

Shaws Consulting Engineers Limited

1 Lower Mallow Street, Limerick.
Tel: (061) 311133 Fax: (061) 314666

Our Ref: IS/JS

Your Ref:

Date: 10th February 2023

An Bord Pleanála
64 Marlborough St,
Rotunda,
Dublin 1,
D01 V902

Re: Appeal of Declaration issued under and in accordance with Section 5 of the Planning and Development Acts, 2000 (as amended) by Kerry County Council - Our Reference Ex1046 Derrynane More, Caherdaniel, Co. Kerry on Behalf of John Cox, Teach Na Gaoithe, Castletroy, Co. Limerick.

Dear Sir / Madam,

Appellant's details:

Name: John Cox
Address: Teach Na Gaoithe, Castletroy, Co. Limerick.

Agent's details:

Name: Ivan Shaw B.E
Address: Shaw Consulting Engineers Ltd, 1 Lower Mallow Street, Limerick.

AN BORD PLEANÁLA	
LDG- <u>061181-23</u>	
ABP- _____	
13 FEB 2023	
Fee: € <u>220</u>	Type: <u>CARD</u>
Time: <u>12.12</u> pm	By: <u>HAND</u>

Please post all correspondence to agent.

Details of Development:

Planning Authority: Kerry County Council
Reference: Application No: Ex 1046
Development Address: Derrynane More, Caherdaniel, Co. Kerry

Appeal: Application No: Ex 1046

Is the development of a well Exempt Development?

The well was installed to replace the spring water supply previously used for the irrigation of the plant life, due to the sloping nature of the property, the long-term plan of the owner is to return the property to its original wild plant life space and create a glamping site and attraction for tourist to the area.


It is our opinion that planning permission is not required to replace a water source.

Please find enclosed:

- Declaration from Kerry County Council
- Report Prepared by Michael Lynch SEE
- Location Map 1:2500
- Fee €220.00

Thank you in advance for your attention to this matter.

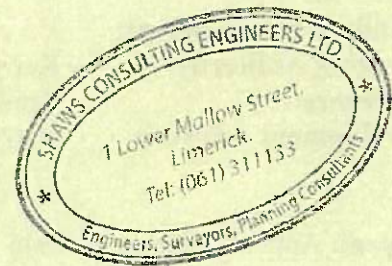
Yours Faithfully,



Ivan Shaw BEng MIEI
Shaws Consulting Engineers Limited.

AN BORD PLEANÁLA

LDD	_____
ABP	_____
13 FEB 2023	_____
Fee €	_____
Time	_____



An Roinn Pleanála

Comhairle Contae Chiarraí,
Áras an Chontae,
Trá Lí, Co. Chiarraí.



COMHAIRLE CONTAE CHIARRAÍ
KERRY COUNTY COUNCIL

Planning Department

Kerry County Council,
County Buildings,
Tralee, Co. Kerry.

Guthán | Tel 066 7183582 Rphost | Email plan@kerrycoco.ie Suíomh | Web www.kerrycoco.ie

Application No: EX1046
Decision Date: 16th January 2023 Registration Date: 19th December 2022
Applicant: John Cox, Teach Na Gaoithe, Castletroy, Co Limerick.
Agent: Ivan Shaw B.E, Shaw Consulting Engineers Ltd, 1 Lower Mallow Street,
Limerick, V94 W9VO
Development Location: Derrynane More, Caherdaniel, Co Kerry.
Development Description: The development of a well as a water source.

DECLARATION ISSUED UNDER AND IN ACCORDANCE WITH SECTION 5 OF THE PLANNING AND DEVELOPMENT ACTS, 2000 (as amended)

In pursuance of its functions under the Planning & Development Acts 2000 (as amended), Kerry County Council, being the Planning Authority for the County Health District of the County of Kerry, has by order dated 16th January 2023 authorised the issue of a declaration under the provisions of Section 5 of the Planning & Development Acts, 2000 (as amended) in accordance with plans and particulars submitted on 19th December 2022, I hereby certify that, the Planning Authority considers that the works, the subject of the referral under the said Section 5 namely **the development of a well as a waters source at Derrynane More, Caherdaniel, Co Kerry does not** constitute exempted development under the Planning & Development Acts 2000 (as amended) having regard to the considerations inserted hereunder:-

Schedule 1

- (a) The sinking of the well in question would constitute works that would come within the scope of Section 2(1) of the Planning and Development Act 2000 (as amended),
- (b) The said works would constitute development that comes within the scope of Section 3(1) of the said Act and
- (c) The works would not fall for consideration under exemption provided at Class 44, Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended) as the well is not for the purposes of providing a domestic water supply or a group water supply scheme.

