



COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

**Registered Post**

**Therese McMurray Hewlett & Edward McMurray**  
Willow Lodge  
Ennistymon Road  
Lahinch  
Co. Clare  
V95 H393

**16th April 2025**

**Section 5 referral Reference R25-23 – Therese McMurray Hewlett & Edward McMurray**

Is the rear/side single storey extension of the residential dwelling known as Tigin McCarthy, Ballyvrislaun, Liscannor, Co. Clare, V95 X7Y8 constructed as a replacement to the previous attached structure constitutes development under Section 5 of the Planning Development Act 2000 (as amended) and if so, is it exempted development?

A Chara,

I refer to your application received on 26th March 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



**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:

85287

Reference Number:

R25-23

Date Referral Received:

26th March 2025

Name of Applicant:

Therese McMurray Hewlett & Edward McMurray

Location of works in question:

Ballyvrislaun, Liscannor, Co. Clare

**Section 5 referral Reference R25-23 – Therese McMurray Hewlett & Edward McMurray**

Is the rear/side single storey extension of the residential dwelling known as Tigin McCarthy, Ballyvrislaun, Liscannor, Co. Clare, V95 X7Y8 constructed as a replacement to the previous attached structure constitutes development under Section 5 of the Planning Development Act 2000 (as amended) and if so, is it exempted development?

**AND WHEREAS** Clare County Council, in considering this referral, had regard in particular to –

- (a) Sections 2 and 3 and 4 of the Planning and Development Act 1963, as amended,
- (b) Planning and Development Regulations 1967 s.i. No. 176- Part 1 Exempted Development – General, Class 1 -Developments within the curtilage of a dwelling.
- (c) The details indicated in submitted documents from the referrer wherein it was advised that the works were constructed as a replacement to the previous attached structures which had fallen into disrepair.

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

- (a) The development consisting of rear/ side single story extensions at the residential dwelling constructed as a replacement to the previous attached structure 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 said development falls outside the scope of the Planning and Development Section 4 (1) (h) of the Planning and Development Act 1963, because this Section does not include works for replacement of a structure as exempted development.
- (c) The said development falls outside the scope of the Planning and Development Regulations 1967 s.i. No. 176- Part 1 Exempted Development – General, Class 1 - Developments within the curtilage of a dwelling because this Class does not include works for replacement of a structure as exempted development.

**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 her 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 rear/side single story extension at the residential dwelling known as Tigin Mc Carthy, Ballyvrislaun, Liscannor, Co. Clare, constructed as a replacement to the previous attached structure is considered development which is not exempted development.

**Signed:**

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

**Date:**

**16th April 2025**



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

**Reference No.: R25-23**



**Comhairle Contae an Chláir  
Clare County Council**

**Section 5 referral Reference R25-23**

**Is the rear/side single storey extension of the residential dwelling known as Tigin McCarthy, Ballyvrislaun, Liscannor, Co. Clare, V95 X7Y8 constructed as a replacement to the previous attached structure constitutes development under Section 5 of the Planning Development Act 2000 (as amended) and if so, is it exempted development?**

**AND WHEREAS, Therese McMurray Hewlett & Edward McMurray** 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 and 3 and 4 of the Planning and Development Act 1963, as amended,
- (b) Planning and Development Regulations 1967 s.i. No. 176- Part 1 Exempted Development – General, Class 1 -Developments within the curtilage of a dwelling.
- (c) The details indicated in submitted documents from the referrer wherein it was advised that the works were constructed as a replacement to the previous attached structures which had fallen into disrepair.

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

- (a) The development consisting of rear/ side single story extensions at the residential dwelling constructed as a replacement to the previous attached structure 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 said development falls outside the scope of the Planning and Development Section 4 (1) (h) of the Planning and Development Act 1963, because this Section does not include works for replacement of a structure as exempted development.
- (c) The said development falls outside the scope of the Planning and Development Regulations 1967 s.i. No. 176- Part 1 Exempted Development – General, Class 1 - Developments within the curtilage of a dwelling because this Class does not include works for replacement of a 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 rear/side single story extension at the residential dwelling known as Tigin Mc Carthy, Ballyvrislaun, Liscannor, Co. Clare, constructed as a



replacement to the previous attached structure constitutes development which is not exempted development as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.



