



COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

**Registered Post**

**Grazyna Matuszak  
Toonagh  
Tulla,  
Co. Clare  
V95 R2P6**

RL 4096 6282 IE

**31st January, 2022**

**Section 5 referral Reference R22-3 – Grazyna Matuszak**

Is completion of the enlargement of the vehicular access opening, previously approved under P14-345 but not completed, at Scropul School House, Drummin, Mullagh, Co. Clare V95 WY64, considered to be development and if so, is it exempted development?

A Chara,

I refer to your application received on 13th January 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.: R22-3**



Comhairle Contae an Chláir  
Clare County Council

**Section 5 referral Reference R22-3**

**Is completion of the enlargement of the vehicular access opening, previously approved under P14-345 but not completed, at Scropul School House, Drummin, Mullagh, Co. Clare V95 WY64, considered to be development and if so, is it exempted development?**

**AND WHEREAS, Grazyna Matuszak** 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 –**

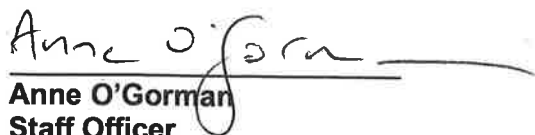
- a) Sections 2, 3, 4 and 40 of the Planning and Development Act, 2000, as amended,
- b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended, and
- c) The works as indicated in submitted documents from the referrer.

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

- a) the completion of the partially constructed vehicular access, previously approved under P14-345 at Scropul School House, Drummin, Mullagh, County Clare V95 WY64 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 comprising of the completion of the partially constructed vehicular access, previously approved under P14-345 at Scropul School House, Drummin, Mullagh, County Clare V95 WY64 is exempted development having regard to Section 40 (2)(a)(iii) of Part 3 the Planning and Development Act 2000 (as amended) and Parts 2 and 3 of Article 9 of the Planning and Development Regulations 2001, (as amended), as the proposed works are necessary for and ancillary to the use of the onsite dwelling, the LS6204 local secondary road across the front of the site is less than 4 metres in width, and as the proposed works do not constitute a traffic hazard.

**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 completion of the partially constructed vehicular access, previously approved under P14-345 at Scropul School House, Drummin, Mullagh, County Clare V95 WY64 is development and is exempted development.



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

**31st January, 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: 79154

Reference Number: R22-3

Date Referral Received: 13th January 2022

Name of Applicant: Grazyna Matuszak

Location of works in question: Scropul School House, Drummin, Mullagh,  
Co. Clare

**Section 5 referral Reference R22-3 – Grazyna Matuszak**

Is completion of the enlargement of the vehicular access opening, previously approved under P14-345 but not completed, at Scropul School House, Drummin, Mullagh, Co. Clare V95 WY64, 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, 4 and 40 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended, and
- (c) The works as indicated in submitted documents from the referrer.

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

- (a) the completion of the partially constructed vehicular access, previously approved under P14-345 at Scropul School House, Drummin, Mullagh, County Clare V95 WY64 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 comprising of the completion of the partially constructed vehicular access, previously approved under P14-345 at Scropul School House, Drummin, Mullagh, County Clare V95 WY64 is exempted development having regard to Section 40 (2)(a)(iii) of Part 3 the Planning and Development Act 2000 (as amended) and Parts 2 and 3 of Article 9 of the Planning and Development Regulations 2001, (as amended), as the proposed works are necessary for and ancillary to the use of the onsite dwelling, the LS6204 local secondary road across the front of the site is less than 4 metres in width, and as the proposed works do not constitute a traffic hazard.

**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 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 completion of the partially constructed vehicular access, previously approved under P14-345 at Scropul School House, Drummin, Mullagh, County Clare V95 WY64 is development and is exempted development.

