



Referrals
An Coimisiún Pleanála
64 Marlborough Street
Dublin 1
D01 V902

AN COIMISIÚN PLEANÁLA	
LDG-	282363-26
ACP-	
17 APR 2026	
Fee: €	225 Type: 191
Time: 12:01	By: 12911

Our ref: 220137-e

Your ref: Ref: S5. 5.26

Date: 17th April 2026

Re: An Coimisiún Pleanála Section 5 (3) Referral, on question of Exempted Development status of the Proposed Temporary Haul Route associated with the Temporary Compound Area at Road (L5024), Keeraun and Ballynahown East, Galway, Co. Galway.

Dear Sir/Madam,

On behalf of the Applicant ("Referrer" for the purpose of this First Party Referral), **Cairn Homes Properties Ltd., 45 Mespil Road, Dublin 4**, MKO have prepared this Section 5 Referral submission in response to Galway City Council's (GCC) decision on a request for a declaration under Section 5 of the Planning and Development Act 2000 (as amended). The decision by GCC determined that the Proposed Temporary Haul Route associated with a Temporary Construction Compound does not constitute Class 16 Exempted Development. This Referral is made pursuant to Section 5 (3) (a) of the Act. The declaration was submitted to Galway City Council on the 20th of February 2026 (PI Ref: S5. 5.26) under the provisions of Section 5 of the Planning and Development Act 2000, (as amended), and was accompanied by the following documents:

- Cover Letter prepared by MKO setting out the context of the Proposed Temporary Compound Area;
- Section 5 Application Form;
- Appropriate Assessment Screening Report prepared by MKO;
- Preliminary Environmental Impact Assessment Screening Report prepared by MKO;
- Architectural Drawings of the Proposed Temporary Compound Area prepared by Reddy Architecture + Urbanism
- Site Location Map (1:1000), and Site Layout Plan (1:500);
- Engineering Drawing of the Proposed Temporary Compound Area prepared by Tobin Engineers;
- Construction Management Plan (CMP) submitted as condition compliance under the consented LRD Scheme (under ACP Ref. 321970-25) prepared by Cairn Homes.

Please find enclosed a complete copy of the Section 5 Declaration Application submitted by the Applicant to Galway City Council.

Galway - MKO, Tuam Road, Galway, H91 VW84 (**Correspondence address**)
Dublin - MKO, 9C Beckett Way, Park West Business Park, Dublin, D12 XN9W

+353 (0)91 735 611 | mkoireland.ie | info@mkoireland.ie

McCarthy Keville O'Sullivan Ltd t/a MKO. Registered in Ireland No: 462657. VAT No: IE9693052R
MKO Water Limited t/a MKO. Registered in Ireland No: 338589. VAT No: IE6358589Q
MKO Estates & Project Management Ltd. Registered in Ireland No: 613029. VAT No: 3497897JH

1. The Question

The question which is the subject of this referral to the Commission is that which was referred to Galway City Council which is as follows:

“That the proposed temporary compound area to the north of the application site is exempted development under Class 16 of the provisions of the Planning and Development Regulations 2001 (as amended).”

The proposed Temporary Compound Area will comprise various structures, works, plants, and machinery. All elements associated with the works will be fully removed, and the lands will be reinstated upon completion of the construction phase.

This Section 5 Referral seeks a determination from An Coimisiún Pleanála as to whether the proposed haul route and the ancillary vehicular entrance associated with the temporary construction compound constitute development, and if so, whether they are exempted development.

2. Planning Authority’s Decision

Galway City Council, in the Section 5 Declaration, imposed a condition stating that the proposed temporary haul route or vehicle entrance onto Ballymoneen Road does not fall within the scope of exempted development, under the Planning and Development Regulations 2001(as amended).

Galway City Council issued a declaration on 24th of March 2026 which determined the following:

“It is considered that the proposed temporary compound area is an exempted development under Class 16, subject to the limitations and conditions of that class, of the provisions of the Planning and Development Regulations 2001 (as amended), this exemption does not extend or include the haul road or vehicle entrance onto the Ballymoneen Road.”

