



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

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RL 4096 6300 81E

**Eoin Neville,
The Woodcross Bar,
Cratloe,
Co Clare**

28th September, 2021

Section 5 referral Reference R21-54 – Eoin Neville,

Whether the construction of an outdoor seating area built to comply with Covid Restrictions at The Woodcross Bar is considered development and if so, is it exempted development.

A Chara,

I refer to your application received on 1st September, 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

**Anne O'Gorman
Staff 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.: R21-54



Section 5 referral Reference R21-54

Whether the construction of an outdoor seating area built to comply with Covid Restrictions at The Woodcross Bar is considered development and if so, is it exempted development.

AND WHEREAS, Eoin Neville,

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 –

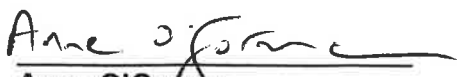
- (a) Sections 2, 3, and 4 of the Planning and Development Act, 2000, as amended,
- (b) The works as indicated in submitted documents received from the referrer on 01st September 2021.
- (c) The forms of exempted development as set out in Schedule 1 and Schedule 2, of the Planning and Development Regulations 2001 (as amended)
- (d) The restrictions on Exempted Development as set out in Article 9 of the Planning and Development Regulations 2001 (as amended).

And whereas Clare County Council has concluded:

- (a) The outdoor seating area and associated structures constitute both 'works' and 'development' as set out in Sections 2 and 3 of the Planning & Development Act, 2000, as amended;
- (b) There are no exempted development provisions in either the Planning & Development Act, 2000, as amended or the Planning & Development Regulations 2001, as amended, to facilitate the works as carried out, and as such the subject works do not constitute 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 construction of an outdoor seating area built to comply with Covid restrictions at the Woodcross Bar, Cratloe, **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

28th September, 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:

78451

Reference Number:

R21-54

Date Referral Received:

1st September, 2021

Name of Applicant:

Eoin Neville,

Location of works in question:

The Woodcross Bar, Cratloe, Co Clare

Section 5 referral Reference R21-54 – Eoin Neville,

Whether the construction of an outdoor seating area built to comply with Covid Restrictions at The Woodcross Bar is considered 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) The works as indicated in submitted documents received from the referrer on 01st September 2021.
- (c) The forms of exempted development as set out in Schedule 1 and Schedule 2, of the Planning and Development Regulations 2001 (as amended)
- (d) The restrictions on Exempted Development as set out in Article 9 of the Planning and Development Regulations 2001 (as amended).

AND WHEREAS Clare County Council has concluded:

- (a) The outdoor seating area and associated structures constitute both 'works' and 'development' as set out in Sections 2 and 3 of the Planning & Development Act, 2000, as amended;
- (b) There are no exempted development provisions in either the Planning & Development Act, 2000, as amended or the Planning & Development Regulations 2001, as amended, to facilitate the works as carried out, and as such the subject works do not constitute exempted development.

ORDER: Whereas by Chief Executive's Order No. HR 152 dated 9th April 2021, Pat Dowling, Chief Executive for Clare County Council, did, pursuant to the powers conferred on him by Section 154 of the Local Government Act 2001, delegate to 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, Gareth Ruane, Senior Executive Planner, hereby declare that the subject works, which consist of; the construction of an outdoor seating area built to comply with Covid restrictions at the Woodcross Bar, Cratloe, is development and is not exempted development.

Signed:



GARRETH RUANE
SENIOR EXECUTIVE PLANNER

Date:

28th September, 2021 *Ao. G*

CLARE COUNTY COUNCIL
SECTION 5 DECLARATION OF EXEMPTION APPLICATION

FILE REF: R21/54
APPLICANT(S): Eoin Neville.
REFERENCE: Whether the construction of an outdoor seating area built to comply with Covid Restrictions at the Woodcross Bar is considered development and if so, is it exempted development.
LOCATION: The Woodcross Bar, Cratloe County Clare.
DUE DATE: 29th September 2021.

Site Location

The subject site and premises are within the settlement of Cratloe, and the Woodcross Bar is on this site. A small outdoor seating area has been constructed onto the side of the Woodcross Bar.



Views of subject works.

Planning History

At this site.

- 02-106

Applicant Name:	Meadowhaven Limited	Location Key:	CRATLOE
Development Address:	Ballymorris,, Cratloe,, Co. Clare.		
Architect Name:	McMahon & Hardiman B. Ahern,		

Permission was granted subject to conditions.

Background to Referral

This Referral under Section 5(3)(a) of the Planning and Development Act 2000 (as amended) has been made by Eoin Neville.

The applicant is seeking a Section 5 Declaration as to:

“Whether the construction of an outdoor seating area built to comply with Covid restrictions at the Wood cross Bar, Cratloe is considered development and if so, is it exempted development”.

The referrer provides additional details, as follows:

- A covered seating area was built at the gable end of the Wood cross Bar.
- This is not a solid structure as there is no foundation.
- The structure was built by using treated timber as a frame.
- The sides are made up of fence panels in a row screwed together.
- To shelter the area plastic cladding was used for the roof.
- Photographs of the structure with the height and length of the structure shown on the photos have been submitted and show that the structure has a height of 7ft 6inches and a length of 15ft 7 inches on its longest side. On the gable side the structure has a height of 9ft 2 inches and a length of 13ft, 7 inches.

Statutory Provisions

(1) Planning and Development Act, 2000 (as amended)

To assess this proposal, regard must 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.

The stated works in this case are considered to be development.

Consideration has also been had to the following Sections of the *Planning and Development Act 2000 (as amended)*

- Section 2; Interpretation
- Section 3 – 'Development'.
- Section 4- 'Exempted development'.

Planning and Development Regulations 2001 (as amended)

In consideration of this referral, consideration has been had to the following.

