



COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

**Registered Post**

Miriam & Colin Hamilton  
6 Ballymulcashel  
Kilmurry  
Co. Clare  
V95 YX72

13th March 2025

**Section 5 referral Reference R25-14 – Miriam & Colin Hamilton**

(1) Is the construction of an unroofed fenced horse exercise arena (25x45m) for exercising horses (with drainage) to provide an all-weather surface for private use under class 10 development and if so, is it exempted development? (2) Is the construction of type 1 roofed structure for housing horses with a floor area less than 200m<sup>2</sup> development and if so, is it exempted development? (3) Is a 400m all weather exercise track unroofed for winter turnout / exercise under class 10 development and if so, is it exempted development?

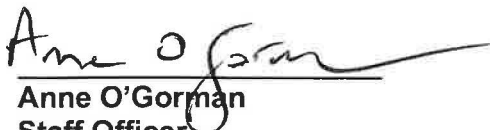
A Chara,

I refer to your application received on 18th February 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 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](http://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



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

**Reference No.: R25-14**



Comhairle Contae an Chláir  
Clare County Council

**Section 5 referral Reference R25-14**

**(1) Is the construction of an unroofed fenced horse exercise arena (25x45m) for exercising horses (with drainage) to provide an all-weather surface for private use under class 10 development and if so, is it exempted development? (2) Is the construction of type 1 roofed structure for housing horses with a floor area less than 200m<sup>2</sup> development and if so, is it exempted development? (3) Is a 400m all weather exercise track unroofed for winter turnout / exercise under class 10 development and if so, is it exempted development?**

**AND WHEREAS**, Miriam & Colin Hamilton 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) Articles 6 and 9 of the Planning and Development Regulations 2001, (as amended);
- (c) Classes 6 and 10 of Schedule 2, Part 3 of the Planning and Development Regulations 2001 (as amended)
- (d) The works as indicated in submitted documents from the referrer.

**And whereas Clare County Council has concluded:**

- (a) The construction of an unroofed, fenced horse exercise arena (25m x 45m) for exercising horses (with drainage) to provide an all-weather surface for private use; the construction of a roofed structure for housing horses with a floor area less than 200m<sup>2</sup>; and the construction of a 400m unroofed, all-weather exercise track for winter turn out / exercise constitutes "works" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended;
- (b) The said works constitute "development" which comes within the scope of section 3(1) of the Planning and Development Act 2000, as amended;
- (c) The said (i) construction of an unroofed, fenced horse exercise arena (25m x 45m) for exercising horses (with drainage) to provide an all-weather surface for private use, and (ii) the construction of a 400m unroofed, all-weather exercise track for winter turn out / exercise is exempted development having regard to Schedule 2, Part 3, Class 10 of the Planning and Development Regulations 2001 (as amended)
- (d) The said construction of a roofed structure for housing horses with a floor area less than 200m<sup>2</sup> is exempted development having regard Schedule 2, Part 3, Class 6 of the Planning and Development Act, 2000 (as amended)

**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 following works at Boleynagoagh North, Whitegate, Co. Clare, V94 XTR5:

- The construction of an unroofed, fenced horse exercise arena (25m x 45m) for exercising horses (with drainage) to provide an all-weather surface for private use;
- The construction of a roofed structure for housing horses with a floor area less than 200m<sup>2</sup>; and
- The construction of a 400m unroofed, all-weather exercise track for winter turn out / exercise

constitutes development which is exempted development as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.

  
**Anne O'Gorman**  
**Staff Officer**  
**Planning Department**  
**Economic Development Directorate**

13th March 2025

**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:

85130

Reference Number:

R25-14

Date Referral Received:

18th February 2025

Name of Applicant:

Miriam & Colin Hamilton

Location of works in question:

Boleynagoagh North, Whitegate, Co. Clare  
V94XTR5

**Section 5 referral Reference R25-14 – Miriam & Colin Hamilton**

(1) Is the construction of an unroofed fenced horse exercise arena (25x45m) for exercising horses (with drainage) to provide an all-weather surface for private use under class 10 development and if so, is it exempted development? (2) Is the construction of type 1 roofed structure for housing horses with a floor area less than 200m<sup>2</sup> development and if so, is it exempted development? (3) Is a 400m all weather exercise track unroofed for winter turnout / exercise under class 10 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 of the Planning and Development Act, 2000, (as amended);
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, (as amended);
- (c) Classes 6 and 10 of Schedule 2, Part 3 of the Planning and Development Regulations 2001 (as amended)
- (d) The works as indicated in submitted documents from the referrer.

