



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

REGISTERED POST
The Secretary
An Bord Pleanála
64 Marlborough St
Dublin 1
D01 V902

16TH July 2020

Section 5 referral Reference R20-44

Whether the construction of a fence, a pedestrian gate and a vehicular gate on a road at Doonass, Clonlara Co. Clare is or is not development and is or is not exempted development.

A Chara,

The Planning Authority has received a Section 5 declaration with respect to the above works

I wish to advise that the Planning Authority has not made a declaration in this instance and is now referring the matter to An Bord Pleanála for a determination under Section 5(4) of the Planning and Development Act, 2000, as amended,

I attach relevant details in relation to same along with fee of €110.00 for the referral.

Mise, le meas

Angela O'Sullivan
Staff Officer
Planning Department
Economic Development Directorate

AN BORD PLEANÁLA	
LDG-	<u>031646-20</u>
ABP-	_____
19 OCT 2020	
Fee: € <u>110</u>	Type: <u>PMO</u>
Time: _____	By: <u>reg post</u>

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CLARE COUNTY COUNCIL
SECTION 5 DECLARATION OF EXEMPTION APPLICATION
PLANNERS REPORT

FILE REF:	R20-44
APPLICANT(S):	Fiona Mac Carthy
REFERENCE:	Whether the construction of a fence, a pedestrian gate and a vehicular gate on the road at Doonass, Clonlara is or is not development and is or is not exempted development.
LOCATION:	Doonass, Clonlara, County Clare
DUE DATE:	27 th October 2020

Introduction

Clare County Council received a Section 5 declaration from Fiona MacCarthy, with respect to works at Doonass, Clonlara, Co. Clare. In accordance with Section 5(4) of the Planning and Development Act 2000 (as amended), Clare County Council requests a declaration from An Bord Pleanála in respect of the following:

'Whether the construction of a fence, a pedestrian gate and a vehicular gate on the road at Doonass, Clonlara is or is not development and is or is not exempted development'.

Site Location

The subject site is located at Doonass Clonlara. The site is not zoned and is located in an area under strong urban pressure. The site lies adjacent to the Lower River Shannon SAC site code 002165.

The site comprises the former 'Anglers Rest' building and associated curtilages of walls and fencing and adjoining road which provides access to the river via land in an OPW folio. (See map) . There is a graveyard situated on the eastern side of the road.

Planning History on Site

None

Enforcement History

None

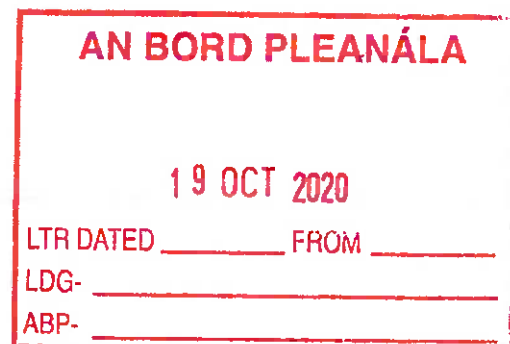
Referral History

None

Background to Referral

The applicant is seeking a Section 5 Declaration as to whether the construction of a fence, a pedestrian gate and vehicular gate is or is not development and is or is not exempted development.

The application comprises:



- A completed application form and signatures.
- Background information regarding the construction of the development whereby it is stated that the development carried out is blocking/ obstructing access to the amenity of the river near Angler's rest cottage.
- Drawing no D – 120920-01 scale 1 : 250
- Drawing no. D-120920-2 site location map scale 1 : 2500.

Statutory Provisions

Planning and Development Act, 2000 (as amended)

Sections 2 and 3 of the Act state the following with respect to 'works' and 'development':

"works" includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

"development" means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land.

Planning and Development Regulations 2001, as amended

Article (6)(1) of the Planning and Development Regulations 2001, as amended, states that subject to Article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 2.

SCHEDULE 2 Article 6 PART 1- General – Class 11 describes classes of development which are exempted development, provided that such development complies with the conditions and limitations expressed at Column 2 for each class.

Class 11

The construction, erection, lowering, repair or replacement other than within or bounding the curtilage of a house of

(a) any fence (not being a hoarding or sheet metal fence)

(b) any wall of brick, stone, blocks with decorative finish other concrete blocks or mass concrete.

Limitations

1. The height of any new structure shall not exceed 1.2m or the height of the structure being replaced, whichever is the greater, and in any event shall not exceed 2m.
2. Every wall, other than a dry or natural stone wall, constructed or erected bounding a road shall be capped and the face of any wall of concrete or concrete block (other than a blocks of decorative finish) which will be visible from any road, path or public area including public open space, shall be rendered or plaster.