Anne O'Gorman  
Staff Officer  
Planning Department  
Economic Development Directorate

16th April 2025

## **SECTION 5 DECLARATION OF EXEMPTION APPLICATION PLANNERS REPORT**

<b>FILE REF:</b>	R25/ 23
<b>APPLICANT(S):</b>	Therse Mc Murray Hewlett and Edward Mc Murray.
<b>REFERENCE:</b>	Whether the rear/ side single story extension at the residential dwelling known as Tigin Mc Carthy Ballyvrislaun constructed as a replacement to the previous attached structure constitutes development and if so does it constitutes exempted development
<b>LOCATION:</b>	Ballyvrislaun County Clare
<b>DUE DATE:</b>	22 <sup>nd</sup> April 25

### **Site Location**

The building is located at V95 x7y8. There is a derelict vacant dwelling on site with stone flag roof and side extensions on either side.

The structure is not a protected structure although the roof on the original part of the dwelling is Liscannor flag.

### **Recent Planning History on site.**

None

### **Background to Referral**

The applicant is seeking a Section 5 Declaration as to whether the rear/ side single story extension at the residential dwelling known as Tigin Mc Carthy Ballyvrislaun constructed as a replacement to the previous attached structure constitutes development and if so does it constitute exempted development.

The applicant has submitted the following

The single story extension for which determination is respectfully sought was constructed in the early 1970s to replace a pre-existing attached single story structure and has remained in place for over 50 years without objection complained or enforcement proceedings from the Planning authority. Tigin McCarthy is a stone single storey cottage with single story rear and side extensions built in the early 1970s to replace a previous structure that had existed in the same location but it was in a poor state and was replaced by the applicants family for continued domestic use. The plans for the extension were drawn up by the late Councillor Frank Hinchy who employed a respected local builder Martin McDonough from Kilshanny. At the time planning legislation had very recently been introduced in 1964 and Mr. Hinchy gave no indications of planning permission formal or otherwise for a replacement single story extension was required. The dwelling is currently unoccupied and in a derelict state. The applicant is now seeking clarification as to whether the extension constitutes development under the Planning and Development Act (as amended) and if so whether it qualifies as exempt development due to the length of time it has existed without challenge.

**No survey drawings have been submitted so the size of the extensions cannot be verified.**

### **Statutory Provisions**

#### **Planning and Development Act, 1964 (as amended)**

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

#### *Section 2(1) – Interpretation*

*In this Act, except where the context otherwise requires –*

*Works include any act or operation of construction excavation, demolition, extension alteration, repair or renewal.*

Section 2 ‘Works’ are defined in Section 2 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.*

#### *Exempted Development ( 1963 Act)*

*4. —(1) The following shall be exempted developments for the purposes of this Act—*

*(h) development consisting of the carrying out of works for the maintenance, improvement or other alteration 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 of neighbouring structures;*

Planning and Development Regulations 1967 s.i. No. 176

Part 1 Exempted Development – General



## Class 1

The extension of a dwellinghouse by any addition to the rear thereof where the height of the extension does not exceed that of the dwellinghouse and the original floor area is not increased by more than 120 square feet or, in the case of a two-storey extension, 90 square feet on each floor.

Planning & Development Regulations, 1977, ( s.i.no 65) ( came into effect on the 15<sup>th</sup> March 1977)

### Article 10 –

Article 10 (1) subject to Article 11, development of each class specified in column 1 of Part 1 of the Third schedule shall be exempted development for the purposes of this Act provided such development complies with the limitations specified in the said column 1 in relation to the class and with the conditions specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1.

### Third schedule Part 1- Exempted Development - General

#### Development within the cartilage of a dwelling house cast 1

Works for the provision of an extension to the rear of a dwelling house or the conversion for use as part of a dwelling house of any garage store shed or other similar structure attached to the rear or to the side of the dwelling house where the height of any structural additions does not exceed that of the dwelling house and the original floor area of the dwelling house is not increased by more than 18 square metres.