- Schedule 2, Article 6 'Exempted Development' of the *Planning and Development Regulations 2001 (as amended)*.
- Part 2, Article 9 'Restrictions on Exemptions'

The forms of exempted development provision as set out in Schedules 1 and 2 of the *Planning and Development Regulations 2001 (as amended)* have been considered.

There is no class of exempted development as set out under the *Planning and Development Regulations 2001 (as amended)* under which the stated development could be considered to be exempted development.

Assessment

Basis of Referral

The applicant is seeking a Section 5 Declaration as to.

Whether the construction of an outdoor seating area built to comply with Covid restrictions at the Wood cross Bar, Cratloe is considered development and if so, is it exempted development.

Assessment

Full consideration has been had to the forms of exempted development as set out under Part 2, Article 6 'Exempted Development' of the Planning and Development Regulations 2001 (as amended) and under Section 4 'Exempted development' of the Planning and Development Act 2000 (as amended). There is no form or class of exempted development under which the proposed works can be considered to be exempted development.

Conclusion

Having regard to the above, I consider that the stated works do not benefit from any definition or class of exempted development as set out in the Planning and Development Regulations 2001 (as amended) or the Planning and Development Act 2000 (as amended) and accordingly the subject works as have been carried out are development and are not exempted development.

Recommendation

The following question has been referred to the Planning Authority:

Whether the construction of an outdoor seating area built to comply with Covid restrictions at the Wood cross Bar, Cratloe is considered development and if so, is it exempted development.

The Planning Authority in considering this referral had regard to:

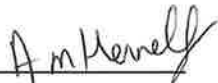
- (a) Sections 2, 3, and 4 of the Planning and Development Act, 2000, as amended,
- (b) The works as indicated in submitted documents received from the referrer on 01st September 2021.
- (c) The forms of exempted development as set out in Schedule 1 and Schedule 2, of the Planning and Development Regulations 2001 (as amended)
- (d) The restrictions on Exempted Development as set out in Article 9 of the Planning and Development Regulations 2001 (as amended).

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

- (a) The outdoor seating area and associated structures constitute both 'works' and 'development' as set out in Sections 2 and 3 of the Planning & Development Act, 2000, as amended;
- (b) There are no exempted development provisions in either the Planning & Development Act, 2000, as amended or the Planning & Development Regulations 2001, as amended, to facilitate the works as carried out, and as such the subject works do not constitute exempted development.

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

The subject works, which consist of; the construction of an outdoor seating area built to comply with Covid restrictions at the Wood cross Bar, Cratloe, is development and is not exempted development.

 28-09-21
Annemarie Hennelly
Executive Planner
Date: 28-09-21


Garreth Ruane
Senior Executive Planner
Date:



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

**Eoin Neville,
The Woodcross Bar,
Cratloe,
Co Clare**

1/9/2021

**Section 5 referral Reference R21-54 – Eoin Neville,
The Woodcross Bar,
Cratloe,
Co Clare**

Whether the construction of a outdoor seating area built to comply with Covid Restrictions at The Woodcross Bar is considered development and if so, is it exempted development.

A Chara,

I refer to your application received on 1st September, 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

**Siobhan Murgovan
Planning Department
Economic Development Directorate**

An Stiúirthóireacht Forbairt Gheilleagrach
Áras Contae an Chláir, Bóthar Nua, Inis, Co. an Chláir, V95 DXP2

Economic Development Directorate
Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2

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**CLARE COUNTY COUNCIL
COMHAIRLE CONTAE AN CHLÁIR**



COMHAIRLE CONTAE AN CHLÁIR
CLARE COUNTY COUNCIL

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

Eoin Neville
The woodcross bar
Craflloe
Co. Clare. Eircode: V95TH64

(b) Telephone No.:

(c) Email Address:

(d) Agent's Name and address:

[Signature]
EIRCODE:

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?

The construction of a outdoor seating area built to comply with covid restrictions at the woodcross bar.

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

Built a covered seating area at the gable end of the woodcross bar. This is not a solid structure as there is no foundation. The structure was built by using 16/4 treated timber as frame. The sides are made up of fence panels in a row screwed together. To shelter the area we used plastic cladding for the roof.

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)

There was no drawing this was made as we went. please find attached photo's with measurements

DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT	
<p>Full Address of the Property/Site/Building for which the declaration sought:</p>	<p>The woodcross bar Cratloe Cross Cratloe Co Clare V95 TH64.4.</p>
<p>(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?</p>	<p>N/A.</p>
<p>(c) Legal interest in the land or structure in question of the person requesting the declaration (Give Details):</p>	<p>N/A.</p>
<p>(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:</p> <p><i>Note: Observations in relation to a referral may be requested from the owner/occupier where appropriate.</i></p>	<p>N/A.</p>
<p>(e) Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?:</p>	<p>NO.</p>
<p>(f) Are you aware of any enforcement proceedings connected to this site? <i>If so please supply details:</i></p>	<p>NO.</p>
<p>(g) Were there previous planning application/s on this site? <i>If so please supply details:</i></p>	<p>NO.</p>
<p>(h) Date on which 'works' in question were completed/are likely to take place:</p>	<p>—</p>

SIGNED: Edy Neville

DATE: 26/8/21



cladding
plastic

7"
51

96



13' 7"

9' 2"

0

AN CHLÁIR

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

01/09/2021 12:10:10

Receipt No. : LICASH/0321514
REPRINT

EOIN NEVILLE
THE WOODCROSS BAR
CRATLOE
CO. CLARE
R21/54



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

COMHAIRLE

Total : 80.00 EUR

CONTAE

Tendered :
Cash 80.00

AN CHLÁIR

Change : 0.00

Issued By : LICASH - Noelette Barry