

Cloonnacartan,
Recess,
Co. Galway.

21st July 2022

Mr. Mark Lawlor,
Administrative Assistant,
An Bord Pleanála,
64 Marlborough Street,
Dublin 1.

Re: ABP-313920-22

AN BORD PLEANÁLA	
LDG-	_____
ABP-	_____
26 JUL 2022	
Fee: €	Type: _____
Time: _____	By: <i>Reg-Post</i>

We, David & Elizabeth Burke, are both full time farmers, each of us having our own separate Herd Numbers. I David Burke derive off farm income, but I am fully engaged as a farmer. Farming comes first and Off Farm income is a supplement.

Elizabeth Burke Herd Number G1180460

Document 1 illustrates the Land Parcel G11801225 comprising 73.17 Hectares, which equates to 180.8 Acres, that is farmed by Elizabeth Burke.

David Burke Herd Number G1180435

Document 2 illustrates the Land Parcel G11801220 comprising 137.31 Hectares, which equates to 339.3 Acres.

Document 3 illustrates the Land Parcel G11801223 comprising 0.74 Hectares, which equates to 1.82 Acres.

Document 4 illustrates the Land Parcel G11801210 comprising 2.47 Hectares, which equates to 6.1 Acres.

Document 5 illustrates the Land Parcel G11717135 comprising 17.01 Hectares, which equates to 42.03 Acres.

Document 6 illustrates the Land Parcel P1364700012 comprising 1.73 Hectares, which equates to 4.27 Acres.

We refute the accusation made by Mr. Patrick Cleary that our machinery is construction machinery.

We own 2 tractors and 3 trailers, which are used for agricultural purposes.

One of these trailers is Land Drive ie. all wheels are power drive. This trailer is specifically used to carry fencing material on soft ground and for all our Bog Work.

Another trailer, the dump trailer is used for hauling feedstuff from the main road to the farm. It is used for transporting Lime. It is also used for carrying turf from our bog which is out on the main road, some distance from our home. We are non tillage, hill farmers. All feedstuff is transported from Off Farm. This trailer is also the one that we use to transport Farm Yard Manure.

The Low Loader Trailer is used to transport our Hitachi Excavators, which are used for agricultural purposes, turf cutting, land drainage and fencing. The smaller excavator is used for cleaning out Farm Yard Manure from our livestock shed. This Trailer is also used for moving Bales and Feed Equipment.

The larger excavator is used for Land drainage, Stock Proofing and Farm Road Maintenance.

We also own Livestock Trailers which are towed by van or jeep.

I David Burke have land leased which is 30 miles away from the home house. I have parcels of land which are 5 miles away from the home house. These need to be accessed and maintained. Stock which are overwintering must be fed. In order to carry out this work, Farm Machinery is required and it has to be of a proper standard, fit for purpose.

We moved to this farm in 2001. We have kept our machinery on this land since 2001.

In Mr Cleary's letter we notice reference to S.I. No. 600/2001 - Planning and Development Regulations, 2001, Part 1 Exempted Development — General, Class 16 and reference to 'temporary structures and uses'.

CLASS 16

The erection, construction or placing on land on, in, over or under which, or on land adjoining which, development consisting of works (other than mining) is being or is about to be, carried out pursuant to a permission under the Act or as exempted development, of structures, works, plant or machinery needed temporarily in connection with that development during the period in which it is being carried out.

We have not placed construction machinery on our land at Cloonnacartan. Our machinery is agricultural. We are not carrying out any development there. We are not seeking temporary exemption under Class 16. We have always kept our agricultural machinery here.

There are no structures involved in this instance. We are farmers going about our daily lives. We are not carrying out any development. Mr. Cleary is trying to muddy the waters and create a false impression.

We respectfully point you to S.I. No. 600/2001 - Planning and Development Regulations, 2001, Part 3 Exempted Development — Rural

Land Reclamation

CLASS 11

Development consisting of the carrying out, on land which is used only for the purpose of agriculture or forestry, of any of the following works—

- (a) field drainage,
- (b) land reclamation,
- (c) the removal of fences,
- (d) the improvement of existing fences,
- (e) the improvement of hill grazing, or
- (f) the reclamation of estuarine marsh land or of callows, where the preservation of such land or callows is not an objective of a development plan for the area.

