

COMHAIRLE CLARE CONTAE AN CHLÁIR COUNTY COUNCIL

Registered Post

Leigh O' Connell Main Street Kilfenora Co. Clare

19th March 2024

Section 5 referral Reference R24-21 – Leigh O' Connell

Is the installation of a community mosaic on the Bring Bank wall at the Ennistymon Area Office development, and if so is it exempted development?

A Chara,

I refer to your application received on 26th October 2024 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 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

Anne O'Gorman 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



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:	83297
Reference Number:	R24-21
Date Referral Received:	26th October 2024
Name of Applicant:	Leigh O' Connell
Location of works in question:	Ennistymon Area Office, Ennistymon, Co. Clare

Section 5 referral Reference R24-21 - Leigh O' Connell

Is the installation of a community mosaic on the Bring Bank wall at the Ennistymon Area Office 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) (f) and (h) of the Planning and Development Act 2000, as amended,
- (b)Class 12, (Schedule 2, Article 6, Part1) of the Planning and Development Regulations 2001 (as amended)
- (c) The details as indicated in submitted documents from the referrer.

AND WHEREAS Clare County Council has concluded:

- (a)The development consisting of the installation of a community mosaic on the Bring Bank wall at the Ennistymon Area Office constitutes "works" and "development" which come within the scope of sections 2 and 3 of the Planning and Development Act 2000, as amended.
- (b)The structure would not meet the exempted development requirements of Section 4 (1) h or 4 (1) (g) of the Planning and Development Act nor Class 12 Schedule 2, Article 6 Part 1 of the Planning and Development Regulations.
- (c) There are no other provisions under the Planning Acts or Regulations to render the subject structure as exempted development.
- **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 installation of a community mosaic on the Bring Bank wall at the Ennistymon Area Office, Ennistymon, Co. Clare is **considered development** which is **not exempted development**.

Signed:

En . GARETH RUANE SENIOR EXECUTIVE PLANNER

Date: 19th March 2024

DECLARATION ISSUED UNDER SECTION 5 OF THE PLANNING & DEVELOPMENT ACT 2000 (AS AMENDED)

Reference No.: R24-21



Comhairle Contae an Chláir Clare County Council

Section 5 referral Reference R24-21

Is the installation of a community mosaic on the Bring Bank wall at the Ennistymon Area Office development, and if so is it exempted development?

AND WHEREAS, Leigh O' Connell 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) (f) and (h) of the Planning and Development Act 2000, as amended,
- (b)Class 12, (Schedule 2, Article 6, Part1) of the Planning and Development Regulations 2001 (as amended)
- (c)The details as indicated in submitted documents from the referrer.

And whereas Clare County Council has concluded:

- (a)The development consisting of the installation of a community mosaic on the Bring Bank wall at the Ennistymon Area Office constitutes "works" and "development" which come within the scope of sections 2 and 3 of the Planning and Development Act 2000, as amended.
- (b)The structure would not meet the exempted development requirements of Section 4 (1) h or 4 (1) (g) of the Planning and Development Act nor Class 12 Schedule 2, Article 6 Part 1 of the Planning and Development Regulations.
- (c) There are no other provisions under the Planning Acts or Regulations to render the subject structure 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 installation of a community mosaic on the Bring Bank wall at the Ennistymon Area Office, Ennistymon, Co. Clare <u>constitutes development</u> which is <u>not exempted development</u> as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.

Ame O'forma

Anne O'Gorman Staff Officer Planning Department Economic Development Directorate

19th March 2024

CLARE COUNTY COUNCIL SECTION 5 DECLARATION OF EXEMPTION APPLICATION PLANNERS REPORT

E REF: R 2 PLICANT(S):	24/ 21 Leigh O Connell
and the second se	Whether the installation of a community mosaic on the at the Ennistymon Area Office is or is not development and is ted development.
LOCATION: DUE DATE:	Ennistymon, Co. Clare 22/03/ 24

Site Description.

The site comprises the front boundary wall of the Ennistymon area office. The wall comprises Liscannor stone and incorporates openings for bring facilities located in the yard area of the offices. There is a footpath outside the wall and a parking area for vehicles dropping of products for recycling.

The site is zoned 'community'. The wall does not form part of a protected structure and the site is not located with the architectural conservation area.