**Signed:**

  
\_\_\_\_\_  
**GARETH RUANE**  
**SENIOR EXECUTIVE PLANNER**



**Date:** 31st January, 2022

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

<b>FILE REF:</b>	R22-3
<b>APPLICANT(S):</b>	Grazyna Matuszak
<b>REFERENCE:</b>	Whether the completion of the partially constructed vehicular access, previously approved under P14-345 at Scropul School House, Drummin, Mullagh, County Clare V95 WY64 is or is not development and is or is not exempted development.
<b>LOCATION:</b>	Drummin, Mullagh, County Clare
<b>DUE DATE:</b>	09 <sup>th</sup> February 2022

**Site Location**

The site is located in an upland rural area to the south west of Doolough. It is to the immediate east of the junction of the LS-6204 and the LT-62043 local tertiary road. It accommodates a dwelling that was previously a school. At the front of the site a new access has been included onto the LS6204 local secondary road. The metalled surface of the road has a width of less than 4 metres. It is a well screened site within a "Settled Landscape".

**Recent Onsite Planning History**

14-345 – Granted – Frank O’Sullivan - change of use of an existing structure from a school to a dwelling house and for permission to provide a new entrance along with associated 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 Grazyna Matuszak who is the prospective purchaser of the site. It is stated that Frank O’Sullivan is the owner of the site. The applicant is seeking a Section 5 Declaration as to whether the completion of the partially constructed vehicular access, previously approved under P14-345 at Scropul School House, Drummin, Mullagh, County Clare V95 WY64 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 and Development Act, 2000 (as amended)

*Limit of duration of permission.*

*40.—(1) Subject to subsection (2), a permission granted under this Part, shall on the expiration of the appropriate period (but without prejudice to the validity of anything done pursuant thereto prior to the expiration of that period) cease to have effect as regards—*

*(a) in case the development to which the permission relates is not commenced during that period, the entire development, and*

*(b) in case the development is commenced during that period, so much of the development as is not completed within that period.*

*(2) (a) Subsection (1) shall not apply—*

*(iii) in the case of a house, shop, office or other building which itself has been completed, in relation to the provision of any structure or works included in the relevant permission and which are either necessary for or ancillary or incidental to the use of the building in accordance with that permission,*

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.

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

### **Particulars of the Development**

The access as permitted under P14-345 has been partially completed. It is proposed to complete the access in accordance with this permission outside of the lifetime of the permission. The road is less than 4 metres in width at the point of the proposed works. Adequate sight distances are available.

### **Planning Exemption Assessment**

The access works are necessary for and ancillary to the use of the dwelling and are in accordance with the permission as granted. As such Part 3, Section 40 (2)(a)(iii) of the Planning and Development Act 2000 (as amended) is applicable in this instance.

### **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 (for both the dwelling extension and the garage):

- (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.

- (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,*

The road is less than 4 metres in width.

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

The proposed works would not constitute a traffic hazard.

- (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.*

It is considered that same does not interfere with the character of the landscape or views in the area.

- (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,*

This is 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,*

This is 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,*

This is not applicable in this instance.

- 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."*

These are not applicable in this instance.

- (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.

### **Recommendation**

I recommend that the following is issued to the applicant by the Planning Authority in this instance:

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


- (a) Sections 2, 3, 4 and 40 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended, and
- (c) The works as indicated in submitted documents from the referrer.

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

- (a) the completion of the partially constructed vehicular access, previously approved under P14-345 at Scropul School House, Drummin, Mullagh, County Clare V95 WY64 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 comprising of the completion of the partially constructed vehicular access, previously approved under P14-345 at Scropul School House, Drummin, Mullagh, County Clare V95 WY64 is exempted development having regard to Section 40 (2)(a)(iii) of Part 3 the Planning and Development Act 2000 (as amended) and Parts 2 and 3 of Article 9 of the Planning and Development Regulations 2001, (as amended), as the proposed works are necessary for and ancillary to the use of the onsite dwelling, the LS6204 local secondary road across the front of the site is less than 4 metres in width, and as the proposed works do not constitute a traffic hazard.