**AND WHEREAS Clare County Council has concluded:**

- (a) The construction of an unroofed, fenced horse exercise arena (25m x 45m) for exercising horses (with drainage) to provide an all-weather surface for private use; the construction of a roofed structure for housing horses with a floor area less than 200m<sup>2</sup>; and the construction of a 400m unroofed, all-weather exercise track for winter turn out / exercise constitutes "works" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended;
- (b) The said works constitute "development" which comes within the scope of section 3(1) of the Planning and Development Act 2000, as amended;
- (c) The said (i) construction of an unroofed, fenced horse exercise arena (25m x 45m) for exercising horses (with drainage) to provide an all-weather surface for private use, and (ii) the construction of a 400m unroofed, all-weather exercise track for winter turn out / exercise



is exempted development having regard to Schedule 2, Part 3, Class 10 of the Planning and Development Regulations 2001 (as amended)

(d) The said construction of a roofed structure for housing horses with a floor area less than 200m<sup>2</sup> is exempted development having regard Schedule 2, Part 3, Class 6 of the Planning and Development Act, 2000 (as amended)

**ORDER:** Whereas by Chief Executive's Order No. HR 46 dated 1<sup>st</sup> January 2025, Carmel Kirby, Interim 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 Garreth 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, Garreth Ruane, Senior Executive Planner, hereby declare that the following works at Boleynagoagh North, Whitegate, Co. Clare, V94 XTR5:

- The construction of an unroofed, fenced horse exercise arena (25m x 45m) for exercising horses (with drainage) to provide an all-weather surface for private use;
- The construction of a roofed structure for housing horses with a floor area less than 200m<sup>2</sup>; and
- The construction of a 400m unroofed, all-weather exercise track for winter turn out / exercise

are considered development which are exempted development.

**Signed:**

  
\_\_\_\_\_  
**GARRETH RUANE**  
**SENIOR EXECUTIVE PLANNER** 

**Date:**

**13th March 2025**

**CLARE COUNTY COUNCIL**  
**SECTION 5 DECLARATION OF EXEMPTION APPLICATION**

<b>FILE REF:</b>	R25-14
<b>APPLICANT(S):</b>	Miriam and Colin Hamilton
<b>REFERENCE:</b>	Whether the following work: (a) the construction of an unroofed, fenced horse exercise arena (25m x 45m) for exercising horses (with drainage) to provide an all-weather surface for private use; (b) the construction of a Type 1 roofed structure for housing horses with a floor area less than 200m <sup>2</sup> ; and (c) the construction of a 400m unroofed, all-weather exercise track for winter turn out / exercise, is or is not development and is or is not exempted development.
<b>LOCATION:</b>	Boleynagoagh North, Whitegate, Co. Clare V94XTR5
<b>DUE DATE:</b>	17 <sup>th</sup> March 2025

**Site Location**

The site is located in a rural area approximately 1km west of Whitegate village. The site is located on the north side of the R352. A local road also runs along the western side of the property. The site comprises a detach single-storey dwelling with a large garden area and domestic outbuildings to the rear. The overall property also includes land to the rear of the house, which are level throughout and in use as agricultural grassland.

**Planning History**

P03/2832 – Clare Bradley granted APPROVAL to construct a dwelling house and septic tank (Outline planning ref. no. P00/541)

**Background to Referral**

This Referral under Section 5(3)(a) of the Planning and Development Act 2000 (as amended) has been made by Miriam and Colin Hamilton. They are in the process of purchasing the subject property. The details of the current landowner have been provided, and it is stated that the owner is aware of this Section 5 referral.

The applicants are seeking a Section 5 Declaration as to whether the following works at Boleynagoagh North, Whitegate, Co. Clare are or are not development and are or are not exempted development:

- a) the construction of an unroofed, fenced horse exercise arena (25m x 45m) for exercising horses (with drainage) to provide an all-weather surface for private use;
- b) the construction of a Type 1 roofed structure for housing horses with a floor area less than 200m<sup>2</sup>; and

- c) the construction of a 400m unroofed, all-weather exercise track for winter turn out / exercise

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*.

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.

‘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.*

Article 6(3) of the Planning & Development Regulations, 2001, as amended

Subject to article 9, in areas other than a city, a town or an area specified in section 19(1)(b) of the Act or the excluded areas as defined in section 9 of the Local Government (Reorganisation) Act, 1985 (No. 7 of 1985), development of a class specified in column 1 of Part 3 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 3 opposite the mention of that class in the said column 1.

