



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Registered Post

**Kieran O'Connell
Deel Forestry Ltd
Ardnaveigh
Rathkeale
Co. Limerick**

RL 5660 3328 51E

Your Client: Colin O'Callaghan

27th June, 2022

Section 5 referral Reference R22-37 – Colin O'Callaghan

Is the removal of diseased Ash plantation, and the replanting of same with Sitka Spruce and Japanese Larch, at Cappalea North, Co. Clare, considered to be development and if so, is it exempted development?


A Chara,

I refer to your application received on 07th June 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

Mise, le meas


**Anne O'Gorman
Staff Officer
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**



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

Reference No.: R22-37



Comhairle Contae an Chláir
Clare County Council

Section 5 referral Reference R22-37

Is the removal of diseased Ash plantation, and the replanting of same with Sitka Spruce and Japanese Larch, at Cappalea North, Co. Clare, considered to be development and if so, is it exempted development?

AND WHEREAS, Colin O'Callaghan 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, 8 and 9 of the Planning and Development Regulations 2001, as amended
- (c) Article 8(f) of Part 2 of the Planning and Development Regulations 2001 (as amended)
- (d) Class 16 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 on the 07th June 2022.

And whereas Clare County Council has concluded:

- (a) the development of the removal of diseased ash plantation (1.77 hectares) and the replanting of same with Sitka Spruce and Japanese Larch at Cappalea North, County Clare.
- (b) the removal of diseased ash plantation (1.77 hectares) and the replanting of same with Sitka Spruce and Japanese Larch at Cappalea North, County Clare constitutes "works" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended
- (c) 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 the removal of diseased ash plantation (1.77 hectares) and the replanting of same with Sitka Spruce and Japanese Larch at Cappalea North, County Clare is exempted development having regard to Article 8(f) of Part 2 and Class 16 of Part 3 of Schedule 2 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 the removal of diseased ash plantation (1.77 hectares) and the replanting of same with Sitka Spruce and Japanese Larch at Cappalea North, County Clare is development and is 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

27th June, 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: 80024

Reference Number: R22-37

Date Referral Received: 07th June 2022

Name of Applicant: Colin O'Callaghan

Location of works in question: Cappalea North, Co. Clare

Section 5 referral Reference R22-37 – Colin O'Callaghan

Is the removal of diseased Ash plantation, and the replanting of same with Sitka Spruce and Japanese Larch, at Cappalea North, 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, 8 and 9 of the Planning and Development Regulations 2001, as amended
- (c) Article 8(f) of Part 2 of the Planning and Development Regulations 2001 (as amended)
- (d) Class 16 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 on the 07th June 2022.

AND WHEREAS Clare County Council has concluded:

- (a) the development of the removal of diseased ash plantation (1.77 hectares) and the replanting of same with Sitka Spruce and Japanese Larch at Cappalea North, County Clare.
- (b) the removal of diseased ash plantation (1.77 hectares) and the replanting of same with Sitka Spruce and Japanese Larch at Cappalea North, County Clare constitutes "works" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended
- (c) 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 the removal of diseased ash plantation (1.77 hectares) and the replanting of same with Sitka Spruce and Japanese Larch at Cappalea North, County Clare is exempted development having regard to Article 8(f) of Part 2 and Class 16 of Part 3 of Schedule 2 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 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 removal of diseased ash plantation (1.77 hectares) and the replanting of same with Sitka Spruce and Japanese Larch at Cappalea North, County Clare is development and is exempted development.

Signed:



GARETH RUANE
SENIOR EXECUTIVE PLANNER *As* 

Date: 27th June, 2022

CLARE COUNTY COUNCIL
SECTION 5 DECLARATION OF EXEMPTION APPLICATION
PLANNERS REPORT 1

FILE REF:	R22-37
APPLICANT(S):	Colin O'Callaghan
REFERENCE:	Whether the removal of diseased ash plantation (1.77 hectares) and the replanting of same with Sitka Spruce and Japanese Larch at Cappalea North, County Clare is not development and is or is not exempted development.
LOCATION:	Cappalea North, County Clare.
DUE DATE:	01 st July 2022

Site Location

The proposal site is located in the rural townland of Cappalea North and is 1.7km north east of the village of Kilmaley. The site with a stated area of 1.77 hectares is located within an area of commercial forestry (partially felled) and the receiving landscape comprises of undulating hills. It is 0.46km east of the LT42062 local tertiary road.

