



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Registered Post

Pauline Collins
Drummoher
Kilnaboy
Co. Clare
V95 YW77

RL 4096 6269 6 IE - P. Collins

RL 4096 6270 5 IE - The Forestry Company

11th November, 2021

Section 5 referral Reference R21-58 – Pauline Collins

Is a change of Broadleaf High Forest to Conifer High Forest at Caherblonnick South development and if so, is it exempted development?

A Chara,

I refer to your application received on 19th October 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

Cc: The Forestry Company, Eastpark House, Marina Commercial Park, Cork T12 P9TP

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.: R21-58



Comhairle Contae an Chláir
Clare County Council

Section 5 referral Reference R21-58

Is a change of Broadleaf High Forest to Conifer High Forest at Caherblonnick South development and if so, is it exempted development?

AND WHEREAS, Pauline Collins has requested a declaration from Clare County Council on the said question.

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


- (a) Sections 2, 3 and 4 (1) (i) and (4A) of the Planning and Development Act, 2000, as amended,
- (b) The provisions of part 3 Exempted Development –Rural- Article 6. Class 16 and associated limitations and conditions,
- (c) The extent of the plantation being 3.39ha as indicated in submitted documents from the referrer.

And whereas Clare County Council has concluded:

- (a) Clearing the present area of failed ash trees to progress replanting of 85% coniferous trees and 15% broadleaf trees at Caherblonnick Co. Clare, 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 development of clearing the present area of failed ash trees to progress replanting of 85% coniferous trees and 15% broadleaf trees at Caherblonnick South Co. Clare, complies with the conditions and limitations of Schedule 2 Part 3 (Exempted Development - Rural - Article 6), Class 16 of the Planning and Development Regulations 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 clearing the present area of failed ash trees to progress replanting of 85% coniferous trees and 15% broadleaf trees at Caherblonnick South Co. Clare is development and is exempted development.


Anne O'Gorman
Staff Officer
Planning Department
Economic Development Directorate

11th November, 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: 78706
Reference Number: R21-58
Date Referral Received: 19th October 2021
Name of Applicant: Pauline Collins
Location of works in question: Caherblonnick South, Co. Clare

Section 5 referral Reference R21-58 – Pauline Collins

Is a change of Broadleaf High Forest to Conifer High Forest at Caherblonnick South development and if so, is it exempted development?

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

- (a) Sections 2, 3 and 4 (1) (i) and (4A) of the Planning and Development Act, 2000, as amended,
- (b) The provisions of part 3 Exempted Development –Rural- Article 6. Class 16 and associated limitations and conditions,
- (c) The extent of the plantation being 3.39ha as indicated in submitted documents from the referrer.

AND WHEREAS Clare County Council has concluded:

- (a) Clearing the present area of failed ash trees to progress replanting of 85% coniferous trees and 15% broadleaf trees at Caherblonnick Co. Clare, 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 development of clearing the present area of failed ash trees to progress replanting of 85% coniferous trees and 15% broadleaf trees at Caherblonnick South Co. Clare, complies with the conditions and limitations of Schedule 2 Part 3 (Exempted

Development - Rural - Article 6), Class 16 of the Planning and Development Regulations 2001 as amended,

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 clearing the present area of failed ash trees to progress replanting of 85% coniferous trees and 15% broadleaf trees at Caherblonnick South Co. Clare is development and is exempted development.

Signed:



GARETH RUANE
SENIOR EXECUTIVE PLANNER

Date:

11th November, 2021 

CLARE COUNTY COUNCIL SECTION 5 DECLARATION OF EXEMPTION APPLICATION PLANNERS REPORT	
FILE REF:	R21-58
APPLICANT(S):	Pauline Collins
REFERENCE:	Whether a change of broadleaf high forest to conifer High Forest at Caherblonick South is development and if so is it exempted
LOCATION:	Caherblonick South , Co. Clare
DUE DATE:	15 th November 2021

Site Location

The site of the proposed development is located, within a rural area. The site contains ash forestry and is bound to the south by further forestry (Tree Type not distinguishable from aerial photo).

Recent Planning Application History

None

Enforcement History

None

Background to Referral

The applicant is seeking a Section 5 Declaration as to whether the clearing the present area of failed ash trees to provide for replanting and replacement with Sitka Spruce (85 %) and Broadleaf (15 %) at Caherblonick , Co. Clare is considered development and if so, is it exempted development.

