



COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

**Registered Post**

Deirdre Foran  
Lisdoonvarna  
Co. Clare

RL 4096 6273 61E

**Your Client: Michael Considine**

**8th March, 2022**

**Section 5 referral Reference R22-10 – Michael Considine**

Is the construction of a machinery shed at Cloghauninchy, Quilty, Co. Clare, considered to be development and if so, is it exempted development?

A Chara,

I refer to your application received on 10th February 2022 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

The Planning Authority has considered the matter and I attach herewith the Council's findings in this matter.

Where a declaration is issued by the Planning Authority, any person issued with a declaration, may on payment to an Bord Pleanála of the required fee, refer a declaration for review by An Bord Pleanála within 4 weeks of the date of the issuing of the declaration. Details on making such appeal are available on the Board's website at [www.pleanala.ie](http://www.pleanala.ie)

Mise, le meas

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

An Roinn Pleanála  
An Stiúrthóireacht Forbairt Gheilleagrach  
Áras Contae an Chláir, Bóthar Nua, Inis, Co. an Chláir, V95 DXP2

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



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

**Reference No.: R22-10**



Comhairle Contae an Chláir  
Clare County Council

**Section 5 referral Reference R22-10**

**Is the construction of a machinery shed at Cloghauninchy, Quilty, Co. Clare, considered to be development and if so, is it exempted development?**

**AND WHEREAS, Michael Considine** has requested a declaration from Clare County Council on the said question.

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

- a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended
- c) Class 3 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- d) Class 9 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- e) The works as indicated in submitted documents from the referrer.

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

- (a) the construction of a machinery shed at Cloghauninchy, Quilty, County 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 construction of a machinery shed at Cloghauninchy, Quilty, County Clare is not exempted development having regard to Class 3 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended as the proposed shed is not within the curtilage of a house, the shed would be forward of the front building line of the adjacent dwelling, its floor area would exceed 25 square metres, the external finishes would not conform with the adjacent dwelling, the shed would exceed 4 metres in height, and it would be used for storage associated with a construction business and not for a purpose incidental to the enjoyment of the applicants dwelling.
- (d) the construction of a machinery shed at Cloghauninchy, Quilty, County Clare is not exempted development having regard to Class 9 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended as the shed would not be used for agricultural or forestry purposes, and it would be within 100 metres of residential buildings without the consent in writing of the owners.

**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 a machinery shed at Cloghauninchy, Quilty, County Clare is development and 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**

**8th March, 2022**

**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:

79400

Reference Number:

R22-10

Date Referral Received:

10th February 2022

Name of Applicant:

Michael Considine

Location of works in question:

Cloghauninchy, Quilty, Co. Clare

**Section 5 referral Reference R22-10 – Michael Considine**

Is the construction of a machinery shed at Cloghauninchy, Quilty, Co. Clare, considered to be development and if so, is it exempted development?

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

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended
- (c) Class 3 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (d) Class 9 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (e) The works as indicated in submitted documents from the referrer.

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

- (a) the construction of a machinery shed at Cloghauninchy, Quilty, County 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 construction of a machinery shed at Cloghauninchy, Quilty, County Clare is not exempted development having regard to Class 3 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended as the proposed shed is not within the curtilage of a house, the shed would be forward of the front building line of the adjacent dwelling, its floor area would exceed 25 square metres, the external finishes would not conform with the adjacent dwelling, the shed would exceed 4 metres in height, and it would be used for storage associated with a construction business and not for a purpose incidental to the enjoyment of the applicants dwelling.
- (d) the construction of a machinery shed at Cloghauninchy, Quilty, County Clare is not exempted development having regard to Class 9 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended as the shed would not be

used for agricultural or forestry purposes, and it would be within 100 metres of residential buildings without the consent in writing of the owners.

**ORDER:** Whereas by Chief Executive's Order No. HR 152 dated 9<sup>th</sup> 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 Gareth 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 construction of a machinery shed at Cloghauninchy, Quilty, County Clare is development and is not exempted development.

**Signed:**

  
\_\_\_\_\_  
**GARETH RUANE**  
**SENIOR EXECUTIVE PLANNER** A.G.

**Date:**

**8th March, 2022**

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

<b>FILE REF:</b>	R22-10
<b>APPLICANT(S):</b>	Michael Considine
<b>REFERENCE:</b>	Whether the construction of a machinery shed at Cloghauninchy, Quilty, County Clare is or is not development and is or is not exempted development.
<b>LOCATION:</b>	Cloghauninchy, Quilty, County Clare
<b>DUE DATE:</b>	09 <sup>th</sup> March 2022

**Site Location**

The proposal site is located in a rural area approximately 3km south west of the settlement of Quilty. It is to the north of Lough Donnell and is to the east of the coast. It is to the south of the LS6202 local secondary road and accommodates a single storey dwelling and a detached garage. The proposed shed would be located on level grassed area to the east of the dwelling and is separated from the dwelling site by a boundary wall. There are 2 dwellings on the sites to the immediate east. There are also dwellings and a farmyard complex to the south west of the site. The site is located within a "Heritage Landscape". It is also within a rural area that is designated as experiencing "Strong Urban Pressure". The receiving landscape is level and open.

**Recent Planning History**

**Onsite**

97-1589 – Granted – Michael Considine - construct a bungalow dwelling, septic tank and entrance.

**South West**

16-433 – Granted - Andrew Clancy - to construct a dwelling house, detached garage, sewage treatment system, infiltration area and all ancillary site works.

**Background to Referral**

This Referral under Section 5(3)(a) of the Planning and Development Act 2000 (as amended) has been made by Michael Considine. He states that they he is the legal owner of the site.

