



COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL

**Registered Post**

**Brendan Clancy  
c/o Michael Hehir  
Mckenna Consulting Engineers  
Miltown Malbay  
Co. Clare**

**9th November 2022**

**Section 5 referral Reference R22-68 – Brendan Clancy**

Would the operation of a small veterinary clinic at an existing commercial premises be considered as development and if so, is it considered exempted development?

A Chara,

I refer to your application received on 14th October 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.: R22-68**



Comhairle Contae an Chláir  
Clare County Council

**Section 5 referral Reference R22-68**

**Would the operation of a small veterinary clinic at an existing commercial premises be considered as development and if so, is it considered exempted development?**

**AND WHEREAS, Brendan Clancy** 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 –**

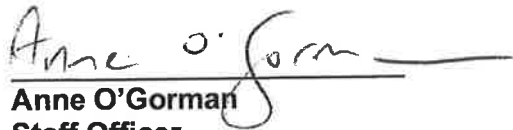
- (a) Sections 2, 3, and 4 of the Planning and Development Act, 2000, as amended,
- (b) Articles 5 and 10 of the Planning and Development Regulations, 2001, as amended
- (c) The planning history on site, in particular PI. Ref 03/ 995 where under a furniture manufacturing facility was granted permission and wherein condition no. 2 restricted the use of same;
- (d) The proposed nature of the works as proposed and change of use as indicated in submitted documents from the referrer as received by the Planning Authority on the 14<sup>th</sup> October 2022.

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

- (a) the alterations and subdivision of the existing building constitute "works" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended;
- (b) the permitted use for the existing building on site is for a furniture manufacturing facility and the proposed subdivision and change of use to a small veterinary clinic, would constitute a material change of use and is therefore, development within the meaning of section 3 of the Planning and Development Act, 2000, as amended,
- (c) The proposed change of use of part of the building to a small veterinary clinic would contravene condition no. 2 of PI. Ref 03/995
- (d) There are no provisions in the Planning and Development Act, 2000, as amended or in the Planning and Development Regulations, 2001, as amended, whereby the proposed subdivision and change of use is exempted development

**THEREFORE:** The Planning Authority in exercise of the powers conferred on it by Section 5 of the Planning and Development Act, 2000 (as amended), hereby decides that:

The proposed development consisting of the operation of a small veterinary clinic at an existing commercial premises at Ballard Road, Miltown Malbay, Co. Clare constitutes development which is not exempted development as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.



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

**9th November 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:**

80757

**Reference Number:**

**R22-68**

**Date Referral Received:**

**14th October 2022**

**Name of Applicant:**

**Brendan Clancy**

**Location of works in question:**

**Ballard Road, Miltown Malbay, Co. Clare**

**Section 5 referral Reference R22-68 – Brendan Clancy**

Would the operation of a small veterinary clinic at an existing commercial premises be considered as development and if so, is it considered 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 5 and 10 of the Planning and Development Regulations, 2001, as amended
- (c) The planning history on site, in particular Pl. Ref 03/ 995 where under a furniture manufacturing facility was granted permission and wherein condition no. 2 restricted the use of same;
- (d) The proposed nature of the works as proposed and change of use as indicated in submitted documents from the referrer as received by the Planning Authority on the 14<sup>th</sup> October 2022.

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

- (a) the alterations and subdivision of the existing building constitute "works" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended;
- (b) the permitted use for the existing building on site is for a furniture manufacturing facility and the proposed subdivision and change of use to a small veterinary clinic, would constitute a material change of use and is therefore, development within the meaning of section 3 of the Planning and Development Act, 2000, as amended,
- (c) The proposed change of use of part of the building to a small veterinary clinic would contravene condition no. 2 of Pl. Ref 03/995
- (d) There are no provisions in the Planning and Development Act, 2000, as amended or in the Planning and Development Regulations, 2001, as amended, whereby the proposed subdivision and change of use is exempted development

**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 operation of a small veterinary clinic at an existing commercial premises at Ballard Road, Miltown Malbay, Co. Clare is considered development which is not exempted development.