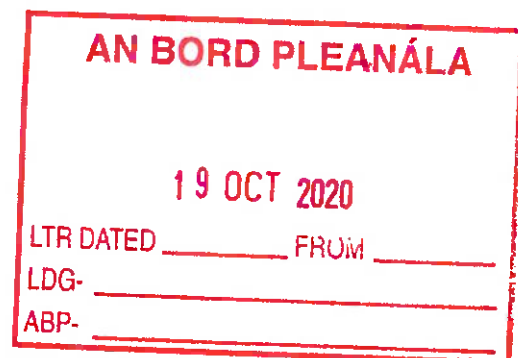
Article 9 of the Regulations sets out a number of 'de-exemptions' that apply whereby development to which article 6 relates shall not be exempted development for the purposes of the Act.

Conclusion

In light of the details and content of the declaration as received, and in accordance with Section 5 (4) of the Planning and Development Act, 2000, as amended, the Planning Authority now wish to refer the above question to the Board for determination.

Ellen Corry
Executive Planner
Date: 16-10-20

[Signature]
A/Senior Executive Planner
Date: 16/10/20



**CLARE COUNTY COUNCIL
SECTION 5 DECLARATION OF EXEMPTION APPLICATION
PLANNERS REPORT**

FILE REF:	R20-44
APPLICANT(S):	Fiona MacCarthy
REFERENCE:	Whether the construction of a fence, a pedestrian gate and a vehicular gate on the road at Doonass, Clonlara is or is not development and is or is not exempted development.
LOCATION:	Former Anglers Rest, Doonass, Co. Clare.
DATE:	14 th October 2020

Note:

I refer to the referral as received above.

I consider that this matter should be referred to An Bord Pleanála for determination in particular regarding whether the works obstruct a public right of way, under the Act and whether the proposal therefore constitutes development which is not exempted development. I have prepared a submission to the Board separately.

I recommend that we write to the applicant as follows:

I refer to your Section 5 declaration as received by the Planning Authority on the 29th September 2020.

I wish to advise that the Planning Authority has not made a declaration in this instance.

The Planning Authority has however referred the matter to An Bord Pleanála for a determination under Section 5(4) of the Planning and Development Act, 2000, as amended,

The Planning Authority will update in due course upon receipt of a decision from the Board.

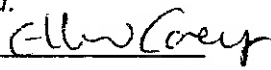
I recommend that we write to the owners of the site as follows:

I wish to advise that the Planning Authority has received a Section 5 declaration with respect to the construction of a fence, pedestrian gate, and vehicular gate at your property at Doonass, Co. Clare.

I wish to advise that the Planning Authority has not made a declaration in this instance.

The Planning Authority has however referred the matter to An Bord Pleanála for a determination under Section 5(4) of the Planning and Development Act, 2000, as amended,

The Planning Authority will update in due course upon receipt of a decision from the Board.


E.P.

Date: 14th October 2020

AN BORD PLEANÁLA	
19 OCT 2020	
LTR DATED _____	FROM _____
LDG- _____	
ABP- _____	

R20-44

P07 Request for a Declaration on Development and Exempted Development (March 2017)

P07

CLARE COUNTY COUNCIL
COMHAIRLE CONTAE AN CHLÁIR

Planning Department,
Economic Development Directorate,
Clare County Council,
New Road, Ennis,
Co. Clare,
V95DXP2

Telephone No. (065) 6821616
Fax No. (065) 6892071
Email: planoff@clarecoco.ie
Website: www.clarecoco.ie

CLARE
COUNTY COUNCIL
20 SEP 2020
received
Planning Section



Comhairle Contae an Chláir
Clare County Council

AN BORD PLEANÁLA

19 OCT 2020

LTR DATED FROM

LDG-
ABP-

REQUEST FOR A DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT
(Section 5 of the Planning & Development Act 2000 (as amended))

FEE: €80

This following form is a non-statutory form which has been prepared by Clare County Council for the purpose of obtaining the necessary information required for a declaration to be made under Section 5 by the Planning Authority

1. CORRESPONDENCE DETAILS.

(a) Name and Address of person seeking the declaration	Fiona MacCarthy Doonassa Demase Clontara Co. Clare V94 NX3A
(b) Telephone No.:	067 354 558
(c) Email Address:	fionnmac@icloud.com
(d) Agent's Name and address:	Denis McKeon Dromean Clontara Co. Clare V94 P5V2

19 OCT 2020

LTR DATED _____ FRI/VI _____

2. LDG- DETAILS REGARDING DECLARATION BEING SOUGHT

(a) PLEASE STATE THE SPECIFIC QUESTION FOR WHICH A DECLARATION IS SOUGHT*Note: only works listed and described under this section will be assessed.*Sample Question: *Is the construction of a shed at 1 Main St., Ennis development and if so is it exempted development?*

Is the construction of a fence, a pedestrian gate and a vehicular gate on a road, development, and if so is it exempted development, location of which is Doonass, Co Clare.