The applicant is seeking a Section 5 Declaration as to whether the construction of a machinery shed at Cloghauninchy, Quilty, County Clare is or is not development and is or is not exempted development.

## 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.*

### 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 3 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 3 opposite the mention of that class in the said column 1.

### Planning and Development Regulations 2001 (as amended) Schedule 2, Part 1, Class 3

*The construction, erection or placing within the curtilage of a house of any tent, awning, shade or other object, greenhouse, garage, store, shed or other similar structure.*

- 1. No such structure shall be constructed, erected or placed forward of the front wall of a house.*
- 2. The total area of such structures constructed, erected or placed within the curtilage of a house shall not, taken together with any other such structures previously constructed, erected or placed within the said curtilage, exceed 25 square metres.*
- 3. The construction, erection or placing within the curtilage of a house of any such structure shall not reduce the amount of private open space reserved exclusively for the use of the occupants of the house to the rear or to the side of the house to less than 25 square metres.*
- 4. The external finishes of any garage or other structure constructed, erected or placed to the side of a house, and the roof covering where any such structure has a tiled or slated roof, shall conform with those of the house.*

5. *The height of any such structure shall not exceed, in the case of a building with a tiled or slated pitched roof, 4 metres or, in any other case, 3 metres.*
6. *The structure shall not be used for human habitation or for the keeping of pigs, poultry, pigeons, ponies or horses, or for any other purpose other than a purpose incidental to the enjoyment of the house as such*

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 3, Class 9

*Works consisting of the provision of any store, barn, shed, glass-house or other structure, not being of a type specified in class 6, 7 or 8 of this Part of this Schedule, and having a gross floor space not exceeding 300 square metres.*

1. *No such structure shall be used for any purpose other than the purpose of agriculture or forestry, but excluding the housing of animals or the storing of effluent.*
2. *The gross floor space of such structures together with any other such structures situated within the same farmyard complex or complex of such structures or within 100 metres of that complex shall not exceed 900 square metres gross floor space in aggregate.*
3. *No such structure shall be situated within 10 metres of any public road.*
4. *No such structure within 100 metres of any public road shall exceed 8 metres in height.*
5. *No such structure shall be situated within 100 metres of any house (other than the house of the person providing the structure) or other residential building or school, hospital, church or building used for public assembly, save with the consent in writing of the owner and, as may be appropriate, the occupier or person in charge thereof.*
6. *No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.*

*Under Article 9 (1) of the same Regulations, development to which Article 6 relates shall not be exempted development for the purposes of the Act:*

- (a) *if the carrying out of such development would –*
  - (i) *contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act*
  - (ii) *consist of or compromise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,*
  - (iii) *endanger public safety by reason of traffic hazard or obstruction of road users,*
  - (iv) *interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan.*
  - (vii) *consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of*



archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,

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

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

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

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

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

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

(xi) obstruct any public right of way,

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

## Assessment

### Basis of Referral

The applicant is seeking a Section 5 Declaration as to whether the construction of a machinery shed at Cloghauninchy, Quilty, County Clare is or is not development and is or is not exempted development.

### Particulars of Proposal

The particulars of the proposal and site are set out below:

- Height 6.4 metres
- Proposed Floor Area 100 sqm
- Distance from road 17.25 metres
- Distance from dwelling Less than 100 metres (multiple)

### Planning and Development Regulations 2001 (as amended) Schedule 2, Part 1, Class 3

*The construction, erection or placing within the curtilage of a house of any tent, awning, shade or other object, greenhouse, garage, store, shed or other similar structure.*

The proposed shed is not within the curtilage of the house.

1. *No such structure shall be constructed, erected or placed forward of the front wall of a house.*

The shed would be forward of the front building line of the house.

2. *The total area of such structures constructed, erected or placed within the curtilage of a house shall not, taken together with any other such structures previously constructed, erected or placed within the said curtilage, exceed 25 square metres.*

This threshold would be exceeded.

3. *The construction, erection or placing within the curtilage of a house of any such structure shall not reduce the amount of private open space reserved exclusively for the use of the occupants of the house to the rear or to the side of the house to less than 25 square metres.*

Not applicable.

4. *The external finishes of any garage or other structure constructed, erected or placed to the side of a house, and the roof covering where any such structure has a tiled or slated roof, shall conform with those of the house.*

The external finishes are not specified.

5. *The height of any such structure shall not exceed, in the case of a building with a tiled or slated pitched roof, 4 metres or, in any other case, 3 metres.*

The height threshold is exceeded.

6. *The structure shall not be used for human habitation or for the keeping of pigs, poultry, pigeons, ponies or horses, or for any other purpose other than a purpose incidental to the enjoyment of the house as such*

The proposed use would be for commercial storage.

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 3, Class 9

*Works consisting of the provision of any store, barn, shed, glass-house or other structure, not being of a type specified in class 6, 7 or 8 of this Part of this Schedule, and having a gross floor space not exceeding 300 square metres.*

A machinery shed is proposed in this instance and the gross floor area is less than 300sqm.

1. *No such structure shall be used for any purpose other than the purpose of agriculture or forestry, but excluding the housing of animals or the storing of effluent.*

The proposed use would be commercial associated with the applicants construction business. Therefore the use would not be agricultural or related to forestry.

2. *The gross floor space of such structures together with any other such structures situated within the same farmyard complex or complex of such structures or within 100 metres of that complex shall not exceed 900 square metres gross floor space in aggregate.*

The 900sqm threshold is not exceeded in this instance.

3. *No such structure shall be situated within 10 metres of any public road.*

The proposed structure is in excess of 10 metres from the public road.

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

The height threshold is not exceeded.

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

There are multiple dwellings within 100 metres of the site. No letters of consent have been received with the application.

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

The proposed finishes are unclear.