Development details and specification

The following has been submitted:

- Ordnance Survey maps that clearly show the location of the site;
- Declaration request form fully completed, with written description of the proposal.

Flood Risk

Following examination of the relevant GIS information in relation to flood risk assessment, it is noted that the proposed development is located outside Flood Zones A and B.

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.

Section 4(1) (i) of the *Planning and Development Act 2000, as amended* states the following shall be exempted development:

development consisting of the thinning, felling or replanting of trees, forests or woodlands or works ancillary to that development, but not including the replacement of broadleaf high forest by conifer species;

Environmental Impact Assessment & Appropriate Assessment

Section 4 (4) states

Notwithstanding paragraph (i) of subsection 1 and any regulation under subsection 2 development shall not be exempted development of an Environmental Impact assessment or an appropriate assessment of the development is required.

Section (4 A) states

Notwithstanding subsection 4 the Minister may make regulations prescribing development or any class of development that is:

(a) authorised, or required to be authorised by or under any statute (other than this Act) whether by means of a licence, consent, approval or otherwise, and

(b) as respects which an environmental impact assessment or an appropriate assessment is required,

to be exempted development.]

Planning & Development Regulations, 2001, as amended

Article 6 refers to Exempted Development and states that subject to Article 9, development of a class specified in column 1 of Part 1 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 1 opposite the mention of that class in the said column 1.

Part 3 Exempted Development- Rural- Article 6

Class 16

The replacement of broadleaf high forest by conifer species.

Conditions and limitations

The area involved shall be less than 10 ha.

Planning and Development Regulations 2001-2021 – Article 8F:

8F. Development (other than the replacement of broadleaf high forest by conifer species) that is licensed or approved under section 6 of the Forestry Act 2014 (No. 31 of 2014) and that consists of –

(a) the thinning, felling or replanting of trees, forests or woodlands,

(b) works ancillary thereto,

shall be exempted development.

Assessment

Basis of Referral

The applicant is seeking a Section 5 Declaration as to whether the clearing the present area of failed ash trees to progress replanting of 85% coniferous trees and 15% broadleaf trees is considered development and if so, is it exempted development.

Notwithstanding the provisions of Section 4 (4) of the Act and Article 8 F of the Planning and Development Regulations, Section (4A) makes provision for the Minister to make regulations prescribing development or any class of development that is authorised, or required to be authorised by or under any statute (other than this Act) whether by means of a licence, consent, approval or otherwise, and as respects which an environmental impact assessment or an appropriate assessment is required to be exempted development for the purposes of the Planning Acts. In this instance Part 3 Exempted Development- Rural- Article 6 Class 16 states that the replacement of broadleaf high forest by conifer species is exempted development provided the area involved shall be less than 10 ha. The total area proposed for replanting is 3.39ha.

In this regard it is noted that the proposed planting will require a licence (under the Forestry Act 2014) and the question of Environmental Impact Assessment and Appropriate Assessment in respect of the proposed development is dealt with through the Forestry Licence process.

Conclusion

Having regard to the information provided, it is considered that clearing the present area of failed ash trees to progress replanting of 85% coniferous trees and 15% broadleaf trees under the constitutes both 'works' and 'development'. Regard has also been had to Section (4A) (Planning and Development Act 2000 and class 16 (Part 3 Exempted Development- Rural- Article 6) of the Regulations made there under the replacement of broadleaf high forest by conifer species is exempted development and the area is less than 10 ha.

Recommendation

The following questions have been referred to the Planning Authority:

Whether clearing the present area of failed ash trees to progress replanting of 85% coniferous trees and 15% broadleaf trees at Caherblonnick South Co. Clare is or is not development and is or is not exempted development.

The Planning Authority in considering this referral had regard to:

- (a) Sections 2, 3 and 4 (1) (i) and (4A) of the Planning and Development Act, 2000, as amended,
- (b) The provisions of part 3 Exempted Development –Rural- Article 6. Class 16 and associated limitations and conditions,
- (c) The extent of the plantation being 3.39ha as indicated in submitted documents from the referrer.