Our land is used solely for the purpose of agriculture.

It is Hill Grazing. We are continually improving this grazing, by proper management, and by manuring and liming.

We are continually improving existing fences.

We are continually improving field drainage.

We cut turf legally.

We carry out reclamation only within the rules of the Department of Agriculture and in consultation with The National Parks And Wildlife.

Regarding the photographs submitted by Mr. Cleary

Appendix 2.1 shows our big machine being transported on the main National Route the N59 on 10th April 2022. This was a Sunday afternoon and the machine was being transported to another farm to carry out Farm Maintenance and Improvement works.

Appendix 2.2 shows our smaller machine working on David Burkes uncle's land at Cloonnacartan in 2021. Michael Staunton (David Burkes uncle) was clearing the area around his sheep pen for farm safety.

Appendix 2.3 shows our trailers parked on our own land as has been the norm since 2001. This is our house in the photograph.

Appendices 2.4 through to 2.8 are simply photographs of the same machinery parked on our own land.

Summary

Mr. Cleary has said to me, David Burke, on more than one occasion, that unless I sell my farm yard to him, he will make my life unbearable. He made it clear that he always 'gets what he wants' and that it is futile, for me, to resist his demands. This most recent action is yet another malicious deed being carried out by Mr. Cleary.

We include a letter from Mr. Cleary (Document 7) outlining one of his plans for our future. This is mild compared to Mr. Cleary's verbal utterances.

Mr. Cleary is making life very uncomfortable for us and our three young children. He is using trumped up law in an attempt to bully us out of our own property.

Sincerely yours



David Burke



Elizabeth Burke



An Roinn Talmhaíochta,
Bia agus Mara
Depart of Agriculture,
Food and the Marine

For Basic Payment Scheme,
Areas of Natural Constraint Scheme and
other Area-Based Schemes Purposes only