Therefore, the proposed works would constitute development which is not exempted development

An Appeal against the decision of the Planning Authority under Section 5 of the Planning & Development Act 2000 may be made to An Bord Pleanala within four weeks beginning on the date of the issuing of the declaration by the Planning Authority. An Appeal should be addressed to: An Bord Pleanala, 64 Marlborough Street, Dublin and should be accompanied by the appropriate fee.

Signed on behalf of Kerry County Council

Date: 16th January 2023



To: AO Planning
From: SEE Planning
Date: 16/01/2023

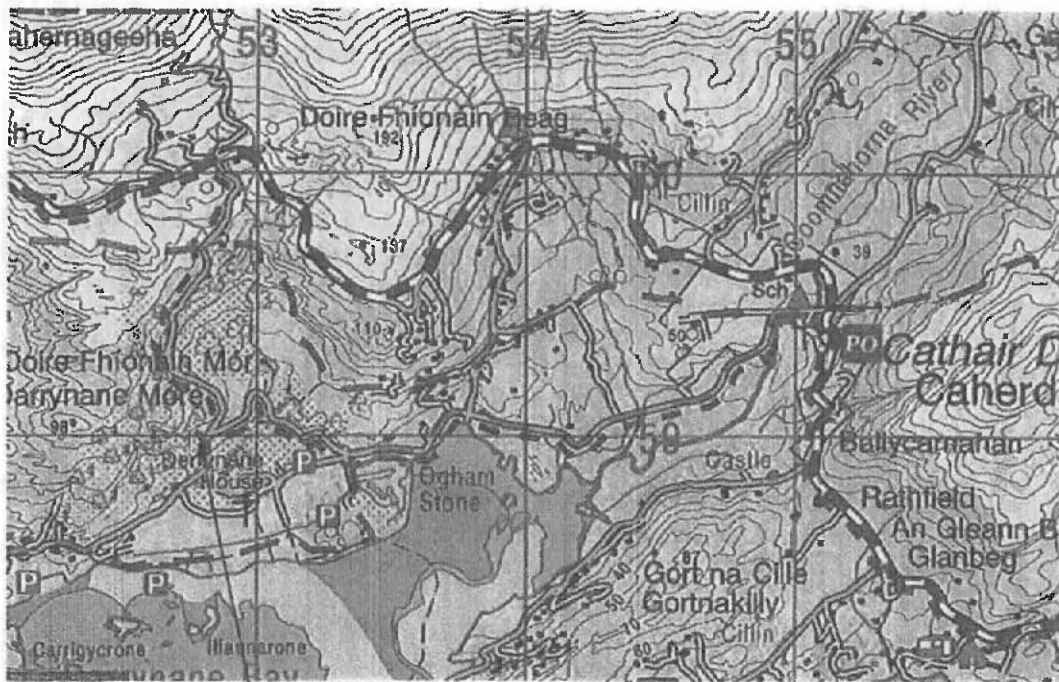
Re: Section 5 Reference EX1046: John Cox, Derrynane More, Caherdaniel

