



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

AN BORD PLEANÁLA

10 AUG 2022

LTR DATED _____ FROM _____
LDG- _____
ABP- _____

Registered Post

Michael Duffy
1 Clós na hEaglaise
Kilfenora
Co Clare

RL 5660 3331 71E

30th June, 2022

Section 5 referral Reference R22-1 – Michael Duffy

Is the replacement of the Clarecastle wastewater treatment plant by diverting wastewater arising through a new sewer to the Clareabbey wastewater treatment plant, which discharges to an SAC, considered to be development and if so, is it exempted development?

A Chara,

I refer to your application received on 7th January 2022 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above, and the further information received by the Planning Authority on 13th June 2022

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

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.: R22-1



**Comhairle Contae an Chláir
Clare County Council**

Section 5 referral Reference R22-1

Is the replacement of the Clarecastle wastewater treatment plant by diverting wastewater arising through a new sewer to the Clareabbey wastewater treatment plant, which discharges to an SAC, considered to be development and if so, is it exempted development?

AND WHEREAS, Michael Duffy 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(1)(g) and 4(4) of the Planning and Development Act, 2000, as amended.
- b) Schedule 2, Article 6, Part 1, Class 58 of the Planning and Development Regulations 2001 as amended (Development by Irish Water) and the conditions and limitations of there under.
- c) Article 9 of the Planning and Development Regulations 2001 as amended- Restrictions on Exemptions
- d) The details and particulars as submitted with the referral application, including the Further Information response.
- e) The details, particulars and declaration as contained on a Section 5 declaration (ref R21-61) by Irish Water.
- f) The conclusions by the Court of Appeal in relation to *Narconon Trust v An Board Pleanála*.

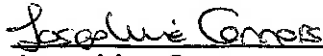
And whereas Clare County Council has concluded:

the information submitted under the subject Section 5 declaration and that as submitted under ref. no. R21-61 is substantially the same, and is in respect of the same land, and that there has been no evidence of any change in the planning facts or circumstances.

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 development consisting of the replacement of the Clarecastle wastewater treatment plant by diverting wastewater arising through any new sewer to the Clareabbey wastewater

treatment plant, which discharges to an SAC, constitutes development which is considered to be exempted development, as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.



Josephine Connors
Staff Officer
Planning Department
Economic Development Directorate

30th June, 2022

CLARE COUNTY COUNCIL

SECTION 5 OF THE PLANNING AND DEVELOPMENT ACT 2000 AS AMENDED

DECLARATION ON DEVELOPMENT AND/OR EXEMPTED DEVELOPMENT

Chief Executive's Order No: 80046

Reference Number: R22-1

Date Referral Received: 7th January 2022

Further Information Received: 13th June 2022

Name of Applicant: Michael Duffy

Location of works in question: Clarecastle, Co. Clare

Section 5 referral Reference R22-1 – Michael Duffy

Is the replacement of the Clarecastle wastewater treatment plant by diverting wastewater arising through a new sewer to the Clareabbey wastewater treatment plant, which discharges to an SAC, considered to be development and if so, is it exempted development?

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

- a) Sections 2, 3 and 4(1)(g) and 4(4) of the Planning and Development Act, 2000, as amended.
- b) Schedule 2, Article 6, Part 1, Class 58 of the Planning and Development Regulations 2001 as amended (Development by Irish Water) and the conditions and limitations of there under.
- c) Article 9 of the Planning and Development Regulations 2001 as amended- Restrictions on Exemptions
- d) The details and particulars as submitted with the referral application, including the Further Information response.
- e) The details, particulars and declaration as contained on a Section 5 declaration (ref R21-61) by Irish Water.
- f) The conclusions by the Court of Appeal in relation to *Narconon Trust v An Board Pleanála*.

AND WHEREAS Clare County Council has concluded:

the information submitted under the subject Section 5 declaration and that as submitted under ref. no. R21-61 is substantially the same, and is in respect of the same land, and that there has been no evidence of any change in the planning facts or circumstances.

ORDER: Whereas by Chief Executive's Order No. HR 152 dated 9th April 2021, Pat Dowling, Chief Executive for Clare County Council, did, pursuant to the powers conferred on him by Section 154 of the Local Government Act 2001, delegate to Gareth Ruane, Senior Executive Planner, the powers, functions and duties as set out herein,

NOW THEREFORE pursuant to the delegation of the said powers, functions and duties and under Section 5(2)(a) of the Planning & Development Act 2000 (as amended) and having considered the various submissions and reports in connection with the referral described above, I, Gareth Ruane, Senior Executive Planner, hereby declare that the replacement of the Clarecastle wastewater treatment plant by diverting wastewater arising through any new sewer to the Clareabbey wastewater treatment plant, which discharges to an SAC, constitutes development which is considered to be exempted development.

Signed:



GARETH RUANE
SENIOR EXECUTIVE PLANNER

Date:

30th June, 2022