There are no limitations or conditions attached to this class

#### Article 10 (5) states:

Development commands require to the coming into operation of these regulations and which was exempted to development for the purposes of the definition Acts by reason of a provision of regulations revoked by these regulations shall notwithstanding such revocation continue to be exempted development for the purpose of the Acts.

Article 11 of the Planning and Development Regulations 1977 ( S.I. no 65 of 1977) sets out restrictions on exemptions as follows and states that development to which Article 10 relates shall not be exempted development for the purposes of the act if the carrying out of the 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 to the view of persons using any public road at or near any bend corner junction or intersection,*

*(iv) Contravene any building regulation made under section 86 of the act of 1963 and any bylaw in force under section 41 of the public health Ireland act 1878 in the area in which the land to which the development relates is situated*

*(v)comprise the erection construction extension or renewal of the 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 the development plan for the area are pending the variation of the development plan for the making of a new development in the draft variation of the development plan or the draft new development plan consist of our comprised the carrying out under a public Rd. of works other than a connection to a sewer water main gas main electricity supply line or cable or any work specified in class 21 or 22 of Part 1 of the Third schedule*

*(vi)Restrict a view or prospect of special amenity value or specially interested the preservation of which is an objective of the development plan for the area in which the development is proposed or pending the variation of the development plan or the make of new development plan in the draft variation of the development plan or the draft new plan.*

*(vii)Consist of or comprise the extension alteration repair or renewal of an unauthorized structure or a structure in use which is unauthorized use*

*(viii) consist of the alteration or demolition of a building or other structure other than an alteration consisting of the painting of any previously painted part of such building or structure where the building or structure is specified in the development plan for the area or painting variation of a development plan or the making of a new development plan in the draft variation of the plan or the draft new development plan as a building or structure or one of a group of buildings of artistic architectural or historic interests the preservation of which is an objective and of the Planning Authority to secure.*

*(ix) consist of the alteration or demolition of the building or other structures other than an alteration consisting of the painting of any previously painted part of such building or structure for such building or structure is specified in the development plan for the area or pending the variation of the development plan or the making of new development plan in the draft variation of the development plan or the draft new development plan as a building or other structure or one of a group of buildings of artistic architectural or historic interest the preservation of which is an objective of the planning authority to secure.*

*(x) consist of the alteration or demolition of the building or other structure rather than an alteration consisting of the painting of any previously painted part of such building or structure for such a building or structure is specified in a development plan for the area or pending the variation of the development plan or the making of a new development plan in the draft variation of the development plan or the draft new development plan as a building or other structure or one of the group of buildings of artistic architectural or historic interest the preservation of which is the intention of the planning authority to consider in the event of an application for permission being made to alter or demolish the building or structure.*

*(xi) Consist of the demolition or such alteration of a building as would preclude or restrict the continuation of an existing use building where it is an objective of the planning authority to secure that the building would remain available for such use and such objective has been included in the development plan for the area or pending the variation of a development plan or the making of new development plan in the draft variation of the development plan or the draft new development plan.*

*(xii) Consist of the fencing during closure of any land virtually open or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes or as a means of access to many seashore mountain Lakeshore riverbank or other place of natural beauty or recreational utility or*

*(xiii) obstruct any public right of way .*

### Assessment

The agent has advised the following in the documents submitted:

#### Particulars of the Development

- The proposed works do not fall within the scope of Section 4 because this section does not expressly include for extensions.
- The applicant states the works were carried out in the early 70s but does not state what year the extensions were constructed and so it is not clear if the 1967 or the 1977 Regulations apply.
- No scaled drawings have been submitted of the structure and no detail of internal floor area. Having regard to google street finder there are extensions to both sides of the house (as well as the rear)
- The 1967 Regulations (Class 1) only allow for rear extensions of a limited floor area to be considered exempt and the subject development included works on the sides as well as rear.
- The 1977 Regulations (Class 1) states that works for the provision of an extension to the rear of a dwelling house or the conversion for use as part of a dwelling house of any garage store shed or other similar structure attached to the rear or to the side of the dwelling house where the height of any structural additions does not exceed that of the dwelling house and the original floor area of the dwelling house is not increased by more than 18 square metres. The applicant advises that the works were built in the early 1970s and as such this regulation may not be relevant to the circumstances.
- In this instance the applicant has advised that side extensions built in the early 1970s were built to **replace** a previous structure that had existed in the same location but it was in a poor state of repair. I therefore consider that neither Section 4 (1) (h) of the Act, the provisions of the 1967 Regulations, which relate to works within the curtilage of a house, make provision for replacement of a structure to be considered exempted development. **Replacement** is outside the scope of the Act and the Regulations in this regard. In conclusion the works are considered to be development but they are not considered to be exempted development.