**Signed:**

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

**Date:**

**9th November 2022**

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

**FILE REF:** 22/ 68  
**APPLICANT(S):** Brendan Clancy  
**REFERENCE:** Whether the operation of a small veterinary clinic at an existing commercial premises is or is not development and is or is not exempted development.  
**LOCATION:** Ballard Rd Miltown Malbay , County Clare  
**DUE DATE:** 10<sup>th</sup> November 22

**Site Location**

The site is located on Ballard RD Miltown Malbay. It is occupied by a commercial building and mast.

**Recent Planning History**

03/ 995 Burke and Egan . Permission granted to retain the existing premises as constructed and for permission to retain the change of use from store to furniture manufacturing facility.

Condition 2 stated that the use of the site shall be solely for the purposes specified in the application and at the level of use specified in the application.

Reason: In the interest of orderly development .

04/ 824 Burke and Egan. Planning permission granted to construct an extension to the southern end of their existing manufacturing facility at Leagard North Miltown Malbay

Condition 3 stated that the use of the site shall be solely for the purposes specified in the application and at the level of use specified in the application

**Background to Referral**

This Referral under Section 5(3)(a) of the Planning and Development Act 2000 (as amended) has been made by Brendan Clancy . The applicant's legal interest in the site is stated as prospective tenant.

The applicant is seeking a Section 5 Declaration as to whether operation of a small veterinary clinic at an existing commercial premises be considered development and if so is it 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*.

Section 2

'Works' are defined in Section 2 of the *Planning and Development Act 2000, as amended* as follows:

*“works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.*

### **Section 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.*

### **Exempted Development Section 4**

*4.—(1) The following shall be exempted developments for the purposes of this Act—*

*(h) development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures;*

### **Article 5 of the Regulations**

*In this part ‘light industrial building means an industrial building in which the processes carried out on or the plant machinery installed are such as could be carried on or installed in any residential area without detriment to the amenity of that area by reason of noise, vibration, small, fumes, smoke soot ash dust or grit.*

### **Article 10 of the Regulations**

*Development which consists of a change of use within any one of the classes of use specified in Part 4 of Schedule 2, shall be exempted development for the purposes of the Act, provided that the development, if carried out would not—*

- (a) involve the carrying out of any works other than works which are exempted development,*
  - (b) **contravene a condition attached to a permission under the Act,***
  - (c) be inconsistent with any use specified or included in such a permission, or*
  - (d) be a development where the existing use is an unauthorised use, save where such change of use consists of the resumption of a use which is not unauthorised and which has not been abandoned.*
- (2) (a) A use which is ordinarily incidental to any use specified in Part 4 of Schedule 2 is not excluded from that use as an incident thereto merely by reason of its being specified in the said Part of the said Schedule as a separate use.*
- (b) Nothing in any class in Part 4 of the Schedule 2 shall include any use—*
- (i) as an amusement arcade,*

- (ii) *as a motor service station,*
  - (iii) *for the sale or leasing, or display for sale or leasing, of motor vehicles,*
  - (iv) *for a taxi or hackney business or for the hire of motor vehicles,*
  - (v) *as a scrap yard, or a yard for the breaking of motor vehicles,*
  - (vi) *for the storage or distribution of minerals,*
  - (vii) *as a supermarket, the total net retail sales space of which exceeds 3,500 square metres in the greater Dublin Area and 3,000 square metres in the remainder of the State,*
  - (viii) *as a retail warehouse, the total gross retail sales space of which exceeds 6,000 square metres (including any ancillary garden centre), or*
  - (viii) *as a shop, associated with a petrol station, the total net retail sales space of which exceeds 100 square metres.*
- (3) *Development consisting of the provision within a building occupied by, or under the control of, a State authority of a shop or restaurant for visiting members of the public shall be exempted development for the purposes of the Act.*
- (4) *Development consisting of the use of not more than 4 bedrooms in a house, where each bedroom is used for the accommodation of not more than 4 persons as overnight guest accommodation, shall be exempted development for the purposes of the Act, provided that such development would not contravene a condition attached to a permission under the Act or be inconsistent with any use specified or included in such a permission.*
- (5) *Development consisting of the use of a house for child minding shall be exempted development for the purposes of the Act.*