Recent Planning History

Onsite

None.

Environs

None.

Background to Referral

This Referral under Section 5(3)(a) of the Planning and Development Act 2000 (as amended) has been made by Colin O'Callaghan who states that he is seeking a Section 5 Declaration as to whether the removal of diseased ash plantation (1.77 hectares) and the replanting of same with Sitka Spruce and Japanese Larch at Cappalea North, County Clare is not development and is or is not exempted development. Mr O'Callaghan states that he is the owner of the site.

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) Part 2, 8(f)

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, or*
- b) works ancillary thereto,*

shall be exempted development.

Planning and Development Regulations 2001 (as amended) Part 3, Class 16

Replacement of broadleaf high forest by conifer species.

- *The area involved shall be less than 10 hectares.*

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 removal of diseased ash plantation (1.77 hectares) and the replanting of same with Sitka Spruce and Japanese Larch at Cappalea North, County Clare is not development and is or is not exempted development.

Particulars of Proposal

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

- | | |
|--------------------|-------------------------------|
| • Area | 1.77 hectares |
| • Existing Species | Ash |
| • Proposed Species | Sitka Spruce & Japanese Larch |

Planning and Development Regulations 2001 (as amended) Part 2, 8(f)

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, or*
- b) works ancillary thereto,*

shall be exempted development.

The proposed replanting of the forestry would comprise of a mix of deciduous and conifer species. The partial replanting of the area with Japanese Larch would come within the terms of the above exemption.

Planning and Development Regulations 2001 (as amended) Part 3, Class 16

Replacement of broadleaf high forest by conifer species.

- *The area involved shall be less than 10 hectares.*

The area is less than 10 hectares. The partial replanting of the area with Sitka Spruce would come within the terms of the above exemption.

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*

No onsite planning permission.

- (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,*

Not applicable.

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

Not applicable.

- (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 the Western Corridor Working Landscape. Having regard to the nature of the proposed replanting, that nature of the proposal site and its receiving environs, the views available towards the site I consider that development proposed would 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,*

The proposal site is located circa 3.5km from Pouldatig Cave SAC. Having regard to the nature and scale of the proposed replanting and the absence of proximity or connectivity to a European Site, no Appropriate Assessment issues arise and I do not consider that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects, on a European Site. An appropriate assessment screening report and determination is attached to this report.

- a. 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."*

The proposed development would not be likely to have an adverse impact on an area designated as a natural heritage area.

- (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

Having regard to the above it is considered that the removal of diseased ash plantation (1.77 hectares) and the replanting of same with Sitka Spruce and Japanese Larch at Cappalea North, County Clare is development and is exempted development.

Recommendation

The following question has been referred to the Planning Authority:

Whether the removal of diseased ash plantation (1.77 hectares) and the replanting of same with Sitka Spruce and Japanese Larch at Cappalea North, County Clare 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, 8 and 9 of the Planning and Development Regulations 2001, as amended
- (c) Article 8(f) of Part 2 of the Planning and Development Regulations 2001 (as amended)


- (d) Class 16 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 on the 07TH June 2022.

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

- (a) the development of the
- (b) the removal of diseased ash plantation (1.77 hectares) and the replanting of same with Sitka Spruce and Japanese Larch at Cappalea North, County Clare constitutes "*works*" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended
- (c) 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 the removal of diseased ash plantation (1.77 hectares) and the replanting of same with Sitka Spruce and Japanese Larch at Cappalea North, County Clare is exempted development having regard to Article 8(f) of Part 2 and Class 16 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended.