Now therefore Clare County Council (Planning Authority), hereby decides that the completion of the partially constructed vehicular access, previously approved under P14-345 at Scropul School House, Drummin, Mullagh, County Clare V95 WY64 is development and is exempted development.

  
A/Executive Planner  
Date: 26<sup>th</sup> January 2022

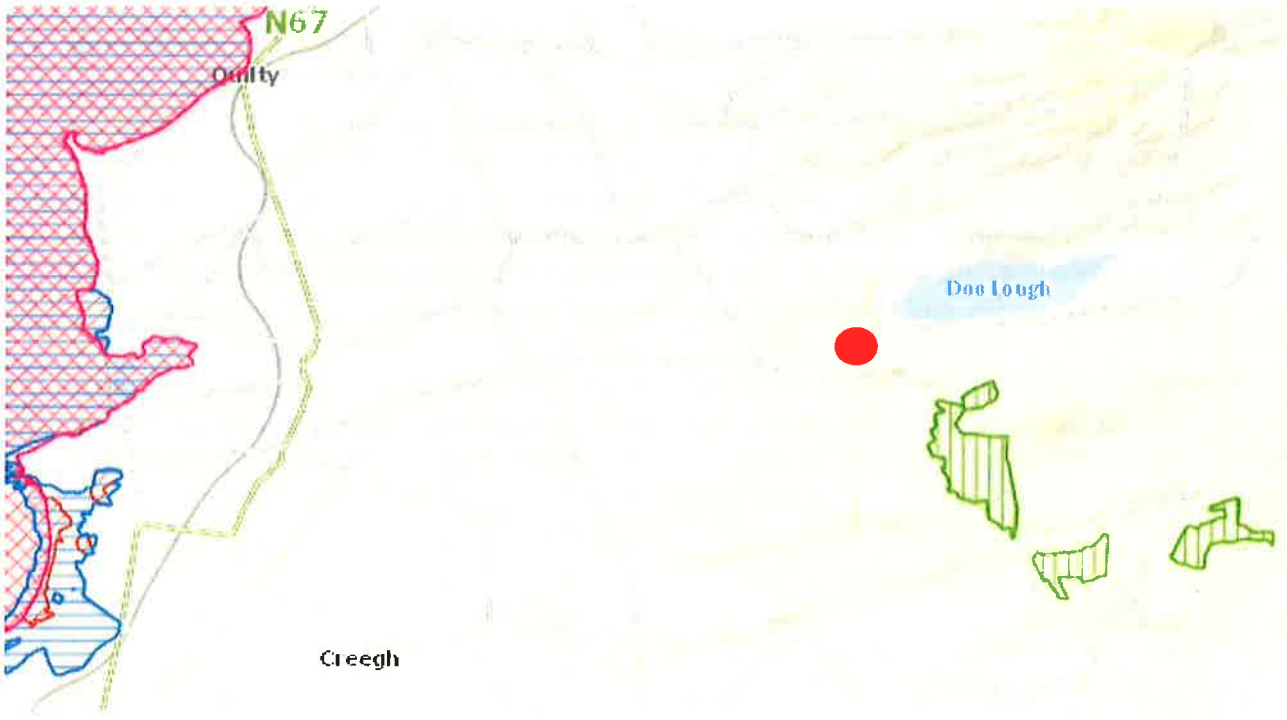
  
Senior Executive Planner  
Date: 27/01/22.