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 3, Class 6

*Works consisting of the provision of a roofed structure for the housing of cattle, sheep, goats, donkeys, horses, deer or rabbits, having a gross floor space not exceeding 200 square metres (whether or not by extension of an existing structure), and any ancillary provision for effluent storage.*

- 1. No such structure shall be used for any purpose other than the purpose of agriculture.*
- 2. The gross floor space of such structure together with any other such structures situated within the same farmyard complex or within 100 metres of that complex shall not exceed 300 square metres gross floor space in aggregate.*
- 3. Effluent storage facilities adequate to serve the structure having regard to its size, use and location shall be constructed in line with Department of Agriculture, Food and Rural Development and Department of the Environment and Local Government requirements and shall have regard to the need to avoid water pollution.*

4. No such structure shall be situated, and no effluent from such structure shall be stored, within 10 metres of any public road.

5. No such structure within 100 metres of any public road shall exceed 8 metres in height.

6. No such structure shall be situated, and no effluent from such structure shall be stored, within 100 metres of any house (other than the house of the person providing the structure) or other residential building or school, hospital, church or building used for public assembly, save with the consent in writing of the owner and, as may be appropriate, the occupier or person in charge thereof.

7. No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 3, Class 10

*The erection of an unroofed fenced area for the exercising or training of horses or ponies, together with a drainage bed or soft surface material to provide an all-weather surface.*

1. *No such structure shall be used for any purpose other than the exercising or training of horses or ponies.*
2. *No such area shall be used for the staging of public events.*
3. *No such structure shall be situated within 10 metres of any public road, and no entrance to such area shall be directly off any public road.*
4. *The height of any such structure shall not exceed 2 metres.*

Under Article 9 (1) of the same Regulations, 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 –*

(i) *contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act*

(ii) *consist of or compromise 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,*

(iii) *endanger public safety by reason of traffic hazard or obstruction of road users,*

(iiia) *endanger public safety by reason of hazardous glint and/or glare for the operation of airports, aerodromes or aircraft,*

(iv) *except in the case of a porch to which class 7 specified in column 1 of Part 1 of Schedule 2 applies and which complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1, comprise the construction, erection, extension or renewal of a building on any street so as to bring forward the building, or any part of the building, beyond the front wall of the building on either side thereof or beyond a line determined as the building line in a development plan for the area or, pending the variation of a development plan or the making of a new*

*development plan, in the draft variation of the development plan or the draft development plan,*

*(v) consist of or comprise the carrying out under a public road of works other than a connection to a wired broadcast relay service, sewer, water main, gas main or electricity supply line or cable, or any works to which class 25, 26 or 31 (a) specified in column 1 of Part 1 of Schedule 2 applies,*

*(vii) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan.*

*(vii) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,*

*(viiA) consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12(1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to and in accordance with a consent granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended,*

*(viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,*

*(viiC) consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000."*

*(viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,*

*(ix) consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,*

*(x) consist of the fencing or enclosure of any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility,*

*(xi) obstruct any public right of way,*

*(xii) further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area.*



## Assessment

### **Basis of Referral**

The applicants are seeking a Section 5 Declaration as to whether several equestrian- related developments at Boleynagoagh North, Whitegate, Co. Clare are or are not development and are or are not exempted development.

### **Particulars of the Development**

The works are specified as follows:

- a) the construction of an unroofed, fenced horse exercise arena for exercising horses;
- b) the construction of a roofed structure for housing horses with a floor area less than 200m<sup>2</sup>; and
- c) the construction of a 400m unroofed, all-weather exercise track

Having regard to Section 2(1) of the Planning and Development Act 2001 (as amended), I consider that the proposed development, come within the scope of “works” and hence constitutes development in accordance with Section 3(1) of the Planning and Development Act 2001 (as amended).

### **Assessment of the following elements of the works:**

- The construction of an unroofed, fenced horse exercise arena (25m x 45m) with drainage to provide an all-weather surface for private use.

This element of the proposal is assessed in the context of Schedule 2, Part 3, Class 10 of the Planning and Development Regulations 2001 (as amended).

*The erection of an unroofed fenced area for the exercising or training of horses or ponies, together with a drainage bed or soft surface material to provide an all-weather surface.*

- *No such structure shall be used for any purpose other than the exercising or training of horses or ponies.*

The applicants have stated that the arena will be used for the exercise of horses. No other use is intended.

- *No such area shall be used for the staging of public events.*

The development will be for private use only.

- *No such structure shall be situated within 10 metres of any public road, and no entrance to such area shall be directly off any public road.*

The development will be greater than 10m from the public road and will not be directly access from same.