Please find enclosed the Galway City Council Section 5 Declaration under Appendix 1 of this cover letter.

3. Site Location and Context

The subject referral is located to the south-west of the Ballymoneen Road (L5024), townlands of Keeraun (An Caorán) and Ballynahown East (Baile na hAbhann Thoir), Galway, Co. Galway.

The proposed temporary haul route is associated with the exempted temporary compound, which together form part of the temporary compound area, that is critical to facilitate the construction of a consented Large Scale Residential Development (hereafter referred as permitted LRD) (under Reg. Ref. 2460270 / An Coimisiún Pleanála Ref. 321970-25, and as amended by Reg. Ref. 2560285) on the adjoining lands.

While the entire temporary compound area including the proposed temporary haul route extends beyond the originally permitted application boundary, it remains fully contained within the overall landholding under the ownership of Cairn Homes.

The proposed temporary haul route is intended to solely support the construction works and to ensure that the permitted LRD can be delivered in a safe and efficient manner. Please see Figure 1 below prepared by Reddy Architecture + Urbanism, which shows the location of the construction compound area (outlined in red) in context of the wider development.

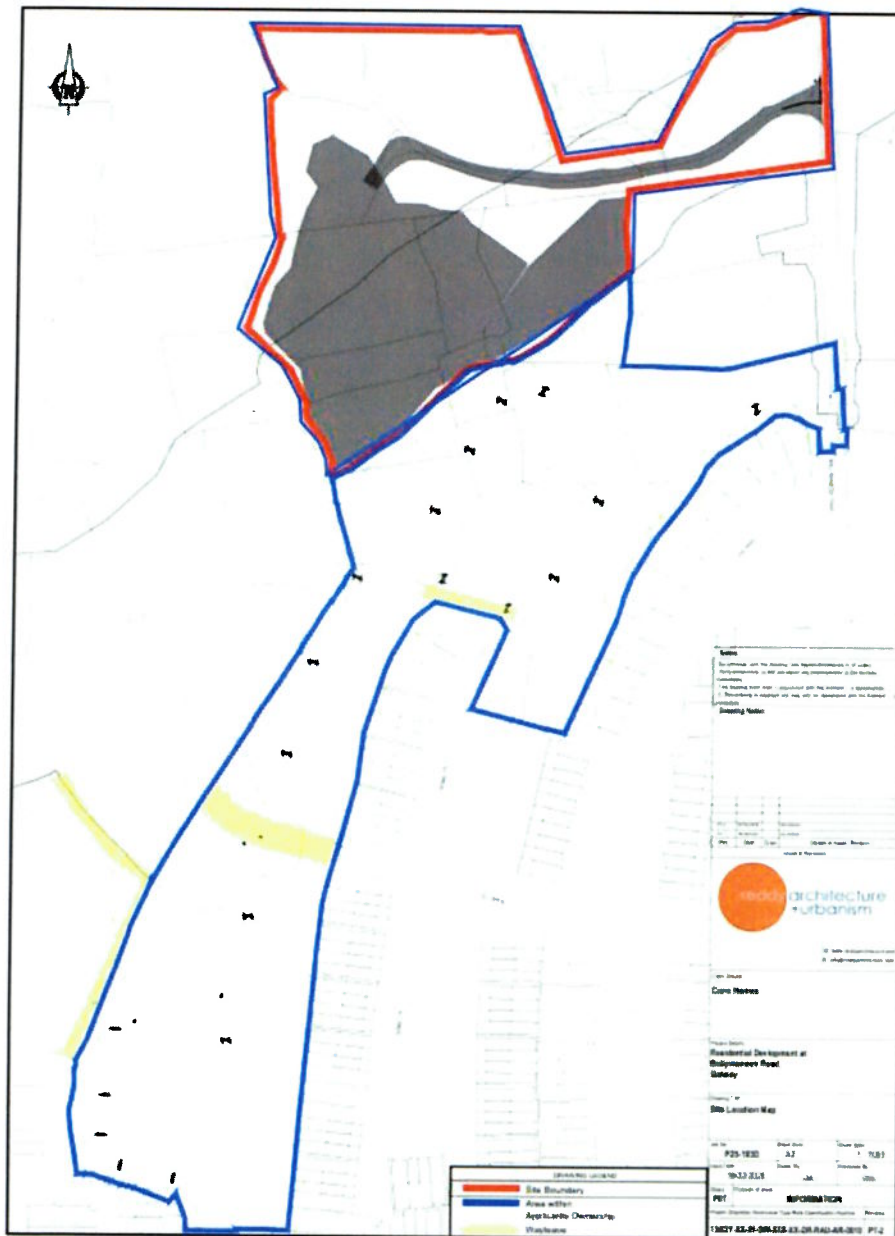


Figure 1. Site Location Map prepared by Reddy Architecture + Urbanism

Please refer to the drawing pack submitted with this referral which was included with the Section 5 declaration submission.

Galway - MKO, Tuam Road, Galway, H91 VW84 (**Correspondence address**)
Dublin - MKO, 9C Beckett Way, Park West Business Park, Dublin, D12 XN9W

+353 (0)1 735 611 | mkoireland.ie | info@mkoireland.ie

McCarthy Keville O'Sullivan Ltd t/a MKO. Registered in Ireland No: 462657. VAT No: IE9693052R

MKO Water Limited t/a MKO. Registered in Ireland No: 338589. VAT No: IE6358589Q

MKO Estates & Project Management Ltd. Registered in Ireland No: 613029. VAT No: 3497897JH

4. Rationale for the Proposed Works

Transient Nature of the Proposed Temporary Haul Route

As previously outlined, the proposed temporary haul route is an essential element to ensure the permitted LRD on the adjoining lands can be built efficiently and safely.

To enable the phased construction and subsequent occupation of the completed units, a dedicated route is required to allow construction materials to be transported between the compound and the active construction areas without interfering the residential access. Therefore, the provision of a separate temporary haul route will allow a seamless access and ensure a complete separation between construction traffic and residential traffic, thereby avoiding interference with the residential access and minimising safety risks during the construction phase.

