasons as to why this might be the case. I am quite upset that this was construed as an allegation of wrongdoing. To me, the use of the phrase 'alleged breach of

permission' was pejorative. I would therefore request that Waterford City Council use a more neutral tone in all future correspondence and reports on this matter.

Yours Sincerely.

(Cllr [illegible])

Comhairle Cathrach & Contae Phort Láirge
Waterford City & County Council

Our Ref: DP/2756

Ciaran & Jane Bailey,
Croi Amhain,
Rathmoylan,
Dunmore East,
Co. Waterford.

28th August, 2018.

Re: Planning Application Ref. No. 16/21 & CRM 2756 – Development at Rathmoylan, Dunmore East, Co. Waterford

Dear Ciaran & Jane,

I refer to previous correspondence re the above and wish to inform you as per my email of 1st June 2018 that the Planning Authority has investigated the matter and consider the work undertaken within the confines of the private land of the owner does not constitute a breach of the conditions of planning permission ref. No. 16/21. Therefore the Planning Authority is not in a position to issue enforcement proceedings and the enforcement file ref. 2756 is now closed.

Yours sincerely,

Paul Kelly,
Administrative Officer

Comhairle Cathrach & Contae Phort Láirge
Waterford City & County Council

Our Ref: HOS/DP/2867

Ciaran & Jane Bailey,
Rathmoylan,
Dunmore East,
Co. Waterford.
X91D6YO.

16th January 2019.

Re: 2867 – Rathmoylan, Dunmore East, Co. Waterford.

Dear Ciaran & Jane,

I wish to acknowledge receipt of your correspondence dated 10/12/2018 re the above and note contents. Following investigation of the matter it is held that the issue is of a trival/minor nature. It is recommended to close this file.

Yours sincerely,

D. Purcell

pp Hazel O'Shea,
Senior Executive Planner.

Comhairle Cathrach & Contae Phort Láirge
Waterford City & County Council

Our Ref: JO'M/DP/2867

Mr & Mrs Ciaran & Jane Bailey,
Rathmoylan,
Dunmore East,
Co. Waterford.
X91D6YO

29th January, 2019.

Re: Warning Letter WL 2867 relating to Permission Ref 16/21.

Dear Mr & Mrs Bailey,

I refer to your Email correspondence of 18th January 2019 to CE, DoS and SP and I wish to respond as follows.

To clarify the matter, WCCC served a Warning Letter on the J & P Lenihan on 16th Nov last, on the complaint that unauthorised work may have been or is being carried out on their lands. (A Warning Letter is the fore-runner to possible Enforcement Action and affords the person complained of, within a period 4 weeks, to make a submission explaining the substance of the complaint). J & P Lenihan responded to the complaint on 12th Dec 2018 and following consideration of their response and an inspection of the work carried out, the Planning Authority decided not to pursue the matter further.

The Enforcement File No. 2867 relating to the issue is not available for public inspection.

In coming to its decision the Planning Authority considered the following:

1. The minor readjustment of the entrance drive was necessitated to overcome a legal obstacle to passage over a small section of the existing laneway.

2. The new adjusted section of access drive does not impede the continued use of the existing laneway, for any user.

3. The readjusted section of access driveway is fully within the applicants' landholding. The remainder of the access drive (south of the existing laneway) is located on the applicants' landholding. The readjusted part of the access drive, from that originally shown on permission mapping, does not impact on sight lines at the junction with the public road; does not interfere with drainage onto the public road and does not create a traffic or public safety hazard for public road users.

4. The substantive development that being the permission for dwelling (located approximately 350m from the Public Road) is in accordance with permission 16/21 and the access drive exits onto the Public Road at the location permitted by condition No 6 of permission. The other requirements for entrance construction – Condition 6 (a) – (g) have been complied with.

On the basis of the foregoing the Planning Authority has determined that the readjusted section of the access drive does not constitute unauthorised development.

In relation to the other matter of concern raised your phone call, the Planning Authority is aware of the numbers of "owners in common" – This issue was highlighted during the review stage of the planning application and Conditions are attached to permission restricting the use of the dwelling to the person managing the farm .

You are advised that you may pursue the matter further by making a formal submission to An Bord Pleanala for a "Section 5 Declaration and Referral on development and exempted development", under the Planning & Development Act 2000 (as amended).

Yours sincerely,

D. Purcell

pp J. O'Mahony,
Senior Planner.

Comhairle Cathrach & Contae Phort Láirge
Waterford City & County Council

BO'K/OL/D5/2019 2

Ciaran & Jane Bailey,
Rathmoylan,
Dunmore East,
Co. Waterford.
X91D6Y0

4th February, 2019.

