



RL 6960 6/40 2IE.

COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Registered Post

Extern Ireland
Kreston House,
Arran Quay,
Dublin 7

12th February, 2021

Section 5 referral Reference R21-5 – Extern Ireland

Whether the change of use of the existing house to use as a respite residence for people with an intellectual or physical disability or mental health illness, at Beauchamp, Boulanausk, Meelick Co Clare is development and if so is it exempted development.

A Chara,

I refer to your application received on 4th February 2021 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

Kieran O'Donnell
Administrative Officer
Planning Department
Economic Development Directorate

An Roinn Pleanála
An Stiúrtóireacht 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.: R21-5



Comhairle Contae an Chláir
Clare County Council

Section 5 referral Reference R21-5

Whether the change of use of the existing house to use as a respite residence for people with an intellectual or physical disability or mental health illness, at Beauchamp, Boulanalausk, Meelick Co Clare is development and if so is it exempted development.

AND WHEREAS, Extern Ireland 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) Schedule 2, Part 1, Class 14 of the Planning and Development Regulation 2001 (as amended)
- (c) The restrictions on exempted development as set out in Part 2, Section 9 of the Planning and Development Regulation 2001 (as amended)
- (d) The details as to the proposed use of the subject dwelling as per the details submitted with this Section 5 Referral as received by the Planning Authority on 4th February 2021.

And whereas Clare County Council has concluded:

Development consisting of a change of use from use as a house to use as a residence for persons with an intellectual or physical disability or mental health illness and the persons caring for such persons constitutes development and is exempted development having regard to Schedule 2, Part 1, Class 14 of the Planning and Development Regulation 2001 (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 change of use of the existing house to use as a respite residence for people with an intellectual or physical disability or mental health illness, at Beauchamp, Boulanausk, Meelick constitutes development which is exempted development as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.



Kieran O'Donnell
Administrative Officer
Planning Department
Economic Development Directorate

th
12 February, 2021

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:

77136.

Reference Number:

R21-5

Date Referral Received:

4th February 2021

Name of Applicant:

Extern Ireland

Location of works in question:

Beauchamp, Boulanalausk, Meelick Co Clare

Section 5 referral Reference R21-5 – Extern Ireland

Whether the change of use of the existing house to use as a respite residence for people with an intellectual or physical disability or mental health illness, at Beauchamp, Boulanalausk, Meelick Co Clare is 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) Schedule 2, Part 1, Class 14 of the Planning and Development Regulation 2001 (as amended)
- (c) The restrictions on exempted development as set out in Part 2, Section 9 of the Planning and Development Regulation 2001 (as amended)
- (d) The details as to the proposed use of the subject dwelling as per the details submitted with this Section 5 Referral as received by the Planning Authority on 4th February 2021.

AND WHEREAS Clare County Council has concluded:

Development consisting of a change of use from use as a house to use as a residence for persons with an intellectual or physical disability or mental health illness and the persons caring for such persons constitutes development and is exempted development having regard to Schedule 2, Part 1, Class 14 of the Planning and Development Regulation 2001 (as amended)

ORDER: Whereas by Chief Executive's Order No. HR 334 dated 2nd June 2020, 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 Garreth Ruane, A/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, A/ Senior Executive Planner, hereby declare that the change of use of the existing house to use as a respite residence for people with an intellectual or physical disability or mental health illness, at Beauchamp, Boulanausk, Meelick Co Clare **constitutes development which is exempted development** under Article 10 of Planning and Development Regulations, 2001 as amended.

Signed: _____


GARRETH RUANE
A/SENIOR EXECUTIVE PLANNER

Date: 12th February 2021

CLARE COUNTY COUNCIL
SECTION 5 DECLARATION OF EXEMPTION APPLICATION

FILE REF:	R21-5
APPLICANT(S):	Extern Ireland
REFERENCE:	Whether the change of use of the existing house to use as a respite residence for people with an intellectual or physical disability or mental health illness, at Beauchamp, Boulanalausk, Meelick Co. Clare is development and if so, is it exempted development.
LOCATION:	Beauchamp, Boulanalausk, Meelick Co. Clare
DUE DATE:	03-03-21

Site Location

The subject property (a dwelling) is located at Beauchamp, Boulanalausk, Meelick Co. Clare. There is an existing house on the site to which land registry reference number applies.



Figure 1: Location of subject property.



Figure 2; Front of subject dwelling.

Planning History

On site

95-1204

Applicant Name:	Mr & Mrs George & Anne Beacon
Development Description:	To retain building in it's present form.
Development Address:	Boulaunacusk, Meelick.

Retention permission was granted subject to 2 conditions.

Background to Referral

This Referral under Section 5(3)(a) of the Planning and Development Act 2000 (as amended) has been made by Extern Ireland (a registered charity).

Extern Ireland is seeking a Section 5 Declaration as to whether: Development consisting of a change of use from use as a house to use as a residence for persons with an intellectual or physical disability or mental health illness and the persons caring for such persons, constitutes development and is so if this development is exempted development.

It is stated in the details as submitted that Extern consider that this use may be exempted development as per Class 14 of the Planning and Development Regulations 2001 (as amended). It is also stated that Extern will abide by the limitations as apply to any such exempted development provision. It is stated that the number of service users (persons with disability or mental health illness) living in this dwelling will not exceed 6 and the number of resident cares shall not exceed 2.

'Extern' is a charity that supports people with a range of social issues including special needs, homeless persons, refugees, the traveller community, persons with mental health issues, persons with drug and alcohol issues.

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*.

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.

In this case the proposed development is considered to constitute 'development' as it involves a material change of use of the existing dwelling from use as a private residence to use for the provision of respite care. The proposed development does not constitute 'works' as per the details submitted, no alterations are proposed to the subject dwelling.