The proposed construction access also serves to minimise the impacts on existing residential estates such as Slí Gheal located towards the south of the subject referral. The proposed temporary haul route is designed specifically in a way that will direct the construction traffic away from the established residential areas. The site entrance will be formed on Ballymoneen Road immediately on commencement of the works on the site, to establish appropriate traffic management.

Please note that all proposed haul route is temporary in nature and solely relate to works associated with the implementation of the permitted LRD on the adjoining lands. The proposed temporary compound area as a whole will be fully removed, and the lands will be reinstated upon completion of the construction phase.

The overall indicative construction programme for the project in its entirety is anticipated to run from 2025 to 2027. Accordingly, the temporary compound area is anticipated to be set up in Q1 2026 and fully removed in Q1 2027, reaffirming the temporary nature of the proposed works.

In this context, the decision of Galway City Council to exclude the proposed temporary haul route from the Section 5 Declaration materially undermines the practical operation of the exempted temporary construction compound. Without the associated temporary haul route, the temporary compound cannot operate as intended, thereby significantly causing disruptions in the safe and sequential delivery of the permitted LRD on the adjoining lands.

As a result, in absence of a functional construction access arrangement, elements of the permitted LRD may likely remain undeveloped or unoccupied for an indefinite period.

Compliance with the Class 16 of the Planning and Development Regulations 2001 (as amended)

The Planning and Development Regulations 2001 (as amended) sets out types of development that may be exempted development under the meaning of the Planning and Development Act 2000 (as amended).

Article 6(1):

“Subject to article 9, development of a class specified in Column 1 of Part 1 of Schedule 2 shall be exempted for purposes of the Act, provided that such development complies with the

Galway - MKO, Tuam Road, Galway, H91 VW84 (**Correspondence address**)

Dublin - MKO, 9C Beckett Way, Park West Business Park, Dublin, D12 XN9W

+353 (091) 735 611 | mkoireland.ie | info@mkoireland.ie

McCarthy Keville O'Sullivan Ltd t/a MKO. Registered in Ireland No: 462657. VAT No: IE9693052R

MKO Water Limited t/a MKO. Registered in Ireland No: 338589. VAT No: IE6358589Q

MKO Estates & Project Management Ltd. Registered in Ireland No: 613029. VAT No: 3497897JH

conditions and limitations specified in Column 2 of the said Part 1 opposite the mention of that class in the said Column 1.”