RE: Rathmoylan, Dunmore East, Co. Waterford.
Section 5 Declaration

Dear Sir or Madam:

I wish to acknowledge receipt of your application for Section 5 Declaration relating to the above mentioned property and enclose receipt herewith.

Yours faithfully,

B. O'Kennedy,
Staff Officer.

Waterford City and County Council
Planning Department
1st Floor, Menapia Building
The Mall

04/02/2019 09:20:54

Receipt No : PLAN/0/625988

CIARAN AND JANE BAILEY
RATHMOYLAN
DUNMORE EAST
CO WATERFORD

EXEMPTION CERTIFICATES	80 00
GOODS 80 00	
VAT Exemption-vatable	
Total	80 00 EUR
Tendered	
CHEQUE	80 00
000706	
CIARAN AND JANE BAILEY	
Change	0 00

Issued By : OONAGH LABF
From : PLANNING
Vat reg No.3200044H

Appendix B

Copy of proposed contract of transfer

Right Of Way Document.

LAND REGISTRY

COUNTY WATERFORD **PART FOLIO 21533F**

GRANT dated the day of 2017

A. Definitions:

In this Transfer and the several Schedules hereto:-

(i) "the **Sold Land**" means the plot of ground described in the First Schedule hereto;

(ii) "the **Retained Property**" means so much of the lands comprised in Folio 21533F of the Register County Waterford as is comprised in the Right of Way;

(iii) "the **Right of Way**" has the meaning ascribed to that term in the Second Schedule hereto;

(iv) "the **Utilities**" means all channels conduits culverts pipes drains watercourses ditches gutters gullies sewers trunks flues ducts wires mains cables and other conducting media of whatsoever kind for the passage transmission or running of the Services or any of them and all plant equipment and apparatus required for the use or operation of any of the same including (but without prejudice to the generality of the foregoing) lighting installations;

(v) "the **Services**" means water soil drainage gas air electricity telephone transmissions radio transmissions television transmissions data transmissions digital services broadband services oil heating fuels and other services and supplies from time to time.

B.

CIARAN BAILEY of The Anchorage, Circular Road, Dunmore East, Co. Waterford
JANE BAILEY of The Anchorage, Circular Road, Dunmore East, Co. Waterford
1 **NIALL CORCORAN** of Ballymacaw, Dunmore East, Co. Waterford
2 **NICHOLAS CORCORAN** of Kitty's Cottage, Lower Dunmore East, Co. Waterford
3 **ANTHONY (ORSE TONY) CORCORAN** of Ballymacaw, Dunmore East, Co. Waterford
4 **MICHAEL CORCORAN** of Ballymacaw, Dunmore East, Co. Waterford
5 **JANICE LENEHAN** of 5 The Lookout, Dunmore East, Co. Waterford
6 **EOGHAN MURPHY** of Cloonskill, Knappaghbeg, Westport, Co. Mayo
7 **DOMHNALL (ORSE DONAL) MURPHY** of Ballymacaw, Dunmore East, Co. Waterford
8 **ELIZABETH MURPHY** of Shanbar, Pinehill, Coxtown, Dunmore East, Co. Waterford
9 **RONAN COLLINS** of Ballagh Lodge, Bushy Park, Galway
10 **SARAH COLLINS** of Ballagh Lodge, Bushy Park, Galway

(together referred to as "the **Registered Owners**")

the Registered Owners as tenants in common in the shares described in the Folio 21533F of the Register County Waterford, in consideration of the affection of Janice Lenehan and Paul Lenehan as beneficial owners **HEREBY GRANT** to the said **JANICE LENEHAN** and **PAUL LENEHAN** (together referred to as "the **Transferee**") both of 5 The Lookout,

Dunmore East, Co. Waterford their heirs and assigns successors and servants agents workmen tenants licensees and invitees (**SUBJECT TO THE** Covenants and conditions contained in the Third Schedule hereto, in common with the Registered Owners and all other having like right) for the benefit of the Sold Land and building thereon and each and every part thereof the easements rights and privileges specified in the Second Schedule hereto to hold as joint tenants **AND** the Registered Owners assent to their registration as a burden on the Retained Property on Folio 21533F of the Register County Waterford

The address of Janice Lenehan and Paul Lenehan in the State for service of notices and their descriptions are:
5 The Lookout, Dunmore East, Co. Waterford, business woman and business man respectively.

C.

IT IS HEREBY CERTIFIED that the consideration (other than rent) for the grant is wholly attributable to residential property in that the transaction effected by this Instrument does not form part of a larger transaction or a series of transactions in respect of which the amount or value or the aggregate amount or value of the consideration (other than rent) which is attributable to residential property or which would be so attributable if the contents of the residential property were considered to be residential property exceeds €30,000.

D.