- *The height of any such structure shall not exceed 2 metres.*

Fencing on the perimeter of the arena will not exceed 2 meters in height.

The proposed horse exercise arena complies with the exemption, and the conditions and limitations thereof, provided under Schedule 2, Part 3, Class 10 of the Planning and Development Regulations 2001 (as amended).

**Assessment of the following elements of the works:**

- The construction of a roofed structure for housing horses

This element of the proposed works is assessed in the context of Schedule 12, Part 3, Class 6 of the Planning and Development Regulations 2001 (as amended):

*Works consisting of the provision of a roofed structure for the housing of cattle, sheep, goats, donkeys, horses, deer or rabbits, having a gross floor space not exceeding 200 square metres (whether or not by extension of an existing structure), and any ancillary provision for effluent storage.*

- 1. No such structure shall be used for any purpose other than the purpose of agriculture.*

It is stated that the building will be used for the housing of horses and will not be used for any purpose other than agriculture.

- 2. The gross floor space of such structure together with any other such structures situated within the same farmyard complex or within 100 metres of that complex shall not exceed 300 square metres gross floor space in aggregate.*

There are no existing agricultural structures on the land. It is submitted that the building will comprise 5no. 12ft x 12ft stables and will have an overall area of 65m<sup>2</sup>.

*3. Effluent storage facilities adequate to serve the structure having regard to its size, use and location shall be constructed in line with Department of Agriculture, Food and Rural Development and Department of the Environment and Local Government requirements and shall have regard to the need to avoid water pollution.*

It is submitted that all effluent will be stored in accordance with Departmental requirements.

*4. No such structure shall be situated, and no effluent from such structure shall be stored, within 10 metres of any public road.*

The proposed structure will be greater than 10m from the public road.

*5. No such structure within 100 metres of any public road shall exceed 8 metres in height.*

The height of the building will not exceed 8m

*6. No such structure shall be situated, and no effluent from such structure shall be stored, within 100 metres of any house (other than the house of the person providing the structure) or other residential building or school, hospital, church or building used for public assembly, save with the consent in writing of the owner and, as may be appropriate, the occupier or person in charge thereof.*

The location of the proposed stables complies with this limitation of the exemption.

*7. No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.*

It is submitted that there will be no unpainted metal on the external finishes of the building.

The proposed construction of a roofed structure for the housing of horses complies with the exemption, and the conditions and limitations thereof, provided under Schedule 2, Part 3, Class 6 of the Planning and Development Regulations 2001 (as amended).

**Assessment of the following elements of the works:**

- the construction of a 400m unroofed, all-weather exercise track

This element of the proposal is assessed in the context of Schedule 2, Part 3, Class 10 of the Planning and Development Regulations 2001 (as amended).

*The erection of an unroofed fenced area for the exercising or training of horses or ponies, together with a drainage bed or soft surface material to provide an all-weather surface.*

- *No such structure shall be used for any purpose other than the exercising or training of horses or ponies.*

The applicants have stated that the track will be used for the exercise of horses and for turning out in winter months. No other use is intended.

- *No such area shall be used for the staging of public events.*

The development will be for private use only.

- *No such structure shall be situated within 10 metres of any public road, and no entrance to such area shall be directly off any public road.*

The development will be greater than 10m from the public road and will not be directly accessed from same.

- *The height of any such structure shall not exceed 2 metres.*

Fencing on the perimeter of the track will not exceed 2 meters in height.

The proposed all-weather exercise track complies with the exemption, and the conditions and limitations thereof, provided under Schedule 2, Part 3, Class 10 of the Planning and Development Regulations 2001 (as amended).

**Article 9 of the Planning and Development Regulations 2001, as amended**

Under Article 9 (1) of the same Regulations, *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 –*

*(i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act*

The proposal does not contravene a condition of any previous permission

*(ii) consist of or compromise 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,*

No alterations to the access arrangements to the site are proposed.

*(iii) endanger public safety by reason of traffic hazard or obstruction of road users,*

Not applicable to the current proposal.

*(iiia) endanger public safety by reason of hazardous glint and/or glare for the operation of airports, aerodromes or aircraft,*

The proposal site is not located in a solar safeguard zone.

*(iv) except in the case of a porch to which class 7 specified in column 1 of Part 1 of Schedule 2 applies and which complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1, comprise the construction, erection, extension or renewal of a building on any street so as to bring forward the building, or any part of the building, beyond the front wall of the building on either side thereof or beyond a line determined as the building line in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,*

Not applicable to the current proposal.