#### **Particulars of the Development**

- The applicant wishes to operate a small animal veterinary clinic .
- Clinic will be operated from 9-5 Monday to Friday
- The agent advises that the owner of the building does not have a use for it. The site is zoned commercial and there is adequate parking on site.
- Existing ground Floor plan 1 : 100 showing the section the building to be occupied on the ground floor shaded in green ( 83 sq.m.)
- Site location map 1 : 1000.



## Assessment

It is noted that the area of the building now proposed to be occupied by the veterinary clinic, shaded green on the drawings submitted was previously shown as a show room / reception area ancillary to a fitted furniture manufacturing unit as per planning permission pl.03/ 995. Condition 2 stated that the use of the site shall be solely for the purposes specified in the application and at the level of use specified in the application. The proposed use, being for a small animal veterinary clinic would not fall within the scope of the permitted use approved under pl. 03/ 995 and as such requires the benefit of planning permission.

### **Recommendation**

The following question has been referred to the Planning Authority:

Whether the operation of a small veterinary clinic at an existing commercial premises at Ballard Rd is or is not development and is or is not exempted development.

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

**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 5 and 10 of the Planning and Development Regulations, 2001, as amended
- (c) The planning history on site, in particular Pl. Ref 03/ 995 where under a furniture manufacturing facility was granted permission and wherein condition no. 2 restricted the use of same;
- (d) The proposed nature of the works as proposed and change of use as indicated in submitted documents from the referrer as received by the Planning Authority on the 14<sup>th</sup> October 22.

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

- (a) the alterations and subdivision of the existing building constitute “works” which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended;
- (b) the permitted use for the existing building on site is for a furniture manufacturing facility and the proposed subdivision and change of use to a small veterinary clinic, would constitute a material change of use and is therefore, development within the meaning of section 3 of the Planning and Development Act, 2000, as amended,
- (c) The proposed change of use of part of the building to a small veterinary clinic would contravene condition no. 2 of Pl. Ref 03/995
- (d) There are no provisions in the Planning and Development Act, 2000, as amended or in the Planning and Development Regulations, 2001, as amended, whereby the proposed subdivision and change of use is exempted development

**Now therefore** Clare County Council (Planning Authority), hereby decides that the operation of a small veterinary clinic at an existing commercial premises at Ballard Rd is development and is not exempted development.



**Ellen Carey**  
**Executive Planner**

**Date:** 2/11/22.



**Garreth Ruane**  
**Senior Executive Planner**

**Date:** 02/11/22.

**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>	R 22/68
<b>Applicant Name</b>	Brendan Clancy
<b>Development Location</b>	Ballard RD Miltown Malbay
<b>Application accompanied by an EIS</b>	
<b>Application accompanied by an NIS</b>	
<b>Description of the project (To include a site location map):</b>	
<p>Section 5 referral</p> <p>Whether the the operation of a small veterinary clinic at an existing commercial premises at ballad Rd Miltown Malbay is or is not development and is or is not exempted development.</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)
Carrowmore Point to Spanish Point and the Islands	<p>☑ Annex I habitats:</p> <ul style="list-style-type: none"> <li>• *Coastal lagoons [1150]</li> <li>• Perennial vegetation of stony banks [1220]</li> <li>• *Petrifying springs with tufa formation (Cratoneurion) [7220]</li> <li>• Reefs [1170]</li> </ul>	2.9km
Mid Clare coast SPA	<p>Cormorant (<i>Phalacrocorax carbo</i>) [A017]</p> <p>☑ Barnacle Goose (<i>Branta leucopsis</i>) [A045]</p> <p>☑ Ringed Plover (<i>Charadrius hiaticula</i>) [A137]</p> <p>☑ Sanderling (<i>Calidris alba</i>) [A144]</p> <p>☑ Purple Sandpiper (<i>Calidris maritima</i>) [A148]</p> <p>☑ Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>☑ Turnstone (<i>Arenaria interpres</i>) [A169]</p> <p>☑ Wetland and Waterbirds [A999]</p>	2.9km