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

- (a) Clearing the present area of failed ash trees to progress replanting of 85% coniferous trees and 15% broadleaf trees at Caherblonnick Co. Clare, 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,
- (d) the said development of clearing the present area of failed ash trees to progress replanting of 85% coniferous trees and 15% broadleaf trees at Caherblonnick South Co. Clare, ^{conditions & limitations Schedule 2} complies with the provisions of Part 3 (Exempted Development- Rural- Article 6) Class 16 and ~~conditions and limitations there under~~ of the Planning and Development Regulations 2001 as amended,

Now therefore Clare County Council (Planning Authority), hereby decides that clearing the present area of failed ash trees to progress replanting of 85% coniferous trees and 15% broadleaf trees at Caherblonnick South Co. Clare is development and is exempted development.

Ellw Cary

Executive Planner

Date: 3rd Nov 21.

E. Ryan

Senior Executive Planner

Date: 09/11/21.

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: planoft@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	Pauline Collins Drummoher Kilnaboy Co. Clare. V95YW77
(b) Telephone No.:	---
(c) Email Address:	NA
(d) Agent's Name and address:	THE FORESTRY COMPANY EASTPARK HOUSE MARINA COMMERCIAL PARK CORK. T12P9TP

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 a change of Broadleaf High Forest to Conifer High Forest at Caherblonnick South development and if so is it exempted development?

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

A plot of Broadleaf High Forest (Ash) is suffering from Ash dieback and all Ash is to be removed and replaced with Sitka Spruce (85%) and Broadleaf (15%)

- (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)

Certified Species Map and 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:	Caherblonick, Kilnaboy, Co. Clare
(b) Do the works in question affect a Protected Structure or are within the curtilage of a Protected Structure? If yes, has a Declaration under Section 57 of the Planning & Development Act 2000 (as amended) been requested or issued for the property by the Planning Authority?	NA
(c) Legal interest in the land or structure in question of the person requesting the declaration (Give Details):	Owner
(d) If the person in (c) above is not the owner and/or occupier, state the name and address of the owner of the property in question: <i>Note: Observations in relation to a referral may be requested from the owner/occupier where appropriate.</i>	NA
(e) Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?:	Yes
(f) Are you aware of any enforcement proceedings connected to this site? <i>If so please supply details:</i>	No
(g) Were there previous planning application/s on this site? <i>If so please supply details:</i>	No
(h) Date on which 'works' in question were completed/are likely to take place:	2022