*(v) consist of or comprise the carrying out under a public road of works other than a connection to a wired broadcast relay service, sewer, water main, gas main or electricity supply line or cable, or any works to which class 25, 26 or 31 (a) specified in column 1 of Part 1 of Schedule 2 applies*

Not applicable to this proposal

*(vi) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in*

*which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan.*

The proposal site is located to the rear of a dwelling in a landscape characterised by agricultural activity. The development does not have a negative impact on the visual amenities of the area.

*(vii) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,*

Not applicable to this proposal

*(viiA) consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12(1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to and in accordance with a consent granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended,*

There are no known archaeological features in the vicinity of the proposal site.

*(viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,*

No likely significant effects on European Sites. An Appropriate Assessment Screening Report and Determination has been carried out and is attached to this report. Appropriate Assessment is not required.

*(viiC) consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000."*

Not applicable in this instance

*(viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,*



Not applicable to the current proposal.

*(ix) consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,*

Not applicable in this instance

*(x) consist of the fencing or enclosure of any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility,*

Not applicable in this instance

*(xi) obstruct any public right of way,*

Not applicable in this instance

*(xii) further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area.*

The development site is not within an Architectural Conservation Area.

## Recommendation

### **The following questions have been referred to the Planning Authority:**

Whether the following work at Boleynagoagh North, Whitegate, Co. Clare V94XTE5 is or is not development and is or is not exempted development:

- a) the construction of an unroofed, fenced horse exercise arena (25m x 45m) for exercising horses (with drainage) to provide an all-weather surface for private use;
- b) the construction of a roofed structure for housing horses with a floor area less than 200m<sup>2</sup>; and
- c) the construction of a 400m unroofed, all-weather exercise track for winter turn out / exercise

### **The Planning Authority in considering this referral had regard to:**

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, (as amended);
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, (as amended);
- (c) Classes 6 and 10 of Schedule 2, Part 3 of the Planning and Development Regulations 2001 (as amended)
- (d) The works as indicated in submitted documents from the referrer.

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

- (a) the construction of an unroofed, fenced horse exercise arena (25m x 45m) for exercising horses (with drainage) to provide an all-weather surface for private use; the construction of a roofed structure for housing horses with a floor area less than 200m<sup>2</sup>; and the construction of a 400m unroofed, all-weather exercise track for winter turn out / exercise constitutes "works" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended;
- (b) The said works constitute "development" which comes within the scope of section 3(1) of the Planning and Development Act 2000, as amended;
- (c) The said (i) construction of an unroofed, fenced horse exercise arena (25m x 45m) for exercising horses (with drainage) to provide an all-weather surface for private use, and (ii) the construction of a 400m unroofed, all-weather exercise track for winter turn out / exercise is exempted development having regard to Schedule 2, Part 3, Class 10 of the Planning and Development Regulations 2001 (as amended)
- (d) The said construction of a roofed structure for housing horses with a floor area less than 200m<sup>2</sup> is exempted development having regard to Schedule 2, Part 3, Class 6 of the Planning and Development Act, 2000 (as amended)

Now therefore Clare County Council (Planning Authority), hereby decides that:

- the construction of an unroofed, fenced horse exercise arena (25m x 45m) for exercising horses (with drainage) to provide an all-weather surface for private use;
- the construction of a roofed structure for housing horses with a floor area less than 200m<sup>2</sup>; and

- the construction of a 400m unroofed, all-weather exercise track for winter turn out / exercise

is development and is exempted development.



Name: Caroline Balfe

Executive Planner

Date 12/03/2025



Name: Garreth Ruane

Senior Executive Planner

Date 12/03/25.

## Appropriate Assessment & Determination

### STEP 1. Description of the project/proposal and local site characteristics:

(a) File Reference No:	P25-14
(b) Brief description of the project or plan:	<p>a) the construction of an unroofed, fenced horse exercise arena for exercising horses;</p> <p>b) the construction of a roofed structure for housing horses with a floor area less than 200m<sup>2</sup>; and</p> <p>c) the construction of a 400m unroofed, all-weather exercise track</p> <p>At Boleynagoagh North, Whitegate, Co. Clare.</p>
(c) Brief description of site characteristics:	Agricultural grassland
(d) Relevant prescribed bodies consulted: e.g. DHLGH (NPWS), EPA, OPW	N/A
(e) Response to consultation:	N/A