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
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<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.

<b>2</b>	<b>Impacts on terrestrial habitats &amp; species.</b>	<i>Is the development within 1km of a European site with terrestrial based habitats or species?</i>	no
<b>3</b>	<b>Impacts on designated marine habitats &amp; species.</b>	<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
<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?</i> <i>Is any emission from the development (including noise) likely to impact on an adjacent habitat or species?</i>	No

#### 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.

**Table 3: Identification of potential impacts.**

<b>1</b>	<b>Impacts on designated rivers, streams, lakes and fresh water dependant habitats and species.</b> <i>Please answer the following if the answer to question 1 in table 2 was "yes" or "unknown". Does the development involve any of the following:</i>	
<b>1.1</b>	Removal of or interference with habitat within a European site. This may include any element of a project liable to interfere with breeding, nesting or roosting sites of birds, bats, water based species	NA
<b>1.2</b>	Discharges either directly (via pipe from the development) or indirectly (via sewer) to surfacewater or groundwater What is the likely volume of the discharge?	Existing building connected to existing public services
<b>1.3</b>	Abstraction from surfacewater or groundwater in or adjacent to a European site, where hydrology is a critical element in the protection of habitat and species at the site? What is the likely volume of the abstraction?	NA
<b>1.4</b>	Is removal of topsoil proposed within 500m of watercourses? What transportation requirements are provided? Does the removal involve reduction in area, population density or fragmentation of area of any habitat or species?	NA
<b>1.5</b>	Infilling or raising of ground levels within 500m of watercourses? What transportation requirements are provided? Does the infilling or raising involve interference with area, population density or fragmentation of area of any habitat or species?	NA
<b>1.6</b>	Construction of drainage ditches - (scale?) Where the run off is directed to? Is the drainage run off directed to a European site where species are identified and whose conservation status may be impacted by this drainage?	NA
<b>1.7</b>	Installation of waste water treatment systems; percolation areas; septic tanks within 500m of watercourses?	NA
<b>1.8</b>	Construction within a floodplain or within an area liable to flood (See <a href="http://www.floodmaps.ie">www.floodmaps.ie</a> , internal flood risk maps, County Development Plan SFRA and <a href="http://www.cframs.ie">www.cframs.ie</a> )	NA
<b>1.9</b>	Crossing or culverting of rivers or streams, installation of weirs, temporary watercourse crossings or any interference with a watercourse.	NA