**Conclusion**

Neither Section 4 (1) (h) of the Act, the provisions of the 1967 Regulations nor those of the 1977 Regulations, which relate to works within the curtilage of a house, make provision for replacement of a structure to be considered exempted development. **Replacement** is outside the scope of the Act and the Regulations in this regard. In conclusion the works are considered to be development but they are not considered to be exempted development.

**Recommendation**

The following questions have been referred to the Planning Authority:

Whether the rear/ side single story extension at the residential dwelling known as Tigin McCarthy Ballyvrislaun constructed as a replacement to the previous attached structure constitutes development and if so does it constitutes exempted development

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

- (a) Sections 2 and 3 and 4 of the Planning and Development Act 1963, as amended,
- (b) Planning and Development Regulations 1967 s.i. No. 176- Part 1 Exempted Development – General, Class 1 -Developments within the curtilage of a dwelling.
- (c) The details indicated in submitted documents from the referrer wherein it was advised that the works were constructed as a replacement to the previous attached structures which had fallen in to disrepair.

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

- a) the development consisting of rear/ side single story extensions at the residential dwelling constructed as a replacement to the previous attached structure 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 said development falls outside the scope of the Planning and Development Section 4 (1) (h) of the Planning and Development Act 1963, because this Section does not include works for replacement of a structure as exempted development.
- (d) The said development falls outside the scope of the Planning and Development Regulations 1967 s.i. No. 176- Part 1 Exempted Development – General, Class 1 - Developments within the curtilage of a dwelling because this Class does not include works for replacement of a structure as exempted development.


**Now therefore Clare County Council (Planning Authority),** hereby decides the rear/ side single story extension at the residential dwelling, known as Tigin Mc Carthy Ballyvrislaun. Liscannor, Co. Clare, constructed as a replacement to the previous attached structure constitutes development which is not exempted development.



**Ellen Carey**

**Executive Planner**

**Date:** 11/04/25 .



**Garreth Ruane**

**Senior Executive Planner**

**Date:** 16/04/25 .

## Appropriate Assessment & Determination

STEP 1. Description of the project/proposal and local site characteristics:	
(a) File Reference No:	R 25/ 23
(b) Brief description of the project or plan:	Extension to former dwelling
(c) Brief description of site characteristics:	Unoccupied building
(d) Relevant prescribed bodies consulted: e.g. DHLGH (NPWS), EPA, OPW	None
(e) Response to consultation:	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 <sup>1</sup>	Distance from proposed development <sup>2</sup> (km)	Connections (Source-Pathway-Receptor)	Considered further in screening Y/N
Cliffs of Moher	Fulmar ( <i>Fulmarus glacialis</i> ) [A009] Kittiwake ( <i>Rissa tridactyla</i> ) [A188] Guillemot ( <i>Uria aalge</i> ) [A199] Razorbill ( <i>Alca torda</i> ) [A200] Puffin ( <i>Fratercula arctica</i> ) [A204] Chough ( <i>Pyrrhocorax</i>		None	No



	pyrrhocorax) [A346]			
Inagh River estuary SAC	<u>Annex I Habitats</u> <ul style="list-style-type: none"> <li>• <i>Salicornia</i> and other annuals colonising mud and sand [1310]</li> <li>• Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330]</li> <li>• Mediterranean salt meadows Juncetalia maritime) [1410]</li> <li>• Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</li> <li>*Fixed coastal dunes along the shoreline with herbaceous vegetation (grey dunes) [2130]</li> </ul>	3.5km	None	No

<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.