## 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>	R22-3
<b>Applicant Name</b>	Matuszak
<b>Development Location</b>	Drummin Mullagh
<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>	
Access works to dwelling	
	

**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]	9
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]	9

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>	No
2	Impacts on terrestrial habitats and species.	<i>Is the development within 1km of a European site with terrestrial based habitats or species?</i>	No
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</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>include the following: Mudflats, sandflats, saltmarsh, shingle, reefs, sea cliffs</i>	
<b>4</b>	<b>Impacts on birds in SPAs</b>	<i>Is the development within 1km of a Special Protection Area</i>	No
<b>5</b>	<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 – minor nature of works, distance from designation 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	R22-3
Proposed Development	Access works to dwelling
Development Location	Drummin Mullagh
European sites within impact zone	As per report
Description of the project	
Access works to dwelling	
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).	
No impacts envisaged.	
If there are potential negative impacts, explain whether you consider if these are likely to be significant, and if not, why not?	
minor nature of works, distance from designation and no direct hydrological link	
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>	
(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>	
(d) Significant effects to European	

<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.



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>	
Completed By	John O'Sullivan
Date	26 <sup>th</sup> January 2022

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<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.





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)



**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	GRAZYNA MATUSZAK TOONAGH TULLA CO. CLARE V95 R2P6
(b) Telephone No.:	
(c) Email Address:	
(d) Agent's Name and address:	_____ _____ _____ _____



## 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?*

Planning condition no.5 relating to the vehicular entrance to the site requested that the "road side boundary be retained in its entirety except where its removal is required for the construction of a vehicular entrance to serve the dwelling including side walls and piers of same to be tied into the existing roadside boundary wall"

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

The current situation regarding this is that the existing entrance has been widened to allow vehicular access but the wing walls and piers etc. could not be completed due to the covid pandemic within the period of planning permission P14-345. Would the Council allow this work on enlargement of the existing entrance to be completed by the prospective buyers (Grazyna and Ireneusz Matuszak) after purchase of the property as otherwise the sale could not be completed.

- (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)*

map x 2

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT	
(a) Postal Address of the Property/Site/Building for which the declaration sought:	Scropul School House Drummin Mullagh Co. Clare V95 WY64
(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
(c) Legal interest in the land or structure in question of the person requesting the declaration (Give Details):	Prospective buyer
(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>	FRANK O'SULLIVAN 41 BEAUMOUNT DRIVE BALLINTEMPLE CO. CORK
(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 P14 / 345
(h) Date on which 'works' in question were completed/are likely to take place:	After the sale will be completed

SIGNED: QuintiniDATE: 13/01/2022

### **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: .....	

**The Property  
Registration Authority  
An tÚdarás  
Clárúcháin Maoine**



Folio: CE55303F

This map should be read in conjunction with the folio.

Registry maps are based on OSI topographic mapping. Where registry maps are printed at a scale that is larger than the OSI published scale, accuracy is limited to that of the original OSI map scale.

For details of the terms of use and limitations as to scale, accuracy and other conditions relating to Land Registry maps, see [www.prai.ie](http://www.prai.ie).

This map incorporates Ordnance Survey Ireland (OSI) mapping data under a licence from OSI. Copyright © OSI and Government of Ireland.

- (centre-line of parcel(s) edged)
- Freehold
- Leasehold
- SubLeasehold

- Burdens** (may not all be represented on map)
- Right of Way / Wayleave
  - Turbary
  - Pipeline
  - Well
  - Pump
  - Septic Tank
  - Soak Pit

A full list of burdens and their symbology can be found at: [www.landdirect.ie](http://www.landdirect.ie)

The registry operates a non-conclusive boundary system. The Registry Map identifies properties not boundaries meaning neither the description of land in a register nor its identification by reference to a registry map is conclusive as to the boundaries or extent. (see Section 85 of the Registration of Title Act, 1964). As inserted by Section 62 of the Registration of Deed and Title Act 2006.



509850 mE, 671060 mN

Date Printed: 09/06/2015

Creation Date: 09 June 2015 14:00:19

Application Number: D2015LR069836P

1:2500 Scale





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

13/01/2022 09:10:59

Receipt No : LICASH/0/327063  
REPRINT

GRAZYNA MUTUSZAK  
TOONAGH  
TULLA  
CO CLARE  
V95 RZP6

COMHAIRLE  
CONTAE

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

Total : 80.00 EUR

Tendered :  
CHEQUES

Change :

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