(b) Provide a full description of the question/matter/subject which arises wherein a declaration of the question is sought.

Please see A3 drawing no. D-120920-1. The 3 items referred to at (a) above are labelled 'NEW FENCE, NEW GATE & NEW PEDESTRIAN GATE'. These 3 items were constructed during the Covid 19 lockdown without consultation of neighbours, the local community or any of the various groups that enjoy the amenities of the river and the walks that these 3 items now block. The occupants of the former 'Angler's Rest' are responsible for this construction and subsequent locking of the gates, thus preventing the enjoyment of the aforementioned amenities for the first time in history according to locals. It is inconceivable that locals, the people of Clare and Limerick, returning natives, students both young and old, carers and tourists alike could be denied this beautiful and valuable amenity without the benefit of the planning process or even the basic gesture of neighbourly consultation.

(c) List of plans, drawings etc. submitted with this request for a declaration:

(Note: Please provide a site location map to a scale of not less than 1:2500 based on Ordnance Survey map for the areas, to identify the lands in question)

Drawing number D-120920-1 is a detailed plan at scale 1:250 and D-120920-2 is an OS site location map at scale 1:2500.

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT

<p>(a) Postal Address of the Property/Site/Building for which the declaration sought:</p>	<p>Former Anglers Rest, Doonass Demense, Clontara, Co. Clare V94 K735</p>
<p>(b) Do the works in question affect a Protected Structure or are within the curtilage of a Protected Structure? If yes, has a Declaration under Section 57 of the Planning & Development Act 2000 (as amended) been requested or issued for the property by the Planning Authority?</p>	<p>No</p> <p>AN BORD PLEANÁLA</p> <p>19 OCT 2020</p> <p>LTR DATED _____ FROM _____</p> <p>LDG. _____</p>
<p>(c) Legal interest in the land or structure in question of the person requesting the declaration (Give Details):</p>	<p>ABP- None</p>
<p>(d) If the person in (c) above is not the owner and/or occupier, state the name and address of the owner of the property in question:</p> <p><i>Note: Observations in relation to a referral may be requested from the owner/occupier where appropriate.</i></p>	<p>Derek Cox, Michelle Caffrey Former Anglers Rest Doonass Demense, Clontara Co. Clare V94 K735</p>
<p>(e) Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?:</p>	<p>Yes</p>
<p>(f) Are you aware of any enforcement proceedings connected to this site? If so please supply details:</p>	<p>No</p>
<p>(g) Were there previous planning application/s on this site? If so please supply details:</p>	<p>Michael Mason on 12.01.2000 Ref. No. 0030</p>
<p>(h) Date on which 'works' in question were completed/are likely to take place:</p>	<p>Not known.</p>

SIGNED:

Fiona Mac Caffrey

DATE: 19-9-'20

[REDACTED]

SECRET
[REDACTED]

[REDACTED]

GUIDANCE NOTES

This following are non-statutory advice notes prepared by Clare County Council for the purpose of advising people what information is required for a decision to be made under Section 5 by the Planning Authority

- (i) The request for a declaration under Section 5 must be accompanied by 2 copies of site location map based on the Ordnance Survey map for the area of a scale not less than 1:1000 in urban areas and 1:2500 in rural areas and should clearly identify the site in question.
- (ii) The request for a declaration under Section 5 must be accompanied by the required fee of €80.00.
- (iii) If submitting any additional plans/reports etc. as part of the request for a declaration, please submit 2 copies.
- (iv) The request for a declaration should be sent to the following address:

Planning Department,
Economic Development Directorate,
Clare County Council
Aras Contae an Chlair,
New Road,
Ennis,
Co. Clare
V95DXP2

- (v) Notwithstanding the completion of the above form, the Planning Authority may require the submission of further information with regard to the request in order to enable the Authority to issue a declaration on the question.
- (vi) The Planning Authority may also request other persons to submit information on the question which has arisen and on which the declaration is sought

FOR OFFICE USE ONLY

Date Received:	.....	Fee Paid:	.....
Date Acknowledged:	.....	Reference No.:	.....
Date Declaration made:	.....	CEO No.:	.....
Decision:	.....	