### 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 <sup>1</sup>	Distance from proposed development <sup>2</sup> (km)	Connections (Source- Pathway- Receptor)	Considered further in screening Y/N
Slieve Aughty Mountains SPA	<ul style="list-style-type: none"> <li>• Hen Harrier <i>Circus cyaneus</i> [A082] breeding</li> <li>• Merlin <i>Falco columbarius</i> [A098] breeding</li> </ul>	0.7km	The proposal site is open agricultural grassland which does not provide suitable habitat for QI Species.	No
Lough Derg (Shannon) SPA	<ul style="list-style-type: none"> <li>• Cormorant <i>Phalacrocorax carbo</i> [A017] breeding + wintering</li> </ul>	1.6km	No identified pathway between	No

	<ul style="list-style-type: none"> <li>• Tufted duck <i>Aythya fuligula</i> [A061] wintering + breeding</li> <li>• Goldeneye <i>Bucephala clangula</i> [A067] wintering + breeding</li> <li>• Common tern <i>Sterna hirundo</i> [A193] Breeding</li> <li>• Wetlands and Waterbirds [A999]</li> </ul>		the proposal site and the SPA	
--	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--	-------------------------------	--

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

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

(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.

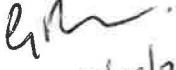
No likely direct or indirect effects on European sites as a result of the proposed development.

##### Conclusion:

	Tick as Appropriate:	Recommendation:
(i) It is clear that there is <b>no likelihood</b> of significant effects on a European site.	<input checked="" type="checkbox"/>	The proposal can be screened out: Appropriate assessment not required.
(ii) It is <b>uncertain</b> whether the proposal will have a significant effect on a European site.	<input type="checkbox"/>	<input type="checkbox"/> Request further information to complete screening <input type="checkbox"/> Request NIS <input type="checkbox"/> Refuse planning permission



(iii) Significant effects are likely.	<input type="checkbox"/>	<input type="checkbox"/> Request NIS <input type="checkbox"/> Refuse planning permission
Signature and Date of Recommending Officer:		
Signature and Date of the Decision Maker:	12/03/2025	

noted.  
  
 12/03/25.





COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

Miriam & Colin Hamilton  
6 Ballymulcashel  
Kilmurry  
Co. Clare  
V95 YX72

18/02/2025

**Section 5 referral Reference R25-14 – Miriam & Colin Hamilton**

(1) Is the construction of an unroofed fenced horse exercise arena (25x45m) for exercising horses (with drainage) to provide an all-weather surface for private use under class 10 development and if so, is it exempted development? (2) Is the construction of type 1 roofed structure for housing horses with a floor area less than 200m<sup>2</sup> development and if so, is it exempted development? (3) Is a 400m all weather exercise track unroofed for winter turnout / exercise under class 10 development and if so, is it exempted development?

A Chara,

I refer to your application received on 18th February 2025 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 Stiúarthóireacht 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



CONTAE

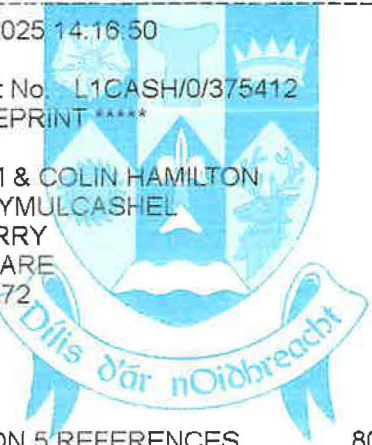
Clare County Council  
Aras Contae an Chláir  
New Road  
Ennis  
Co Clare

AN CHLÁIR

18/02/2025 14:16:50

Receipt No. L1CASH/0/375412  
\*\*\*\*\* REPRINT \*\*\*\*\*

MIRIAM & COLIN HAMILTON  
6 BALLYMULCASHIEL  
KILMURRY  
CO. CLARE  
V95 YX72  
R25/14



SECTION 5 REFERENCES	80.00
GOODS	80.00
VAT Exempt/Non-vatable	

Total : 80.00 EUR

COMHAIRLE

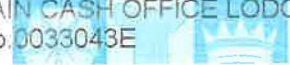
Tendered :  
CREDIT CARDS 80.00

CONTAE

AN CHLÁIR

Change : 0.00

Issued By : L1CASH - Noelette Barry  
From : MAIN CASH OFFICE LODGEMENT AF  
Vat reg No. 0033043E

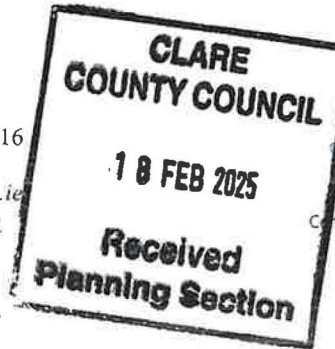


P07

**CLARE COUNTY COUNCIL  
COMHAIRLE CONTAE AN CHLÁIR**

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

Telephone No. (065) 6821616  
Fax No. (065) 6892071  
Email: [planoff@clarecoco.ie](mailto:planoff@clarecoco.ie)  
Website: [www.clarecoco.ie](http://www.clarecoco.ie)