Class 16:

“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.”

The Applicant sought a declaration from Galway City Council under Section 5 of the Planning and Development Act 2000 (as amended) on the basis that the proposed temporary compound area constitutes exempted development, having regard in particular to Class 16 of the Planning and Development Regulations 2001 (as amended).

In doing so, the proposal was assessed against the restrictions on exempted development as set out under Article 9 of the Regulations, including a tabular assessment of each restriction. This was submitted to Galway City Council as part of the Planning Cover Letter for the Section 5 Declaration Request.

Article 9 of the Planning and Development Regulations 2001 (Regulations) set out ‘Restrictions on Exemptions’. The Regulations state *“Development to which article 6 relates shall not be exempted development for the purposes of the Act – (a) if the carrying out of such development would...”*

In MKO’s opinion, it is considered that the proposed temporary haul route is in line with Class 16 of the Regulations, and further to this the proposed works will not exceed any of the restrictions set out for a Class 16 Exempted Development under the Article 9 of the Regulations.

In this regard, particular emphasis is placed on Article 9 (1) (a) (ii), which provides that development shall not be exempted where it:

(ii) “consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width.”

In relation to above, the proposed temporary haul route comprised a temporary construction access from Ballymoneen Road. The access is not intended for public use or residential use and is solely required for the purposes of construction of the permitted LRD on the adjoining lands. Therefore, it is respectfully submitted that the temporary haul route does not consist of or comprise the formation, laying out, or material widening of a means of access to a public road the surface carriageway of which exceeds 4 metres in width.

Appropriate Assessment

An Appropriate Assessment Screening Report (AASR) prepared by MKO accompanied the Section 5 Request submitted to the Planning Authority. The Screening Report concluded that:

“The review of plans and projects that is described above did not reveal any additional potential pathways for likely significant effect on European Sites that may have arisen as a result of those plans or projects.

No pathway or mechanism for the Works to result or to have resulted in any likely significant effect on any European Site, was identified when considered on its own during the assessment process and therefore, there is no potential for it to contribute to any such effects when considered in combination with any other development.”

Environmental Impact Assessment

An Environmental Impact Assessment Screening Report (ELASR) prepared by MKO accompanied the Section 5 Request submitted to the Planning Authority. The Screening Report concluded that:

“The Preliminary Examination, carried out in accordance with Article(s) 103 and 120 of the Planning and Development Regulations 2001 (as amended) has concluded that the Proposed Development does not trigger the requirement for mandatory EIA. Accordingly, a formal EIA Screening (Step 3) is not required.

Having regard to the nature, scale and location of the Proposed Development, including its classification under Class 10(b)(iv) and Class 10(dd) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001 (as amended), and the requirement to consider such projects under Class 15 where sub-threshold development may still give rise to significant environmental effects, it is concluded that the Proposed Development does not meet the criteria for mandatory EIA.

Accordingly, the Proposed Development has been assessed against the Schedule 7 criteria and, taking account of the temporary and modest scale of the works, the low environmental sensitivity of the receiving environment, and the absence of any identifiable pathways for significant environmental impacts, it is determined that the Proposed Development is not likely to give rise to significant effects on the environment. On this basis, an EIA is not required, and it is not necessary to progress to Step 3 of the EIA determination process.”

5. Documentation

The following documents are enclosed with this referral for consideration by An Coimisiún Pleanála:

- Planning Cover Letter;
- Section 5 Declaration from Galway City Council (Appendix 1);
- Referral Fee Receipt of €220 to An Coimisiún Pleanála;
- Section 5 Declaration Pack as submitted to Galway City Council.

6. Conclusion

It is considered that the proposed temporary haul route, which is the subject of this Section 5 Referral, constitutes development which is exempted development under the terms of Class 16 of Schedule 2, Part 1 of the Regulations for the reasons outlined above. The proposed works form a crucial and enabling element in the safe, orderly, and efficient delivery of the permitted LRD on the adjoining lands.