### 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.)
<p>Construction phase e.g.</p> <ul style="list-style-type: none"> <li>• Vegetation clearance</li> <li>• Demolition</li> <li>• Surface water runoff from soil excavation/infill/landscaping (including borrow pits)</li> <li>• Dust, noise, vibration</li> <li>• Lighting disturbance</li> <li>• Impact on groundwater/dewatering</li> <li>• Storage of excavated/construction materials</li> <li>• Access to site</li> <li>• Pests</li> </ul>	N/A
<p>Operational phase e.g.</p> <ul style="list-style-type: none"> <li>• Direct emission to air and water</li> <li>• Surface water runoff containing contaminant or sediment</li> <li>• Lighting disturbance</li> <li>• Noise/vibration</li> <li>• Changes to water/groundwater due to drainage or abstraction</li> <li>• Presence of people, vehicles and activities</li> <li>• Physical presence of structures (e.g. collision risks)</li> <li>• Potential for accidents or incidents</li> </ul>	
In-combination/Other	None

**(b) Describe any likely changes to the European site:**

<p>Examples of the type of changes to give consideration to include:</p> <ul style="list-style-type: none"> <li>• Reduction or fragmentation of habitat area</li> </ul>	None
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- 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.

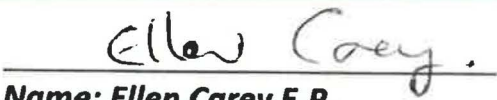
Having regard to the separation distance of the site to the nearest European sites and in the absence of direct or indirect hydrological pathways linking the subject site to European sites it is considered that the extension constructed would not be likely to have a significant effect individually, or in-combination with other plans and projects, on the European sites .

**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:	
(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) <b>Significant effects</b> are likely.	<input type="checkbox"/>	<input type="checkbox"/> Request NIS <input type="checkbox"/> Refuse planning permission
Signature and Date of Recommending Officer:	<div style="text-align: center;">   <b>Name: Ellen Carey E.P.</b> </div>	
	11/04/ 25	
Signature and Date of the Decision Maker:		



COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

Therese McMurray Hewlett & Edward McMurray  
Willow Lodge  
Ennistymon Road  
Lahinch  
Co. Clare  
V95 H393

31/03/2025

**Section 5 referral Reference R25-23 – Therese McMurray Hewlett & Edward McMurray**

Is the rear/side single storey extension of the residential dwelling known as Tigin McCarthy, Ballyvrilaun, Liscannor, Co. Clare, V95 X7Y8 constructed as a replacement to the previous attached structure constitutes development under Section 5 of the Planning Development Act 2000 (as amended) and if so, is it exempted development?

A Chara,

I refer to your application received on 26th March 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 Stiúirthóireacht 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

26/03/2025 09:52:23

Receipt No. : L1CASH/0/376926  
\*\*\*\*\* REPRINT \*\*\*\*\*

THERESE HEWLETT  
WILLOW LODGE  
ENNISTYMON ROAD  
LAHINCH, CO. CLARE

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

Total : 80.00 EUR

Tendered :  
CREDIT CARDS 80.00

Change : 0.00

Issued By : L1Cash - Geraldine Melican  
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 [planning@clarecoco.ie](mailto:planning@clarecoco.ie)  
Website [www.clarecoco.ie](http://www.clarecoco.ie)



R25-23

**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	Therese McMurray Hewlett and Edward McMurray  Willow Lodge Ennistymon Road Lahinch Clare V95H 393
(b) Telephone No.:	
(c) Email Address:	
(d) Agent's Name and address:	N/A    <div data-bbox="949 1646 1372 1904" style="text-align: right;"> </div>



## 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?*

Is the rear/side single storey extension of the residential dwelling known as <sup>TIGIN</sup> McCarthy, Ballyvrislaun Liscannor Clare V95 X7Y8 constructed as a replacement to the previous attached structure constitutes as development under Section 5 of the Planning and Development Act 2000 (as amended) and if so is it exempted development as described below?

### (b) Provide a full description of the question/matter/subject which arises wherein a declaration of the question is sought.