1.10	Storage of chemicals or hydrocarbons (including oils and fuels) within 500m of a watercourse	NA
1.11	Development within catchment of a European site of a scale or type which involves the production of an EIS	NA
1.12	Consideration of effects in combination with existing development?	NA
2	<p align="center"><b>Impacts on terrestrial habitats and species.</b>  <i>Please answer the following if the answer to question 2 in table 2 was yes.</i>  <i>Does the development involve any of the following:</i></p>	
2a	Removal of or interference with habitat within the European site. This includes reduction in habitat area or fragmentation of habitat. Is the timing of this interference liable to impact on the nesting or breeding period of any protected species?	NA
2b	Construction of roads or other infrastructure on peat habitats within 1km of bog, marsh, fen or heath habitat within a European site	NA
2c	Is the development liable to impact on water quality in the European site, or liable to give rise to any change in a key indicator of water quality, including salinity. If yes, is the site designated for any bird species or other plant species whose feeding ground or life cycle may be affected by changes in water quality?	NA
2d	Development within 1km of terrestrial European site of a scale or type which involves the production of an EIS.	NA
3	<p align="center"><b>Impacts on designated marine habitats and species.</b>  <i>Please answer the following if the answer to question 3 in table 2 was yes.</i>  <i>Does the development involve any of the following:</i></p>	
3a	Removal of or interference with habitat within the European site. This includes timing of the project if there is potential to interfere with nesting or breeding periods, either directly or indirectly (e.g. by noise emission) or any aspect of the life cycle of a protected species. This also includes potential fragmentation, size reduction of habitat, or reduction in species density.	NA
3b	Coastal protection works on intertidal or marine habitats within 5km of a European site supporting coastal or marine habitats or species. This includes any works which may give rise to potential changes in hydrology or salinity of these areas.	NA

3c	Development of piers, slipways, marinas, pontoons or any other infrastructure within 5km of a European site that was designated because it supports marine habitats and/or species.	NA
3d	Dredging within 5km of a European site supporting coastal or marine habitats or species.	NA
3e	Removal of topsoil or infilling within 100m of marine habitats within the designated site.	NA
3f	Land based development within 1km of a European site of a scale or type which involves the production of an EIS.	NA
3g	Marine or intertidal based development within 5km of a European site of a scale or type which involves the production of an EIS.	NA



4	<p align="center"><b>Impacts on birds in SPAs</b></p> <p align="center"><i>Please answer the following if the answer to question 5 in table 2 was yes.</i></p> <p align="center"><i>Does the development involve any of the following:</i></p>	
4a	Removal of or interference with habitats within an SPA. This includes consideration of indirect and in combination effects on the feeding, breeding and nesting grounds of Annex 1 birds	NA
4b	Erection of wind turbines within 1km of an SPA.	NA
4c	All construction works within 100m of intertidal areas – Coastal SPAs, including indirect and in combination effects on the feeding, breeding and nesting grounds of Annex 1 birds	NA
4d	Infilling of coastal habitats within 500m of SPA, including indirect and in combination effects on the feeding, breeding and nesting grounds of Annex 1 birds	NA
4e	Discharges to coastal SPA, including any element of a discharge liable to give rise to disturbance of this habitat, either by direct, indirect, or in combination effects	NA
4f	Development of cycleways or walking routes within 100m of intertidal areas. This includes consideration of indirect and in combination effects on the feeding, breeding and nesting grounds of Annex 1 birds	NA
4g	Development within 1km of SPA of a scale or type which involves the production of an EIS. This includes consideration of indirect and in combination effects on the feeding, breeding and nesting grounds of Annex 1 birds	NA

**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 to any of the above is *yes*, or *unknown* effects on the European sites need to be assessed and a Natura Impact Statement will be required

Appropriate Assessment Screening Determination	
Planning File Reference	R22/68
Proposed Development	Section 5 referral
Development Location	Ballard Rd Miltown Malbay
European sites within impact zone	Mid Clare Coast SPA Carrowmore Point to Spanish Point and the Islands
<b>Description of the project:</b>	
Whether the the operation of a small veterinary clinic at an existing commercial premises at Ballard Rd is or is not development and is or is not exempted development	
<b>Qualifying Interests (QIs)/Special Conservation Interests (SCIs) of European site</b>	
As above	
<b>Describe how the project or plan (alone or in combination) is likely to affect the European site(s).</b>	
Not likely- development relates to change of use of an existing building which is connected to public services	
<b>If there are potential negative impacts, explain whether you consider if these are likely to be significant, and if not, why not?</b>	
Not significant	
<b>Documentation reviewed for making this statement</b>	
<ul style="list-style-type: none"> <li>- County Development Plan (including Flood Maps, SEA &amp; AA)</li> <li>- NPWS website</li> <li>- Documents received as part of the planning application</li> <li>- EPA Code of Practice</li> </ul>	
<b>Conclusion of assessment (a, b, c or d)</b>	
(a) The proposed development is directly connected with or necessary to the nature conservation management of a European Site(s) <sup>3</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 material changes may be made to the proposed development after this conclusion has been reached as this would invalidate the findings of the screening exercise.