R25-14

**REQUEST FOR A DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT  
(Section 5 of the Planning & Development Act 2000 (as amended))**

**FEE: €80**

*This following form is a non-statutory form which has been prepared by Clare County Council for the purpose of obtaining the necessary information required for a declaration to be made under Section 5 by the Planning Authority*

**1. CORRESPONDENCE DETAILS.**

(a) Name and Address of person seeking the declaration

MIRIAM HAMILTON + COLIN HAMILTON  
6 BALLINULCABUEL  
KILMURRY  
Co Clare V95 4x72.

(b) Telephone No.:

( ) . .

(c) Email Address:

(d) Agent's Name and address:

N/A



## 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?

- ① Is the construction of an unroofed fenced horse exercise arena (25x45m) for exercising horses (with drainage) to provide an all-weather surface for private use under class 10 development considered exempted development?
- ② Is the construction of type 1 roofed structure for housing horses with a floor area less than 200m<sup>2</sup> development that may be considered exempted development?
- ③ A 400m all weather exercise track unroofed for winter turnout/exercise?
- (b) Provide a full description of the question/matter/subject which arises wherein a declaration of the question is sought. (as class 10 exempted development?)

- ① This structure shall only be used for exercising horses / shall be unroofed. It will not be used for public events. It will be a sizable distance from any public road (40metres). The height of any fencing shall not exceed 2 metres. The exercise arena will be 25x45m and situated in the area noted at ① on the folio map. The exercise arena will adhere to conditions for class 10 development.
- ② Works consisting of the provision of a roofed structure with 5 12ft x 12ft stables (3.6m<sup>2</sup>) with an overall floor space of 65m<sup>2</sup>.  
 • No such structure shall be used for any purpose other than agriculture.  
 • The gross floor space of such a structure with any other such structures situated within the same farm or within 100m shall not exceed 300m<sup>2</sup> - There are no other existing structures.  
 • This structure will be situated approx 40m from any public road.  
 • Not exceeding 8 metres in height and no unpainted metal sheeting.  
 • Effluent storage facilities with adequacy shall be constructed in line with Dept of agriculture / environment requirements.
- ③ Under class 10, an exercise track of 400m situated a sizable distance from any public road. The fence shall not exceed 2metres and proposed use is solely for exercise and no public use whatsoever.

(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)*

Distance of all 3 proposed developments would be at least 100m from any other building except the owners house.

\* Please see 2 copies of agricultural site for proposed development Folio CE17890F with 3 proposed developments drawn + numbered ① ② ③ as described above.

\* There would be no risk or interference to electricity wires.

**3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT**

(a) Postal Address of the Property/Site/Building for which the declaration sought:	<u>Boleynagagh North</u> <u>Whitgate</u> <u>Co Clare</u> <u>V94 XTE5</u>
(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?	<u>NO.</u>
(c) Legal interest in the land or structure in question of the person requesting the declaration (Give Details):	<u>Colin Hamilton +</u> <u>Miriam Hamilton is currently</u> <u>in the process of purchasing the</u> <u>property and adjoining land.</u>
(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:  <i>Note: Observations in relation to a referral may be requested from the owner/occupier where appropriate.</i>	<u>Mark Hasan .</u> <u>Boleynagagh North</u> <u>Whitgate</u> <u>Co Clare V94 XTE5</u>
(e) Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?:	<u>Yes.</u>
(f) Are you aware of any enforcement proceedings connected to this site? If so please supply details:	<u>NO</u>
(g) Were there previous planning application/s on this site? If so please supply details:	<u>NO</u>
(h) Date on which 'works' in question were completed/are likely to take place:	<u>N/A</u>

SIGNED:

M HamiltonDATE: Feb 18<sup>th</sup> 2025



### **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 Council  
Aras Contae an Chlair,  
New Road,  
Ennis,  
Co. Clare  
V95DXP2