Now therefore Clare County Council (Planning Authority) hereby decides that the removal of diseased ash plantation (1.77 hectares) and the replanting of same with Sitka Spruce and Japanese Larch at Cappalea North, County Clare is development and is exempted development.


A/Executive Planner
Date: 27th June 2022


Senior Executive Planner
Date: 27/06/22

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


Planning File Reference	R22-37
Applicant Name	O'Callaghan
Development Location	Cappalea North, Inch, Co Clare
Application accompanied by an EIS	No
Application accompanied by an NIS	No
Description of the project (To include a site location map):	
Forestry plantation replacement	
	

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)¹ 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)).

¹ 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.

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

European Sites²	Qualifying Interests (QIs)/Special Conservation Interests (SCIs) and conservation objectives (either generic or detailed) (available on www.npws.ie/protectedsites) or through Intranet.	Distance to Applicant Site (km)
Pouldatig Cave SAC	Rhinolophus hipposideros (Lesser Horseshoe Bat) [1303]	3.5

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 include the following: Mudflats, sandflats, saltmarsh, shingle, reefs, sea cliffs</i>	No
4	Impacts on birds in SPAs	<i>Is the development within 1km of a Special Protection Area</i>	No
5	Indirect effects	<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

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

Appropriate Assessment Screening Determination	
Planning File Reference	R22-37
Proposed Development	Forestry plantation replacement
Development Location	Cappalea North
European sites within impact zone	As per report
Description of the project	
Forestry plantation replacement	
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 & habitat loss	
If there are potential negative impacts, explain whether you consider if these are likely to be significant, and if not, why not?	
Significant remove from designated bat roosts	
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) ³	No
(b) There is no potential for significant effects to European Sites ³	Yes
(c) The potential for significant effects to European Site(s) cannot be ruled out ⁴	No
(d) Significant effects to European	No

³ 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.

⁴ 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

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 ⁵	
Completed By	John O'Sullivan
Date	27 th June 2022

⁵ 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
Website: 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

1. CORRESPONDENCE DETAILS.	
(a) Name and Address of person seeking the declaration	<div>Colin O' Callaghan</div> <div>Ballinalacken</div> <div>Lisdoonvarna</div> <div>Co Clare</div>
(b) Telephone No.:	
(c) Email Address:	
(d) Agent's Name and address:	<div>Kieran O' Connell</div> <div>Deel Forestry Ltd</div> <div>Ardnaveigh</div> <div>Rathkeale</div> <div>Co Limerick</div>

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 removal of Ash Diseased Ash plantation replanted with SS & JL an exempt development?

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

My plantation at Cappalea North, Co Clare has been inspected by the Forest Service and has been deemed

to be infected with Ash Die Back disease. I am currently applying for the Ash Die Back replanting scheme and

this scheme requires that I remove the infected Ash and replant the area. I wish to replant this area with

SS & JL on foot of the advice we received from our Forestry Advisor

- (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)

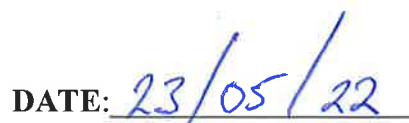
3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT

(a) Postal Address of the Property/Site/Building for which the declaration sought:	Cappalea North 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?	NO
(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>	N/A
(e) Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?:	I am the owner
(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>	Please see Forest Service Contract
(h) Date on which 'works' in question were completed/are likely to take place:	July 2022

SIGNED:



DATE:



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

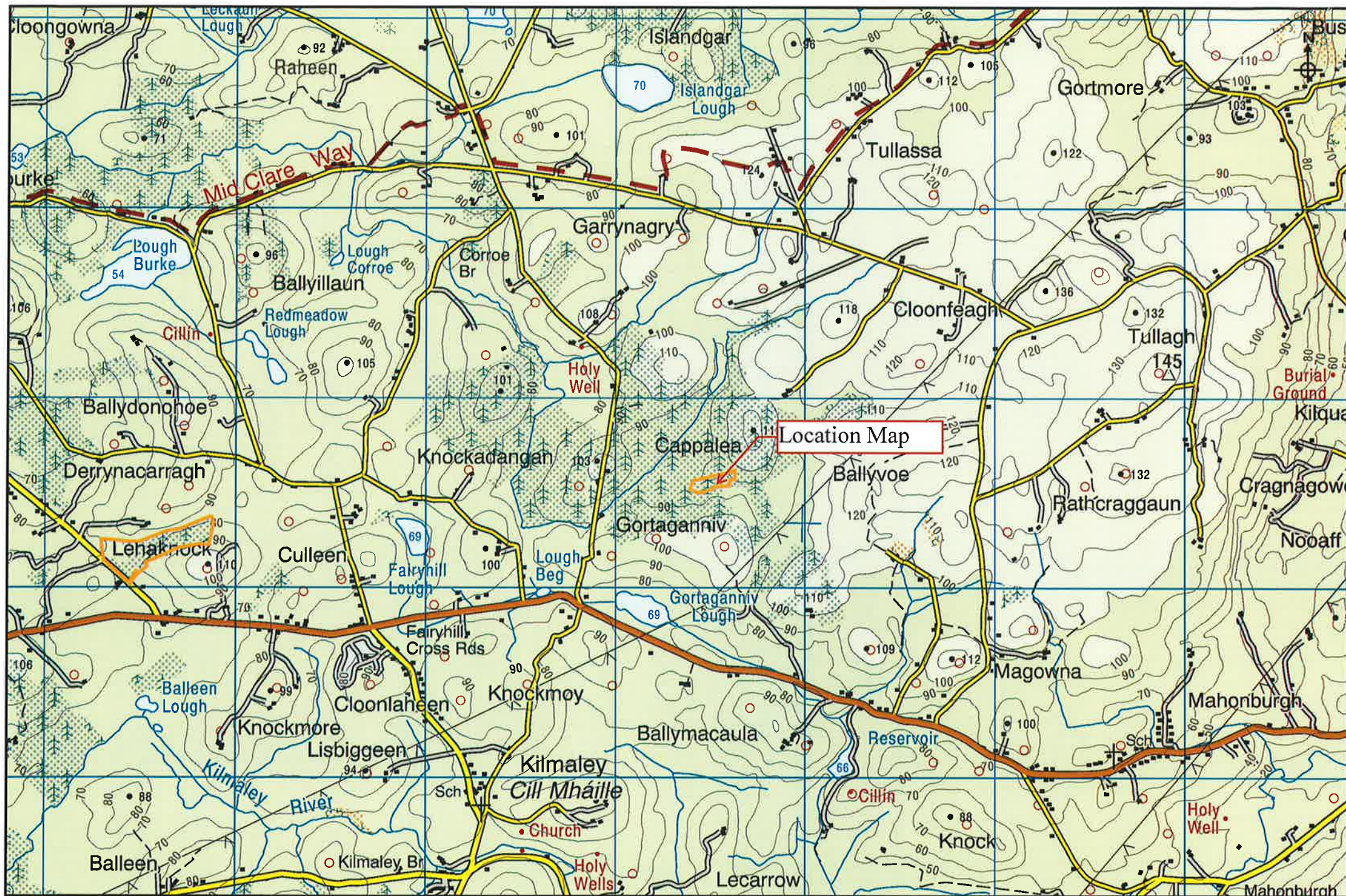
- (i) The request for a declaration under Section 5 must be accompanied by 2 copies of site location map based on the Ordnance Survey map for the area of a scale not less than 1:1000 in urban areas and 1:2500 in rural areas and should clearly identify the site in question.
- (ii) The request for a declaration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



Tadhg Holmes

From: Deel Forestry Ltd <info@deelforestry.ie>
Sent: Thursday 9 June 2022 11:05
To: Tadhg Holmes
Subject: RE: Section 5 application Colin O'Callaghan
Attachments: replanting map.pdf; species map.pdf; location 1 5000.pdf

Good morning Tadhg,

Please find attached Location map at scale 1:5000, I also attached species map and replanting map

Regards,



Una Geoghegan

Deel Forestry Limited.
Administration.