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

Article 9 of the Planning and Development Regulations 2001, as amended outlines restrictions on exempted development, and these are assessed below:

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

Not applicable in this instance.

- (ii) *consist of or compromise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,*

No alterations to the existing access point are proposed.

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

Not applicable in this instance. There is an existing access point serving the site.

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

This site is located within a Heritage Landscape. Having regard to the nature of the proposed development, that nature of the proposal site and its receiving environs and the view available towards the site I consider that development proposed would not interfere with the character of this Heritage Landscape.

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

This is not applicable in this instance.

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

Not applicable in this instance.

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

Not applicable in this instance.

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

Not applicable in this instance. See AA Screening Assessment.

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

Not applicable in this instance. See AA Screening Assessment.

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

This is not applicable in this instance.

- (ix) *consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain*

*available for such use and such objective has been specified in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,*

This is not applicable in this instance.

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

This is not applicable in this instance.

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

This is not applicable in this instance.

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

This is not applicable in this instance.

## **Conclusion**

The construction of a machinery shed at Cloghauninchy, Quilty, County Clare is development and is not exempted development.

<b>Recommendation</b>
-----------------------

Whether the construction of a machinery shed at Cloghauninchy, Quilty, County 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 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended
- (c) Class 3 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (d) Class 9 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended.


(e) The works as indicated in submitted documents from the referrer.

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

- (a) the construction of a machinery shed at Cloghauninchy, Quilty, County 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 construction of a machinery shed at Cloghauninchy, Quilty, County Clare is not exempted development having regard to Class 3 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended as the proposed shed is not within the curtilage of a house, the shed would be forward of the front building line of the adjacent dwelling, its floor area would exceed 25 square metres, the external finishes would not conform with the adjacent dwelling, the shed would exceed 4 metres in height, and it would be used for storage associated with a construction business and not for a purpose incidental to the enjoyment of the applicants dwelling.
- (d) the construction of a machinery shed at Cloghauninchy, Quilty, County Clare is not exempted development having regard to Class 9 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended as the shed would not be used for agricultural or forestry purposes, and it would be within 100 metres of residential buildings without the consent in writing of the owners.

Now therefore Clare County Council (Planning Authority), hereby decides that the construction of a machinery shed at Cloghauninchy, Quilty, County Clare is development and is not exempted development.

  
A/Executive Planner  
Date: 03<sup>rd</sup> March 2022


  
Senior Executive Planner  
Date: 03/03/22.

# Clare County Council

## Screening for Appropriate Assessment & Determination

1. Table 1 to be filled in for all development applications.
2. Where proposed development is within a European site(s) site, go directly to table 3.
3. For all other development proposals, fill in table 2, and if required, table 3.
4. A Habitats Directive Screening Statement should be sought for all developments regardless of location which require an EIS

**Table 1: Project Details**

<b>Planning File Reference</b>	R22-10
<b>Applicant Name</b>	M Considine
<b>Development Location</b>	Cloghauninchy, Quilty Co. Clare
<b>Application accompanied by an EIS</b>	No
<b>Application accompanied by an NIS</b>	No
<b>Description of the project (To include a site location map):</b>	
<p>Machinery shed</p> 	



**Table 2: Identification of European sites which may be impacted by the proposed development.**

This section identifies the European Sites within the likely zone of impact of the plan or project. For plans an initial 15km zone of influence (NPWS-DAHG)<sup>1</sup> is recommended. For projects, the distance could be much less than 15km, and in some cases less than 100m, but this must be evaluated on a case-by-case basis with reference to the nature, size and location of the project, and the sensitivities of the ecological receptors, and the potential for in combination effects. Qualifying Interests/Special conservation Interests for each site and the distance relevant to the proposal are listed (Table 2 (a)).

**Table 2 (a): European Sites within 15km of Applicant Site**

European Sites <sup>2</sup>	Qualifying Interests (QIs)/Special Conservation Interests (SCIs) and conservation objectives (either generic or detailed) (available on <a href="http://www.npws.ie/protectedsites">www.npws.ie/protectedsites</a> ) or through Intranet.	Distance to Applicant Site (km)
Mid Clare Coast SPA	Cormorant ( <i>Phalacrocorax carbo</i> ) [A017] Barnacle Goose ( <i>Branta leucopsis</i> ) [A045] Ringed Plover ( <i>Charadrius hiaticula</i> ) [A137] Sanderling ( <i>Calidris alba</i> ) [A144] Purple Sandpiper ( <i>Calidris maritima</i> ) [A148] Dunlin ( <i>Calidris alpina</i> ) [A149] Turnstone ( <i>Arenaria interpres</i> ) [A169] Wetland and Waterbirds [A999]	0.3
Carrowmore Point to Spanish Point and Islands SAC	Coastal lagoons [1150] Reefs [1170] Perennial vegetation of stony banks [1220] Petrifying springs with tufa formation (Cratoneurion) [7220]	0.3

1	Impacts on designated rivers, streams, lakes and fresh water dependant habitats and species.	<i>Is the development in the catchment of or immediately upstream of a watercourse that has been designated as a European site?</i>	Yes
2	Impacts on terrestrial habitats and species.	<i>Is the development within 1km of a European site with terrestrial based habitats or species?</i>	Yes
3	Impacts on designated marine habitats and species.	<i>Is the development located within marine or intertidal areas and within 5 km of a European site whose qualifying habitats or species include the following: Mudflats, sandflats, saltmarsh, shingle, reefs, sea</i>	No

<sup>1</sup> European Sites that are more than 15km from the proposal may have to be considered. For example in the case of sites with water dependent habitats or species and where a proposal could affect water quality or quantity it may be necessary to consider the full extent of the upstream and/or downstream catchment.