Planning and Development Regulations 2001 (as amended)

Schedule 2, Part 1, Class 14 of the Planning and Development Regulations 2001 (as amended) provides for the following class of exempted development.

CLASS 14

Development consisting of a change of use—

- (a) from use for the sale of hot food for consumption off the premises, or for the sale or leasing or display for sale or leasing of motor vehicles, to use as a shop,
- (b) from use as a public house, to use as a shop,
- (c) from use for the direction of funerals, as a funeral home, as an amusement arcade or a restaurant, to use as a shop,
- (d) from use to which class 2 of Part 4 of this Schedule applies, to use as a shop,
- (e) from use as 2 or more dwellings, to use as a single dwelling, of any structure previously used as a single dwelling,
- (f) **from use as a house, to use as a residence for persons with an intellectual or physical disability or mental illness and persons providing care for such persons.**

The number of persons with an intellectual or physical disability or a mental illness living in any such residence shall not exceed 6 and the number of resident carers shall not exceed 2.

Appropriate Assessment

Having regard to the nature and scale of the proposed change of use and the absence of proximity or connectivity to a European Site, no Appropriate Assessment issues arise and I do not consider that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects, on a European Site.

Assessment

Basis of Referral

The applicant is seeking a Section 5 Declaration as to whether the following can be considered to be exempted development.

Development consisting of a change of use from use as a house to use as a residence for persons with an intellectual or physical disability or mental health illness and the persons caring for such persons constitutes development and is so if this development is exempted development.

Conclusion

Having regard to details as submitted, as well as the provisions of Sections 2, 3, and 4 of the Planning and Development Act, 2000, as amended, Schedule 2, Part 1, Class 14 of the Planning and Development Regulations 2001 (as amended) and the restrictions on exempted development as set out in Part 2, Section 9 of the Planning and Development Regulations 2001 (as amended) I am satisfied that the stated development is exempted development in accordance with Schedule 2, Part 1, Class 14 of the Planning and Development Regulations 2001 (as amended).

*Noted
to*

Recommendation

The following question has been referred to the Planning Authority:

Does development consisting of a change of use from use as a house to use as a residence for persons with an intellectual or physical disability or mental health illness and the persons caring for such persons constitutes development and is so, if this development is exempted development.

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) Schedule 2, Part 1, Class 14 of the Planning and Development Regulations 2001 (as amended).
- (c) The restrictions on exempted development as set out in Part 2, Section 9 of the Planning and Development Regulations 2001 (as amended)
- (d) The details as to the proposed use of the subject dwelling as per the details submitted with this Section 5 Referral as received by the Planning Authority on 4th February 2021.

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

Development consisting of a change of use from use as a house to use as a residence for persons with an intellectual or physical disability or mental health illness and the persons caring for such persons constitutes development and is exempted development having regard to Schedule 2, Part 1, Class 14 of the Planning and Development Regulations 2001 (as amended).

Therefore, Clare County Council (Planning Authority), hereby deems that the stated change of use is development and is exempted development.

A. M. Hennelly 11-02-21

Annemarie Hennelly

Executive Planner

Date: 11-02-21

Garreth Ruane

Garreth Ruane

A/Senior Executive Planner

Date: 11/02/21

Noted
10.



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Extern Ireland
Kreston House,
Arran Quay,
Dublin 7

4th February 2021

Section 5 referral Reference R21-5 – Extern Ireland

Whether the change of use of the existing house to use as a respite residence for people with a disability which is located at Beauchamp, Boulanausk, Meelick Co Clare is development and if so is it exempted development.

A Chara,

I refer to your application received on 4th February, 2021 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

Josephine Connors
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



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
 Website: www.clarecoco.ie



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	EXTERN IRELAND, KRESTON HOUSE, ARRAH QUAY DUBLIN 7 D07 K271
(b) Telephone No.:	<div style="background-color: black; width: 150px; height: 20px; display: inline-block;"></div> / 061-423070 01-5639402
(c) Email Address:	ger.fahy@extern.org
(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?

Change of use; of this property under class 14 of the planning and development regulations. I am hoping planning will be exempt

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

EXTERN have been commissioned by the HSE Disability Services to provide respite for people with a disability at this property. Therefore EXTERN, under class 14 of the Planning and development regulations EXTERN are looking for exemption citing "Development consisting of a change of use from use as a house, to use as a residence for persons with an intellectual or physical disability or mental health problems and person care for such persons". EXTERN will abide by this limiting residence as cited "the number of persons with an intellectual or physical disability or mental health problems living in such residence shall not exceed 6 and number of resident carers shall not exceed 2."

- (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)

Site location map attached.

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>Beauchamp,</u> <u>BOULANACAU SK,</u> <u>MEEELICK,</u> <u>CO. CLARE</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>PURCHASING THIS PROPERTY</u> <u>ON CONDITION OF THIS</u> <u>EXEMPTION</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>ANN BEACOM, BEAUCHAMP,</u> <u>BOULANACAU SK,</u> <u>MEEELICK,</u> <u>CO. CLARE</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>N/A</u>
(h) Date on which 'works' in question were completed/are likely to take place:	<u>01/03/2021</u>

SIGNED:

[Signature]
CEA 4047

DATE:

04/02/2021

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:

COMHAIRLE

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

04/02/2021 14:42:46

Receipt No. : L1CASH/0/312185

***** REPRINT *****

EXTERN IRELAND
KRESTON HOUSE
ARRAN QUAY
DUBLIN 7
D07 K271

R21-5

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 - DEIRDRE FRENCH
From : MAIN CASH OFFICE LODGEMENT AREA
Vat reg No.0033043E