T: 069 64901

info@deelforestry.ie - www.deelforestry.ie

Ardnaveagh, Rathkeale, Co. Limerick, V94 86Y8



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From: Tadhg Holmes <tholmes@clarecoco.ie>
Sent: Thursday 9 June 2022 09:31
To: Deel Forestry Ltd <info@deelforestry.ie>
Subject: RE: Section 5 application Colin O'Callaghan

Good morning Una

Thank you for that.

Could you please send it a 1:5000 map, with the plantation outlined in red?

Thank you

Tadhg

Tadhg Holmes

Clerical Officer

Planning Department, Economic Development Directorate

Clare County Council, Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2

T: 065 6846212 | E: tholmes@clarecoco.ie | W: www.clarecoco.ie



From: Deel Forestry Ltd <info@deelforestry.ie>
Sent: Wednesday 8 June 2022 07:52
To: Tadhg Holmes <tholmes@clarecoco.ie>
Subject: RE: Section 5 application Colin O'Callaghan

Hi Tadhg,

As requested site area map scale 1:2500

Regards

Una



Dan Mc Namara B.Des. [Eng.Tech.](#) MIEI

Deel Forestry Limited.
Forest Road Dept.

M: 087 6352023

T: 069 64901

dan@deelforestry.ie - www.deelforestry.ie

Ardnaveagh, Rathkeale, Co. Limerick, V94 86Y8

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From: Tadhg Holmes <tholmes@clarecoco.ie>
Sent: Tuesday 7 June 2022 16:35
To: Deel Forestry Ltd <info@deelforestry.ie>
Subject: RE: Section 5 application Colin O'Callaghan

Good afternoon Dan

Can you please send us a revised area map of the plantation? We received a 1:25000 scale map, but the form specifies a 1:2500 scale map.

I am out of the office tomorrow but if you can email on a copy of the map I will process it on Thursday.

Kind regards

Tadhg

Tadhg Holmes
Clerical Officer

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

T: 065 6846212 | E: tholmes@clarecoco.ie | W: www.clarecoco.ie



COMHAIRLE CONTAE AN CHLÁIR
CLARE COUNTY COUNCIL

From: Deel Forestry Ltd <info@deelforestry.ie>
Sent: Tuesday 7 June 2022 15:12
To: Tadhg Holmes <tholmes@clarecoco.ie>
Subject: RE: Section 5 application Colin O'Callaghan

No problem



Dan Mc Namara B.Des. [Eng.Tech.](#) MIEI
Deel Forestry Limited.
Forest Road Dept.

M: 087 6352023
T: 069 64901
dan@deelforestry.ie - www.deelforestry.ie
Ardnaveagh, Rathkeale, Co. Limerick, V94 86Y8

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From: Tadhg Holmes <tholmes@clarecoco.ie>
Sent: Tuesday 7 June 2022 14:34
To: Deel Forestry Ltd <info@deelforestry.ie>
Subject: RE: Section 5 application Colin O'Callaghan

That's perfect, thank you Dan.

Kind regards
Tadhg

Tadhg Holmes
Clerical Officer

Planning Department, Economic Development Directorate
Clare County Council, Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2
T: 065 6846212 | E: tholmes@clarecoco.ie | W: www.clarecoco.ie



COMHAIRLE CONTAE AN CHLÁIR
CLARE COUNTY COUNCIL

From: Deel Forestry Ltd <info@deelforestry.ie>
Sent: Tuesday 7 June 2022 14:08

To: Tadhg Holmes <tholmes@clarecoco.ie>
Subject: RE: Section 5 application Colin O'Callaghan

Good afternoon Tadhg,
The area to be replanted in Cappalea North Co Clare is 1.77ha

Regards,



Dan Mc Namara B.Des. [Eng.Tech.](#) MIEI

Deel Forestry Limited.
Forest Road Dept.