AN BORD PLEANÁLA

19 OCT 2020
LTR DATED _____ FROM _____
LDG- _____
ABP- _____

Block

SIGNATURE

DATE

Block	Signature	Date
TIMOTHY DONAGHUE	<i>[Signature]</i>	19/9/20
LILLIAN O'DONAGHUE	Lillian O'Donoghue	19/9/20
PAULETTE EGAN	Paulette Egan	19/9/20
EILEEN GLEESON	Eileen Gleeson	19/9/20
FRANCES GLEESON	Frances Gleeson	19/9/20
PAT CONLON	Pat Conlon	19-9-20
BRIDGET CONLON	Bridget Conlon	19-9-20
PATRICK CONLON	Patrick Conlon	19-9-20
BOB HEUSTON	Bob Heuston	20-9-20
FRANCIS MOLONEY	Francis Moloney	21-9-20
MARIA MOLONEY	Maria Moloney	21-09-20
NOEL RICE	Noel Rice	21-09-20
MURIEL NEELIG	Muriel Neeliga	21/9/20
ANN NEELIGA	Ann Neeliga	21/9/20
MAURA HOGG	Maura Hogg	21/9/20
ALAN RYAN	Alan Ryan	21/9/20
PAUL MOLONEY	Paul Moloney	21/9/20
ANN MOLONEY	Ann Moloney	21/9/20
KEVIN GALVIN	Kevin Galvin	21-9-20
FELIM BEGLEY	Felim Begley	21-09-20
MICHAEL HASTINGS	Michael Hastings	21-09-20
DERMOT NOONAN	Dermot Noonan	21/09/20
COLM HONAN	Colm Honan	21/09/20
MAIRE N. CHUDE	Maire N. Chude	21/09/20
MICHAEL MADON	Michael Madon	21/09/20
EUGENE BURKE	Eugene Burke	21-09-20
PATSY CLANCY	Patsy Clancy	21.09.20
PAT O'HARE	Pat O'Hare	21-9-20
ROSE O'HARE	Rosmarie O'Hare	21-9-20
MOLLY BREATHNACH O'RIE	Molly Breathnach O'Rie	21-9-20
PAT CANNY	Pat Canny	21/9/20
CORA CANNY	Cora Canny	21/9/2020

AN BORD PLEANÁLA

19 OCT 2020

LTR DATED FROM

LDG.

ABP.



Block

Signatures

Date

ANNE O'CONNELL

Anne O'Connell

23/09/20

ROSEMARY HANNAN

Rosemary Hannan

24.9.20

Pa. McGuinness

NAN. McGuinness.

24-9.20

IAN. McGuinness.

Nan McGuinness.

24-9-20

Una Horgan

Una Horgan

Eddie Horgan

Eddie Horgan

24-9-20

EDDIE HORGAN

John O'Connell

24-9-20

JOHN O'CONNELL

Paddy Burke

19 OCT 2020

24 9. 20

PADDY BURKE

LTR DATED FROM

ANNE EGAN

LBC

ABP

Michael Hannan

Michael Hannan

24-9-20

Luke Hannan

Luke Hannan

24-9-20

CATHERINE HANNAN

Catherine Hannan

24.9.20

Joseph Noonan

Joseph Noonan

24.9.20

JOHN GALVIN

John Galvin

24.9.2020

Hubert Galvin

Hubert Galvin

24 9 2020

Anthony Nihil

Anthony Nihil

28-9-2020

CAROLINE SHEARY

Caroline Sheary

28/9/2020

Kathleen, Mihill

Kathleen Mihill

28/9/20

John Nihil

John Nihil

28/9/20

PAUL NOONAN

Paul Noonan

28/9/20.

Mandy Noonan

MANDY NOONAN

28/9/20

AOIBHANN NOONAN

Aoibhann Noonan

28/9/20

Tommy Galvin

Tommy Galvin

23 Sep 2020

Eileen Galvin

Eileen Galvin

23 Sep 2020

Percy Galvin

Percy Galvin

23/09/2020

Kieran Galvin

Kieran Galvin

23/09/2020

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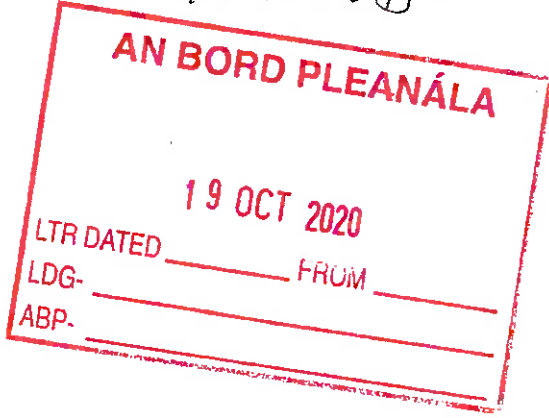
Signature

Date

SENADA NIHILL
 MARY NIHILL
 CHRIS NIHILL
 Gillian Nihill
 SINGAO BYRNES
 JAVIO BYRNES
 aileen Byrnes
 AITHEN BYRNES
 RICHARD HACKETT
 Kate Hackett

Senan Nihill
 Mary Nihill
 CHRIS Nihill
 Gillian Nihill
~~S-I~~ Byrnes
 JAVIO BYRNES
 aileen Byrnes
 AITHEN BYRNES
 RICHARD HACKETT
 Kate Hackett

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