This Section 5 Referral is arising from a declaration issued by Galway City Council as to whether the proposed haul route constitute development and/or exempted development. Accordingly, this referral is subject to the prescribed fee of €220.

The deadline for submitting this referral to An Coimisiún Pleanála is the 20th of April 2026, in accordance with the provisions of Section 5 (3) of the Planning and Development Act, 2000 (as amended).

We respectfully request that An Coimisiún Pleanála consider the documents submitted alongside this referral in the overall assessment of the proposed temporary haul route works, having regard to its transient nature and integral role in facilitating the implementation of the permitted LRD.

We trust the attached is in order, however, should you require further clarification on any matter of the attached referral, please do not hesitate to contact this office.

Yours sincerely,

Aditi Dey

Aditi Dey (B.Plan, MRUP, MRTPI)

Planning Practitioner

MKO

Tuam Road, Galway, H91 VW84

Phone: +353-91416765

Email: adey@mkofireland.ie

> Enclosed

Galway - MKO, Tuam Road, Galway, H91 VW84 (**Correspondence address**)

Dublin - MKO, 9C Beckett Way, Park West Business Park, Dublin, D12 XN9W

+353 (091) 735 611 | mkofireland.ie | info@mkofireland.ie

McCarthy Keville O'Sullivan Ltd t/a MKO. Registered in Ireland No: 462657. VAT No: IE9693052R

MKO Water Limited t/a MKO. Registered in Ireland No: 338589. VAT No: IE6358589Q

MKO Estates & Project Management Ltd. Registered in Ireland No: 613029. VAT No: 3497897JH

Appendix 1 – Galway City Council (GCC) Section 5 Declaration

Galway - MKO, Tuam Road, Galway, H91 VW84 (**Correspondence address**)
Dublin - MKO, 9C Beckett Way, Park West Business Park, Dublin, D12 XN9W

+353 (091) 735 611 | mkoireland.ie | info@mkoireland.ie

McCarthy Keville O'Sullivan Ltd t/a MKO. Registered in Ireland No: 462657. VAT No: IE9693052R
MKO Water Limited t/a MKO. Registered in Ireland No: 338589. VAT No: IE6358589Q
MKO Estates & Project Management Ltd. Registered in Ireland No: 613029. VAT No: 3497897JH



Comhairle Cathrach na Gaillimhe
Galway City Council

Halla na Cathrach
Bóthar an Choláiste
Gaillimh
H91 X4K8

City Hall
College Road
Galway
H91 X4K8

Our Ref: S5.5.26

Cairn Homes Properties Ltd,
C/O MKO,
Tuam Road,
Galway
H91 VW84

24/03/2026

Planning Declaration under Section 5 of the Planning & Development Act, 2000 (as amended) & the Planning & Development Regulations, 2001, (as amended).

Re: Proposed Temporary Compound Area to support the construction of the consented Large Scale Residential scheme (hereafter referred as permitted LRD) (under Reg. Ref. 2460270 / An Coimisiún Pleanála Ref. 321970-25, and as amended by Reg. Ref. 2560285).

At: Road (L5024), Keeraun and Ballynahown East, Galway, Co. Galway

A Chara,

I refer to your application for a certificate of exemption under the provisions of (Section 5 of the Planning & Development Act 2000) as amended, and I wish to advise as follows:

It is considered that the proposed temporary compound area is an exempted development under Class 16, subject to the limitations and conditions of that class, of the provisions of the Planning and Development Regulations 2001 (as amended), this exemption does not extend or include the haul road or vehicle entrance onto the Ballymoneen Road.

It must be emphasised that this opinion is given without prejudice to the provisions of Section 5(3) of the Planning & Development Act 2000 (as amended).

If applicants are dissatisfied with the determination of the Council in relation to a declaration of exempted development, then, within 4 weeks of the date that the declaration is issued by the Council, the person issued with the declaration can refer it to An Coimisiún Pleanála for review of the matter.

Mise le meas,



**Senior Planner,
Planning Department.**