<sup>2</sup> European Site details are available on <http://webgis.npws.ie/npwsviewer/> or maybe obtained from internal mapping systems.

		<i>cliffs</i>	
4	<b>Impacts on birds in SPAs</b>	<i>Is the development within 1km of a Special Protection Area</i>	Yes
5	<b>Indirect effects</b>	<i>Is the development, in combination with other existing or proposed developments likely to impact on an adjacent European site? Is any emission from the development (including noise) likely to impact on an adjacent habitat or species?</i>	No impacts envisaged. Limited scale of works, distance from designations and no direct hydrological link.

**Conclusion:** If the answer to all of the above is no, significant impacts on European sites are unlikely. No further assessment is required; go directly to the conclusion statement.  
If the answer is "unknown" or "yes" proceed to Table 3 and refer to the relevant sections of Table 3.

Appropriate Assessment Screening Determination	
Planning File Reference	R22-10
Proposed Development	Machinery shed
Development Location	Cloghauninchy Quilty
European sites within impact zone	As per report
Description of the project	
Machinery shed	
Qualifying Interests (QIs)/Special Conservation Interests (SCIs) of European site	
As per report	
Describe how the project or plan (alone or in combination) is likely to affect the European site(s).	
General disturbance Loss of habitat Water quality	
If there are potential negative impacts, explain whether you consider if these are likely to be significant, and if not, why not?	
Distance from designations Nature of intervening ground No direct links No effluent from development	
Documentation reviewed for making this statement	
NPWS website Plans and particulars received GIS mapping database	
Conclusion of assessment (a, b, c or d)	
(a) The proposed development is directly connected with or necessary to the nature conservation management of a European Site(s) <sup>3</sup>	No
(b) There is no potential for significant effects to European Sites <sup>3</sup>	Yes
(c) The potential for significant effects to European Site(s) cannot be ruled out <sup>4</sup>	No

<sup>3</sup> Appropriate Assessment is not required and therefore Planning permission may be granted at this stage subject to all other planning considerations. However, no changes may be made to the proposed development after this conclusion has been reached as this would invalidate the findings of the screening exercise.

<sup>4</sup> In accordance with S177U of the Planning and Development (Amendment) Act 2010, the applicant should be requested to submit an 'Appropriate Assessment Screening Matrix' completed by a suitably qualified ecologist, by way of Further Information. Following receipt of this information a new Appropriate Screening Report should be completed. The requested 'Appropriate Assessment Screening Matrix' should be in accordance with the template outlined in Annex 2, Figure 1 of the EU (2001) guidance document 'Assessment of plans and projects significantly affecting European Sites – Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC. This guidance document is available from [http://ec.europa.eu/environment/nature/natura2000/management/docs/art6/natura\\_2000\\_assess\\_en.pdf](http://ec.europa.eu/environment/nature/natura2000/management/docs/art6/natura_2000_assess_en.pdf)

Alternatively, where other planning concerns arise the proposal could be refused planning permission.

<b>(d) Significant effects to European sites are certain or likely or where potential for significant effects to European sites remains following receipt of Further Information requested under S177U of the Planning and Development (Amendment) Act 2010<sup>5</sup></b>	No
<b>Completed By</b>	John O'Sullivan
<b>Date</b>	03 <sup>rd</sup> March 2022

---

<sup>5</sup> The proposed development must either by refused planning permission or alternatively an 'Appropriate Assessment' (AA) should be carried out by the Planning Authority. In order to facilitate the preparation of an AA the applicant should be requested to submit a Natura Impact Statement (NIS) in accordance with S177 (T) of the Planning and Development (Amendment) Act 2010. However, in the case of an application to retain unauthorised development of land and where the authority decides that an 'appropriate assessment' should have been carried out prior to the commencement of development, the application is required to be invalidated by the Planning Authority as per S34 (12) of the Planning and Development (Amendment) Act 2010 and accordingly an NIS should not be requested in such instances.









COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

**Deirdre Foran  
Lisdoonvarna  
Co. Clare**

**Your Client: Michael Considine**

**10/02/2022**

**Section 5 referral Reference R22-10 – Michael Considine**

Is the construction of a machinery shed at Cloghauninchy, Quilty, Co. Clare, considered to be development and if so, is it exempted development?

A Chara,

I refer to your application received on 10th February 2022 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

*Tadhg Holmes*

**Tadhg Holmes  
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



P07

**CLARE COUNTY COUNCIL  
COMHAIRLE CONTAE AN CHLÁIR**

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

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



Comhairle Contae an Chláir  
Clare County Council

**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*

<b>1. CORRESPONDENCE DETAILS.</b>	
(a) Name and Address of person seeking the declaration	MICHAEL CONSIDINE CLOGHAUNINCHY, QUILTY CO CLARE V95 K765
(b) Telephone No.:	
(c) Email Address:	
(d) Agent's Name and address:	DEIRDRE FORAN LISDOONVARNA CO CLARE





**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 CONSTRUCTION OF A MACHINERY SHED AT CLOGHAUNINCHY QUILTY  
 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.

MICHAEL CONSIDINE HAS A CONSTRUCITON COMPANY WITH MACHINERY WHICH HE  
 HAS TO STORE WHEN NOT BEING USED ONSITE; MICHAEL CURRENTLY STORES  
 THE TELEPORTER; MINI DIGGER; TRACTOR; SMALL TRUCK AND SCAFFOLDING /  
 EQUIPMENT BEHIND A WALL BESIDE HIS HOUSE.

MICHAEL WANTS TO BUILD A SHED IN ORDER THAT THE

EQUIPMENT AND MACHINERY IS SECURE, OUT OF SIGHT AND IN A DRY  
 ENVIRONMENT WHEN NOT IS USE.