(b) <b>There is no potential for significant effects to European Sites<sup>3</sup></b>	<b>There is no potential for significant effects to European Sites<sup>3</sup></b>
(c) <b>The potential for significant effects to European Site(s) cannot be ruled out<sup>4</sup></b>	<b>The potential for significant effects to European Site(s) can be ruled out<sup>4</sup></b>
(d) <b>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>	N/A
<b>Completed By</b>	Ellen Carey

<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.

<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.

<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.

AN CHLÁIR

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

14/10/2022 15:06:56

Receipt No. L1CASH/0/339897  
\*\*\*\*\* REPRINT \*\*\*\*\*

BRENDAN CLANCY  
C/O MICHAEL HEHIR  
MCKENNA CONSULTING ENGINEERS  
BANK PLACE  
MILTOWN MALBAY  
CO. CLARE

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

Total : 80.00 EUR

Tendered :  
CREDIT CARDS 80.00

Change : 0.00

Issued By : L1CASH - DEIRDRE FRENCH  
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R22-68

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	Brendan Clancy Harvey's Veterinary Moloskey House Mullash Ennis
(b) Telephone No.:	086 6820024
(c) Email Address:	brendan.clancy@hotmail.com
(d) Agent's Name and address:	c/o Michael Hehir McKenna Consulting Engineers Milltown Malbay 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?

Can a small animal veterinary clinic be operated from this existing commercial premises?

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

- Mr. Clancy wants to operate a small animal clinic
- Mr. Clancy's operates a veterinary clinic in both Kiladysert & Kilrush
- Mr. Clancy needs a premises in Milltown Malbeg to serve his growing client base in the area
- Mr. Clancy will operate clinic, from this premises, from 9-5 Monday to Friday with emergency hours outside of this.
- Mr. Egan (owner of the premises) does not have use for this portion of the building that Mr. Clancy wants to use.
- The building is currently zoned (commercial)
- There is more than adequate parking available
- Mr. Clancy only wants to use 83m<sup>2</sup> of ground floor space

- (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)*

- Floor Plan of 1:100 detailing the area Mr. Clancy wants to use
- site location map of 1:1000



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

(a) Postal Address of the Property/Site/Building for which the declaration sought:	GE Kitchens Ballant Road Industrial Estate Milltown Malbay Co. Clare V95 NN93
(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 tenant
(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>	Gary Egan Spanish Point Co. Clare
(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? If so please supply details:	NO
(g) Were there previous planning application/s on this site? If so please supply details:	04/824
(h) Date on which 'works' in question were completed/are likely to take place:	November / December 2022

SIGNED:

  
 (Agent)

DATE:

03/10/2022

### **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

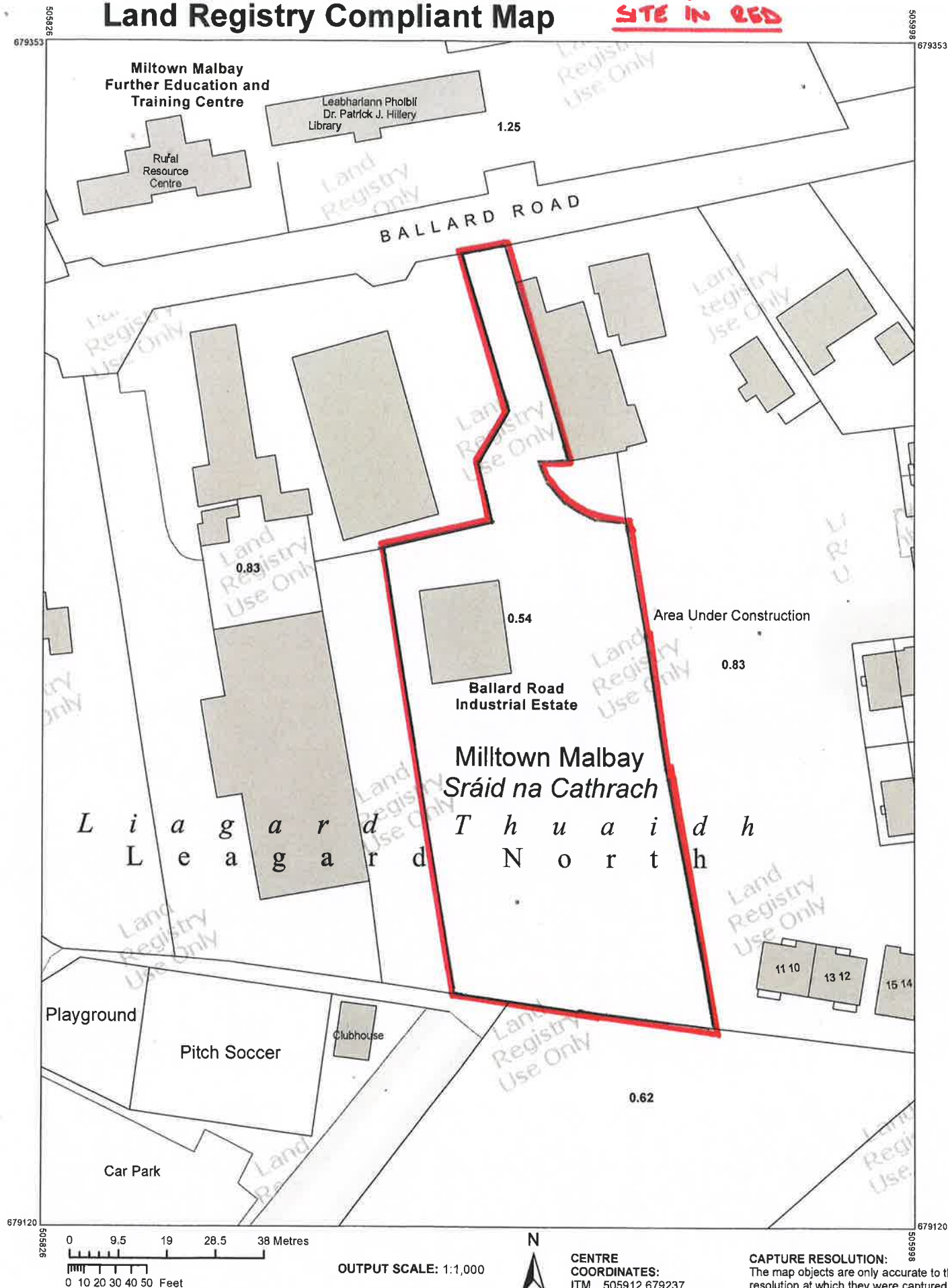
### **FOR OFFICE USE ONLY**

Date Received:	.....	Fee Paid:	.....
Date Acknowledged:	.....	Reference No.:	.....
Date Declaration made:	.....	CEO No.:	.....
Decision:.....			