Planning History on site

None

Details submitted with the application

At the request of Ennistymon Tidy Towns (Mary Byrne) a mosaic is being created with the second year art students of Ennistymon C.S. through the 'Artist in Schools' program and the artists Leigh O'Connell. The students will design and create a mosaic to be created on fiberglass mesh in the classroom and mounted on concrete boards. The concrete boards will be secured to the wall of the Bring Bank (can be removed at a later date) with the mesh mosaic installed on top. The mosaic will be organic in shape following the lines of local flora and fauna designs of the students. The design is not complete and will be organic shaped to go between the apertures of the brain bank creating a flow to improve the visual esthetic of the wall. The mosaic is not yet completely designed but will be no

larger than two five by three cement boards that will be cut to the shape of the student's flora and fauna. The mosaic can be as permanent as the Council would like as it is being placed on the substrate of the of the cement board so can be removed with little damage to the current wall.

The applicant Leigh O Connell confirmed by phone 12th inst. that the works are not being carried out on behalf of or in partnership with the Council.

Background to Referral

Statutory Provisions

Planning and Development Act, 2000 (as amended)

In order to assess this proposal, regard has to be had to the *Planning and Development Act 2000, as amended*.

'Works' are defined in Section 2 of the *Planning and Development Act 2000, as amended* as follows:

"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 ' are defined in Section 3 of the *Planning and Development Act 2000, as amended* as follows:

S.3.(1)In this Act, "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.

Section 4 (1)(H) states that the following shall be exempted development for the purpose of the Act.-

'development consisting for the carrying out of works for maintenance, improvement or other alterations of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or neighbouring structures'.

Section 4 (1) (f)

'Development carried out on behalf of or jointly or in partnership with a local authority, pursuant to a contract entered into by the local authority concerned whether in is capacity as planning Authority or in any other capacity'.

Planning and Development Regulations , Schedule 2. Article 6. Part 1. Class 12

The painting of any exrenla part of the any building or other structure.

Conditions and Limitations.

Such painting may not, except in the case of a hoarding or other temporary structure bounding land on which development consisting of works is being or will be carried out in pursuance of a permission granted under part III of this Act or as exempted development, be for the purpose p creating a mural.

Assessment

Basis of Referral

The applicant is seeking a Section 5 Declaration as to whether **the installation of a community mosaic on the Bring Bank wall at the Ennistymon Area Office** is development and is or is not exempted development.

Assessment

The provision of a mosaic mounted on concrete boards and affixed to an existing stone wall does not come within the meaning of descriptions for any of the Classes of Development provided for in Schedule 2, Part 1 of the Planning and Development Regulations. The proposed mosaic is development which is not exempted development.

Having regard to the provisions of class 12 of the regulations as set out above, the proposed development is not exempted development.

Conclusion

Having regard to the above it is considered that the proposed development constitutes development which is not exempted development.

Recommendation

The following questions have been referred to the Planning Authority:

Whether the installation of a community mosaic on the Bring Bank wall at the Ennistymon Area Office Co. Clare is or is not development and is or is not exempted development.

The Planning Authority in considering this referral had regard to:

- (a) Sections 2, 3 and 4 (1) (f) and (h) of the Planning and Development Act 2000, as amended,
- (b) Class 12, (Schedule 2, Article 6, Part1) of the Planning and Development Regulations 2001 (as amended)
- (c) The details as indicated in submitted documents from the referrer.

And whereas Clare County Council (Planning Authority) has concluded:

- a) the development consisting of the **installation of a community mosaic on the Bring Bank wall at the Ennistymon Area Office** constitutes "works." and "development" which come within the scope of sections 2 and 3 of the Planning and Development Act 2000, as amended.
- b) The structure would not meet the exempted development requirements of Section 4 (1) h or 4 (1) (g) of the Planning and Development Act nor Class 12 Schedule 2, Article 6 Part 1 of the Planning and Development Regulations.
- c) There are no other provisions under the Planning Acts or Regulations to render the subject structure as exempted development.

Now therefore Clare County Council (Planning Authority), hereby decides the installation of a community mosaic on the Bring Bank wall at the Ennistymon Area Office Co. Clare Co. Clare is development and is not exempted development.