Year: 2021 Scale: 1:5000

Name: Elizabeth Burke

Address: Cloonacarton
Recess
Co Galway

Townland Code: G11801

Townland Name: CLOONNACARTAN

Parcel	Digitised	MEA*	Claimed
G11801225	73.17	73.17	72.00

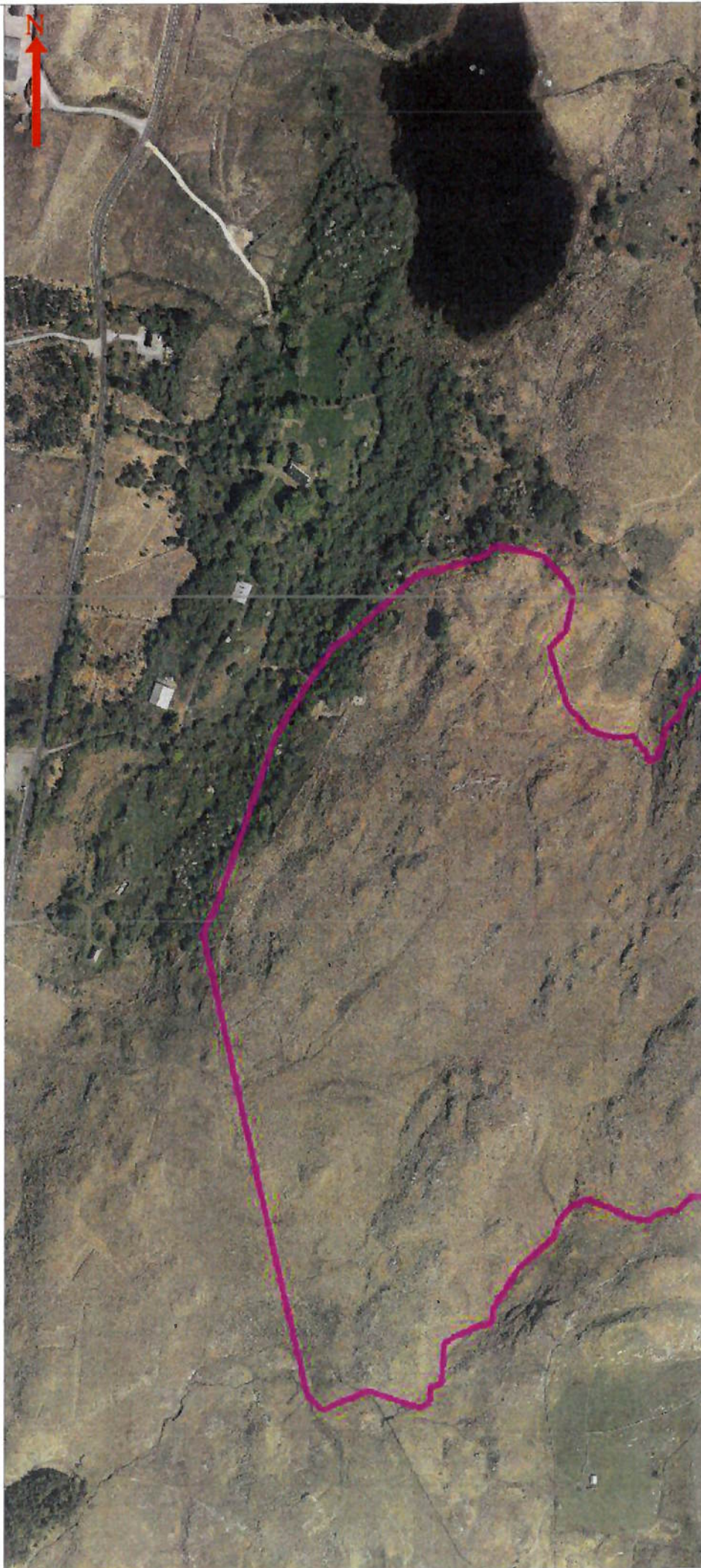
Ortho Used: Color Ortho Full Coverage

DOCUMENT
1

All areas displayed above are in hectares
* MEA calculation available online via agfood.ie
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G1180460 1 of 1 - Wed Nov 17 13:34:26 GMT 2021



For Basic Payment Scheme
Areas of Natural Constraints Scheme and
other Area-Based Schemes Purposes only
Year: 2021 Scale: 1:8000

Name: David Burke
Address: Lissoughier
Racess
Connemara
Co Galway

Townland Code: G11801
Townland Name: CLOONNACARTAN

Parcel: G11801220 Digitised 137.31 MEA* 135.09 Claimed 45.00

Exclusions	Parcel	Area	Red%	Elig Type
G11801220	X01	0.028	100%	0.00 Stream
G11801220	X02	0.000	100%	0.00 Stream
G11801220	X03	0.000	100%	0.00 Stream
G11801220	X04	0.000	100%	0.00 Stream
G11801220	X05	0.019	100%	0.00 Stream
G11801220	X06	0.022	100%	0.00 Stream
G11801220	X07	0.009	100%	0.00 Stream
G11801220	X08	0.000	100%	0.00 Stream
G11801220	X09	0.000	100%	0.00 Stream
G11801220	X10	0.000	100%	0.00 Stream
G11801220	X11	0.000	100%	0.00 Stream
G11801220	X12	0.000	100%	0.00 Stream
G11801220	X13	0.000	100%	0.00 Stream
G11801220	X14	0.000	100%	0.00 Stream
G11801220	X15	0.000	100%	0.00 Stream
G11801220	X16	0.000	100%	0.00 Stream
G11801220	X17	0.01	100%	0.00 Stream
G11801220	X18	0.02	100%	0.00 Stream
G11801220	X19	0.000	100%	0.00 Stream
G11801220	X20	0.107	100%	0.00 Stream
G11801220	X21	0.078	100%	0.00 Stream
G11801220	X22	0.012	100%	0.00 Stream
G11801220	X23	0.055	100%	0.00 Sand
G11801220	X24	0.037	100%	0.00 Sand
G11801220	X25	0.114	100%	0.00 Sand
G11801220	X26	0.04	100%	0.00 Sand
G11801220	X27	0.035	100%	0.00 Sand
G11801220	X28	0.009	100%	0.00 Sand
G11801220	X29	0.005	100%	0.00 Sand