M: 087 6352023

T: 069 64901

dan@deelforestry.ie - www.deelforestry.ie

Ardnaveagh, Rathkeale, Co. Limerick, V94 86Y8

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From: Tadhg Holmes <tholmes@clarecoco.ie>
Sent: Tuesday 7 June 2022 12:18
To: Deel Forestry Ltd <info@deelforestry.ie>
Subject: Section 5 application Colin O'Callaghan

Good afternoon Kieran

I received a Section 5 Applications this morning from Colin O'Callaghan for a replacement of diseased ash trees at Cappalea North, Co. Clare, with you listed as the agent for him.

Can you please confirm the size of the ash plantation are that is to be replanted?

Kind regards

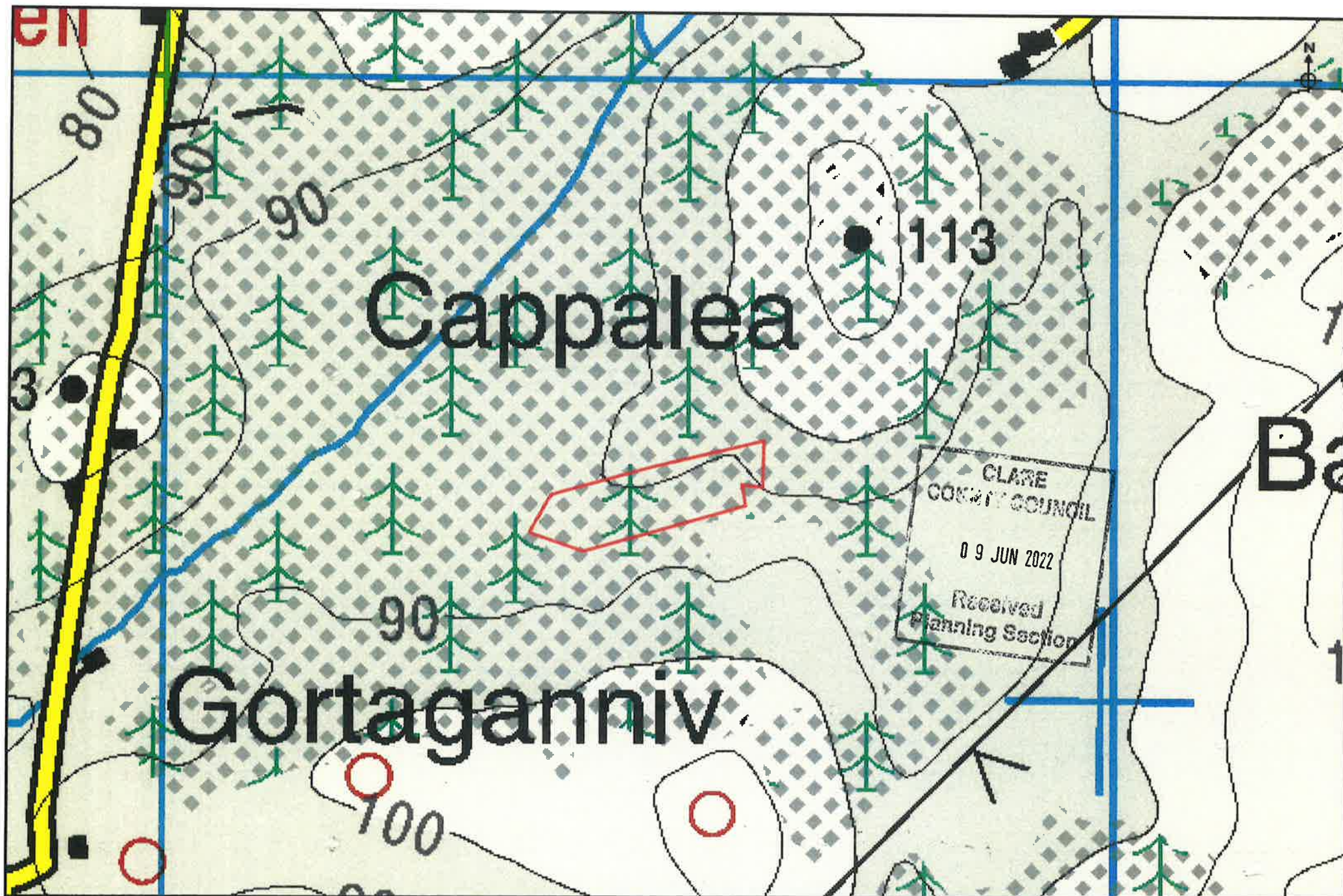
Tadhg

Tadhg Holmes
Clerical Officer

Planning Department, Economic Development Directorate
Clare County Council, Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2
T: 065 6846212 | E: tholmes@clarecoco.ie | W: www.clarecoco.ie