Subject Works

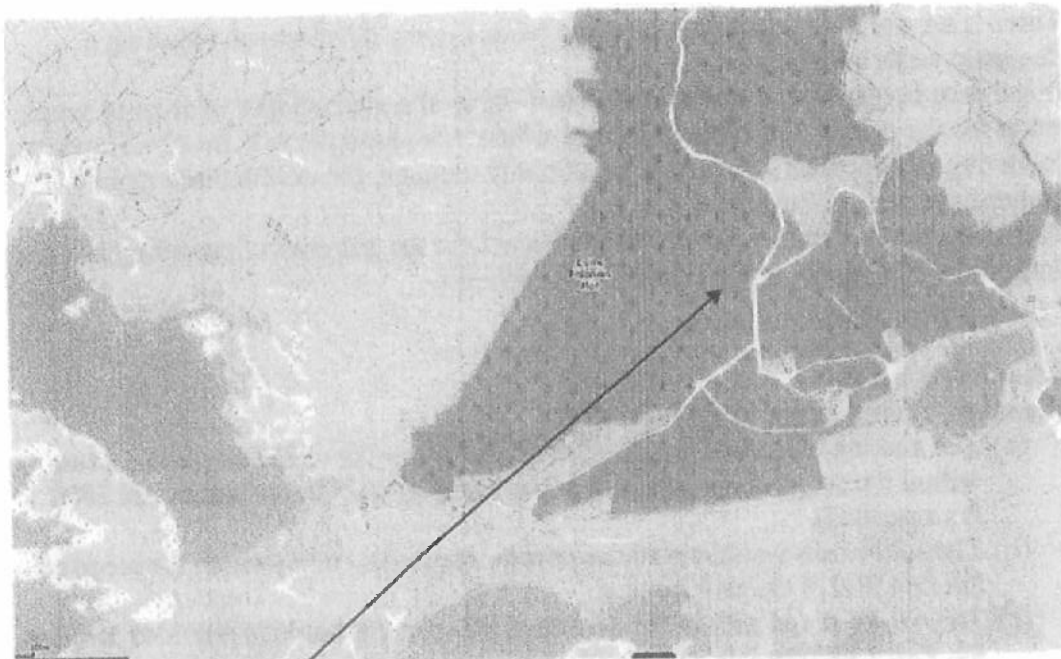
This referral relates to the development of a well as a water source. The works have already been carried out.

Location of site

The well subject of this referral is located in a rural location just over 1km to the west of Caherdaniel Village. The well is located in woodland which adjoins a Local Road which leads to Derrynane House



Location of site



Approximate location of well

Planning History

Planning Register No: 21/1122

Applicant: BRISIN HEALTH AND LEISURE LIMITED

Proposed development: RETAIN 2 MOBILE HOMES, SHIPPING CONTAINER AND THE ASSOCIATED SERVICES AND ALL ANCILLARY SITE WORKS FOR A PERIOD OF THREE YEARS

Incomplete application

Planning Register No: 21/1324

Applicant: BRISIN HEALTH AND LEISURE LIMITED

Proposed development: RETAIN 2 MOBILE HOMES, SHIPPING CONTAINER AND THE ASSOCIATED SERVICES AND ALL ANCILLARY SITE WORKS FOR A PERIOD OF 3 YEARS

Incomplete application

Assessment

Kerry County Council has an open Enforcement File in relation to the lands subject of this referral as two mobile homes were moved on to the land, a well was developed and the entrance to the land was widened and altered – all without the benefit of planning permission. The unauthorised mobile homes have been removed from the land.

It would appear that the well was developed when the mobile homes were brought on to the land.

In relation to the sinking of a well, exemption is provided under Class 44, Part 1, Schedule 2 of the Planning and Development Regulations, 2001 (as amended) as follows:

Class 44, Part 1:

'The sinking of a well, drilling of a borehole, erection of a pump, or the construction of a pumphouse, for the purpose of providing a domestic water supply, or a group water supply scheme in accordance with a plan or proposal approved by the Minister or a local authority for the purpose of making a grant towards the cost of such works'

There is no planning permission on these lands for any development requiring a domestic water supply.

In the case in question, it would appear that the well was developed in order to supply water for the unauthorised mobile homes which were brought on to the site. However, following enforcement action by Kerry County Council, the unauthorised mobile homes have been removed.

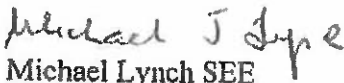
Therefore, the well subject of this referral is not for the purposes of providing a domestic water supply or for a group water scheme.

Recommendation

Therefore, having regard to the following:

- (a) The sinking of the well in question would constitute works that would come within the scope of Section 2(1) of the Planning and Development Act 2000 (as amended),
- (b) The said works would constitute development that comes within the scope of Section 3(1) of the said Act and
- (c) The works would not fall for consideration under exemption provided at Class 44, Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended) as the well is not for the purposes of providing a domestic water supply or a group water supply scheme.

The works would constitute development which is not exempted development.