SIGNED: Mrs. Pauline CollinsDATE: 11.10.2021

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

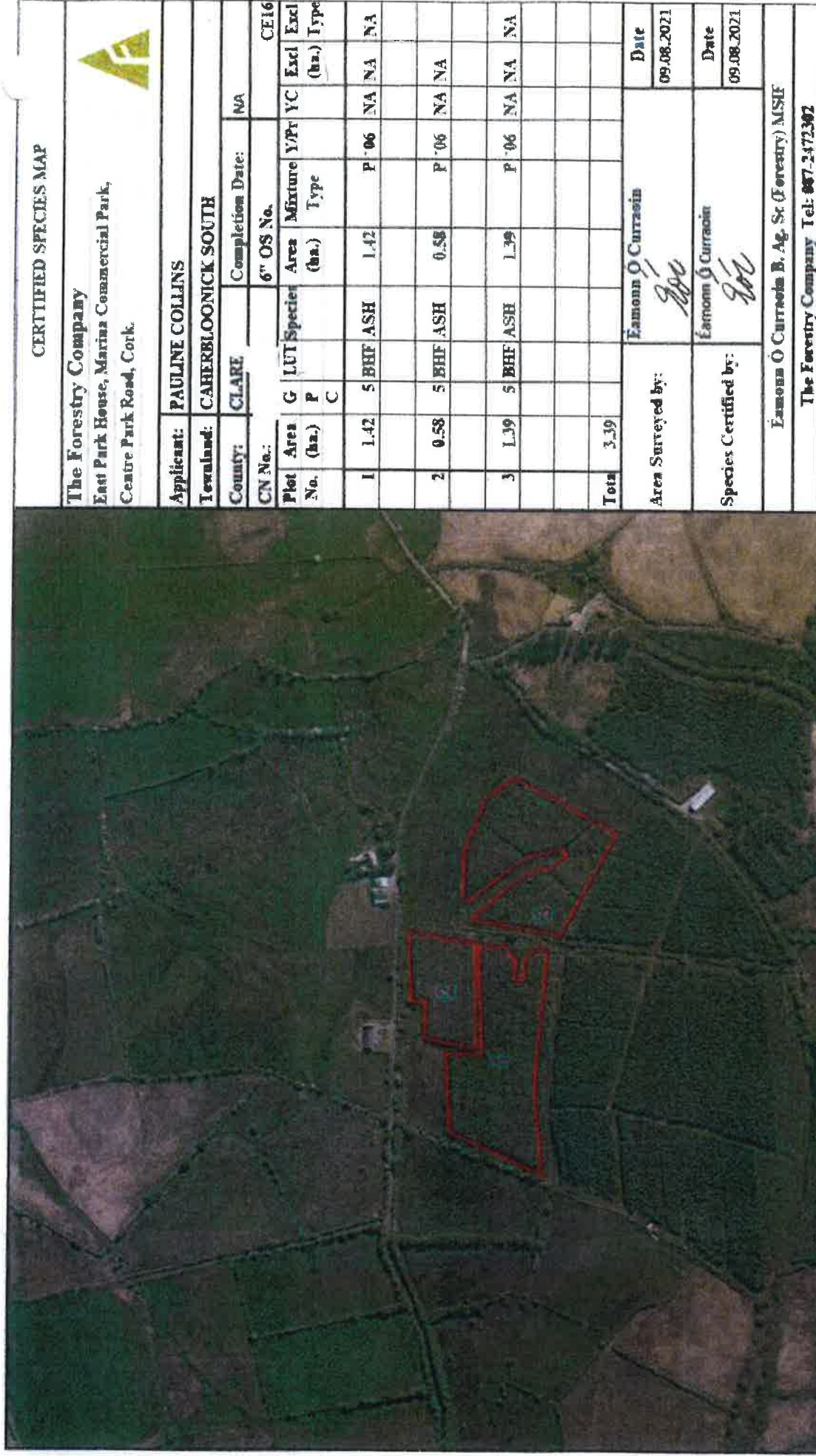
- (i) The request for a declaration under Section 5 must be accompanied by 2 copies of site location map based on the Ordnance Survey map for the area of a scale not less than 1:1000 in urban areas and 1:2500 in rural areas and should clearly identify the site in question.
- (ii) The request for a declaration **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:.....			



CERTIFIED SPECIES MAP

The Forestry Company
 East Park House, Marina Commercial Park,
 Centre Park Road, Cork.



Applicant: PAULINE COLLINS
Townland: CAHERBLOONICK SOUTH

County: CLARE **Completion Date:** NA

CN No.: **6" OS No.:** **CE16**

Plot No.	Area (ha.)	G	LUT Species	Area (ha.)	Mixture Type	YPr	YC	Excl (ha.)	Excl Type
1	1.42	5	BHF ASH	1.42		P 06	NA	NA	NA
2	0.58	5	BHF ASH	0.58		P 06	NA	NA	NA
3	1.39	5	BHF ASH	1.39		P 06	NA	NA	NA
Total	3.39								

Area Surveyed by: Éamonn Ó Curraoin **Date:** 09.08.2021


Species Certified by: Éamonn Ó Curraoin **Date:** 09.08.2021

Éamonn Ó Curraoin B. Ag. Sc (Forestry) MSIF

The Forestry Company Tel: 087-2472302

CERTIFIED SPECIES MAP

The Forestry Company
 East Park House, Marina Commercial Park,
 Centre Park Road, Cork.



Applicant: PAULINE COLLINS										
Townland: CAHERBLOONICK SOUTH										
County: CLARE	Completion Date: NA									
CN No.:	6" OS No.:									
Plot No.	G	LUT	Species	Area (ha.)	Mixture Type	Y/Pt	YC	Excl (ha.)	Excl Type	CE16
1	1.42	5	BHF ASH	1.42		P 06	NA	NA	NA	
2	0.58	5	BHF ASH	0.58		P 06	NA	NA	NA	
3	1.39	5	BHF ASH	1.39		P 06	NA	NA	NA	
Total	3.39									
Area Surveyed by:		Eamonn O Curraoin		Date		09.08.2021				
Species Certified by:		Eamonn O Curraoin		Date		09.08.2021				
Eamonn O Curraoin B. Ag. Sc (Forestry) MSIF										
The Forestry Company Tel: 067-2471362										



The Forestry Company
 East Park House, Marina Commercial Park,
 Centre Park Road, Cork.