COMHAIRLE CONTAE AN CHLÁIR
CLARE COUNTY COUNCIL



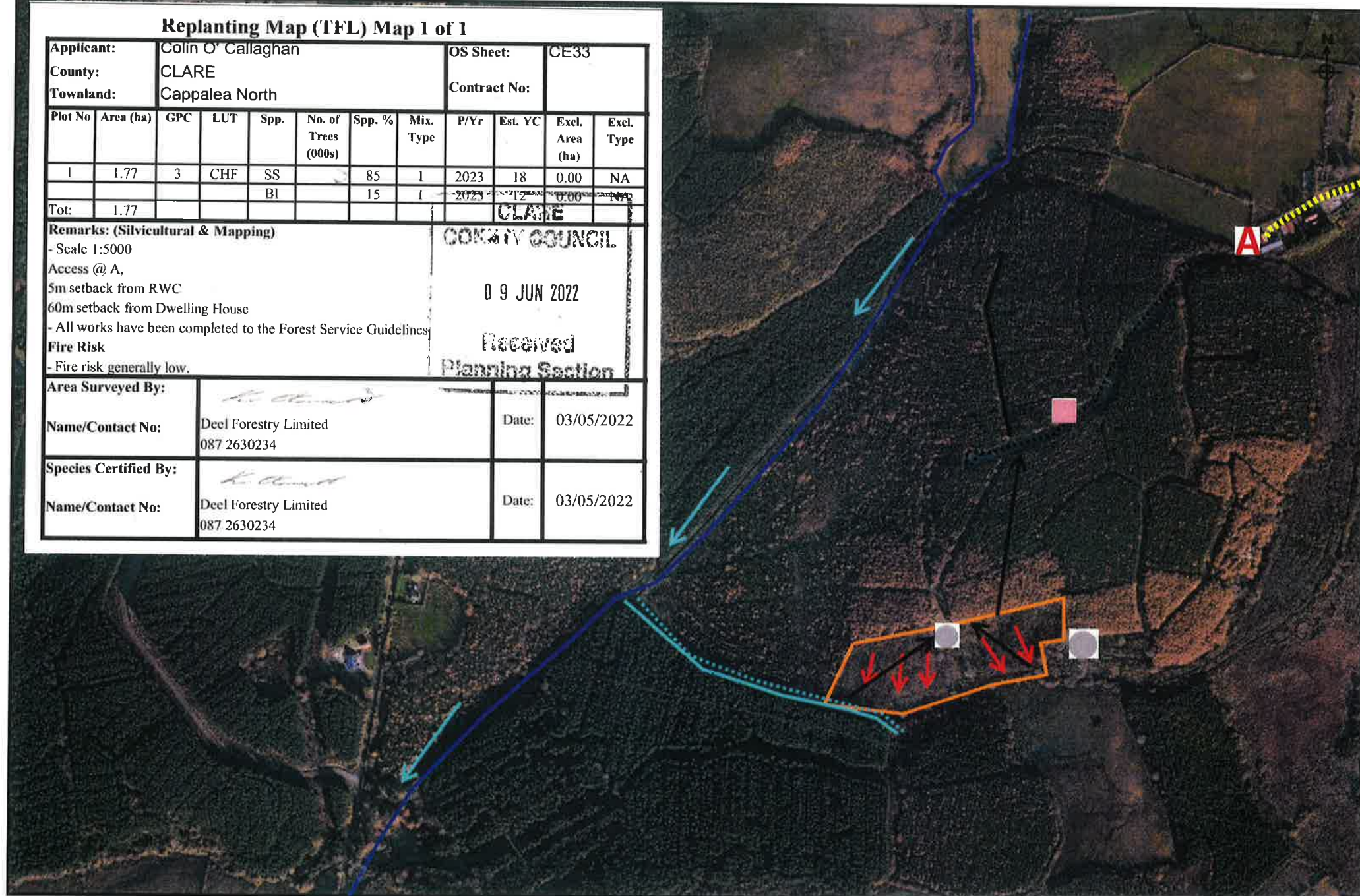
Certified Species map (TFL) Map 1 of 1

Applicant:		Colin O' Callaghan						OS Sheet:		CE33	
County:		CLARE						Contract No:			
Townland:		Cappalea North									
Plot No	Area (ha)	GPC	LUT	Spp.	No. of Trees (000s)	Spp. %	Mix. Type	P/Yr	Est. YC	Excl. Area (ha)	Excl. Type
1	1.77	5	BHF	ASH		100	P	2002	8	0.00	NA
Tot:		1.77									
Remarks: (Silvicultural & Mapping) - Scale 1:5000 Access @ A, 5m setback from RWC All hedgerow has been maintained - All works have been completed to the Forest Service Guidelines Fire Risk - Fire risk generally low.											
<div style="text-align: center;"> CLARE COUNTY COUNCIL 09 JUN 2022 Received Planning Section </div>											
Area Surveyed By:		<i>[Signature]</i>						Date:		03/05/2022	
Name/Contact No:		Deel Forestry Limited 087 2630234									
Species Certified By:		<i>[Signature]</i>						Date:		03/05/2022	
Name/Contact No:		Deel Forestry Limited 087 2630234									



Replanting Map (TFL) Map 1 of 1

Applicant:		Colin O' Callaghan						OS Sheet:		CE33	
County:		CLARE						Contract No:			
Townland:		Cappalea North									