THE PROPOSED SHED IS 7.7M X 15M AND WILL BE BUILT IN THE GARDEN TO THE  
 EAST OF HIS FAMILY HOME.

- (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)*

PLANS; VIEWS OF SHED

SITE LOCATION MAP

SITE LAYOUT PLAN

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT	
(a) Postal Address of the Property/Site/Building for which the declaration sought:	CLOGHAUNINCHY <hr/> QUILTY <hr/> CO CLARE <hr/> V95 K765 <hr/>
(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?	NO <hr/> <hr/> <hr/>
(c) Legal interest in the land or structure in question of the person requesting the declaration (Give Details):	OWNER <hr/> <hr/>
(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>	<hr/> <hr/> <hr/>
(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>	YES FOR DWELLING HOUSE P97 1589
(h) Date on which 'works' in question were completed/are likely to take place:	TO BE BUILT BEFORE THE SUMMER 2022

SIGNED: \_\_\_\_\_

Dudie Foran (Agent)

DATE: FEB 5TH 2022

### **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: .....	

# Land Registry Compliant Map

**CENTRE  
COORDINATES:**  
ITM 500218,672253

**PUBLISHED:** 28/01/2022  
**ORDER NO.:** 50246393\_1

**MAP SERIES:** 1:5,000  
**MAP SHEETS:** 4372

**SITE LOCATION MAP**  
**MICHAEL CONSIDINE**  
**CLOGHAUNINCHY**  
**QUILTY**  
**'MACHINERY SHED'**  
**D.FORAN. B.ENG.**  
**03/02/22 1/1000**

**COMPILED AND PUBLISHED BY:**  
Ordnance Survey Ireland,  
Phoenix Park,  
Dublin 8,  
Ireland.

Unauthorised reproduction  
infringes Ordnance Survey Ireland  
and Government of Ireland  
copyright.

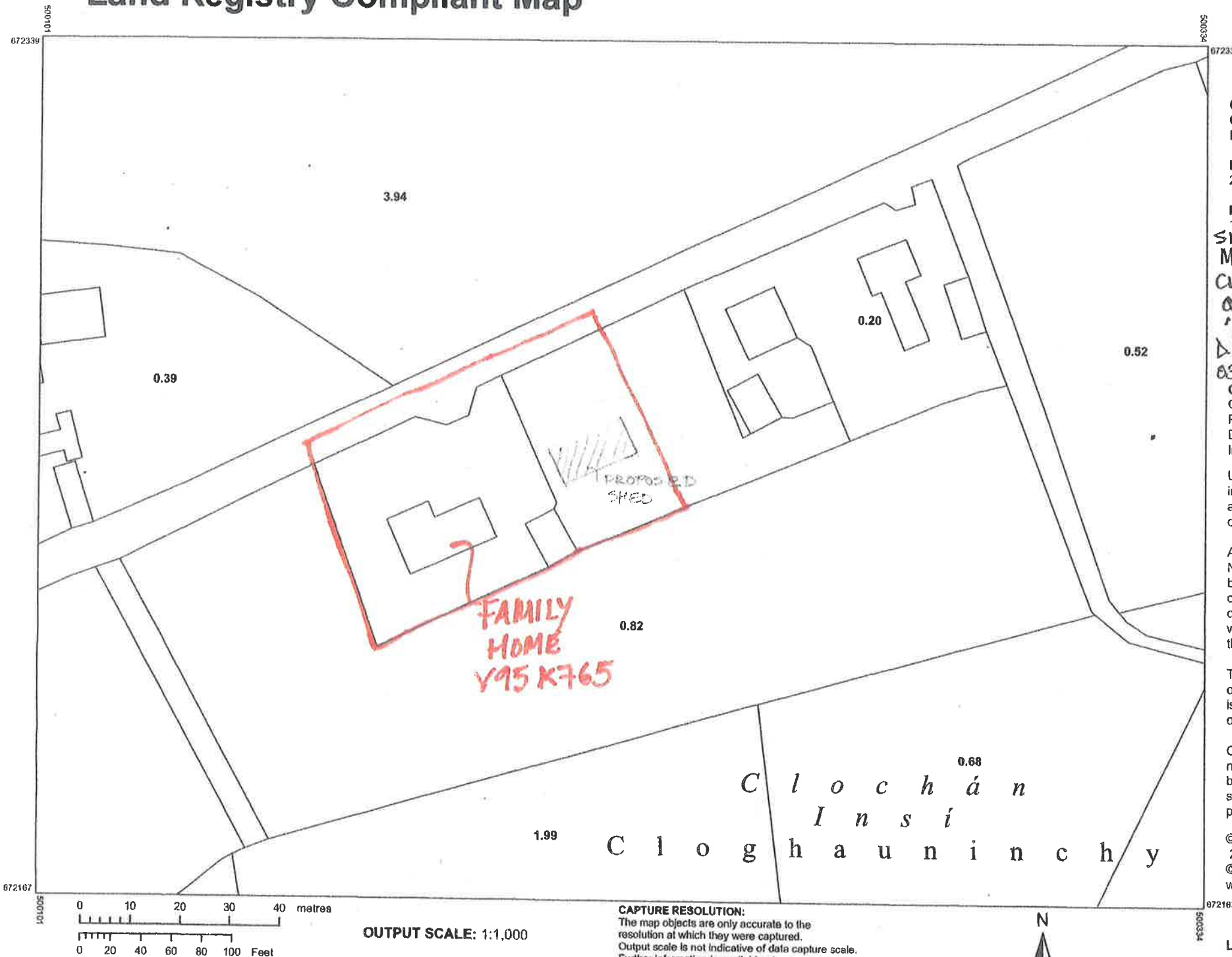
All rights reserved.  
No part of this publication may  
be copied, reproduced  
or transmitted in any form  
or by any means without the prior  
written permission of  
the copyright owners.