Deductions
Parcel: G11801220 Manual Reason 1% Scrub/Rock

Ortho Used: Color Ortho Full Coverage

Document 2

All areas displayed above are in hectares
*MEA calculation available online via agfood.ie
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G11801220435

07/05/2017 15:19:36:28 GMT 2021

An Roinn Talmhaíochta,
Riagtas Mara
Department of Agriculture,
Food and the Marine

For Basic Payment Scheme,
Areas of Natural Constraint Scheme and
other Area-Based Schemes Purposes only
Year: 2021 Scale: 1:5000

Name: David Burke
Address: Lissoughier
Recess
Connemara
Co. Galway

Townland Code: G11801
Townland Name: GLOONACARTAN
Parcel G11801223 Digitised MEA* Claimed
0.74 0.73 0.15
Exclusions Parcel Area Recd% Elig Type
G11801223 X01 0.735 5% 0.70 Ineligible
Ortho Used: Color Ortho Full Coverage

3

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* MEA calculation available online at
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G11801223 5
G11801223 5 of 6 - Mon Nov 15 19:36:41 GMT 2021

An Roinn Talmhaíochta,
Bia agus Mara
Department of Agriculture,
Food and the Marine

For Basic Payment Scheme,
Areas of Natural Constraint Scheme and
other Area-Based Schemes Purposes only
Year: 2021 Scale: 1:5000

Name: David Burke
Address: Lissoughier
Rocess
Connemara
Co. Galway

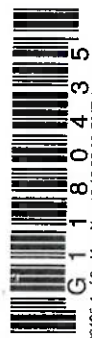
Townland Code: G11801
Townland Name: CLOONNACARTAN
Parcel Digitised MEA Claimed
G11801210 2.47 2.47 0.35
Exclusions
Parcel Excl Area Red% Eltg Type
G11801210 X01 2.485 5% 0.00 Bog

Ortho Used: Color Ortho Full Coverage

Doc

4

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• MEA calculation available online via agfood.ie
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G11804364 of 6 - Non Nov 15 19:35:00 GMT 2021

An Roinn Talmhaíochta,
Bia agus Mara
Department of Agriculture,
Food and the Marine

For Basic Payment Scheme,
Areas of Natural Constraint Scheme and
other Area-Based Schemes Purposes only
Year: 2021 Scale: 1:5000

Name: David Burke
Address: Lissoughier
Recess
Connemara
Co. Galway

Townland Code: G11717
Townland Name: LISSOUGHIER

Parcel	Digitised	MEA*	Claimed
G11717135	17.01	12.66	7.00
Exclusions			
Parcel	Excl	Area	Red%
G11717135 X01	0.01	100%	0.00
G11717135 X02	0.03	100%	0.00
G11717135 X03	0.04	100%	0.00
G11717135 X04	0.04	100%	0.00
G11717135 X05	0.19	100%	0.00
G11717135 X06	0.0	100%	0.00
G11717135 X07	1.73	100%	0.00
G11717135 X08	0.75	100%	0.00
G11717135 X09	0.75	100%	0.00
G11717135 X10	0.04	100%	0.00
G11717135 X11	0.03	100%	0.00
G11717135 X12	0.06	100%	0.00

Ortho Used: Color Ortho Full Coverage

DOC 5

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* MEA calculation available online via www.mea.ie
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G1180435

G1180435 2 of 6 - Mon Nov 15 19:55:37 GMT 2021

For Basic Payment Scheme, Areas of Natural Constraint
Scheme and other Area Based Scheme purposes only
Year: 2022 Scale: 1:3000

Name: DAVID BURKE
Address: LISSOUGHTER
RECESS
CONNEMARA
CO GALWAY

Townland Code: P13647
Townland Name: LOUGHANAGANKY

Parcel	Digilised	MEA*	Claimed
P1364700012	1.73	1.73	1.72

Ortho Used: COL_ORTHO_FULL_COV

All areas displayed above are in hectares
* MEA calculation available online via agfood.ie
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Imagery Dates: 07/05/2017

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G1180435

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Doc
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Document 7

Derryclare Cottage
Cloonnacartan
Recess
Co. Galway

27 July 2016

Mr. David Burke
Cloonnacartan
Recess
Co. Galway

Dear David

I am writing to you because I am now in a position to proceed with the development of the cottage and garden. Before committing to significant costs I need some certainty regarding the developments carried out in the field in front of the cottage after I agreed to purchase it, and in relation to the water supply and access to the well.