<u>GlinCoey</u> Ellen Carey

Ellen Carey Executive Planner Date: $[\frac{4}{7}/03/24]$

Gareth Ruane Senior Executive Planner Date: 1403/24

Appropriate Assessment & Determination

	STEP 1. Description of the project/proposal and local site characteristics:			
(a)	File Reference No:	Section 5 R24/ 21		
(b)	Brief description of the project or plan:	Monted mosaic on concrete boards affixed to existing stone wall		
(c)	Brief description of site characteristics:	Stone wall		
(cl)	Relevant prescribed bodies consulted: e.g. DHLGH (NPWS), EPA, OPW	None		

STEP 2. Identification of relevant Natura 2000 sites using Source-Pathway- Receptor model and compilation of information on Qualifying Interests and conservation objectives.				
European Site (code)	List of Qualifying Interest/Special Conservation Interest ¹	Distance from proposed development ² (km)	Connections (Source- Pathway- Receptor)	Considered further in screening Y/N
Inagh River estuary SAC	Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (Glauco- Puccinellietalia maritimae) [1330] Mediterranean salt meadows (Juncetalia maritimi) [1410] Shifting dunes along the shoreline with Ammophila arenaria (white dunes) [2120] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]	617m (as the crow flies)	None	Ν

¹ Short paraphrasing and/or cross reference to NPWS is acceptable – it is not necessary to reproduce the full text on the QI/SCI.

² If the site or part thereof is within the European site or adjacent to the European site, state here.

STEP 3. Assessment of Likely Significant Effects			
(a) Identify all potential direct and indirect impacts that may have an effect on the conservation objectives of a European site, taking into account the size and scale of the project under the following headings:			
Impacts:	Possible Significance of Impacts: (duration/magnitude etc.)		
 Construction phase e.g. Vegetation clearance Demolition Surface water runoff from soil excavation/infill/landscaping (including borrow pits) Dust, noise, vibration Lighting disturbance Impact on groundwater/dewatering Storage of excavated/construction materials Access to site Pests 	none		
 Operational phase e.g. Direct emission to air and water Surface water runoff containing contaminant or sediment Lighting disturbance Noise/vibration Changes to water/groundwater due to drainage or abstraction Presence of people, vehicles and activities 	none		

- Physical presence of structures (e.g. collision risks)
- Potential for accidents or incidents

In-combination/Other

none

(b)Describe any likely changes to the European site: Examples of the type of changes to give none consideration to include: Reduction or fragmentation of habitat area Disturbance to QI species Habitat or species fragmentation . Reduction or fragmentation in species density Changes in key indicators of conservation status value (water or air quality etc.) · Changes to areas of sensitivity or threats to QI Interference with the key relationships that define the structure or ecological function of the site

(c) Are *'mitigation'* measures necessary to reach a conclusion that likely significant effects can be ruled out at screening?

🗌 Yes 🛛 No

Step 4. Screening Determination Statement

The assessment of significance of effects:

Describe how the proposed development (alone or in-combination) is/is not likely to have significant effects on European site(s) in view of its conservation objectives.

Having regard to the separation distance between the subject site and the SAC, the proposed development is not likely to have significant effects on European site(s) in view of its conservation objectives. The applicant has not advised that the concrete boards will be poured on site and as such the PA understands they are made off site and transported to the subject site.

Conclusion: The proposed development is not likely to have significant effects on European site(s) in view of its conservation objectives. **Tick** as **Recommendation: Appropriate:** \boxtimes (i) It is clear that there is no The proposal can be screened out: likelihood of significant Appropriate assessment not effects on a European site. required. (ii) It is uncertain whether the **Request further information** proposal will have a to complete screening significant effect on a Request NIS European site. Refuse planning permission (iii) Significant effects are Request NIS likely. Refuse planning permission Signature and Date of Eller Corey Name: Ellen Carey E.P. **Recommending Officer:** 07/03/24 Signature and Date of the **Decision Maker:**

Zechia 5.







12/201

Ellen Carey

From: Sent: To: Subject: Attachments: Planning Office Tuesday 12 March 2024 14:50 Ellen Carey FW: Ennistymon Bring Bank Mosaic image001.png; IMG_20240308_130436.jpg; IMG_20240308_130544.jpg; IMG_ 20240308_130524.jpg; IMG_20240308_130513.jpg

Ellen,

These are more of the images see previous email to you.

Kind regards,

Colette Coakley,

Assistant Staff Officer, Planning Department, Economic Development Directorate Clare County Council, Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2 T: 065 6846232 | E: ccoakley@clarecoco.ie | W: www.clarecoco.ie

LOCAL AUTHORITY OF THE YEAR 2022



COMHAIRLE CONTAE AN CHLÁIR CLARE COUNTY COUNCIL



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From: Leigh O ' Connell < Sent: Tuesday, March 12, 2024 2:40 PM To: Planning Office <planoff@clarecoco.ie> Subject: Re: Ennistymon Bring Bank Mosaic

On Tue, 12 Mar 2024, 14:33 Planning Office, cplanoff@clarecoco.ie wrote:

Hi Leigh,

I wish to acknowledge your email but no photos have come through. I will await same before sending your email to the Planner.