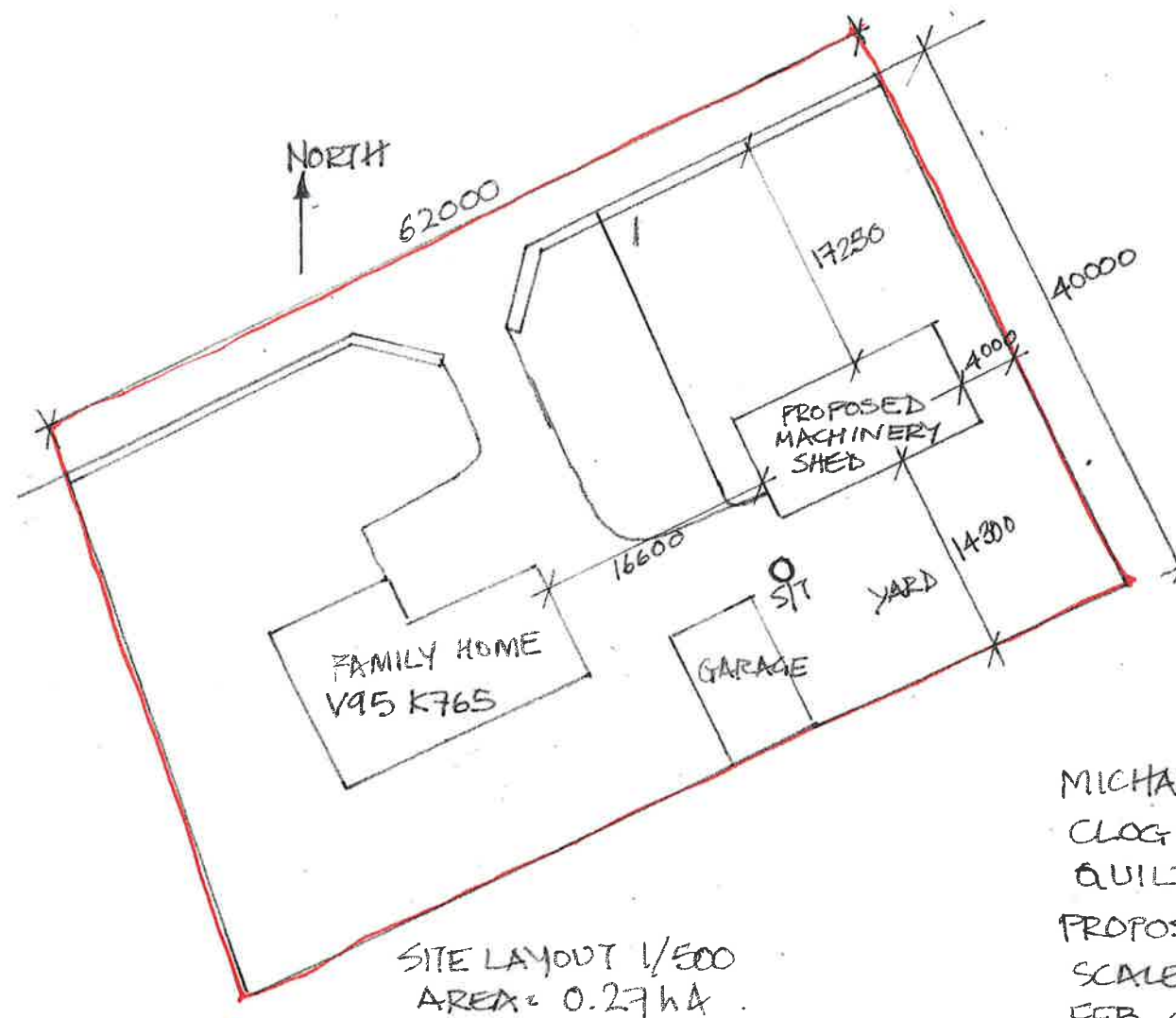
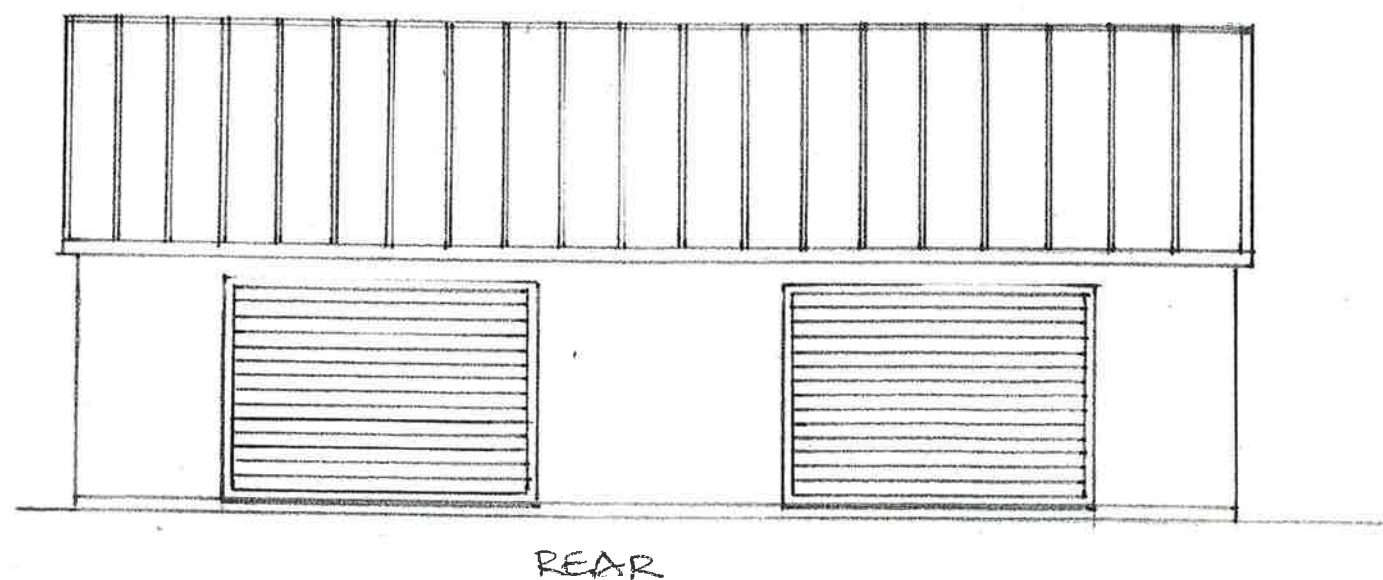
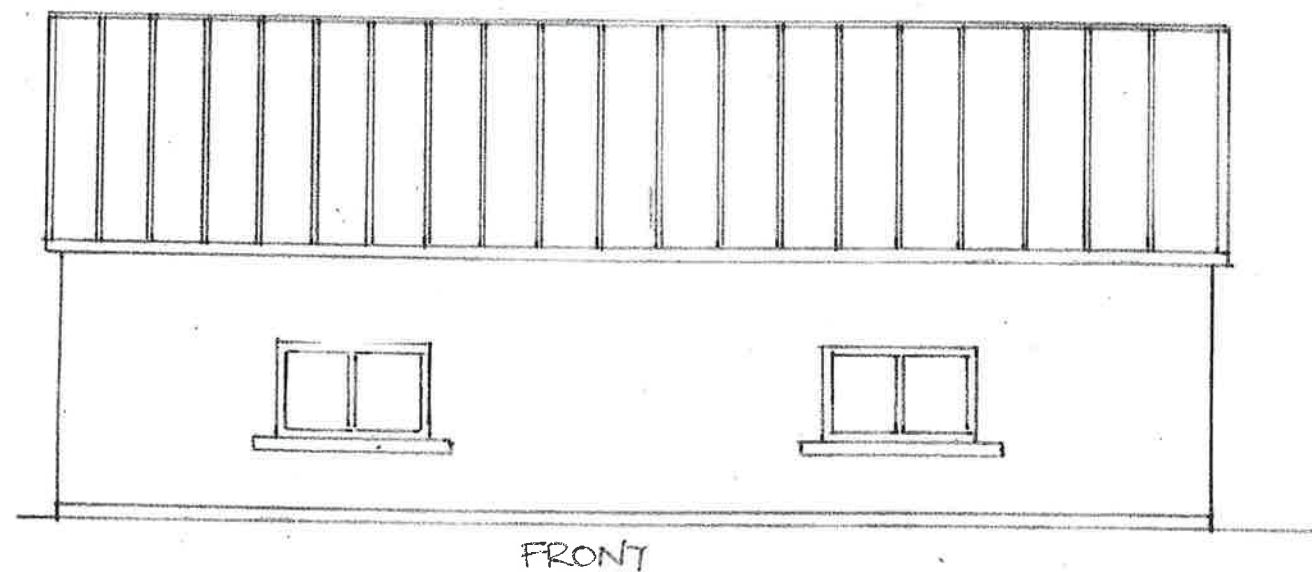
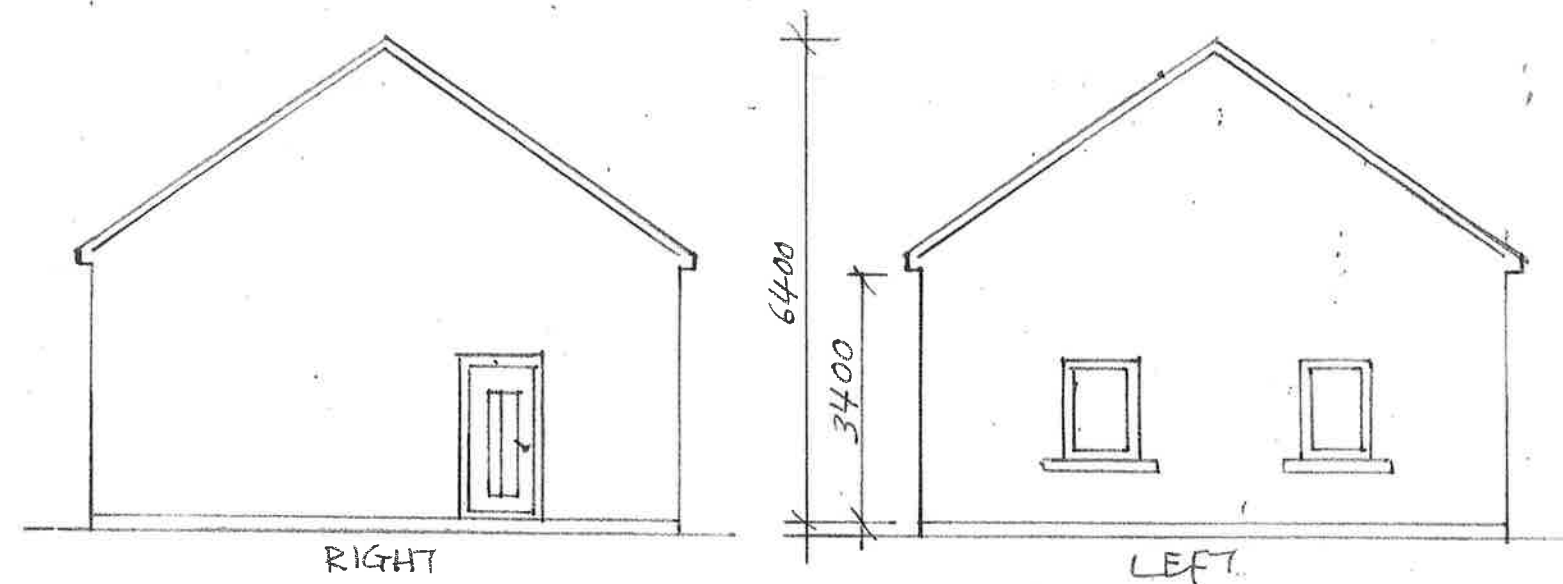