# Land Registry Compliant Map

**SITE IN RED**



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

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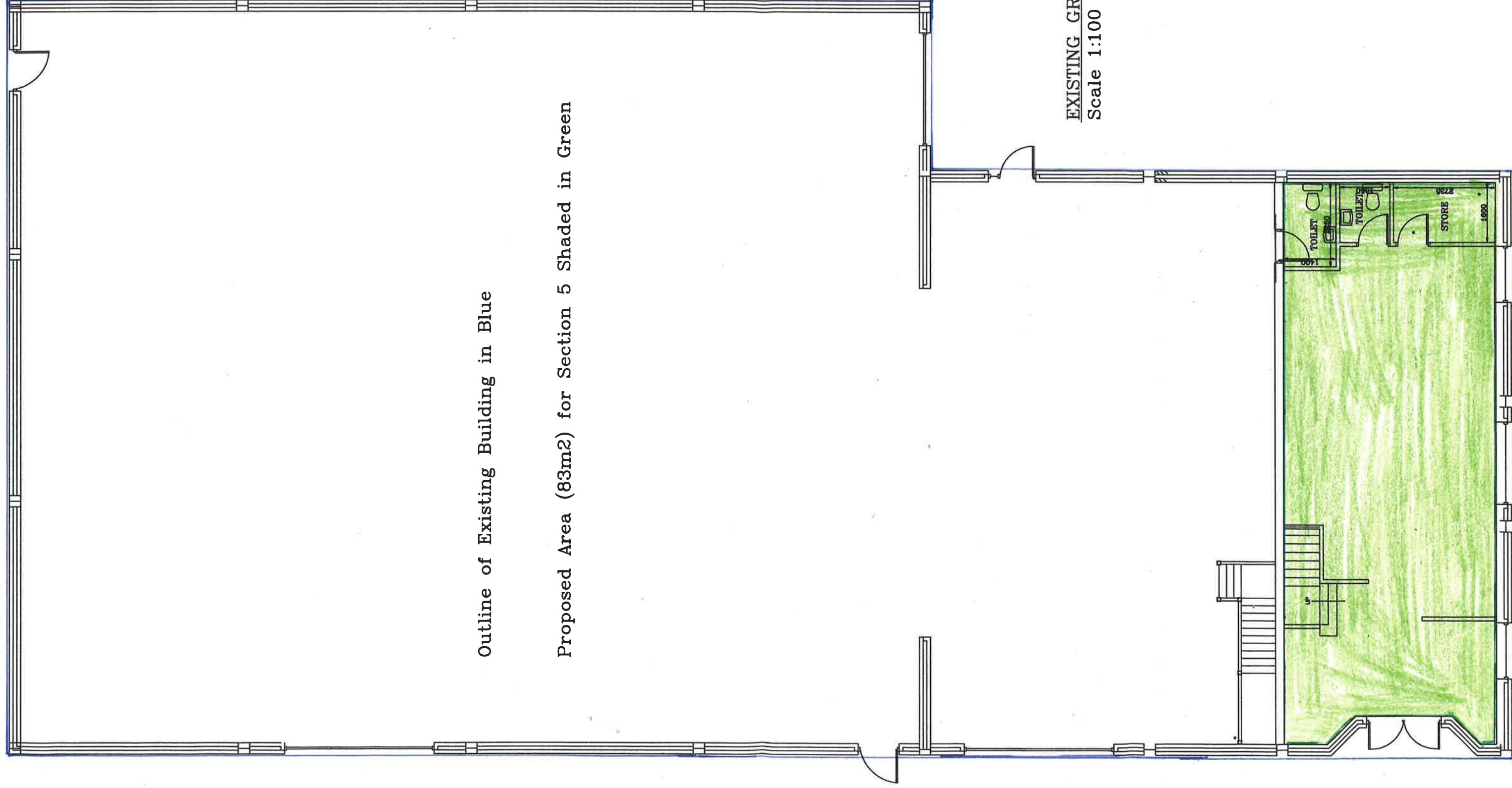
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The representation on this map of a road, track or footpath is not evidence of the existence of a right of way.



Outline of Existing Building in Blue

Proposed Area (83m<sup>2</sup>) for Section 5 Shaded in Green

EXISTING GROUND FLOOR PLAN  
Scale 1:100