Plot No	Area (ha)	GPC	LUT	Spp.	No. of Trees (000s)	Spp. %	Mix. Type	P/Yr	Est. YC	Excl. Area (ha)	Excl. Type
1	1.77	3	CHF	SS		85	1	2023	18	0.00	NA
				BI		15	1	2023	12	0.00	NA
Tot:	1.77										
Remarks: (Silvicultural & Mapping) - Scale 1:5000 Access @ A, 5m setback from RWC 60m setback from Dwelling House - All works have been completed to the Forest Service Guidelines Fire Risk - Fire risk generally low.											
<div style="text-align: center;"> CLARE COUNTY COUNCIL 09 JUN 2022 Received Planning Section </div>											
Area Surveyed By:		<i>[Signature]</i>									
Name/Contact No:		Deel Forestry Limited 087 2630234						Date:		03/05/2022	
Species Certified By:		<i>[Signature]</i>									
Name/Contact No:		Deel Forestry Limited 087 2630234						Date:		03/05/2022	



COMHAIRLE

CONTAIE

AN CHLAIR



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

07/06/2022 12:25:23

Receipt No : L1CASH/0/333610
***** REPRINT *****

COLIN O'CALLAGHAN
C/O KIERAN O'CONNELL
DEEL FORESTRY LTD.
ARDNAVEIGH
RATHKEALE, CO. LIMERICK
R22-37

COMHAIRLE

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
From : MAIN CASH OFFICE LODGEMENT AF
Vat reg No.0033043E