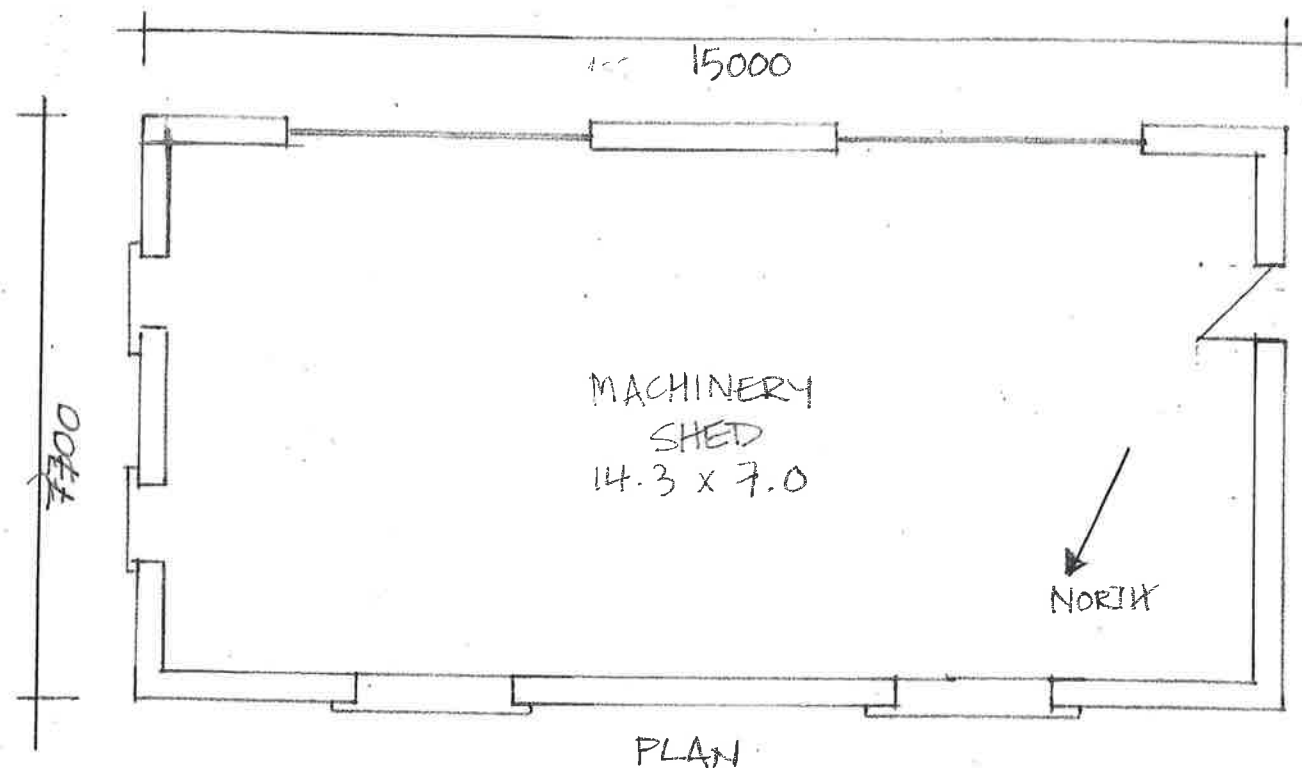
The representation on this map  
of a road, track or footpath  
is not evidence of the existence  
of a right of way.