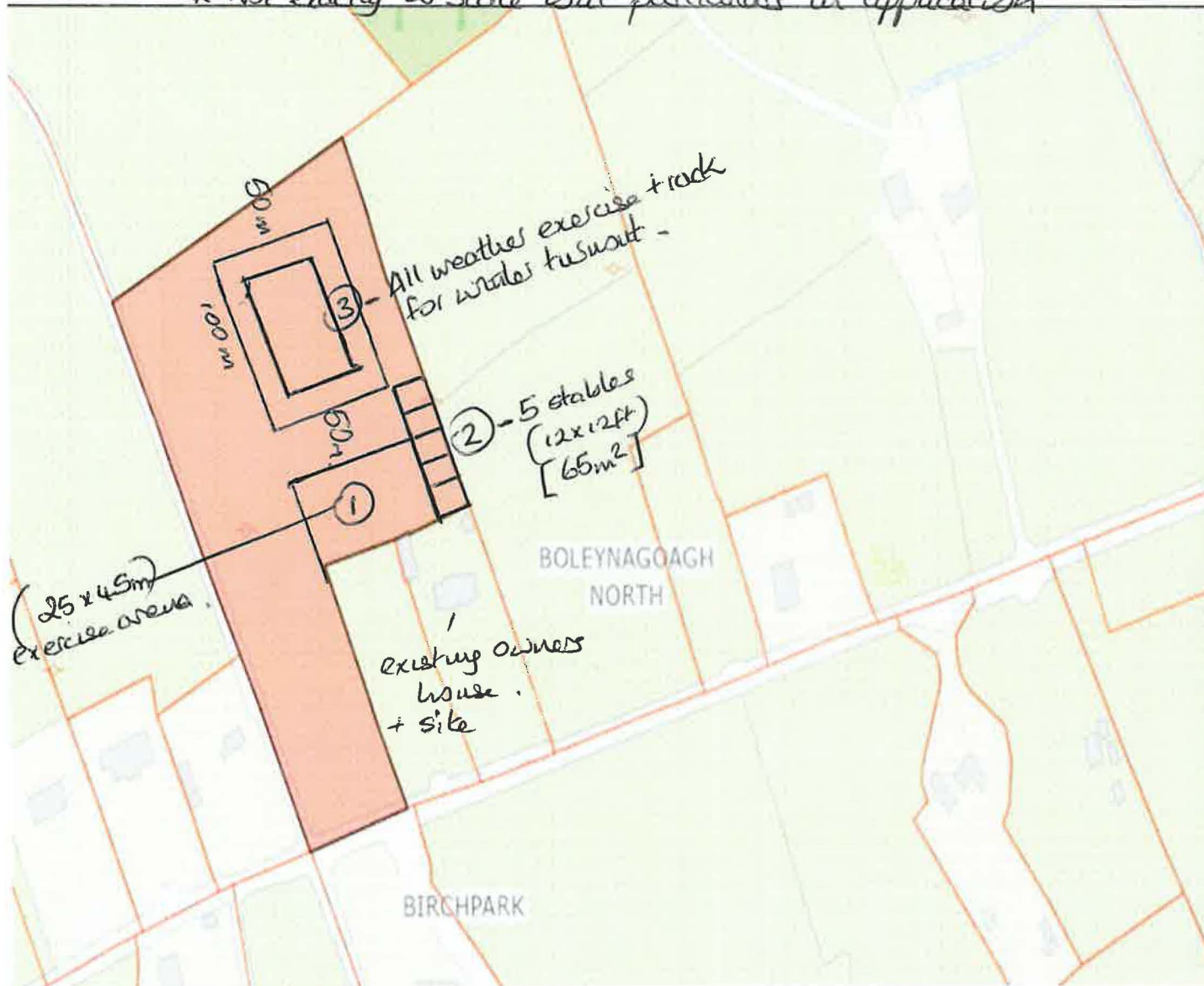
- (v) Notwithstanding the completion of the above form, the Planning Authority may require the submission of further information with regard to the request in order to enable the Authority to issue a declaration on the question.
- (vi) The Planning Authority may also request other persons to submit information on the question which has arisen and on which the declaration is sought

### **FOR OFFICE USE ONLY**

Date Received:	.....	Fee Paid:	.....
Date Acknowledged:	.....	Reference No.:	.....
Date Declaration made:	.....	CEO No.:	.....
Decision:.....			



\* Not exactly to scale but particulars in application



## Property Details

> Back

Folio Number	
Title Level	Freehold
Plan Number	6A
Property Number	1
Area of selected plans	1.51 hectares.
Number of Plans on this folio:	1
Address	Not Available

View Folio PDF

Request Certified Copy

\*Tailte Éireann Registration Boundaries and Plan Area **are not conclusive**. See [Section 62\(2\) of Registration of Title Act 2006](#) and [Rule 8\(3\) of the Land Registration Rules 2012](#).

Print Current View