

AN COIMISIÚN PLEANÁLA	
LDG- <del>fee-pay-001264</del>	
ACP- 056260-26	
19 JAN 2026	
Fee: € 220	Type: B1
Time: 9:15	By: P. M.

# STATEMENT OF GROUNDS

Review of a Declaration under Section 5 of the Planning and Development Act 2000 (as amended)

Applicant: Tatjana Merzvinska

Address: 4 Dún Na Hinse, Lahinch Road, Ennis, Co. Clare, V95 CDOH

Site: 5 Dún Na Hinse, Lahinch Road, Ennis, Co. Clare

Planning Authority: Clare County Council

Section 5 Reference: R25-101

Date of Declaration: 7 January 2026

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## 1. Introduction

This Statement of Grounds is submitted in support of an application to An Bord Pleanála for a review of the Declaration issued by Clare County Council under Section 5 of the Planning and Development Act 2000 (as amended) in respect of development at 5 Dún Na Hinse, Ennis, Co. Clare.

The applicant is the adjoining landowner directly affected by the development the subject of this Declaration.

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## 2. Background and Procedural Context

A planning permission was granted under Planning Reference P22/409 for a garage / ancillary structure.

Subsequently, significant works were carried out which materially deviated from the approved drawings. An enforcement complaint was made, and an enforcement file (UD25-081) was opened and later closed by Clare County Council.

Following the closure of the enforcement file, the applicant sought clarity by way of a Section 5 referral. A Declaration was issued on 7 January 2026.

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### **3. Grounds for Review**

#### **3.1 Contradiction between Enforcement Findings and Section 5 Declaration**

The Section 5 Declaration concludes that:

**“The structure under construction constitutes development which is not exempted development.”**

This conclusion confirms the existence of unauthorised development, directly contradicting the earlier enforcement decision to close file UD25-081 on the basis of “substantial compliance”.

No material change to the physical development occurred between the enforcement closure and the issuing of the Section 5 Declaration. The inconsistency between these two statutory positions has not been reconciled or explained.

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#### **3.2 Development Is at Variance with the Permitted Garage Use**

The approved development under P22/409 was for a garage / ancillary structure.

However, the structure as constructed exhibits characteristics consistent with residential use, including but not limited to:

- Full-height windows inconsistent with a garage structure
- Internal layout and partitions indicative of habitable accommodation
- Scale, form and positioning inconsistent with ancillary use
- Proximity to the shared boundary which would not be acceptable for habitable development

These elements represent a material change of use and form, not a minor or technical deviation.

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#### **3.3 Misapplication of the Concept of “Exempted Development”**

The Declaration correctly states that there is no provision under the Planning and Development Act or Regulations by which the development could be considered exempted development.

However, the practical consequence of this finding has not been addressed. A development which:

- is not exempted, and
- is not in accordance with the granted permission

cannot lawfully remain without further planning consent, including retention permission, subject to statutory public participation.

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### **3.4 Impact on the Adjoining Property**

The development causes:

- Significant overshadowing of the applicant's garden
- Loss of amenity and light
- Direct interference with the applicant's ability to develop her own permitted granny flat

These impacts are material planning considerations and reinforce the seriousness of the unauthorised development.

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## **4. Procedural Fairness and Public Interest**

The applicant was not:

- provided with inspection reports supporting the enforcement closure,
- informed of the basis on which "substantial compliance" was determined,
- afforded transparency in a matter which directly affects her property rights.

The public interest is best served by clarity, consistency, and lawful application of planning control, particularly where development at variance with permission has been acknowledged.

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## 5. Conclusion

For the reasons set out above, the applicant respectfully requests that An Bord Pleanála:

- Review the Declaration issued under Section 5 (Ref. R25-101);
- Confirm that the development at 5 Dún Na Hinse is unauthorised development;
- Clarify that such development cannot lawfully remain without appropriate planning permission obtained in accordance with the Planning and Development Acts.

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Signed: 

Name: Tatjana Merzvinska

Date: 16/01/2026

The Secretary  
An Coimisiún Pleanála  
64 Marlborough Street  
Dublin 1, D01 V902

16/01/2026

Re: Referral for review of a Section 5 Declaration (Section 5(3)(a))  
Planning Authority: Clare County Council  
Section 5 Reference: R25-101  
Site: 5 Dún Na Hinse, Lahinch Road, Ennis, Co. Clare

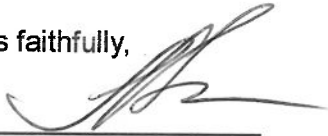
Dear Sir / Madam,

I hereby refer for review to An Coimisiún Pleanála the Declaration issued by Clare County Council on 7 January 2026 under Section 5 of the Planning and Development Act 2000 (as amended), in respect of the above site.

Enclosed:

- 1) Copy of the Section 5 Declaration (Ref. R25-101)
- 2) Statement of Grounds in support of this referral
- 3) Prescribed fee of €220

Yours faithfully,



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Tatjana Merzvinska  
4 Dún Na Hinse, Lahinch Road, Ennis, Co. Clare, V95 CDOH  
Telephone: 0862305944  
Email: [tatjanamerzvinska@gmail.com](mailto:tatjanamerzvinska@gmail.com)



COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

**Registered Post**

Tatjana Merzvinska & Vladimir Ignatchuk  
4 Dun Na Hinse  
Lahinch Road  
Ennis  
Co. Clare  
V95 CD0H

7th January 2026

**Section 5 referral Reference R25-101 – Tatjana Merzvinska & Vladimir Ignatchuk**

Is the structure under construction at 5 Dún Na Hinse, Ennis, Co. Clare as currently built, considered development and if so, is it exempted development under the Planning and Development Act 2000?

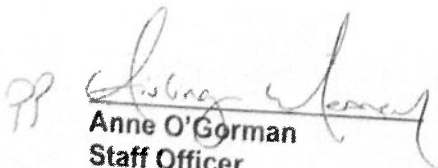
A Chara,

I refer to your application received on 3rd December 2025 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

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 Coimisiún Pleanála of the required fee, refer a declaration for review by An Coimisiún 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](http://www.pleanala.ie).

Mise, le meas



Anne O'Gorman  
Staff Officer  
Planning, Placemaking & Economic Development

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.: R25-101



Section 5 referral Reference R25-101

is the structure under construction at 5 Dún Na Hínse, Ennis, Co. Clare as currently built, considered development and if so, is it exempted development under the Planning and Development Act 2000?

AND WHEREAS, Tatjana Merzvinska & Vladimir Ignatchuk 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 –

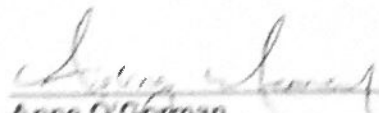
- (a) Sections 2, 3 and 4 of the Planning and Development Act 2000, as amended,
- (b) The details as indicated in submitted documents from the referrer.
- (c) The planning history on site and the conditions attached to PI. Ref 22/409.

And whereas Clare County Council has concluded:

- (a) The works as carried out to the garage structure which is under construction and as permitted under PI. Ref 22/409 constitute development which is not exempted development as the works as carried out are at variance to the drawings submitted with the application and therefore would contravene condition no. 1 and 2 of PI. Ref 22/409.
- (b) There is no other provision in the Act or Regulations by which the development would be classified as exempted development.

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 proposed development consisting of the structure under construction at 5 Dún Na Hínse, Ennis, Co. Clare as currently built, constitutes development which is not exempted development as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.

  
Anne O'Gorman

Staff Officer

Planning, Placemaking & Economic Development

7th January 2026