Ordnance Survey maps  
never show legal property  
boundaries, nor do they  
show ownership of  
physical features.

© Suirbhéireacht Ordanáis Éireann,  
2022  
© Ordnance Survey Ireland, 2022  
[www.osi.ie/copyright](http://www.osi.ie/copyright)

**LEGEND:**  
<http://www.osi.ie>;  
search 'Large Scale Legend'





MICHAEL CONSIDINE  
CLOG HAUN INCHY  
QUILTY, CO CLARE  
PROPOSED MACHINERY SHED  
SCALES: 1/100 1/500  
FEB. 03. 2022  
D. FORAN B. ENG M.E.I.  
LISDOONVARNA  
087 6750327



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



10/02/2022 10:55:24

Receipt No. : L1CASH/0/328339

REPRINT

MICHAEL CONSIDINE  
C/O DEIRDRE FORAN  
LISDOONYVARNA  
CO CLARE  
R22-10

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

Total :

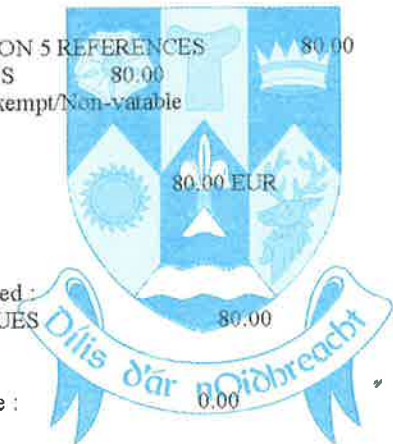
80.00 EUR

Tendered :  
CHEQUES

80.00

Change :

0.00



Issued By : L1CASH - Ann Carey  
From : MAIN CASH OFFICE LODGEMENT AREA  
Vat reg No.0033043E