Applicant: PAULINE COLLINS

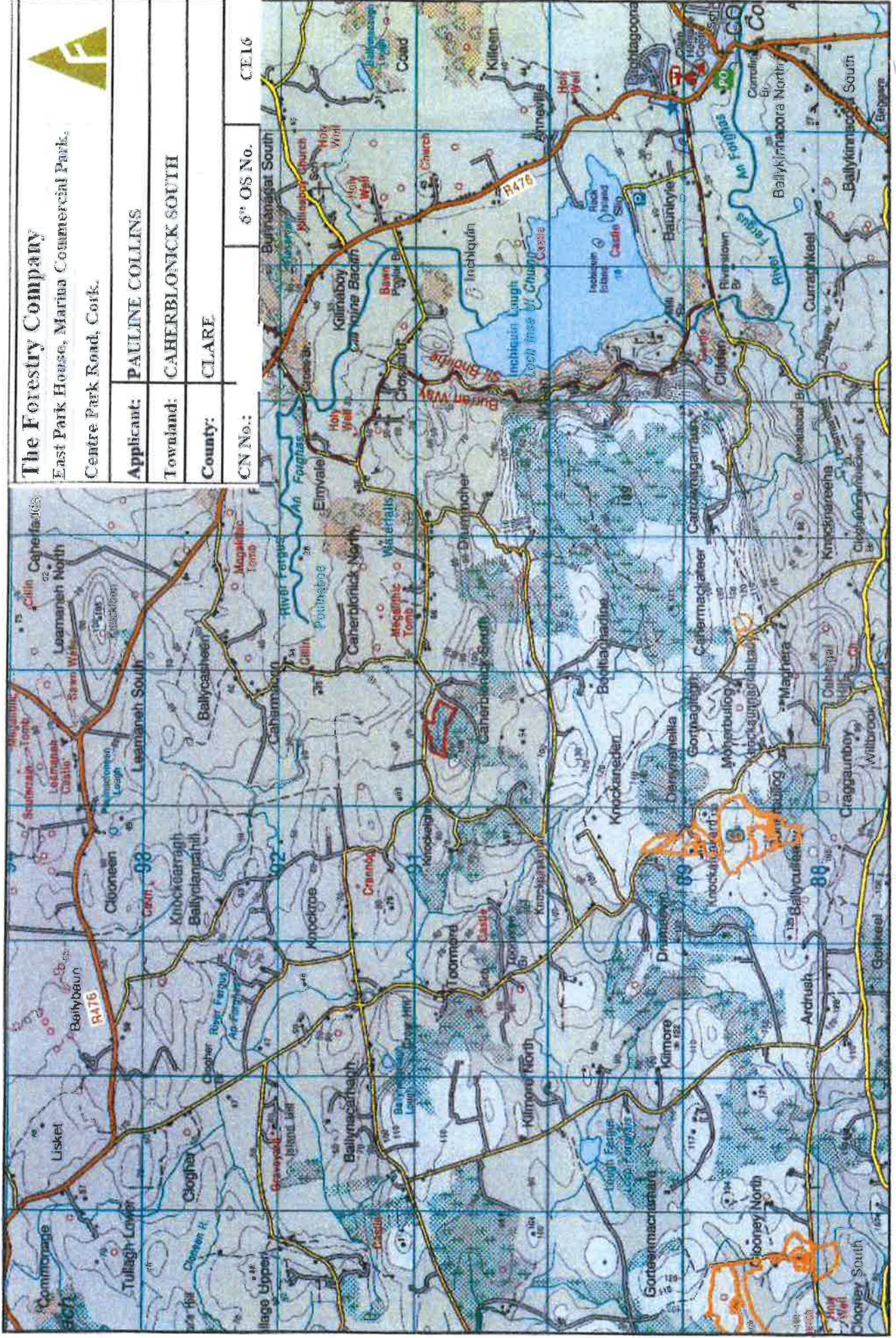
Townland: CAHERBLONICK SOUTH

County: CLARE

CN No.:

6" OS No.

CE16



The Forestry Company

East Park House, Marina Commercial Park,
Centre Park Road, Cork.