Kind regards,

Colette Coakley,

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Assistant Staff Officer, Planning Department, Economic Development Directorate Clare County Council, Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2 T: 065 6846232 | E: ccoakley@clarecoco.ie | W: www.clarecoco.ie

LOCAL AUTHORITY OF THE YEAR 2022

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From: Leigh O ' Conne' Sent: Tuesday, March 12, 2024 2:28 PM To: Planning Office <<u>planoff@clarecoco.ie</u>> Subject: Re: Ennistymon Bring Bank Mosaic

I'm not sure the images sent, so if you could just confirm you got them that would be great.

Off not, I can resend in two batches.

Leigh

On Tue, 12 Mar 2024, 14:21 Leigh O ' Connell, <

1> wrote:

Hi,

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Attached are the photos of the children's work for the mosaic project with Ennistymon CS.

As you can see, they are mostly butterflies, leaves, a heron, a turtle, vines and flowers.

As I said we will be putting them on a backing board that will be installed directly on the wall, so the mosaics can be removed if required, at any stage. This was done in the hopes that full planning would not be required.

If you have any further questions or concerns, please don't hesitate to contact me.

Warm regards,

Leigh





















COMHAIRLE CLARE CONTAE AN CHLÁIR COUNTY COUNCIL

Leigh O' Connell Main Street Kilfenora Co. Clare

26/02/2024

Section 5 referral Reference R24-21 - Leigh O' Connell

Is the installation of a community mosaic on the Bring Bank wall at the Ennistymon Area Office development, and if so is it exempted development?

A Chara,

I refer to your application received on 26th October 2024 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

Please note that the Planning Authority is considering the matter and a reply will issue to you in due course.

Mise, le meas

Brian Fahy 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

Clare County Council Aras Contae an Chlair New Road Ennis Co Clare 26/02/2024 15:30:58 Receipt No L1CASH/0/361085 ***** REPRINT ***** LEIGH O'CONNELLINTAE MAIN ST KILFENORA

R24/21 AN CHLAIR

CO CLARE

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

P07

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CLARE COUNTY COUNCIL COMHAIRLE CONTAE AN CHLÁIR

Planning Department, Economic Development Directorate, Clare County Council, New Road, Ennis, Co. Clare. V95DXP2 R24-21

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



	FEE: €80
	hich has been prepared by Clare County Council for the purpose of obtaining the necessary nade under Section 5 by the Planning Authority
1. CORRESPONDENCE DETA	uls.
(a) Name and Address of person seeking the declaration	LEIGH O' CONNELL MAIN ST., KILFENORA, CO. CLARE
(b) Telephone No.:	
(c) Email Address:	· · · · · · · · · · · · · · · · · · ·
(d) Agent's Name and address:	MARY FAMY, ART TEACHER, ENNISTYMON COMMUNITY SCHOOL, Aronacullia NORTH, Co. CLARE

2. **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? NSTALLATION OF A COMMUNITY MOSAIC THE ISKING BANK WALL AT THE ENNISTYMON OFFICE. ENNISTYMON . (b) Provide a full description of the question/matter/subject which arises wherein a declaration of the question is sought. Mar At the ne reques Ennisty mon a mosaic being rea with Ennistymon through the the artist onnell programme 31 and create th Crei mesh DET ano eal Sn con creto brands COMON boards 3 the be Seco 1000 The 1 aler clate mesh C Sm TOP wil organic F the rdents st (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) the res of ween Visual astactic the The of to improve low creuli Q wall.

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(a)	Postal Address of the Property/Site/Building for which the declaration sought:	BRING BANK CHARC COUNTY COUNCIL, ENNISTYMON AREA OFFICE ENNISTYMON, G. CLARE
(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?	
(c)	Legal interest in the land or structure in question of the person requesting the declaration (Give Details):	NOT THE OWNER
(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: Note: Observations in relation to a referral may be requested from the owner/occupier where appropriate.	Clare County Council. Envisymon AREA OFFICE, ENNUTYMON, CO. CLARE
e)	Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?:	YES
(f)	Are you aware of any enforcement proceedings connected to this site? <i>If so please supply details:</i>	No
g)	Were there previous planning application/s on this site? If so please supply details:	UNKNOWA
n)	Date on which 'works' in question were completed/are likely to take place:	By April 2024

SIGNED O'Cours

date: <u>26.2.24</u>

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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 Countil 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	and the second second	
Date Received:	 Fee Paid:	
Date Acknowledged:	 Reference No .:	
Date Declaration made:	 CEO No.:	
Decision:	 	



bing maps

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