I met with you on a number of occasions in early 2015 to discuss my concerns and to ask you to come back to me with some proposals to resolve the difficulties for me created by the placing of the Seatrain container on your site and the sheep dip facility you were in the course of building. However, your only response was to place the Seatrain container on wheels and complete the sheep dip structure. I had hoped that in the intervening period relations between us would facilitate some agreement between us but that has not happened.

I would like to make three things clear.

First, I have no difficulty with the sheep shed or its use as such as I had no wish, when I agreed to buy the cottage, to disrupt or interfere in any way with your existing activities. I knew I needed to sort out the water contamination problem and to have proper access to the well but I presumed you would co-operate with me in that regard provided it did not result in any cost or loss of amenity for you.

Second, I did not anticipate that you would carry out any further developments without first discussing them with me.

Third, I believe that differences should be resolved, if at all possible, by agreement and I feel that I have made a reasonable effort to do that. When you installed the container and partly erected the sheep-dip structure I approached you when I could have immediately lodged an objection with Galway County Council. Instead, I explained the position and outlined my

concerns to give you a chance to come up with some plan that would satisfy my concerns. Instead you put the container on wheels and you completed the sheep-dip facility neither of which you could have done if I had gone to the County Council instead of discussing the issue with you. Even after that, I still did not involve the County Council but met with you again to ask you to come back with some proposals.

There is a fundamental environmental issue with the sheep dip facility which necessitates its removal in the absence of planning permission and while the sheep pens and the activity involved with them as well as the container affect the amenity value of the cottage and its garden you have come up with no proposal to balance the situation. Negotiation is a matter of give and take.

Over the last 15 months, in the absence of any response, I have tried to see if I could come up with an acceptable solution. Therefore, In order to try and resolve matters, I have to take the initiative.

So here are the choices I propose:

The water supply:

I intend to put a gate over the pipe where it enters my property. I will need a corresponding gate through your fence and I would propose a pedestrian width gate using similar fencing posts to yours which I am happy to erect and pay for. I am also going to raise the contamination issue with the relevant health and environment authorities to find out what the possible solutions are and address them.

Alternatively, if you wish to supply me with an uncontaminated source of water, I will be happy to transfer all entitlements to the well to you, dispense with the way leave and I will not need any gates.

The sheep dip, pens and container:

I am happy to purchase the field from you, or as much of the field as goes below my well, including the shed. I could then dismantle the sheep dip and pens and dispose of the container. You could have the continued use of the shed for a period of time to be agreed between us. I might also be prepared to consider a long term arrangement involving the shed with a new road and putting the entrance to the shed on the other side, both as shown on your original application for planning permission. That scenario would be subject to on-going monitoring of the water quality of the well unless you were prepared to supply me with a continuous alternative source of uncontaminated water.

If you want to explore these options or some variation of them, you can let me know within the next month and we can discuss the possibilities. You have my phone number and I am always happy to make myself available for a meeting.

If I do not hear from you within the month I will take it you are not interested and I will adopt a different approach as I will be satisfied at that stage that I will have done all I can to resolve matters directly. As I said to you before, in my experience co-operation is always the better option.

As you know a sheep dip requires planning permission and the pens require my consent. If you wish to use the dip/pens for any purpose in the meantime I would ask you to contact me to get my consent in advance of any activity involving them, with enough notice to allow me to arrange to monitor the activity. If you use them without my advance consent, I will take it that you have no interest in my proposals and proceed accordingly.

Yours sincerely,

A handwritten signature in cursive script, appearing to read 'Pat Cleary', written over a horizontal line.

Pat Cleary