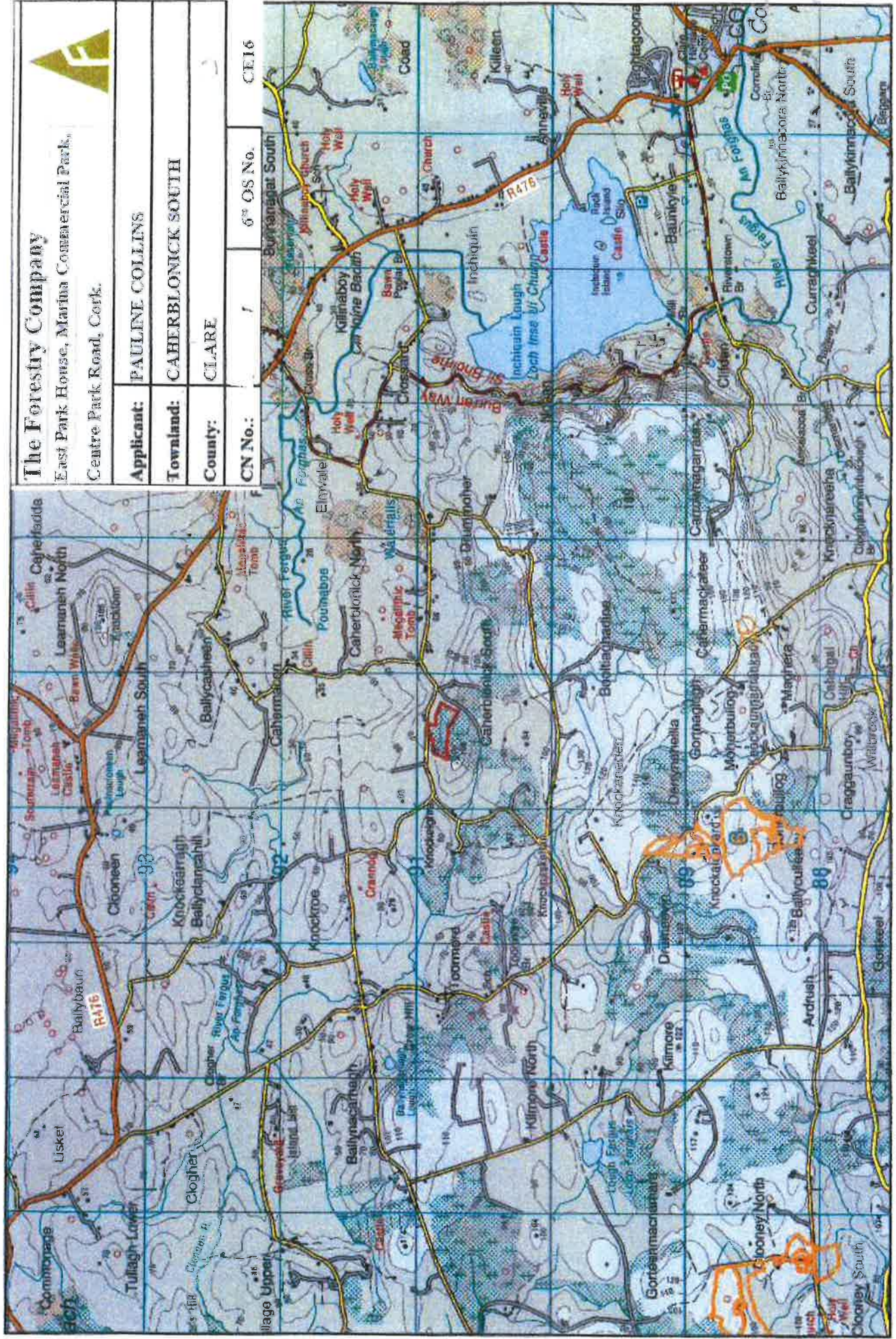


Applicant: PAULINE COLLINS

Townland: CAHERBLONICK SOUTH

County: CLARE

CN No.: 7 **6" OS No.:** CE16



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Contract: CN

Scale 1:35000

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

19/10/2021 11:33:44

Receipt No. : L1CASH/0/323631

REPRINT

PAULINE COLLINS
DRUMMOHER
KILNABOY
CO. CLARE
V95 YW77
R21-58

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

Total : 80.00 EUR

Tendered :
CHEQUES

80.00

Change :

0.00

Issued By : L1CASH - Patricia Quinlivan