Signed: Michael Lynch SEE

Date: 16/01/2023

Planning Pack Map



CENTRE COORDINATES:
ITM 452769.558998

ORDER NO.:
50207365_1

PUBLISHED:
16/07/2021

MAP SERIES:
1:2,500

MAP SHEETS:
6519-C

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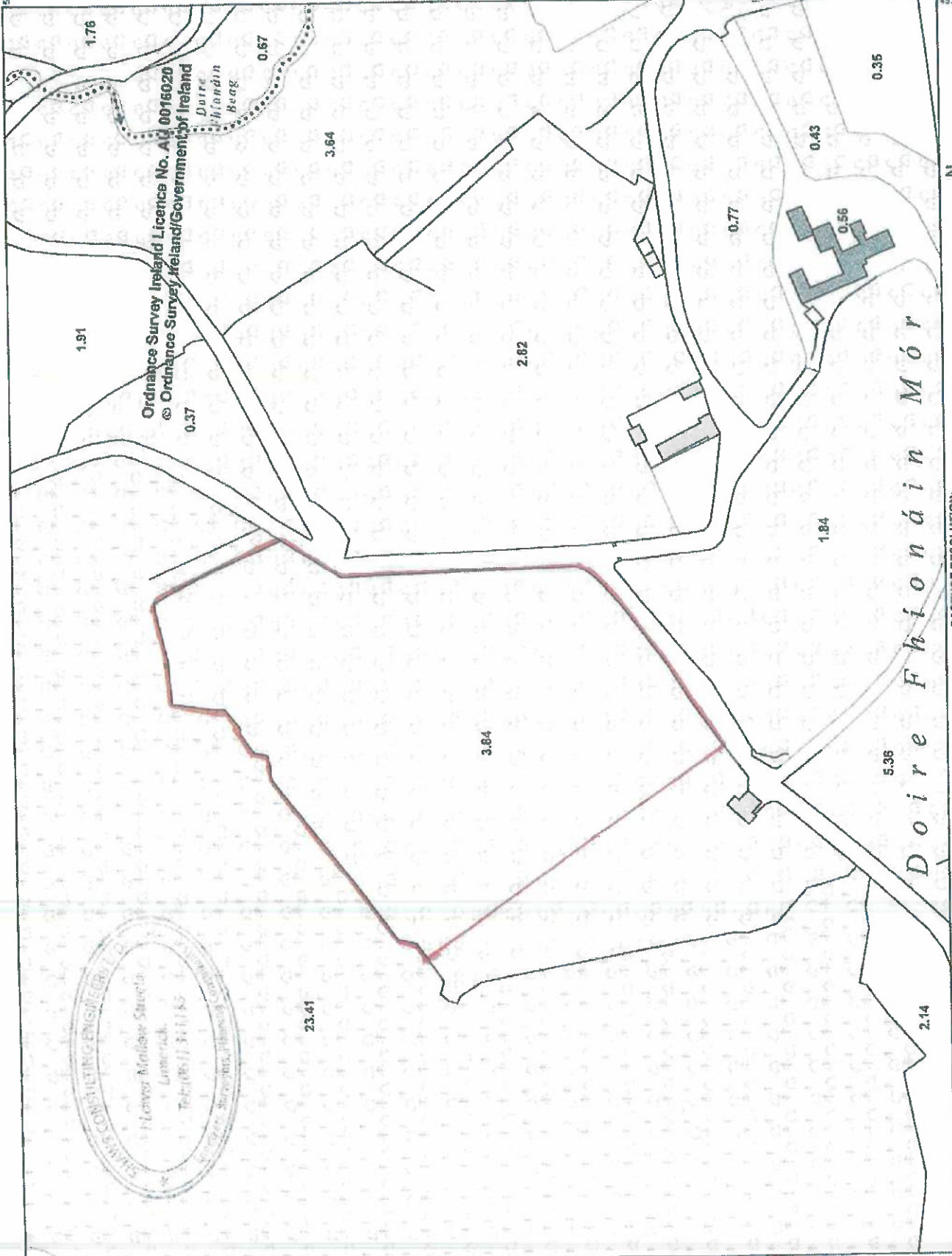
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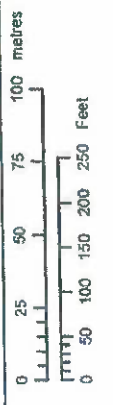
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