The single storey extension for which determination is respectfully sought was constructed in the early 1970's to replace a pre existing attached single storey structure and has remained in place for over 50 years without objection, complaint or enforcement proceedings from the planning authority. Tigin McCarthy, Ballyvrislaun, liscannor V95 X7Y8 is a stone single storey Cottage with single storey rear and side extension built in the early 1970's to replace a previous structure that had existed in the same location but was in a poor state and was replaced by the applicant's family for continued domestic use.

The plans for the extension were drawn up by the late former Councillor Frank Henchy who employed a respected local Builder Martin McDonagh from Kilshanly. At that time planning legislation had very recently been introduced (1964) and Mr Henchy gave no indication that planning permission (formal or otherwise) for a replacement single storey extension was required. The dwelling is currently unoccupied and in a derelict state.

The Applicant is now seeking clarification as to whether the extension constitutes development under the Planning and Development Act 2000 (as amended) and if so, whether it qualifies as exempted development due to the length of time it

has existed without challenge?

has existed without challenge. In accordance with Section 160(6) (a) (i) of the Planning and Development Act 2000 (as amended) the works in question have long exceeded the statutory time frame for any enforcement proceedings.

### (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)*

① Ordnance Survey map in accordance with the PRA records for Folio CE500F outlining the location and dwelling. (2)

② COVERING LETTER

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>Tigin McCarthy,</u> <u>Ballyvrislane</u> <u>Liscannor</u> <u>V95 X7Y8</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>Therese McMurray Hewlett owner</u> <u>Edward McMurray owner</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>	
(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? <i>If so please supply details:</i>	<u>No</u>
(g) Were there previous planning application/s on this site? <i>If so please supply details:</i>	<u>No</u>
(h) Date on which 'works' in question were completed/are likely to take place:	<u>early 19070's</u>

SIGNED: *Therese McMurray*

DATE: 24th March 2025

Therese McMurray Hewlett  
Willow Lodge  
Ennistymon Rd  
Lahinch  
Co. Clare  
V95 H393

21 March 2025  
Planning Department  
Economic Development Directorate  
Clare County Council  
Áras Contae an Chláir  
New Road  
Ennis  
Co. Clare  
V95 DXP2

Re: Request for Declaration on Development at Tigin McCarthy, Ballyvrislane,  
Liscannor, Co. Clare, V95 X7Y8  
Section 5 of the Planning and Development Act 2000 (as amended)

Dear Sir/Madam,

I am writing to request a formal declaration under Section 5 of the Planning and Development Act 2000 (as amended) in relation to a single-storey extension located at the side and rear of the cottage known as Tigin McCarthy, Ballyvrislane, Liscannor, Co. Clare (Eircode: V95 X7Y8).

The extension in question was constructed in the early 1970s to replace a pre-existing attached structure, and has remained in place for over 50 years without objection, complaint, or enforcement proceedings. The property is currently unoccupied and in derelict condition.

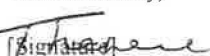
Enclosed is the completed Section 5 request form, along with the required €80 fee and the relevant location map.

I respectfully seek a determination as to whether the extension constitutes development, and if so, whether it is considered exempted development by reason of the passage of time, in accordance with Section 160(6)(a)(i) of the Act.

Should you require any further information or clarification, I would be happy to provide it.

Thank you for your attention to this matter.

Yours sincerely,

  
[Signature]  
Therese McMurray Hewlett



"A" V95 x7y8

CENTRE  
COORDINATES:  
ITM 505412.691479

PUBLISHED: 13/06/2022  
ORDER NO.: 50273963\_1

MAP SERIES: 1:5,000  
MAP SHEET: 4023

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search 'Large Scale Legend'

Caherbarnagh

Baile Uí  
Bhreisleáin  
Ballyvrislaun

LADEN FITZGERALD B.Eng. MIEI OF AF ENGINEERING, DOOLIN,  
CO. CLARE (087-9955689) HEREBY CERTIFY THE FOLLOWING:  
"THE PLOT OF LAND OUTLINED IN RED AND MARKED "A" MEASURES  
0.1591 HECTARES (0.3932 ACRES) ALL BOUNDARIES BEING TRUE AND ACCURATE.

SIGNED

09/10/2023

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0 25 50 75 100 metres  
0 50 100 150 200 250 Feet