IT IS HEREBY FURTHER CERTIFIED that the transaction hereby effected does not form part of a larger transaction or of a series of transactions in respect of which the amount or value or the aggregate amount or value of the consideration exceeds €30,000.

E.

IT IS HEREBY FURTHER CERTIFIED that for the purpose of the stamping of this Instrument that this is an instrument to which the provisions of Section 112 of the Finance Act 1990 do not apply for the reason that the parties hereto have not entered into any Building Contract.

First Schedule
(Sold Land)

ALL THAT the plot of ground being part of the lands of Rathmoylan, Dunmore East, Co. Waterford as is delineated and edged red on the plan annexed hereto situate in the Barony of Gaultiera and County of Waterford being part of the property described in Folio 1436 of the Register County Waterford.

Second Schedule
(Easements Granted)

EASEMENTS RIGHTS AND PRIVILEGES granted to the Sold Land and building thereon: Full right and liberty for the Transferee their heirs and assigns successors and servants agents workmen tenants licensees and invitees:

(1) to pass and repass along the parcel of land being the part of the Property coloured yellow on the plan annexed hereto and marked "A" – "B"("the **Right of Way**") from the Sold Land and each and every part thereof to the public highway and vice versa at all times by day and night and for all purposes on foot and with or without animals or vehicles;

(2) to construct such road surface over the Right of Way as the Transferee in its absolute discretion sees fit;

(3) to enter upon the Retained Property with or without workmen and others and all necessary equipment for the purposes of construction and maintaining the Right of Way making good any damage thereby occasioned but not being responsible for any temporary inconvenience caused by any such work;

(4) to free and uninterrupted passage and running of Services from and to the Sold Land and each and every part thereof through the Utilities which are now or may at any time be in under over or passing through the Right of Way;

(5) to construct in on or under the Right of Way the Utilities and to cleanse repair and renew the same and to connect up to the same with Utilities which are now or may at any time be in on under or passing through the Sold Land AND for the aforementioned purposes to enter upon the Retained Property with or without workmen and others and all necessary equipment making good any damage thereby occasioned but not being responsible for any temporary inconvenience caused by any such work.

?

Third Schedule
(Covenant by the Registered Owners)

The Registered Owners **HEREBY COVENANT** that in the event that they use the Right of Way for the benefit of the Retained Property or any part thereof or exercise any of the easements rights and privileges specified in the Second Schedule hereto they shall contribute a fair and reasonable proportion of the ongoing cost of maintenance and repair thereof.

?

Signed and delivered
by **JANE BAILEY**
in the presence of:-

_____
Witness

_____
Witness Occupation

_____
Witness Address

Signed and delivered
by **NIALL CORCORAN**
in the presence of:-

_____
NIALL CORCORAN

_____
Witness

_____
Witness Occupation

_____
Witness Address

Signed and delivered
by **NICHOLAS CORCORAN**
in the presence of:-

_____
NICHOLAS CORCORAN

_____
Witness

_____
Witness Occupation

_____
Witness Address

Signed and delivered
by **ANTHONY CORCORAN**
in the presence of:-

_____
ANTHONY CORCORAN

_____
Witness

_____
Witness Occupation

_____
Witness Address

Signed and delivered
by **MICHAEL CORCORAN**
in the presence of:-

_____
MICHAEL CORCORAN

_____
Witness

_____
Witness Occupation

_____
Witness Address

Signed and delivered
by **JANICE LENEHAN**
in the presence of:-

_____
JANICE LENEHAN

_____
Witness

_____
Witness Occupation

_____
Witness Address

Signed and delivered
by **EOGHAN MURPHY**
in the presence of:-

_____
EOGHAN MURPHY

_____
Witness

_____
Witness Occupation

_____
Witness Address

Signed and delivered
by **DOMHNALL MURPHY**
in the presence of:-

_____
DOMHNALL MURPHY

_____
Witness

_____
Witness Occupation

_____
Witness Address

Signed and delivered
by **ELIZABETH MURPHY**
in the presence of:-

_____
ELIZABETH MURPHY

_____
Witness

_____
Witness Occupation

_____
Witness Address

Signed and delivered
by **RONAN COLLINS**
in the presence of:-

_____
RONAN COLLINS

_____
Witness

_____
Witness Occupation

_____
Witness Address

Signed and delivered
by **SARAH COLLINS**
in the presence of:-

_____
SARAH COLLINS

_____
Witness

_____
Witness Occupation

_____
Witness Address

Signed and delivered
by **JANICE LENEHAN**
in the presence of:-

_____
JANICE LENEHAN

_____
Witness

_____
Witness Occupation

_____
Witness Address

Signed and delivered
by **PAUL LENEHAN**
in the presence of:-

_____
PAUL LENEHAN

_____
Witness

_____
Witness Occupation

_____
Witness Address